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Authors:

Abi Dodbiba and Florina Duli, Kosovar Stability Initiative (IKS)

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ABSTRACT

This paper seeks to evaluate the impact of EU policy and funds aimed at improving governance and controlling corruption in Kosovo. It examines the interrelation between EU conditionality as expressed in different policy documents and the financial assistance provided by the EU to Kosovo in the area of rule of law. The focus is on the period since 2007, although the paper begins with a brief overview of the conflict in Kosovo and its aftermath. The paper then tracks how the anti-corruption discourse features in policy documents and funding priorities, highlighting the EU conditionality mechanisms applied and the development assistance provided. It evaluates conditionality in the light of Kosovo's anti-corruption performance during this period. The paper draws conclusions as to the effectiveness of EU policy and financial assistance in the area of anti-corruption, with a view to informing the ongoing policy debate on how to strengthen EU leverage in improving anti-corruption efforts in aspiring member-states, particularly in a post-conflict context.

KEYWORDS

Conditionality, post-conflict, EU funds, anti-corruption, international development, state-building

Abi Dodbiba abi_dodbiba@iksweb.org

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ACRONYMS

AMP	Aid Management Platform
AMSCA	Agency for Managing the Sequestered and Confiscated Assets
CARDS	Community Assistance for Reconstruction, Development and Stabilisation
CONOPS	Concept of Operations
CSO	Civil Society Organisation
DIS	Decentralised Implementation System
EC	European Communities
ECA	European Court of Auditors
EEAS	EU External Action Service
EIB	European Investment Bank
EPAP	European Partnership Action Plan
ESDP	European Security and Defense Policy
EU	European Union
EUIK	EU delegation in Kosovo
EULEX	EU Rule of Law Mission in Kosovo
EUO	EU Office
EUSR	EU Special Representative
IPA	Instrument for Pre-Accession Assistance
ISG	International Steering Group
ISPA	Instrument for Structural Policies for Pre-Accession
KAA	Anti-Corruption Agency
MEI	Kosovo Ministry of European Integration
MS	Member states
NATO	North Atlantic Treaty Organisation
NGO	Non-governmental organization
ODA	Overseas Development Aid
OPLAN	Operation Plan
PHARE	Poland and Hungary: Assistance for Restructuring their Economies
PECK	Project against Economic Crime in Kosovo
RKS	Republic of Kosovo
SAA	Stabilisation and Association Agreement
SAP	Stabilisation and Association Process
SAPD	Stabilisation and Association Process Dialogue

SAPARD	Special Accession Programme for Agriculture and Rural Development
SWG	Sector Working Group
TI	Transparency International
UNDP	United Nations Development Programme
UNMIK	United Nations Interim Administration Mission in Kosovo
WGI	World Bank Worldwide Governance Indicators

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I. INTRODUCTION: KOSOVO AND THE EU

This paper seeks to evaluate the impact of European Union (EU) policy and funds aimed at improving governance and controlling corruption in Kosovo. It examines the interrelation between EU conditionality as expressed in different policy documents and the financial assistance provided by the EU to Kosovo in the area of rule of law. The focus is on the period since 2007, although the paper begins with a brief review of the conflict in Kosovo and its aftermath. The paper then tracks how the anti-corruption discourse features in policy documents and funding priorities, highlighting the EU conditionality mechanisms applied and the development assistance provided. It evaluates conditionality in the light of Kosovo's anti-corruption performance during this period. The paper draws conclusions as to the effectiveness of EU policy and financial assistance in the area of anti-corruption, with a view to informing the ongoing policy debate on how to strengthen EU leverage in improving anti-corruption efforts in aspiring member-states, particularly in a post-conflict context.

Immediately after the Kosovo conflict in 1999, the territory of Kosovo was placed under the administration of the UN Interim Administration Mission in Kosovo (UNMIK), established by the UN Security Council Resolution 1244/99¹. The resolution mandated UNMIK to administer the territory, establish institutions and create a foundation for resolving Kosovo's status at a later stage. From 2003, UNMIK began to transfer authority to the so-called 'Provisional Institutions of Self-Government'², retaining ultimate authority, but allowing these institutions to build capacity and experience in governing the country.

On 17 February 2008, the parliament of Kosovo unilaterally declared independence. This step was coordinated with France, Germany, Italy, the United Kingdom and the United States of America – the so-called 'Quint' members - as well as with other important world powers. However, Kosovo's statehood has yet to be recognized by a large number of independent states (including five of the EU28 member states: Cyprus, Greece, Romania, Slovakia and Spain). Kosovo is thus not a member of the UN and cannot be represented at many important world forums and international organisations³.

However, full sovereignty is not required in order to enter the Stabilisation and Association Process (SAP), the EU's pathway for Western Balkan states to progress towards eventual EU accession. Thus, on 10 October 2012, the European Commission found that there were no legal obstacles to Kosovo signing a Stabilisation and Association Agreement (SAA) with the EU, and recommended that SAA negotiations start as soon as Kosovo had made further progress on issues in four areas: the rule of law, public administration, the protection of minorities, and

¹ Retrieved from: <http://www.unmikonline.org/Documents/Res1244ENG.pdf> ; Related information on the 'Ahtisaari Plan" can be found at: http://www.unosek.org/docref/Comprehensive_proposal-english.pdf

² To learn more: <http://www.unmikonline.org/regulations/2001/reg09-01.htm>

³ To date, Kosovo has become a member of the World Bank, IMF, has signed the Stabilisation and Association Agreement with the EU, and has been given a green light to apply for full membership at UNESCO.

trade. On 19 April 2013, the governments of Kosovo and Serbia completed an agreement that helped normalise bilateral relations, allow both to advance in European integration. On 28 June 2013, the European Council endorsed these recommendations and, sufficient progress having been achieved, negotiations on an SAA were launched in autumn 2013. The negotiations were completed quickly and the SAA agreement initialled in July 2014, although it was formally signed only on 27 October 2015 and approved by the European Parliament in January 2016.

II. KOSOVO: STATE OF GOVERNANCE

1 Governance in Kosovo

Kosovo's development since 1999 has been shaped by a somewhat chaotic UNMIK-led state-building process, to which an array of bilateral donors contributed, resulting in the pursuit of a mix of different international governance practices, models and legal traditions. The 'standards before status' scheme designed by UNMIK in 2002 provided the first set of eight very general conditionality/benchmarks that Kosovo should meet in order for its political status to be addressed, of which the most sensitive was the Dialogue with Belgrade. However, given that the Kosovo Provisional Government only had powers to manage education and health services, the benchmarks could not easily be translated into concrete, measurable actions against which progress could be judged. The policy was finally elaborated into an action plan (of more than 1,000 actions) in 2005.

As part of the deal for the coordinated declaration of independence, a second important set of benchmarks was presented to Kosovo, known as the Ahtisaari Plan, which drew on the previous set of conditions and derived from the long process of internationally-mediated Dialogue with Serbia. The plan mainly related to the division of functional and territorial powers between different ethnic groups. The Ahtisaari Plan derived a formula that would allow Kosovo Serbs to have their own local institutions and communal life with continued linkages to Serbia, but within the framework of a multi-ethnic Kosovo (Gallucci, 2011).⁴ Until 2013, its implementation was supervised by the International Civilian Office (ICO) and reported to the International Steering Group (ISG), composed of the Quint members. The ICO structure was then merged with the political wing of the EU delegation in Kosovo (EUIK).

Kosovo today is an aid-dependent, lower-middle income, post-conflict country characterized by weak institutional capacity, and lacking control over its whole territory. Kosovo functions as two states in one with the north largely managed by the Serbian government which, through financing, *de facto* governs the territory. Kosovo's legal framework has undergone an approximation process⁵, informed by the *acquis communautaire* where possible. However, the North of Kosovo uses Serbian legislation. The Kosovo government has never seriously committed to developing a National Economic Development Plan; a plan developed with USAID support, which did not enjoy sufficient political commitment, was boycotted by other donors. As such, donor support has not been aligned to any nationally declared priority.

⁴ Retrieved from http://www.transconflict.com/10/wp-content/uploads/2011/11/PolicyPaper_AhtisaariPlanNorthKosovo.pdf

⁵ The process of integrating EU law into national legal administrative systems

Kosovo has a multi-party parliamentary representative democracy. The head of government is the prime minister, while the president is the head of state, and both are elected by the legislature, the Assembly of Kosovo. The electoral system is fully proportional with the whole of Kosovo being one single electoral zone. Since the end of the war, four parties have dominated the political landscape, of which three have relatively similar political manifestos, and make Kosovo's EU integration and related processes (such as visa liberalisation) a priority (see Appendices 3 and 4). They differentiate themselves mainly through the competing interests of the factions that compose them (Capussela, 2015).

Ethnic tensions have been present throughout this period. Serbs in the North of Kosovo boycotted the local elections in 2007 and only started taking part in local elections in 2013, which were accompanied with outbreaks of violence. The parallel institutions in the north were very strong at that point and they continue to be, although there has been notable progress in dismantling them since the start of the Serbia-Kosovo Dialogue in 2011.

III. EU CONDITIONALITY AND DEVELOPMENT ASSISTANCE

2 Institutional setting of EU relations and assistance

The EU has a long-term commitment in the Republic of Kosovo (RKS)⁶ and has been actively involved in the post-conflict period (see Appendix 2 for a chronology of key events in EU-Kosovo relations). There is also widespread public support within Kosovo for joining the EU. Formally, the RKS Ministry of European Integration is tasked with supporting Kosovo's reforms on its path towards EU accession while the EU Special Representative (EUSR) assists and oversees Kosovo's progress.

The main administrative bodies formally representing the EU in RKS are:

- The EU Office in Kosovo (EU Office), headed by the EUSR, is the primary representation of the EU in RKS. It ensures that a permanent political and technical dialogue is maintained with Brussels institutions. The EUSR offers advice and support to the Government of Kosovo in the political process; provides overall coordination among the EU's institutional presences in Kosovo; and contributes to the development and consolidation of the respect for human rights and fundamental freedoms. The EUSR reports to the Council of the European Union – the inter-governmental body representing the 28 EU member states – through the High Representative/Vice President of the European Commission.
- The EU Rule of Law Mission in Kosovo (EULEX) assists and supports the Kosovo authorities in the rule of law area, specifically the police, judiciary and customs. EULEX is a technical mission, which mentors, monitors and advises, whilst also retaining some

⁶ EU Office statement on political and economic relations with Kosovo:
http://www.eeas.europa.eu/delegations/kosovo/eu_kosovo/political_relations/index_en.htm

executive powers. It succeeded UNMIK after Kosovo's call for independence in 2008.⁷ EULEX has an annual budget of around €111 million and a mandate until June 2016.

- Eighteen EU Member States currently maintain representative offices (Embassies and Liaison Offices) in RKS. In addition, many member states also maintain a presence through governmental aid agencies and non-governmental organisations.

The **Stabilisation and Association Process** (SAP) is the EU's policy framework for the Western Balkan countries on the path towards eventual accession. It promotes three aims, namely stabilisation and a swift transition to a market economy, the promotion of regional cooperation and the prospect of EU accession. It is based on a progressive partnership, which utilises a mixture of trade concessions, financial assistance and contractual relationships. The SAP Dialogue (SAPD) meetings are co-chaired by the European Commission and the Government of Kosovo. Each meeting results in jointly agreed follow-up actions to be taken by the Kosovo authorities. Plenary meetings covering each of seven sectors are also held once a year, while sectorial meetings of the SAPD are held twice a year. Between meetings, recommendations are implemented and dialogue continues. This is monitored and evaluated through annual progress reports, dating back to 2005, which assess progress in meeting the 'Copenhagen criteria' – i.e., building stable institutions that guarantee democracy and the rule of law, moving towards a functioning market economy, and the ability to take on the conditions of membership.⁸ The SAP was finalised with the signing of the Stabilisation and Association Agreement (SAA) on 27 October 2015.

3 EU corruption control conditionality and development assistance

3.1 EU development assistance to Kosovo

The European Commission and the United States were consistently the largest donors to Kosovo throughout this period (around 40% and 20% of total aid, respectively), with EU member states Germany and Sweden also contributing considerable amounts of bilateral aid, and non-EU member state, Norway, the next largest contributor. Kosovo is the largest per capita beneficiary of EU financial aid, globally (Palokaj and Mikullovcic 2013), and the EU is the single largest donor to Kosovo, having disbursed more than €2 billion in total since 1999, and €600 million during 2007-13.

EU assistance initially focused on emergency relief actions and reconstruction, but has shifted towards supporting the development of stable institutions and a sustainable economy. The commitments of the EU Office now span some 280 active programmes, across a wide range of sectors and regions⁹. Of total EU assistance, more than half of what was disbursed over 2007-11 was allocated to the rule of law sector. Of this, the contribution was made largely through EULEX (see section 2.4), but also through development assistance (ECA, 2012: 11). The Aid

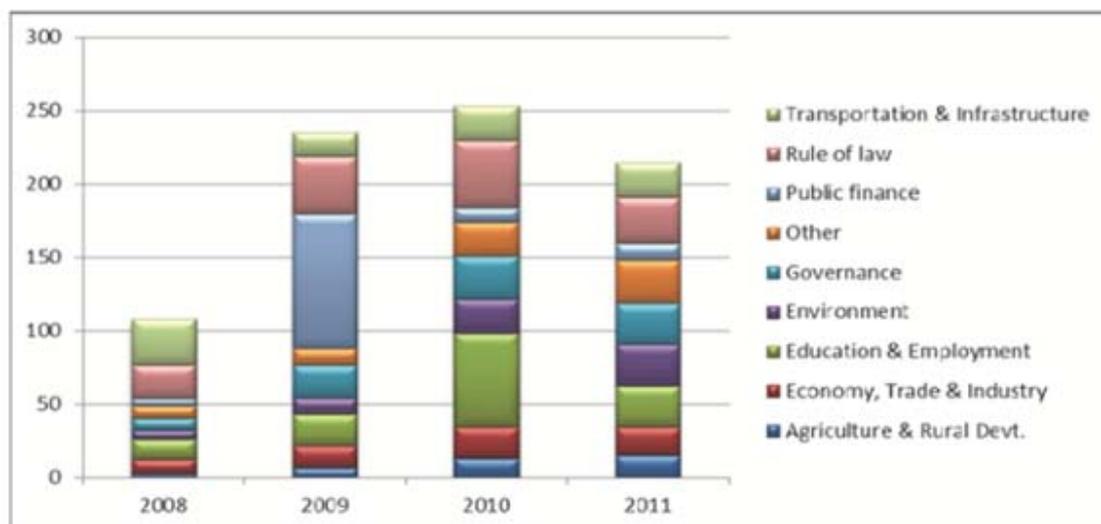
⁷ The legal basis of the EULEX mission is the Council Joint Action 2008/124/CFSP http://www.eulex-kosovo.eu/eul/repository/docs/WEJointActionEULEX_EN.pdf

⁸ List of progress reports: http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-kosovo-progress-report_en.pdf

⁹ For an exhaustive list, see: http://eeas.europa.eu/delegations/kosovo/projects/overview/index_en.htm

Management Platform (AMP) indicates how total ODA was allocated in Kosovo by sector. The so-called Sector Working Groups (SWGs)¹⁰ on Governance and on the Rule of Law attracted significant shares of total Overseas Development Aid (ODA) during the period under consideration (see Figure 1).

Figure 1 ODA by Sector Working Group (2008-11), in million euros



Source: 2011 Annual Report on Donor Activities: 18

In the period 1999-2006, EU development assistance to Kosovo was organised and administered through three instruments: OBNOVA, ECHO and CARDS. OBNOVA and ECHO focused on immediate post-conflict reconstruction, while CARDS covered institution-building and *acquis* compliance. In 2007, the **Instrument for Pre-accession Assistance (IPA)** was launched to support candidate and potential candidate countries ('beneficiary countries'), replacing all previous programmes. Its key objective is to assist in aligning the institutional and value systems of beneficiary countries with the Union's standards, rules and practices (DG Enlargement Management Plan, 2014). shows how development assistance instruments for the Western Balkans have evolved.

¹⁰ SWGs are a concept used in aid management and coordination efforts, introduced in the 2011 Regulation on Donor Coordination. For more information on the AMP, see <http://www.amp-mei.net/portal/>

Table 1. EU Assistance programmes in the Western Balkans 1990–2013

	1st generation instruments			2nd generation instruments	3rd generation instruments
Instrument	PHARE	OBNOVA	ECHO	CARDS	IPA
Period	1990-2000	1996-2000	1990-2000	2000-2006	2007-2013
Target countries	BiH, Alb, Mak	BiH, Alb, Mak	BiH, Alb, Mak	BiH, Alb, Mak	1) BiH, SR, Kos, AL
		CRO, FRY, Kos	CRO, FRY, Kos	CRO, FRY, Kos	2) CRO, MK, MN, TR
Amount (only for WB)	1.184 bln €	1.476 bln €	2.196 bln €	5.385 bln €	5.189,5 bln €
	TOT 1990-2000: 4.856 bln €				
Primary focus	Post-conflict Reconstruction			Development & Stabilization	Institution building & acquis compliance
Management method	Centralized			Differentiated methods	Decentralized Implementation System (DIS)
Regional programmes	4%	--	6%	4%	8%

Source: Denti, 2013: 67

The priority areas for the IPA are strengthening democratic institutions, reforming the administration and economy, promoting and protecting human rights and freedoms, improving respect for the rights of minorities and developing civil society. The IPA should be understood as an ‘external’ instrument for economic and social cohesion that prepares a country to absorb ‘internal’ cohesion funds when it becomes an EU member state (Mrak & Tilev, 2008)¹¹. It is a flexible instrument that adjusts assistance to beneficiary countries’ progress and needs, as assessed by the Commission’s reports and strategy papers.

The IPA includes five components:

- (I) support during the transition and building of institutions;
- (II) cross-border cooperation;
- (III) regional development;
- (IV) human resource development; and
- (V) rural development.

¹¹ Retrieved from http://www.kcsfoundation.org/repository/docs/26_02_2014_6460997_KCSF_2008_ABSORPTION_OF_EU_PRE_ACCESSION_FUNDS.pdf

Candidate countries have access to all five components of IPA, while potential candidate countries such as the RKS have access only to the first two. *Component I* is aimed at building institutions and improving their capacity, while moving towards EU alignment. *Component II* is aimed at supporting cross-border cooperation between beneficiary countries, i.e., between Kosovo and the member states, and inter-regional cooperation.

The first phase of disbursement of IPA funds, IPA I, saw a total allocation of €673.9 million over the period 2007-13. An additional €38.5 million was provided through IPA in 2013 to support the Pristina-Belgrade dialogue, normalisation and integration processes in Kosovo, and the visa dialogue over visa liberalisation. Funding is sector-based and allocated through projects, with over 80% spent on Technical Assistance.

IPA I funds have been allocated across nine sectors (see Appendix 2 for a full breakdown):

- Public Administration Reform, which encompasses projects related to good governance and improved performance in public procurement and public finances.
- Justice and Home Affairs, which focuses on strengthening the rule of law, improving border management (preventing activities such as smuggling), supporting the return and reintegration of minority communities, and providing support in the process of EU approximation.
- Private Sector Development, which aims at fostering regional development, improving infrastructure and creating a favourable business environment.
- Transport, aimed at improving transportation-related infrastructure.
- Energy, which encompasses projects and activities aimed at increasing energy efficiency.
- Environment and Climate, concerned with preservation of nature and green development.
- Social Development and Employment, which includes projects in capacity building and skills development for selected target groups, improved education and employability, but also projects related to youth culture, heritage preservation, as well as media.
- Agricultural and Rural Development, which includes projects related to the development of a sound and sustainable policy for agriculture, rural development as well as food security, which will lead to an increase in the market share of local products and consumer confidence in them.
- Support and other activities, which is focused on technical assistance targeted at specific needs related to the EU integration process.

Of the total amount committed, funding for projects related to the rule of law, anti-corruption and good governance amounted to roughly 25% of the total. Some of the most relevant projects include Support to Anti-Corruption Institutions in Kosovo, Support to the process of improving Public Management Control and Accountability in Kosovo, the Project against Economic Crime

in Kosovo (PECK), Support to Kosovo Institutions in Combating Financial and Economic Crime, and Support to the Agency for Managing the Sequestered and Confiscated Assets (AMSCA).

The relatively low amount of IPA funding for the rule of law reflects the fact that EULEX was deployed in Kosovo near the beginning of the IPA I period and, is not itself funded by IPA but by the general budget of the EU (managed by DG RELEX). The Sector Working Groups on the rule of law and governance saw their share of overall aid grow substantially from 2012 to 2013 (see table 2). Besides being the biggest donor to these sectors, the EU also funded the largest number of activities in the sector, with 67 projects dealing with the judiciary, internal affairs and fundamental rights.

Table 2 ODA by Sector Working Groups, commitments and disbursements for 2012-2013

Sector Working Group	Funding			
	2012		2013	
	Actual Commitments	Actual Disbursements	Actual Commitments	Actual Disbursements
RULE OF LAW	28,219,230	29,615,082	58,226,562	45,969,756
GOVERNANCE	23,542,526	33,392,542	41,150,990	34,529,955
ECONOMY TRADE AND INDUSTRY	31,969,385	29,395,831	48,179,661	27,916,996
ENVIRONMENT	60,274,857	27,269,083	62,247,897	27,984,398
EDUCATION AND EMPLOYMENT	20,376,715	27,300,360	20,831,434	21,788,008
TRANSPORT AND INFRASTRUCTURE	14,517,745	33,756,340	8,125,522	14,945,782
OTHER	26,878,118	21,171,021	22,728,489	16,681,627
AGRICULTURE AND RURAL DEVELOPMENT	27,908,502	15,833,449	20,801,035	17,777,709
PUBLIC FINANCE	10,318,201	6,285,318	8,106,635	7,522,558
TOTAL	244,005,278	224,019,029	290,398,223	215,116,788

Source: Report for Donor Activities 2012-2013: 36

In 2012 and 2013, the sub-sector that received the largest aid was the judiciary. Much of this was spent on ongoing large projects such as the construction of the Palace of Justice Compound (€3.9 million) and a high-security prison (€2.8 million), and on improving education in the public safety and security sectors (€1.1 million). In 2014, the Rule of Law SWG received support from 16 donors implementing 86 projects. The EU was the largest donor, with commitments amounting to €9 million, and disbursements equal to €22 million, again partly reflecting expenditure on the construction of the Palace of Justice (€25 million pledged by the EU in IPA 2008).

In 2014, IPA evolved into its second stage, IPA II, which moves towards financing policy strategies instead of sectors or individual projects. IPA II is more closely related to enlargement objectives and priorities, as well as country strategies, leading to a more results-oriented, strategic approach. Its goal is to foster a long-term, coherent and sustainable approach that will allow for increased local ownership, with the aim of achieving greater efficiency and effectiveness. In the rule of law sector, IPA II seeks to contribute to the creation of an accountable, independent and efficient judicial system, aligned to EU legislation and best

practice, and to the enhancement of capacities to prevent, investigate, prosecute and convict cases of organised crime and corruption.

In August 2014, the Commission adopted the Indicative Country Strategy Paper for Kosovo (2014-20)¹², drafted in consultation with all relevant stakeholders. This shows that Kosovo will receive €645.5 million in pre-accession assistance over 2014-20, of which €125.6 million is pledged to the rule of law sector. IPA assistance will focus on support for priority sectors/areas, including two relevant to anti-corruption and governance:

- Democracy and governance: aiming at ensuring a de-politicised, reliable, transparent and accountable public administration and civil service at all levels).
- The rule of law and fundamental rights: judicial reform and the fight against corruption and organized crime and drugs trafficking, as well as enhancement of human rights.

For each sector, the Indicative Country Strategy Paper identifies expected results, indicators against which to measure progress, potential risks to fulfilling the goals, and types of financial assistance available to support reform (e.g., EU instruments such as IPA, and coordination with other donors when applicable). The indicator most often mentioned in the strategy paper is 'progress made towards meeting the Copenhagen criteria'. Other indicators include the World Bank's Worldwide Governance Indicators, the World Justice Project's composite indicator Access to Justice, and the World Economic Forum's Judicial Independence indicator (see

12 Retrieved from http://ec.europa.eu/enlargement/pdf/key_documents/2014/20140919-csp-kosovo.pdf

Table 3 Indicators of performance on IPA II).

Table 3 Indicators of performance on IPA II¹³

Sector	Subsector	Indicator	Sources	Baseline (2010)
Rule of law and fundamental rights	Judicial Reform	Progress towards Copenhagen criteria	DG ELARG – Progress Report	
		Composite indicator (average of Access to Justice and Judicial independence)	World Justice Project, World Economic Forum	
	Fight against corruption and organized crime	Progress on Copenhagen criteria	Progress Report	
		Composite indicator (average of Global Corruption and Control of Corruption) – 1-100 (Worst-Best)	Transparency International, World Bank	30.45
	Fundamental Rights	Progress on Copenhagen criteria	Progress Report	
		Composite indicator (Freedom of Press and Press Freedom) 1 - 100	Freedom House, Reporters Without Borders	
	Refugees & border mgmt	Progress on Copenhagen criteria	Progress Report	
Governance and Democracy	Governance & Public Administration Reform	Progress on Copenhagen criteria	Progress Report	
		Composite indicator (average of Government Effectiveness, Burden of Government Regulation and Regulatory Quality) – 1-100	World Bank, World Economic Forum	42.03
	Public Financial Mgmt	Progress on Copenhagen criteria	Progress Report	
	Statistics	Progress on Copenhagen criteria	Progress Report	
Statistical compliance - % 0 (Worst) - 100 (Best)		Eurostat	4%-10% in 2013	

¹³ Source: Indicative Country Strategy Paper for Kosovo (2014-2020): 40.

The most important change is that the financial allocations indicated in the document are framed as 'rewards' that could become available if performance and progress is evaluated as positive over a period of several years, but not later than in 2017 and 2020 respectively, as defined in the IPA II Regulation (Indicative Country Strategy Paper for Kosovo 2014-20:3-4). Hence, this marks a shift towards a more performance-based and targeted form of ex-ante conditionality, which makes the provision of aid more dependent on progress achieved (rather than the promise of progress).

Three new projects were launched in 2012 and 2013 focusing on specific areas in the fight against corruption:

- Support to Kosovo Institutions in Combating Financial and Economic Crime;
- Project against Economic Crime in Kosovo (PECK); and
- Support to the Agency for Managing the Sequestered and Confiscated Assets (AMSCA).

Most information is available on PECK, which started on 1 February 2012 and lasted for 30 months with a budget of € 1.2 million, 83.3% funded by the EU and 16.7% by the Council of Europe¹⁴. Its first cycle assessment was carried out in 2013 and a report was published on 10 June 2013¹⁵. The assessment notes progress in adopting new legislation and amending existing legislation as well as in building institutional capacity. However, it also finds that the proper and effective implementation of the legislation and measures defined in anti-corruption strategic documents, including their monitoring, was lacking. The major obstacles to progress include weak cooperation and coordination between the authorities responsible for detecting, investigating and prosecuting corruption offences, and the lack of a proactive approach in investigating corruption offences.

Two interim evaluation reports on IPA assistance were issued in 2011¹⁶ and 2013¹⁷. One report evaluates 28 IPA projects from 2007 to 2011, finding that 18 of the 28 projects had high relevance towards the priorities of the European Partnership agreement, while six were of medium relevance, and the remaining four were of low relevance. Out of the 18 projects with high relevance, 11 were considered to have high likely impact, including projects such as 'Support to the Anti-Corruption Institutions in Kosovo' (IPA 2007), 'Support to the intelligence led

¹⁴ See:

http://eeas.europa.eu/delegations/kosovo/documents/press_corner/2590_peck_ac_final_dar_17_06_2013.pdf
and http://www.coe.int/t/DGHL/cooperation/economiccrime/corruption/Projects/PECK-Kos/PECK_default_en.asp

¹⁵ See:

http://eeas.europa.eu/delegations/kosovo/documents/press_corner/2590_peck_ac_final_dar_17_06_2013.pdf

¹⁶ Interim/Strategic Evaluation of EU IPA Pre-Accession Assistance to Kosovo (under UNSCR 1244/99). Retrieved from

http://ec.europa.eu/enlargement/pdf/financial_assistance/phare/evaluation/2013/evaluation_report_kosovo_are_s_836741.pdf

¹⁷ IPA - interim evaluation and meta-evaluation of IPA assistance, Country Report Kosovo. Retrieved from http://ec.europa.eu/enlargement/pdf/financial_assistance/phare/evaluation/2013/23914_rep_kosovo.pdf

policing in Kosovo police' (IPA 2010) and Support to institutions in combating financial and economic crime (IPA 2011).

3.2 The management of EU development assistance

The implementation of IPA programmes in Kosovo is managed by the EU Office - a form of centralised de-concentrated management (Mrak and Tilev, 2008). The goal is to move towards a Decentralised Implementation System (DIS), transferring increasing responsibility to the Kosovo institutions. To achieve this, the DIS of each national administration should implement steps to achieve 'conferral of management' status (accreditation) from the European Commission before the competencies of the EU Delegations and the Commission may be transferred to the beneficiary government (Mrak and Tilev, cited by Denti, 2013: 77)¹⁸. The roadmap for accreditation comprises six stages¹⁹, tailored to each country. Kosovo's performance has been unsatisfactory and showed no improvement during 2008-11, as shown in

Table 4 Progress in DIS implementation in the Western Balkans

Table 4 Progress in DIS implementation in the Western Balkans

	2008	2009	2010	2011
Croatia	4,8	4,8	5,0	5,0
Bosnia-Herzegovina	0,0	0,0	0,0	0,0
Serbia	1,0	2,0	2,0	2,4
Montenegro	0,0	1,0	2,0	2,0
Kosovo	0,0	0,0	0,0	0,0
Macedonia	2,0	3,8	4,0	3,8
Albania	0,0	0,5	2,0	2,3
<i>For candidate countries: comp. I to V; for potential candidates: I to II.</i>				

Source: Denti, 2013: 79

The centralised de-concentrated managerial arrangement is maintained under IPA II. Although there is increasing will from the EU institutions to accelerate the path towards decentralisation,

18 Denti, D. 2013. Did EU candidacy differentiation impact on the performance of pre-accession funds? A quantitative analysis of Western Balkan cases. *CIRR XIX* (68), pages 61-91. Retrieved from <http://hrcak.srce.hr/file/156693>

19 They are numbered from 0 to 5, starting with Establishment of Structures, and continuing through Gap Assessment, Gap Plugging, Compliance Assessment, Accreditation and Verification audit. For more information, please see Denti (2011). Building Member States? The EU's Instrument for Pre-Accession Assistance for the Western Balkan Countries. Page 64. Retrieved from [http://www.denti.it/papers/Davide%20Denti%20\(2011\)%20Building%20Member%20States.pdf](http://www.denti.it/papers/Davide%20Denti%20(2011)%20Building%20Member%20States.pdf)

this will only be possible if Kosovo's absorption and management capabilities improve substantially. Mrak and Tilev (2008) distinguish between:

- a. Macro-economic absorption capacity, defined and measured in terms of GDP.
- b. Financial absorption capacity, defined as the ability to co-finance EU supported programmes and projects.
- c. Administrative/institutional absorption capacity, defined as the ability of local authorities to prepare suitable programmes and projects, to select them, to co-ordinate between partners, to meet reporting requirements, and to finance and supervise implementation properly²⁰.

In terms of macro-economic and financial capacities, Kosovo's performance is very limited. With a GDP of USD7.07 billion (GDP per capita USD 3,877)²¹ and part of its budget having been financed by international organizations, such as the World Bank or IMF, it is understandable that the need to co-finance EU-supported projects puts a strain on the country. In terms of administrative/institutional capacities, although improvements have been seen, Kosovo does not yet have sufficient capacity to take on sole ownership of planning, programming, implementing and monitoring of financial assistance.

One of the reasons for the EU playing such an important role in the management of assistance is with the aim of transferring know-how to create lasting capabilities among local administrations. This requires the close involvement of the government of the beneficiary country throughout the process of planning and implementing EU programmes, in this case IPA. The process of planning financial aid for a beneficiary country and the subsequent allocation according to projects is rather complex. In the case of Kosovo, the decision-making structure is as follows (Berenschot & IMAGOS, 2013: 201):

- DG ELARG (Brussels) identifies the financial envelope as laid out in the three-year Multi-annual Indicative Financial Framework (MIF).
- On this basis, a country-specific Multi-Annual Indicative Planning Document (MIPD) is developed. The MIPD identifies broad sector objectives, including for the field of Rule of Law and the sub-fields judiciary reform, fight against organised crime and corruption.
- The identification of projects starts with a request from the European Union Office in Kosovo (EUO) to the Kosovo Ministry of European Integration (MEI) to submit project proposals in line with MIPD priorities.

20 The different bodies and authorities that need to be set up to achieve DIS include a national IPA coordinator (NIPAC), a strategic coordinator for the regional development component and the human resources development component, a competent accrediting officer (CAO), a national authorising officer (NAO), a national fund (NF), an operating structure by IPA component or programme (SPO – Senior programme officers), and an audit authority (AA) (Mrak and Tilev, 2008).

21 Retrieved from <http://data.worldbank.org/country/kosovo>

- After internal consultations, MEI presents a list of project ideas to the EUO that are then discussed at workshops organised jointly by EUO and MEI with beneficiaries in order to prioritise projects. The priority concept notes are then redrafted into project fiches by EUO staff in close cooperation with beneficiaries.
- Project fiches are submitted to the EC in Brussels for inter-service consultation.
- Once approved, these project fiches are submitted to the IPA management committee (financing proposal).
- If approved, the Commission prepares a Commission Decision and a Financing agreement.

Beneficiaries are included in all stages of project selection, in a process that relies heavily on formal and informal consultations between stakeholders and the EU authorities. Berenschot & IMAGOS, 2013 note that it is sometimes criticized as being more focused on achieving consensus than in selecting the most strategic projects.

The prioritisation of projects is guided by the strategic objectives identified in the EU Partnership Action Plan and should be consistent with the Copenhagen criteria. The Government of Kosovo endorsed the first European Partnership Action Plan (EPAP) in 2004, and has considered it a key strategic document in the process of EU integration ever since. It is updated annually and serves as the primary medium-term planning document, aimed at addressing short- and medium-term challenges and priorities. The progress of the country is evaluated based on the realization of these priorities. In this context, the government uses EPAP as tool for planning activities, and for setting political and legislative agendas.

3.3 Assessment of EU anti-corruption conditionality

EU conditionality for Kosovo, as for other countries, is based on a logic of providing rewards in return for achievements. The incentive to comply with conditions and to meet the targets is the disbursement of further assistance, with the final aim of EU accession. Performance needs to be compared against benchmarks, as measured through a set of indicators. However, due to the peculiar status of Kosovo, this has not always been the case. Indeed, until October 2015, when the Stabilisation and Association Agreement was signed, there had been no contractual agreement between the RKS and the EU, making it a highly unusual relationship. For this reason, despite the fact that a record amount of funding has been allocated to Kosovo, there has never been a well-defined, clear-cut account of conditionality.

The reasons for the lack of indicators and any baseline against which to measure the progress are twofold:

- a) The EU funds in Kosovo are managed by the EUIK and are being disbursed mainly against Technical Assistance. Instruments that rely heavily on mutually agreed indicators and require prior baseline studies - such as DIS or Sector Wide Approach Programmes or Direct Budget Support to support specific sector strategies - are being discussed but have not been utilised to date.

b) The existing conditionality is not quantitative but rather based on documents related to political processes, such as the visa liberalisation regime for Kosovo and EU accession.

An additional challenge arises from the fact that the Programme and Political Sections of the EU report to different Directorates at the EU level (DGDEV and DGNEAR), resulting in a lack of coordination between the development and political agendas of the EU.

Recommendations about the need for progress on anti-corruption are made in the EPAP and in the yearly EC Progress Reports. However, there is a lack of coordination or consistency among these documents or in relation to IPA assistance. The EPAP (2008) contains 79 priorities on the rule of law but these are broad policy concerns, not linked explicitly to IPA annual programmes, which rather contain targets of a technical nature (ECA, 2012). The progress reports primarily emphasise the importance of amending legislation to align it with the *acquis*, and the need to improve the implementation of legislation. The recommendations are not always easily translated into conditionality since at times they resemble a tick-box approach rather than grounded suggestions, while others are too abstract to be broken down into actionable steps.

In the fields of rule of law, justice, organized crime and corruption, the objectives in MIPDs for the periods 2009-11, 2010-12 and 2012-14 have largely remained unchanged. They are part of the 'political criteria' and their progress is to be measured by indicators such as (Berenschot & IMAGOS, 2013: 201):

- An increased number of criminal cases detected, prosecuted and judged.
- An increased number of corruption cases detected, prosecuted and judged.
- An increased number of organised and financial crime cases detected, prosecuted and judged.
- An increase in the quality of policy formulation/legislation drafted.
- A reduced backlog of criminal cases.

Such quantitative indicators are problematic, as the EU readily admits, since there is no measure of the relative significance of the cases being prosecuted/judged, or room for a qualitative discussion as to the reasons why numbers are not higher. Other than data on the backlog of cases per judge, which are of questionable accuracy, there are no baseline data, and the evaluations in the progress reports are thus purely based on perceptions. Data on prosecutions is particularly problematic as an indicator of anti-corruption success, since a low number of prosecutions might reflect a lack of crime on the one hand or the capture of the judiciary by vested interests on the other.

The European Court of Auditors (ECA), in their 2012 report on the police, justice, customs and anti-corruption found that EU assistance in the field of rule of law had not been sufficiently effective. It stated that "[s]ome of the objectives of individual interventions have been achieved, albeit frequently with delays and doubts about the sustainability of the results" (ECA, 2012: 5). In the area of police, interventions by the EU only had modest success, with many challenges remaining, such as the fight against organised crime. In the judiciary, EU interventions helped build capacity, but the fundamental weaknesses of the system remain. The area of customs is

one of the rare cases where the intervention by the EU has been successful, especially in building capacity. Nevertheless, corruption remains a significant problem in this area.

According to the ECA, the main reasons for the lack of sustainability of EU interventions are the questionable local political will, weak financial capacity and the limited influence of civil society. The ECA also identified problems within the EU assistance, which impair its efficiency and effectiveness, such as poorly defined objectives; insufficient coordination between the EU institutions themselves, as well as with the Kosovo authorities and international community; EULEX suffering from resource constraints and from the fact that not all EU member states have recognized Kosovo; insufficient use of policy dialogue and conditionality to strengthen rule of law by both the Commission and the EU External Action Service (EEAS).

Evaluating the impact of specific IPA funded projects is a complicated task. One level of difficulty lies in the fact that there are several donors other than the EU active in the country, including USAID, UNDP and the World Bank, and it is not uncommon to find overlapping areas of intervention. Another factor to keep is that, despite the careful design of projects, adequate prioritisation and alignment with EU strategic objectives, the capacity of Kosovo's public administration is limited: it is understaffed and its potential to absorb aid is low. The lack of technical tools, such as IT systems, and related know-how, presents a further layer of difficulty.

The EC Progress Reports over the period 2007-14 find that Kosovo has made some progress in the fight against corruption, but many challenges remain. Under IPA I, the Support to Anti-Corruption Institutions in Kosovo received major support. This project ended in 2011 with 35 recommendations for the RKS authorities, but only 14 were accepted. The European Court of Auditors judged that the project's impact had been limited. The audit concluded that EU assistance to the rule of law had been ineffective, unable to meet all its objectives, subject to delays and with dubious sustainability of results.

1.1.1 2.3.1 Visa liberalisation

One key political milestone in EU-Kosovo relations has been the visa liberalisation process, launched in January 2012. Dialogue on this process was designed to support Kosovo in implementing a list of reforms aimed at fulfilling requirements related to the freedom of movement. The process is based on a Visa Liberalisation Roadmap, which contains a list of reforms concerning readmission and reintegration, and other reforms across four areas: (i) document security; (ii) border/boundary and migration management; (iii) public order and security; and (iv) fundamental rights related to the freedom of movement.

The reforms relate explicitly to Kosovo's ability to control its borders, and include:

- the adoption and implementation of legislation on legal migration in accordance with the EU *acquis*;
- the definition and application of a methodology for the improvement of competent authorities' capacity to prevent, detect and investigate trafficking in human beings and the facilitation of irregular migration;

- the adoption and implementation of legislation on the prevention, investigation, prosecution and adjudication of organized crime and corruption, including money-laundering, economic and financial crime;
- the development of a national strategy of the Republic of Kosovo on Crime Prevention and against Organized Crime;
- the establishment of training programmes and adoption of ethical codes on anti-corruption targeting the border guards, customs and other officials involved in the border management; and
- the establishment of cooperation with international agencies such as EMCDDA and EUROPOL.

The ministries in charge of the visa liberalisation process are the Ministry of Internal Affairs and the Ministry for EU Integration. While the former drafts action plans and/or strategies to address the requirements laid down in the visa liberalisation roadmap²², the latter is responsible for aligning the relevant legislation to the EU *acquis*. The European Commission was tasked with reporting to the Council and Member States on Kosovo's progress in completing the visa liberalisation roadmap.

The document does not stipulate how progress is to be measured. However, the first progress report, published in February 2013, stated that Kosovo had established a legal and institutional framework in readmission, reintegration, document security, border/boundary management, migration, asylum, the fight against organised crime and corruption, police and judicial cooperation, data protection and fundamental rights related to the freedom of movement. The report identified two new pieces of legislation that Kosovo should adopt: a law on inter-agency cooperation in integrated border/boundary management and a law to combat trafficking in human beings. It also warned that Kosovo's capacity to fight organised crime and corruption [remained] limited, with a potentially severe impact on the EU's internal security.

The second report was published in July 2014. This report considered that,

“Kosovo’s criminal justice system [had] benefited from significant reforms. [Nevertheless] further steps [were] necessary to fully comply with the requirements of the visa roadmap.”

Particularly, the independence of the judiciary still needed to be developed and a credible track record of court rulings in organised crime and corruption cases needed to be established.

The most recent report, published in December 2015, considers that Kosovo's progress has been substantial, but still not sufficient. It identifies eight outstanding requirements, with four key priorities for the remaining period of the visa liberalisation dialogue:

- transferring a sufficient number of judges to the courts' serious crime departments;

²² <http://www.mpb-ks.org/?page=2,114&ddate=2013>

- building up a track record of investigations, court rulings and confiscations in serious organised crime and corruption cases;
- ensuring the operational independence of the Public Procurement Review Body and Public Procurement Regulatory Commission; and
- demonstrating that legislation on name changes has been implemented.

As in other countries, the goal of visa liberalisation appears to have motivated reforms rather successfully. However, compared to other countries of the Western Balkans, Kosovo's visa liberalisation roadmap is subject to more benchmarks, reinforced monitoring mechanisms, a stricter and phased evaluation process and a more complex decision-making procedure (KCSS, 2013). While this may facilitate the pulling power of conditionality, by making the steps to progress clear, the fact that the roadmap remains subject to amendments clouds the process. Recommendations in progress reports often result in more conditions being added to the already long list of requirements in the roadmap. Critics have argued that this makes it more difficult for the Kosovo government to fulfil the roadmap requirements and reach the important goal of visa-free travel for its citizens (GLP, 2015).

4 The role of EULEX

EULEX was initially deployed by the EU Security and Defence Programme to deal with difficult aspects of law enforcement, including corruption and the fight against organised crime. The mission was established in 2008 and became fully operational in early 2009, providing an international police force, judges and prosecutors. Its purpose is to “assist the Kosovo institutions, judicial authorities and law enforcement agencies in their progress towards sustainability and accountability and in further developing and strengthening an independent multi-ethnic justice system and multi-ethnic police and customs service, ensuring that these institutions are free from political interference and adhering to internationally recognised standards and European best practices”²³. This was important considering that when Kosovo declared its independence in 2008, it was feared that the political-economic elite would overlap with the criminal elite (Capussela, 2015)²⁴.

EULEX's mandate comprises two tasks, one focused on monitoring, mentoring and advising Kosovo institutions (MMA), and a second, executive task of carrying out judicial processes. Capussela argues that executive functions were assigned to the mission precisely because Kosovo's judiciary was deemed inefficient and permeable to political interference, corruption and intimidation (Capussela, 2015). Thus, giving such powers to EULEX was an attempt to bypass local institutions and vested interests that might otherwise have sought to de-rail anti-corruption reforms. EULEX is financed through the Common Foreign and Security Policy and has received

²³ http://www.eulex-kosovo.eu/eul/repository/docs/WEJointActionEULEX_EN.pdf

²⁴ Capussela, A. 16 April 2015. Eulex report exposes EU failure in Kosovo. As retrieved on 16 November 2015 from <https://euobserver.com/opinion/128343>

a budget of over €110 million per year for most of its existence²⁵, dropping to €90 million in 2014²⁶. In 2011, it reportedly provided almost one policeman, judge or prosecutor for every 1,000 residents of [Kosovo]" (Capussela, 2011)²⁷.

The mission's two planning documents are the Concept of Operations (CONOPS) and the Operation Plan (OPLAN), both classified. The OPLAN states that EULEX's presence in Kosovo should be based on continued cooperation and support from the Kosovo authorities (ECA, 2012). EULEX is not mandated to use 'conditionality' instruments to promote progress in the rule of law in Kosovo, but it does have an important role in monitoring, mentoring and advising Kosovo institutions on adopting and implementing the reforms set out in the visa liberalisation roadmap, in addition to its already crucial role in developing the rule of law sector in Kosovo. In this way it can shape Kosovo's reform process.

Expectations regarding EULEX's contribution to pursuing high-ranking corrupt officials or criminal gang leaders have been very high, and the mission has not been able to deliver on its promises, causing widespread resentment within the country. According to Capussela (2011), this failure partly reflects the difficult context, but the main causes are internal – incompetence, weak management and a lack of loyalty to the mission's mandate. Capussela further argues that EULEX's choice of which cases to investigate or prosecute might be driven more by the desire to safeguard stability than to eradicate corruption and organised crime.

In late 2014, the mission suffered major allegations of corruption amongst its own high-ranking officials^{28,29}. This prompted the launch of a review mission in early 2015. Conducted by Prof. Jean-Paul Jacque, the review concluded that, considering the state of Kosovo's judicial system, the mission was not equipped to meet the challenges of corruption and organised crime. Corruption is omnipresent and has remained a serious cause for concern since the mission began (Jacque, 2015), while the mission has, according to Jacque, failed to create the foundations of a system capable of fighting corruption (Jacque, 2015). Additionally, both the European Court of Auditors (2012) and the Jacque report (2015) criticise the quality of staff deployed to EULEX. The ECA's report states that some of the staff members were unqualified and that member states do not properly assess candidates prior to their deployment. The Jacque report also considered that training of staff was inadequate.

The credibility of EULEX is a sensitive issue for Kosovars, who often feel that EULEX's failure to sentence certain politicians is evidence of the impervious presence of criminal groups in

²⁵ For more precise figures see pp. 2-3 of

http://www.europarl.europa.eu/meetdocs/2009_2014/documents/cont/dv/5_briefing_on_eulex_/5_briefing_on_eulex_en.pdf; page 271

http://www.iss.europa.eu/fileadmin/euiss/documents/Books/Yearbook/5.3_CFSP_Budget.pdf

²⁶ See http://eeas.europa.eu/csdp/missions-and-operations/eulex-kosovo/pdf/factsheet_eulex_kosovo_en.pdf

²⁷ Capussela, A. 2011. Eulex in Kosovo: a shining symbol of incompetence. The Guardian. Retrieved in 15 November 2015 <http://www.theguardian.com/commentisfree/2011/apr/09/eulex-kosovo-eu-mission>

²⁸ See <http://www.eulex-kosovo.eu/en/news/000528.php>

²⁹ <http://www.economist.com/news/europe/21632598-eus-mission-kosovo-ensnared-corruption-claims-small-balkan-scandal>

Kosovo's elite. Capussela even suggests that EULEX's weakness reflects the great pressure on Western countries to portray Kosovo as a success story so as to justify the initial intervention and the unprecedented support that it has received since (Capussela, 2015). He argues that EULEX faced two opposing pressures: the EU institutions and member states demanded results, but the Kosovar political elite requested flexibility. According to Capussela, the mission's management has been passive in the face of these competing pressures and has sought to balance them by "[producing] the minimum necessary results in the repression of serious crime, and to obtain them where its actions were least problematic for the elite, or its leading faction" (Capussela, 2015: 83). Capussela notes that, of the 15 most important corruption cases opened by the EULEX mission, only four led to convictions, of which three involved low-level figures.

IV. DETAILED DIAGNOSTIC - IMPROVING GOVERNANCE THROUGH EU FINANCIAL ASSISTANCE

5 The state of governance and corruption in Kosovo today

5.1 The legal framework regulating the rule of law sector

The Anti-corruption Strategy 2004-07 included three target fields: (i) the drafting and adoption of policies and legislation against corruption, (ii) institution building and (iii) increasing public awareness. Significant achievements have been made in the first priority, building a legal framework which sets out standards for public office and provides a basis for prosecuting corruption. The main laws in the field are:

- *The Kosovo Criminal Code (2008, amended in 2012)*, which defines corruption as a criminal act and identifies the different forms through which corruption can manifest. It lacks a clear legal basis for confiscation of illegally obtained assets and wealth.
- *The Law on the Anti-Corruption Agency (2010)*, which sanctions the foundation of the Kosovo Anti-Corruption Agency (KAA) and defines its responsibilities. This law ensures some level of political and financial independence, but does not provide a clear definition of the scope of work of the agency, leaving a vulnerability to political interference. The strongest tool in the agency's hands is administrative investigation and official correspondences.
- *The Law on Declaration, Origin and Control of Assets of Senior Public Officials and on Disclosure, Origins and Control of Gifts for all Public Officials (2011, and further amended in 2014)*, which obliges senior public officials to declare their assets, revenues and the origins of their wealth to KAA who then audits those statements. However, KAA does not have enough capacity to follow through with those officials who refuse to disclose their wealth and assets. The law needs to be stricter in its provisions related to gifts and better harmonized with legislation pertaining to protection of personal data.
- *The Law on Whistleblower Protection (2011)*, which offers anonymity and integrity from any form of mistreatment to those who report malpractices, abuse or corruption cases. However, negative public perceptions of whistleblowing may deter people from asking for protection under this law.

- *The Law on Prevention of Conflict of Interest (2007, amended in 2011)*, which identifies potential clashes between private and public interest, and clarifies how conflicts can give rise to corruption. The KAA is in charge of investigating cases of conflict of interest. This law provides clear definitions, but sanctions are very weak and courts tend to treat cases of conflict of interest very lightly.
- *The Law on Financing of Political Parties (2010, amended in 2013)*, which regulates the manner, conditions of financing, administration, supervision, transparency and reporting on expenditure and income of political parties in the Republic of Kosovo. This law has not helped in improving the transparency and financial accountability of political parties. Its sanctions are very weak and its implementation extremely poor.
- *The National Anti-corruption Strategy* fails to represent an all-encompassing and unifying strategy. The strategy defines the obligations and objectives of all institutions that work in fighting corruption. Unfortunately, it does not have mechanisms to adequately monitor compliance or sanction non-compliance the obligations by the institutions involved.
- *The Law on Public Procurement*, which sets out procedures for tendering public contracts, was last amended in 2013³⁰. An independent regulatory body on public procurement was established in 2004 (the Public Procurement Regulatory Commission³¹) and a Procurement Code of Ethics³² exists.

However, there are serious questions about how well these laws are implemented and hence their effect in terms of deterring and detecting corruption. The Assessment of Institutional Integrity (KDI/TIK and TI-S, 2011: 26) found that

"although a supportive legal framework is generally in place, many barriers exist regarding its effective implementation. [L]aws are often incomplete or lack supporting legislation [...], political interference frequently compromises the independence of institutions and influences a number of critical processes, such as recruitment and public procurement".

In addition to these laws, an Anti-Corruption Agency (KAA) has been established and became operational in 2007. The KAA produced an Anti-corruption Strategy (2009-11)³³ and was responsible for its implementation. It identified corruption as a serious and widespread problem, and stated that fighting it was one of the priorities of RKS. The strategy was built on a set of general principles, including respect for fundamental human rights, good governance, rule of law, accountability and transparency, access to information, and with the main objective of progressively and sustainably reducing corruption. This translated into a set of smaller objectives, including increasing integrity, accountability and

³⁰ <http://www.kuvendikosoves.org/?cid=2,191,1084>

³¹ <http://krpp.rks-gov.net/Default.aspx?LID=2>

³² <http://krpp.rks-gov.net/krpp/PageFiles/File/NewStandardForms/English/Part%20D%20Procurement%20Code%20of%20Ethics/D01%20Procurement%20Code%20of%20Ethics.docx>

³³ Retrieved from http://www.akk-ks.org/repository/docs/Strategjia_-_versioni_final_anglisht_-_janar_2010_186083.pdf

transparency of the legislature, executive and judiciary; strengthening anti-corruption capacities of public institutions; establishing conditions for a corruption-free economy; ensuring law enforcement. The strategy was operationalised with an Action Plan³⁴.

The plan included three types of measures - law enforcement, preventative measures, and education and public participation - in eight sub-groups:

- a) Specific anti-corruption measures, such as simplification of certain licensing procedures.
- b) Legislative anti-corruption measures, including the completion of a legislative review in order to assess presence legal loopholes, the adoption of new laws (such as the law on funding for political parties and electoral campaigns) and bylaws, as well as amendment of existing legislation (such as the Criminal Code of Kosovo, the Suppression of Corruption Law, the Law on Preventing Conflict of Interest in Exercising Public Function).
- c) Judicial measures and law implementation, which includes capacity building for law enforcement staff, inspectors, and prosecutors, particularly for those who investigate corruption and organised crime.
- d) Public Administration Reform measures, which aims at improving integrity, transparency and accountability of public administration workers at the local level, as well as improving compliance with approved budgets of public institutions and agencies.
- e) Public Finances- and Economic-related measures, which focuses on improving oversight and transparency in procurement processes, and refining financial procedures in order to prevent corruption.
- f) Media, civil society and public participations; aimed at improving communication of KAA with civil society and the public, increased public awareness and better reporting of corruption cases in the media.
- g) Capacity building and education.
- h) Institutional reform measures.

Indicators are provided for each action, but they are largely qualitative – e.g., ‘law is implemented’; ‘study is produced on time’; ‘reporting is done with acceptable quality’; ‘process is transparent’; ‘legislation is approved and adopted’. The disadvantage of such indicators is that the assessment of progress remains highly subjective, and evaluations on this basis can therefore be subject to political ‘spin’ or manipulation, or might simply be uninformative.

Moreover, there has been no comprehensive analysis or research into the level of implementation of the strategy 2009-11. This meant that the adoption in 2012 of a new Anti-corruption Strategy^{35,36} for the period 2012-16 was not appropriately informed. The new Strategy

³⁴ Albanian version can be retrieved from: http://www.akk-ks.org/repository/docs/Plani_i_Veprimit_Kunder_Korrupsionit.pdf

³⁵ Retrieved from http://akk-ks.org/repository/docs/Draft_Anti-Corruption_Strategy_2012%20_%202016.pdf

³⁶ NOTE: in the Albanian version, the strategy’s validity period is 2013-2017. See [http://www.akk-ks.org/repository/docs/Stragjia_2013\(1\)_418966.pdf](http://www.akk-ks.org/repository/docs/Stragjia_2013(1)_418966.pdf)

acknowledges that Kosovo still suffers from weak implementation capacity and lack of genuine political will, which undermine efforts to fight corruption. It further states that,

“[the g]eneral perception is that although the legal framework is often in place, it is frequently not respected or used to sanction [...]violations” (KAA Anti-corruption Strategy 2012-16: 3).

The overarching principles have been updated to include political will, responsibility, political neutrality, effectiveness and efficiency, cooperation and inclusiveness. The Action Plan for the 2012-16 strategy details priorities similar to those of its predecessor:

- Horizontal priorities: objectives and actions that promote a culture of transparency, public inclusion and zero tolerance towards corruption in different institutions.
- Vertical priorities: the sectoral priorities are the political sector, local government, central administration, law enforcement, prosecution and judiciary, public finance, public procurement, private sector/business activities, civil Society and media, and international cooperation.³⁷

Much like the previous action plan, this one also lists a number of indicators to measure progress towards each action. These include some quantitative indicators, such as ‘number of reports published’, ‘number of groups formed’, ‘number of proceedings launched’, ‘number of monitored cases by media followed up by the Prosecutor’. However, baselines and targets are missing even for these. Civil society organisations have been very critical of the 2012-16 anti-corruption strategy, calling the document weak, confused, inappropriate for the local context and unlikely to produce results. Civil society organisations have argued that the Action Plan, meanwhile, might serve to legitimise the illegally accumulated wealth of existing politicians³⁸.

These action plans have led to very few final convictions in corruption cases, while the KAA also lacks analytical capacity for conducting risk assessments. Maintaining oversight of a plethora of new institutions created every year is also a challenging task. Inter-agency cooperation has improved, especially between the KAA and the prosecutor’s office. However, the underlying political support to fight corruption remains weak.

5.2 Indicators of corruption and anti-corruption performance

According to mainstream indicators, Kosovo has made limited progress in curbing corruption during the period studied here. In Transparency International’s annual Corruption Perceptions Index, Kosovo has scored consistently low. In a ranking from 0 to 10, with 0 being highly corrupt and 10 being highly clean, Kosovo was placed in the 3.0-3.9 score group in 2007 and 2009, and dropped down to 2.8 in 2010, recovering only slightly to 2.9 in 2011. In 2012, the scale changed, with 0 being highly corrupt and 100 being highly clean. Over 2012-2015, Kosovo’s score has been 33 or 34, placing it 103rd out of 168 countries in the 2015 Index.

³⁷ Retrieved from http://www.akk-ks.org/repository/docs/Draft_Anti-Corruption_Action_Plan_2012__2016_112410.pdf

³⁸ <http://gazetajnk.com/?cid=1,1018,4767>

In 2011, 73% of respondents to the Global Corruption Barometer felt that the level of corruption in Kosovo had increased during the previous four years³⁹. Moreover, political parties, the judiciary and the parliament were perceived to be among the most corrupt institutions, together with healthcare. In Global Integrity's Reports on Kosovo, the overall score improved from 'weak' in 2009 to 'moderate' in 2011 while the legal framework was deemed 'very strong' in that year. However, implementation is still assessed as 'weak'. The most problematic areas are judicial independence, fairness, and citizen access to justice; law enforcement; conflicts of interest in the executive branch; business licensing and regulation; and political financing transparency (again, deemed the overall most problematic aspect).

The World Bank's Worldwide Governance Indicators Country Data Report for Kosovo⁴⁰ shows performance during 1996-2014 on a series of aggregate indicators. Comparing 2007 and 2014, we see that Kosovo's percentile ranks improved for rule of law and corruption control, but worsened for others (table 5).

Table 5 Kosovo's performance on Worldwide Governance Indicators, 2007 and 2014

Indicator	Percentile rank in 2007	Percentile rank in 2014
<i>Voice and Accountability</i>	36.5	40.4
<i>Political Stability and Absence of Violence/Terrorism</i>	85.2 (in 2008)	32.5
<i>Government Effectiveness</i>	48.1	42.8
<i>Regulatory Quality</i>	54.9	46.1
<i>Rule of Law</i>	24.4	37.0
<i>Control of Corruption</i>	23.8	39.4

Source: World Bank.

On the World Bank 'Doing Business' Report, Kosovo's performance showed significant improvement in 2014, ranking 86th, up from 96th in 2013 and 126th in 2012⁴¹. In Doing Business 2016, Kosovo further improved to a ranking of 66th. These dramatic improvements largely reflect success in reforming the regulatory framework for business. It should be noted that these reports focus mainly on the content of rules rather than their implementation. Nevertheless, some of the changes highlighted in the Doing Business reports are likely to have removed corruption risks by reducing the discretionary power of officials to grant permits and licences, for example:

39 See https://www.transparency.org/country/#KOS_PublicOpinion

40 Retrieved from: <http://info.worldbank.org/governance/wgi/pdf/c134.pdf>

41 <http://www.worldbank.org/en/news/press-release/2013/10/29/doing-business-report-identifies-kosovo-as-top-ten-reformer-worldwide>

- Doing Business 2014 noted the creation of a one-stop shop for incorporation, which simplified the process of starting a business.
- Kosovo has made dealing with construction permits easier by eliminating the requirement for validation of the main construction project, abolishing fees for technical approvals from the municipality and reducing the building permit fee.
- Transfer of property has been made easier by introducing a new notary system and by combining procedures for drafting and legalizing sale and purchase agreements.
- According to Doing Business 2015, enforcement of contracts was made easier by introducing a private bailiff system.
- Doing Business 2106 noted that Kosovo had made paying taxes easier for companies by abolishing the annual business license fee.

However, transferring property has become more difficult, because the fee for registering property transactions has increased.

Lëvizja FOL, a civil society organisation (CSO) focusing on anti-corruption, publishes a regular Corruption Monitor reporting expert assessments of anti-corruption progress as well as public perceptions.⁴² They find that the legislative framework has improved, most importantly with the inclusion of the criminal offence of 'false declaration of assets' in the Criminal Code, but that the drafting of strategy documents is poor quality. The 2012 Corruption Monitor argues that the Assembly has failed to create and maintain control mechanisms for governmental agencies and has been unable to provide a credible framework for the debate on the fight against corruption.⁴³ The Assembly devoted only three sessions to anti-corruption measures out of the 47 plenary meetings held that year. Lëvizja FOL also observes that the drive behind anti-corruption efforts did not come from within, but was the result of pressure from the international community tied to the visa liberalisation process.

Lëvizja's report on the first six months of 2013 found that public officials were not committed to the fight against corruption. The government's only decision pertaining to the rule of law area concerned the approval of financial incentives for workers of the Special Prosecution of the Republic of Kosovo for 2013. The Assembly discussed corruption-related issues only in four of the 26 plenary meetings held in that period. They included the review of the Anti-corruption Strategy and Action Plan, the review of the draft law on confiscation of assets, and the review of KAA's yearly report for 2012. In Lëvizja FOL's 2015 study, CorruptionScan⁴⁴, respondents provide a list of the issues they consider most worrisome. Corruption ranked second (considered

⁴² <http://levizjafol.org/folnew/?lang=en>

⁴³ <http://levizjafol.org/folnew/wp-content/uploads/2014/12/Monitoruesi-i-Korrupsionit-2012.pdf>

⁴⁴ Full report retrieved from <http://levizjafol.org/folnew/wp-content/uploads/2015/09/CorruptionSCAN-Hulumtim-i-Opinionit-Publik.pdf>

the most problematic issue by 39.7% of respondents), while government performance ranked third (34.4%).

Many believe that Kosovo suffers from the lack of a good governance tradition, especially the lack of experience among its current political class, and the legacy of a 'parallel institutions' mind-set. A large proportion of Kosovo's political elite comprises former warlords, whose positioning in public life owes much to their past roles in the conflict. Kosovo's sovereignty is still partial, the UN Security Resolution 1244 maintaining some reserved powers for International Organisations and UN agencies. NATO troops are still providing security in Kosovo, while EULEX has powers in fighting organised crime and corruption, and the Quint oversees the Dialogue with Belgrade which is still the biggest process of conditionality - both informal and formal. It is a widespread perception among the public that the Kosovo political leadership's satisfactory performance in that dialogue 'buys them' enough impunity to exploit and distribute public resources among their patronage systems. Given the large number of IOs playing a role in monitoring governance in Kosovo, the oversight role of the Kosovo Parliament is somewhat redundant.

The state administration is the biggest employer in Kosovo⁴⁵, and the allocation of public office roles is characterised by high levels of political influence, party patronage and nepotism. In December 2014, the Kosovo Centre for Investigative Journalism – Preportr published a report⁴⁶ that discussed political patronage in Kosovo. According to their study, 249 senior public officials with known connections to certain political parties have held decision-making positions within public or independent institutions. UNDP's 10th Public Pulse survey (October 2015)⁴⁷ found that 85% of respondents believe that "family connections, bribes, party alliances and other non-merit factors are the most important in gaining employment in the public sector". Public perceptions are also shaped by heavy media coverage of this phenomenon. However, despite the allegations of politicisation, changes in government have not resulted in major public service turnover. The public administration is also consistently found to be in need of capacity-building support (SIGMA, 2013, Kosovo Assessment Report)⁴⁸.

Public procurement accounts for €800 million annually, or around 14% of GDP (GLPS, 2012), and is one of the major drivers of the Kosovo economy⁴⁹. It is thus a cause for concern that

⁴⁵ Total number of public employees is 91,281. See pp. 9-10 here for a detailed breakdown http://www.institutigap.org/documents/99892_Reforming%20%20Public%20Administration%20in%20Kosovo.pdf

⁴⁶ As retrieved on 23 November 2015 from <http://preportr.com/en-us/Re-public/Employment-Party-389>

⁴⁷ Retrieved from <http://www.ks.undp.org/content/dam/kosovo/docs/PublicPulse/pp10/ENG%20version%20Public%20Pulse%20X.pdf>

⁴⁸ Retrieved from <http://www.oecd-ilibrary.org/docserver/download/5jz2rqkm2d6l.pdf?expires=1446128487&id=id&accname=guest&checksum=15A00270A00AD070D9C468FCD774B9AC>

⁴⁹ <http://www.cipe.org/sites/default/files/publication-docs/Public%20Procurement%20Policy%20Paper%20FINAL.pdf>

public procurement regulations are not effectively enforced (EUPR, 2014)⁵⁰. Political patronage in this area can seriously distort the market. As reported in the country profile of the Business Anti-Corruption Portal⁵¹, public procurement lacks accountability, transparency and is susceptible to political influence. Award criteria are often drafted so as to favour companies with connections to procurement officials, probably in return for kickbacks (GLPS, 2012)⁵². Almost half of all companies report that the provision of facilitation payments and gifts to government officials to secure public contracts is common (ES, 2013)⁵³.

More broadly, bribery and extortion are widespread and the informal economy is a serious challenge. Capussela suggests that,

“The aggregate turnover of organized crime in Kosovo has been estimated at between one-quarter and two-thirds of GDP – the higher estimate is by [u]ndisclosed EU reports dating from 2009’ – and virtually all of it can be assumed to be controlled by the elite, either through its own politico-criminal power structures or through associated criminal organizations” (Capussela, 2015: 8-9).

6 Support for good governance and anticorruption: trends and challenges

The EU has made the strengthening of the rule of law a key priority in Kosovo. It is considered a pre-requisite for economic development, and also a matter of EU internal security given the international nature of organised crime. Nearly €140 million were committed to Justice and Home Affairs during 2007-13, and €236.6 million have been pledged to democracy and governance, and rule of law and fundamental rights for the period 2014-20. Despite the continued EU support, however, progress in improving the rule of law has been limited and levels of organised crime and corruption remain high (ECA, 2012). EU interventions are consistently seen to have improved capacity in customs and the judiciary, but both sectors remain prone to corruption and political interference (ECA, 2012).

The effectiveness of EU assistance has suffered from a lack of clear conditionality. Most policy and process documents have referred only to qualitative indicators of success, which are evaluated subjectively, leaving assessments vulnerable to claims that they are influenced by political agendas or events. Even where documents do provide more objective indicators of success, as with the visa liberalisation roadmap, for example, they have been widely criticised – e.g., by the European Stability Initiative – because the EU has retained the right to alter targets during implementation.

⁵⁰ http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-kosovo-progress-report_en.pdf

⁵¹ Refer to <http://www.business-anti-corruption.com/country-profiles/europe-central-asia/kosovo/public-procurement.aspx>

⁵²

[https://dgap.org/sites/default/files/article_downloads/GLPS%20\(Pristina\)_Business%20environment%20in%20Kosovo_new.pdf](https://dgap.org/sites/default/files/article_downloads/GLPS%20(Pristina)_Business%20environment%20in%20Kosovo_new.pdf)

⁵³ <http://www.enterprisesurveys.org/data/exploreconomies/2013/kosovo>

EU intervention in domestic reform processes varies greatly across policy areas, depending on the priority attached to specific reforms and the capacity of implementing institutions.⁵⁴ EU intervention tends to be greater in *acquis*-heavy policy areas, when a reform falls under the so-called ‘fundamentals’ of economic reform, rule of law and public administration, and/or when a reform needs to be delivered in exchange for a politically important milestone, such as the conclusion/signing of an SAA, or commencement/conclusion of accession negotiations. This variation in political attention and commitment further clouds accountability structures and discourages local ownership. On the other hand, some scholarship suggests that conditionality, even if clear and concise, is largely ineffective and anti-democratic (Trebilcock and Daniels, 2008; Killick, 1998; Burnside and Dollar, 1997). Moreover, the EU in Kosovo might be criticised for not doing enough to ensure adherence to the principles of the Paris Declaration on Aid Effectiveness: ownership, harmonisation, alignment, results and mutual accountability.

There is a wide degree of consensus in Kosovo on the desirability of European integration, and hence an overall commitment to achieving the reforms necessary to advance progress towards this aim. In fact, EU integration is a part of the agenda of all political parties in the country, except for Lëvizja Vetëvendosje. This perennial aspiration has set the priorities for the different post-conflict governments and influenced the national strategies. Our interviews with officials from the Ministry of European Integration confirmed that the EU and Kosovo authorities tend to be in agreement on “what” to achieve, although they may differ on “how” to achieve particular goals.

However, there appear to be significant gaps in good practice in the way that policies are made. For example, the ECA (2012) noted that a new anti-corruption strategy for 2012-2016 had been published, without having evaluated the results and impact of the two previous anti-corruption strategies (2004-07 and 2009-11). EU efforts have often focused on changing legislation, without thinking through the capacity and institutional requirements necessary for its implementation. On the Kosovo side, limited absorption and coordination capacities, as well as limited financial resources, lead to a lack of continuity and hinder the implementation of new laws. This can mean that initial progress in reforms is squandered, as for example, in the judicial sector, where the implementation of new laws has often required additional funds (ECA, 2012).

More fundamentally, the complex arrangements for sharing power between local institutions and international actors lead to a fragmented accountability system, in which it is difficult to judge progress and even more problematic to attribute it to certain actors or programmes. As Montamaro comments,

“Geopolitical controversy over Kosovo’s status is mirrored within the country by a large grey area of sovereignty, in which the jurisdictions of domestic and international actors overlap and compete” (Montamaro, 2009: 5).

This complicates efforts to use conditionality to motivate reform, since it is easy to blame others for a lack of progress. Moreover, overlapping priorities and a lack of transparency about where

⁵⁴ Interviews with MEI officials, January 2016.

responsibilities lie make for conditions in which corruption might be expected to flourish (Klitgaard, 1991; Mungiu-Pippidi et al, 2011; Schwindt-Bayer and Tavits 2016).

Moreover, the underlying conditions in the political arena in Kosovo are not conducive to achieving accountability or tackling corruption. Not only is there a lack of political will among local actors, most of whom benefit from the informal power structures and patronage networks that shape the allocation of resources, but civil society also remains too weak to act as an effective check on power (ECA, 2012). Some commentators argue that the EU should have done more to address these fundamentals:

“[T]he extensive externally-led administrative and security intervention that has been mounted in the last decade has not generated genuine state legitimacy nor created institutional strength. Indeed, external efforts have failed to address the underlying causes of conflict and state weakness, and may have even undermined state construction in a number of critical ways. Montamaro, 2009: 5).

However, it is questionable the extent such goals can be achieved by external actors.

The poor credibility of some international organizations, particularly EULEX, following allegations of corruption, has not strengthened the hand of the EU in changing local power dynamics. The future presence of EULEX in Kosovo clearly requires reform, although the question of whether to eliminate its executive functions, in line with the Paris Declaration principle of maximising local ownership, for example, is likely to be hotly debated (Jacque, 2015). The ECA found that,

“the situation regarding organised crime in Kosovo has not changed considerably since the arrival of the international community [...]. The investigation of serious crimes is still ineffective due to limited experience and political interference. Kosovo authorities also lack the capacity to tackle financial and economic crime and money laundering” (2012: 18).

In such circumstances, it would seem inappropriate to leave the responsibility for countering these kinds of crime to the Kosovo authorities.

In future, the EU needs to ensure that rule of law objectives for Kosovo are linked to concrete benchmarks and clearly defined indicators against which progress can be assessed. Too often in the past, failure to meet reform objectives has simply resulted in negative comments in the EC progress reports, with no notable sanction or negative consequence. This will require better coordination among EU institutions, as well as between EU institutions and Kosovo authorities. In particular, the EU Commission and the European External Action Service need to deepen their dialogue on conditionality to strengthen the rule of law. EU internal security objectives should be better integrated into the EU’s external objectives for Kosovo in particular and the Western Balkans in general (ECA, 2012).

v. CONCLUSIONS

Our evaluation of the EU’s conditionality in Kosovo raises fundamental questions as to what constitutes ‘successful’ conditionality. On the one hand, most of the reforms that Kosovo has undertaken have been the result of pressure from the international community and the desire on the part of local politicians to maintain good relations with the EU and make progress towards

eventual accession. On the other hand, these reforms are often regarded as having been ineffective in building local political will and capacity, and hence may be unsustainable in the medium term. Achieving a healthy balance between assisting in the building of capacity and motivating local leaders to engage in reform themselves is a difficult task, particularly in a very young democracy with a history of conflict and continued uncertainty about its international status.

This tension is exacerbated in the area of controlling corruption, because the headline political priorities of international actors pose a direct challenge to existing political settlements. While Kosovar politicians may support anti-corruption goals in public, they are by and large not ready to dismantle their existing networks of political patronage or risk the loss of informal power that meaningful reform would involve. As such, Kosovo authorities have not given adequate priority to anti-corruption activities and it is problematic to try to incentivise them to do so.

Certainly, corruption remains rife in Kosovo and is the primary obstacle to the rule of law, threatening the democratic functioning of public institutions and distorting the normal functioning of the internal market. It hinders governance and undermines public confidence in the emerging state institutions and democratic system, as well as creating conditions in which the informal economy and organised crime can prosper. This is a major cause for concern, not least because ODA for Kosovo is declining and many donors are seeking to exit. This makes it all the more important that remaining donors coordinate their actions. Unresolved, these problems will pose an increasing risk to EU security.

APPENDIX 1 Historical timeline of EU – RKS relations

01-11-2000: During the Zagreb Summit, 1st of Nov 2000, the Stabilisation and Association Process (SAP) is launched.

01-02-2006: UN Special Envoy launches status negotiations

04-02-2008: EU-Council adopts Joint Action, establishing EU Rule of Law mission (EULEX) in Kosovo

18-02-2008: EU-Council acknowledges Kosovo's declaration of independence, underlines EU conviction that Kosovo is a sui generis case.

15-06-2008: Kosovo adopts its Constitution

09-12-2008: EULEX becomes operational

07-2010: First SAPD Plenary meeting held⁵⁵

08-03-2011: Following a UN General Assembly Resolution, the Kosovo-Serbia technical dialogue begins

19-01-2012: EU-Commission launches the visa liberalisation dialogue with Kosovo

30-05-2012: EU-Commission launches the Structured Dialogue on the Rule of Law⁵⁶

14-06-2012: EU-Commission issues Kosovo's visa liberalisation roadmap⁵⁷

10-09-2012: Kosovo declares the end of supervised independence

10-10-2012: EU-Commission issues its Feasibility Study for a Stabilisation and Association Agreement between the EU and Kosovo

19-10-2012: High-level dialogue between Kosovo and Serbia as facilitated by HRVP Ashton begins

11-2012: The Kosovo government, the Head of the EU Office/EUSR and EULEX signed a joint rule of law agreement, the Compact, setting out common rule of law objectives until the end of the EULEX mandate (June 2014)⁵⁸.

⁵⁵ Five plenary meetings and 35 sectorial meetings were held between 2010 and 2015. Sectorial meetings result in a list of decisions. Given the technical nature of these meetings, decisions are usually concise, actionable remarks, ranging from adoption of legislation, to compiling of reports or provision of statistics. For a detailed list, please see: http://eeas.europa.eu/delegations/kosovo/eu_kosovo/political_relations/sap_dialogue/meeting_conclusions/index_en.htm

⁵⁶ http://ec.europa.eu/commission_2010-2014/fule/headlines/news/2012/05/20120530_en.htm

⁵⁷ Visa liberalization with Kosovo* Roadmap
http://eeas.europa.eu/delegations/kosovo/documents/eu_travel/visa_liberalisation_with_kosovo_roadmap.pdf

⁵⁸ Refer to page 8 of Indicative Strategy Paper for Kosovo* (2014-2020). Retrieved from http://ec.europa.eu/enlargement/pdf/key_documents/2014/20140919-csp-kosovo.pdf

01-01-2013: Following the Structured Dialogue on Rule of Law, “new laws on courts, on the state prosecutor, on the Kosovo Judicial Council, on the Kosovo Prosecutorial Council and on the Special Prosecutorial Office entered into force. In addition, the criminal code and the criminal procedure code, among others, were reformed” (BTI 2014, Kosovo Country Report, page 8)⁵⁹.

12-02-2013: Second meeting of Structured Dialogue on Rule of Law is held in Pristina⁶⁰

28-10-2013: Negotiations on the Stabilisation and Association Agreement between the EU and Kosovo start in Pristina

16-01-2014: Third meeting of Structured Dialogue on Rule of Law is held in Brussels

22-04-2014: The mandate of EULEX is extended to June 2016

02-05-2014: Negotiations on the Stabilisation and Association Agreement completed

25-07-2014: The EU and Kosovo chief negotiators initialled the Stabilisation and Association Agreement between the EU and Kosovo in Brussels

27-10-2015: The EU and Kosovo sign the Stabilisation and Association Agreement in Strasbourg, marking the first contractual agreement between the two⁶¹.

APPENDIX 2 – Profile of Kosovo’s main political parties during the post-war period

The '**Lidhja Demokratike e Kosovës**' (LDK, 'Democratic League of Kosovo'), a supporter of the non-violent strategy, established parallel institutions after the loss of autonomy of the region. LDK sees itself as a conservative, anti-communist party favouring economic liberalism, with a small government and private property as central to its ideology.

Next to LDK, the '**Partia Demokratike e Kosovës**' (PDK, 'Democratic Party of Kosovo') is the most important party in Kosovo. Founded by former Kosovo Liberation Army (KLA) fighters, it clearly did not favour a non-violent strategy and has been in a rivalry with LDK from the

⁵⁹ BTI (2014), Kosovo Country Report. Retrieved from http://www.bti-project.de/uploads/tx_itao_download/BTI_2014_Kosovo.pdf

⁶⁰ http://eeas.europa.eu/delegations/kosovo/documents/press_corner/press_releases/2013/130212_second_meeting_of_the_structured_dialogue_on_rol_en.doc

⁶¹ http://eeas.europa.eu/delegations/kosovo/press_corner/all_news/news/2015/20151027_en.htm

beginning. It is generally seen as a party that favours individualism. The ethnic identity is more important than a citizen's identification with the state.

Another war-born party is the '**Aleanca për Ardhmërinë e Kosovës**' (AAK, 'Alliance for the Future of Kosovo'). The ideology of AAK centres on family and adherence to traditional values rather than individualism. It further supports the unitary character of Kosovo with its cultural and ethnic diversity. It thus believes that minorities should be protected, but is however against affirmative action. It favours the privatization of all state-owned enterprises.

Founded in 2005, the '**Lëvizja Vetëvendosje!**' (LVV, 'Movement Self-determination') is a citizen movement born as a result of the long period of hesitation of International Community to dwell on the political status of Kosovo and UNMIK's subsequent idea of resolving it through a dialogue between Kosovo and Serbia. LVV believed that Kosovo had every moral right to self-determination. The group quickly became active opposition to the international presence and the Kosovo political elite. The movement's ideology is based upon radical leftist principles on one side, and radical nationalism on the other side. Their reputation derives from their image of clean-hands politics.

APPENDIX 3 – Sectoral allocation of IPA I Funds

Table 6. Sectoral allocation of IPA I Funds (millions of euros)⁶²

*	IPA I												Additional				
	Total per year	Public Administration Reform	Justice and Home Affairs			Private Sector Development	Transport	Energy	Environment and Climate Change	Social Development and Employment	Agricultural and Rural Development	Support and Other Activities	TEMPUS	Other	Nuclear safety	Civil Society Facility	TOTAL
			Support to Rule of Law	Return and Reintegration of	Support to Dialogue & EU approximation												
2007	61.82	13.60	5.79	8.70	6.45	10.79	6.69	2.99		1.40	2.00	3.41	2.80	3.50			68.12
2008	182.70	12.84	41.51	3.98		61.78		11.91	16.49	16.06	6.63	11.50	1.80		0.20		184.70
2009	103.60	11.50	12.05			7.80	15.00		4.80	34.43	7.70	10.33	2.20		0.30		106.10
2010	63.90	9.00	12.30			17.50		2.00	8.50	5.00	3.50	6.10	2.20				66.10
2011	62.90	8.70	5.20	3.70		16.70		4.00		13.60	7.45	3.55	2.70		0.30	1.00	66.90
2012	63.20	7.10	8.60	4.00	8.30	20.00				5.80	7.40	2.00	2.70			1.10	67.00
2013	65.88	3.50	7.15	3.33	5.60	18.00		0.70	3.00	7.80	12.10	4.70	2.70			1.10	69.68

⁶² Figures retrieved from the EC annual programme(s) for Kosovo 2007-2013. For more information, see http://ec.europa.eu/enlargement/instruments/funding-by-country/kosovo/index_en.htm

sector	604 .00	66. 24	92. 60	23. 71	20. 35	152 .58	21. 69	21. 60	32. 79	84. 08	46. 78	41. 59	17. 10	3.5 0	0.8 0	3.2 0	628 .60
	158.84																

APPENDIX 4 - Election results (2007–14)

Figure 2 Timeline of elections held in Kosovo during 2007-14

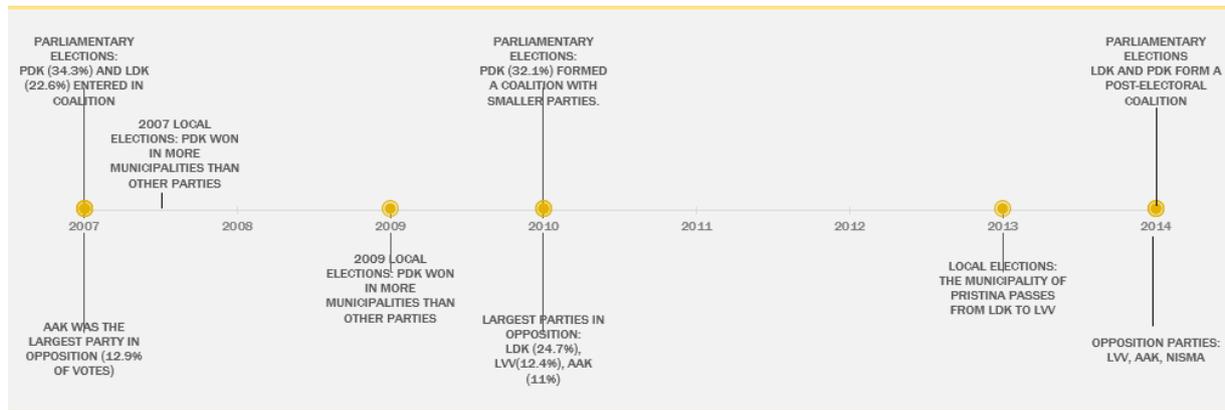
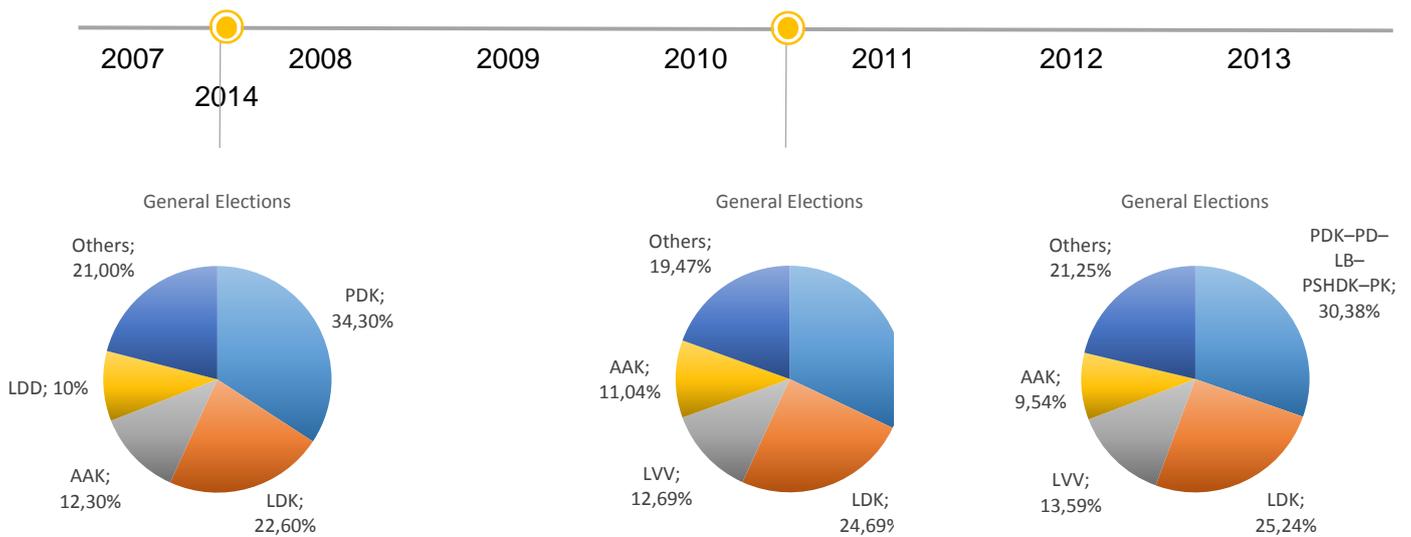
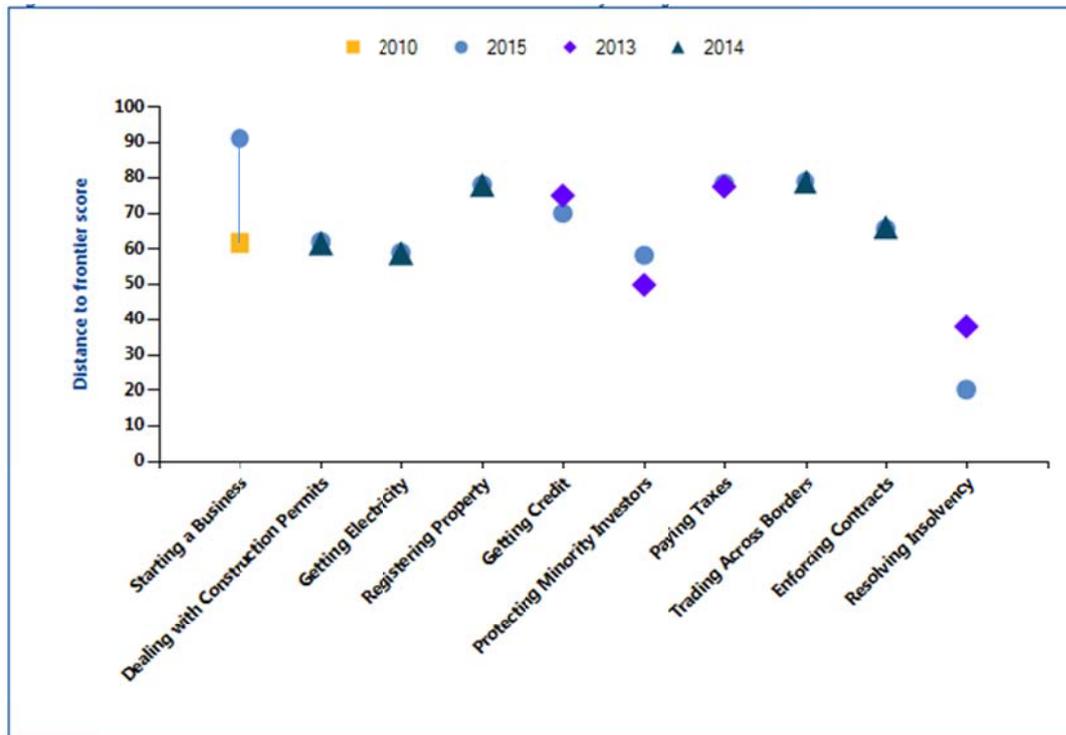


Figure 3 Success of different parties at general elections over 2007-14



APPENDIX 5 Kosovo's progress according to Doing Business reports

Figure 4 Kosovo's progress in the regulatory environment as measured by Doing Business



Note: The distance to frontier score shows how far on average an economy is from the best performance achieved by any economy on each *Doing Business* indicator. Starting a business is comparable to 2010. Getting credit, protecting minority investors, paying taxes and resolving insolvency had methodology changes in 2014 and thus are only comparable to 2013. Dealing with construction permits, registering property, trading a cross borders, enforcing contracts and getting electricity had methodology changes in 2015 and thus are only comparable to 2014. The measure is normalized to range between 0 and 100, with 100 representing the best performance (the frontier). See the data notes starting on page 119 of the *Doing Business 2016* report for more details on the distance to frontier score. Source: *Doing Business* database.

Source: World Bank 2016: 10.

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