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The situation in Kosovo* and the role of the Council of Europe

Report[1]
Committee on Political Affairs and Democracy
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Summary

Ensuring respect of the rule of law should be a priority for the Kosovo authorities. Endemic and widespread corruption negatively impacts the lives of people in Kosovo and holds back Kosovo's economic development.

Kosovo has achieved progress in the area of democracy. However, numerous delays and deadlocks in the legislative work indicate the inability of political forces to develop constructive dialogue on issues of crucial importance. In addition, recent manifestations of violence in the Assembly of Kosovo are liable to undermine people's trust in democratic institutions.

As regards the protection of human rights and inter-community relations, despite the improvement of the security situation, the authorities should remain vigilant, condemn all ethnically motivated attacks, show a sense of responsibility in their public discourse and ensure the delivery of justice.

The continuation of dialogue between Belgrade and Pristina, the availability of a European perspective for both and the further strengthening of standards are of major importance for Kosovo's democratic security as well as for the stability of the western Balkans as a whole.

1. Reference to committee: Bureau decision, Reference 3932 of 25 January 2013.

* All references to Kosovo, whether to the territory, institutions or population, shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

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A. Draft resolution[2]

1. Nearly eight years have elapsed since the declaration of independence by the Assembly of Kosovo*.[3] Since then, Kosovo has been recognised as a sovereign and independent State by 34 Council of Europe member States. However, 13 Council of Europe member States have not recognised Kosovo as an independent and sovereign State. Accordingly, the Council of Europe follows a policy of status-neutrality towards Kosovo, while supporting its progressive alignment with the Council of Europe's standards in the areas of democracy, human rights and the rule of law.

2. The Parliamentary Assembly acknowledges the progress achieved in Kosovo in the area of democracy, with the smooth and transparent organisation of legislative elections in 2014, which, for the first time, were held throughout Kosovo and with the participation of Kosovo Serbs in the vote. It regrets, however, that the legislative work of the Assembly of Kosovo has been delayed by numerous political deadlocks, which indicate the inability of Kosovo's political forces to develop constructive dialogue on issues of crucial importance. It also condemns all manifestations of violence, considering those taking place in a legislative chamber to be of particular gravity and liable to undermine people's trust in democratic institutions.

3. The Assembly welcomes the adoption by the Assembly of Kosovo of the constitutional amendments which paved the way for the creation of specialist chambers to prosecute the cases investigated by the Special Investigative Task Force, as a follow-up to Assembly Resolution 1782 (2011) on inhuman treatment of people and illicit trafficking in human organs in Kosovo. The Assembly considers this decision as a step towards reconciliation and a sign of the authorities' willingness to fight against impunity.

4. As regards the protection of human rights and inter-community relations, the Assembly regrets that ethnically related incidents continue to occur, while recognising that the general security climate has improved. It calls on the Kosovo authorities to remain vigilant in this area, to condemn all forms of ethnically motivated attacks, including those against cultural heritage, irrespective of their gravity and frequency, and act with a sense of responsibility in their public discourse in order to continue easing tensions. The Assembly considers the delivery of justice as the best way to reassure non-majority communities that they are safe in Kosovo and protected by the law.

5. In the Assembly's view, ensuring the respect of the rule of law and its effective enforcement should be the first and foremost priority of the Kosovo authorities. Endemic and widespread corruption in all aspects of government, justice and the economy negatively impacts the lives of people in Kosovo, irrespective of their community; it is an impediment to the overall strengthening of standards and holds back Kosovo's economic development.

6. The Assembly attaches great importance to the European Union-facilitated dialogue on normalisation of relations between Belgrade and Pristina and welcomes the beginning of accession negotiations between Serbia and the European Union in 2014, and the signature of the Stabilisation and Association Agreement between the European Union and Kosovo in October 2015. It believes that the continuation of dialogue between Belgrade and Pristina, the availability of a European perspective for both and the further strengthening of the standards of democracy, human rights and the rule of law in Kosovo are of major importance for Kosovo's democratic security as well as for the stability of the region of the western Balkans as a whole.

7. With these considerations in mind, the Assembly calls on the Kosovo authorities to:

7.1. do their utmost to eradicate corruption from all areas of government, justice and the economy, including by:

7.1.1. implementing the Anti-Corruption Strategy and its action plan and monitoring their implementation;

7.1.2. improving co-ordination between the different organs working on anti-corruption and economic crime;

7.1.3. encouraging the Anti-Corruption Agency to take a more proactive approach during the investigation stage;

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2. Draft resolution unanimously adopted by the committee on 7 December 2015.

3. * All references to Kosovo, whether to the territory, institutions or population, shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

7.1.4. ensuring that the prosecution follows up the cases transmitted by the Anti-Corruption Agency;

7.2. act with greater resolve to strengthen the rule of law and its enforcement, including by:

7.2.1. protecting the judiciary and the prosecution from political influence and interference;

7.2.2. ensuring the professionalism, impartiality and independence of the judiciary and the prosecution;

7.2.3. implementing the Kosovo Judiciary Action Plan (2014-2019);

7.2.4. strengthening the rules concerning disciplinary sanctions against law-enforcement officials, ensuring their implementation and that the public is adequately informed;

7.2.5. improving the continued training of judges and prosecutors, including in international human rights law;

7.2.6. pursuing the investigation and prosecution of war crimes;

7.2.7. enforcing the witness protection system;

7.3. tackle unemployment, especially among young people and women;

7.4. implement all the agreements stemming from the dialogue between Belgrade and Pristina, particularly the Agreement on the establishment of the Association/Community of Serb majority municipalities;

7.5. continue to build mutual trust between communities; protect the rights of minorities and their safety while promoting their economic integration, in particular by:

7.5.1. investing in job-creation activities, especially in areas inhabited by non-majority communities;

7.5.2. continuing the integration of Kosovo Serbs in the judiciary, including in the North of Kosovo and, in general, promoting the recruitment of staff from non-majority communities in public administration and public companies, with a view to reflecting Kosovo's ethnic diversity;

7.5.3. ensuring full and efficient implementation of the procedure to recognise diplomas issued by the University of Mitrovicë/Mitrovica;

7.5.4. ensuring the protection of all culture heritage, with special regard to the cultural heritage of non-majority communities irrespective of the rejection of Kosovo's membership application to the United Nations Educational, Scientific and Cultural Organization (UNESCO);

7.5.5. creating conditions for the return of displaced persons, by ensuring the effective reintegration of their property rights and facilitating their employment or the development of other income-generating activities;

7.5.6. addressing the specific challenges preventing the integration of Roma, Ashkali and Egyptians, including early school dropout, child labour and early marriage;

7.5.7. supporting inter-community dialogue, also at the level of civil society, and refraining from any public discourse that might fuel inter-community tensions;

7.5.8. supporting cross-border exchanges and dialogue on the issues of reconciliation and living together;

7.6. implement and evaluate the impact of the new anti-discrimination law;

7.7. implement and evaluate the impact of the new law on gender equality; organise or support public campaigns to raise awareness of gender-based violence;

7.8. continue to tackle the phenomenon of foreign fighters, with an emphasis on prevention of radicalisation and the implementation of the new specific legislation on this issue; implement the Strategy on terrorism (2012-2017) and the Strategy for the prevention of violent extremism and radicalisation (2015-2020);

7.9. address the root causes of irregular migration and organise public campaigns to dissuade people from embarking on such a course;

7.10. take resolute action against money laundering, drug trafficking, smuggling of migrants, trafficking in human beings, the arms trade and illegal possession of weapons;

7.11. continue negotiations with the Netherlands with a view to establishing the specialist chambers in the Hague, and ensure co-operation with them once they are set up.

8. The Assembly encourages the United Nations Interim Administration Mission in Kosovo (UNMIK) to increase its capacities for co-operation with INTERPOL and EUROPOL and encourages the authorities in Pristina to use the available mechanisms which are already in place.

9. The Assembly invites the Assembly of Kosovo to:

9.1. pursue its legislative programme without undue delay;

9.2. strengthen its oversight of the government;

9.3. strengthen mechanisms for consultation with civil society;

9.4. adopt new rules of procedure for its work, in line with European standards;

9.5. promote gender equality within its structures and gender mainstreaming in its functioning;

9.6. adopt the reform of the public administration, ensuring that recruitment and advancement are based on merit, and promoting its impartiality;

9.7. enable the proper functioning of the Ombudsperson institution, engage in a constructive dialogue with it, follow up its recommendations and ensure that it has the necessary resources to carry out its mandate.

10. The Assembly calls on the political forces that are represented in the Assembly of Kosovo to ensure that a constructive political dialogue takes place between the majority and the opposition.

11. The Assembly calls on the authorities in Belgrade and Pristina to:

11.1. continue European Union-facilitated dialogue on normalisation of relations in an open and constructive spirit;

11.2. step up co-operation in order to dismantle transnational criminal networks operating in the region; make progress on the issue of missing persons; and facilitate the investigation and prosecution of war crimes.

12. The Assembly recommends that the Kosovo authorities intensify dialogue and co-operation with the Council of Europe and its different bodies and institutions, notably by:

12.1. asking for the assistance of the European Commission for Democracy through Law (Venice Commission) to fully align its electoral legislation with international electoral standards;

12.2. following up the recommendations formulated by Council of Europe monitoring bodies, *inter alia* those of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Group of Experts on Action against Trafficking in Human Beings (GRETA), the Advisory Committee of the Framework Convention for the Protection of National Minorities and those formulated in the context of the joint European Union/Council of Europe Project against Economic Crime in Kosovo (PECK);

12.3. co-operating fully and effectively with the wide range of Council of Europe mechanisms and projects available to Kosovo.

13. The Assembly resolves to step up dialogue with the Assembly of Kosovo and recommends that its Bureau modify the current format for co-operation with the political forces elected to the Assembly of Kosovo, with a view to inviting the Assembly of Kosovo to designate a delegation which would ensure the representation also of minority communities, in addition to the majority and the opposition.

B. Explanatory memorandum by Mr Conde, rapporteur

1. The thrust of my report

1. I went to Pristina at the beginning of October 2015 in the context of the preparation of this report on "The situation in Kosovo and the role of the Council of Europe". Pristina looked very similar to other cities in the Western Balkans, bustling with traffic, a multitude of shops, restaurants, bars and people. Above all, it was full of young people. Kosovo has the youngest population in Europe: out of a total of approximately 1 800 000, 26.3% are under 14 years of age, and 18.1% are between 15 and 24. The average age is 27.[4]

2. Youth was a recurrent topic during my visit. I was reminded that many of these young people were born after the end of the war and had no experience of the previous system. They have grown up side by side with a strong international presence; they are better educated than their parents and they are typically pro-European.

3. I could not help thinking of the immense potential of such a young population but also of the huge responsibility which falls upon, firstly, the Kosovo authorities and, secondly, the international community: this young generation must be provided with a European perspective, as well as opportunities in terms of employment, democratic stability and participation in political decision making. Failure to meet their legitimate expectations would put Kosovo at risk of slipping into a situation of social unrest and turmoil. All the signs are there to indicate that this scenario would also affect the region and the rest of Europe.

4. The present report has been drafted under the strong impressions of the meetings that I held in Belgrade (24-25 August 2015) and Pristina (5-6 October 2015). In both cities, I was received with friendliness, openness and in a spirit of co-operation. I would like to extend my sincere thanks to the Serbian delegation to the Parliamentary Assembly and the Assembly of Kosovo for having facilitated the visits and having ensured that I could exchange views with high-level and well prepared interlocutors. I also wish to thank the staff of the Council of Europe Offices in Belgrade and Pristina for their help and support

5. These visits enabled me to develop a more comprehensive view of the situation and the diverging stakes, interests and sensitivities involved. They inspired the framework for the present report, in which I have also included information drawn from reports on Kosovo published by authoritative sources, of which there is no shortage.

6. The general thrust of my report is in line with that of my predecessor, Mr Bjorn von Sydow (Sweden, SOC), who was rapporteur on the same topic from 2008 to 2013: I will maintain a status-neutral approach and will focus on the evaluation of the standards of democracy, human rights and the rule of law which Kosovo has achieved. The fact that I am building upon the work of my predecessor enables me to provide a concise analysis of the key developments that have occurred since January 2013, when the Assembly adopted its Resolution 1912 (2013) and Recommendation 2006 (2013).

7. Having the people of Kosovo, and above all young people, in mind, I would like to concentrate on a few crucial issues: the economy; democracy and the rule of law; human rights; and the European perspective.

2. The economy

8. It should not be a surprise to anyone that I start my overview of the situation in Kosovo with its economy. During my visit to Pristina, the discussion frequently fell upon the economic situation, which is the primary preoccupation of the people[5] and the authorities alike. Kosovo's economic growth is held back by some endemic problems that also negatively impact on its democratic development.

9. Kosovo has been sheltered from the global financial crisis of 2008, also thanks to the scant integration of its economy in the global market. According to the World Bank, it is one of the only four economies in Europe that in the period 2008-2012 continued to grow at an average annual rate of 3.5%.

10. This performance, however, is mainly due to the influx of remittances from its diaspora; a high rate of public investments; and a steady influx of international donor support, including from the European Union.[6] Unfortunately, sources of sustainable economic growth in Kosovo are absent. Furthermore, economic growth of the last decade heavily slowed down in 2014, dropping to 0.9%.[7]

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4. Indexmundi 2014, www.indexmundi.com/kosovo/demographics_profile.html.
5. www.undp.org/content/dam/kosovo/docs/PublicPulse/PPR9_Anglisht.pdf.
6. www.worldbank.org/en/country/kosovo/overview.

11. The per capita gross domestic product (GDP) is approximately €2 900,[8] more than one third of the population lives below the poverty line, and roughly one in eight in extreme poverty.[9] To make a comparison, in terms of GDP per capita, the situation in Kosovo is not dissimilar to that in Syria or Egypt.

12. A particular source of concern is the situation of the labour market. The following data collected by the Kosovo Agency of Statistics speak volumes:[10]

– almost two thirds of Kosovo's population is of working age (15-64 years), a share which is bound to increase given the age structure of the population;

– of those who are of working age, 58.4% are not economically active, meaning that they are not formally employed and are not registered as actively seeking employment.

13. The unemployment rate increased from 30% in 2013 to 35.3% in 2014.[11] In the same period, there was an increase in the number of long-term unemployed, from 68.9% to 73.8%. Youth unemployment also increased, from 55.9% to 61%. The share of young people (between 15 and 24) who are not employed, not in education and not in training fell from 35.3% in 2013 to 30.2% in 2014.[12] This figure remains, however, alarmingly high, as does the level of informal employment.

14. The public sector represents the main employer. It offers on average higher salaries than the private sector. I feel it is important to mention that, despite the reform of the public administration, the transparency and fairness of recruitment and promotion procedures are questionable, and that public administration remains highly politicised along political party lines.[13] The decision of a 25% salary increase for all civil servants, taken by the previous government ahead of the 2014 legislative elections without having been foreseen in the budget, has been criticised by a number of international bodies, including the European Commission and the International Monetary Fund, because of its financial implications, its populist character and the use of public resources to obtain an electoral advantage.

15. The private sector contributes to 70% of GDP[14] and is expanding[15]. In the period 2010-2013, the total number of private enterprises increased by 26%.[16] The privatisation and restructuring of public-owned enterprises is also under way, even if the process is slow and has been marred by allegations of corruption.[17] The European Commission has been critical in this respect, underlining, amongst other things, that the Kosovo Privatisation Agency “still does not have a new, credible, independent and functioning board”; and that “its merit-based management selection procedures and anti-corruption mechanisms need to be strengthened”.[18]

16. Strengthening the private sector is a key priority for the government, which has launched several initiatives, including the *Private Sector Development Strategy 2013-2017*[19] and the *Small and Medium-sized enterprises* (*SME) Development Strategy 2012-2016*.[20] The government has also established the *Kosovo Investment and Enterprise Support Agency* (KIESA),[21] which is tasked with supporting policies and programmes for micro, small and medium-sized enterprises and promoting foreign investments.

17. Despite these efforts, the expansion of the Kosovo private sector is slow. As pointed out by the European Bank for Reconstruction and Development (EBRD): “The development of Kosovo’s private sector has been hindered by a difficult business environment and lack of investment. Shortcomings in management expertise and corporate governance, limited access to finance and the weak rule of law have resulted in reduced competitiveness and below-potential growth.”[22]

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7. European Commission, Kosovo Report, November 2015, p. 33.
8. Ibid., p. 64.
9. www.worldbank.org/en/country/kosovo/overview.
10. Kosovo Agency of Statistics, Results of the Kosovo 2014 Labour Force Survey, 2015.
11. European Commission, Kosovo Report, November 2015, p. 32.
12. Ibid., p. 44.
13. KIPRED, Kosovo to EU: The Challenge of Irregular Migration, Policy Paper, March 2015.
14. European Commission, Kosovo Progress Report, October 2014, p. 27.
15. www.eciks.org/en/news-events/3111.
16. KOSME, Report on SMEs in Kosovo 2014.
17. www.eubusiness.com/news-eu/kosovo-arrest.v3b/.
18. European Commission, Kosovo Report, November 2015, p. 35.
19. www.mti-ks.org/repository/docs/2013_MTI_Strategjia_ZHSP_Eng_115534_268412.pdf.
20. http://gapmonitor.org/data/Image/SMEstrategy.pdf.
21. www.invest-ks.org/en.
22. www.ebrd.com/where-we-are/kosovo/overview.html.

18. According to reliable surveys,[23] competitors' practices in the informal sector and corruption are amongst the top obstacles in Kosovo's business environment: "The share of firms that reported competing against firms in the informal sector amounted to 66% …; almost all small and medium enterprises operate informally – at least in part. … Corruption remained among the top three obstacles: the percentage of contract value typically paid to secure a government contract increased from 1% in 2008-2009 to 4.3% in 2011-2014. The share of firms asked to make an informal payment to obtain a construction-related permit increased from 0.7% to 9.6%. In addition, the share of firms that were asked for informal payments by tax officials was 9.5% … Moreover, firms were perceived to spend 2.2% of total annual revenue on informal payments or gifts."[24]

19. It is clear that this situation is an obstacle to the development of local companies as well as a deterrent for foreign investors. Recently, Ms Hykmete Bajrami, Kosovo's Minister of Trade and Industry, acknowledged that foreign direct investments in Kosovo are not only low but they are falling.[25]

20. I discussed at length the situation of the economy with Prime Minister Isa Mustafa, who was adamant about the challenges ahead, while confirming that economic growth and the reduction of unemployment were top priorities for the government. I was also reassured to hear, from various high-level officials in Pristina, that the economic situation cannot be used as a justification to reduce efforts needed to achieve a higher level of standards in the areas of democracy, human rights and the rule of law.

3. Democracy

3.1. The 2014 parliamentary elections

21. The last elections to the Assembly of Kosovo took place on 8 June 2014. They were observed by numerous local stakeholders, as well as by the European Union, which set up a mission to this end, composed of long-term and short-term observers led by Mr Roberto Gualtieri, a member of the European Parliament (Italy, Group of the Progressive Alliance of Socialists and Democrats). The observation on election day was reinforced by representatives of diplomatic representations.

22. The findings of the European Union election observation mission were positive overall: polling and counting were transparent and well organised. No major incidents were reported. People were able to express their vote freely.[26] This assessment reflects the continued improvement of the administration of the electoral process in Kosovo. These were the second legislative elections organised by the Central Election Commission since the declaration of independence. For the first time, elections to the Kosovo Assembly were held in the whole of Kosovo, including the northern municipalities, with the assistance of the Organization for Security and Co-operation in Europe (OSCE).

23. In spite of these positive developments, the process was not optimal: the government's decision to call early elections just 31 days after the dissolution of the Assembly left political parties only 10 days for campaigning. According to the Final Report of the European Union Electoral Observation Mission, the shortening of the deadlines had implications for the good conduct and transparency of the elections process, and affected the voters' right to make a fully-informed choice. In addition, all the stages of electoral deadlines had to be shortened, with negative consequences for out-of-Kosovo voting and for the voters' ability to lodge complaints and seek legal remedies.

24. An important source of concern is that voter turn-out was particularly low, having fallen to 42% from 47.8% in 2010. According to a non-governmental organisation (NGO) policy paper,[27] widespread corruption, the extent of organised crime, the poor state of health of the economy and slow progress towards European integration have engendered distrust in political parties and negatively affected the voters' participation.

25. I invite the Kosovo authorities to investigate the reasons behind the poor turn-out because the legitimacy of the institutions and the political system also depends on the electorate's engagement. Unless tackled, people's disaffection with the political system could undermine the democratic stability of Kosovo.

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23. BEEPS (http://ebrd-beeps.com/about/) is a firm-level survey conducted by the EBRD in partnership with the World Bank and based on face-to-face interviews with managers. It examines the quality of the business environment. The surveys mentioned in this report are BEEPS IV, which was conducted in 2008-2009, and BEEPS V, which was conducted in 2011-2014.
24. http://ebrd-beeps.com/countries/kosovo/.
25. www.balkaninsight.com/en/article/foreign-investments-in-kosovo-are-dropping-says-minister.
26. http://eeas.europa.eu/eueom/missions/2014/kosovo/pdf/eu-eom-kosovo-2014-final-report_en.pdf.
27. http://legalpoliticalstudies.org/wp-content/uploads/2015/07/Policy-Report-05-2015-Voter-Abstention-in-Kosovo.pdf.

3.2. The Assembly of Kosovo

26. The Assembly of Kosovo is composed of 120 members directly elected on the basis of an open list. Out of 120 seats, 10 seats are "guaranteed" for Kosovo Serbs and 10 for other non-majority communities. As an additional safeguard, the political entities representing non-majority communities are exempted from the 5% threshold that applies to others.

27. The 2014 elections were the first ones to use the system of "guaranteed seats", as set out in the Constitution of Kosovo. According to this system, irrespective of the electoral results, Kosovo Serbs are entitled to at least 10 seats in the Assembly, and the other non-majority communities to at least another 10. According to the previous transitional system of "reserved seats", 20 seats were allocated to non-majority communities *in addition* to those won according to the electoral results.

28. The correct interpretation of the system to be applied for the allocation of seats occupied a central place in the run-up to the 2014 elections, especially in the northern municipalities, causing dissatisfaction and the interruption of campaigning activities. These resumed once the Central Electoral Commission had clarified the procedure, one week before the vote.

29. As a result of the elections, the main parties represented in the Assembly of Kosovo are: the Democratic Party of Kosovo (PDK): 30%, the Democratic League of Kosovo (LDK): 25%, Vetëvendosje (VV): 13%, and the Alliance for the Future of Kosovo (AAK): 9%.

30. *Srpska Lista*, a new, unified coalition of three Kosovo Serb political entities, campaigning both to the north and south of the river Ibar, obtained nine seats, while the Serbian Progressive Democratic Party obtained one seat. The turn-out of the Kosovo Serbian community was high compared to previous elections in Kosovo, also thanks to the positive and constructive attitude of the Serbian authorities in Belgrade. Women were under-represented throughout the electoral process and in the electoral administration. They have 30% of seats in the Kosovo Assembly thanks to a compulsory quota.[28]

31. In recent years, the legislative work of the Assembly of Kosovo has been delayed by political deadlocks on issues such as the adoption of an amnesty law and the formation of a government following the 2014 parliamentary elections. This situation has been aggravated by obstructionism and demonstrative gestures by opposition political parties, in particular Vetëvendosje, whose representatives have been responsible for seriously violent acts such as throwing tear gas in the chamber.

32. However sensitive and important some issues may be – such as the demarcation of the border with Montenegro, the setting up of specialist chambers, or the Association/Community of Serb majority municipalities – the incapacity to conduct a civilised political discussion in the respect of parliamentary rules is a sign of a low level of maturity of the political forces concerned and is bound to lead to an erosion of the credibility of democratic institutions. The unusually frequent recourse to the Constitutional Court as a way to overcome political deadlock is also a matter of concern because it may, in the long run, affect the perception of the Court as a *super partes* body, immune to political influence.

4. The rule of law

33. In its Resolution 1912 (2013) on the situation in Kosovo and the role of the Council of Europe, the Assembly regretted that overall progress in improving the rule of law in Kosovo was slow, particularly with regard to the fight against organised crime and corruption, and that the judiciary continued to suffer from political interference, inefficiency and a lack of transparency and enforcement. Taking stock of the situation three years later, I found that these remain major problems, despite some limited improvements.

4.1. The institutional outlook

34. It was with the intention of supporting Kosovo in building sustainable, independent and accountable rule of law institutions that, in 2008, the European Union deployed the Rule of Law Mission in Kosovo (EULEX).

35. The law-enforcement system in Kosovo is hybrid, with EULEX and Kosovo staff working side by side. EULEX has been downscaling over time and currently counts 1 600 staff, with a total budget of approximately 111 million euros a year. Its mandate has been renewed until June 2016, and has been modified to focus on the issues of accountability, corruption and inter-ethnic and organised crime.[29] In the context of this renewed

28. http://eeas.europa.eu/eueom/missions/2014/kosovo/pdf/eu-eom-kosovo-2014-final-report_en.pdf.
29. www.eulex-kosovo.eu/eul/repository/docs/AE20151020_Fact_Sheet2.1.pdf.

mandate, the Head of EULEX, the EU Special Representative in Kosovo and the Minister of Justice of Kosovo co-chair a Joint Rule of Law Co-ordination Board, which is the main forum for discussion and co-ordination of rule of law matters.

36. The role of EULEX judges has also evolved over time: at the moment, the proportion of EULEX and Kosovo judges in mixed panels is normally one to two, with the chairmanship in the hands of Kosovo judges; EULEX staff mentor Kosovars while continuing to adjudicate exclusively only the most sensitive cases, especially in areas such as corruption and war crimes.

37. Despite the huge commitment of energy, money and resources, trust in EULEX has been declining amongst the population of Kosovo. Undoubtedly, corruption allegations against EULEX staff contributed to this, together with insufficient efforts on the part of EULEX to explain its mandate – and its limitations – to the general public. Additional problems, however, have been the sentiment that EULEX had replaced the United Nations Interim Administration Mission in Kosovo (UNMIK) in "overruling" Kosovo authorities and EULEX's inability to ensure that Kosovars held ownership for the progress in the rule of law.[30]

38. It must be acknowledged that the joint efforts by the international community and the Kosovo authorities to strengthen the rule of law have yielded some positive results. Progress has been made in improving the administration of justice in Kosovo, its ethnic diversity, professionalism and efficiency.

39. The recruitment of new judges and prosecutors is under way to fill the vacant posts. Following an agreement between Belgrade and Pristina in April 2014, Kosovo Serbs are also being progressively integrated into Kosovo's judicial structures, both in the north and the south. In September 2015, the total number of judges in Kosovo was 351, of whom 249 were men and 102 women. Out of this total, seven were Kosovo Serbs, nine were Kosovo Bosniaks, one Kosovo Turk and one Kosovo Ashkali. Amongst prosecutors, there were three Kosovo Bosniaks, two Kosovo Serbs and one Kosovo Turk.[31] Although the judiciary is still far from reflecting Kosovo's ethnic diversity, the trend is positive, especially if people from non-majority communities continue to be encouraged to apply.

40. Positive results have also been achieved in tackling the backlog of cases, which at the beginning of 2015 was just under 25 000. Kosovo courts now have a clearance rate of 84% of cases resolved within a year, up from 71%.[32]

41. During my meetings in Pristina, several interlocutors mentioned the difficulty in recruiting new judges and prosecutors, training them and improving the efficiency in tackling the caseload with the limited financial resources available.

42. Political influence over members of the judiciary and prosecution services is a lingering problem. According to Transparency International, the judiciary is perceived as the most corrupt institution in Kosovo, followed by political parties.[33] This permeability to political influence also explains why many Kosovo prosecutors are allegedly fearful of receiving high profile cases, as they guess they will be subject to pressure from other branches of power,[34] and why a number of sensitive cases that are allocated are not acted upon.

43. There is an increased awareness on the part of the Kosovo authorities of the need to address this matter with greater resolve. The Kosovo Judiciary Strategic Plan (2014-2019) has as one of its main goals the strengthening of institutional safeguards against external interference.[35] In this context, a reinforcement of the disciplinary system for judges and other people working in the judicial system is foreseen, and the obligation to make public the disciplinary measures that are taken against infractions. I support this course of action and I believe that an increase in the transparency of the disciplinary process would contribute to increasing public trust in the judiciary.

44. In the meantime, only last year, 40 disciplinary cases were initiated against prosecutors, while one judge and one prosecutor were dismissed from office, together with five judicial administration officers. One judge has been suspended due to bribery allegations.

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30. Hybrid Court System in Kosovo: Has EULEX proven to be the device to strengthen the independence and effectiveness of the judiciary?, A policy report by Group for Legal and Political Studies, September 2014.
31. www.eulex-kosovo.eu/eul/repository/docs/CPReport_2N.pdf.
32. European Commission, Kosovo Report, November 2015, p. 15.
33. Kosovo: overview of political corruption, 2014.
34. UNODC and UNDP, Judicial integrity in Kosovo, 2014.
35. www.kgjk-ks.org/repository/docs/KOSOVO_JUDICIARY_STRATEGIC_PLAN_2014_2019_803582.pdf.

45. Efforts are being made also to tackle the problems afflicting the Kosovo Correctional Service (KCS), another corps which is essential for the enforcement of the rule of law and which is not immune from political interference. In the period from July 2014 to September 2015, four KCS personnel were arrested and seven officers were suspended.[36] Amongst the main problems affecting this service are nepotism amongst its staff, tolerance of smuggling contraband in its facilities and serious disciplinary irregularities. Some high-profile prisoners continue to be given preferential treatment or benefit from frequent extraordinary leave or hospitalisations, which is against the law. As I was told during my meetings in Pristina, some of these cases make headlines in the media, which further weakens people's trust in law enforcement.

46. The Kosovo Police (KPS) remain the most multi-ethnic and best trusted law-enforcement institution in Kosovo, with a low level of corruption and disciplinary issues.

4.2. Tackling corruption and economic crime

47. In a recent interview published in the newspaper *Koha ditore*, Mr Samuel Zbogar, the Head of the European Union Office in Kosovo and EU Special Representative, said that the word "corruption" is mentioned 66 times in the 2015 Report on Kosovo by the European Commission. Indeed, this report repeatedly defines corruption as endemic and widespread, and as affecting all areas: government, business, justice.

48. According to the Corruption Perception Index 2014, Kosovo scores 33 (which places it 110th out of 175 evaluated countries/territories). To put this figure in context, Kosovo has the same score as Albania but higher than all the other Council of Europe member States, including in the western Balkans.[37]

49. Kosovo is implementing a main anti-corruption strategy and action plan, under the supervision of the Kosovo Anti-Corruption Agency (ACA), while additional action plans are in place to fight corruption in specific, vulnerable sectors (customs, police, tax administration, etc.).[38] In 2014, the ACA started administrative procedures in 304 corruption cases. Amongst them, only 30 were transmitted to the prosecution – the lowest number since the agency began its work in 2007.[39]

50. There is a problem of disconnection between the ACA and the prosecution services. Over 70% of cases investigated by the Agency and transmitted to the prosecution were not followed up, mainly because the latter did not find sufficient grounds to pursue investigations. The rare investigations into high-level corruption cases have not resulted in any final convictions yet.

51. Over the years, a complex institutional framework involved in anti-corruption has been established, including:

– the National Anti-Corruption Council (a consultative body chaired by the President of Kosovo);

– the National Anti-Corruption Co-ordinator (linked to the Chief Prosecutor);

– the Anti-Corruption Task Force (linked to the Prime Minister's office);

– the Directorate for investigation of economic crimes and corruption (within the Kosovo Police);

– the Co-ordinator against Economic Crime (with a mandate to tackle money-laundering, financing of terrorism and tax evasion).

52. It has been argued, however, that the limited co-ordination and co-operation between these bodies, sometimes having overlapping mandates, together with the lack of a proactive approach in the investigation stage, hamper the efficiency and effectiveness in the fight against corruption and economic crime.[40]

53. As regards political corruption, considerable efforts have been made to update and develop the legal framework. The most recent steps taken in this regard include:

– the introduction of amendments to the law on the financing of political parties;

– the adoption of the law on the declaration, origin and control of the property of senior public officials;

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36. EULEX, Compact Progress Report, September 2015.
37. www.transparency.org/cpi2014/results.
38. http://akk-ks.org/repository/docs/Draft_Anti-Corruption_Strategy_2012%20_%202016.pdf.
39. EULEX, Compact Progress report, September 2015, p. 24.
40. Project against Economic Crime in Kosovo (PECK), Assessment Report on compliance with international standards in the anti-corruption area, June 2013.

– the adoption of the law on the declaration, origin and control of gifts for all public officials.

54. Despite legislative efforts, tackling political corruption remains a daunting challenge which can be overcome only through the effective implementation of the law, the introduction of mechanisms to monitor implementation and, above all, firm will and consistent behaviour on the part of the political leadership.

4.3. Tackling organised crime, terrorism and the phenomenon of foreign fighters

55. Kosovo continues to be a source and transit area for trafficking in human beings, especially women and children, and a basis for smuggling and other networks involved in transnational crime, including drug trafficking and money laundering. Unfortunately the rate of convictions in these cases is low.

56. A growing concern that was mentioned during my meetings in Pristina and Belgrade is the rise of radicalisation in Kosovo, and the increase in the number of Kosovars leaving to fight in Syria and Iraq. Precise figures are not available, but the Interior Ministry of Kosovo estimates that so far about 300 Kosovars have fought on the side of the terrorist group known as "IS" ("Da'ish" in Arabic).[41] [42]

57. A recent publication by the Kosovar Center for Security Studies (KCSS) explores the lives and religious motivations of the over 230 fighters from Kosovo, including veterans of the Kosovo Liberation Army (KLA), young people from different backgrounds and also some religious leaders who promoted *jihad* in their preaching.[43] The report points out that, considering the size of the population of Kosovo, the total number of foreign fighters is high and that "IS" propaganda propagates easily in Kosovo, also due to the extent of Internet penetration, which is at the same level as in many other European countries.

58. Some of these foreign fighters are known to have died in Syria; others have come or are coming back, with the risks that this entails.

59. In response, in January 2015, the Assembly of Kosovo approved a law criminalising the joining of armed conflicts outside Kosovo.[44] The law criminalises the organisation, recruitment, financing, abetting, leading or training of people or groups of people with the objective of joining or participating in foreign armies or police forces. Those found guilty face a prison sentence of up to 15 years. Furthermore, a strategy against terrorism is in place[45] and, in September 2015, the Government of Kosovo adopted a five-year strategy for the prevention of violent extremism and radicalisation.

60. Since 2014, more than 100 individuals have been arrested or questioned by law-enforcement officials accused of having incited, financed, recruited or participated in the conflict in Syria and Iraq. Some of them were known religious and political figures linked to the Islamic Union of Kosovo, an officially recognised religious institution. The imam of the Great Mosque of Pristina, Shefqet Krasniqi, was arrested although he was subsequently released due to insufficient evidence. In March 2015, indictments were issued against seven suspects.

61. The events in Kumanovo in May 2015, in which some Kosovo Albanians – including KLA veterans – were charged with terrorism-related offences and illegal possession of arms and explosives, were a reminder that these dangers are very concrete and must be tackled effectively not only for the safety of the population, but also for the sake of regional stability.

4.4. Prosecuting war crimes

62. The prosecution of war crimes is one of the most sensitive areas and proceeds at a slow pace. Because of its sensitivity, it has been handled by EULEX, especially when cases involve high profile figures. Even so, prosecution has been hampered by several challenges, including weaknesses in Kosovo's witness protection system.

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41. Variations in translation have caused the same group to be termed "Islamic State in Iraq and Levant" (ISIL) and "Islamic State in Iraq and Syria" (ISIS) among others. Recently, the group renamed itself simply "Islamic State" (IS). Thus for the purposes of this document, for uniformity, but also in no way conferring recognition of any State status, the group is referred to as "IS".
42. www.balkaninsight.com/en/article/kosovo-law-to-punish-fighting-in-foreign-conflicts.
43. Kosovar Centre for Security Studies, Report enquiring into the causes and consequences of Kosovo citizens' involvement as foreign fighters in Syria and Iraq, April 2015.
44. www.balkaninsight.com/en/article/kosovo-law-to-punish-fighting-in-foreign-conflicts.
45. https://www.mpb-ks.org/repository/docs/Strategy_for_Counter_Terrorism_2012-2017_eng.pdf.

63. In the context of the progressive hand-over of cases from EULEX to Kosovo judges and prosecutors, in 2014 a group of EULEX judges published an open letter expressing the view that Kosovo judges would be unable to deal effectively with high-level and sensitive war crime cases. One of the alleged reasons was that they might be influenced by the discourse held by several high-level politicians who publicly supported their former comrades accused of war crimes, expressing solidarity with them.[46]

64. The difficulty in trying war crimes is exemplified by the fact that indictment decisions taken by courts of first instance are often sent back for retrial at the appeal stage, sometimes against the dissenting opinion of EULEX judges who, in most cases, are a minority in mixed panels.

65. The inability of the system to deliver justice in sensitive cases led, in 2011, the European Union to establish a Special Investigative Task Force, based in Brussels and staffed with internationals, to conduct a criminal investigation into the alleged crimes identified by the 2010 report of Mr Dick Marty on "Inhuman treatment of people and illicit trafficking in human organs in Kosovo".[47]

66. According to this report, some members of the KLA were responsible for serious human rights violations, including the forced removal of human organs, against prisoners who were held in secret detention places on the territory of Albania, during and after the war. The report suggests that victims were Kosovo Serbs and Roma as well as Kosovo Albanians suspected of collaboration with Serbia or members of rival armed groups. In the aftermath of the war, some of these KLA leaders entered politics and reached high-level positions. Mr Marty argued that the international organisations present in Kosovo had failed to adequately investigate these cases, favouring a pragmatic approach and priming short-term political stability over justice.

67. With this background in mind, it is easy to understand how difficult it was for the Assembly of Kosovo to adopt, at the beginning of August 2015, the constitutional amendments that would make it possible to establish specialist chambers to prosecute the crimes alleged by Mr Marty and investigated by the special investigative task force.[48]

68. On 11 August 2015, three opposition parties – Vetëvendosje (VV), the Alliance for the Future of Kosovo (AAK) and the Initiative for Kosovo (NISMA) – submitted a request to the Constitutional Court saying that the amendments were unconstitutional and that there had been procedural breaches during the adoption of the text in the Assembly of Kosovo. The Constitutional Court ruled the request inadmissible. This gave the green light for the negotiations between Pristina and The Hague, where the court should be based. Although based abroad, the court would try cases according to Kosovo law.

69. As I already declared in a statement, I welcome the decision of the Assembly of Kosovo to pave the way for the creation of specialist chambers, and I consider it a step towards reconciliation and a sign of the authorities' willingness to fight against impunity.

5. Human rights

70. The protection of human rights in Kosovo is a topic which is covered by a wealth of reports and which was analysed in detail by my predecessor, Mr Bjorn von Sydow. In this report, I will limit myself to providing an update of the situation, and focus on a political assessment.

5.1. General overview

71. The legal framework for human rights protection in Kosovo is broadly in line with European standards. The Constitution establishes the direct applicability of a number of international human rights instruments. A substantive *corpus* of law is in place and has been updated in 2015 with the adoption of new laws on gender equality[49] and the protection from discrimination in general.

72. The new law on the Ombudsperson, and the election by the Assembly of Kosovo of the new post holder – Mr Hilmi Jashari, whom I met in Pristina – represent a further step towards the reinforcement of the system. According to the new legislation, the mandate of the Ombudsperson is not renewable, an element which will contribute to the accrued independence of the institution. In addition, the Ombudsperson not only investigates complaints concerning human rights violations by the Kosovo public authorities (upon receiving a request or *ex officio*), but also acts as an equality body.

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46. www.balkaninsight.com/en/article/kosovo-judges-unable-to-handle-politically-sensitive-cases.
47. Doc. 12462.
48. www.kuvendikosoves.org/common/docs/ligjet/05-L-053%20a.pdf.
49. www.womensnetwork.org/?FaqeID=1&n=338.

73. Some recent reports raise concerns as regards gender-based violence, discrimination on the grounds of sexual orientation and gender identity, freedom of expression and freedom of the media. In general, however, the weakness in the area of human rights protection does not lie in the legal framework but in its effective implementation and enforcement.[50]

5.2. Minority communities

74. In the area of the rights of minorities, the legal framework is also comprehensive, the main challenge being implementation. The key institutional actors in this area are the Prime Minister's Office, the Ministry for Communities and Return, the Ministry for Local Government (both headed by Ministers of *Srpska Lista*), the Inter-Ministerial Commission on Returns, the Office of Community Affairs, the Consultative Council for Communities and the Office of the Language Commissioner.

75. Giving an objective evaluation of the state of inter-community relations in Kosovo is nearly an impossible task. In Belgrade and Pristina, I heard quite different opinions about this issue, which is bound to be eminently subjective. In the light of the number, frequency and nature of the incidents that were drawn to my attention, my overall impression is that the general security situation in Kosovo as regards inter-community relations is not a reason for alarm.

76. Unfortunately, inter-ethnic incidents have not disappeared, and each of them is one too many. However, it cannot be said that they are widespread, systematic or condoned by the authorities. In fact, developments in the North of Kosovo prove that inter-ethnic tensions can decrease in response to the progressive normalisation of relations between Belgrade and Pristina. This does not mean that vigilance can be relented. Building trust between communities is still an unfinished mission and one which requires the active engagement and sense of responsibility of all those concerned.

77. To give an idea of the general climate, I would like to report the information provided by UNMIK for the period from July to October 2015: a total of 26 incidents affecting cultural and religious heritage sites were recorded, 17 of which occurred at Serbian Orthodox sites; in August, four Kosovo Serb members of the Assembly of Kosovo received telephone threats related to their voting in the Assembly; later that month, during a visit of some 170 Kosovo Serb displaced persons to Gjakovë/Đakovica, a group of Kosovo Albanian protesters attempted to break through a police cordon, throwing firecrackers and paint at the police; in October, an explosive device damaged the house of the mayor of Leposaviq/Leposavić in northern Kosovo.[51]

78. All incidents such as attacks on persons, private property or religious heritage, when having an ethnic motive or affecting minority communities, increase the feeling of insecurity and deter further returns. When these incidents cannot be prevented, it is of the utmost importance that they are taken seriously by the authorities and that they are investigated and lead to judicial decisions when necessary. Inflammatory public discourse and impunity can easily re-open wounds that are not entirely healed.

79. Data collection and the exact identification of the motive behind these incidents are also of great importance. My attention was drawn to the lack of precision in the way in which data on inter-ethnic crimes are collected and to the fact that new legislation providing for hate to be considered as an aggravating circumstance has not yet been applied.

80. It seems to me that the main problems afflicting non-majority communities in Kosovo, even more than the majority community, are unemployment, poverty and the lack of economic prospects. The Kosovo authorities should make greater efforts to create investment opportunities in areas inhabited by non-majority communities and improve their employment in public administration and public companies. It is also necessary to find a solution for the recognition of diplomas issued by the University of Mitrovicë/Mitrovica and remove the remaining obstacles to the use of official languages other than Albanian in relations with the public administration.

81. Given this general situation, it is no surprise that in 2014 there were only 800 voluntary returns of people who had been displaced by the conflict in Kosovo, the lowest number since 2000. During my visit to Belgrade, I held a moving meeting with the residents of the collective centre in Krnjaca, who explained to me that they did not return to Kosovo not only because of security concerns but also because they would not be able to find a job and earn a living.

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50. European Commission, Kosovo Report, November 2015.
51. Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, 3 November 2015.

82. Most of them also encountered huge challenges in securing the restitution of their properties: although the Kosovo Property Agency has decided 42 116 out of the 42 749 claims received,[52] the enforcement of these decisions is poor. It is cumbersome for claimants to pursue cases to have occupied properties vacated or illegally built properties demolished, and the outcome of the courts' decision is anything but foregone. This is an aspect that the Kosovo authorities and the internationally community should try to solve without further delay.

83. All the interlocutors I consulted confirm that Roma, Ashkali and Egyptians (RAE) face a particularly difficult situation and are the most vulnerable to poverty, social exclusion and discrimination. Child school drop-out amongst this community has been reduced, but child labour and early marriage continue to be widespread.[53]

6. EU-facilitated dialogue between Belgrade and Pristina

84. Developments in Kosovo are intertwined with the evolution of relations between Belgrade and Pristina. Direct dialogue, facilitated by the European Union, started in 2011 gained new momentum in 2013, with the signature of the Brussels Agreement on the normalisation of relations between Belgrade and Pristina.[54]

85. This Agreement provided for Kosovo northern municipalities to be integrated into the Kosovo legal system, and for the integration of Kosovo Serbs in the judiciary and the Kosovo police, including in leading positions, as I mentioned earlier. The Agreement also required local elections in the north to be held the following year, under Kosovo law and OSCE facilitation. Both sides agreed not to hinder each other's efforts towards EU integration. Last but not least, Belgrade and Pristina agreed on the establishment of an Association/Community of Serb majority municipalities in Kosovo.

86. EU-facilitated talks for the implementation of the Brussels Agreement continued in the following months, at both technical and political levels. The latter were interrupted in 2014 due to elections both in Serbia and Kosovo, as well as to the ensuing deadlock for the formation of a new government in Pristina. When talks were resumed in February 2015, the issue of the Association/Community of Serb majority municipalities in Kosovo proved to be the main bone of contention.

87. During my visit to Belgrade in August 2015, I met Prime Minister Aleksandar Vučić just as he was about to leave for Brussels to participate in a new round of talks. He underlined the constructive attitude with which Serbia participated in this process, having as a key objective protecting the interests of the Serbian community in Kosovo. In the same way as Prime Minister Mustafa would do a few weeks later, Prime Minister Vučić did not deny that this constructiveness was not always free of criticism, being wrongly considered as weakness.

88. The talks of 25 August in Brussels bore fruit, with the signature of four agreements, in the areas of energy, telecommunications, the use of the bridge over the River Ibar in Mitrovicë/Mitrovica and the Association/Community of Serb majority municipalities.

89. While these agreements were greeted as a landmark by the European Union, they were contested in Pristina. The bitterest grievances concerned the Association/Community of Serb majority municipalities, on which there are different interpretations: while Belgrade maintains that the Association/Community will have executive powers in the areas of health care, education, urban and rural planning and economic development, Pristina denies it. While I was in Pristina, I was told that this discrepancy is due to a problem relating to the translation of the Agreement in Albanian and Serbian, while the original text was negotiated in English.

90. Arguing that the agreement on the Association/Community of Serb majority municipalities divides Kosovo along ethnic lines and makes it dysfunctional, the opposition movement Vetëvendosje staged violent street demonstrations and protests in the Assembly of Kosovo.[55]

91. In an attempt to beak the deadlock, the President of Kosovo, Atifete Jahjaga, submitted the agreement to the Constitutional Court for an opinion on its compatibility with the Constitution. While examining this question, the Court took the temporary measure to suspend all legal actions relating to the Agreement until January 2016.[56]

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52. www.kpaonline.org/ClaimsTotalDecided_caseload.asp.
53. European Commission, Kosovo Report, November 2015, p. 26.
54. First Agreement of Principles Governing the Normalization of Relations between Kosovo and Serbia.
55. www.afp.com/en/news/kosovo-police-arrest-13-fire-tear-gas-protest-clashes.
56. www.telegraph.co.uk/news/worldnews/europe/kosovo/11919391/Protesting-MPs-release-tear-gas-in-Kosovo-parliament-in-protest-at-EU-brokered-deal.html.

92. Although the process of normalisation is complex and not always straightforward, it represents a major progress compared to the past. It testifies to the determination of both sides to find negotiated solutions and will yield positive results for the lives of people in Kosovo, irrespective of their communities, and for the overall stability of the region. I encourage all political forces in Belgrade and Pristina to support the dialogue, and to exercise self-restraint and a sense of responsibility with a view to ensuring the success of this process.

7. International co-operation and integration

7.1. A European perspective

93. If there is something that unites Pristina and Belgrade, it is their common ambition to advance on the path towards EU integration. Serbia is more advanced in this process, having signed a Stabilisation and Association Agreement (SAA) with the European Union in 2013, and having started accession negotiations in 2014.[57]

94. Kosovo signed a Stabilisation and Association Agreement as recently as 27 October 2015. Once it enters into force – most likely in the first half of 2016 – the SAA will establish an area of free trade with the application of European standards in fields such as competition, aid and intellectual property, further reinforcing political dialogue and co-operation in a wide variety of sectors. As Commissioner Hahn put it, "This agreement … will put Kosovo on the path of a sustainable economic growth and can lead to much needed jobs for its citizens, especially the young".[58] Under the Instrument for Pre-Accession Assistance, the funding allocation to Kosovo for the period 2014-2020 totals 645.5 million euros.[59]

95. Despite this encouraging development, Kosovo's prospects of EU membership are complicated by the status issue: according to Article 49 of the Treaty on European Union, the accession of a new State must be unanimously agreed by all the EU member States. At the moment there are five EU member States that do not even recognise Kosovo as an independent State.[60]

96. On 2 November 2015, the Assembly of Kosovo voted for the ratification of the SAA. The opposition, which had disrupted the work of the Assembly for weeks, did not block it this time but walked out of the chamber after the speeches by the leaders of the political groups.

97. Addressing the Assembly of Kosovo a few days later, Commissioner Hahn underlined that the Stabilisation and Association Agreement aims to support Kosovo's efforts to strengthen democracy and the rule of law, and to contribute to Kosovo's political and institutional stability. He also added that "the Agreement cannot fix Kosovo's internal political problems; these are to be solved by you, Kosovo's democratically elected politicians, within the framework of your rules and procedures".[61]

98. During my visit to Pristina, I was repeatedly told that for Kosovars, and especially young people, what really counts in Kosovo's relations with the European Union is visa liberalisation. I saw, in several public places, posters of the Kosovo Foundation for Open Society saying: "But where is our freedom of movement? Treat us fairly."[62]

99. At the moment, Kosovo does not have a visa facilitation agreement with the European Union. A dialogue and a roadmap have been established in order to supervise the fulfilment of the requirements for visa liberalisation,[63] and the next report by the European Commission regarding the fulfilment of conditions for visa liberalisation by Kosovo is expected in mid-December 2015. Amongst others, these requirements cover areas such as Kosovo's border and migration management, preventing and combating organised crime, corruption and terrorism, readmission and reintegration.

100. Visa liberalisation is seen in Kosovo as a way out of its high unemployment rate, especially of young people, and a way out from the lack of economic prospects. The words pronounced by Commissioner Hahn during his above-mentioned address to the Assembly of Kosovo are particularly relevant, in my opinion, also

57. http://ec.europa.eu/enlargement/countries/detailed-country-information/serbia/index_en.htm.
58. www.consilium.europa.eu/en/press/press-releases/2015/10/27-kosovo-eu-stabilisation-association-agreement/.
59. http://ec.europa.eu/enlargement/instruments/funding-by-country/kosovo/index_en.htm.
60. These are Cyprus, Greece, Romania, the Slovak Republic and Spain.
61. https://ec.europa.eu/commission/2014-2019/hahn/announcements/speech-commissioner-hahn-assembly-kosovo_en.
62. For instance: http://kfos.org/procesi-i-liberalizimit-te-vizave/.
63. http://eeas.europa.eu/delegations/kosovo/documents/eu_travel/visa_liberalisation_with_kosovo_roadmap.pdf, http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/docs/second_commission_assessment_en.pdf.

in this context. Kosovo cannot expect EU member States to be ready to accept an inflow of Kosovars, without tackling the root causes for this migration movement. It should also be considered that visa liberalisation may result in the massive emigration of Kosovo's young people towards European Union countries. This brain drain would deprive Kosovo of any prospect of a sustainable future.

101. It is the responsibility of the Kosovo authorities to address the endemic problems which hold back economic growth and the consolidation of democracy, namely corruption and the enforcement of the rule of law, with a view to offering the people of Kosovo the possibility to stay and have a normal, peaceful and prosperous life at home. In this regard, it was interesting for me to read that, according to an NGO, the peak in irregular migration from Kosovo towards EU countries that was recorded at the end of 2014 was due to the fact that following the formation of the current government, people lost hope in the possibility of any political, social and economic change in Kosovo.[64]

7.2. Kosovo's bid for membership of international organisations

102. In the aftermath of the declaration of independence, Kosovo joined international financial institutions, including the International Monetary Fund, the World Bank and the European Bank for Reconstruction and Development (EBRD). The assistance of these organisations has been crucial in promoting Kosovo's economic recovery. To have an idea of the extent of international support, one should remember that since 1999, the World Bank has provided or managed around US$400 million to Kosovo while the EBRD has invested 124 million euros to date.[65]

103. During my visits to Belgrade and Pristina, Kosovo's application to join the United Nations Educational, Scientific and Cultural Organization (UNESCO) was a frequent topic of discussion. I heard rather diverging opinions on this initiative. The Kosovo authorities underlined the positive impact that Kosovo's membership of UNESCO would have on the protection of cultural heritage. On the other hand, Bishop Teodosije of Raska-Prizren did not see any advantage in Kosovo joining this organisation, regretted that the protection of cultural and religious heritage scored very poorly – to say the least – amongst the priorities of the Kosovo Government, and complained about the non-inclusive process through which the membership application had been decided. He had first read the news in the newspapers, despite being deeply involved in the protection of Serbian cultural and religious heritage in Kosovo, including through projects supported by the Council of Europe.

104. Speaking at a session of the United Nations Security Council in August 2015, the Minister of Foreign Affairs of Serbia, Mr Dačić, affirmed in the strongest terms his country's opposition to Kosovo membership of UNESCO, underlying the gap between Pristina's words and actions in the area of the protection of the Serbian cultural heritage.[66]

105. Since then, the situation has evolved. On 22 October 2015, the Executive Board of UNESCO recommended Kosovo's accession to UNESCO, with 27 votes in favour, 14 against and 14 abstentions. The accession request, however, failed to meet the required threshold of a two-third majority in the UNESCO General Assembly, having received 92 votes in favour, 50 votes against and 29 abstentions (95 votes in favour were required for accession to be approved).[67] This result was received with dismay in Pristina and hailed as a diplomatic success in Belgrade.

106. The attention around UNESCO temporarily overshadowed another membership application, to INTERPOL. Until now, co-operation with INTERPOL was based on a co-operation agreement of 2002 between this organisation and UNMIK,[68] but in April 2015 Kosovo requested membership in its own right. In addition, it has asked for the signature of an association agreement with the European Police Office (Europol).[69]

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64. www.democratizationpolicy.org/uimages/DPC%20Policy%20Paper%20Trading%20Democracy%20in%20Kosovo.pdf.
65. www.worldbank.org/en/country/kosovo/projects; www.ebrd.com/kosovo-data.html.
66. www.tanjug.rs/full-view_en.aspx?izb=195174.
67. www.reuters.com/article/2015/11/09.
68. www.interpol.int/About-INTERPOL/Legal-materials/International-Cooperation-Agreements.
69. In the Western Balkans, Europol has signed operational agreements with Albania, "the former Yugoslav Republic of Macedonia", Montenegro and Serbia. It has signed a strategic agreement with Bosnia and Herzegovina. At the moment, there is no operational or strategic agreement between Kosovo and Europol (https://www.europol.europa.eu/content/page/external-cooperation-31).

107. The Serbian authorities rebut that these applications go beyond the agreement on the regional representation of Kosovo that was reached in 2012 in the context of the Belgrade-Pristina dialogue. According to this agreement, representatives of the Kosovo Government can participate and speak on account of Kosovo in regional meetings. The name "Kosovo" must be accompanied by a footnote worded as follows: "This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo declaration of independence". Where new agreements are to be initialled and/or signed, a representative of Kosovo can do so. In line with this agreement, Serbia did not put any obstacles to Kosovo's accession to the South-East European Cooperation Process.

108. The participation of Kosovo representatives in regional and international gatherings is of great importance with a view to improving the lives of people in Kosovo, because it enables the authorities to receive advice, assistance, to be exposed to good practice and, in a nutshell, because it encourages Kosovo's alignment with international standards. I am in favour of a pragmatic and creative approach to Kosovo's participation in international organisations provided that it is directed at strengthening standards. In this respect, I would like to warn the Kosovo authorities against seeking membership in international organisations solely as a way to consolidate statehood.

8. Kosovo and the Council of Europe

109. During my meetings with the President of Kosovo and the Deputy Minister of Foreign Affairs, I was informed that Kosovo wished to apply for membership of the Council of Europe, and that it may do so early in 2016. This initiative enjoys the full support of all the political forces represented in the Assembly of Kosovo, whether from the majority or the opposition. Some of my interlocutors substantiated the need for Kosovo to join the Organisation arguing that, at the moment, people in Kosovo do not have access to the European Court of Human Rights.

110. This argument is certainly of great relevance. However, although an individual cannot bring a case against Kosovo before the European Court of Human Rights, they can avail themselves of the protection set forth in the European Convention on Human Rights before Kosovo courts, because the Constitution of Kosovo establishes the direct applicability of the Convention and its primacy over domestic law. Furthermore, in order to enhance knowledge of human rights law, for many years the Council of Europe has been organising or supporting training courses on the European Convention on Human Rights addressed to law professionals in Kosovo. Lawyers of the Kosovo Constitutional Court can even carry out study visits of several weeks at the European Court of Human Rights, to familiarise themselves with its case law.

111. I did not have the chance to discuss with the Kosovo authorities whether the failed attempt to join UNESCO may lead them to consider more carefully whether and when to launch a membership bid to the Council of Europe. For the sake of clarity, I would like to recall that, while the Assembly has a consultative role in the accession process, the final decision on whether to accept a new member is taken by the Committee of Ministers at the level of their Deputies, who usually decide by consensus. The outcome would be all but foregone given that only 34 of the 47 Council of Europe member States have recognised Kosovo as an independent State.[70]

112. Irrespective of a possible membership application, Kosovo already co-operates with the Council of Europe and is a member of several Council of Europe bodies.

113. In November 2013, Kosovo became a member of the Council of Europe Development Bank.[71] Loan requests can be presented for financing projects in four sectorial lines of action: strengthening social integration, managing the environment, supporting public infrastructure with a social vocation, supporting micro, small and medium-sized enterprises.[72]

114. Since September 2014, Kosovo has been a member of the European Commission for Democracy through Law (Venice Commission). The Venice Commission has worked on Kosovo for many years, providing advice on draft laws and other mechanisms, at the request of the UNMIK or the Parliamentary Assembly. Its most recent opinion concerning Kosovo is on the amendments to the Law on Freedom of Religion in Kosovo, which were adopted in March 2014, before Kosovo became a member, and was initiated following a request by the European Union.[73]

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70. Those who do not recognise it include: Armenia, Azerbaijan, Bosnia and Herzegovina, Cyprus, Georgia, Greece, Republic of Moldova, Romania, Slovak Republic, Spain, Russian Federation, Serbia and Ukraine.
71. www.coebank.org/en/news-and-publications/news/kosovo-become-member-ceb/.
72. www.coe.int/en/web/programmes/kosovo.
73. www.venice.coe.int/webforms/documents/?country=243&year=all.

115. The Association of Kosovo municipalities[74] has enjoyed observer status with the Congress of Local and Regional Authorities of the Council of Europe since 2002.

116. Over the past few years, the Council of Europe has intensified co-operation in Kosovo, based on the principle that the Organisation and its Secretariat follow a status-neutral approach. Since 2012, direct interaction between Council of Europe officials and officials from relevant authorities in Kosovo has been possible, in keeping with the principle of "functional capacity". A Working Group between the Council of Europe and Kosovo has been established with a view to discussing planning, programming and expansion of co-operation. Meetings of this group took place in November 2013, September 2014 and May 2015.[75]

117. On 27 May 2015, Mr Bjorn Berge, Director of the Secretary General's Private Office, and Mr Petrit Selimi, Deputy Minister for Foreign Affairs of Kosovo, exchanged letters on the new status of the Council of Europe Office in Pristina. This office plays an important role in the implementation of co-operation programmes.[76]

118. In January 2015, co-operation activities implemented in Kosovo amounted to 4.7 million euros, funded by EU/Council of Europe Joint Programmes, mainly in the fields of anti-corruption/money laundering, access to education for Roma, Ashkali and Egyptians, and cultural diversity. Kosovo is also a beneficiary of the regional Joint EU/Council of Europe Programmes in the fields of promoting minority protection – including Roma – and inclusive education as well as of the Council of Europe regional project on freedom of expression and freedom of the media, funded by Norway.[77]

119. In addition to co-operation, the Council of Europe conducts monitoring work in Kosovo, on the basis of specific arrangements established for the following mechanisms:

– the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which last visited Kosovo in April 2015;[78]

– the Advisory Committee of the Framework Convention for the Protection of National Minorities (FCNM); following receipt of the progress report prepared by the OSCE and submitted by UNMIK, the last monitoring visit took place in November 2013.[79]

120. Members of the Group of Experts on Action against Trafficking in Human Beings (GRETA) visited Kosovo in 2015 and are preparing a report on Kosovo's compliance with the standards of the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197).

121. In the context of the joint Council of Europe and European Union project against Economic Crime in Kosovo (PECK), Council of Europe experts have issued a final assessment report on compliance by Kosovo with international standards in the areas of anti-corruption, anti-money laundering and combating the financing of terrorism, following the methodology of the Group of States against Corruption (GRECO) and of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL).

122. I am convinced that the Council of Europe should continue its activities in Kosovo, both in the field of co-operation and monitoring. I do not think, however, that it is necessary for the Assembly to ask the Committee of Ministers to broaden the range of activities in which Kosovo is involved, or to redirect them towards different priorities. This is the reason why I do not think it necessary to propose a recommendation to the Committee of Ministers.

123. I believe that, on the other hand, the Kosovo authorities should make better use of the Council of Europe bodies and mechanisms to which they belong or in which they participate on the basis of special and ad hoc arrangements. As I said earlier, closer co-operation with the Council of Europe should not be sought as a way to reinforce statehood but as a way to reinforce standards. In this sense, I think that it is time to intensify rather than broaden co-operation, for it to have a real impact on the lives of people in Kosovo.

124. For a start, I encourage the Kosovo authorities to make full use of the expertise of the Venice Commission to bring Kosovo's legal framework fully into line with Council of Europe standards. Unfortunately, despite having joined the Venice Commission, Kosovo has never asked for its advice on any issue. As pointed out by the European Commission, this could be done in the area of electoral legislation: "A series of

74. http://komunat-ks.net/en/.
75. www.coe.int/en/web/programmes/kosovo.
76. www.coe.int/en/web/programmes/-/status-of-the-council-of-europe-office-in-pristina.
77. www.coe.int/en/web/programmes/kosovo.
78. www.cpt.coe.int/en/kosovo.htm.
79. www.coe.int/t/dghl/monitoring/minorities/6_Resources/PDF_Agreement_UNMIK_en.pdf.

shortcomings, including improved delineation of primary and secondary legislation on elections, adequate timelines for complains and appeals, and accuracy of voters' lists, remain to be addressed to better reflect best practice and international standards. Kosovo's recent membership of the Venice Commission can help in this regards."[80] I invite the Kosovo authorities to take on board this suggestion.

8.1. Relations with the Parliamentary Assembly

125. Relations between the Parliamentary Assembly of the Council of Europe and the Assembly of Kosovo have evolved over time.

126. Following the adoption of Assembly Resolution 1739 (2010) on the situation in Kosovo and the role of the Council of Europe, the Bureau of the Assembly decided that "as a first step in implementing it", two elected representatives to the Assembly of Kosovo, one representing the majority and one the opposition, could be invited to attend the meetings of Assembly committees "whenever a question directly concerning Kosovo is on the agenda of that meeting".

127. Later, following the adoption of Assembly Resolution 1912 (2013), the Bureau expanded the scope of their participation, deciding "to grant the right to two representatives of the political forces elected to the Kosovo Assembly, one representing the majority and one the opposition (to be decided by the respective groups within the Kosovo Assembly themselves, including representatives of minorities, to participate in committee meetings (with the exception of the meetings of the Monitoring Committee and the Committee on Rules of Procedure, Immunities and Institutional Affairs because of their specific features), regardless of the questions raised on the agenda. They would have no right to vote but could take the floor in committee meetings upon the authorisation of the Chairperson". Furthermore, the Bureau decided that they would have the right "to follow the plenary sessions of the Assembly with no right to speak".

128. Since the Bureau decisions were ratified by the Assembly,[81] members of the Assembly of Kosovo have participated in numerous committee meetings, especially in the Committee on Political Affairs and Democracy, the Committee on Legal Affairs and Human Rights and the Committee on Migration, Refugees and Displaced Persons. All too often, however, there has been only one member of the Assembly of Kosovo at a time attending these meetings, belonging to a party of the governmental majority. In this regard, I would like to encourage the political groups represented in the Assembly of Kosovo to ensure that the representatives they send to Strasbourg better reflect gender balance, and to allow for greater participation of representatives of the opposition and minorities.

129. I think that the participation of a delegation of the Assembly of Kosovo in the work of the Parliamentary Assembly is useful to help these elected representatives come into contact with other legislators, and broaden their horizon on a number of common concerns. It can be instrumental to help them bring Kosovo closer to the values and standards of the Council of Europe.

130. I have also noticed that, in its programmatic document, the Kosovo Government proposes the drafting of a strategy for co-operation and enhancement of parliamentary diplomacy, and intensifying co-operation with inter-parliamentary structures.[82]

131. With these considerations in mind, I would like to propose stepping up dialogue between the Parliamentary Assembly and the Assembly of Kosovo. I would recommend giving the right to "a delegation of the Assembly of Kosovo" to participate in meetings of Assembly committees and networks, with the right to speak and without the right to vote. This delegation should be composed of a representative of the majority, a representative of the opposition and a representative of minorities (whether from the opposition or the majority). In so far as possible, this delegation should reflect the gender balance of the Assembly of Kosovo. Its composition should be submitted to the Bureau for approval for the entire session. The right to follow the plenary sessions of the Assembly with no right to speak would remain unchanged.

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80. European Commission, Kosovo Report, October 2014, p. 7. A similar recommendation is reiterated in the 2015 Progress Report, p. 6.
81. http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=19551&lang=en.
82. www.kryeministri-ks.net/repository/docs/Government_Programme_2015-2018_eng_10_mars.pdf, p. 59.

9. Conclusions

132. In the past few years, the situation in Kosovo has improved in a number of areas, even if progress remains limited and requires further consolidation. Enhancing the respect for the rule of law and its effective enforcement seems to me the most pressing priority, and one that would have beneficial effects on the everyday lives of people in Kosovo, irrespective of their community.

133. The political climate in Kosovo has become increasingly tense and some elected representatives have proved to be unable or unwilling to conduct negotiations in a constructive spirit and in the respect of the rules of parliamentary democracy. This deterioration of the way of doing politics and especially the recourse to violence are a source of serious concern and should be closely watched in the coming months.

134. Building trust should be the authorities' imperative. This applies to inter-community relations but also to people's trust in credible institutions, delivering democracy and justice and protecting human rights according to European standards.

135. Since the Assembly last expressed itself on the situation in Kosovo in 2013, there have been important improvements in the area of political dialogue between Pristina and Belgrade, with a positive impact on the ground and progress towards European Union integration for both sides. This is a crucial development which contributes to further stabilisation for the entire region of the Western Balkans.

136. Finally, reviewing the situation in Kosovo, it is inevitable for the concept of "democratic security" – so often referred to by the Secretary General of the Council of Europe, Thorbjørn Jagland – to come to mind. Compliance with high standards of democracy, human rights and the rule of law is not only important for the lives of people but is a factor of stability domestically and internationally. On the other hand, poor compliance, aggravated by the poor state of health of the economy, is a threat to stability and security which is bound to have repercussions outside domestic borders.

137. I would like this report to contribute to improving Kosovo's capacity to experience and promote democratic security.