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COMMISSION STAFF WORKING DOCUMENT

Accompanying the

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

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

{COM(2014) 488 final}

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

1. INTRODUCTION

This Commission staff working document accompanies the second report from the Commission on progress by Kosovo* in fulfilling the requirements of the visa liberalisation roadmap. It builds on the information and the assessment provided in the first Commission's report¹ and, in accordance with the methodology outlined in Kosovo's roadmap on visa liberalisation, it analyses in detail the most relevant developments concerning the adoption or amendment of legislation and the implementation thereof and other measures listed in the roadmap. It also puts forward recommendations and addresses the expected security and migratory impacts of visa liberalisation.

2. REQUIREMENTS RELATED TO READMISSION AND REINTEGRATION

2.1. Readmission

Kosovo's legal framework on readmission is in place. Kosovo has continued negotiating and concluding readmission agreements with EU Member States and Schengen Associated States² as well as the main transit countries and countries of origins of irregular migration.³

Readmission functions well. Kosovo has improved the processing of readmission requests, and the number of pending readmission cases is no longer a subject of concern. Pending cases are processed within the timeframe set by the readmission law or bilateral readmission agreements. The readmission of Kosovo citizens generally functions well. There is no sufficient data about the readmission of third-country nationals and stateless persons.

The exchange of information with Member States' authorities concerning special needs of returnees has improved, although further efforts are needed in order to facilitate the readmission of vulnerable persons, such as unaccompanied minors or persons with health problems. The readmission statistics supplied by Kosovo correspond to the figures provided by Member States.

Recommendations:

- Continue to negotiate and conclude readmission agreements with interested EU Member States and the main transit countries and countries of origin of irregular migrants;
- continue to readmit from all EU Member States Kosovo citizens, third-country nationals and stateless persons who no longer fulfil the conditions of entry and stay in those states;
- take the necessary measures to facilitate the readmission of vulnerable persons.

2.2. Reintegration

Since February 2013, significant developments have occurred in reintegration. In August 2013, a revised regulation on reintegration was adopted, laying down legal remedies and providing a legal basis for establishing an Appeal Commission. The members of the Commission have been appointed.

The Kosovo Government continues to finance the Reintegration Fund. In 2013, the allocation was EUR 3.2 million. Approximately EUR 1.7 million was spent on direct financial help for beneficiaries and a million euros were transferred to the Ministry of Environment and Spatial

¹ COM (2013) 66

² Kosovo recently signed readmission agreements with Estonia, Croatia and Lichtenstein, and Switzerland and Norway, and will soon be signing agreements with Italy and Latvia.

³ Kosovo signed readmission agreements with Albania and Montenegro.

Planning for renovation and construction of accommodation for repatriated persons. The authorities tend to focus on emergency rather than sustainable reintegration services.

In 2013, the new Department of Reintegration and Repatriated Persons at the Ministry of Internal Affairs recruited 14 permanent, full-time officers; nine additional permanent posts have been approved for 2014. The salaries of the additional temporary staff of approximately 30 persons continued to be paid from the Reintegration Fund in 2013.

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

The reintegration case management system has been operational since January 2013 and, since 30 April 2013, all municipalities have access to this system. It allows basic registration but does not allow for follow-up. Guidelines on how to use the system have been distributed to and training provided for all Municipal Offices for Communities and Return (MOCR). So far, not all these offices have been able to introduce and/or use the data.

Mamush, Junik and Malishevo/Malishevë are the three municipalities that have yet to set up a MOCR. This stems from the small number of returnees in these regions. However, MOCR's duties are carried out by other municipal offices, the municipalities are connected to the case management system, and their top officers have undergone the required reintegration training. Reintegration functions well in three northern Serbian municipalities of Kosovo; a coordinator is posted in the Municipality of Mitrovica where all the necessary duties of a MOCR are performed. Coordination between central level and MOCRs as well as coordination between the six regional coordinators has improved significantly, but inter-ministerial coordination and coordination among MOCRs could be strengthened.

The Office of Reintegration has been moved to the main terminal of the new international airport in Pristina and, in line with EU practice, is located just behind the passport control zone. All returnees are transferred to the office where the application form is filled in and forwarded to the competent MOCR.

Municipal reintegration committees approve requests for emergency assistance, which allows for a quick response and makes it easier to meet returnees' essential needs upon their arrival. Requests for medical assistance, housing or business plans are approved at central level in order to reduce administrative cost and prevent possible abuses. There is no monitoring mechanism in respect of implementation of business plans submitted by returnees and approved by central authorities; once the project has been approved the money is transferred to the beneficiary's account and there is no check on how it is being subsequently spent or whether the business continues to function following the start-up phase.

Returned children have immediate access to education, although language courses and other language support are not delivered in a systematic manner in every municipality. Provision of health care could be further improved; in particular, local medical staff are not always able to properly diagnose health problems of repatriated persons.

Recommendations:

⁴ Twelve months from the date of repatriation.

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

3. BLOCK 1: DOCUMENT SECURITY

In February 2014, a new civil status registration system (CSRS) was launched with a single central database. Currently, registry books and the database are used in parallel. There are serious concerns regarding the consistency and accuracy of the data stored in the CSRS, as the system allows printing a certificate for the same event containing different sets of data or inaccurate data. Storage of physical files varies between municipalities and, in some cases, cannot prevent loss of information.

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

In December 2013, Kosovo adopted secondary legislation allowing the issuance of civil status certificates upon request in multiple alphabets and languages such as Bosnian, Serbian Cyrillic and Turkish. The new certificates were printed on paper of poor quality without the necessary security features, which may increase the risk of forgery; therefore, the implementation of the secondary legislation has been put on hold until paper of the appropriate quality can be procured.

Kosovo has amended its secondary legislation concerning the procedure and criteria applicable to change of names and surnames. A change can be done every five years by submitting a written justification and clearances from police, justice, tax and land property administrations. When a name or surname change is permitted, the personal identification number remains the same. However, there are no clear rules regarding assessment of applications. The passport issued to the person is cancelled electronically and physically by punching the data page.

New biometric identity cards were introduced in December 2013. The cards include machine-readable zone and electronic chip and they are compliant with International Civil Aviation Organization (ICAO) standards. An electronic chip stores the document holder's facial image and fingerprints encoded in two-dimensional barcode.

After suspension of cooperation between the Ministry of Internal Affairs and the company contracted in 2011 to issue travel documents,⁵ a new contract has been concluded with another company and new passports were introduced in June 2013. The new passports are compliant with required EU and ICAO standards for travel documents. As of February 2013, the age from which fingerprints are included in travel documents is in compliance with EU standards, that is, 12 years. Biometrics collected when submitting an application for an identity card or a passport are linked to the personal identity number. The database storing data used to produce identity cards and travel documents is not linked to any law enforcement or judicial database.

⁵ The contract was suspended upon discovery of financial irregularities.

There remain some 9 000 records available that could potentially be transferred to the INTERPOL Stolen and Lost Travel Document database.

All border-crossing points (BCP) are equipped with the necessary hardware and software to control travel documents, including biometrics. Nevertheless, due to the lack of training, biometric data are not being systematically verified even at the busiest BCPs.

In 2013, 581 officials underwent training on the Code of Ethics for Employees of the Civil Registration Agency, Municipal Civil Status Offices and Municipal Civil Registration Centres. There are special mailboxes in offices where claims about possible corruption cases can be submitted.

Within the Civil Registration Agency a small inspectorate investigates corruption. Despite its limited resources, 157 inspections were carried out in 2012 and 190 in 2013.

Recommendations:

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

4. BLOCK 2: BORDER/BOUNDARY AND MIGRATION MANAGEMENT

4.1. Border/boundary management

There has been significant progress in the field of integrated border management (IBM). In September 2013, the Law on Border Control and Surveillance was aligned with the EU *acquis*. The new Law on Inter-agency Cooperation entered into force in September 2013. It defines roles and responsibilities of all public authorities involved in integrated border management. The new IBM Strategy and Action Plan for 2013-2018 were adopted in October 2013 and they are compliant with the EU *acquis*. The core legislation, strategies, administrative instructions and standard operating procedures are all in place.

Cooperation with neighbouring countries has improved significantly. Joint border surveillance patrols, joint BCPs with entry-exit check procedures and an information exchange office with Albania are operational. Joint border surveillance patrols are carried out with the former Yugoslav Republic of Macedonia. Regular meetings with both neighbouring countries take place at local, regional and national level. There are synchronised patrols with Montenegro and the possibility of having joint patrols is being explored. The delineation of the border with Montenegro has progressed; 70 km of the border have been delineated, leaving only 9 km. According to the IBM Technical Protocol with Serbia, six interim BCPs have been established and permanent facilities at BCPs are being constructed. Regular meetings with Serbian authorities are carried out at all levels with active support of the EULEX. However, the meetings tend to focus on administrative rather than operational matters. Kosovo Force led by the North Atlantic Treaty Organisation (KFOR) is still responsible for surveillance of the green border between Kosovo and Serbia, but the surveillance is done less frequently and comprehensively than before.

Kosovo has started cooperation with FRONTEX on information exchange, risk analyses, capacity building and training. In 2013, Kosovo appointed a focal point for risk analysis in the Kosovo Police responsible for maintaining direct contacts with FRONTEX.

BCPs are arranged and sufficiently equipped to perform first and second line checks on both entry and exit lanes. The Border Police and Customs have adequate personnel to control traffic flows and movement of passengers, and keep the area secure and safe. However, in practice, border checks are not always performed systematically, particularly on exit lanes. Border authorities do not systematically insert data concerning all passengers into the entry/exit registry.

The Border Police and Customs are both connected to internet and intranet at BCPs, but the Food and Veterinary Agency has neither internet access, which may hinder efficient data flow between the central authority and local units. Personnel at BCPs have access to the Border Management System, but only six BCPs have access to the Kosovo Visa Information System. Each BCP has a database of samples of travel documents which is updated manually; however, updates are not introduced on a regular basis.

Border surveillance functions well, but it needs further improvements such as an increase in the number of available vehicles and dogs, introduction of a fast mobile surveillance system and establishing ways of communication in challenging sections of the border.

In January 2013, the National Border Management Centre was established. The Centre is composed of staff from all border-related authorities and is responsible for strategic and operational risk analyses at central level; international information exchange; data protection; monitoring the movement of persons, vehicles and goods at BCPs; detection and prevention of illegal actions, trafficking and smuggling of goods and persons; and detection and prevention of possible corruption activities at BCPs. At the local level, risk analyses are carried out at BCPs. However, the practical use of this analytical tool remains limited.

Kosovo remains a major transit location for irregular migration and trafficking in human beings. The number of detected and investigated cases of facilitating irregular migration, trafficking in human beings or drug trafficking remains low⁶.

Recommendations:

- Endeavour to complete the delineation of the border with Montenegro;
- perform systematic border checks on both entry and exit lanes; clarify the scope of the entry/exit registry; elaborate standard operating procedures for registering passengers;
- ensure internet access for the Food and Veterinary Agency at all border-crossing points;
- ensure regular updates of samples of travel documents at each border-crossing point;
- provide sufficient border surveillance equipment;
- enhance the use of risk analysis, in particular in planning operational actions;
- prevent in a cross-border manner irregular migration and trafficking in human beings.

4.2. Migration management

In 2013 Kosovo revised and adopted a package of laws improving the legislative framework for migration management, including the Laws on Foreigners, Citizenship and Asylum, and the Law on Prevention and Fight against Trafficking in Human Beings and Protection of Victims of Trafficking, as well as secondary legislation.

The new legislation introduces definitions that are compatible with the terminology used in the EU *acquis*; new procedures for issuing visas; new types of residence permits; conditions

⁶ FRONTEX Western Balkans Annual Risk Analysis 2014

for granting permits; reflection period; and residence permits for victims of trafficking in human beings.

The new legislation also stipulates that foreigners may enter and stay in the territory of Kosovo for three months in any six-month period if they hold a valid travel document, a visa or a residence permit, have sufficient means of subsistence, and can justify the purpose of their stay. For the moment, practical implementation of these provisions remains unclear as only travel documents, residence permits and visas are being checked at BCPs.

Carriers' obligations as defined by the new Law on Foreigners are in line with the EU *acquis*. If a foreigner has been refused entry, the carrier has to take charge of that foreigner and transport him or her back to the original place of departure. In such cases financial sanctions are also imposed on the carrier by the Kosovo Police.

In July 2013, Kosovo introduced a new visa regime that affects 87 countries. As a rule, a foreigner should apply for a visa at Kosovo's consulates and only in exceptional cases the application can be submitted and a visa issued at BCP. Prior to April 2014, the only two missions abroad issuing visas were the General Consulate in Istanbul, Turkey, and the embassy in Tirana, Albania. Besides those two missions, since September 2013, eight BCPs also have access to the Kosovo Visa Information System. Technical preparations for this system's roll-out to other missions abroad have started.

The new legislative framework lays down a single procedure for obtaining temporary residence permits and work permits. A foreigner should apply for the residence permit at the Ministry of Internal Affairs, which conducts an *ex officio* procedure with the Ministry of Labour and Social Welfare. If all required conditions are met and both ministries agree, the final decision on granting a residence permit and a work permit is taken by the Ministry of Internal Affairs.

Under the new legislative framework, foreigners working in Kosovo are granted equal treatment as regards working conditions, freedom of association, education, social security, recognition of diplomas and access to goods. Holders of permanent residence permits have the right to employment, vocational training, education, scholarship, social welfare and pension, medical insurance, access to goods and services, etc. Currently there are no additional integration measures for foreigners such as language courses, introduction to local culture, history, or legal framework.

The new legislation changes the procedure for returning illegally staying foreigners transferring responsibility for decision-making from courts to the Ministry of Internal Affairs, namely the Directorate of Citizenship, Asylum and Migration. The Kosovo Police are responsible for the execution of deportation/removal orders issued by the Directorate of Citizenship, Asylum and Migration. The new legal provisions regulate procedures, safeguards, including the principle of *non-refoulement* and voluntary return, entry bans, legal remedies against removal, legal assistance and representation, provisions for restriction of the freedom of movement and establishment of the detention centre.

The new legislation explicitly provides appeal possibilities only for certain categories of persons, such as victims of human trafficking and holders of work permits. Nevertheless, provisions of the new law and administrative instructions provide for additional legal remedies in the return procedure with a suspensive effect or with possibility of a temporary suspension of the decision, and a judicial review in cases of detention.

In 2013 the Ministry of Internal Affairs allocated EUR 1 million for construction of a new detention centre. The centre is expected to be functional by the end of 2014. Currently,

irregular migrants are accommodated at the centre for asylum seekers in Vranidoll; a separate regime for both categories of foreigners is ensured. Furthermore, at Pristina airport there are dedicated premises for accommodation of foreigners who have been refused entry to Kosovo. The law does not prescribe a time limit for accommodating migrants in these premises.

In December 2012, Kosovo launched a new database on migration and asylum which is only partially operational; data on persons accommodated in the deportation centre, and data on executed deportation procedures are currently being added. This database is not yet interlinked with other databases containing data on migration such as the Border Management system, the Kosovo Visa Information System and the Kosovo Police Information System. The Law on Foreigners regulates authorities' access to the database taking into account safeguards provided by the Law on Data Protection.

In October 2013, the National Migration Strategy and Action Plan were adopted defining strategic and specific objectives, establishing monitoring and evaluation mechanisms, and setting indicators for assessing achievements. The National Authority for the Monitoring of Migration Flows was also established.

A migration profile for 2012 was drafted and adopted in November 2013. An extended migration profile for 2013 is being prepared by the newly established national authority. All relevant information and several sources will be consulted as compared to the 2012 exercise.

Recommendations:

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

4.3. Asylum

In July 2013, a new Law on Asylum was adopted and, during the following months, corresponding secondary legislation was amended accordingly.

The role of the Office of the High Commissioner for Refugees (UNHCR) has been strengthened and aligned with the provisions of Asylum Procedures Directive and the Geneva Convention. In December 2013, the Ministry of Internal Affairs and the UNHCR signed an agreement on technical cooperation in order to facilitate practical implementation of legislation in the field of asylum.

In November 2013, the Ministry of Internal Affairs and the municipality of Lipjan/Lipljan, where the reception centre for asylum seekers is located, signed a memorandum of

understanding on offering basic primary health services for asylum seekers accommodated at the centre.

Rights and obligations of asylum seekers and persons granted protection are in line with the EU *acquis*. However, the law could be more specific on issues such as reduction and withdrawal of material reception conditions, accommodation of unaccompanied minors, detention of refused asylum seekers, procedure for recognition of foreign diploma, certificates and other evidence of formal qualifications. The provision of interpretation services could be further improved.

A set of trainings was organised by the European Commission, the European Asylum Support Office (EASO), UNHCR, NGOs and IOM for asylum officers, police officers, judges and lawyers. The Ministry of Internal Affairs provided internal training regarding new legislation in the field of asylum. In addition, a special training programme for officials from the Ministry is currently being drawn up by EASO.

In 2013, Kosovo received 62 asylum applications. No refugee status has been granted, four persons received subsidiary protection. The majority of procedures are terminated as asylum seekers abscond before a decision is taken.

Recommendations:

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

5. BLOCK 3: PUBLIC ORDER AND SECURITY

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

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

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

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

The judiciary does not have an integrated case management system allowing tracking of cases from the intelligence and investigative phase, through prosecution, to adjudication and asset recovery. In 2014, the Government of Kosovo, jointly with Norwegian authorities, launched a

pilot project aimed at developing an electronic case management system linking Kosovo Customs, the Kosovo Police, the prosecutors and the courts.

Recommendations:

- Develop the independence of the judiciary by harmonising the four core laws that entered into force in January 2013 concerning the criteria for appointing or dismissing judges and prosecutors;
- ensure that vacancies in the KJC and KPC are filled;
- reduce the backlog of pending court cases;
- develop a criminal record information system; regulate appropriately its management;
- develop an integrated case management system allowing the tracking of criminal cases from investigation through prosecution and conviction to asset recovery.

5.1. Preventing and combating organised crime, corruption and terrorism

In March 2013, the Government approved an Intelligence-led Policing Strategy for 2013-2014 and an action plan. In March 2014, the first serious and organised crime threat assessment (SOCTA) was published – an important step in strengthening evidence-based policing. Nevertheless, there is still room for improvement; in particular, analytical skills should be further developed, interagency cooperation should be strengthened and adequate technical and human resources should be provided.

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

In 2013, some secondary legislation accompanying the Law on Witness Protection was adopted. The newly established Directorate of Witness Protection is sufficiently staffed, with its own budget. Three cases have been handled by the directorate, but not a single client has been taken into its witness protection programme or relocated. Taking into account the size of territory and characteristics of organised crime groups in Kosovo, international relocation of witnesses should be considered as the most appropriate tool in sensitive cases.

In January 2014, the Government adopted the Strategy for Prevention and Combating Informal Economy, Money Laundering and Financing of Terrorism. Based on a mid-term expenditure framework, the Financial Intelligence Unit (FIU) plans to increase its staff to fully perform additional tasks provided for by the amended law. According to the introduced changes, the FIU can carry out inspections on its own initiative, impose penalties and prepare a national risk assessment on money laundering and financing of terrorism. The number of reports of suspicious transactions decreased slightly in 2013, but remains high. Although a number of investigations into money laundering have been launched by Kosovo Police, no convictions by the courts were reported.

In March 2013, a new Law on Extended Powers for Confiscation of Assets Acquired by Criminal Offence was adopted. The law provides for the confiscation of assets which do not directly come from a criminal activity for which a person is convicted. It also introduces, under certain conditions, the principle of reverse burden of proof. These new legal provisions allow confiscation of assets related to inexplicable wealth. However, the execution rate of asset confiscation remains very low.

Kosovo remains a transit and storage location for the trafficking of heroin and marijuana⁷. The new Criminal Code and Criminal Procedural Code provisions offer more effective tools for the Kosovo Police to perform drug investigations. The National Drug Coordinator actively cooperates with law enforcement authorities, the Ministry of Health and civil society. Preventive activities, awareness -raising campaigns and monitoring of drugs are satisfactory. The capacity of the Kosovo Police in preventing and investigating drug trafficking is sufficient. However, there remain substantial concerns relating to a relatively low number of final convictions for drug-related criminal investigations.

In July 2013, the revised Law on Prevention of and Fight against Trafficking in Human Beings, and Protection of Victims of Trafficking was adopted. A National Anti-trafficking Coordinator cooperates closely with respective authorities, social workers and civil society. An Inter-ministerial working group on combating trafficking meets regularly. An emergency call centre has been established and operates as the main contact point for potential victims, helping to identify victims, referring them to proper institutions and serving as a source of information for all stakeholders. The emergency telephone service is free of charge and confidential. A Law on Crime Victim Compensations has been drafted. The aim of the law is to establish and ensure efficient functioning of crime victim compensation programme. A new Strategy on the Fight against Trafficking in Human Beings for 2014-2019 is under preparation.

Kosovo has also begun to address arms trafficking, but the rate of destruction of small arms and light weapons remains low. It is estimated that after the armed conflict, more than 300,000 weapons remained in circulation in Kosovo⁸. Considering the number of seizures in recent years⁹, a significant number could still be in Kosovo. A National Strategy on Control and Collection of Small Arms has been in place since 2008. In 2013, amendments to the Law on Weapons were drafted in order to eliminate translation errors and align the three language versions as well as to further harmonise the legislative framework with the EU *acquis*. The law is being discussed by the Parliament.

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

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

Public procurement remains one of the major sources of corruption in Kosovo. There are two competent institutions in the field: the Public Procurement Commission and the Procurement Review Body. The Public Procurement Commission reports on deficiencies in and the functioning of the overall system. The Procurement Review Body is in charge of dealing with complaints concerning irregularities. However, the functioning of the latter could not be assessed properly as the institution has not been operational for some time; its term of office has come to an end, and new staff have not yet been appointed.

⁷ <http://www.state.gov/j/inl/rls/nrcrpt/2013/vol1/204050.htm>

⁸ http://www.unodc.org/documents/data-and-analysis/Studies/Illicit_DT_through_SEE_REPORT_2014_web.pdf

⁹ <http://www.smallarmssurvey.org/fileadmin/docs/C-Special-reports/SAS-SR03-Kosovo.pdf>

⁹ It is reported that KFOR has destroyed approximately 27,000 and other Kosovo authorities about 70,000 arms.

In August 2013, the new Law on Financing of Political Parties was adopted. The Central Election Commission is responsible for implementation of the law. The law provides for payment of funding to political parties quarterly. The payments are proportionate to the number of votes obtained during the last election. The law also lays down limits on the amount of private donations, namely EUR 2 000 for natural persons per year and EUR 10 000 for legal persons per year. The law provides for checks on the expenditure of political parties, which are required to operate a single bank account. The Central Election Commission is seriously understaffed, which may affect the implementation of the law in the future.

Recommendations:

- Improve the exchange of information between law enforcement and judicial authorities in intelligence-led policing; strengthen their capacity and human resources;
- adopt the draft Law on Interception and standard operating procedures by secondary legislation;
- maintain capacity in the field of witness protection in terms of financing and staffing; strengthen international cooperation;
- integrate financial investigations into all investigations of organised crime and corruption;
- establish a track record of final court rulings in cases concerning trafficking in human beings, arms trafficking, drug trafficking, corruption, public procurement and money-laundering, with criminal penalties executed and criminal assets recovered;
- ensure support and assistance to victims of trafficking in human beings;
- consider reviewing the Law on Procurement to ensure the appropriate functioning of the Procurement Review Body;
- implement the Law on Financing of Political Parties in electoral campaigns; strengthen the human resources capacities of the Central Election Commission.

5.2. Law enforcement cooperation

In 2013, Kosovo concluded cooperation agreements and memorandums of understanding on law enforcement cooperation with Hungary, Finland, Switzerland and Italy.¹⁰ Two technical agreements on cooperation with EULEX have been concluded, namely in the field of witness protection and on sharing information with the aim of preventing and detecting crime in Kosovo. In February 2014, two liaison officers were despatched to Austria and France. Three more officers are going to be despatched to Belgium, Germany and Turkey in 2014.

Kosovo has conducted a number of joint investigations and operations with neighbouring countries—Albania, the former Yugoslav Republic of Macedonia and Montenegro—as well as Austria, Italy, and Sweden¹¹.

Kosovo cooperates via EU and UN intermediaries with EUROPOL and INTERPOL; regular information exchanges with these agencies take place. Kosovo has been involved in three joint operations with EUROPOL.

¹⁰ Hungary – Kosovo agreement on cooperation on preventing and combating crime; Finland - Kosovo memorandum of understanding on cooperation in security field; Finland – Kosovo memorandum of understanding on cooperation in financial intelligence; Switzerland – Kosovo agreement on police cooperation; and Italy – Kosovo customs cooperation agreement.

¹¹ Joint investigations to combat the facilitation of illegal migration have been carried out with Montenegro, the former Yugoslav Republic of Macedonia, Italy and Austria; joint investigations to combat drug trafficking have been carried out with Italy, Sweden and Albania.

Kosovo has also sought closer ties with regional law enforcement cooperation organisations, such as Southeast European Law Enforcement Centre, Southeast European Police Chiefs Association and the Police Cooperation Convention for Southeast Europe.

Recommendations:

- Conclude further law enforcement cooperation agreements and strengthen operational cooperation with neighbouring countries and EU Member States;
- continue cooperation with EUROPOL, INTERPOL and regional law enforcement bodies.

5.3. Judicial cooperation in criminal matters

The law on international legal cooperation in criminal matters was adopted in July 2013. The Ministry of Justice is responsible for processing all requests for international legal cooperation and acts as the central authority for Kosovo in representing judicial and prosecutorial authorities in relation to the foreign countries requesting legal assistance. Fifteen judges and prosecutors act as focal points by providing legal and practical information to local authorities and their foreign counterparts. They also support and facilitate the communication between judicial authorities at international level as well as within Kosovo prior to the submission of a request for international legal cooperation.

In June 2013, an agreement with Italy on mutual legal assistance in criminal matters and extradition was signed. An agreement on judicial cooperation with Germany is awaiting conclusion. Negotiations are ongoing with Montenegro, Slovenia and Croatia and should soon commence with Hungary, Austria and Bulgaria.

Kosovo has enquired about closer cooperation with EUROJUST.

Recommendations:

- Conclude further agreements on mutual legal assistance in criminal matters with neighbouring countries and EU Member States;
- explore further modalities of cooperation with EUROJUST.

5.4. Data protection

There has been improvement in the field of data protection. Amendments to the Law on Protection of Personal Data have been drafted and are currently undergoing public consultation. It is expected that they will be adopted by the end of 2014. In the framework of an EU-funded project, any further need for secondary legislation in the field of data protection is being assessed.

In 2013, the National Agency for Personal Data Protection (NAPDP) was consulted on 19 draft laws, seven draft regulations, 18 draft administrative instructions and 12 other acts including an explanatory memorandum, a draft agreement, memorandum of understandings and a concept paper concerning data protection aspects. The NAPDP has participated on its own initiative in the consultative process regarding the Law on Interception. Although the number of consulted drafts has increased, there remain a significant number of draft laws that have not been submitted to the NAPDP prior to adoption.

Not all departments at the NAPDP are fully operational due to the lack of sufficient financial resources and appropriately qualified personnel. The NAPDP currently has a staff of only 13 officials; the recruitment of three additional officials was ongoing in March 2014.

According to the law, all public bodies dealing with personal data processing have to appoint data protection officials (DPOs). For the time being, more than 100 DPOs have been

appointed. The NAPDP has initiated trainings and other forms of cooperation with DPOs. However, there are still many public institutions, especially operating at the local level, that have not yet appointed a DPO.

Recommendations:

- Develop secondary legislation on data security;
- ensure that the National Agency for Personal Data Protection is consulted on all draft legislation concerning the processing of personal data; strengthen this agency's capacity;
- consider further awareness raising in data protection; increase the number of data protection officers at local levels.

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

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

The next human and fundamental rights strategy and action plan are expected to be adopted after adoption of the 'human rights package.' The sanction mechanism in the draft anti-discrimination creates various legal remedies for those subject to human rights violations. The law relies on the 2013 Law on Courts to define which courts may be used to make human rights claims. The primary legislation should be complemented by secondary legislation, and the public should be informed about available legal remedies.

The Government produces regular reports on the implementation of the Action Plan on the Strategy on integration of Roma, Ashkali and Egyptian Communities 2009-2015. A mid-term review of the strategy was published in July 2013 and a conference organised in cooperation with the European Commission. The review and conference have resulted in a framework of priorities, which remains overambitious and lacks clear focus. Implementation of the action plan and the strategy remains slow, with little ownership. The monitoring and implementation mechanisms are unclear, especially between central and local levels.

Kosovo citizens face no major problems in accessing travel and identity documents. The issue of physical access to municipal buildings or civil registry offices is being addressed. When new buildings are constructed, ramps are provided and there are mobile teams that can address needs of people with disabilities on the spot.

The 2011 agreement on free movement reached between Serbia and Kosovo in the EU-facilitated dialogue has been implemented.

The actual number of potentially ethnically motivated incidents remains unclear. In 2013, EULEX reported 665 cases of potentially ethnically-motivated incidents. The Kosovo Police collects data on ethnically-motivated crimes. 44 cases have been reported between January 2011 and March 2014, but just two ended with a court ruling. Sixteen cases remain under investigation, and six indictments have been filed

Taking into account the large variety of different data collected and available when it comes to potentially inter-ethnically motivated incidents or crimes, and in order to create a better basis for future handling of potentially inter-ethnically motivated incidents, Kosovo should

develop a harmonised definition of ethnically-motivated incidents not limited to Article 147 of the Criminal Code.

Kosovo has a large backlog of (criminal, civil, administrative) cases. Therefore, it is important to increase the efficiency of the judiciary, which will then also contribute to effectively addressing the issue of potentially ethnically-motivated incidents and crimes. The lack of specialised judges – particularly in civil departments and for civil cases – will hopefully be partially addressed through the ongoing recruitment of additional judges.

Municipal community safety councils have been set up, encouraged by the international community, with the aim of reconciliation and public safety and security. They are set up in all but the four municipalities in north Kosovo. These municipal councils are chaired by the mayor and consist of representatives of the police, each religious community, each ethnic community, local public safety councils and NGOs. The councils discuss a wide range of issues related to safety and communities.

These municipal and local councils are operational, but their effectiveness varies, which is reflected in the 2013 evaluation report of the national strategy and action plan for community safety (2011-2016) prepared by the Ministry of Internal Affairs. Whilst the municipal community safety councils are advisory in nature, they are competent to develop and implement community safety projects. Overlap between the competences and activities of the municipal community and safety councils and the municipal assemblies should be avoided.

Recommendations:

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

7. ASSESSMENT OF SECURITY AND MIGRATORY IMPACTS OF VISA LIBERALISATION

7.1. Security impact of visa liberalisation with Kosovo

Regarding the potential security impact of visa liberalisation with Kosovo, the main challenges have remained unchanged since the last report, namely the effective prevention and fight against organised crime and corruption. The increase in facilitated irregular migration and trafficking in human beings¹² has been particularly worrying. Other criminal activities such as drug and arms trafficking and money laundering pose significant problems to EU internal security¹³.

Kosovo is encouraged to consider recommendations set out in this report to limit the threats posed by organised crime and corruption to the EU internal security.

7.2. Migratory impact of visa liberalisation with Kosovo

The Commission has continued to monitor the five performance indicators set out in the visa roadmap¹⁴. A substantial decrease in these performance indicators, over the course of the visa dialogue, will be used as an indicative reference in the Commission's assessments of the expected migratory impact of the liberalisation of the visa regime with Kosovo.

Between 2012 and 2013, the following trends could be observed:

- the visa refusal rate for Kosovo citizens continued to show considerable variation in the Schengen area;
- the number of Kosovo citizens refused entry to EU Member States continued to grow from 625 to 1 400, largely as a result of Croatia's accession to the EU;
- the number of Kosovo citizens found to be illegally staying in Member States increased from 5,200 to 7 870;
- the number of asylum applications lodged by Kosovo citizens in Member States doubled from 10 205 to 20 215, while the recognition rate dropped from 6.4% to 3.7%;
- the number of rejected readmission applications increased from 131 to 437.

Figures 5.1 to 5.6 in the Annex set out the data underlying these observations:

- the statistics submitted by Member States and Schengen Associated States in 2012 and 2013 confirmed the previous trend that the highest number of visas for Kosovo citizens are still issued by Germany (16,629 in 2012 and 21,849 in 2013), Switzerland (17,619 in 2012 and 17,993 in 2013) and Italy (8,609 in 2012 and 10,633 in 2013);
- the number of Kosovo citizens refused entry to EU Member States increased from 625 to 1,400 between 2012 and 2013, with the highest number recorded by Croatia in 2013;
- the number of Kosovo citizens found to be illegally staying in Member States increased from 5 200 to 7 870 between 2012 and 2013. The most significant increase of illegally

¹² Early warning Notification 2013/2, EUROPOL

¹³ EUROPOL SOCTA 2013

¹⁴ They are as follows: the visa refusal rate for applicants from Kosovo; the rate of refused entry into the Schengen area for Kosovo citizens; the number of Kosovo citizens found to be illegally staying in the territory of one of the Member States; the total number of asylum applications from Kosovo citizens; and the number of rejected readmission application submitted by a Member State to Kosovo for Kosovo citizens.

staying Kosovo citizens in comparison with previous assessment period was reported by Hungary;

- the number of asylum applications lodged by Kosovo citizens in Member states doubled from 10 205 to 20 215 between 2012 and 2013. Hungary experienced a massive increase in asylum applications from Kosovo during 2013. The recognition rate of asylum applications dropped from 6.4% in 2012 to 3.7% in 2013;
- the number of rejected readmission applications increased from 131 to 437 between 2012 and 2013. The number of pending applications fell from 429 to 163 between 2012 and 2013. Germany reported the highest number of rejected and pending readmission applications.

Kosovo is encouraged to consider the recommendations contained in this document to mitigate the potential migratory impact on the EU of a visa-free regime with Kosovo.

8. STATISTICS

5.1. Applications for short-term Schengen visas in Prishtinë/Prishtina, Kosovo, 2012-2013

Year	Visa category	Belgium	Germany	Greece	Finland	Hungary	Slovenia	Switzerland	Norway
2012	A visas issued	0	0	0	0	0	0	0	0
	C visas issued (MEV included)	1,829	15,091	441	9	1,618	3,295	266	532
	Multiple C visas issued	381	1,481	157	140	1,014	3,289	3,446	69
	C visas applied for	2,774	21,007	485	1,282	2,289	4,631	22,131	759
	C visas not issued	926	4,407	44	293	671	1,336	4,578	227
	Total A, C visas issued	1,829	16,600	441	989	1,618	3,295	17,553	532
	Total A, C visas applied for	2,774	25,733	485	1,282	2,289	4,631	22,131	759
	Total A, C visas not issued	926	-	44	293	671	1,336	4,578	227
	Not issued rate for A, C visas	33%	21%	9.07%	22.9%	29.31%	28.85%	20.7%	16.4%
	A visas issued	-	1	-	1	-	-	0	0
2013	C visas issued (MEV included)	1,913	18,575	663	36	2,066	3,281	314	1,279
	Multiple C visas issued	510	3,272	296	190	990	2,814	3,394	209
	C visas applied for	2,823	26,070	4,556	1,313	2,819	4,415	23,917	1,496
	C visas not issued	869	4,222	281	170	753	1,134	5,924	217
	Total C LTV visas issued	2	21,629	3,612	1,107	1	3,254	17,993	0
	Not issued rate for C visas	30.8%	16%	6.2%	12.9%	26.7%	25.7%	24.8%	14.5%
	Total A, C visas issued	1,915	21,849	4,275	1,144	2,067	3,281	17,993	1,279
	Total A, C visas applied for	2,823	26,071	4,556	1,314	2,819	4,415	23,917	1,496
	Total A, C visas not issued	869	4,222	281	170	753	1,134	5,924	217
	Not issued rate for A, C visas	30.8%	16%	6.2%	12.9%	26.7%	25.7%	24.8%	11.44%

Source: EU Office, Local Schengen Cooperation group data (These figures could not be verified by the Commission)

5.2. Kosovo citizens refused entry at the Schengen external borders, 2012-2013

Member State or Associated State	2012	2013
Belgium	35	25
Bulgaria	65	60
Czech Republic	0	0
Denmark	0	0
Germany	85	90
Estonia	0	0
Ireland	5	10
Greece	40	-
Spain	0	0
France	235	110
Croatia	-	720
Italy	30	50
Cyprus	0	0
Latvia	0	0
Lithuania	0	0
Luxembourg	0	0
Hungary	80	140
Malta	0	0
Netherlands	0	0
Austria	10	5
Poland	0	0
Portugal	0	0
Romania	0	0
Slovenia	0	150
Slovakia	0	0
Finland	0	0
Sweden	0	0
United Kingdom	40	40
Iceland	-	-
Liechtenstein	0	5
Norway	0	-
Switzerland	45	-
Total (EU-28)	625	1,400
Average (EU-28)	22	52
Standard deviation (EU-28)	48	138

Source: Eurostat and DG Home Affairs calculation

5.3. Kosovo citizens found to be illegally present in EU Member States, 2012-2013

Member State or Associated State	2012	2013
Belgium	250	290
Bulgaria	5	5
Czech Republic	15	45
Denmark	10	0
Germany	2,645	3,070
Estonia	0	0
Ireland	25	5
Greece	95	-
Spain	0	0
France	610	845
Croatia	-	275
Italy	180	180
Cyprus	0	0
Latvia	0	0
Lithuania	0	0
Luxembourg	20	25
Hungary	190	965
Malta	0	0
Netherlands	-	-
Austria	495	1,175
Poland	10	10
Portugal	0	0
Romania	0	0
Slovenia	0	100
Slovakia	5	15
Finland	50	40
Sweden	525	725
United Kingdom	70	100
Iceland	-	-
Liechtenstein	0	0
Norway	45	-
Switzerland	1,280	1,790
Total (EU-28)	5,200	7,870
Average (EU-28)	200	303
Standard deviation (EU-28)	519	645

Source: Eurostat and DG Home Affairs calculation

5.4. Asylum applications lodged by Kosovo citizens, 2012-2013

Member State or Associated State	2012	2013
Belgium	1,740	1,270
Bulgaria	0	0
Czech Republic	10	10
Denmark	130	80
Germany	2,535	4,425
Estonia	0	0
Ireland	5	5
Greece	0	0
Spain	0	0
France	3,715	5,550
Croatia	:	5
Italy	100	105
Cyprus	0	0
Latvia	0	0
Lithuania	0	0
Luxembourg	210	160
Hungary	225	6,210
Malta	0	0
Netherlands	40	45
Austria	310	935
Poland	0	0
Portugal	0	0
Romania	0	0
Slovenia	20	35
Slovakia	0	0
Finland	80	70
Sweden	1,045	1,270
United Kingdom	40	40
Iceland	0	0
Liechtenstein	0	5
Norway	130	255
Switzerland	585	700
Total (EU-28)	10,205	20,215
Average (EU-28)	378	722
Standard deviation (EU-28)	876	1,674

Source: Eurostat and DG Home Affairs calculation

5.5. First instance decisions on asylum applications lodged by Kosovo citizens, 2012 - 2013

Member State or Associated State	Total decisions		Positive decisions		Recognition rate	
	2012	2013	2012	2013	2012	2013
Belgium	1,240	535	95	30	7.7%	5.6%
Bulgaria	0	0	0	0	0	0
Czech Republic	10	15	0	0	0	0
Denmark	135	80	10	0	7.4%	0
Germany	2,655	2,860	55	35	2.1%	1.2%
Estonia	0	0	0	0	0	0
Ireland	5	0	0	0	0	0
Greece	0	5	0	0	0	0
Spain	0	0	0	0	0	0
France	2,500	4,415	210	205	8.4%	4.6%
Croatia	0	0	0	0	0	0
Italy	85	110	45	65	52.9%	59.1%
Cyprus	0	0	0	0	0	0
Latvia	0	0	0	0	0	0
Lithuania	0	0	0	0	0	0
Luxembourg	175	230	0	5	0	2.2%
Hungary	45	1,010	5	0	11.1%	0
Malta	0	0	0	0	0	0
Netherlands	25	45	0	0	0	0
Austria	265	775	35	30	13.2%	3.9%
Poland	0	0	0	0	0	0
Portugal	0	0	0	0	0	0
Romania	0	0	0	0	0	0
Slovenia	20	15	0	0	0	0
Slovakia	0	0	0	0	0	0
Finland	75	60	10	10	13.3%	16.7%
Sweden	725	1,050	40	30	5.5%	2.9%
United Kingdom	15	20	5	5	33.3%	25%
Iceland	0	0	0	0	0	0
Liechtenstein	0	5	0	0	0	0
Norway	125	220	5	10	4%	4.5%
Switzerland	355	435	50	85	14.1%	19.5%
Total (EU-28)	7,975	1,1225	510	415	6.4%	3.7%
Average (EU-28)	285	401	18	15		
Standard deviation (EU-28)	687	968	43	40		

Source: DG HOME calculation based on Eurostat data

Readmission applications processed by Kosovo, 2013¹⁶

Member State or Associated State	Total readmission applications	Rejected applications	Pending applications	Returns ¹⁷
Belgium	123	11	2	109
Croatia	-	-	-	-
France	230	16	2	212
Germany	1,328	275	96	801
Greece	-	-	-	-
Hungary	896	3	0	893
Luxembourg	100	0	0	100
Netherlands	28	7	2	13
Sweden	324	64	28	232
Switzerland	354	34	22	298

¹⁶ These figures have been provided by the Member States and, where possible, cross-referenced.

¹⁷ These figures are based only on readmission requests.