

Third meeting of the Kosovo SAp Tracking Mechanism

Pristina, 26/27 November 2003

Recommendations

The third meeting of the Kosovo SAp Tracking Mechanism (STM) was a further **important step** in the gradual progress of Kosovo towards EU-compatible structural reforms.

The United Nations Interim Administration Mission in Kosovo (UNMIK) and the Provisional Institutions of Self-Government (PISG) documented their full **commitment** to the success of the STM process and to the implementation of the recommendations formulated therein. It was reaffirmed that the SAp Tracking Mechanism and the operationalisation of the Kosovo Standards are **mutually reinforcing policies** that help Kosovo to advance on its path of EU-compatible reforms, given that its reforms are firmly embedded in a European context and framed by the EU's Stabilisation and Association process.

The European Commission welcomed the further development of internal **coordination structures**, which have been put in place in UNMIK and the PISG to ensure the follow-up of recommendations. Monitoring of implementation through a monitoring tool should continue. The PISG's capacity at civil service level should be further strengthened, in the PM's Office and line ministries.

The internal EU **compatibility checks** in UNMIK and the PISG should be further strengthened in order to achieve the approximation of Kosovo's legislation with EU rules and standards from the outset, with full participation of all institutions concerned.

Generally, the European Commission reiterated the crucial importance of not only adopting appropriate legislation and policies, but of actual **enforcement** and the establishment of efficient administrative structures to this end.

The third meeting of the STM formulated the following specific recommendations, in addition to those made during and issued after the previous meetings. Progress on these policy recommendations will be reviewed at further STM meetings.

General political and economic reforms

Democracy, rule of law and respect for human and minority rights

Efforts to strengthen **minority participation** in the administration should be further accelerated to reach the minimum percentages at the central level agreed by UNMIK and PISG. Particular attention should be paid to the establishment of municipal representational ranges. The minority outreach programme initiated in the Prime Minister's Office should be extended to all PISG Ministries.

To contribute to a political, economic and security climate conducive to **returns**, the work of the Task Force in this field should continue, including working groups on municipal level, so that tangible results become visible in the shortest possible period of time.

Regarding the screening of school history **textbooks** on their factual accuracy, work of the multiethnic expert committee should proceed rapidly and be finalised in time to achieve results for the 2004/2005 curriculum.

The important **new Criminal and Criminal Procedure Codes**, adopted recently, should be fully implemented from April 2004 as foreseen; the preparatory work to this end should continue involving members of all legal professions in Kosovo. However, the provisions in the Criminal Code concerning the wide definition of criminal negligence should be reconsidered to avoid hampering the work of public officials, notably in the field of customs.

The draft **Anti-Money Laundering Regulation** should be adopted rapidly. The participation of members of the Kosovo Police Service in special investigation units should continue and be further deepened. The capacity of responsible institutions should be strengthened and necessary inter-institutional cooperation mechanisms established, in particular an anti-corruption unit.

The draft **Law on an Independent Media Commission** should be finalised and submitted to the Assembly rapidly, taking full account of the comments made inter alia by the Council of Europe and other international organisations. The collection of RTK fees should be fully enforced.

General economic reforms

The **medium-term economic framework** including priority public investments should be finalised together with the IMF in the first quarter of 2004, to be subsequently monitored by the IMF. The ongoing EAR-funded project to modernize job profiles and wage categories should continue as foreseen with a view to limiting the public wage bill.

Concerning **international borrowing**, the draft law on international financial agreements should be adopted by the Assembly. Agreement by UN Headquarters on the text of the draft framework agreement, to be signed by the European Investment Bank and UNMIK, should be achieved quickly in order to enable its rapid conclusion. On the basis of the list of revenue-generating projects established by the Economic Strategy and Project Identification Group, specific investment priorities now need to be agreed upon.

The tender for the **turn-around management of KEK** should be finalised in March 2004 as foreseen. Urgent progress needs to be recorded on the **metering, billing and collection of payments** for electricity consumed to ensure the viability of KEK and the sustainability of the massive international donor support. Further strong efforts and full commitment of all parties concerned are needed to ensure the safe operation and the short-term viability of KEK, including the preservation of KEK's generation and transmission capacity

In order to help structural economic reforms in Kosovo, the **privatization and enterprise restructuring** process should continue on a solid legal and political basis. All stakeholders should exercise their responsibilities in a constructive manner to safeguard the existing political consensus on this important venture.

Trade and customs

The overall development of a **legislative framework** for trade and trade-related policies should continue, ensuring EU- and WTO-compatibility. A Domestic Trade Law and a Law on Trade Inspection should be adopted in the first quarter of 2004.

The important new **Customs Code** should be adopted quickly as foreseen.

The revision of problematic licensing and safeguards provisions in the **External Trade Law** should be considered by the responsible institutions, both regarding their scope and discretionary procedures, to ensure their full compatibility with relevant WTO rules and to avoid trade-distorting effects. In general, **licensing requirements** should be introduced and applied in a very restrictive manner and not for revenue raising purposes in order to facilitate trade.

The implementation of **veterinary and SPS standards** in line with relevant EU rules should be strengthened to enhance Kosovo's export opportunities.

Cooperation with the Serbian authorities on taxation related issues should continue, notably in view of the planned introduction of VAT in Serbia.

UNMIK's recently reaffirmed association with the 2001 MOU on **trade liberalisation and facilitation in South Eastern Europe** in the framework of the Stability Pact, on behalf of Kosovo, was noted. This should evidently continue to be done in line with UNSCR 1244 and in full compliance with the relevant Stability Pact rules.

Economic Legislation

Regarding **company law**, new legislation currently being drafted should introduce safeguards to protect capital, shareholders and creditors. Sanctions for failure to comply with disclosure requirements, including financial reporting, should be proportionate.

Future work should gradually **align Kosovo's legislation** with other aspects of the EU's company law acquis.

Progress should continue to bring Kosovo's **accounting standards** into full conformity with IAS. The system for licensing statutory auditors of financial reports should be strengthened, including by defining independence and professional competence requirements in line with the EU acquis. Attention should be given to increase the number of qualified accountants and auditors.

Progress towards the creation of a comprehensive and modern legal framework for **Intellectual and Industrial Property Rights** (laws on copyright and related rights, patents, trademarks, etc.) should continue. The necessary measures - both in terms of legal basis and the necessary technical infrastructure - to create an effective border regime should be pursued based on the new Customs Code. Urgent attention should be given to strengthening the capacity of the judicial system to deal with IPR cases. Due attention should be given to the practical fight against IPR violations illicit practices within Kosovo.

Competition Law and Policy

As a first **legislative** step, the main EC principles on restrictive agreements and abuse of dominant position should be incorporated into existing economic legislation. These rules should apply in **all economic sectors** and in relation to all market participants, irrespective of ownership and organisational structure and including the public sector.

Enforcement of these rules should be achieved through the courts by way of **private enforcement** and, where relevant, through public policy decisions.

As a first step towards the creation of an independent authority, a small **competition office** should be set up within the existing structures in order to promote competition policy.

As a first step of **merger control**, awareness should be created as to the competition risks that can follow from certain mergers and acquisitions. The creation or strengthening of dominant positions should be avoided, at least in respect of those areas where there is government influence, such as restructuring and for public companies.

Regarding **State aid**, as a first step, transparency should be ensured by establishing a comprehensive inventory and reporting of all aid measures in force (based on an EU-harmonised State aid definition), at all administrative levels. An overall **strategy** to identify State aid objectives should be established and particularly harmful measures should be avoided; tax holidays for foreign investors and aid to non-viable companies should be subject to particular attention.

A coherent horizontal approach to **promote competition policy** should be taken, e.g. in the fields of market liberalisation, privatisation, restructuring, public procurement, rule of law, etc. This includes **consulting the competition office** on relevant draft legislation.

The **awareness** of competition rules and their benefits by all market actors should be raised, including the business community, consumers and within the public administration.

State monopolies of a commercial character must not discriminate, regarding the conditions under which goods are procured and marketed, between nationals of the EU and of Kosovo.

The **judiciary** and public administration should be strengthened and trained to deal with cases involving competition aspects.