

KOSOVO 2020: A Complex Agenda for the New Government



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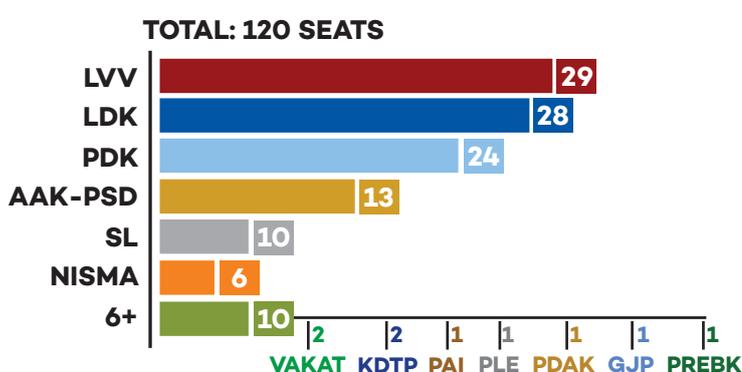
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INTRODUCTION

On 6 October, Kosovars went to the polls for the third time in five years.¹ Twenty five parties ran for election, 7 of them for the Albanian majority, 4 representing the Serb communities, and the rest running for seats reserved for the other non-majority communities. The results marked a shift in Kosovar politics. Vetëvendosje won the elections with 29 seats, making its leader, Albin Kurti, the likely next Prime Minister. Lidhja Demokratike e Kosovës (LDK) came second, with 28 seats. Partia Demokratike e Kosovës (PDK) received 24 and plans to sit in the opposition after 12 years in power. Its former partners in government did not fare better; former Prime Minister Haradinaj's Aleanca për Ardhmërinë e Kosovës (AAK) secured 13 seats, leaving none to its coalition partner, the Partia Socialdemokrate e Kosovës (PSD), a splinter party of Vetëvendosje led by Shpend Ahmeti. Meanwhile, the coalition composed of NISMA and Aleanca e Kosova e Re (AKR) barely passed the threshold to hold 6 seats (4 and 2, respectively).²

The Haradinaj Government, established in September 2017, was composed of 4 large mainstream parties, a plethora of minor parties and parties representing Serbs and other minorities.³ In effect, the government lacked consistency, created a monstrous cabinet and leaders of the institutions failed to coordinate.⁴ Like most governments in the last decade, it put forward initiatives derived from European processes or requested by international partners, which come with few controversies. On the other hand, it produced few of their own initiatives and failed to improve the country's governance, and social, political and economic outlook.

During this half-term, the Assembly passed 109 laws, of which 26 correspond to ratification instruments of various international agreements (8 with the European Union, 1 multilateral and 17 bilateral with European countries or financial institutions).⁵



¹ On 19 July, Prime Minister Ramush Haradinaj resigned after being summoned to The Hague for questioning by the Specialist Prosecutor's Office. That put an early end to his government and to the so-called PANA coalition, less than two years after it was formed. With no alternative candidate put forward, the Assembly voted to dissolve on 22 August, and the President of the Republic called for snap elections which were held on 06 October 2019.

² For more information on the result of the elections and the way forward, see Balkans Group, Kosovo 2019: Avoiding a Post-Electoral Crisis, November 2019, at <https://balkansgroup.org/blog/post/kosovo-19-avoiding-post-electoral-crisis-roadmap-certification-inauguration>

³ For more information on the Haradinaj Government, see Balkans Group, *Another High Stake for Kosovo: Haradinaj's Government Challenging Agenda*, September 2017, and Balkans Group, *Another 100 Days of Ramush Haradinaj*, December 2017

⁴ Both domestic sources and international organisations have repeatedly pointed to a lack of coordination within the Government, and sometimes even within departments, as the source for the failure of numerous public policies. For a global overview, see European Commission, *Kosovo* 2019 Report*, SWD(2019) 216 final, Strasbourg, 29 May 2019, p. 10. For its effects on sectorial issues, see Kosovar Institute for Policy Research and Development, *Gender Analysis of the National Program for the Implementation of the Stabilization and Association Agreement 2017-2021 and 2018-2022*, October 2019, p. 24 and Prishtina Institute for Political Studies, *A Critical Review of the Organization and Implementation of Kosovo's Foreign Policy*, 2018, p. 20

⁵ These international agreements include the infamous Border Demarcation Agreement with Montenegro, which proved so divisive for the Mustafa government. Also included is the Ratification of Agreements for the Instrument for Pre-Accession Assistance between Kosovo and the EU for 2016 – 2018. The full list can be consulted (in Albanian) in Assembly of the Republic of Kosovo, *Certification of Laws (Evidenca e Ligjeve)*, 4 September 2019, at http://www.kuvendikosoves.org/Uploads/Data/Documents/Evidencaeligjeve_upXpvBN35N.pdf

The rest tackle a wide range of issues, from the structure of the judiciary to corporate law and taxation regulations; most of them stemming from the European Reform Agenda (ERA).⁶ With the dissolution of the Assembly, some 50 Draft Laws under consideration became ‘unfinished business’ and will require re-introduction if they are to be approved. The Functional Review of the Rule of Law Sector and Justice 2020 will continue under the new government, so further legislative activity is expected in the foreseeable future.⁷ The outgoing government advanced the negotiations with the EU on ERA II; an advanced draft was presented for broader consultations with other actors in April 2019. Yet, its launch was subject to disagreements between the EU and the government of Kosovo.⁸ ERA II will likely be launched soon after the government takes office, and it will require a new battery of legislative action and initiatives to fully build on and implement the reform processes of the first phase.⁹

The new government’s room for manoeuvre will be constrained by both the socio-economic reality, with an inefficient, starved-for-funds state and a dysfunctional party system, and the need to move forward in the various international-sponsored processes. All of this, in a difficult political landscape. Despite elections taking place in an orderly manner and without incidents, the relations among political parties remain tense.¹⁰ Although the previous term was substantially calmer than the period 2014 – 2017, the ruling coalition led by Ramush Haradinaj was incapable of reaching consensus with the opposition, and the divisive Border Demarcation Agreement again proved the democratic immaturity of Kosovar political parties.¹¹ The members of the ruling coalitions also had a problematic relationship; Prime Minister Haradinaj had tense exchanges with President Hashim Thaçi, and the President of the Assembly, Kadri Veseli, the leader of PDK, the largest party of the coalition. At some point, relations between them broke down to a point of refusing to talk to one another and accusing the other of undermining their own positions.¹²

Vetëvendosje and LDK made a strong, but at times not-so-loyal, opposition to Haradinaj; should they join forces in power, they will face the same treatment by the remnants of the PAN coalition.¹³ In

⁶ These include a number of Laws regulating the judicial system, such as the Law on the Kosovo Judicial Council (December 2018), the Law on Notary (December 2018), the Law on the Criminal Code (January 2019) and the Law on the Kosovo Prosecutorial Council (April 2019).

⁷ Several reports dating from the period immediately prior to the elections considered the performance of this Assembly as the weakest since its creation. The Kosovo Democratic Institute noted that 4/5 of the legislative agenda remained untouched by the time of the Assembly’s dissolution. See more in Pristina Insight, *New Assembly, Old Problems, MPs Warn*, 19 August 2019, at <https://prishtinainsight.com/new-assembly-old-problems-mps-warn/>

⁸ The European Union refused to launch ERA in the wake of disagreements over the tariffs Kosovo had imposed on goods coming from Serbia and Bosnia and Herzegovina. Balkans Group interview, Officials of the EU Office in Kosovo and the government, May 2019.

⁹ For more information on ERA I, see Balkans Group, *European Reform Agenda for Kosovo: Challenges to the Good Plan*, November 2016 and Balkans Group, *European Reform Agenda: Good Governance and Rule of Law, Progress Report*, October 2017

¹⁰ The administration of elections has consistently improved during the last decade. The snap parliamentary elections in 2019 were well administered, followed a plural campaign described as “vibrant” and took place without major incidents. Serb areas, however, remain a black spot where undue pressure is conducted by supporters of the hegemonic, Belgrade-sponsored Srpska Lista against any opposition. For more information see European Union Election Observation Mission Kosovo* 2019, *PRELIMINARY STATEMENT Well-administered and transparent elections affected by an uneven playing field, and marred by intimidation and lack of competition in the Kosovo Serb areas*, 8 October 2019, at https://ceas.europa.eu/sites/ceas/files/ps_final_version.pdf

¹¹ In March 2018 a plenary session at the Assembly aimed at ratifying the agreement had to be suspended when Vetëvendosje, then in the opposition, again resorted to releasing a teargas canister within the chamber.

¹² The distance between President and Prime Minister became obvious during and after the Berlin Summit, where not only did they arrange separate transportation, they publicly manifested their disagreement regarding relations with Serbia and the tariffs imposed by Haradinaj’s Government on Serbian goods.

¹³ The PAN coalition ran in the 2017 elections, earning 39 seats and becoming the largest political group at the time of constituting the Assembly. It received the support of AKR (which had run in coalition with LDK), Srpska Lista, some parties representing minorities and a few MPs who abandoned LDK to form a government backed by 62 MPs, becoming the PANA coalition. In 2019, its members ran separately, faring worse individually; PDK received 28 seats, AAK, 13, and Nisma-AKR, 6.

particular, Haradinaj's AAK will harshly defend the tariffs against Serbian goods if Kurti's administration attempts to remove them.¹⁴ Kurti has made clear that the tariffs were not his initiative.¹⁵ In addition, PDK, which would then be the largest party in opposition, will be a challenging partner for the new government. Sustained personal distaste, a shared history of mistrust and discord, and conflicting egos will make building constructive relations difficult, if not impossible.

Furthermore, how the new government will interact with President Thaçi and his office remains doubtful. President Thaçi has so far exercised a more central role in Kosovar politics than his predecessors, due to the continuous presence of his former party in the previous governments. However, in a Government led by Vetëvendosje and LDK, his influence will certainly diminish. In fact, given past animosities, it is likely that friction will continue, at least until Thaçi's end of mandate in 2021. Should the Head of State fail to build a working relationship with the Head of Government, a number of issues will risk stalling, including Foreign Affairs and the Dialogue with Serbia. Similarly, various appointments for independent constitutional institutions can become unnecessarily complicated.¹⁶

However, there is plenty the Government can do; it will find a much greater leeway to launch its own initiatives on the healthcare system, environmental protection, policy planning and coordination, and the fight against the informal economy and corruption.

GOVERNMENTAL PRIORITIES

The new government that takes office, whatever its colour will inherit a long list of issues from its predecessor. Dysfunctional healthcare and education systems, an untaxed shadow economy, a slow and often ineffective judiciary, weak public administration all require major interventions. The failure of public services is graphically illustrated with the high number of patients being treated abroad and the regular enrolment of politicians' children in private and international schools.¹⁷ To further complicate the matter, despite the generally cordial campaign that preceded the elections, relations between key political actors remain tense; leaders do not trust each other and basic norms of cooperation between actors are still missing. That is especially true for the case of Albin Kurti, the leader of Vetëvendosje, who has spent much of his time in opposition (and before that, as an activist) attacking other parties, including his current potential partner LDK.¹⁸

¹⁴ Balkans Group interview, AAK member, Pristina, 21 October 2019,

¹⁵ In an interview with the British newspaper The Guardian, Kurti stated that "the 100 per cent import tariffs [...] on Serbian goods will be lifted only if there are full reciprocal measures on freeing Kosovo's trade into Serbia [and] Belgrade also [...] end its international diplomatic campaign to persuade countries to derecognise Kosovo." For more information see the full interview at <https://www.theguardian.com/world/2019/oct/21/kosovo-likely-new-leader-albin-kurti-condemns-eu-balkans-policy>

¹⁶ According to Article 84 of the Constitution, the President leads the foreign policy, decides on establishing diplomatic missions, appoints ambassadors, the Commander of the Kosovo Security Forces, key staff of the Kosovo Intelligence Agency, the Chair of the Central Election Commission, and the Governor and Board of the Central Bank. Although most of these are done in consultation with or upon proposals of other institutions, the margin of discretion of the President in such matters has not been settled constitutionally.

¹⁷ Between January and September 2019 1,063 Kosovar patients were treated abroad at a cost of over 10 million to the budget, see more at Gazeta Blic, *Over 500 people waiting for treatment abroad, Over 10 Million Euros Spent*, November 4 2019, at <https://gazetablic.com/mbi-500-persona-presin-per-sherim-jashte-vendit-shpenzohen-mpi-10-milione-euro/>. At the same time, high profile politicians, including President Thaçi, Prime Minister Haradinaj and President of the Assembly Kadri Veseli send their children to private school. See more at Zeri, *Politicians Take Children to Expensive Schools*, 2 September 2019, at <https://zeri.info/aktuale/284661/politikanet-i-cojne-femijet-ne-shkolla-te-shtrenjta/>

¹⁸ Vetëvendosje has repeatedly mobilised large anti-government protests and set off tear gas to disrupt the parliament. See Reuters, *Protesters Fight police as Kosovo approves Serbia Deal*, 27 June 2013, at <https://www.reuters.com/article/us-kosovo-protests/protesters-fight-police-as-kosovo-approves-serbia-deal-idUSBRE95Q0P420130627>; Balkan Insight, *Kosovo opposition Stage Anti-Government Protest*, 18 April 2015, at <https://balkaninsight.com/2015/04/18/kosovo-opposition-stage-anti-government-protest/>; Radio Free Europe, *Four Sentenced in Kosovo for*

If Kurti aims to secure the premiership and stay in power he will have to build some relations with both his coalition partner and the opposition, with whom he never tried to reconcile. Any new government will have to create a favourable climate to enact the promised reforms. In the case of Kurti, especially, that would entail making a U-turn and engaging with the opposition from day one.

These priorities for the new government listed below do not intend to be comprehensive, but to present an outline of the more pressing issues the government will need to work on to ensure progress is made. The composition of the government, domestic politics and international developments can also influence how a priority is defined. Yet, these issues require careful attention and will not disappear from the public agenda in the short term.

SIZE AND STRUCTURE OF THE CABINET

Right-Sizing the Government, Improving Policy Coordination and Performance

Without a specific law regulating the composition, structure and functioning of the Government, coalition politics have historically led to large governments to accommodate the various parties, resulting in many small departments with few competences.¹⁹ The last government set a record with 21 ministries and more than 80 deputy ministers whose functions were often more ornamental than real.²⁰ An investigative report related to the first 100 days of government found that “an army of Deputy Ministers” were engaged in meetings among themselves and with other officials with few connections to governmental priorities or initiatives; costing more than a million euros per month only in base salary, without counting other benefits.²¹

It is thus unsurprising, that most parties have campaigned in these elections with a promise to reduce the size of the cabinet, curtailing the number of ministries and limiting that of deputy ministers to a few per department. The excessive size of previous governments was a result of post-electoral coalitions and not a policy decision, undermining coordination and policy making processes. On this note, both Vetëvendosje and LDK ran elections talking about forming a government composed of 12 ministries.²²

Kosovar politics must abandon the policy of using ministries as “parking lots” for coalition partners. The new government should limit the number of ministries to a reasonable number.

2016 *Parliament Attack*, 17 November 2017, at <https://www.rferl.org/a/four-sentenced-kosovo-parliament-attack/28860390.html>; CNN, *Opposition Party Sets Off Tear Gas in Kosovo Parliament*, 21 March 2018 at <https://edition.cnn.com/2018/03/21/europe/kosovo-parliament-tear-gas-intl/index.html>, and Pristina Insight, *Vetëvendosje Calls for a New wave of Protests Against the Government*, 4 April 2019, at <https://prishtinainsight.com/vetevendosje-calls-for-new-wave-of-protests-against-the-government/>.

¹⁹ The trend towards hypertrophied governments did not start with Haradinaj, although he took it to a new level. Isa Mustafa already had 45 deputy ministers in 19 ministries, with a number of ministers without portfolio. See Kallxo, *Mustafa vs Haradinaj: The Government with more Deputy Ministers [Mustafa vs Haradinaj: Qeveria me më Shumë Zëvendësministra]*, 5 December 2017, at <https://kallxo.com/krypometer/mustafa-vs-haradinaj-qeveria-shume-zevendesministra/>.

²⁰ *Gazeta Express, Many Deputy Ministers and little work [Shumë zëvendësministra e pak punë]*, 13 October 2018 at <https://www.gazetaexpress.com/lajme-shume-zevendesministra-e-pak-pune-585006/>.

²¹ Pristina Insight, *Of cows and men: How an army of Kosovo deputy ministers spend their time*, 27 July 2018, at <https://prishtinainsight.com/of-cows-and-men-how-an-army-of-kosovo-deputy-ministers-spend-their-time-mag/>.

²² Pristina Insight, *Political parties pledge to cut government ministries*, 26 September 2019, at <https://prishtinainsight.com/political-parties-pledge-to-cut-government-ministries/>.

There is not an ideal size of Government in practice; a study conducted by the European Commission showed that most European countries range between 12 and 18 ministries, with 14 being the most common number.²³In the case of Kosovo, there are a number of fields where consolidation could easily take place; Economic Development should merge with Trade and Industry, and the new ministry could absorb Innovation and Entrepreneurship, and Rural Development.

The Ministry of Diaspora could become a department of the Ministry of Foreign Affairs. The Ministry of Public Administration, which could take over Local Government Administration, should have a reinforced role to strengthen public service, mainstream rules and services for all sectors of the government, thus acting at the administrative level. Similarly, the figure of Deputy Minister should be used to coordinate policy areas within a ministry, and not to reward party members. Regarding the Ministers, the new government should prioritise appointing competent persons for the position, with a relevant background on the sector. Similarly, the representative of the communities should be offered relevant portfolios with national reach, instead of just community issues, to ease their political integration and engagement.

RECOMMENDATIONS:

- Appoint a government with 15-16 ministries, focus on performance of the ministries and departments, and avoid lengthy restructuring;
- Ensure that the structure of the cabinet corresponds to the sectorial needs of the country, with departments to cover policy areas (Education, Healthcare, Economic Development, Agriculture, Environment, Justice, European Integration, Foreign Affairs);
- Appoint credible candidates for the ministerial and government posts;
- Immediately put forward the Law on Government to regulate the structure, size and composition of the executive, with the broadest support possible;
- Increase the women representation for senior positions - at the ministerial level no less than the women representation in the Assembly, and 50 per cent at the level of cabinets and offices;
- Task Deputy Ministers with the role of policy coordinators within their ministries

PUBLIC ADMINISTRATION

Implementing Reforms and Professionalising the Civil Service

The outgoing government passed three important laws that regulate the function of the public service of the country; the Law on Public Officials, Law on Salaries and Law on the Organisation and Functioning of State Administration and Independent Agencies.²⁴ The laws aim to regulate the status and salaries of an administration with a size of 82,000 people on the payroll. However, the secondary legislation

²³European Commission, A comparative overview of public administration characteristics and performance in EU28, Brussels, 2018, at <http://ec.europa.eu/social/BlobServlet?docId=19208&langId=en>

²⁴Law on Public Officials (February 2019), Law on Salaries in Public Sector (February 2019) and Law on the Organisation and Functioning of State Administration and Independent Agencies (February 2019). See also European union in Kosovo, The joint agreed EU Kosovo conclusions of the Public Administration Reform Special Group, 26 April 2018, at https://ceas.europa.eu/delegations/kosovo_en/44545/Kosovo's%20progress%20on%20Public%20Administration%20Reform

was not completed before the snap elections, causing more delays.²⁵ To further complicate matters, the Constitutional Court imposed interim measures in early November, suspending the Law on Public Officials until February 2020.²⁶ A month later, in December 2019, the Law on Salaries met the same fate when.²⁷

With all of this in mind, the whole process is all but frozen for months to come. This put on hold the EU's financial support for the process of Public Administration Reform.²⁸ The new government will need to immediately reprocess the PAR laws, should the Constitutional Court decide to suspend them partially or wholly and enter them into force before June 2020.

In addition, ERA and the National Strategy for the Modernisation of the Administration require more actions; a key one is the restructuring of the independent agencies and boards.²⁹ According to the plan, the agencies will reduce from 79 to around 40, with the government taking over many of those constituted by the Assembly.³⁰ Previous governments had no will to restructure the independent agencies, which often employed militants and party members. Another front for the new government will be the recurrent lack of funds and capacities of the Kosovo Institute for Public Administration (KIPA), responsible for providing professional development for civil servants. This body should be strengthened with priority to enhance the skills and expertise for people employed in public service, and trainings should become mandatory for public servants.³¹

The government made slow progress in the area of policy planning and coordination. In 2014, governmental agencies had more than 220 priorities spread over more than 90 strategies, which kept policy planning fragmented and ineffective.³² Mustafa reduced the number of strategies to 56 and introduced the National Development Strategy (NDS).³³

²⁵ The caretaker Ministry of Public Administration launched consultations in September on the drafts for 3 regulations foreseen in the Law on Public Officials; the Regulation on Declaration of Public Officials Status, Regulation on Suspension, Dismissal from Civil Service and the Regulation on Discipline and Complaints of Public Officials. More information available at <https://map.rks-gov.net/page.aspx?id=1.5.885>

²⁶ The Ombudsperson filed a constitutional complaint on the package of laws, considering it encroached on its independence and constitutional autonomy. The Constitutional Court agreed in principle on the need of introducing interim measures to prevent irreparable damage. See Decision on Interim Measure in Case No. K0203/19 Constitutional review of specific Articles of Law No. 06/L-114 on Public Officials, Ref. no: VPM 1472/19, 25 November 2019, at http://gjk-ks.org/wp-content/uploads/2019/11/ko_203_19_vmp_ang.pdf

²⁷ Koha.Net, *The Constitution Suspends the Salary Law until March 30 2020* [kushtetuesja pezullon ligjin per paga deri me 30 mars 2020], 12 December 2019, at, <https://www.koha.net/arberi/198698/kushtetuesja-pezullon-ligjin-per-paga-deri-me-30-mars-2020/>

²⁸ EU has pledged €25 million direct support. First tranche of €5.5 million was released recently. Action Programme for Kosovo* for the year 2016 – Part II - Sector Budget Support, C(2016) 8458 final, December 2016, at https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/ipa2016_ks_action_programme_part_ii_annex.docx.pdf

²⁹ For more information on ERA I, see Balkans Group, European Reform Agenda for Kosovo: Challenges to the Good Plan, November 2016; Balkans Group, European Reform Agenda: Good Governance and Rule of Law, Progress Report, October 2017 and Balkans Group, Another High Stake for Kosovo: Haradinaj's Government Challenging Agenda, September 2017

³⁰ Action 1.4 of the European Reform Agenda requires “[c]arrying out an independent review of the accountability mechanisms of all independent institutions, agencies and regulatory bodies”. That measure is concretised in the *Action Plan for Rationalisation of Agencies* published by the Ministry of Public Administration, at <https://map.rks-gov.net/desk/inc/media/BB5C24F7-AF28-440E-9505-A29FF9CB5105.pdf>

³¹ “The professional development of civil servants continues to be an issue, as [KIPA] does not have the budget and capacity to provide the requisite training”, European Commission, *Kosovo* 2019 Report*, 2019, p. 12. See also SIGMA, *Monitoring Report: The Principles of Public Administration – Kosovo*, OECD, November 2017

³² Balkans Group interview, Government official, Pristina, November 2019

³³ The National Development Strategy was formally adopted on 22 January 2016 and aimed at promoting economic development and competitiveness in the framework of the SAA with the EU. It set the priorities of the government in those fields for the period 2016 – 2021, attempting to harmonise the various ministries' priorities and action plans, and taking into consideration the planning cycle of the European Union for the Western Balkans, in order to streamline the policy cycle as much as possible.

Yet even that was not enough; the Ministry of Internal Affairs alone has 11 strategies, plus two others that were recently completed. In 2018, the government passed an instruction to streamline strategic documents and action plans.³⁴ With the support of the EU, the Office of Strategic Planning launched the National Strategic Framework Management (NSMF), which aims to help policy planning and budgeting on the basis of sectorial priorities.³⁵ NSMF aims to modernise policy planning and budgeting, organising it along sectors. This profound change requires political support, a shift of the institutional mindset and more effective planning. It should advance along with the new Law on Government and help to organise governance on a sectorial basis.

Equally important, recent governments failed to prevent nepotism, appointing party members to public office. That practice violated the agreement with the UK to monitor and support a merit-based hiring of public officials, which led to the reduction of the donors' role and to criticism from the international community and civil society.³⁶ The new government should reengage the project, enhance its scope to cover a wider range of institutions and involve civil society and other international experts to ensure merit-based hiring and appointments. At the same time, the Law on Gender Equality should become criteria for the appointment of public officials with the aim to ensure the increase of women representation at all levels of the government.³⁷ This should start at the political level (ministers) and cover both administration (ministry secretaries and directors) and positions of confidence (cabinets and advisors).

³⁴ Administrative Instruction (GRK) No. 07/2018 on Planning And Drafting Strategic Documents And Action Plans, 16 April 2018, at <http://kryeministri-ks.net/wp-content/uploads/2018/04/UDH%C3%8BZIMI-ADMINISTRATIV-QRK-NR.-07-2018-P%C3%8BR-PLANIFIKIMIN-DHE-HARTIMIN-E-DOKUMENTEVE-STRATEGJIKE-DHE-PLANEVE-T%C3%8B-VEPRIMIT-28-03-2018.pdf>

³⁵ The State Budget is based on departments and agencies, divided along 57 budgetary organisations.

³⁶ Priority 1.6, Action and Indicator 6 of the European Reform Agenda call on the Government to act on recommendations of the Anti-Corruption Agency to “[e]nsure the implementation of the MoU signed between the Assembly and the Government on the one hand and the UK Embassy in Pristina on the other, for the appointments of board members of independent institutions and agencies Ensuring transparent, merit-based and non-political selection processes in line with the law for all independent institutions, agencies and regulatory bodies as well as in public companies”. Violations of the agreement for merit based hiring have been documented by BIRN, see Balkan Insight, *Political Affiliation Still a Job Qualification in Kosovo*, 5 October 2018, at <https://balkaninsight.com/2018/10/05/political-affiliation-still-a-job-qualification-in-kosovo-10-03-2018/>

³⁷ Balkans Group, *Women in Politics, Gender (In)Equality in Politics and Decision-making*, February 2018, at <https://balkansgroup.org/blog/post/articles/grate-ne-politike-pabarazia-gjinore-ne-politike-dhe-vendimmarrje> and Balkans Group, *Conclusions drawn from Roundtable on Inclusion of Women: Unequal Representation of Women in Politics and Decision-Making*, Pristina, 26 February 2018, at https://www.balkansgroup.org/storage/app/media/Conclusions%20of%20the%20political%20dialogue%20round-table/01.04.2019/BPRG_Conclusions%20of%20the%20political%20dialogue%20round-table_%20Inclusion%20of%20Women%20in%20Politics%20and%20Decision-Making-edited.pdf

RECOMMENDATIONS:

- Review the legislation on the **Public Administration Reform** with priority, enhance **consultations** with political parties, experts, independent institutions, i.e. Ombudsperson, civil society to adapt the legislation to the upcoming constitutional review of the laws, and enter them into force by June 2020;
- Fully and with no delay implement the **restructuring of the independent agencies**;
- Appoint a **Deputy Prime Minister for Policy Coordination** and together with the Office for Strategic Planning advance policy coordination mechanisms;
- Reduce **Strategies** and streamline **policy planning** and priorities with the SAA and ERA priorities, support National Strategy Management Framework and **sectorial budgeting**;
- Support the **Kosovo Institute of Public Administration (KIPA)** with adequate budget and staffing, strengthen legislation and make **trainings** mandatory;
- Implement the **Law on Gender Equality** and improve gender representation throughout the government and cabinets; strengthen affirmative measures and sanctions for violations.
- Enhance the role of the UK-funded project or similar initiatives to **support fair and merit-based recruitment processes** and new appointments; widen the scope of the projects of this type and invite international experts and civil society to monitor the process of recruitment and appointments.

ERA AND SAA

Owning ERA and Institutionalising Reforms

The Stabilisation and Association Agreement entered into force in April 2016. This document, the first contractual relation ever between Kosovo and the EU, consisted of 144 articles, 7 Annexes, 5 Protocols and a Joint Declaration. Aimed at supporting democracy, Rule of Law, stability and economic development, it opened channels for internal and international political dialogue.³⁸ It also covered a wide range of practical matters regarding trade, customs, intellectual and industrial property and protection of investments.³⁹

Soon after the entry into force, the government of Isa Mustafa introduced a National Programme of the Implementation of the SAA (NPISAA), which foresaw short and midterm priorities distributed along 3 blocks; Political Criteria, Economic Criteria and European Standards (reproducing the 35 Chapters of an eventual Accession negotiation).⁴⁰ NPISAA, which is a purely national document, was

³⁸ Stabilisation and Association agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo*, of the other part, Brussels, 2 October 2015, art. 1, at https://ceas.europa.eu/sites/ceas/files/stabilisation_and_association_agreement_eng_0.pdf

³⁹ The Stabilisation and Association Process aimed at facilitating the reconstruction and eventual integration of the Western Balkans in the EU was launched in 1999. The process consisted of a series of bilateral agreements that facilitated access to the Internal Market for the countries in the region, accompanied with a generous aid package now known as Instrument of Pre-Accession Assistance (IPA). The goal was to prepare the involved countries' economies and States apparatuses for the pressures that come with EU Membership. During the next decade, the EU would sign Stabilisation and Association Agreements (SAA) with every country in the region. Kosovo was the last to sign an SAA in 2015.

⁴⁰ Government of Kosovo, *National Program for the Implementation of the Stabilization and Association Agreement*, Pristina, March 2016, at http://mei-ks.net/repository/docs/3_pkzmsa_miratuar nga kuvendi_final_eng_.pdf

quickly replaced by the more detailed European Reform Agenda (ERA), a joint initiative launched in November 2016 by the Government and the European Union. ERA is the result of high level dialogue aimed to concretise the actions necessary to implement the SAA, with a calendar for execution by the end of 2017.⁴¹ Thus, ERA “swallowed” NPISAA, which was only implemented inasmuch as it overlapped with ERA.⁴²

That said, ERA has not been fully implemented either; the ambitious plan encountered an unwilling government structure. Its 3 Pillars were devised as equally important, yet the outgoing government, like its predecessor, focused on the actions related to ‘Good Governance and Rule of Law’, leaving ‘Competitiveness and Investment Climate’ and ‘Employment and Education’ as secondary. Ramush Haradinaj, upon arrival to government, promised to complete it before the end of his term.⁴³ However, he failed to deliver, since by the end of 2017 ERA was only partially completed, and even one year later, less than two thirds of its foreseen actions had been finished, with an additional 20 per cent only partially executed at the end of 2018.⁴⁴

ERA is designed as a coherent whole, which can only achieve its goals once it is fully implemented. Individual actions do not have the same effect if they are not supported by related initiatives. For instance, the Assembly passed new legislation on Conflict of Interest in March 2018 and a new Criminal Code in January 2019, but the new Criminal Procedure Code, which would be harmonised with these legal developments, could not be promulgated before the Assembly was dissolved.⁴⁵ Other important missing pieces of legislation are the long overdue Electoral Reform and the Law on Financing of Political Parties.⁴⁶ The latest, in particular, proved divisive, as the draft introduced in June 2019 sparked protests as it would legitimise a lack of transparency and accountability.⁴⁷ Any new draft requires serious consultations, and it should take the recommendations of the Venice Commission as a departing point. In the area of ‘Competitiveness and Investment’ the government failed to propose a Law on Inspections as well as to streamline the energy sector and align it with European legislation, as expected. Similarly, the education reform has stalled, with important legislation missing and the ministry incapable or unwilling to launch several initiatives that were foreseen.

⁴¹ Government of Kosovo, *Kosovo – EU High Level Dialogue on Key Priorities – European Reform Agenda*, Pristina, November 2016, at https://www.mei-ks.net/repository/docs/era_final.pdf. See also Balkans Group, *European Reform Agenda: Good Governance and Rule of Law*, October 2017

⁴² NPISAA foresaw 532 measures to implement by the public institutions. The last report from the Ministry of European Integration shows that the level of implementation stands, at the end of 2018, at 68.23 per cent, with 363 completed and 169 still pending. The full document can be consulted in the website of the ministry, at http://mei-ks.net/repository/docs/20190530071808_anglisht2018.pdf

⁴³ Balkans Group, *European Reform Agenda: Progress Report on Good Governance and Rule of Law*, October 2017, at <https://balkansgroup.org/blog/post/publications/european-reform-agenda-progress-report-good-governance-and-rule-law>

⁴⁴ ERA foresaw 149 actions to implement by the end of 2017, by which time only 58 (38.9 per cent) were completed in time, most of them related to Good Governance and Rule of Law reforms. Group for Legal and Political Studies, GAP Institute and Pristina Institute for Political Studies, *An ERA of Stagnation*, May 2018, p. 3. For 2018, after some reformulation, ERA had 108 actions pending, of which 68 were completed and 19 remained uninitiated at the end of the year. By pillars, only 10 per cent of the actions framed within the first pillar remained uninitiated, while that number doubled in the other two, which also had a far lower rate of completion. See a more detailed account at Group for Legal and Political Studies, GAP Institute and Pristina Institute for Political Studies, *European Reform Agenda: Monitoring Report for 2018*, February 2019, p. 4

⁴⁵ The Draft Criminal Procedure Code had just passed the first reading in May 2019. The timeline of the legislative process is available at <http://www.kuvendikosoves.org/shq/projektligjet/projektligji/?draftlaw=176>

⁴⁶ Electoral Reform constitutes one of the 9 priorities of Good Governance and Rule of Law. It includes two distinct measures; enacting a complete pack of legislation that would reform electoral processes in accordance with the comments of the successive EU Electoral Monitoring Missions and the recommendations of the Venice Commission, and drafting a new Law on Financing of Political Parties that has been previously consulted with the Venice Commission.

⁴⁷ Prishtina Insight, *Protestors reject new law on political party funding*, 17 June 2019, at <https://prishtinainsight.com/protesters-reject-new-law-on-political-party-funding/>

Regretfully, the spirit of ERA has been lost in the letter of the documents.⁴⁸ It was designed to include a single roadmap for a wide range of actions that would serve to streamline the public administration and kick-start a functioning market economy, which necessarily depends on thorough educational reform. Unfortunately, it almost immediately became an EU “requirement” for the successive governments. The new government must understand that ERA actions are not there because they are required, but because they are useful. Consequently, it should prioritise the implementation of all pending ERA actions.

On a similar note, the government should start implementing ERA II as soon as it takes office. The deal, which is already concluded, has not been formally launched yet. Its framework, however, contains a number of actions that would continue with ongoing reforms. These could be launched at any time, irrespective of the signature. Organised along the same 3 pillars of ERA I, ERA II builds up on the actions already completed to continue the reform process. It reintroduces those actions from ERA I that have not been completed, like finishing the legislative framework related to the fight against corruption and the electoral reform, or advancing Public Administration Reform. It also introduces new actions, such as reforming the Ministry of Education along the lines proposed by the Functional Review included in ERA I. Furthermore, ERA II adds a strong environmental focus, with reference to objectives on renewable energies and issues like air quality and energy efficiency.

The importance of the ERA(s) and other EU related reforms also translates to the visa liberalisation process. Admittedly, all criteria under the Visa dialogue have been met, but a sound continuation of reforms provides arguments for those actors within the European Institutions that are pushing for the visa free regime to pass into EU legislation as soon as possible. Thus the government should increase the pace of the reforms while simultaneously lobbying the EU member states to secure visa free travel.

RECOMMENDATIONS:

- Prompt and complete the **implementation of ERA I** during 2020;
- Launch **ERA II** and engage EU to support the implementation;
- Expand the scope of **NPISAA** to match ERA II;
- Re-introduce the **Criminal Procedure Code**, the **Law on Financing of Political Parties** and the **Law on Inspections**;
- Engage with the Assembly and Presidency to launch the long delayed **Electoral Reform**;

⁴⁸ An outstanding example of this is the external audit of Political Parties. The applicable Law foresees that their ledgers must be audited once per year, and the results be made public. However, due to a simple lack of will, that has not been done since 2013. ERA I included “Publication of political parties’ financial reports as foreseen by law” in action 7.2. The authorities eventually completed and published the audits until 2017. Even though by December 2019 they have yet to launch the audit corresponding to 2018, the action is already listed as concluded.

DIALOGUE WITH SERBIA

Revitalising the Dialogue and Respecting Agreements

The dialogue with Serbia has been at a standstill since August 2015. The future of this process is uncertain, especially as the governments of both Kosovo and Serbia have failed to fully implement the existing agreements.⁴⁹

The decision of the EU to postpone - many believe suspend - enlargement perspective for the Western Balkans has further weakened the prospects of a final agreement.⁵⁰ The main motivation of both countries to engage in the dialogue was the promise of EU Accession, a perspective that is now diminished and without which there is less incentive to continue the talks.⁵¹

The consecutive governments of Isa Mustafa (2014-2017) and Ramush Haradinaj (2017-2019) were reluctant to engage in the dialogue or implement the sensitive agreements reached in Brussels.⁵² Yet, some progress was made in the implementation; the Vienna-based Energy Community Treaty was signed on 1 February 2019, certifying the transmission system operator of Kosovo.⁵³ In 2016 Kosovo got its own country code, recognised by the International Telecommunications Union.⁵⁴ Impact has also been noted with the certification of diplomas from the Belgrade-funded University of North Mitrovica, validation of driving licences, sharing of civil registry documents and with the courts operating in the north.⁵⁵

Up until now, other successful agreements include Integrated Border Management, Regional Cooperation and Participation, Freedom of Movement, Customs Stamps, Liaison Office, Customs collection, Police and “Civil Protection” Integration, Vehicle Insurance and a package of agreements related to integration of the north.⁵⁶ Other agreements have stalled. The construction of new border crossings, recognition of car plates, the Association of the Serb Municipalities, cadastre etc. have

⁴⁹ Balkans Group, *The Association of Serb Municipalities: Understanding conflicting views of Albanians and Serbs*, January 2017, at <https://balkansgroup.org/blog/post/publications/association-serb-municipalities-understanding-conflicting-views-albanians-and-serbs>

⁵⁰ The EU made the decision not to open talks with Albania and North Macedonia in October 2019, Council of the European Union, *Presidency Conclusions on Enlargement and Stabilisation and Association Process*, Strasbourg, 15 October 2019, at <https://www.consilium.europa.eu/media/41067/st13155-en19.pdf>. The SAA, the most recent Enlargement Strategy and Chapter 35 of Serbia's Accession Talks with the EU all hinge on the fact that the dialogue continues. The Council's decision has threatened this prospect by weakening the leverage of the EU. The President of Serbia, Aleksander Vucic said in an interview with the Financial Times he feels vindicated by his policy for forging closer ties with Russia and China. See the fallout at Financial Times, *Balkan Nations Bank on Regional Ties after EU Snub*, 23 October, 2019, at <https://www.ft.com/content/508dcea4-f4ce-11e9-b018-3ef8794b17c6>.

⁵¹ If the reward of European Accession is removed neither country will push for dialogue or the ongoing implementation of agreements already reached. See Balkan Insight, *Blocking Enlargement is a European Act of Self Harm*, 04 November 2019, at <https://balkaninsight.com/2019/11/04/blocking-enlargement-is-an-act-of-european-self-harm/>

⁵² Haradinaj said after a meeting with European officials in December 2018 that “[w]e do not have time anymore for halfway solutions”, Radio Free Europe, *EU, Kosovo hold Tense Meeting in Brussels*, 17 December 2018, at <https://www.rferl.org/a/eu-kosovo-hold-tense-meeting-in-brussels/29661437.html>

⁵³ Treaty establishing Energy Community, Athens, 25 October 2005, at <https://www.energy-community.org/legal/treaty.html>. Information on its implementation is available at <https://www.energy-community.org/implementation/Kosovo.html>

⁵⁴ Kosovo is now listed in online registers and its citizens can use a single phone code for local and international calls, which should lead to an increased budget revenue. For more information, see Kosovo Serbia Policy Advocacy Group, *Hello Kosovo?*, 29 August 2019, at <https://balkansgroup.org/blog/post/articles/hello-kosovo> and Prishtina Insight, *A code for Kosovo*, 15 December 2016, at <https://prishtinainsight.com/a-code-for-kosovo/>

⁵⁵ The agreements are available at the webpages of both governments. See Agreement on University Degrees, at <http://kim.gov.rs/eng/p10.php>; Agreement on Civil Registry Books at http://kryeministri-ks.net/wp-content/uploads/docs/agreement_0210_civil_books.pdf; and Agreement on Justice at http://kryeministri-ks.net/wp-content/uploads/docs/Agreement_on_Justice_-_9_Feb_2015_1.pdf

⁵⁶ All Brussels Agreements reached since 2013 are available at <http://kryeministri-ks.net/en/documents-en/?kategoria=technical-dialogue-agreements&viti#038:viti> and at <http://kim.gov.rs/eng/pregovaracki-proces.php>

become hostage to larger and growing political disputes.

Since the summer of 2017, the U.S. and EU have attempted to launch a high level dialogue for a final agreement between the two countries.⁵⁷ The U.S. organised numerous visits and President Trump sent two letters to the leaders of Kosovo and Serbia urging them to prepare for a final compromise that would include mutual recognition.⁵⁸ Similarly, Josep Borrell, the EU's High Representative, said that completing the dialogue would be one of his priorities during his hearing before the European Parliament.⁵⁹ This has marked an increase in international pressure to conclude an agreement rather soon.⁶⁰

In parallel, tensions between Pristina and Belgrade grew at a different level.⁶¹ After the failure to join Interpol in October 2018, mostly due to Serbia's aggressive diplomatic campaign, Kosovo imposed high tariffs on Serbian (and Bosnian) goods.⁶² Belgrade now refuses to engage in further conversations, and the EU has made no attempt to continue the dialogue under these circumstances.⁶³ Prime Minister Haradinaj resisted pressure from the highest levels of the international community to remove the tariffs.⁶⁴

At home, disagreements between the heads of institutions and political actors became significant. These damaging developments exposed Kosovo's domestic fragmentations and weakness internationally to the consternation of many of its international allies. With the departure of Prime Minister Haradinaj, little has changed. The new government might remove the tariffs on Serbian goods, a persistent demand of the U.S. and Europeans, but political consensus remains far off.

Judging by past deeds, a hypothetical Kurti-led coalition would not be willing to engage in the existing format of the dialogue. He insists that "it will first review the agreements reached in Brussels, and seek to negotiate the framework for dialogue with Serbia".⁶⁵ In other words, the

⁵⁷ European External Action Service, *Federica Mogherini meets with President Vučić of Serbia and Thaçi of Kosovo*, Press release, Brussels, 3 July 2017, at https://eeas.europa.eu/headquarters/headquarters-homepage/29156/federica-mogherini-meets-president-vu%C4%8Di%C4%87-serbia-and-tha%C3%A7i-kosovo_en

⁵⁸ President Trump wrote two letters to both Kosovo and Serbia; Letter from President Trump to President Thaci, 18 December 2018, at <https://www.president-ksgov.net/en/news/president-thaci-received-a-letter-from-the-president-of-the-usa-donald-trump>; and Letter from President Trump to President Vucic, at https://www.b92.net/eng/news/world.php?yyyy=2018&mm=12&dd=20&nav_id=105811

⁵⁹ The EU High Representative for Foreign Affairs, Josep Borrell said his first visit will be to Pristina and that "One thing is clear: Kosovo and Serbia have to reach an agreement. This is the important thing. And I will do utmost in order to fulfil this priority". Politico, *Borrell to Visit Kosovo First as EU Foreign Policy Chief*, October 2019, at <https://www.politico.eu/article/borrell-visit-kosovo-first-as-eu-foreign-policy-chief-commission-hearings/>

⁶⁰ "There is a tight window between November 2019 and March 2020 for serious diplomatic engagement", Atlantic Council, *A Roadmap for the Kosovo Serbia Dialogue*, October 3, 2019, at <https://www.atlanticcouncil.org/blogs/new-atlanticist/a-road-map-for-the-kosovo-serbia-dialogue/>

⁶¹ Developments include the resignation of four mayors in the north in November 2018, the arrests of suspects in the north for the assassination of Oliver Ivanović in May 2019 and several police arrests in the north in May 2019.

⁶² For more information, see BBC, *Kosovo Hits Serbia with 100 per cent Trade Tariffs amid Interpol Row*, 21 November 2018, at <https://www.bbc.com/news/world-europe-46287975>

⁶³ For more information, see Reuters, *Serbia to Resume Kosovo Talks only after it Scraps Tariffs, Vucic Tells Trump*, 31 January 2019, at <https://www.reuters.com/article/us-serbia-usa-kosovo/serbia-to-resume-kosovo-talks-only-after-it-scraps-tariffs-vucic-tells-trump-idUSKCNIPPIX9>

⁶⁴ Balkan Insight, *Berlin Summit Fails to Restart Stalled Kosovo Serbia Talks*, 30 April 2019, at <https://balkaninsight.com/2019/04/30/berlin-summit-fails-to-restart-stalled-kosovo-serbia-talks/>, and European Western Balkans, *Meeting in Paris Postponed*, 21 June 2019, at <https://europeanwesternbalkans.com/2019/06/21/meeting-in-paris-postponed/>

⁶⁵ In a televised interview with Agron Bajrami for Koha Ditore, Kurti stated that when he takes over the country's government, he will review all agreements reached so far in dialogue with Serbia, see Koha Ditore, *Kurti: EU Does Not Replace National Unification [Kurti: BE-ja nuk e zëvendëson bashkëmin kombëtar]*, 8 October 2019, at <https://www.koha.net/zgjedhjet-2019/187992/kurti-te-enjten-pritet-te-takohemi-me-mustafen-e-osmanin/>; Radio Free Europe, *Kosovo's Likely PM Says Relations with Serbia Should be based on 'Reciprocity'*, 10 October 2019, at <https://www.rferl.org/a/kosovo-s-likely-pm-kurti-relations-with-serbia-should-be-based-on->

dialogue with Serbia is not on his list of priorities.⁶⁶ Moreover, this prospective government seems unwilling to implement the pending agreements.⁶⁷ It is worth noting that LDK and Vetëvendosje have some differences; the former is more sensitive toward demands coming from the international community. Yet, the new government will be expected to immediately engage in the dialogue.⁶⁸ It is rightly so; it is a contractual obligation.⁶⁹ The upcoming government should fully coordinate with President Thaçi and the largest parliamentary groups to establish a negotiating team. If the dialogue is re-launched, President and Prime Minister should only engage in high level meetings, i.e. summits à la Paris, while negotiations are conducted at a lower, technical level. The negotiating team, more inclusive and with a better-defined role, should also serve domestically to help build consensus and undertake thorough preparations.⁷⁰

The new government has to work on three fronts, (1) build domestic consensus, (2) engage in the dialogue in cooperation with the facilitators, and (3) coordinate with international allies. The test will come soon. The government should be able to simultaneously carry out these negotiations while engaging on its domestic agenda. The dialogue should reinforce those initiatives, not distract from them.

[reciprocity-/30210319.html](https://www.theguardian.com/world/2019/oct/21/albin-kurti-serbia-dialogue) and Albin Kurti speaking about the Kosovo Serbia Dialogue to the Guardian “If they want to start dialogue, they should explicitly stop the slander about our right to statehood”.

⁶⁶ Balkans Group interview, senior member of Vetëvendosje, Pristina, 20 October 2019

⁶⁷ Albin Kurti has continuously opposed the Agreement on Serb Municipalities since it was signed in 2013 and stated in an interview with Syri Vision in October 2019 that the ‘Association is dead’, See lajmi.net (in Albanian), *Kurti Says Association is ‘dead’* [Kurti thotë se asociacioni ka ‘vdekur’], 21 October 2019, at <https://lajmi.net/kurti-thote-se-asociacioni-ka-vdekur/>

⁶⁸ The United States has appointed two special envoys; Matthew Palmer for the Western Balkans and Richard Grenell, Ambassador to Germany, as a special envoy for the Kosovo Serbia dialogue. The envoy visited Pristina and Belgrade a few days after the October national elections. See European Western Balkans, *Richard Grenell named US Special Envoy for Belgrade-Pristina dialogue*, 4 October 2019, at <https://europeanwesternbalkans.com/2019/10/04/richard-grenell-named-us-special-envoy-for-belgrade-pristina-dialogue/> Similarly, the European Union’s new High Representative, Josep Borrell, intends to appoint his own envoy. Balkans Group interview, German government official, Berlin, 5 December 2019.

⁶⁹ Articles 5 and 13 of the SAA affirm Kosovo’s commitment to policy and political dialogue with Serbia. Further, the Commission has linked the completion of a final agreement with an eventual accession for both countries. See European Commission, *A Credible Enlargement Perspective for and Enhanced EU Engagement with the Western Balkans*, COM(2018) 65 final, Strasbourg, 6 February 2018, at https://ec.europa.eu/commission/sites/beta-political/files/communication-credible-enlargement-perspective-western-balkans_en.pdf

⁷⁰ In March 2019, the opposition took the Law on Duties, Responsibilities and Competences of the State Delegation of the Republic of Kosovo in the Process of Dialogue with the Republic of Serbia to the Constitutional Court. On 27 July 2019, the Court ruled it unconstitutional, thus dismantling the negotiating team. For more information see Balkan Insight, *Kosovo Court Declares Negotiating Team ‘Unconstitutional’*, 27 June 2019, at <https://balkaninsight.com/2019/06/27/kosovo-court-declares-serbian-negotiation-team-unconstitutional/>

RECOMMENDATIONS:

- **Suspend the tariffs** on the Serbian goods; request from the EU to support **swift implementation** of the unsettled agreements (border crossings, recognition of diplomas, car plates and energy);
- **Engage in the dialogue**, cooperate with the facilitators and coordinate with international allies;
- Appoint an inclusive and well-defined **negotiating team** in Coordination with the President and the Assembly, which includes the opposition and experts. Ensure Gender representation in line with the Law on Gender Equality. The negotiating team shall be subordinate to the prime minister and the President and report to the Parliament;
- Assess the **level of implementation of the agreements**, continue the implementation of those successful and undertake actions to implement stalled agreements;
- Fully **coordinate with all domestic stakeholders** (President, Minister, Assembly, Ministries, Civil Society and Communities) to ensure broader support for the dialogue process.

FOREIGN AFFAIRS

Rethinking Foreign Policy and Reorganising the Ministry

Foreign Policy was simple until now; align with the Western allies, oppose an antagonistic Serbia campaigning against its independence and seek more international recognition.⁷¹ In recent years, this policy became insufficient; Kosovo failed to understand the evolving international developments and commit resources to respond to the country's needs. Not being a member of the United Nations, foreign affairs is one of the most important priorities in which the country should heavily invest. Reaching a common ground with Serbia would automatically unlock full international recognition, and as such it should be treated as a priority. Meanwhile, reaching all actors and institutions that can help or harm its international status and development is a need.

With a budget of €32 Million in 2019, the Ministry of Foreign Affairs (MFA) can hardly maintain a network of 28 embassies, with a few extra consulates in countries with a large Kosovar community.⁷² That, and an overtly formal and no common understanding of international relations have led to a diplomatic community concerned exclusively with the country's status; put bluntly, with “collecting recognitions”. However, once new recognitions come, they do not know what to do with them. As a result, Kosovo failed to establish relations with most of the States that recognised it, which left the country voiceless in the respective capitals, leading to important setbacks in the past, including a number of “derecognitions”.⁷³

⁷¹ Koha Ditore, *Haradinaj on Serbian television: We don't have a foreign policy, we follow that of America* [Haradinaj në televizionin serb: S'kemi politikë të jashtme, ndjekim atë të Amerikës], 16 April 2018, at <https://www.koha.net/arberi/87590/haradinaj-ne-televizionin-serb-skemi-politike-te-jashtme-ndjekim-ate-te-amerikes/>

⁷² The country has established embassies in 13 EU Member States (Austria, Belgium, Bulgaria, Croatia, Czech Republic, France, Germany, Hungary, Italy, Netherlands Slovenia, and Sweden, plus the United Kingdom). In Europe there is also an embassy in Switzerland. Two embassies in Africa (Egypt and Senegal), the Middle East (Saudi Arabia and the United Arab Emirates), North America (United States and Canada), and one in Central America (Panama) and in East Asia (Japan) complete the network. The full list of Diplomatic Missions abroad can be consulted in the website of the Ministry of Foreign Affairs, at <http://www.mfa-ks.net/misionet/493/ambasadat-e-republiks-s-kosovs/493>

⁷³ A bid to join UNESCO failed in 2015 after obtaining 92 votes out of 95 required, with more than 50 abstentions. According to the MFA, at that stage 111 countries had recognised Kosovo. Since then, it failed three times to join INTERPOL (in 2015, 2016 and 2018), the last time obtaining only 76 votes out of the 88 needed.

The MFA has been struggling with this “derecognition campaign”.⁷⁴ Some officials would claim that it was its sole work; “the ministry was exclusively fighting derecognition”, unsuccessfully in several cases.⁷⁵

Although the diplomatic service has some high quality servants and diplomats, it is heavily politicised, and key positions are often assigned to family and political protégés with no experience nor competence; many do not even speak foreign languages.⁷⁶ That leads to serious demotivation, since “if one does not seek political links, he will never be promoted”.⁷⁷ Consecutive governments have failed to respect basic elements of the law regarding promotion standards and criteria. Some would claim that Foreign Affairs is no less politicised than other ministries, mentioning Education or Trade.⁷⁸ Massive irregular appointments take place at the time of elections or at the end of a minister’s mandate, “diplomats have been paid flight tickets to go back home to collect votes for the minister in his home town or village”.⁷⁹ As a consequence, even if political will or support to lobby effectively abroad existed, the MFA is currently ill-equipped to undertake major tasks, lacking information management, processing and sharing, and knowledge of the regions of responsibility. The ministry should first invest heavily on its infrastructure and introduce an effective regional desk system.

The ministry and the diplomatic corps are poorly organised and no ministers have attempted to improve it. They have failed to modernise the legislation, formulate any substantial policy, and develop coordination with and within embassies, much less with other branches of the government.⁸⁰ Kosovo’s highly incompetent and polarised political scene has greatly reflected on its foreign policy; performance on the international stage was largely seen from the electoral lens of municipalities back home, reducing it to local public relations for short-term vote gains. It is very telling that successive Conferences of Ambassadors discussed no issues of importance but acted as a show for the political leadership.⁸¹ The ministry and diplomatic offices perform among the worst in auditing, as embassies are not audited regularly, nor is their work monitored; the ministry basically has no evaluation system in place.⁸²

Embassies and diplomats are not supplied with instructions, nor are they requested to provide thorough reporting or policy inputs. Exchanges of reports are irregular and often superficial. Diplomats are not invited to contribute to the policy debate in the ministry; ad-hoc policies and decisions are made in small groups in the cabinet, often with little experience. With few expectations, embassies develop close to no activity. For instance, cultural promotion by embassies does not match the lively domestic scene, with numerous local festivals, exhibitions and contests.

⁷⁴ While it is dubious that such a movement is even possible in international law, the number of states that would have “derecognised” Kosovo remains unclear. Serbian officials claimed it reached 17 in November 2019, while the Kosovar MFA, and sometimes the country involved in the controversy have refuted the claim. The list of “derecognising states” would include Suriname, Burundi, Papua New Guinea, Lesotho, Comoros, Dominica, Grenada, Solomon Islands, Madagascar, Palau, Togo, Central African Republic, Ghana, and Nauru. Alongside these 14 states, Guinea-Bissau, Liberia and São Tomé and Príncipe would have denied the claim after it was made public.

⁷⁵ Balkans Group interview, MFA official, Pristina, October 2019

⁷⁶ A European country refrained from supporting the ministry as a result of the political and incompetent appointment of the ambassador to friendly country and donor, Balkans Group interview, Diplomat, Pristina, November 2019

⁷⁷ Balkans Group interviews, MFA official, Pristina, October 2019

⁷⁸ Balkans Group interviews, MFA officials, June-November 2019

⁷⁹ Balkans Group interviews with members of the MFA over the years. This information and evidence in particular appear during election campaigns. Recent Balkans Group interviews with members of the ministry, Pristina, October-November 2019

⁸⁰ Although a first attempt to modernise the legal framework took place in 2015, successive Assemblies have failed to pass the legislation, with every successive draft being watered down in committee before being ultimately dropped upon dissolution.

⁸¹ The last Conference of Ambassadors, which took place in 2018, served mostly to publicise the differences existing between the Government in Pristina and its missions around the world. See Insajderi, *Haradinaj criticises the ambassadors of Kosovo: show interest for your country* [*Haradinaj kritikon ambasadorët e Kosovës: interesohuni për vendin tuaj*], 6 September 2018, at <https://insajderi.com/%E2%80%8Bharadinaj-kritikon-ambasadoret-e-kosoves-interesohuni-per-vendin-tuaj/>

⁸² Balkans Group interviews, MFA official, Pristina, October 2019

The ministry should closely collaborate with cultural, academic, youth institutions and organisations to promote Kosovo in distant countries. Likewise, it should invest on student exchanges, journalists and youth programmes with foreign countries, in particular non-recognisers and further afield.

In order for foreign policy to have the desired impact, an internal revamp is required urgently. Central to this rehabilitation is the new law that determines the ministry's operating procedures; the new government should expeditiously reintroduce the draft law on the ministry of Foreign Affairs and the Diplomatic Service.⁸³ The amendment of the law should better regulate the criteria for civil servants, status of the diplomats, and their appointment. The law should set a clearer framework for the structure of the ministry, and its accountability internally and externally in relation to other public authorities, including the legislative. It should also define policy coordination with relevant actors, i.e. the presidency, and the prime-minister's office.

To further strengthen its accountability, the ministry must redefine its approach to appointments, which should enforce rules for merit-based appointments; make tests and interviews for new entries much more credible by limiting loops for interference. In particular, the practice of appointing unskilled, unengaged consuls without any portfolio should end immediately. During the transition, however, the system should allow existing "political" appointees to be eligible for diplomatic careers through a rigorous testing mechanism. This, in turn, requires the restructuring of the commission for grades and better definition of the criteria for promotion. The ministry should establish an inspectorate to supervise the embassies and departments, strengthen the office of Director General, and reduce the role of the permanent secretary.

To further strengthen the effectiveness of foreign policy, the ministry should work towards establishing a system that enables a healthy rotation from think-tanks and academia to diplomatic missions, which would help nurture quality debate at home and abroad on foreign policy issues.

The lack of external accountability of the ministry directly coincides with the interference in what are supposed to be impartial meritocratic appointment procedures. This in turn has seriously jeopardised the role of the Diplomatic Academy and its ability to produce competent diplomats. Strengthening the academy should be of vital importance in order to re-engage in a well-thought out foreign policy strategy. Essentially, the ministry should increase the academy's budget, seeking out donor support in order to develop its capacity-building programmes. Partnerships with local universities and institutes could prove beneficial in order to rehabilitate the much-needed capacity-building and training output of the academy.

The new government should launch a comprehensive review and evaluation of foreign policy. The review would examine the country's foreign policy priorities, but also the performance of the diplomatic service coupled by an evaluation of the competencies of the diplomatic corps at all levels. Ultimately, that should serve to refocus foreign policy, giving it a clear purpose and objective, which will redound in long term benefits for the State and its status. For this endeavour, the government could seek support from friendly countries with good experience of this, Switzerland, Austria, Finland, Norway, Estonia, etc.

The number of embassies should increase as fast as the ministry can funnel resources and staff towards them, under the coordination of a clearly defined desk system in which lines of dependence are clearly set from the ambassador to a particular regional office in Pristina. Each one of these offices would

⁸³ This should replace the Law on Ministry for Foreign Affairs and Diplomatic Service of the Republic of Kosovo (January 2008) currently in force.

then centralise the country's policy towards specific continents or regions (for instance, Africa, Latin America and the Middle East). That, together with the new approach towards favouring diplomatic careers, would contribute to fight the campaign of “derecognition” and contribute to clarifying the international status of Kosovo. After all, it is more difficult to “derecognise” a country that behaves like a sovereign state and has established a diplomatic mission in your capital.

In Europe, and in close coordination with the Ministry of European Integration, Foreign Affairs should prioritise opening embassies in most, if not all, European Member States. That would not only allow them to liaise with their respective governments and open channels of communication, it would also contribute to communicating with those Member States that have not recognised Kosovo, and provide a platform for the country to try and influence EU decision making processes, of which it is so dependent (as shown by the visa-liberalisation process).

With the international dimension of the dialogue with Serbia and other related issues, including the tariffs on Serbian goods that have caused repeated calls from the EU, the US, Germany and others to remove them, the ministry needs to take a more active role in articulating a way out. In fact, the Ministry of Foreign Affairs should become an integrated part of the domestic debate and provide comprehensive inputs to the decisions that governments make. This should be done to avoid often short-sighted decisions that impact or cause damage elsewhere, in particular to the reputation of the country. The ministry must become a cost-effectiveness evaluator of domestic policy internationally, whose position contributes to forming policies at home.

RECOMMENDATIONS:

- Prioritise Foreign Affairs with an increased budget, accompanied by a substantial **extension of the network of embassies**, aiming at all possible European Member States and key regional actors in Africa, Asia and South America, coordinated by a **Desk System** structured along continents and major regions, i.e. Middle East, Latin America, Far East, etc.;
- Conduct a **comprehensive review** of the Ministry and the Diplomatic Service to identify gaps and needs; engage friendly governments and national experts to support this process;
- Review and reintroduce the **draft law** to strengthen the ministry, accountability and quality of the Diplomatic Service, coordination and evaluation;
- Invest in mechanisms to facilitate **coordination, exchanges and policy debates** with the diplomatic offices;
- Strengthen the role of the **Diplomatic Academy** to better prepare diplomatic staff in various fields in order to **professionalise the Diplomatic Service**, make trainings mandatory and evaluations more stringent;
- Establish an **inspectorate** for the Diplomatic Service and Ministry that evaluates the performance and accountability of diplomats and civil servants;
- Establish a **mechanism of transfer** for ‘political appointees’ to the diplomats of career through rigorous evaluations;
- Make the Ministry of Foreign Affairs an **integral part of policy debate** at home to help evaluate cost-benefits of policies and avoid fractions between domestic and foreign policies.

JUSTICE

Framing the reforms under the Functional Review of Rule of Law

The judiciary remains weak, plagued by incompetence, politicisation and corruption at all layers; judges, prosecutors and administrative staff. During the last decade much was invested to improve its performance. Vetting of the judges and prosecutors was conducted in 2009, new legislation was introduced, courts were reorganised to meet best practices and criminal codes were strengthened.⁸⁴ In 2018, the EU agreed to reduce EULEX's presence and the government launched two major initiatives, the Functional Review of the Rule of Law Sector and Justice 2020.⁸⁵ Since 2016, Kosovo committed to strengthen the Rule of Law and the fight against corruption also through key ERA actions; it included new legislation on issues such as the removal of public officials indicted for and convicted of corruption and prevention of conflict of interest. However, other pieces, like the already mentioned Criminal Procedure Code, have proven difficult to pass due to the frequent snap elections.⁸⁶ ERA also foresaw a review and reorganisation of independent institutions, agencies and regulatory bodies. On the judicial side, it included strengthening the economic department and fiscal division in the administrative department of the Basic Court in Pristina, as well as increasing the capacity of the Special Prosecutor Office.⁸⁷ Recently, the number of judges and prosecutors has considerably increased.⁸⁸ Following the Agreement with Serbia, the judiciary initially integrated 40 judges and 13 prosecutors, as well as administrative staff of Serb communities from the north, re-establishing courts in the territory of the four northern municipalities.⁸⁹

Judicial and Prosecutorial councils (KJC and KPC) remain highly incompetent and lack basic administrative capacities. They fail to act responsibly, enforce regulations and ethical requirements, and are reluctant to hold judges, prosecutors and non-judicial staff accountable. While their administrations underperform, donors still support them with basic needs. Even to properly execute staff needs assessments before engaging in new hiring, KJC has relied on support and assistance from the international community.⁹⁰

⁸⁴ During the last few years several new laws entered into force to revamp the judicial and law enforcement systems. These include the Law on the Juvenile Justice Code (October 2018), Law on Notary (December 2018), Law on the Kosovo Judicial Council (December 2018), Law on the Criminal Code (January 2019), Law on the Kosovo Prosecutorial Council (April 2019). Older pieces of legislation still in force include the Law on the Special Prosecution Office (June 2008), Law on Contested Procedure (September 2008), Law on Out Contentious Procedure (January 2009), Law on Administrative Conflicts (October 2010), Law on the State Prosecutor (October 2010), Law on the Criminal Procedure Code (July 2012), Law on Enforcement Procedure (January 2013), Law on Bar Examination (May 2013), Law on the Bar (May 2013), and the on the Execution of Penal Sanctions (August 2013).

⁸⁵ The functional Review was originally launched in 2016 under Government Decision Nr. 07/117, November 2016 and Justice 2020, launched in 2018 'is expected to set short-term priorities, particularly those which can enhance judicial efficiency, in line with the results deriving from the Functional Review' from Balkans Group interview, Ministry of Justice official, Pristina, 2 December 2018

⁸⁶ The Criminal Procedure Code passed the first reading on May 5 2019, but has been stalled since. The legal process is available at <http://www.kuvendikosoves.org/shq/projektligjet/projektligji/?draftlaw=176>

⁸⁷ See more at Balkans Group, *European Reform Agenda Good Governance and Rule of Law Progress Report*, Pristina, October 2017, p. 20 and 21, at <https://balkansgroup.org/blog/post/publications/european-reform-agenda-progress-report-good-governance-and-rule-law>

⁸⁸ In 2010, after the vetting process, there were 246 active judges; at the end of 2018 the number stood at 352. Figures from OSCE, *Gender Composition of judges and prosecutors in Kosovo*, Pristina, December 2010 and Kosovo Judicial Council, *Statistics of the Courts, Annual Report 2018*, Pristina, 2019

⁸⁹ In the first phase of implementation of the Brussels Agreement, 40 judges and 13 prosecutors from the Serbian parallel system were integrated into the judiciary. See more at EULEX, *Compact Progress Report, Assessing Progress Between July 2017 – June 2018*, at <https://www.eulex-kosovo.eu/eul/repository/docs/106075-CPR-2018-En.PDF> and at Kosovo Serbia Policy Advocacy Group *My Impressions of the Integration of the Judiciary in the North*, Op-ed, 8 November 2019, at <https://balkansgroup.org/blog/post/articles/my-impressions-integration-judiciary-mitrovica>

⁹⁰ "We have no capacity to asses our needs for 5-10 years, we do not know how to do that... if we ask the court, they will just give

Performance reviews are perfunctory and formal, with such low requirements they are virtually impossible to fail. Staffing needs are often badly assessed, and the judicial administration has managed to grow substantially while simultaneously retaining severe capacity gaps. At the same time, the case backlog and long length for dispositions for new cases and execution of sentences remain a major concern.

By design, the government is limited in its capacity to influence the daily business of the courts and prosecution. The government should rebuild trust of the judiciary, commit to not interfere or put undue pressure but enforce legislation, rules and standards to make the councils and members of the court and prosecution much more efficient and accountable. Political interference in the judicial is a reality, but many within the judicial system are content to maintain links with politicians who have no request for accountability from them, nor provide any substantial support. This is only one side of the story. The other is inside the system itself; in close coordination with the KJC and KPC, the government should insist on enacting much higher standards for the courts and members of the judiciary.

The new government must pick up on the Functional Review, make it more comprehensive and advance it with priority.⁹¹ The functional review has 3 components divided into 7 pillars.⁹² The first component will review the legal framework, the second will examine the institutional setup and legislation, and the third will analyse the cooperation between all the judiciary bodies. This review has high expectations to systematically address the many shortcomings of the judiciary. Such limitations include accountability, performance of judges and prosecutors, number of judges, lack of training for administrative staff. The establishment of a modern system of cooperation and tracking cases between the prosecutor, police and courts will go a long way to increasing accountability. An intervention is also needed to strengthen the link between courts and law enforcement agencies (mainly the Kosovo Police) and ensure that judicial decisions have an effect on the lives of citizens. Pushing for more stringent annual performance evaluations and ensuring that both the KJC and KPC have enough means to execute their duties is well within the competency of the government. In parallel, the government should pass legislation and support KJC and KPC to introduce mandatory and comprehensive integrity checks for all members of the judiciary, including new recruits.⁹³

Kosovo and its institutions need to take the lead on reforms, supporting new programmes and other initiatives. The EU will soon launch new Rule of Law flagship initiatives; the first one set to be worth €9 Million is already in the process.⁹⁴ The government, spearheaded by the ministries of European Integration and Justice must become the focal point for policy coordination and Rule of Law initiatives. Kosovo will continue to need massive support, and donors are willing to offer it; the government and other Rule of Law institutions must seek that support to meet needs but also increase standards of performance, and access to justice for citizens.

A specific issue that requires immediate action is gender-based violence. Women, as well as members of the LGBTQ+ community, continue to face violence and various forms of discrimination.⁹⁵

us a list...we need to count on Americans”, Balkans Group interview, KJC member, Pristina, September 2017

⁹¹ For more on progress on the Functional review of Rule of Law, see <https://md.rks-gov.net/page.aspx?id=1,144>

⁹² The seven pillars are 1) Consolidation of the legal and institutional framework to advance the Rule of Law principles 2) Functioning of the judiciary 3) Transformation of the criminal system 4) Advancing the mechanism for access to justice 5) Role of partners and donors 6) Anti-corruption measures 7) Commercial justice. Government Decision Nr. 24/2018, Pristina, February 2018

⁹³ Under the Functional Review, a Policy Note was developed to study best practices of Integrity checks, offering a number of recommendations. For the integrity check to become a meaningful undertaking it will require new legislation and regulation, as well as strengthening KPC and KJC.

⁹⁴ The Rule of Law flagship initiatives will expand existing and alternative assistance tools and introduce new support mechanisms, including Rule of Law advisory missions and case-based peer-review missions as well as trial monitoring and the development of detailed action plans and indicators, see European Commission, *A Credible Enlargement Perspective*, 2018

⁹⁵ European Commission, *Kosovo* 2019 Report*, 2019, p. 28

In 2018, the Police received 1692 reports of domestic violence, 238 reports on crimes against sexual integrity and 94 for crimes against marriage and family.⁹⁶

Although reporting is gradually increasing year on year, there is still substantial underreporting contributing to a sense of impunity, facilitated by cultural and social mores.⁹⁷

Previous governments started combating this phenomenon by introducing specific training on the issue to law enforcement and prosecution officials, as well as judges. The National Strategy and Action Plan on Protection from Domestic Violence, adopted in May 2016, foresees a number of actions based on 4 pillars; prevention and awareness raising, protection and coordination, legislation, investigation and proceeding and rehabilitation and integration.⁹⁸ The implementation, like many other strategies, has been uneven.⁹⁹

Another issue that will prove thorny for the new government is the mandate of the Specialist Chambers, invitations for interviews and possible indictments for senior former KLA members.¹⁰⁰

The specialist chambers started work in 2015 and Vetëvendosje objected to its establishment from the start.¹⁰¹ The functioning of the chambers and Prosecutors' office, the structure and mandate are set in the Constitution and the law.¹⁰² Despite broad legal basis for this controversial institution, the debate on the legal term for the operation of the Chambers divides experts and members of key domestic institutions with those of the Public Administration and of the Specialist Chambers.¹⁰³ If legal changes are required next year, the government will have to find a consensus to enact those changes, in particular if an amendment by the constitutional court is requested. The issue could become a question for interpretation by the Constitutional Court, before summer next year.¹⁰⁴ Legal interpretations aside, the government should refrain from backtracking on the Chambers. The ultimate goal should be to support this process and conclude it as soon as possible. In an ideal future scenario, Kosovo could seek to relocate the chambers at home and allow them to operate inside the country. This could only happen if major improvements in the area of Rule of Law take place, including on witness protection and the execution of court orders.

⁹⁶ The full statistics on the topic can be found in the website of Civil Society for Human Rights, at <http://www.cshr-ks.org/en/kosovo-police/?v=2018&id=1>

⁹⁷ Kosovar Institute for Policy Research and Development, *Accessing Justice for Victims of Gender Based Violence in Kosovo: Ending Impunity for Perpetrators*, December 2018, p. 6 at https://eeas.europa.eu/sites/eeas/files/accessing_justice_for_victims_of_gender_based_violence_in_kosovo_eng.pdf

⁹⁸ Ministry of Justice, National Strategy of the Republic of Kosovo on Protection from Domestic Violence And Action Plan 2016 – 2020, Pristina, May 2016, at [https://abgj.rks-gov.net/assets/cms/uploads/files/Publikimet%20ABGJ%20Strategjia%20Komb%C3%ABtare%20e%20RK%20p%C3%ABr%20mbrojtje%20nga%20dhuna%20ne%20familje%202016-2020\(1\).pdf](https://abgj.rks-gov.net/assets/cms/uploads/files/Publikimet%20ABGJ%20Strategjia%20Komb%C3%ABtare%20e%20RK%20p%C3%ABr%20mbrojtje%20nga%20dhuna%20ne%20familje%202016-2020(1).pdf)

⁹⁹ While the legal framework is mostly in place, and sound on paper, the protection of victims and the investigation and indictment of perpetrators remain problematic, due to insufficient funds and a lacklustre implementation. For instance, judges and prosecutors have received training on the topic, but often these cases are assigned to persons without the training. See KIPRED, *Accessing Justice*, December 2018, p. 25

¹⁰⁰ For more information see the Law on Ratification of the International Agreement between the Republic of Kosovo and the European Union on the European Union Rule of Law Mission in Kosovo, at <https://gzk.rks-gov.net/ActDetail.aspx?ActID=11213>

¹⁰¹ Kurti has been against the Specialist Chambers from its inception, which he says does no good for the country, see RTV21, *Kurti: Kosovo Institutions were Humiliated with the Opening of the Special Court*, 03 August 2018, at <http://rtv21.tv/kurti-me-hapjen-e-rruges-per-gjykatën-speciale-u-poshteruan-institucionet-e-kosoves/>

¹⁰² Article 162, Constitution of Kosovo and Law on Specialist Chambers and Specialist Prosecutor's Office (August 2015)

¹⁰³ The lawyer, Dastid Pallaska, considers confusion and ambiguity within the text a consequence of the international community's efforts to get the court passed by MPs, see lajmi.net, *Is the Mandate of the Special Court Expiring?*, 25 November 2019, at <https://lajmi.net/a-po-i-skadon-mandati-gjykatës-speciale/>

¹⁰⁴ Balkans Group interviews, members of the government and Vetvendosje, Pristina, October 2019

RECOMMENDATIONS:

- Fully endorse and advance the **Functional Review** and **Justice 2020**, enhance the reforms, to make major improvements, raise the standards of **accountability** for judicial institutions, judges and prosecutors and increase their numbers, and support KJC and KPC to reform the status of the **judicial administration** and the **administrative staff** who work in courts and prosecution offices. This process must earn full political support but led by the civil servants and completed with no delay;
- In close coordination with KJC and KPC, ensure that the legal basis for continuous evaluation of all members of the judiciary. Establish an **integrity check** for prosecutors, judges, professional and administrative staff; strengthen the **annual** performance evaluations for all levels of judiciary;
- Adopt the **Criminal Procedure Code** with no delay;
- Strengthen the **coordination** between the Courts, the Prosecution and the Police;
- Take the lead and strengthen the Ministry of Justice to **coordinate** all Rule of Law initiatives and projects, on the basis of a **comprehensive needs assessments** and clear objectives set by the Functional Review;
- The Ministries of Justice and Internal Affairs should coordinate to increase **institutional ensibility** towards **gender-based violence**;
- Support the continuation of the **Specialist Chambers** and build good relations with the partners and opposition to enact legal changes if needed, and engage with the U.S, EU and Member States to set a formal timetable for the Chambers, not limiting its work but also not leaving it with an open-ended mandate.

EDUCATION

A National Urgency to Increase the Quality of Teaching

The quality of education is a major concern for the citizens; this was demonstrated by the intense debate on the topic that preceded this election. The public education system has always been the subject of suspicion; poor infrastructure, accusations of nepotism and unprofessionalism, limited recognition of degrees and certificates, a devastating lack of resources and a staggering rate of school dropout all contribute to lower the prestige of the institution and create mistrust.¹⁰⁵ The biggest blow for the system came in 2016, when the OECD included Kosovo for the first time in its renowned PISA reports.¹⁰⁶ The results were devastating, as the education system was ranked among the three worst in the world.¹⁰⁷ Kosovo fared little better when the results were published in early December 2019, showing that even though there was a lot of talk about improvement, nothing was actually accomplished.¹⁰⁸

¹⁰⁵ Kosovo 2.0, *How to fix a broken system*, 25 May 2017, at <https://kosovotwopointzero.com/en/big-election-issues-education/>

¹⁰⁶ PISA, which stands for Programme for International Student Assessment, measures the proficiency of 15 year old students from more than 80 countries in the world in the fields of Mathematics, Science and Reading.

¹⁰⁷ OECD, *PISA: Results in focus*, Paris, December 2016, p. 5 at <http://www.oecd.org/pisa/pisa-2015-results-in-focus.pdf>

¹⁰⁸ Kosovo was still placed third from last in the PISA testing of 2018 and actually scored worse in science than in 2015, see more here Pristina Insight, *PISA Results Paint Dispiriting Picture*, 03 December 2019, at <https://prishtinainsight.com/pisa-results-paint-dispiriting-picture/>

A key challenge that the system is facing is the quality of the staff, especially professors, but also the administration. A licensing system for teachers exists, which theoretically regulates entry into the profession and the periodic renewal based on continuous training. However, its rollout has taken years and only recently the normative framework was completed.¹⁰⁹ To make things worse, the budget allocated by the Ministry to trainings was reduced, leading to a situation where continuous training has become mandatory, but not feasible for all teachers. As a result, there is an emphasis on certifying hours of training, instead of conveying knowledge or skills to teachers.¹¹⁰

Both, Vetëvendosje and LDK have promised to increase the budget for education; a necessary requirement to improve the overall quality of the system. However, the Ministry of Education needs to design a detailed plan for such a growing budget. More funds are useless if the education institutions fail to use it. The ministry is among the weakest institution in the country, underperforming, highly corrupt and with incompetent planners and strategic offices.¹¹¹ It needs a massive restructuring and evaluation of the staff. Furthermore, planning and budget increase must be coordinated with the various donors that are continuously bolstering the education system. Funding must follow a specific needs assessment, ensuring that money has an effect on the students.

The Mustafa Government had approved an Education Strategic Plan 2017 – 2021. The midterm Strategy aimed to include sectorial planning to education, in order to ensure a coherent policy based on 7 Strategic Goals. These range from the more general (inclusion of minorities and vulnerable groups) to the operational (system management and teacher development) to the specific (the regulation of vocational training and higher education).¹¹²

In pre-school education, it identifies a substantial gap, as roughly a third of the municipalities still do not have a single public pre-school facility. Not only that, but also private institutions are working with few if any supervision, which results in an uneven quality of service provision and leave many pupils at pre-school age without options.¹¹³ Regarding basic education (primary and secondary) it also recognises that curricula are outdated and fail to prepare students for their life after school. That has personal consequences for the student, whose knowledge is not useful to find a job; and also economic consequences for the state, as the labour force is unskilled and unproductive.¹¹⁴

These problems are more exacerbated in the sector of Vocational Education and Training (VET), where the system is patchy and lacking consolidation. For instance, upon the approval of the Strategy there was still not a specific VET Core Curriculum, and consequently VET was not included in the national Curriculum Framework, resulting in an unclear status for graduates.¹¹⁵ Barring a clear definition of the programmes and their content, there was no material available for professors, and similarly no real training could be provided to them, which combined with a lack of practical trainings limited substantially the usefulness of the system vis-à-vis the labour market.¹¹⁶ VET has historically retained

¹⁰⁹ Kosovo Education and Employment Network, *Teacher Professional Development in Kosovo*, Pristina, April 2019, p. 26

¹¹⁰ *Ibid.*

¹¹¹ Balkans Group interviews, officials of the Office for Strategic Planning and Donors, Ministry of Education, Science and Technology, Pristina, October 2019.

¹¹² Ministry of Education, Science and Technology, *Kosovo Education Strategic Plan 2017 – 2021*, Pristina, July 2016, at http://www.kryeministri-ks.net/repository/docs/KOSOVO_EDUCATION_STRATEGIC_PLAN.pdf

¹¹³ *Ibid.*, p. 21

¹¹⁴ American Chamber of Commerce of Kosovo, *Education and Labor Market in Kosovo and European Union*, December 2018, at <https://www.amchamksv.org/wp-content/uploads/2019/02/ENG-Education-and-Labor-Market-in-Kosovo-and-EU.pdf>

¹¹⁵ At the end of 2019, the Agency for Vocational Education and Training and Adult Education has only partially set the curricula for a limited number of programmes. These are available on its webpage, at <https://aaaparr.rks-gov.net/en/udhezime-administrative>

¹¹⁶ Ministry of Education, Science and Technology, *Strategic Plan 2017 – 2021*, 2016, p. 81

low consideration, sort of a destination for academically weak students, and that showed in its treatment by public institutions. This situation must change, and the renewed push for improving education must not leave Vocational Training behind. The contents of the Strategy and the Action plan must be implemented.

Not only is basic education under question. The Haradinaj Government left a very concerning heritage regarding higher education. Its interference in the Kosovo Accreditation Agency (KAA), by dismissing its acting director and the entire board in September 2017 (one of the first actions of the government) resulted in a summary expulsion from the European Quality Assurance Register for Higher Education (EQAR).¹¹⁷ The government attributed its actions to claims of corruption against the board and poor performance. Whatever the case, the European Association for Quality Assurance in Higher Education (ENQA) downgraded KAA to the status of ‘Member under Review’, eventually deciding to expel it as well in October 2019, after the subsequent evaluation.¹¹⁸ These events put into question the higher education system, which now remains outside of pan-European networks, having lost any reputation it might have had and undoing years of efforts by previous administrations.

After these developments, the country is essentially back at square one. The institutional framework exists, but it now lacks the international coverage it enjoyed. The ENQA evaluation made a number of very specific recommendations for the KAA, which should become the guide and map for the organisation in the foreseeable future. These recommendations should be integrated in a future Law on Higher Education that, although included in the Legislative Plan of the previous government, never finished its parliamentary procedure, and thus remains unfinished at the end of the term.¹¹⁹ The new government will have to review this Law, ensuring that it answers the concerns of ENQA and EQAR. Furthermore, the board of KAA and the Ministry of Education should coordinate to implement every single recommendation, starting from the new Law all the way to introducing new practices as necessary via regulation or administrative instruction, to guarantee the independence of the KAA.

The work of the Agency must be based on purely technical criteria, disregarding business interests and political expediency. At all stages it is important to remember that the independence of KAA was the main factor that decided its fall, and thus the Ministry must take a purely supporting role in this endeavour. KAA needs to prove that it is capable of fulfilling its mandate independently before ENQA and EQAR ever consider its readmission. To that end, KAA should consider the option of establishing partnerships with a European counterpart to share best practices and avail of technical support to build competences while awaiting readmission.

¹¹⁷ European Quality Assurance Register for Higher Education, *Exclusion of the Kosovo' Accreditation Agency (KAA) from the Register*, C22, 27 February 2018, at https://backend.deqar.eu/reports/EQAR/2018-02_Exclusion_Decision_C22_KAA.pdf

¹¹⁸ Letter from Christoph Grolmund, President (ENQA) to Avni Gashi, Acting Director (KAA) on Membership of KAA in ENQA, 1 October 2019, at https://enqa.eu/wp-content/uploads/2019/10/Letter-ENQA-to-KAA_Sep-2019.pdf

¹¹⁹ See the legislative process at <http://www.kuvendikosoves.org/shq/projektligjet/projektligji/?draftlaw=160>

RECOMMENDATIONS:

- Prioritise and enhance **Educational Reform**, to ensure that the public education provides quality services that prepare students for the **labour market**;
- Review all strategic documents and prioritise **capacity building and training** for teachers at all levels, establish **mandatory** training programmes, seek support from donors to **undertake large scale training programmes** for teachers during summer months;
- Increase drastically **education funding** and strengthen the **management capacity** of departments and administrators in charge of schools and education institutions through mandatory skill training;
- Extend the coverage of **public pre-school education** to guarantee adequate services across the country;
- Complete the **review of the curricula** for basic education; request assistance from credible international organisations and governments, i.e. Finland, Austria etc.
- Review the existing **Draft Law on Higher Education** to make sure it aligns with the **recommendations from ENQA**;
- Strengthen and support the **Kosovo Accreditation Agency (KAA)**; invite credible European organisations to support KAA in improving the performance and oversight capacities of the Agency.

HEALTHCARE

Improving Services and Rolling out Health Insurance

Like education, healthcare remains an area where public services are woefully underdeveloped. According to the European Commission, a fifth of the population cannot afford healthcare due to poverty, while overall 40 per cent of any treatment must be covered from the patient's pocket.¹²⁰ As a result, the poorest sectors of society are disproportionately affected, excluded from preventive measures and facing substantial challenges accessing diagnosis and therapy.

The system is plagued by politicisation and accusations of corruption. Previous changes in government led to turf wars between coalition partners over competences and funds, while appointments were made based on party loyalties, leading to unnecessary dysfunction. The healthcare system has been captured by private interests.¹²¹ Doctors commonly work in both public and private institutions, which creates opportunity for abuse.¹²² Patients are diverted to private institutions, where a hefty fee applies. Further, the public system suffers from a brain drain, as in recent years an increasing number of professionals have been emigrating to practice in other countries, such as Germany.¹²³

¹²⁰ European Commission, *Kosovo* 2019 Report*, 2019, p. 69

¹²¹ Kosova Democratic Institute, *State Capture in Kosovo: Trading Public Health for private gain*, April 2018

¹²² UNDP, *Corruption Risk Assessment in the Health Sector in Kosovo*, December 2014, at <https://www.undp.org/content/dam/kosovo/docs/SAEK/UNDP%20SAEK%20Corruption%20Risk%20Assessment%20in%20Health%20December%202014%20-%20Eng.pdf>

¹²³ According to a recent report, the Chamber of Physicians of Kosovo issued some 200 certificates in 2018 to local doctors, which would allow them to practice medicine in European countries. An additional hundred was requested during the first half of 2019 see Buletin Ekonomik, *Doctors and nurses are leaving for Germany [Mjekët dhe infermierët po ikin në Gjermani]*, 27 October 2019, at <http://buletiniekonomik.com/index.php/2019/10/27/mjeket-dhe-infermieret-po-ikin-ne-gjermani/>

The previous minister of health believed that, unless working conditions improved drastically, with higher salaries and more means, the trend would continue.¹²⁴

The ministry is weak and lacks capabilities and will to address these issues. Continuous up-skilling of doctors and modernising technology is necessary to revitalise the health sector. Bilateral agreements with EU governments are underutilised. A good example of this is a joint initiative with the Czech government, where the two signatories share the cost of bringing in foreign experts to provide treatment for patients and training for local doctors. The agreement was signed in 2012, but was never put into practice as the ministry showed no interest to implement it.¹²⁵ There are plenty of donors willing to support the sector, but national interest is severely lacking.

These projects could be replicated with countries that excel in specialised fields, but in order to do so, the Ministry of Health needs to professionalise its administration. To some extent, the last government attempted, as it focused on re-structuring certain services and streamlining the management of healthcare institutions, especially regarding public procurement and contracting practices. To that effect, it allowed Civil Society Organisations to monitor procurement in order to increase transparency and establish a second layer of scrutiny.¹²⁶ It also published a List of Essential Medicines, which had previously been missing.¹²⁷

Kosovo remains an anomaly in the Western Balkans and in broader Europe, as the country lacks a public health insurance scheme. In 2014 the Assembly passed a Law on Health Insurance establishing a Bismarck model in which both employee and employer would jointly finance a health fund that would then serve to cover treatment for all those insured and their families without out-of-pocket fees for users.¹²⁸ Although the new system falls remarkably short from guaranteeing universal healthcare, it still represents an important improvement from the current situation.

Unfortunately, the launching of the Health Insurance Fund has been postponed for 5 years in a row; no government showed the will to start collecting premiums. This would be perceived as a tax increase, especially before the new catalogue of services is rolled out. The previous government argued that the system could not be made functional before a digital system for the management of medical records, since such a database would be required before integrating public centres into a single-payer scheme. The fact that similar schemes worked for a century across Europe without digital management tools, while digital databases are currently widely used by private health corporations with multiple establishments seems to tell otherwise. In fact, the Health Sector Strategy 2017 – 2021 covers extensively the roadmap towards a functional health insurance without covering digitalisation at all.

The new government must focus on establishing the health insurance scheme and completing the long overdue reorganisation of the public healthcare. In the long term, the transition towards a National Healthcare System will have to be introduced, but that must be built upon a functional precursor. In the short term, the Ministry of Health must start putting in practice the actions already foreseen in the Strategy that were never executed.

¹²⁴ Monitor, *Wages up in Kosovo to stop exit of doctors to Germany* [Pagat u rritën në Kosovë për të frenuar ikjen e mjekëve në Gjermani], 6 April 2019, at <https://www.monitor.al/pagat-u-rriten-per-te-frenuar-ikjen-e-mjkeve-ne-gjermani-2/>

¹²⁵ Balkans Group interview, Pristina, October 2019

¹²⁶ Kosovo Democratic Institute, *KDI and four Institutions will cooperate in increasing accountability and transparency of Public Procurement*, Press Release, Pristina, 3 October 2018, at <http://kdi-kosova.org/en/activities/kdi-dhe-kater-institucione-do-te-bashkepunojne-per-rritje-te-llogaridhenies-dhe-transparences-ne-prokurim-publik/>

¹²⁷ Ministry of Healthcare, *Minister Ismaili signs the new List of Essential Medicines* [Ministri Ismaili nënshkroi Listën e re të Barnave Esenciale], Press release, Pristina, 20 September 2019, at <https://msh.rks-gov.net/ministri-ismaili-nenshkroi-listen-e-re-te-barnave-esenciale/>

¹²⁸ Law on Health Insurance (April 2014)

In parallel, it must establish a working group or a steering committee tasked to advance the digitalisation of medical records and other managerial databases. It can rely on the experience of other Ministries, such as Internal Affairs or Justice, where digitalisation has already taken place.

RECOMMENDATIONS:

- Seek **bilateral support** to continue developing capacities; make use of the agreements already in place and develop new partnerships;
- Establish an **independent review commission** to assess the **performance** of healthcare institutions, identify gaps and actions needed to improve, with the assistance of credible international partners I
- Introduce and apply a **definitive calendar** on the rolling out of the **health insurance system**. It should start with the **collection of premiums** and the **catalogue of services** offered;
- Set up a working group or a **steering committee** for the **digitalisation of healthcare** within the ministry, drawing from previous digitalisation experiences in other ministries;
- Improve **working conditions** for healthcare professionals to mitigate the **brain drain** towards Germany and other European countries;

ENVIRONMENT

Environmental Attitudes and Tackling Waste Management

Environmental concerns are becoming more common in public discourse, not only internationally, but also domestically. Traditionally, environmental issues in Kosovo tend to be overlooked by the institutions and many issues remain unresolved; illegal logging and construction, contaminated soil, polluted rivers and proper disposal of waste water and solid waste.¹²⁹ The Ministry of Environment is widely considered ineffective and rife with corruption, millions of euro of tax and donor money is spent with little impact. The ministerial post has consistently been given to the minor party in the coalition as a token ‘thank you’ for their support.¹³⁰ Environmental protection laws, strengthened in the new criminal code, are often unapplied and breaches of them go unpunished.¹³¹ The Environmental inspectorate has a staff of just 31 people.¹³²

Prosecutors and Courts have not been trained on provisions within the new criminal code, making it more difficult to secure convictions.¹³³ Previous governments have published various National Action Plans, Strategies and even Implementation Plans, but then failed to act on the issues at all. Meanwhile, the environmental conditions keep deteriorating. In that regard, the elephant in the room is the project of a new coal power plant, Kosovo C or Kosova e Re, to replace the obsolescent Kosovo A (being decommissioned)

¹²⁹ EU Information and Cultural Centre, *Green Environment Means: Clean Water, Waste Free, Green Energy, Air Quality*, Pristina, December 2018, at https://europehouse-kosovo.com/wp-content/uploads/2018/12/EUICC_ENVI_publication_eng12-1.pdf

¹³⁰ From 2008 to 2019 a junior partner was always in charge of the ministry; Mahir Yagcilar - Turkish Democratic Party of Kosovo (PDTK), 2011-2014; Dardan Gashi - AKR > Rugova List, 2014-2016; Ferid Agani - Justice Party (PD), 2016-2017; Ferat Shala – PDK, 2017-2018; Albena Reshitaj and Fatmir Matoshi - AKR, 2018-2019

¹³¹ European Commission, *Kosovo* 2019 Report*, 2019, p.78

¹³² According to the current structure of the Ministry of Environment (December 2019), this function falls to the Department of Environmental Inspection, Water, Construction and Planning, at <https://mmp.h.rks-gov.net/al/departamentet/318/misioni-vizioni-dhe-detyra>

¹³³ European Commission, *Kosovo* 2019 Report*, 29 May 2019, p.78

and support Kosovo B (which will receive a substantial modernisation).

In October 2018 the World Bank withdrew from supporting this project, as it had promised initially.¹³⁴ The Haradinaj Government decided to move ahead with the project on its own, claiming that the state-of-the-art power plant would be substantially cleaner than the outdated Kosovo A. The Energy Strategy 2017 – 2026 foresees lignite as the main source of energy for the foreseeable future.¹³⁵ It considers that coal is the only dependable and affordable means to guarantee the power supply, since Kosovo does not have other resources, nor is it connected to the European gas networks, and nuclear energy, which is beyond the country's capacities, is not even considered. Thus, coal becomes the only source that can guarantee the baseload production. However, it also increases the role of renewable sources of energy as a complement to the energy mix, in line with wider European trends.

The Strategy sets an objective of reaching energy savings of 9 per cent overall, while increasing the share of renewable sources to 25 per cent of the gross energy consumption by 2020.¹³⁶ In order to do that, it foresees a feed-in tariff scheme for hydropower, wind, photovoltaic and biomass energies. The scheme is based on long term agreements with energy producers that guarantee that the network will buy whatever energy they can provide at a fixed rate for a period of time.¹³⁷ However, the Energy Regulatory Office (ERO), which was tasked with defining the tariffs, based them on unrealistic assumptions, which led to exceptionally high figures that would cost millions to the final consumer. This affected particularly photovoltaic energy, for which the set tariff is overly generous. As a consequence, while a number of companies have requested licences to build and operate solar farms, ERO has been reluctant to authorise them, given their effect on the final price.¹³⁸

Conversely, the growth of renewable sources in the energy mix has been spearheaded by hydropower plants, which also created some problems. The country, like most of the Western Balkans, lacks any major rivers, and it has relied on building small power plants, often financed with European assistance. The total contribution of these plants to the electricity market is reduced, but their effects on local environments do not differ from that of large dams.¹³⁹ In Kosovo, these projects have sparked numerous protests from local communities, who have complained that environmental assessments have not been serious and that the long term effects of these plants negate any benefit from the “green” energy they would produce.¹⁴⁰ The question was highly controversial, and the previous government failed to articulate a coherent answer to this issue, which will now fall on the next government. All of these issues point towards a design flaw, which has prevented any energy transition, as the electric market remains more than 90 per cent dependent on coal.¹⁴¹ ERO seems to be aware of that, and in fact it launched a

¹³⁴ A summary of all initiatives undertaken by the World Bank regarding energy in Kosovo can be accessed in its website, at <https://www.worldbank.org/en/country/kosovo/brief/energy-in-kosovo>

¹³⁵ Ministry of Economic Development, *Energy Strategy of the Republic of Kosovo 2017 – 2026*, Pristina, March 2017, p. 36, at http://mzhe-ks.net/repository/docs/Kosovo_Energy_Strategy.pdf

¹³⁶ *Ibid*, p. 15

¹³⁷ The Strategy foresees the following rates: for small hydro power plants: 67.3 €/MWh, for wind power plants: 85 €/MWh, for biomass power plants: 71.3 €/MWh and for photovoltaic: 136.4 €/MWh

¹³⁸ As of July 2019 there is not even one license for generating photovoltaic energy. The list of licences granted can be accessed in the Public Register of Licenses, in ERO's website, at http://ero-ks.org/2019/Autorizimet_Licencat/2019_07_20_Rexhistri_mbi_Licencat_e_leshuara_eng.pdf

¹³⁹ A study from December 2017 found that similar projects in Albania, Croatia and Macedonia had a substantial impact on the local ecosystems, often affecting protected areas, after having passed a perfunctory environmental impact assessment in the best of cases. See CEE Bankwatch Network, *Broken Rivers, The impacts of European-financed small hydropower plants on pristine Balkan landscapes*, December 2017, at <https://bankwatch.org/wp-content/uploads/2017/12/broken-rivers-bankwatch-study-on-hydropower-in-the-balkans-merged.pdf>

¹⁴⁰ Reuters, *Divided Kosovo mountain village unites to fight hydropower plant*, 11 October 2019, at <https://www.reuters.com/article/us-kosovo-environment-protest/divided-kosovo-mountain-village-unites-to-fight-hydropower-plant-idUSKBN1WQ21H>

¹⁴¹ Kosovo Transmission System and Market Operator, *Installed Generation Capacity*, Pristina, 2019, at <http://www.kostt.com/website/>

consultation process to substantially lower the feed-in tariff for photovoltaic energy, but that led nowhere.¹⁴² Later in the year, it was announced that the government was considering transitioning to an auction system for renewable energy, under which the price of energy would be based on tenders for offers from the different producers. This change would substantially reduce the price for the end user, and it got the support from the European Bank for Reconstruction and Development.¹⁴³

While this energy “transition” takes place, the degrading quality of air due to heavy pollution has been accosting the residents of Pristina for years now. News broke during the campaign that Kosovo has the most annual deaths due to air pollution in Europe.¹⁴⁴ Monitoring of the issue has increased but still there is no consolidated effort to reduce the phenomenon.¹⁴⁵ While exhausts from aging cars and individual households use of coal compounds the problem, Kosovo A and B remain the main culprit, at least for Pristina and its surroundings.¹⁴⁶

Also urban waste is a major problem. On paper, the legal framework is exhaustive and in line with the *acquis*, enshrining the “polluter pays” and “extended producer responsibility” principles.¹⁴⁷ The law also establishes an exhaustive catalogue of types of waste, and a number of regulations further determine how each type should be treated before its final disposal. In practice, the treatment of waste (be it urban, industrial or medical) is almost completely limited to landfilling, which is deemed cheaper and does not require substantial investments.¹⁴⁸ Whatever recycling takes place, is done informally by unregistered, unregulated agents, mostly belonging to marginalised communities.¹⁴⁹ Furthermore, the management chain is overly complicated, as the collection depends on municipal (or regional) public companies, while the landfills themselves are managed by a national public company. In addition, private actors can participate at any stage as long as they have been licensed by the Ministry of Environment.¹⁵⁰

[images/stories/parashikimingarkeses/INSTALLED_GENERATION_CAPACITY.docx](#)

¹⁴² Energy Regulatory Office, *Consultation Paper RES Targets Support Mechanism (20 MW solar photovoltaic)*, Pristina, May 2019, at <https://www.ero-ks.org/2019/Tarifat/Consultation%20Paper-%20RES%20Targets%20Support%20Mechanism.pdf>

¹⁴³ European Bank for Reconstruction and Development, *Support for the Implementation of Renewable Energy Auctions in Kosovo*, TCRS 11932, London, 22 August 2019, at <https://www.ebrd.com/work-with-us/projects/tcpsd/support-for-the-implementation-of-renewable-energy-auctions-in-kosovo.html>

¹⁴⁴ Koha Ditore, *Kosovo, first in Europe in number of deaths from air pollution, parties do not offer alternative* [Kosova e para në Evropë për numrin e vdekjeve nga ajri i ndotur, partitë nuk ofrojnë zgjidhje], 30 September 2019, at <https://www.koha.net/video/186536/kosova-e-para-ne-evrope-per-numrin-e-vdekjeve-nga-ajri-i-ndotur-partite-nuk-ofrojne-zgjidhje/>

¹⁴⁵ The Hydrometeorological Institute of Kosovo runs a network of 9 measuring stations around the country, while the American Embassy was the first institution that started measuring air quality from its seat in the capital. For more information see Pristina Insight, *The Vulnerable Points on the Map: Kosovo's Air Pollution and Causes*, 14 March 2019, at <https://prishtinainsight.com/the-vulnerable-points-on-the-map-kosovos-air-pollution-and-its-causes/>. Measures taken include banning coal burning in public institutions and banning cars in the city centre, Koha Ditore, *Parties running for election neglect air pollution in Kosovo* [Partitë garuese në zgjedhje e lënë në harresë ajrin e ndotur në Kosovë], 26 September 2019, at <https://www.koha.net/zgjedhjet-2019/185990/partite-garuese-ne-zgjedhje-e-lene-ne-harrese-ajrin-e-ndotur-ne-kosove/>

¹⁴⁶ Power plants (Kosovo A and B), numerous outdated cars, use of coal for heating, and inadequate waste management are considered as the main sources of air pollution in Kosovo.

¹⁴⁷ OECD defines “polluter pays” as a principle according to which the person originating the pollution bear the costs of reducing it. “Extended producer responsibility”, for its part, entails that the producer of any good is, in principle, responsible for the life cycle of the product beyond its consumption by the final user, taking over the burden from public institutions. Both principles, although formally in force in Kosovo, are almost unheard of in practice.

¹⁴⁸ Institute for Development Policy, *Waste Management in Kosovo: Identifying challenges in the sector*, May 2018, p. 19

¹⁴⁹ *Ibid*, p. 26

¹⁵⁰ Previously the licensing depended on the Municipalities, but since the reorganisation of the ministry in June 2017, articulated through the Regulation 05/2017, that competence was recentralised.

In theory, the municipalities can finance these services through fee collection from households and businesses, but due to a generalised low collection capacity, they have been struggling to cover the actual costs. In 2018, less than 60 per cent of the population was covered, while the range of fee collection varied from 60 per cent to 80 per cent, depending on the criterion. At the same time, unlicensed, illegal dumping places amounted to 1572.¹⁵¹

The new government needs to completely change the approach from its predecessors. Environment must become a priority, instead of an irrelevant department to give away to minor partners. Policy must extend to engage and educate the public on the damage individual actions can do to the environment and make the public complicit in change. The energy transition needs to be accelerated, and the convenience of building or not Kosova e Re, decided after a public consideration of the facts. That means, increasing the transparency with which the whole process has taken place so far and publishing the relevant information on the conditions of the project and the related contracts. In addition, Environment and Economic Development (or its successor) should coordinate to prioritise the transition to an auction system for renewables, since the current feed-in tariff scheme is working more as an impediment than as a promotion tool.

At the same time, the Ministry of Environment needs to complete its reform and increase its administrative and inspection capacities. It should move beyond monitoring air quality to enforcing the already foreseen countermeasures, such as promoting more efficient heating systems and sanctioning the use of low quality carburant. It should also close illegal landfills, sanction unregistered activities that are damaging the environment and ensure that public and private actors comply with the existing regulation on Urban Waste, while supporting the municipalities in the fee collection, together with the Ministry of Finance. The Ministry of Economic Development, for its part, should strengthen its oversight of the various public enterprises that intervene in the waste management chain; their inadequate practices and internal dysfunctions are resulting in long term environmental and health consequences for the population.

¹⁵¹ Kosovo Environmental Protection Agency, *Municipal Waste Management in Kosovo, Status Report*, Pristina, May 2018, p. 43, at https://www.ammk-rks.net/repository/docs/Municipal_Waste_Management_in_Kosovo_2018.pdf

RECOMMENDATIONS:

- Launch comprehensive public consultations and debate on the future of **energy production**, **decommission** Kosovo A as soon as possible and **renovate** Kosovo B with no delay. If Kosovo C is to be built, minimise its environmental effects in compliance with the **highest European specifications**;
- Reassess the Energy Regulatory Office (ERO), the performance of the agency and staff. Once it is restructured, the **Ministry of Economic Development** should support ERO in transitioning the energy market to an **auction system**;
- Conduct a thorough needs assessment and functional review to reorganise the **Ministry of Environment**; key officials and offices should be investigated and restructured. This new structure should have dedicated units to mainstreaming environmental protection. It must **increase** the number of **inspectors** and sanction breaches of the law.
- Seek membership or support from international **environmental organisations**; i.e. the United Nations, Framework Convention on Climate Change, or International Union for the Conservation of Nature, to catch up with the **Paris Agreement**.
- Mainstream environmental protection, coordinate with the **Academy of Justice** to provide an environmental perspective to **trainings** of prosecutors and courts, as well as with the **Kosovo Academy for Public Safety** to ensure that police officers are trained on environmental issues;
- The **Ministry of Education** shall include environment protection and awareness horizontally in the curricula, in order to change societal attitudes;
- Oversee the performance of municipalities in environmental issues, enhance the **legal basis** and enforce mechanisms for **fee collection** related to urban waste management and support municipalities to extend the coverage of the service. Facilitate establishing **municipal public companies** for those municipalities dissatisfied by the existing regionalised structure;
- In coordination with the Ministries of Health and Economic Development, **design protocols** and define lines of responsibility for **industrial and medical** waste

ECONOMY AND DEVELOPMENT

Eliminating Leaks and Reorganising Agencies and Assets

The state of the economy remains worrisome. Even though in the last decade Kosovo has never stopped growing, the effects of that growth are unequal.¹⁵² Heavily based on services and public expenditure, it failed to boost living standards. According to the Public Pulse Survey executed by UNDP, ‘unemployment’, ‘poverty’ and ‘corruption’ are consistently the biggest problems for Kosovars.¹⁵³

Macro-economic indicators remain dire; unemployment is high, reaching 29.6 per cent in 2018, but the inactivity rate (which measures the number of people who are neither employed nor actively looking for a job, thus not counted as unemployed) is even higher, at 59.1 per cent. That means that the employment-to-population ratio is exceptionally low, barely reaching 28.8 per cent.¹⁵⁴ In other words, for each 10 Kosovars fit for work only 3 have a job. The average salary for those employed is gross €6,696 (monthly €588) according to the Agency of Statistics, less than a sixth of OECD’s average of €42,476 (\$46,686).¹⁵⁵ All of this contributes to an impoverished population, of which almost a third is below the poverty line.¹⁵⁶ To worsen an already complicated situation, some reports have suggested that the informal economy could amount for around a third of the country’s GDP.¹⁵⁷

While a social assistance scheme to support the poorest of the population does exist, it seems the financial aid only reaches 34 per cent of those deemed to be in extreme poverty.¹⁵⁸ Not only are there substantial gaps, such as the lack of an unemployment subsidy, but also very limiting criteria notably reduces the usefulness and accessibility of the various schemes. These need to be reviewed and ultimately reformed to widen the pool of beneficiaries and the incentive to find work.¹⁵⁹

The pension system is particularly faulty, inefficient and incapable of fulfilling its stated goals. It is designed to ensure that all the elderly receive “something” (a minimum baseline payment), but its current layout almost guarantees that monthly allowances are low.¹⁶⁰ To cover for that, several special

¹⁵² According to World Bank figures, from 2011 to 2018 the economy has growth between an annual 4.81 per cent (2011) and a 1.12 per cent (2014), thus avoiding the worst of the Great Recession. In fact, Kosovo has never been in recession since declaring its independence. The statistics can be accessed at <https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?locations=XK>

¹⁵³ UNDP in Kosovo, *Public Pulse VX*, United Nations Development Programme, Pristina, February 2019, p. 13, at https://www.ks.undp.org/content/kosovo/en/home/library/democratic_governance/public-pulse-xv/

¹⁵⁴ The full statistical data can be consulted in the webpage of the Kosovo Agency of Statistics, at http://askdata.rks.gov.net/PXWeb/pxweb/en/askdata/askdata_Labour%20market__02%20Annual%20labour%20market/lfs03.px/table/tableViewLayout1/?rxid=c3e44c2e-1aff-4e4a-b55b-2ca64a485a50

¹⁵⁵ The data can be consulted on the webpage of the Organisation for Economic Co-operation and Development, at <https://data.oecd.org/earnwage/average-wages.htm>

¹⁵⁶ Bertelsmann Stiftung, *BTI 2018 Country Report Kosovo*, 2018, p. 18

¹⁵⁷ Prishtina Insight, *Informal economy: the devil on Kosovo’s shoulder*, 25 June 2019, at <https://prishtinainsight.com/informal-economy-the-devil-on-kosovos-shoulder/>

¹⁵⁸ According to Kosovo Education and Employment Network only 34 per cent of people living on less than €1.82 per day are covered by the social assistance scheme. See KEEN, *Employment and Social Welfare Policies in Kosovo: An Assessment*, P. 72, December 2017, at http://www.keen-ks.net/site/assets/files/1406/assessment_report_on_employment_and_social_welfare_policies_in_kosovo.pdf

¹⁵⁹ For instance a household in which one member performs occasional official work is no longer eligible for the Social Assistance Scheme, even though they may still remain below the poverty line. This in turn creates disincentives for finding any kind of formal job, and pushes marginalised groups towards the informal economy. See World Bank Group, *Kosovo Social Assistance Scheme Study Assessment and Reform Options*, March 2019, at <http://documents.worldbank.org/curated/en/994991557470271998/pdf/Kosovo-Social-Assistance-Scheme-Study-Assessment-and-Reform-Options.pdf>

¹⁶⁰ Pensions are based on 3 components; first, a flat rate pension for all citizens above 65 years old, calculated in accordance with the minimal food basket cost (€75 in 2018). Second, a statutory scheme financed from working contributions (10 per cent of the gross salary) that are credited to the worker and then paid as a lump sum plus fractioned monthly payments until the fund is depleted. Third, complementary pension schemes that in practice do not exist as the market for private pension plans has never developed.

schemes have been developed for specific collectives, which have increased pension costs substantially while fractioning the pension system. In 2019, the State Budget allocated more than €300 million to pensions, financed from taxes.¹⁶¹ In order to ensure the long term sustainability of the system, the Ministry of Labour and Social Welfare proposed a thorough reform in late 2018.¹⁶² According to the structure proposed the State-funded Basic Pension would become a safety network, while labour contributions would be the basis of the pension scheme, in accordance to the pay-as-you-go principle.¹⁶³ This would ensure longterm sustainability, guarantee higher pensions for current and future pensioners and encourage the transfer of potentially thousands of workers from the informal economy.¹⁶⁴

The current system, fragmented as it is and based on various special schemes, incentivises fraud. An exceptionally grave example of this is the case of the pension scheme for war veterans, which should in theory reward those who were members of the Kosovo Liberation Army during the conflict. However, the commission tasked to verify the veteran status (and thus the eligibility) of applicants allegedly used its powers to grant pensions for sympathisers and cronies, resulting in more than three times the number of beneficiaries originally foreseen. While originally the State anticipated an annual spending of 0.7 per cent of its GDP at most, it had to budget almost €58 million in 2019, and in fact it spent more than €70 million (excluding December).¹⁶⁵ The State Prosecution believes that some 19 thousand persons are illegally receiving a pension, and several judicial cases are already ongoing. The previous government attempted to tread lightly on this case, due to the number of people involved, but the new government cannot afford to do so. While the ongoing criminal processes will continue at their own pace, the ministry can exercise its administrative powers; it should immediately create a verification mechanism to reassess the eligibility of every name that figures in the list of veterans, stop payments to those that do not qualify, launch immediate legal action to recover the amounts already paid and refer any perceived misdemeanour to the State Prosecutor for its own investigation.

The State will be hard pressed to find resources to fund the various initiatives already discussed which in a large amount of cases match electoral promises from the parties. According to the Agency of Statistics, for the second quarter of 2019, the State spent €120 million on social protection (24 per cent of its resources), while direct taxation amounted to €82 million (€75.4 million from Personal Income and €6.7 from Property taxes). Education received €74.7 additional million, and Healthcare, €51.1 million.¹⁶⁶ Although taxation on goods balanced the books (it represents more than half the State's revenue), there is a clear difference between social expenses and income. If the new government is to introduce any comprehensive reform programme towards a genuine welfare state it will have to first critically increase the state's tax collection capacity, and then, promote a more balanced growth. In other words, it has to create wealth in order to redistribute it. Thus far, Kosovo has done little to create wealth, and little to redistribute it.

¹⁶¹ The Law on the budget appropriations for the Budget of the Republic of Kosovo for year 2019 allocates €309,612,050 to the 13 existing pension schemes, of which €140,087,706 correspond to the Basic Pension. All of them are financed through Government grants.

¹⁶² The process of public consultation for the Pension Reform can be found at <http://konsultimet.rks-gov.net/viewConsult.php?ConsultationID=40517>

¹⁶³ According to the Pay-As-You-Go system, contributions are not saved in an investment fund, but dedicated to pay the pensions of current beneficiaries. The amount of the allowance is calculated depending on the pensioner's average contribution during his or her working life. This model does not cap the amount to be paid to the pensioners, as it is currently. Instead, the system guarantees a determined monthly pension for the rest of the person's life, since it is financed by active workers.

¹⁶⁴ European Social Policy Network, *Kosovo* Plans Significant Pension Policy Shift*, ESPN Flash Report 2018/77, December 2018, at <https://ec.europa.eu/social/BlobServlet?docId=20547&langId=en>

¹⁶⁵ *lajmi.net, Removals do not reduce the number of veterans – more than 70 million for them only this year [Largimet nuk e zvogëlojnë numrin e veteranëve – veç këtë vit u dhanë mbi 70 milionë euro për ta]*, 6 December 2019, at <https://lajmi.net/largimet-nuk-e-zvogelojne-numrin-e-veteraneve-vec-kete-vit-u-dhane-mbi-70-milione-euro-per-ta/>

¹⁶⁶ The full statistical data can be consulted in the webpage of the Kosovo Agency of Statistics.

Long-term wise, promoting key sectors through subsidies and fiscal facilities (keeping in mind and respecting EU regulations on State Aid), and public investment in services and infrastructure can assist in re-launching the economy. However, such investments and interventions will be costly in the short term, and in order to be socially profitable they must follow a strict cost-effectiveness analysis, avoiding expensive initiatives whose return is dubious.¹⁶⁷

The State could secure resources to finance these activities by concluding a Stand-By Agreement (SBA) with the International Monetary Fund.¹⁶⁸ Through this, the State can access external financing with good conditions, but under close oversight from IMF.

The last SBA concluded in August 2017 after drawing just over €135 million, 12 less than the maximum of €147 previously agreed.¹⁶⁹ Haradinaj's government showed no interest in extending it or seeking a new Agreement. Since the relevance of an SBA is the increased fiscal discipline, the new government should preferably seek support from the IMF whenever it needs financing for its programmes.

Privatisation can be another mechanism for supporting growth, creating jobs, and increasing the size of the economy. The privatisation process has been ongoing for almost 20 years, but its expected benefits have failed to materialise; much of the privatisation was ineffective, corrupt and with no real economic inputs. The Privatization Agency of Kosovo (PAK) has managed to auction more than 500 Socially Owned Enterprises (SOEs), mostly through a spin-off approach (which consists of constituting a new company that inherits the assets of the SOE but not its liabilities, and then selling off the new company), but in most cases these companies have not been successful in the market. By late 2019, PAK still owns more than 2000 unsold assets.¹⁷⁰ In 2018, the Haradinaj government began to transfer on a large scale unsold PAK property to municipalities, reasoning that they needed these assets to foster public interest. In practice, that meant reducing the scope of privatisation, as then the assets would remain publicly-owned. However, these transfers involved a number of properties that had already been disposed of or for which judicial measures had previously been decreed.¹⁷¹ The President took the decisions to the Constitutional Court, which refused to hear the case.¹⁷² After this case, new legislation completely changed the process of transferring property to local institutions. While the old law, in force at the time, foresaw a specific process for assets administered by PAK, the new law just includes a single procedure for the transfer of property from central to municipal authorities, with more relaxed regulations that gives substantially more leeway to the government and curtails the role of PAK in such processes.

There is a generalised sense that privatisation served more for the enrichment of a few than it contributed to the public interest, with a non-transparent process that often profited cronies, while any benefits from the

¹⁶⁷ Prishtina Insight, *A one billion dollar highway: faster roads, poorer people*, 6 July 2019, at <https://prishtinainsight.com/a-one-billion-dollar-highway-faster-roads-poorer-people/>

¹⁶⁸ SBAs are short-term financing agreements concluded between the IMF and a Member State to respond to immediate funding needs for certain initiatives. When a country agrees on a SBA, it commits to adjust its policies to tackle the causes of the fund shortage. In theory, an SBA is both a financing instrument and an engine for economic reform.

¹⁶⁹ See the History of Lending Agreements for Kosovo at the webpage of IMF, at <https://www.imf.org/external/np/fin/tad/extarr2.aspx?memberKey1=555&date1key=2017-07-31>

¹⁷⁰ According to PAK, as of December 2019 it owns 327 assets Prizren, 514 in Pristina, 577 in Peja, 371 in Mitrovica and 219 in Gjilan, totalling 2008. The full list is available on its website, at <http://www.pak-ks.org/page.aspx?id=1,74>

¹⁷¹ Between June and November 2018, the Government issued some 20 decisions to transfer assets to municipal authorities. After the controversies, it backtracked, suspending all previously decreed transfer, and annulling the transfer of all already sold or judicially blocked properties. After this was done, the initiative was put aside, and thus far has not been re-launched.

¹⁷² Resolution on Inadmissibility in Case No. K0181/18, Request for assessment of the alleged conflict among the constitutional competencies of the President of the Republic of Kosovo and the Government of the Republic of Kosovo, as defined by Article 113.3 (1) of the Constitution, regarding the decision of the Government to transfer some publicly owned and socially owned properties in the use or ownership of municipalities, Ref. no.: 1385/19, 1 July 2019

process have remained frozen in a Fund without contributing to the State coffers or societal development. While the parties leading after elections agree that privatisation has not reached its goals, they diverge on which actions the new government should take. However, the new government must expedite the process and make it more credible, aimed at attracting reliable investors, removing assets from cronies. This should also include returning all usurped property, which is widespread, in particular in urban areas. Yet, non-privatised land and agricultural property should be transferred to municipalities, which are still in desperate need of real estate for investment.

Looking internally, Kosovo currently has the lowest ratio of State income to GDP in the Western Balkans (27 per cent) and the second lowest ratio of expenditure (30.2 per cent), barely surpassing Albania, which is engaged in a major fiscal consolidation effort to reduce its public debt.¹⁷³ The Tax Administration (TAK) has been acting upon the framework of the Strategic Plan 2015-2020, and has achieved some success in the last few years. From 2016 to 2018 it managed to increase income from taxes by more than 18 per cent, from 386 to 456 million euro.¹⁷⁴ It expects to collect 516 million in 2019.¹⁷⁵ Although that represents an improvement, it is still far too low for the needs of the State.

The informal economy continues to hinder economic growth. Every year, 2 to 3 billion euros are lost in unpaid taxes.¹⁷⁶ With such widespread grey economy, the Government and TAK have struggled to guarantee the fiscalisation of businesses.¹⁷⁷ In an attempt to limit the harm caused to fair and equal competition, TAK has imposed mandatory cash registers to all businesses to address tax evasion.¹⁷⁸ In theory, the process is comprehensive and continuous, but in practice there exists a substantial discrepancy between registered and fiscalised businesses; while there are some 160,000 active businesses in the country, only 30,000 are effectively controlled by TAK.¹⁷⁹ In that sense, TAK, and the Ministry of Trade and Industry, which controls the Business Registration Agency (ARBK), need to cooperate closely to integrate databases to ensure that any and all registered businesses are also overseen by TAK. At the same time, they should enlarge and continue building the capacities of the respective inspectorates to ensure that businesses failing to declare their income promptly receive a tax inspection.

At the core of this problem lies the legislation on taxes, which in many cases remains out of date, ambiguous and full of loopholes, creating an institutionalised niche for grey economy. The previous government started to modernise the fiscal framework. The Assembly passed new Laws on Immoveable Property Tax and Corporate Income Tax, and was considering two others on Personal Income and Value Added Taxes, both at different stages by the time of its dissolution.¹⁸⁰ The new government should retake these projects as soon as it takes office and push them as fast as possible through the legislative process,

¹⁷³ World Bank, *Rising Uncertainties*, Western Balkans Regular Economic Report No. 16, World Bank Group, Washington DC, Fall 2019, at <https://www.worldbank.org/en/region/eca/publication/western-balkans-regular-economic-report>

¹⁷⁴ Tax Administration of Kosovo, *Annual Report on the Tax Administration of Kosovo, January – December 2018*, Pristina, February 2019, p. 19, at <http://www.atk-ks.org/wp-content/uploads/2019/04/ENGRaportiVjetor2018.pdf>

¹⁷⁵ Tax Administration of Kosovo, *Annual Work Plan 2019*, Pristina, February 2019, p. 6 <http://www.atk-ks.org/wp-content/uploads/2019/03/ENGPlaniPun%C3%ABs2019.pdf>

¹⁷⁶ Rajoni Press, *2-3 billions of deficit each year, the Government capitulates with informal economy [2-3 miliardë humbje vjetore, Qeveria kapitullon me informalitetin]*, 20 January 2019, at <https://rajonipress.com/2-3-miliarde-humbje-vjetore-qeveria-kapitullon-me-informalitetin/>

¹⁷⁷ Fiscalisation, in Fiscal Law, is the design of rules and regulations that aim to fight fraud in retail, usually controlling the use of cash registers to ensure that shops and businesses report transactions to the competent authorities.

¹⁷⁸ Radio Evropa e Lire, *Informal Economy in Kosovo, above 30 per cent [Ekonomia joformale në Kosovë, mbi 30 për qind]*, 14 December 2019, at <https://www.evropaelire.org/a/ekonomia-joformale-ne-kosove-/28918270.html>

¹⁷⁹ Buletini Ekonomik, *From 160 thousand businesses registered MTI, only an estimated 30 thousand pay taxes to the state [Prej 160 mijë bizneseve të regjistruara në MTI, vetëm 30 mijë i paguajnë tatim shtetit]*, 28 April 2019 <http://buletinekonomik.com/index.php/2019/04/28/prej-160-mije-bizneseve-te-regjistruara-ne-mti-vetem-30-mije-i-paguajne-tatim-shtetit/>

¹⁸⁰ The Draft Law on Personal Income Tax was passed in second reading in January but never adopted, while the Draft Law on Value Added Tax had only passed the first reading in May.

to facilitate the collection of taxes.

In addition, the previous government started the process of reorganising tax and customs and excise, in order to increase the State's income, as advised repeatedly by the European Union.¹⁸¹ Its legislative programme for 2019 included a Draft Law on Tax Administration and Procedures and a parallel Draft Law on a new Taxation and Customs Agency, which would integrate both the Tax Administration of Kosovo and Customs into a single organisation.¹⁸² While the Ministry of Finance held consultations on the former in early 2019, it has not pushed forward with the latter.¹⁸³ On the contrary, it drafted and approved a new Strategic Plan 2019 – 2023 for Customs in December 2018.¹⁸⁴

The new government should finish the reorganisation and consolidation of the collection agencies by prioritising the creation of the Taxation and Customs Agency, which should see light in its first year. This process allows not only for an assessment of the staffing needs of the new organisation, but it also paves the way for a comprehensive performance assessment during transition, to ensure that the new agency not only has more resources at its disposal, but also that these have the highest possible capacities, in terms of both skills and expertise.

Moreover, the previous government had launched the Economic Reform Program 2019 – 2023, coordinated by the Ministry of Finance and the Office of the Prime Minister, foreseeing 20 priority actions in 8 areas (each dependant on a different ministry).¹⁸⁵ These actions follow an overarching strategy and cover in detail most of the topics that have been discussed above. Completed with indicators for each action, the successful implementation of the programme will ensure a sustainable growth for the coming years. The new government should take ownership of the programme, which neatly aligns with its stated priorities, and distribute it among the responsible ministries for their review. This should facilitate the long overdue economic transformation and provide a sound common economic reasoning for the various intended reforms.

¹⁸¹ European External Action Service, *Kosovo and EU discuss trade, customs and taxation*, Press release, Brussels, 14 June 2018, at https://eeas.europa.eu/delegations/kosovo/46553/kosovo-and-eu-discuss-trade-industry-customs-and-taxation_en

¹⁸² Office of the Prime Minister, *Legislative Program 2019*, Pristina, 11 April 2019, at http://kryeministri-ks.net/wp-content/uploads/2019/05/Programi-Legjislativ-2019_2.5.2019.pdf

¹⁸³ The results of the consultation are available at <http://konsultimet.rks-gov.net/viewConsult.php?ConsultationID=40552>

¹⁸⁴ Customs of Kosovo, *Strategic Plan 2019 – 2023*, Pristina, December 2018, at <https://dogana.rks-gov.net/wp-content/uploads/2019/02/KC-Strategic-Plan-2019-2023.pdf>

¹⁸⁵ Government of Kosovo, *Economic Reform Program 2019 – 2021*, Pristina, January 2019, at <https://mf.rks-gov.net/desk/inc/media/4FC9C8D0-8ADF-4DD1-97B8-BB2DD36150C3.pdf>

RECOMMENDATIONS:

- Launch **targeted investments** to facilitate economic **growth**, following a careful **cost-effectiveness analysis**;
- Retake and prioritise the **reform of pensions**, streamlining pension schemes and transitioning towards a pay-as-you-go model, to ease the burden on the State Budget;
- Review the **list of War Veterans** to ensure that no one without proper entitlement receives pension and support prosecution and courts with evidence;
- Negotiate a **Stand-by Agreements** with the International Monetary Fund to benefit financial support and support the **fiscal discipline**;
- Reorganise and expedite the **privatisation** process to attract reliable investors; recover usurped public property. Limit transfer of the remaining unsold assets to municipalities, to include vital assets and land that contribute to the development of the local economy;
- Extend the **fiscalisation capacities** of TAK, ensure that businesses make proper use of **cash registers**, make mandatory and increase the number and skills of **inspectors** and prioritise high income establishments to fight the informal economy;
- Complete the **Fiscal Reform** and introduce the missing Draft Laws on **Immovable Property Tax** and **Corporate Income Tax**;
- Establish a unified tax collection agency, integrating the **Tax Administration and Customs Agency**, with support (and best practices) from Scandinavian countries, and conduct an **integrity check** for officials transferred to the new agency;
- **Advance** the implementation of the **Economic Reform Program 2019 - 2023** ,designed by previous governments.

The Balkans Policy Research Group is an independent, regional think-tank based in Prishtina, Kosovo. We provide timely policy analysis and recommendations on a wide array of state building issues; institutional and democratic consolidation; minority integration and good neighbourly relations: European integration and policy change. We have decades of experience in policy reporting and development, strategic thinking and advocacy with governmental, international and non-governmental organisations.

Our rigorous, detailed, impartial reporting, always based on in-depth fieldwork, is the core of our work.

We go beyond mainstream positions and seek to make change through creative, feasible, well-measured and forward-looking policy recommendations with the aim of helping develop strong, vibrant democracies, prosperous states and societies based on rule of law in the Western Balkans.

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The Policy Dialogue promotes Kosovo's domestic dialogue, cohesion and reform-making agenda.

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The Kosovo Serbia Policy Advocacy Group (a forum for Cross-Border Civil Society Cooperation) that aims to communicate, promote and enhance dialogue toward full



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