

## Stabilisation and Association Process Dialogue

### Sectoral Meeting Justice, Freedom and Security

27 - 29 January 2010

#### Final Conclusions

The Meeting took place in Prishtina on 27 - 29 January 2010.

During its *first day*, the meeting was **co-chaired** by the Acting CEO of the Agency for Coordination of Development and European Integration (ACDEI), Mr Edon Cana, and the EC ELARG Kosovo Desk Officer, Mr Lukas Holub.

During the *second and third days*, the meeting was **co-chaired** by the Director of Governance at ACDEI, Mr Arben Kalaja, and the EC ELARG Kosovo Desk Officer, Mr Arnaud Appriou.

**Participants** (please see *Attachment 1* for a detailed list of participants):

- A) Kosovo authorities were represented by institutions of the Government of Kosovo and independent institutions/agencies. Participants were divided into presenters and discussants.

**Government of Kosovo:** ACDEI, Office of the Prime Minister (Office of Good Governance, Office of Community Affairs, Agency of Gender Equality, Government Commission on the Use of Languages and the Government Commission of Missing Persons), Ministry of Communities and Returns, Ministry of Justice, Ministry of Internal Affairs, Ministry of Education, Science and Technology, Ministry of Economy and Finance and Ministry of Local Government Administration.

**Independent institutions/agencies:** Ombudsperson Institution, Kosovo Customs, Kosovo Property Agency, Kosovo Anti-Corruption Agency, Kosovo Judicial Council, Independent Judicial and Prosecutorial Commission, Prosecutor's Office, Public Procurement Regulatory Commission, Kosovo Police, Police Inspectorate of Kosovo and the Independent Media Commission.

- B) **European Commission (EC):** Representatives of the DG Enlargement and DG Justice, Freedom and Security, as well as the European Commission Liaison Office in Prishtina.

- C) EUSR and EULEX.

#### **1. Introduction**

The meeting was opened by the co-chair, Mr Edon Cana. On behalf of Kosovan institutions, he highlighted the importance of this first meeting of the Subcommittee on Justice, Freedom and Security (JLS) of the new Stabilisation-Association Process Dialogue (SAPD), particularly in view of preparations for a visa dialogue with the European Commission. He also reiterated the commitment of Kosovan institutions to the European Agenda, hence inviting representatives of all local institutions to engage in open discussions and to take on board recommendations proposed by the EC.

Speaking on behalf of the EC, Mr Holub pointed out that enhancement of the interaction with Kosovo from the Stabilisation-Association Tracking Mechanism (STM) to the Stabilisation-Association Process Dialogue (SAPD) had been endorsed by the relevant Council Conclusions. The objective of

the meeting was to take stock of actions delivered since the publication of the progress report and agree on activities for the next months prior to the plenary meeting in summer and the publication of the progress report in autumn. Sustainable and tangible results will also be crucial on the path towards the visa liberalisation dialogue and preparation of the 2010 European Partnership. He also underlined that SAPD does not substitute the visa liberalisation dialogue. The DG JLS representative, Mr Lukas Wernert, pointed out that the focus of activities needed to be on the implementation of legislation, strategies and action plans. Kosovo should deliver tangible results, reporting needed to be supported by statistical and other empirical data demonstrating the progress in the area of the Rule of Law.

## 2. Home Affairs

Regarding *readmission*, MIA reported that Readmission Agreements have been signed with Albania, Belgium and France, while negotiations with Germany, Switzerland and Norway have been finalized, while their signing is expected in the near future. Other countries have also approached Kosovo authorities. Concerning institution-building, MIA reported that it has functionalised the new Department for Citizenship, Asylum and Migration (DCAM) and an Asylum Centre (December 2009). A report on the implementation of the Migration Strategy has been sent to the EC in January. During the reporting period DCAM received 554 requests, while it verified 441 of them. MIA has also drafted an AI on Late Registration as well as booklets containing information on civil documents in Kosovo.

On *re-integration* MLSW reported that during the reporting period it continued providing services to returnees (through a local NGO) related to short-term reintegration only: receiving them at the Prishtina Airport (1186 returnees; voluntary: 477 persons; deported: 709), providing transport (39) and one-week-long sheltering services (24 returnees). Kosovo authorities estimated their ability to deal with 5000 cases in 2010. The budget allocated by the MLSW for 2010 is €100.000. A “welcoming leaflet” will be finalized soon. The EC underlined that it was crucial to address challenges in these areas in view of the steps towards visa liberalisation dialogue. The Commission will come to verify progress in April/May 2010.

### *Challenges:*

- Capacity of DCAM;
- Functioning of the appeal body for asylum cases;
- Only partial implementation of the Action Plan on reintegration;
- Capacity to integrate returnees (resources at central and municipal level, needs to vulnerable people, housing, employment, social services, etc.).

Regarding *civil registries*, MIA reported that it continued verification and checks on the civil status central books, while with regards to *document security* it was reported that a feasibility study assessing Kosovo’s capacities to issue biometric documents has started and a long-term outsourcing contract on advancing the system of collecting biometric data has been signed. Furthermore, an agreement with Kosovo Post-Telecom has been signed with the view of expanding electronic networks to all civil status offices that would, in turn, allow citizens to apply online for personal documents. The Commission representatives underlined that sound legal base, secure and transparent procedures, and well qualified staff handling the documents both at central and municipal levels were essential before moving to the issuance of biometric passports. The absence of biometric passports is no obstacle of a start of a future visa dialogue. Instead, a hasty introduction of biometric passports can be an obstacle in the process

### *Challenges:*

- Falsified documents for visa applications;
- Integrity of processes at the local level.

On the issue of the *Integrated Border Management*, KP reported the finalization of all IBM agencies’ strategies. Police organizational structures has been finalized and approved by the Minister and the

Police Director for the top level (number of pillars and Departments). It remains to be finalized as far as the other levels are concerned. It was further reported that an MoU has been signed between MIA, MEF, KP, Customs and TAK. SOP on border crossing points, SOP on surveillance and control, SOP on performance management based on objectives, SOP on use of cameras and GPS and SOP on watch towers were adopted. IBM Monitoring Centre has also been established, and the communication system has advanced. This system integrates Internet and intranet services of all border crossing points and the Border Management System is to be installed. A one-stop joint facility (KP, Customs and KWFA) has been inaugurated in Gllloboqica border crossing point. During the reporting period, 15 anti-smuggling operations were successfully carried out, resulting in the capturing of 23 weapons, 1796 bullets, 10 kg of narcotics, 1293 packs of cigarettes and 127600 euro value of currency. A Joint Risk Analysis Team has been functionalized in January 2010. Agreements on cross-border police cooperation with Albania, FYROM, France, Croatia, Austria and Hungary are in place.

Negotiations have been launched with other countries.

The IBM authorities have also become part of the IBM Regional Forum for the Western Balkans and Turkey, participated in the DECAF IBM Programme for the Western Balkans, and held joint training with the Albanian border security authorities. KP is gradually being trained to take over duties from KFOR starting at the Kosovo-Albanian border. On law on foreigners, the Commission representatives stressed that comments given by EC and twinning partners to the Administrative Instructions should be taken onboard as they reflect EU standards. It is preferable to allow citizens of neighbouring countries to enter Kosovo with IDs only, together with an adequate system of foreigners' registration that is necessary for law enforcement agencies to implement the law on foreigners. Their registration is possible, but EU local border traffic regime can provide way for handling people living close to the border. The EC representatives also pointed out that the PISCES system was not in line with the EU requirements.

**Challenges:**

- Capacity of the KP to protect the border;
- Equipment and training;
- Implementation of the legal framework in practice;
- Dealing with illegal migrations and organized crime.

Concerning *protection of personal data*, MIA reported that the draft-Law is under review in the Assembly: it has passed the first reading, and the relevant Committee has held a public hearing session on it. It was pointed out that delays in its adoption by the Assembly have further delayed operationalisation of the Data protection supervisory authority. The EC representatives stressed that it was important to accompany setting up of security, intelligence and law enforcement bodies by appropriate personal data protection measures, so far missing. Concerns were raised as to the quality of the draft law.

**Challenges:**

- Setting up the legislative framework and capacity to implement it;
- Financial and personnel resources and expertise to setup the data protection body;
- Awareness of public institutions, private sector and population about personal data protection and the need to implement the law.

Regarding the *fight against organized crime*, MIA representatives reported on the adoption of strategies and action plans against organized crime, against trafficking of drugs, on migration as well as against terrorism. Strategies on reduction and prevention of crime and on collection of small and light arms were also adopted. MIA has established strategic groups and appointed a coordinator to oversee the implementation of each of the mentioned strategies. MIA has also established secretariats to each coordinator to assist them regarding monitoring, evaluation and reporting on the strategies implementation and then also appointed a coordinator for all of the secretariats. Reports on the

implementation of strategies on organized crime, terrorism and drug trafficking have been shared with ECLC in January 2010. In order to overcome the issue of data sharing with Courts and Prosecutors, MIA has already signed an MoU with MoJ, KJC (on 27 January 2010) and Prosecutors Office in relation to Anti-Trafficking of Human Beings and plans to expand cooperation in other areas as well. KP also presented some statistics on the fight against organised crime, drug trafficking and trafficking of human beings.

It was further reported that the Law on Management of Sequestered or Confiscated Assets has been approved and entered into force at the beginning of this year. The draft-Law on Witness Protection is being handled by a Government WG. In the meantime, WGs have been established with the aim of amending the Criminal Code and Code on Criminal Procedure, with the view to *inter alia* identify and define provisions that cover organised crime, economic crime, asset origin etc.

**Challenges:**

- A track record of arrests, confiscations and convictions;
- Implementation of relevant strategies, action plans and laws;
- Resources, skills and technical capacities of the KP (positive trend in increasing these capacities);
- Implementation of the law on confiscated and sequestered assets requires identification of budget needs;
- In the future, implementation of the witness protection law will require considerable resources.

Concerning **fight against money laundering**, MEF reported approval of the draft-Law on Prevention of Money Laundering and Financing of Terrorism by the Government as well as on specific legal preparations for handing over of competencies from EULEX to Kosovan Government: identification of the relevant legislation (regulations and international agreements), relevant material from the archives, as well as staffing and equipment needs. The EC representatives underlined that an EU standards-compliant law needs to be adopted ensuring criminalization of money laundering. Kosovo should also sign technical arrangements with Eulex to create a framework for transitioning of the Financial Information Centre to Kosovo. This can only be done once Kosovo is ready.

**Challenges:**

- Adequate legal framework and articulation between various areas (asset recovery, tax evasion, customs, criminal code, anti-corruption, etc.);
- Transfer of competencies from Eulex to Kosovo authorities in the area of anti-money laundering, when Kosovo is ready;
- Capacities to implement the legislation and take over responsibilities from Eulex;
- Reporting of suspicious transactions by concerned entities; and enhancing the capacity to conduct efficient financial investigations in parallel with criminal investigations.

Kosovo Police reported on advanced training on economic crime provided to law enforcement bodies, and further strengthening of police capacities to fight economic crime through recruitment and qualitative personnel selection and provision of sufficient working space – construction of KP facilities is almost complete. It also reported the establishment of the Cyber-Crime Investigation Unit and of joint investigation units with TAK, KC, MTI (IP and Trademark Office) and KWFA. Furthermore, the organizational structure of the Department of Economic Crime and Corruption Investigation has been approved, while the standard operational procedures for Joint Intelligence Unit, Crime Target identification and Joint Investigation Teams have been drafted.

Concerning **Police reform**, MIA reported that with the view to addressing findings and recommendations of 2009 Progress Report, EULEX biannual report and those of functional review, KP has commenced drafting its 2010 – 2015 Development Plan, while MIA has requested the KP management for synergy on functioning of Strategic Development Plan, Needs Assessment and Organizational Structure Working Groups, which, based on the ‘form follows function’ criteria, are

expected to produce a needs and strategy-driven KP structure. KP senior management Job Descriptions have been approved, which will be regularly reviewed every six months, in cooperation with EULEX. MIA has also approved a new salary system for the KP (entered into force in the beginning of 2010), which is a standardized salary system with the aim of providing supplements to all police officers depending on their position, responsibilities and duties, all implying a cost of € 7 million allocated to the KP. With regards to KP performance review, MIA has initiated the amendment of the Law on Police Inspectorate of Kosovo, aimed at increasing its responsibilities and powers.

In relation to the *cooperation with EULEX*, MIA reported the signing of an MoU with EULEX, which allows latter's access to the relevant databases of MIA and/or KP.

### **Challenges**

- Intelligence led policing and integration of information and data;
- Managing complex reform process;
- Close and effective cooperation with Eulex.

### **Follow-up actions:**

#### **Readmission and reintegration of forced returnees**

##### ***Legislative***

↳ MIA to draft and the Assembly of Kosovo to adopt the Law on Readmission (April 2010);

##### ***Operational***

- ↳ MIA to complete transfer of responsibilities from the Kosovo Police to the DCAM and Migration Database on foreigners to be fully operational and transferred to the DCAM (June 2010);
- ↳ MIA and KP to further strengthen their institutional capacities in the field of readmission with the support of the EC twinning (Q2 2010);
- ↳ Kosovan authorities to strengthen coordination, institutional and budgetary capacities at all levels for reintegration of repatriated persons (June 2010);

##### ***Reports***

- ↳ Report on weaknesses, needs and plans on reintegration as well as on budgets at central and local level for the period 2007-2010 (end of February 2010);
- ↳ Report on achievements and next steps (mid-June 2010);

#### **Civil registries and document security**

##### ***Legislative***

- ↳ MIA to finalize and the Assembly of Kosovo to adopt the Law on Civil Status, while ensuring compliance with the European standards (June 2010);
- ↳ After the Law on civil status is adopted relevant AI shall be renewed

##### ***Operational***

- ↳ MIA to implement recommendations of Eulex from November 2009 as regards Municipal Civil Status Offices (March 2010);
- ↳ MIA to make the new Civil Registration Agency operational in line with the European data security and data protection standards (ongoing effort in line with the ECLO project)
- ↳ MIA to complete digitalization of civil registries and linkage of all Civil Registration Centres, including their IT systems and databases, with the central level (provide ECLO with a plan on when this can be achieved)
- ↳ MIA to continuously inform ECLO on steps planned and other assistance in the field of civil registration in order to align EC assistance;

- ↳ MIA to inform ECLO on a contact person within Kosovo administration dealing with frauds in the visa issuance process as agreed at the end of the local Swedish Presidency (Beginning of March);
- ↳ Kosovo authorities to address the issue of frauds in the context of the visa application process (illicit business activities, wrong information in certificates delivered by local administration, falsified employment contracts, etc.)
- ↳ An expert mission assessing the relevant legislation, civil registration processes and document security envisaged for March;

**Reports**

- ↳ Report on achievements and next steps (mid-June 2010);

**Integrated Border Management**

*Remark: Customs will be discussed into further details at the SAPD sub committee on Trade, Industry, Customs and Taxation envisaged for April.*

**Legislative**

- ↳ MIA to finalize and adopt all the remaining administrative instructions implementing the Law on Foreigners with due consideration of EC recommendations (March 2010);
- ↳ MIA to finalize and adopt all administrative instructions implementing the IBM law with due consideration of EC recommendations (March 2010)
- ↳ Enhance the legislative framework (regulating issues like storage period, access rights, usage of stored data, etc.) for operation border IT-system fully in line with EU personal data protection rules (end 2010);

**Operational**

- ↳ Implement the EU-funded BMS border IT-system (June 2010);
- ↳ SOP on the functioning of the asylum centre to be adopted (April 2010). Twinning in DCAM to be closely involved on asylum matters.
- ↳ Kosovo Police to ensure clear separation between data in the two border management IT systems.
- ↳ BBP to continue efforts in the fight against corruption and closely coordinate with KACA.
- ↳ Sign Administrative Instruction on Duties and Responsibilities of border police and amend the standard operating procedures in line with applicable laws in force (March 2010);
- ↳ Approve the organisational structure of the border police (March 2010);
- ↳ Proceed with reallocation of police officers to functions related to border protection and continue in implementation of sound surveillance activities (September 2010);
- ↳ Implement the key performance indicators within the border police (June 2010);
- ↳ Finalise harmonisation of the Standard Operational Procedures with the Customs and Excise Code and applicable laws in force (June 2010);

**Reports**

- ↳ Kosovo Police to provide the EC with a report on its plans to advance the IT system in the field of Integrated Border Management (March 2010);
- ↳ KP and Customs to provide the EC with statistics on operational results achieved during the reporting period –patrolling, combating illegal border crossings and other forms of criminality (mid-June 2010);
- ↳ Report on the number of asylum seekers in the asylum centre to be sent to EC (March 2010).
- ↳ Report on the number of asylum seekers for 2009 to be sent to EC. The report to include also information on the number of decisions of MIA on asylum requests as well as information on whether any asylum seekers left Kosovo before being notified whether their application was accepted (End of March 2010).
- ↳ Report on achievements and next steps (mid-June 2010);

**Personal data protection****Legislative**

- ↳ Adoption of the law on personal data protection while ensuring full compliance with the European standards, covering the security authorities (March 2010);
- ↳ All Kosovan security and law-enforcement authorities to ensure adequate review of relevant legislation in order to ensure it is in full compliance with the Law on Personal Data Protection (June 2011);

**Operational**

- ↳ Kosovan authorities to carry out public awareness campaigns on data protection legislation in force (start during second half of 2010; full fledged campaign in course of 2011);
- ↳ Kosovan authorities to allocate adequate resources to make the personal data protection agency operational (June 2010);

**Reports**

- ↳ MIA to provide the EC with a list of needs for the State Agency for Personal Data Protection (March 2010).
- ↳ MIA to provide the EC with a report on resources foreseen for the implementation of the future Data Protection Law and an outline of how it plans to address its implications for law-enforcement authorities (June 2010);

**Fight against organised crime (trafficking in human beings, illegal migration, drugs and economic crime)****Legislative**

- ↳ MoJ to finalize and the Assembly of Kosovo to adopt a European standards compliant Witness Protection Law respecting EULEX mandate and adopt the relevant secondary legislation in cooperation with EULEX and EC (June 2010).
- ↳ MEF to finalize and the Assembly of Kosovo to adopt a European standards compliant Anti-Money Laundering Law (June 2010) in close cooperation with EULEX and EC

**Operational**

- ↳ Foresee budget for the implementation of the law on confiscated and sequestered assets and start on the implementation of law (June 2010); EC ready to consider TAIEX assistance in establishing the asset recovery office as a follow up to the Taiex seminar of February 2010.
- ↳ Prepare capacities for transfer of responsibilities from Eulex to local authorities in the area of anti-money laundering, including signature and implementation of related technical arrangement with Eulex (as soon as possible); transfer only possible once Kosovo is ready;
- ↳ Increase of confiscation of narcotics compared to last years (June 2009)
- ↳ Increase number of suspicious transactions by reporting entities concerned (June 2009)

**Reports**

- ↳ Report on the implementation of all relevant action plans and strategies every second month focusing on concrete deliverables (March, May, etc);
- ↳ Report on achievements and next steps in this area (such report should contain statistical figures giving a comparative overview of the progress over annual periods (2007 – 2008 – 2009 – 2010) (mid-June 2010);

**Police reform and cooperation with Eulex****Legislative**

- ↳ Adopt amendment of the law on police inspectorate (May 2010).

**Operational**

- ↳ Kosovo Police to commence with extending the application of performance-based indicators from the Border Police to all its structures (June 2010);

- ↳ Appoint head of the Police Inspectorate of Kosovo (June 2010);
- ↳ Appoint management of the Department against Organised Crime (February 2010);

#### **Reports**

- ↳ MIA to provide the EC with a report on statistics and respective characteristics of cases submitted to the Police Inspectorate of Kosovo over annual periods, as well as on follow-up measures undertaken, including those by judiciary for the period 2007 – 2010 (mid-June 2010);

#### **Other**

- ↳ Kosovan authorities to provide the EC with the current draft of the National Security Strategy; draft law, strategy and action plan on anti-terrorism; draft law against cyber-crime, and draft law on classified information (March 2010).

### **3. Fight against Corruption**

When it comes to the *anti-corruption legislation, Strategy and Action Plan*, MoJ reported that the amended draft-Law against Corruption have been adopted by the Assembly (awaiting promulgation by the President), the draft law on Declaration of Origin and Control of Assets was adopted by the Government and is still in front of Parliament, while the Law against Conflict of Interest has entered into force. MoJ further reported on its close cooperation with KACA and other relevant institutions in reviewing the current anti-corruption legal framework as well as in identifying opportunities for its improvement. MoJ also reported on its efforts to establish and operationalise the Agency for Management of Seized and Confiscated Assets. KACA reported on the adoption of the Strategy and AP by the Assembly in October 2009 and the ongoing process of monitoring their implementation: through designated matrixes, three meetings with its contact points in line institutions reporting on this, and due written reports on this matter, as well as their input in the forthcoming review of both strategic documents. The EC representatives underlined that fight against corruption needed to be stepped up. They noted that nobody was able to report on how the points on the fight against corruption proposed by the DPM after the publication of the progress report have been taken forward. The law on conflict of interest does not meet European standards (problems: definition of conflict of interest is not in conformity with the European standards; relevant reporting obligations; post-service representational bars; and applicable sanctions for violation of the law). The Agency should also focus its activities on prevention and awareness raising and not duplicate activities of police department responsible for investigations of economic and financial crime, including corruption.

The Kosovo *Correctional Service* reported that it has approved 15 AIs aimed at regulating its professional conduct, as well as on internal rules for its Department of High Risk Prisoner Transportation and on securing the external perimeter of correctional facilities. In the context of anti-corruption efforts within its structures, *Kosovo Police* reported on the approval of the organizational structure of its newly-established Department of Economic Crime and Corruption Investigation as well as drafting of respective ToRs, SOPs and Job Descriptions, as well as of rules and procedures on recruitment of investigation officers. *Kosovo Customs* reported that it has approved a strategy pursuant to the Action Plan on Fighting Corruption in Kosovo Customs. As a result, its Professional Standards Unit will develop disciplinary procedures on the reported cases of violation of the Code of Conduct. It also reported it has carried out 12 field inspections, out of which 5 cases were reported for disciplinary measures, 3 cases for property declarations were investigated, and another 18 cases are in the process of verification on property declarations. Moreover, 9 disciplinary measures were executed: 4 written and 1 verbal remark, 2 suspensions, 1 demotion and 1 promotion suspension. 6 of these cases are of corruptive nature and under review procedure before the Disciplinary Board. The Commission representatives noted that the Kosovo Customs seemed to be the most advanced in the practical anti-corruption activities.

As regards *public procurement and anti-corruption*, PPRC has carried out 16 inspections, which resulted in 48 remarks for violating public procurement Law and rules. It also reported it has established a public procurement helpdesk, with over 200 advices delivered during the reporting

period. PPRC is currently working on the 2009 Annual Public Procurement Report, expected to be completed in February and will include recommendations on improving the public procurement system.

**Challenges:**

- Completion of an adequate legal framework and its practical implementation;
- A track record of convictions in high level corruption;
- Lack of participation of all institutions in the work of the KACA;
- Slow and unbalanced implementation of the anti-corruption strategy and action plan;
- Protection and high turnover of procurement officers;

**Follow-up actions:**

**Legislative**

- ↳ The Assembly of Kosovo to adopt the Law on Declaration of Assets (end-February 2010);
- ↳ OPM to incorporate the draft-Law on Financing of Political Parties in the Legislative Strategy 2010 (March 2010).
- ↳ Kosovan authorities to finalize the draft Law on Financing of Political Parties, in consultation with the EC, a, which should be fully in line with European best practices in this field, and the Assembly to adopt the draft law (April 2010).
- ↳ MoJ to prepare plans how to tackle legislation on liability of legal persons and on protection of whistleblowers (June 2010);
- ↳ MoJ to prepare plans how to tackle the deficit of the law on conflict of interest (June 2010);
- ↳ OPM to come up with proposals how to tackle the deficit in the procurement legislation (contract implementation) and follow-up urgently to all action points identified together with the EC further to the publication of the EC progress report(June 2010);
- ↳ Kosovan authorities to prepare a legal base for the annual asset declaration of the customs officers (June 2010);

**Operational**

- ↳ KACA to finalize the revised Anti-Corruption Action Plan (April 2010);
- ↳ KACA to step up its efforts in engaging with all relevant public institutions. All relevant public institutions to fully cooperate with KACA in reporting corruption within their internal structures, and to support KACA in enforcing follow-up mechanisms (June 2010);
- ↳ KACA to focus its efforts on prevention of corruption, horizontal approach and on identification of best practices, as well as to come up with a concept of accomplishing this (September 2010);
- ↳ Kosovo Customs and Anti-Corruption Agency to sign a MoU on the fight against corruption (signed in February 2010);

**Reports**

- ↳ KACA to provide the EC with its 2009 Annual Report (mid-March 2010);
- ↳ KACA to report to the EC on the monitoring of the Anti-Corruption Action Plan (what the different agencies will have achieved) (mid-June 2010);
- ↳ Report on the implementation of the adopted legislation, action plan and Strategy (mid-June 2010);
- ↳ KP, Correctional Services, Kosovo Customs to provide the EC with a report on the progress of anti-corruption efforts within their structures (mid-June 2010);
- ↳ KP and prosecution to provide a report on overall results in the fight against corruption, including statistics 2007 – 2010 (mid-June 2010);
- ↳ Kosovan authorities to provide the EC with a report on the progress of anti-corruption efforts in the field of public procurement (mid-June 2010);

- ↳ In cooperation with the KACA, the MoJ to provide the EC with a report on implementation of the Law on Preventing and Fighting Conflict of Interest (May 2010);
- ↳ Correctional Service to provide the EC with an assessment of how disciplinary mechanisms work within the correctional service. Oversight structure that would be able to investigate claims and protect potential "whistle blowers" (April 2010).

#### **4. Judiciary**

Concerning *judicial reform*, MoJ reported that the draft-laws on Courts, Prosecution Offices, Judicial Council and Prosecutorial Council are still in the Government for further procedures, while it has continued its work in drafting the draft-Laws on Execution of Penal Sanctions (approved by the Government) and Witness Protection, Juvenile Justice draft-Code (in Government), Criminal Code and Criminal Procedural Code (in the designated working groups). MoJ also reported that it has proposed 16 Laws incorporated in the Legislative Strategy 2010. The Commission underlined that Kosovo should rapidly adopt the law on courts and should properly prepare the reform of the criminal code and criminal procedural code.

Concerning *International legal cooperation in criminal matters*, MoJ reported that in line with the 2009 Progress Report recommendations, it has proposed 30 draft-agreements with various EU and regional countries on transfer of sentenced persons. Kosovo is currently negotiating agreements on mutual legal assistance in criminal matters with Albania, FYROM and Turkey.

Through EC support, MoJ has organized training sessions for judges of Municipal Courts, District and Supreme Courts, as well as for District Public Prosecutors and State Public Prosecutor on the Hague Convention on the civil aspects of international child abduction. It was also emphasized that despite unfavourable conditions, MoJ has also managed to proceed mutual legal assistance requests and replies within 30 days. Furthermore, MoJ has also incorporated in the 2010 Legislative Strategy draft-laws on extradition, transfer of sentenced persons, international legal cooperation and international child abduction. Although Serbian authorities hesitate to engage in comprehensive cooperation, Kosovo authorities report about 1500 requests or responses to and from Serbia. However, the cooperation is not functioning.

The effectiveness of follow-up to these requests and responses remains to be further clarified. It was further reported that MoJ managed to systemize and maintain almost all of the cases transferred by UNMIK. The EC representatives were interested in further strengthening of technical resources and capacities of the office responsible for the international legal cooperation Kosovo also needs to be flexible in relation to the international legal cooperation with countries which did not recognise it.

Regarding *KJC activities*, it reported that its Judiciary Disciplinary Committee dealt with 25 cases of judges/prosecutors/lay-judges in 5 meetings. Written decision followed for 4 cases. At the same time, KJC, as the second instance body, has reviewed 9 cases of appeals filed against disciplinary decisions by former KJC members. KJC also emphasized its engagement in all procedures of preparing the criteria, vacancy announcements, investigations, vetting and the proposal of candidates related to the appointment/reappointment of judges and prosecutors, in cooperation with the IJPC. As the KJC did not participate in the meeting during allocated time, the EC representatives were unable to discuss the problem of judiciary in detail.

With regard to the reappointment process, EC representatives stressed the importance of KJC's involvement in the re-appointment process as an essential contribution to ensure that selected candidates are appointed in line with legal requirements. The quality and integrity of the individual judges and prosecutors will depend also on the selection and appointment process. Only a legally sound and transparent reappointment process will increase public confidence and trust in the rule of law sector and its main institutions. The failure to comply with the constitutional and legal requirements of the reappointment process may have a negative effect on the overall Kosovo judiciary. This may further weaken its capacities to address the key challenges such as effective fighting

organised crime and corruption. This may negatively impact on visa liberalization ambitions of Kosovo.

With regards to *Prosecutors activities*, the Prosecutors Office reported to have supported MIA in drafting strategies on fighting organized crime, human trafficking and the Law on Ammunition, while a prosecutor has been assigned to deal with financial intelligence. It has also supported the working group on drafting the rules of procedure for the prosecution offices. Agreements were signed with Montenegro, Italy and Croatia on fight against organized crime, terrorism and serious criminal offences. It also reported that together with MIA, has participated in the Task Force for fighting smuggling and organized crime in the north and southeast Kosovo. It also supported the drafting of the Government's Strategy for Fighting Informal and Grey Economy. Prosecutors have also been part of training sessions delivered by the Prosecutors Association. The cooperation between prosecutors and the KACA remained unclear, particularly as regards the follow-up to the reports from the KACA.

#### **Challenges:**

- Completion of the reappointment of judges and prosecutors;
- Political and other interferences in justice;
- Ability to investigate and process disciplinary cases;
- Weak Kosovo Judicial Council;
- Judicial reform;
- Ability to tackle backlog of cases, particularly of civil cases;
- Resources and capacities;
- Cooperation between law enforcement agencies and judiciary;

#### **Follow-up actions:**

##### ***Legislative***

- ↳ The Assembly of Kosovo to swiftly adopt the Law on Courts, which should ensure adequate representation of minorities in the courts (as soon as possible);
- ↳ Enhance the quality of the law on Prosecution, on Prosecutorial Council and on Kosovo Judicial Council (June 2010) and adopt them before the end of 2010;
- ↳ Prepare concepts of reform of the criminal and criminal procedural codes (June 2010); ensure adequate time framework for their entry into force while avoiding simultaneity with entry into force of the four above mentioned laws;
- ↳ Adopt draft-law on criminal sanction execution (March 2010);

##### ***Operational***

- ↳ The President to swiftly appoint judges and prosecutors who passed the vetting process—first phase (as soon as possible);
- ↳ KJC to nominate a local member of the IJPC in order to move to the Phase II of the process (as soon as possible);
- ↳ Allocate budget for functioning of the IJPC after October, if the process of reappointment is not completed by then (June 2010);
- ↳ Appoint the president of the bar committee and restart the bar exams (as soon as possible);
- ↳ Kosovo authorities to be fully engaged in the steering committee for building of the Palace of Justice (immediately);
- ↳ MoJ to allocate sufficient budgetary means for functioning of the Agency for Management of Confiscated and Sequestered Assets (June 2010);
- ↳ Judiciary to step up efforts in the fight against organised crime;
- ↳ On international legal cooperation: 1-adopting the four laws (child abduction, extradition...) mirroring the series of bilateral agreements MoJ should sign this year to improve international legal cooperation framework 2-Kosovo needs to adjust its procedures and practices to European

standards distributing information on international wanted notice in the Kosovo Police Information System and authorise the police based on this information to execute provisional arrest on the spot. 3-provide this unit with adequate means to fulfil its mandate (translators, confidentiality arrangements in the future premises, etc.)

### **Reports**

- ↳ Kosovo authorities to prepare report on practical implementation and functioning of laws in judiciary – notably bar, notaries, mediation, criminal sanction execution (mid-June 2010);
- ↳ Report by the KJC on practical steps taken to tackle the backlog of cases, disciplinary measures and fight against corruption in judiciary for the period 2007 – 2010 (mid-June 2010);
- ↳ Report on activities related to the fight against corruption and disciplinary cases of prosecutors for the period 2007 – 2010 (mid-June 2010);
- ↳ Report on needs of prosecution with a proposal how to address them (end March 2010);
- ↳ MoJ to provide statistics on the work of the office for international judicial cooperation for the period 2007 – 2010 (mid-June 2010) and follow up by the judiciary and give further information about the database used by this unit;
- ↳ MoJ to provide detailed statistics regarding the number of extradition requests and the way they were processed.

### **5. Human Rights Enforcement**

Concerning *institutional aspects of HRs enforcement*, OGG reported that HRUs have been established in all line Ministries, but MFA, and in 30 Municipalities. As line Ministries/institutions are legally obliged to follow through recommendations of the Ombudsperson, HRUs are working with the respective institutions on improving HR alignment and compliance with the Ombudsperson's recommendations.

EC representatives voiced their concerns that the current institutional setup for human rights protection is very fragmented. Thus it would be useful if a TAIEX expert would be called in to review the existing structures and give recommendations for an effective setup.

In relation to *the implementation of the HR policies and monitoring mechanisms* OGG reported that it had presented the first report of the Human Rights Strategy implementation on the International Human Rights Day (10 December 2009). It has also organized a workshop with all stakeholders aimed at discussing the progress achieved and the remaining challenges and ways to address them. Ombudsperson Institution reported that the draft-Law on Ombudsperson had been forwarded to the Government and it also emphasized Ombudsperson's concerns on the changes made to this draft by the PM's Legal Office.

EC representatives congratulated for the efforts made and recalled that enforcement of human rights-related existing legislation should be improved. The Ombudsperson Law should ensure the independency and credibility of this institution.

In the field of children's rights, it was reported that the Law on Pre-University Education is under review, while 49 new schools built during the last year provide access for children with disabilities. Furthermore, the Law on Assistance to Families with Children with Permanent Disabilities has started being implemented. Concerning awareness raising activities, on 21 December 2010 (Equal Professional Opportunities Days) the institutions mediated in short-term employment of more than 50 persons with disabilities. Also, the marking of the International Day of Persons with Disabilities and the International White Cane Day was reported.

With regard to the *implementation of the Law on Anti-Discrimination* a public awareness campaign for promotion of the Law has been launched during the reporting period, covering all areas of potential discrimination. Whereas, regarding *children's rights*, it was reported that legal gaps have been

identified and recommendations to address them issued. Moreover, work is under way for the drafting of a Strategy for Prevention and Elimination of Child Labour. Further, a two-day training session has been held on reporting to the Children's Rights Convention. Also the initial draft of a programme and action plan for prevention of suicides and self-harm has been prepared during the reporting period.

Regarding **Gender Equality** it was reported that the Government approved the draft-Law on Protection against Domestic Violence and it is now awaiting Assembly adoption. AGE has continued to support the Centre for Protection of Women and Children throughout the reporting period. It has also initiated a 16 day awareness raising campaign on domestic violence with the publication of the research 'More than Words: Justice and Domestic Violence'. Copies of a guidebook on support services provided to domestic violence as well as leaflets 'Violence is not an answer' were distributed, while AGE also supported the 8<sup>th</sup> issue of the Academic Journal 'SFINGA'.

On the municipal elections the EC representatives reported that the EC had deployed three elections experts for the municipal and mayoral elections in November 2009. These experts have recommended a number of changes in the electoral process, which were publicly supported by DPM Kuci on 20<sup>th</sup> January. The EC representatives quoted from the report of the elections experts that the process for municipal and mayoral elections should be simplified with the objective of easing the counting and tabulation procedures; this should lead to faster announcements of results and better transparency to the benefit of the overall confidence in the electoral process, and is best achieved with a system where the voters mark the ballot only once, and brought in full compliance with applicable international standards. To achieve these objectives it is imperative that the legislator decides on the three current priorities imbedded in the system: privileged treatment of the first candidate, 30% elected women and preferential voting for the remaining candidates. Rapid and decisive steps are expected by the EC in order for Kosovo to be prepared to hold the next elections according to highest international standards. The EC stated that such a reform would likely facilitate the deployment of an election observation mission, should it be requested.

Concerning **Property Rights** KPA reported that its business plan for 2010 has been approved and a memorandum of understanding was signed with the Kosovo Police. Furthermore, during the reporting period, notification for 2682 claims was confirmed and documents for 2356 properties were verified, while 393 claims were adjudicated by the KPCC. KPA further reported that 102 properties were repossessed by the owners, while out of €163.488,07 collected, €136.590,88 were paid to landlords. Evictions have also started in the north of Mitrovica, where 39 evictions were carried out during the reporting period, of which 31 were cancelled due to tenants' payment of rent. In total, 341 evictions were carried out during the reporting period, of which 277 were cancelled due to tenants' payment of rent.

EC representatives reminded the importance of property rights when assessing Kosovo's progress towards implementation of the European Partnership. They expressed satisfaction because of the higher budget allocated by Kosovo to KPA, even if this move was in no way guaranteeing the sustainability of KPA. They voiced their concerns as regards the numerous problems affecting the enforcement of property rights in Kosovo. They stressed the need for recruiting the local members of the Supervisory Board of KPA and the local member of the Supreme Court panel for appeals against KPCC decisions as both positions are foreseen in the law. The fact that international stakeholders were meeting under the leadership of the British Ambassador was not sufficient, EC representatives stressed. Re-opening of KPA offices in Serbia should be addressed without further delay. A multi-year planning was also advisable.

With regards to the issue of the **Missing Persons**, the Government Commission on Missing Persons (GCMP) reported that during the reporting period there were 37 cases of identification, half of which are new cases while the rest consists of re-confirmed cases. 12 investigation procedures were carried out on the field through exhumation. During the same time, GCMP has also been engaged in updating its database based on ICRC's lists, reports from the field and weekly reports by OMPF on mortal remains handovers. It was also reported that reburial expenses have been covered for 28 cases,

including two cases from Bosnia and Herzegovina. High political level meetings were held during the reporting period, whereby it was concluded that the drafting of a strategy and action plan is necessary on the issue of the missing persons, while the Assembly Commission on Human Rights, Gender Equality, Missing Persons and Petitions had also held a public discussion on the issue. A regular meeting was held with the Belgrade delegation within the framework of the Working Group on Missing Persons chaired by the International Committee of the Red Cross.

EC representatives voiced their concern about the level of commitment of the Government of Kosovo with regards to the issue of Missing Persons. The EC assessed that the Government of Kosovo was currently backtracking in the Missing Persons issue.

The EC voiced its concerns about a draft law on Missing Persons. As the law currently wants to exclude people who have gone missing after the year 2000 this would discriminate a certain number of people. The EC stressed the need for high level participation in the Governmental Commission on Missing Persons in order to show the political commitment. Apart from that more efforts to reach out to minority communities were needed to receive better information, the EC representatives stressed.

### **Follow-up actions:**

#### ***Legislative***

- ↳ The Assembly of Kosovo to adopt the Law on Human Rights taking into account the recommendations of the TAIEX/Human Rights experts (see below, Q4 2010).
- ↳ Kosovan authorities to finalize and the Assembly of Kosovo to adopt the Law on Ombudsperson Institution, which should ensure political and financial independence of the Ombudsperson Institution. Kosovan authorities to regularly consult the EC in the drafting process (Q2 2010).
- ↳ The Assembly of Kosovo to adopt the Law against Domestic Violence (Q2 2010).
- ↳ The Assembly of Kosovo to urgently adopt the Gender Equality Programme (as soon as possible).
- ↳ Missing persons: adoption of the Law (Q2 2010)

#### ***Operational***

- ↳ Kosovan authorities to appoint the Chief Executive Officer of the Agency of Gender Equality (as soon as possible).
- ↳ Upon reception of the proper request, the EC to deploy a TAIEX expert who will be looking at functioning and resources of institutions responsible for human rights and protection of minority communities, as well as potential overlapping of institutional responsibilities in this field, and thereby come up with recommendations to the Government of Kosovo on measures to address them (Q2 2010).
- ↳ Kosovan authorities to urgently appoint a member of the special Supreme Court chamber responsible to handle claims against decisions taken by the Property Claims Commission, in order to make it fully operational (as soon as possible).
- ↳ Kosovan authorities to urgently appoint the KPA Supervisory Board and a local judge of the Supreme Court panel in order to make them fully operational (as soon as possible).
- ↳ Assembly to recruit Deputy KPA Director (as soon as possible)
- ↳ Kosovan authorities to continue their efforts in reopening KPA offices in Serbia, while considering to be as flexible as possible on this.
- ↳ Kosovan authorities to urgently commence the process of reforming the electoral system, in line with the EC recommendations presented to the CEC in January 2010 (as soon as possible).
- ↳ Upon reception of the proper request, EC to proceed with the KPA TAIEX assistance request very soon.

#### ***Reports***

- ↳ OGG and MLGA to provide the EC with a report on the work and achievements of Human Rights Units in Municipalities (end-March 2010).

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- ↳ OGG to provide the EC with a report on implementation of the Human Rights Strategy and Action Plan (end-February 2010).
  - ↳ OGG to provide the EC with a report on implementation of the Children's Rights Convention by Kosovan institutions (May 2010).
  - ↳ Kosovan authorities to inform the EC on the state of affairs concerning the draft-Law on Financing of Civil Society Organisations (end-March 2010).
  - ↳ CEC to provide the EC with short document (roadmap) outlining a list of specific actions it has planned to undertake in order to reform the electoral system in line with the EC recommendations presented in January 2010 (end-March 2010).
  - ↳ Missing persons: Kosovo to deliver new information on possible burial sites, by September 2010.

## **6. Minority/Community Rights Enforcement**

With regards to the institutional set-up of minority rights protection the EC representatives reiterated their concern that a very fragmented structure has emerged which would need to be reviewed by a TAIEX expert.

Apart from that the EC stressed the need to strengthen the integration of people – especially from the Roma community- who are being returned to Kosovo from EU member states in the light of readmission agreements. THE EC stressed again that stronger efforts in the field of readmission and reintegration were a prerequisite for opening a visa dialogue.

With a view towards the decentralisation process the EC stressed that the Government of Kosovo must stay fully committed towards the process. Reports about difficult relations and obstructions between the municipalities of Viti/Vitina and Klllokot have raised serious concern. The EC stressed that both the municipal and the central level must show clearly their commitment for the decentralisation process.

OGG reported on the drafting of a Manual on the implementation of the recommendations of the Framework Convention on Protection of National Minorities, while MLGA reported on the implementation of the Action Plan on Decentralization, creation of the preparatory teams for the new municipalities and holding of elections in the new municipalities as well as the constitution of new municipal assemblies.

Regarding *voluntary return and re-integration*, MCR reported that the Strategy for Communities has been approved by the Ministry and is awaiting approval by the Government. The Ministry also reported on its cooperation with the relevant national and international institutions with the view to furthering the voluntary return.

In relation to the *implementation of the RAE Strategy*, OCA and OGG reported that the Action Plan to this strategy was approved during the reporting period, while the first coordination meetings are expected during February 2010. In the absence of the Prime Minister's Special Coordinator for the Closure of the Camp, OCA reported that a Strategy and Action Plan on Closure of the Lead-Contaminated Camps has been developed and it is expected to be approved by the Government in February 2010. It was reported that Mitrovica municipal authorities have allocated land for the inhabitants of the mentioned camp. OCA also emphasised its commitment on allocating the necessary resources on resolving the issue of the Ali Ibra settlement in Gjakova municipality, where municipal authorities have allocated land for the transfer of the inhabitants of the mentioned settlement.

With regards to *reconciliation initiatives*, OCA reported on its support to the 'Multiethnic Novoberdo/Novoberdë', whereby Albanian, Serbian and Roma families benefited through the reconstruction of houses for them. Furthermore, water-supply systems were also built for multiethnic villages in Kamenica municipality. OCA has also provided its support to cultural events fostering reconciliation between communities, such as International Roma Day, Roma Film Festival, humanitarian concert in Velika Hoca/Hoca e Madhe, etc. OCA further reported that it is also working

towards impacting the inter-community communication, through establishing a web-page that will contain information on the legal framework regulating community affairs, information on culture and religion of the communities as well as various publications by them. It was also reported that a study on the representation of non-majority communities in the public administration is to be published in February 2010, whereby recommendations on increasing this representation are expected with OCA committed to follow them.

Concerning *communities' access to education*, MEST reported that it has drafted a first draft of the Inclusive Education Strategic Plan as well as National Plan on preventing school dropout, while 70 scholarships for high school and 16 for university education were awarded to RAE community members. Other activities reported include grants awarded to the newly established municipalities; textbooks published in Serbian, Bosnian and Turkish; preparation of pedagogical material in Bosnian and Turkish and the construction of primary school buildings dedicated to Bosnian community in Negroste and one in Prizren for Albanian, Bosnian and Turkish communities.

Regarding the *implementation of the Law on the Use of Languages*, the Commission on Languages (CoL) reported that it had not received any complaint on alleged breach of the Law on Languages. It was further reported that the Commission came up with recommendations to a range of institutions as a result of working visits it had carried out. Thus, the Commission advised Municipalities to adopt local regulations on the use of languages as the Law requires. It also recommended to the Medical Products Agency to ensure translation of guidelines on medical drugs usage into the official languages. The Commission has also communicated with the Ombudsperson on the issue of awareness raising in relation to citizens' right to file complaints with the Commission and the Commission's handling of such complaints. Such communication was also carried out with the OSCE Mission in Kosovo. The EC found it regrettable the absence of a report by Kosovo on the implementation of the Law on Languages; the weak status of the CoL was not helpful to achieve an improvement towards the full enforcement of this key law for Kosovo.

### **Follow-up actions:**

#### ***Legislative***

- ↳ MIA to ensure that statelessness is regulated by the forthcoming Law on Civil Status (Q2 2010).
- ↳ Kosovan authorities to ensure the draft-Law on Management of Municipal Property provides for flexibility on land leasing conducive to voluntary return (up to 99 years instead of the current regulation allowing for only 10 years of leasing), and the Assembly of Kosovo to adopt this draft-law (Q3 2010).
- ↳ Strategy and Action Plan on Closure of the Lead-Contaminated Camps to be adopted by Government (Q1 2010)
- ↳ The Government of Kosovo to adopt the revised Manual for Sustainable Returns (by the end of May 2010).
- ↳ The Government of Kosovo to adopt the Strategy on Communities and Returns 2009 – 2013 (Q1 2010).
- ↳ MLGA and Municipalities, in coordination, to establish a legal basis for Municipal Community Offices and Municipal Returns Officers conducive to their stabilisation to facilitate the return process (Q3 2010).
- ↳ MLGA to ensure all Municipalities adopt municipal regulations on the use of languages (Q4 2010).

#### ***Operational***

- ↳ Using the benefit of the TAIEX expertise on human rights structures (see above) Kosovan authorities to undertake measures ensuring more efficient administration of resources available for institutions responsible for minority/community rights enforcement, considering the limited resources available for the dispersed institutional setup currently in place (Q4 2010).

- ↳ Kosovo authorities to keep cooperating with Montenegro to facilitate the return and reintegration in Kosovo. Kosovo authorities to consider a pragmatic approach as regards the entrance into Kosovo territory of displaced persons located in Montenegro. MEST to develop a framework curriculum in Serbian and Romani languages for mandatory levels of education (Q3 2010) and the subsequent implementation plan (including textbooks and teachers).
- ↳ OCA to contact the bearers of the RECOM initiative to consider a possible participation of Kosovo actors in it.

**Reports**

- ↳ Kosovan authorities to provide the EC with an updated report on the process of relocating the families living in Osterode and Cesmin Lug camps and other informal settlements (end-March 2010).
- ↳ Kosovan authorities to provide the EC with information on the allocation of land and the principle priorities foreseen to be covered by the Government budget of €4 million (end-March 2010).
- ↳ Kosovan authorities to provide the EC with a report on the work of the Communities Consultative Council so far (end-March 2010).
- ↳ OCA to provide the EC with a short report outlining responsibilities of institutional coordination on minority/community rights (end-March 2010).
- ↳ OCA to report on the steps taken to participate fully in the Roma Decade.
- ↳ MLGA to provide the EC with a report on the legal basis of Municipal Community Offices (March 2010).
- ↳ MCR and MLGA to provide the EC with a report on the budget allocated to Municipalities for returns issues (end-March 2010).
- ↳ MCR to provide the EC with a short explanation on how it foresees to improve dialogue with Belgrade on returns issues (end-March 2010).
- ↳ The Government Commission on Use of Languages / OPM to provide the EC with a comprehensive report on the progress towards full enforcement of the legislation on the use of languages, including all recommendations given to respective public institutions and the latter's subsequent reactions (May 2010).

*List of Participants*

No.	Name	Institution	Position
<b>Co-chairpersons</b>			
1	Mr Arnaud APPRIOU	C3, ELARG, EC	Political Desk Officer
2	Mr Lukas HOLUB	C3, ELARG, EC	Rule of Law Desk Officer
3	Mr Edon CANA	ACDEI	CEO
4	Mr Arben KALAJA	ACDEI	Director of Governance Directorate
5	Mr Habit HAJREDINI	Office of Good Governance, OPM	Director
6	Ms Shqipe KRASNIQI	Agency of Gender Equality, OPM	Acting CEO
7	Mrs Sebahate MUHARREMI	Ministry of Internal Affairs	Acting Permanent Secretary
8	Mr Xhevat AZEMI	Kosovo Property Agency	Deputy Director
9	Mr Prenkë GJETAJ	Office of Missing Persons, OPM	Head
10	Mrs Zana KOTORRI	Ministry of Communities and Returns	Acting Permanent Secretary
11	Mr Muhamet GJOCAJ	Ministry of Labour and Social Welfare	Director, Department of Social Welfare
12	Mr Bashkim IBISHI	Office of Community Affairs, OPM	Deputy Director
13	Mrs Enesa KADIĆ	Ministry of Education, Science and Technology	Head, Division of Communities
14	Mr Fehmi STUBLLA	Commission of Languages, OPM	Head
15	Mr Besim KAMBERAJ	Ministry of Local Government Administration	Director, Department of Reform and European Integration
16	Mr Florian DUSHI	Ministry of Justice	Acting Permanent Secretary
17	Mrs Lirie OSMANI	Kosovo Judicial Council	Head
18	Mr Hilmi ZHITIJA	Prosecution Office	Chief Prosecutor
19	Mr Resmi HOXHA	Kosovo Correctional Service, MoJ	Commissioner
20	Mr Naim HURUGLICA	Kosovo Customs	General Director
21	Mr Hasan PRETENI	Kosovo Anti-Corruption Agency	Director
22	Mr Lulzim RAFUNA	Ministry of Economy and Finance	Director of Legal Department
23	Mr Behar SELIMI	Kosovo Police	
24	Mr Ilaz DULI	Public Procurement Regulatory Commission	Director
25	Mr Fisnik REXHEPI	Ministry of Internal Affairs	Adviser to the Minister
26	Mr Bardhyl JASHARI	Ministry of Internal Affairs	Adviser to the Minister
27	Mr Artan DURAKU	Ministry of Internal Affairs	Adviser to the Minister
28	Mr. Agron NEZAJ	Kosovo Police	
<b>Discussants</b>			
29	Mrs Fatmire SAHITI	Ministry of Culture, Youth and Sports	Coordinator, Human Rights Unit
31	Mr Blerim CAMAJ	Ministry of Internal Affairs	Head of Department for Civil Registry
32	Mr Shkodran MANAJ	Ministry of Internal Affairs	Legal Officer

No.	Name	Institution	Position
33	Mr Bali MUHARREMAJ	Ministry of Internal Affairs	Director, Department of Borders, Asylum and Migration
34	Mr Shaip HAVOLLI	Kosovo Police	Head of the Sector for Investigation of Economic Crimes
35	Mr Clirim HAJDINI	Kosovo Police	Head of Planning and Development Unit
36	Mr Shemsi IGRISHTA	Kosovo Police	Head of the Sector for Investigation of Corruption
37	Mr Shkelzen MALIQI	Ministry of Justice	Director of Department for Legal Affairs
38	Mr Peter BACH	IJPC	Director
39	Mr Faton MORINA	Ombudsperson Institution	
40	Mr Dejan SPASOJEVIĆ	Ministry of Communities and Returns	Head of Division, Department of Returns
41	Mr Ehat MIFTARI	Ministry of Justice	Head, Division of International Judicial Cooperation
42	Mr Imer SHEVELLI	Ministry of Justice	
43	Ms Arta KELMENDI	Ministry of Justice	
44	Mr. Abedin MEHMETI	Ministry of Internal Affairs	DPD
45	Mr. Valdet HOXHA	PIK	
46	Mr. Bekim PIRA	PIK	
47	Mrs Naile Krasniqi	Independent Media Commission	Head
48	Mr Albert ZECA	Ministry of Communities and Returns	Head of Sector, Department of Returns
49	Mrs Melisa ABDULA	Ministry of Communities and Returns	Adviser to the Minister
50	Mr Naim SHALA	Ministry of Internal Affairs	Head, Legal Department
51	Mr Sefedin KUQI	Kosovo Police	Head, Division of Borders
52	Mr Kadri ARIFI	Kosovo Police	Head, Organized Crime Pillar
53	Mr Shaban GUDA	Kosovo Police	Border Police
54	Mr Alessandro ROTTA	EULEX	
55	Mr Massimo Ramanzin	EULEX	
56	Mr Arnaud Braem	EULEX	
57	Mr Rolf Ahlfors	EULEX	
58	Mr Kai SKOGSTROM	EULEX	
59	Mr Zsolt Sogor	EULEX	
60	Mr Brian Richard	EULEX	
61	Mr Henri Clement	EULEX	
62	Mr Guido Oestreich	EULEX	
63	Mr Riccardo Maia	EULEX	
64	Ms Myriam Fillaud	EULEX	
65	Mr Declan O'Mahony	EULEX	

No.	Name	Institution	Position
66	Mr Alan Robinson	EULEX	
67	Mr Lucas Wernert	EC JFS DG	
68	Mr Emmanuel COHEN-HADRIA	ECLO	
69	Mr Patrick SCHMELZER	ECLO	
70	Ms Yvonne GOGOLL	ECLO	
71	Ms Sophie BEAUMONT	ECLO	
72	Ms Dragana STOLIĆ	ECLO	
73	Mr Enrico VISENTIN	ECLO	
74	Mr Samir SELIMI	ECLO	
75	Ms Delphine FREYMANN	ECLO	
76	Mr Johan ALEXANDER	ICO/EUSR	
77	Ms Aferdita SMAJLI	ICO/EUSR	
78	Mr Nicolas JANSSEN	ICO/EUSR	
79	Ms Adriana CETA	ICO/EUSR	
80	Mr Ronald HOOGHIEMSTRA	ICO/EUSR	
81	Mr Sehadin SHOK	ICO/EUSR	
<b>Others</b>			
82	Mr Artan ÇOLLAKU	Agency for Coordination of Development and European Integration	Senior Officer for Coordination of Development and European Affairs
83	Mr Valon GASHI	Agency for Coordination of Development and European Integration	Senior Officer for Coordination of Development and European Affairs
84	Mrs Gresa SELIMAJ	Agency for Coordination of Development and European Integration	Senior Officer for Coordination of Development and European Affairs
85	Mr Lulzim BEQIRI	Ministry of Justice	Head, European Integration Office
86	Mr Hysen BEQA	Ministry of Justice	Senior Programming Officer, EIO
87	Mrs Teuta RAMIQI	Ministry of Internal Affairs	Head, European Integration Office
88	Mr Xhelal SHAQIRI	Ministry of Internal Affairs	Senior Programming Officer, EIO