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STATE OF PLAY IN IMPLEMENTATION OF THE BRUSSELS AGREEMENTS

REPORT SUBMITTED TO THE EUROPEAN UNION /EUROPEAN EXTERNAL ACTION SERVICE

BY THE GOVERNMENT OF THE REPUBLIC OF KOSOVA

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STATE OF PLAY IN IMPLEMENTATION OF THE TECHNICAL DIALOGUE AGREEMENTS

/February 2012 – August 2012/

INTEGRATED BORDER MANAGEMENT (IBM) - Agreement reached on 2 December 2011

The implementation of this Agreement remains stalled, because Serbia failed to sign the Technical Protocol. Kosova signed the Technical Protocol duly and conveyed to the EU on 29 February 2012.

This is one of the most important agreements reached in the Brussels dialogue between Republic of Kosova and Serbia. It enables the establishment of the EU standards in the integrated border management between two states which would help better control and security of border while preventing negative phenomena, including smuggling and organized crime.

For the implementation of this Agreement it is necessary that EU increases the influence over Serbia to sign the technical protocol in accordance with the Agreement reached on 2 December 2011. Serbia should be reminded that signing the Technical Protocol was one of the EU conditions for granting 'candidate status' to the EU in February 2012.

In broader terms, the EU standards for integrated management of border contributes for peace, stability and good neighbourly relations in the region, hence, the countries that aspire European integration must have true political will for implementation of these standards.

REGIONAL COOPERATION - Agreement reached on 24 February 2012

There are mixed results in the implementation of this Agreement. Kosova has implemented the Agreement and participated in most of regional meetings and, also moved on with the process of applying for membership in different regional organizations. From Serbian side, however, the Agreement was mostly not respected. Serbia has either refused to participate in most of the regional meetings where Kosova is present or, posed several obstacles to Kosova's participation and membership in regional organizations and initiatives.

To date, Kosova has applied for membership in thirty-four regional organizations, thirteen of them responded positively and five (5) of them offered a preliminary positive answer. (See Annex1, Report on Kosova's membership in regional organizations). We are in wait for responses from other organizations. The membership process is progressing well, despite the slow pace related to delays of bureaucratic nature by regional organizations or/and by our side.

In general terms, regional organizations have been positive in respecting the Agreement. Occasionally, there were tendencies by Serbia to hamper the positive efforts of certain organizations; such was the case when Serbia opposed the application of the Government of Kosova in the Decade of Roma Inclusion 2005-2015. There are cases when Kosova was not invited to participate in a meeting, such as the "Summit for border security" held in Skopje on March 15, 2012; or cases where Kosova was not invited directly but through UNMIK such as the regional meeting organized by UNODC on April 2012 in Prague and the fifth meeting of the Regional Cooperation Council on 13 June 2012 organized in Belgrade.

We can conclude that the full implementation of this Agreement requires better commitment of Serbia for regional cooperation. Regarding the advancement of Kosova membership into the regional organizations, it is necessary that EU/mediator Robert Cooper notifies this Agreement to the rest of organizations which are still not notified.

CIVIL REGISTRY (Agreement reached on 2 July 2011)

There is no significant progress in the implementation of the Agreement. For more than a year since the Agreement was reached Serbia reverted to Kosova only 205 scanned civil registry books certified by EULEX. The Agreement is implemented in only 1.7% out of the total amount of 12036 books to be reverted. On its part, Kosova fulfilled all its obligations.

Pilot project on small scale scanning – with limited progress

Serbian side could have done much more with regard to implementation of the small scale scanning projects as a sign of good will meanwhile the preparations for the massive scale scanning project would take place. The lack of the political will to implement what was agreed is best illustrated by the fact that in first eight months it returned only one scanned book to

Kosova. After continuous critics by our side, at the ninth round of talks, on 23 February 2012, Serbia promised to speed up the implementation of the Pilot project of the Municipality of Lipjan, by starting at 20 March 2012, with a capacity of 10 working stations/10 persons. Unfortunately, it started with two months delay (on 10 May 2012) and with half of the capacities (five working stations/five persons). Consequently, 205 books from the Municipality of Lipjan have been scanned and reverted (124 of them from Janjeva), while 604 books still are pending from the total amount of 809 books. Delays have also been observed in signing the 'handover letters' for the statistical register of civil registry books of the Municipality of Lipjan that was agreed to be signed on 15 December 2011. Serbia signed it with four months delay, on 30 March 2012.

Submission of civil registry inventory - delays and deficiencies

Serbia submitted the civil registry inventory to Kosova with around 7 months delay (at the ninth round of talks on 23 February 2012 in Brussels). After thorough review by Kosova's Experts Team, it was noticed that these documents were incomplete (not all lists included all statistics of the main registry (namely, birth, death and marital certificates) for the regions of Peja, Gjilan, Mitrovica, Prishtina.¹ Thus, additional data were requested at the meeting of Tripartite Implementation Group held in Prishtina on 30 March 2012. It was agreed that Kosova side prepares the Report on deficiencies of submitted documents by Serbia. This Report was submitted on 26 June 2012, with two months delay instead of one week as promised by Kosova side. To date, Serbian side did not provide complete data of civil registry inventory.

Large scale scanning project - there is progress in preparations, implementation is yet to start.

There is progress in preparatory process of large scale scanning project; however implementation has not yet started. Serbian side delayed the implementation by asking from the EU an exaggerated amount of funding to €2.5 million, despite the fact that the implementation Group made it clear that an optimal funding is around €1 million, on the basis of experiences of Kosova for similar projects. For the purpose of rationalizing costs, Kosova gave its scanning software to the Serbian side which resulted in the decrease in costs for €400,000.

In May 2012, the EU made the decision to allocate a grant for this project. The contract between the EU and the Danish Refugee Council, as the carrier of the large scale scanning project, was concluded.

In terms of origin of the funding, Kosova side maintained that funding should come directly from the EU and not from IPA grants dedicated for Kosova as well as asked for transparency of the process. EU/EUSR informed that the funding will be made directly from the EU and, that EU internal procedures do not allow sharing them with beneficiaries. Once the EU direct

¹For instance, statistics on death registry were missing in case of Municipality of Viti and so the marital statistics of Municipality of Podujeva.

funding was guaranteed, the Kosova side signed the Letter of Approval, on 28 June 2012. To date, this project has not started.

Finally, we would like to reemphasize that the implementation of this Agreement, the establishment of a fully credible civil register in Kosova, as clearly defined by the Agreement, presumes cessation of all Serb parallel structures in this area, namely, closure of illegal offices² which continued to illegally issue civil status documents.

Kosova has been largely effective in fulfilling its implementation obligations. In this spirit, we are finalizing the Administrative Order on rules and procedures for the harmonization of documentation returned from Serbia at the central and local level. According to the plan, it will be finalized and then approved by the Minister of Internal Affairs by the end of August 2012.

FREEDOM OF MOVEMENT (Agreement reached on 2 July 2011)

The Agreement is largely being implemented, since December 26, 2011, when it's implementation entered into force. However, there are still obstructions from Serbia and Serb illegal structures regarding its full implementation.

It is through this Agreement that free movement of people between the two states was established, based on ID regime, removing the blockade that Serbia posed to Kosova citizens during many years . Only in July 2012, there was an increase in movement of passengers and cars by over 100,000 in comparison to 2011, when the Agreement was still not into force.(from the 158,000 passengers and 100,000 cars that entered in July 2011, the number rose to over 257,000 passengers and 199,500 cars in July 2012). In addition, depending on the country of origin, this greatly helped lowering the travel costs for compatriots who live outside of Kosova.

This Agreement made possible the establishment of legal order regarding the use of vehicle registration plates and the removal of illegal ones. Until now, 7,950 cars have been registered with official plates from the Republic of Kosova, and in addition a large number of illegal ones have been confiscated. This Agreement has made possible that over 45,000 citizens of the Serb community apply and receive documents from the state of Kosova, based on MIA reports.

Despite this Agreement's positive effects, it continues facing limited implementation due to obstructions and obstacles such as road blockades, various mistreatments of Kosova citizens, arbitrary arrest, and extended delays at the border caused purposefully by the Serbia's authorities. The Government of Kosova has informed EU on regular basis about these obstacles and remains committed to work with international partners in removing them. KFOR and EULEX have done a very good work to this end, while suffering different attacks and injuries from the criminal Serb elements.

² According to EULEX official information, civil status parallel offices in Kosovo and Serbia (Annex C).

Furthermore, the Serbian side failure in implementing the entire Agreement has made it impossible the opening of all border crossing points on the border with Kosova, crossing points with third countries and the international airport in the territory of Serbia. However, Serb citizens enjoy all of this in Kosova's territory.

Similarly, setting high tariffs for border insurance has had a negative impact on border crossings. Despite our insistence on lowering tariffs and proposing the best and cheapest models, based on international laws, practices and standards, the Serbian side has insisted on maintaining such high tariffs for border insurance. At the last meeting of the implementation group on 19 April 2012, it was agreed in principle that Kosova could operate under the 'green card umbrella' of a third party and we are searching for the solution in this direction. It was also agreed that until these arrangements were in place, Serbian Insurers would offer a wider variety of validity period for their insurance policies, but to date no progress has been made by Serbia.

CUSTOMS STAMP / FREE TRADE - Agreement was reached on September 2, 2011

The Agreement is being implemented to a satisfactory level. It enabled the establishment of reciprocity and cooperation in the area of free trade between two states, removing three years embargo of Serbia against the goods of Kosova.

Some obstacles coming from Serbia and Serb parallel structures in northern part of Kosova are still standing on the way of implementation (similarly to those of the Freedom of Movement Agreement). The problem of barricades continues, although most of them have been removed by KFOR³. The phenomenon of smuggling continues through alternative routes that are not completely closed and, even when they are closed by KFOR extreme elements find the way to reopen them. Progress has been made in restoring the border Gate 1 from the damages caused by burning, being operational since May 2012.

Another recurrent problem is the long waiting- hours (up to 12 hours) for Kosova exporters at the Serbian border, because the service of accompanying for clearance is provided only twice per day by Serbian border authorities. Kosova, instead, is fully effective without allowing for any delays, as it provides services non-stop 24 hours, though imports from Serbia are 90% and exports from Kosova are 10% of total export-import balance between two states.

The above mentioned problems need to be addressed by Serbia, for which the EU role is crucial in order to advance free movement of goods according to European standards.

³ As reported MIA / Kosova Police: At the moment in the northern part of the Republic of Kosova, there are three (3) active barricades: two (2) barricades that have blocked the road completely (in Main Bridge of Mitrovica and in Street "Knjaz Milos" crossroad to the Technical School), and one (1) barricade which has partly blocked the road. (in Zupce, Zubin Potok).

CADASTRAL RECORDS – Agreement reached on 2 September 2011

There is no progress in the implementation of this Agreement. Based on the responsibilities taken on the Agreement, both parties had to work in synchronized manner, Kosova side to promulgate the law on technical agency (new KPA law), and Serbian side to revert the scanned copies of the original cadastral records to Kosova through EUSR.

Kosova side delayed in promulgating the law on technical agency. There is work in progress in drafting the law and designing the structure of technical agency. The initial draft law is introduced on 21 August 2012 and will be soon finalized following the discussions in the wider working group including relevant international mechanisms. Delays in promulgation of the Law (deadline was end of May 2012) are not caused due to any negligence or lack of political will by our side, but because the new laws has to comply with forthcoming constitutional changes related to ending the international supervision over the Kosova's independence, in September 2012. Other steps undertaken for implementation were: establishment of the internal working group for drafting the Law, collection of legal material and involvement of this law in the legislative strategy of the Government for 2012. In addition, Kosova Implementation Group has designed the technical agency structure in cooperation with EUSR. The technical agency⁴ that integrates KPA, would have the following structure: Board of the Agency, Executive Director, Commission for comparing the cadastral documentation (adjudication mechanism), Commission for property cases of KPA (continuation of KPA). After the adoption of this law by Kosova Parliament, we will immediately move on with the establishment of the technical agency (staff planning, finance, office premises, etc).

Meanwhile, Serbian side has not yet started the scanning of cadastral documents, in total 12 million pages that were taken from Kosova during the war times in 1999. Other implementation steps are pending as well. Serbia did not yet locate all documents in 'one center' where scanning would take place, and did not establish the methods and timeframe for transfer to EUSR. In addition, an inflated request for the EU funding of €9 million sounded more like delaying tactics rather than a real commitment of Serbia. In consultation with EC, it dropped the amount for 50 %, and it remains on EU to take final decision. To date, the only step taken by Serbia is submission of the list of cadastral documents taken from Kosova in the Implementation Group meeting on 15 April 2012.

The implementation group is yet to define the scanning model, that is discussed but not decided in the implementation group. We want to once again highlight the importance of implementing this Agreement to complete the Kosova cadastral data base for the benefit of citizens and European standards. The greater

⁴ Proposed name is: Kosovo Verification Property Agency (KVPA)

EU influence on both sides is necessary, including the issue of EU funding for the mass scanning of cadastral documents and the closure of Serb illegal parallel cadastral offices.⁵

ACCEPTANCE OF UNIVERSITY DIPLOMAS – Agreement reached on 21 November 2011

The implementation of this Agreement began on 1st of March of this year by Kosova authorities, with the opening of an implementation office in Ministry of Education, Science and Technology (MEST) and in cooperation with SPARK, while the Association of European Universities (AEU) has started to certify Kosova diplomas. On 26th of July 2012, 73 diplomas were certified, so applicants can use them for further study or employment. Serbia's readiness to recognize the certified diplomas remains to be seen in practice. The Office of the Head of Technical dialogue of the Government of Kosova will monitor the implementation of this Agreement in cooperation with Albanian municipal authorities from the Presheva Valley. Meanwhile, the Serbian side has not established an office to administer applications.

This Agreement is of special importance to the Government of the Republic of Kosova, since it has achieved the reciprocal recognition of university diplomas between the two states and the practice of certification by UNMIK has been removed. In addition, with this Agreement, further opportunities for citizens are opened up for employment and further education.

(End)

⁵ OSCE reports (2006 & 2007) indicate that such offices operate in Serbia (Krushevac) and in Kosovo (Leposaviq, Zveçan and Zubin Potok)

Annex 1: Report on Membership into regional organizations

Organizations that answered positively for membership / participation:

1. Investment Compact
2. South East European Centre for Entrepreneurial Learning
3. Regional Rural Development Standing Working Group in SEE
4. Centre for e-Governance Development
5. Network of Associations of Local Authorities of SEE Electronic Southeast Europe Initiative + Broadband Southeast Europe Initiative
6. Electronic Southeast Europe Initiative
7. Regional Environmental Network for Accession
8. Task Force for Fostering and building Human Capital
9. Visegrad Group
10. Forum of the Adriatic and Ionian Chambers of Commerce
11. Human Dynamics
12. Western Balkans Investment Framework
13. Brdo Process

Organizations that offered the initial positive answer for membership / participation:

1. European Common Aviation Agreement
2. ISIS Program Secretariat (ECAA)
3. Centre for Security Cooperation (RACVIAC)
4. The Migration Asylum, Refugees Regional Initiative (**Internal Affairs**)
5. Police Cooperation Convention (PCCSESECR)