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THE IMPLEMENTATION OF AGREEMENTS OF KOSOVO-SERBIA POLITICAL DIALOGUE

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I. Introduction

This report focuses on the analysis of implementation of agreements deriving from the political dialogue of Kosovo and Serbia at the level of the Prime-Ministers under the facilitation of the European Union (EU). It looks at the steps undertaken by Kosovo institutions for the implementation of the agreements reached so far.

On 28 June, 2013, the European Council decided to open accession negotiations with Serbia latest by January 2014, pending full implementation of the agreement reached with Kosovo in April 2013, and authorized the opening of negotiations on a Stabilization and Association Agreement with Kosovo.¹ The EU, thus, rewarded Kosovo and Serbia for the steps the two had taken to “normalize” their relations. Prishtina and Belgrade, backed by the EU and the United States (US), upgraded their technical dialogue to a political one following the lacking implementation of some agreements reached during the technical dialogue and the issue of the North remaining unresolved. The EU, through the Office of the High Representative Common Foreign and Security Policy Catherine Ashton, became the sponsor and the facilitator of the dialogue. The meetings continued to take place in Brussels, in the premises of the HR. The role of the “facilitator” was considered necessary to keep the process running and to ensure, through the EU “carrot and stick” policy, that whatever is agreed during the process is indeed implemented on the ground. Given the importance of EU accession gravity, Brussels began to use the progress in the dialogue as “gate keeping” for both countries’ progress towards EU accession. This approach is also used to strengthen its role as a guarantor of the agreements by convincing the parties to the dialogue to reach consensus and implement the agreements should they want to move forward with the EU accession process.

In Kosovo there were expectations that the dialogue would lead to a document on normalization of relations between Kosovo and Serbia – some GoK officials called it even a “peace treaty” between the two countries. Instead, the first agreement brought to Kosovo internal rearrangements. Kosovo government officials mislead the public opinion by a very poor public communication, lacking transparency, untrue public statements, and an overall defensive tone. The government officials used hard rhetoric to convince the public that they would “never” engage in political dialogue with Serbia, that they would never talk about the north of Kosovo, and that they would never accept any internal rearrangement.

In order to strengthen this negation position, the Assembly of Kosovo adopted on 18 October 2012 a “Resolution on Normalization of Relations between Republic of Kosovo and Republic of Serbia” to support the dialogue, and which states that the results of the dialogue should be in compliance with Kosovo’s sovereignty, international subjectivity, territorial integrity and internal constitutional order of Kosovo. Further, the resolution stated that the agreements reached in the political dialogue should be ratified in the Kosovo Assembly. This resolution was immediately violated, further decreasing the Kosovo public trust on the result of the dialogue. The Assembly of Kosovo in total voted on two Resolutions on the dialogue and three contradictory motions on the same.² If it were to be respected by the GoK, the dialogue could not have produced any further results.

¹ European Council 27/28 June 2013 Conclusions, see:

http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/137634.pdf

² On 10 March, 2011 the Assembly adopted a Resolution on the dialogue between Republic of Kosovo and Republic of Serbia, supporting the dialogue on “practical” issues and confining the dialogue only to “technical” issues. The second

On 19 April 2013 Kosovo and Serbia agreed to “First Agreement on Principles Governing the Normalization of Relations” which was hailed as historic. During May 2013, Kosovans were asked how they felt about the “Thaci-Dacic Agreement” struck in April with the facilitation of the European Union. The Kosovo Albanian respondents were divided – 43% were in support of the agreement, 38% opposed it. Another 19% did not know what to think or had no answer.³ Kosovo Serbs were less supportive – the ones living in northern Kosovo predominantly opposed the agreement while those south of Ibar river predominantly supported it. Only 21% of Kosovans thought the agreement was more to Kosovo’s advantage; about 30% said Serbia would profit, 37% saw both countries profiting from the agreement while the rest had no opinion. The “First Agreement” was ratified in the Assembly of Kosovo on 27 June 2013, where out of 120 MPs 84 voted in favor, 3 against and 1 abstained.

The dialogue between Kosovo and Serbia has diverted the focus of public policy making from Kosovo’s more difficult problems, such as dire state of economy, fight against corruption and organized crime, education, and healthcare. These are policy issues that have been overshadowed by the attention which has come to occupy headlines of the media and is ranked as one of the main issues with which Kosovo is faced.

II. The EU Council requirements (December 2012)

In its 2012 December conclusions the EU Council stated that Kosovo and Serbia must improve their relations, as one of important criteria for their path towards EU integration, while not blocking one another in these efforts. Part of that was also the implementation in good faith of all agreements reached in the Dialogue.⁴

The EU conditions for results in the political dialogue were outlined in the EU Council Conclusions of 11 December, 2012 whereby Serbia was requested to: (1) dismantle its illegal justice and police institutions in northern Kosovo, (2) make the funding of its sponsored institutions in Kosovo transparent, and (3) through increased cooperation with EULEX, ensure that the mission can fully implement its mandate in the north without Belgrade’s interference to EULEX’s intentions to opening and making the Mitrovica Court House functional. Kosovo on the other hand was guaranteed of a single institutional and administrative setup throughout the entire territory; but it

Resolution on normalization of relations between Republic of Kosovo and Republic of Serbia adopted on 18 October, 2012, giving the green light for the meeting between Prime Minister Thaci with his Serbian counterpart in Brussels the next day. The Assembly also voted contradictory motions on the dialogue. On 7 December, 2011 the opposition LDK, Vetevendosje and AAK voted on the motion on full political, economic and trade reciprocity with Serbia throughout Kosovo, effectively if enforced, ending the dialogue. This motion was superseded on 20 January 2012 by a new motion supported by the governing parties which resumed the dialogue. On 10 May 2012 the Assembly voted four recommendations on the missing persons demanding that GoK conditions further talks with Serbia with resolving the fate of the missing persons. See KIPRED Report “The Analysis of the implementation of the technical agreements between Kosovo and Serbia,” (2013).

³ Kosovar Center for Security Studies, “Kosovo Security Barometer - The Voices of Kosovo: Insights and Perceptions”, May 22, 2013, pg. 11. <http://www.qkss.org/en-us/Reports/Kosovo-Security-Barometer---The-voices-of-Kosovo:-Insights-and-Perceptions-157>

⁴ See Council Conclusions on Enlargement and Stabilization and Association Process, 3210 General Affairs Council Meeting in Brussels at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/134234.pdf page 11.

was also expected to develop an outreach plan for northern Kosovo and address “particular needs” of the local Serb population in the northern Kosovo.

Both the EU Council and the EU Commission aim to ensure that with the political dialogue none of the parties can block each other in the European accession process, while explicitly calling Serbia to respect Kosovo’s territorial integrity.⁵ In order for both countries to receive the next “carrot” in June 2013⁶ they must show “a visible and sustainable improvement of relations”, full implementation of the reached agreements, including concluding agreements on energy (with Serbia fully respecting the Energy Community Treaty); telecommunications, and enhance inclusive regional cooperation. Fundamentally, Serbia should remove its security apparatus from northern Kosovo, dismantle parallel municipalities, and ensure the stability of Kosovo Serbs in the north.

The dismantling of Belgrade’s structures in northern Kosovo was requested to be done in a transparent and cooperative manner and by respecting what the Council called “the particular needs of the local population,” in order for Kosovo to establish a single institutional and administrative set up and to cooperate with EULEX and Kosovo Police in the North.⁷

In its conclusions, the EU Council expressed its support for the political dialogue between Kosovo and Serbia, welcomed the progress made in the implementation of the IBM, the decision to appoint the liaison persons, the agreement regarding the transparent flow of money for Serb Community, and the decision of Kosovo to improve the protection of Religious and Cultural Heritage through the creation of an exclusive special unit within KP.⁸ Once again the EU was using the policy of “carrot and stick” to push the two sides to move forward now with the so called the normalizations of relations between Kosovo and Serbia and the improvements on mutual relations were linked with both countries path to EU integration.

III. Political Dialogue Conclusions/Agreements and Implementation

During the thirteen rounds of meetings held between Kosovo Prime-Minister Hashim Thaci and Serb Prime-Minister Ivica Dacic, from 19 October 2012 to 21 June 2013, six agreements/conclusions were reached. The list below summarizes only the meetings that resulted with conclusions/agreements. The period covered for the monitoring of the implementation of the Agreements was October 2012 – June 2013.

- Agreement: Feasibility Study Working Group for Prishtina-Nis motorway:

The conclusions were reached on 7 November 2012,⁹ agreeing amongst other things for the continuous support of both sides on the full implementation of all of the technical agreements including Integrated Border Management. The parties also agreed to continue working on enhancing the protection of Serbian cultural and religious heritage in Kosovo and to create a joint technical working group to prepare a feasibility study for Nis-Prishtina motorway.

⁵ See EU Commission Enlargement Strategy 2012-2013:

http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/strategy_paper_2012_en.pdf

⁶ If substantial progress is achieved, the EU Council may decide in June 2013 to grant Serbia the date for accession negotiations; while Kosovo may receive the opening of SAA negotiations.

⁷ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/134234.pdf page 11

⁸ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/134234.pdf page 11

⁹ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/133369.pdf

Implementation: No steps have been created to establish the agreed joint feasibility study working group for Prishtina-Nis motorway.

- Agreement: Exchange of Liaison Officers/A special multiethnic Kosovo Police unit to protect Serb Religious and Cultural Heritage/:

The main points of conclusions reached on 4 December 2012,¹⁰ were on the exchange of respective Kosovo and Serbia Liaison Officers; identifying and ensuring of ways for transparent flow of money in support of the Serb community in Kosovo; The establishment of the multiethnic special police unit within the Kosovo Police that will be tasked with the protection of Religious and Cultural Heritage and working on the continuation of work on energy and telecoms at the level of experts. The conclusions also addressed partly the intensification of cooperation in between the respective commissions for missing persons.

Implementation:

Liaison Officers: The first action to implement the First Agreement occurred on 17 of June 2013 with the deployment of the Liaison Officers (LO) in Belgrade and Prishtina respectively. Only two days after starting his mission as a Kosovo LO to Belgrade, the former Kosovo Ambassador to Sweden, Lulzim Peci, offered his resignation to Kosovo's President, Atifete Jahjaga. The main reason being: criticisms he has received from Kosovo Prime-Minister following his statements that a normalization of relations with Serbia will be reached only when Serbia and Kosovo mutually recognize each other as sovereign states.¹¹ Similarly, the Serbian LO to Kosovo, Dejan Pavicevic declared in Prishtina that Serbia will never recognize Kosovo. After Peci's resignation, Valdet Sadiku, the former Kosovo Ambassador to Croatia, was appointed as Kosovo's LO to Serbia on 20 June 2013. Open channels of communication of LO's with governmental institutions of respective hosting countries are the key for their successful functioning.

Special multiethnic Kosovo Police Unit to protect Serbian patrimony: Kosovo Police has created the unit for the Security of Cultural Heritage and Religious Facilities in April 2013 with 200 police officers. This unit is established in the framework of the Division of Special Units, respectively on the Directorate for the Security of Special Significant Facilities and Personalities. The mission of these 200 members of the unit consists of ensuring the Cultural Heritage and Religious Facilities on external premises. This unit works closely with three components, with the municipalities, police stations and the religious clerics.

Energy/Telecommunications: In relation to the work on energy and telecoms expert working groups failed to reach an agreement. The Telecom Serbia had proposed that Kosovo has its own telephonic prefix but the application to be processed via Serbia to the International Telecommunication Unit. The Kosovo objected to this proposal, and also refused to provide Serbia a license for its company "Telekom Srbija" to operate as a domestic company in Kosovo, as only domestically registered companies can apply for such licenses under Kosovo's rules. A similar response was given to Serbia in their request on energy and licensing a supply power in Kosovo.¹²

¹⁰ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/134038.pdf

¹¹ <http://www.koha.net/?page=1,13,149594>

¹² <http://www.kosova-sot.info/ekonomi/ska-marreshje-per-telekom-dhe-energji>

Due to the failure of reaching any conclusion, the discussions were taken over by two Prime-Ministers that haven't reached an agreement so far.¹³

- Agreement: Special Fund for Northern Kosovo:

On 17 January 2013, building on the agreement on IBM reached on 4 December 2012, the two Prime-ministers provisionally agreed on the ways of collection of customs duties, levies and VAT.¹⁴ The conclusions agreed came at the time of the subsequent implementation at four crossing points of the IBM agreement. Through this agreement, the EU maintained Kosovo as a single customs zone, while the Kosovo Serbs in the north will begin paying customs duties, levies and VAT in return for a joint GoK-EU-northern Kosovo Serbs Fund for economic and infrastructural development of northern Kosovo.

Implementation: The establishment of IBM posts required that all the goods entering Kosovo in this part are subject to custom duties as required by the Kosovo laws, which the Kosovo Serb citizens refused to accept and pay duties that go to the Kosovo budget. A solution for this dispute was announced to have been found in the meeting between Prime-Minister of Kosovo and Serbia, held on 17 January 2013, although details of the agreement were not made known. Both sides, Kosovo and Serbia, gave contradictory accounts of what has been agreed

As a result of the agreement, Kosovo government proposed the amendment of the Kosovo Budget Law for 2013 in order to implement the agreement. The draft law was preceded to the Kosovo Assembly Budget and Finance Committee that is expected to approve the amendment of the Kosovo Law on Budget in a meeting scheduled for 26 of June 2013. The changes proposed by the government are by adding as a new paragraph in Article 9, that states: 'All public money collected from goods imported from businesses registered in North Mitrovica, Zubin Potok, Leposaviq or Zvecan, and that are intended for consumption in these municipalities, in the moment of entry into Kosovo through custom points Jarinje(point 1) or Bernjak (point 31) will be send to the Kosovo Fund identified and registered in the Information System of Financial Management of Kosovo and be divided for the Trust Development Fund established by the EU Special Representative in Kosovo in an account opened within a Commercial Bank.'

The estimations for the budgetary implications in implementing this agreement have been estimated at around 6 million Euros, with 10 million Euros provided by the EU and Serbia, a total of 16 million Euros. This Fund will be managed by the EU Office in Kosovo, the GoK, ZSO and with an undetermined role of the Government of Serbia.

In the last five years, KIPRED has advocated for a Special Fund which would include four northern Kosovo Serb majority municipalities and Mitrovica South. This would have ensured a balanced development of a region which has historically been a single economic area, due to dependence on Trepca mines. Furthermore, such a solution would also be multi-ethnic and would serve to bridge the severe ethnic divide in northern Kosovo. Exclusion of Mitrovica South from this Fund cements the division at the Mitrovica bridge, and instead of contributing to development across ethnic-lines it will deepen the ethnic division.

¹³ <http://www.kohaditore.com/?page=1,13,149754>

¹⁴ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/134784.pdf

- Agreement: First Agreement of Principles Governing the Normalization of Relations:

On 19 of April 2013 in the tenth meeting between Kosovo and Serbia Prime-Minister, a 15 point agreement establishing the parameters for inclusion of northern Kosovo within Prishtina's legal framework was reached. The Agreement creates the Association/Community of Serb majority municipalities in Kosovo, to be created by the four Serb northern municipalities of Kosovo. The Association/Community will receive legal guarantees by Kosovo and Serbia, and an initial governing authority over five areas: economic development, health, education, urban and rural planning. Additional competencies may be delegated by the GoK. Members of the Serbian Security structures will be absorbed into Kosovo equivalent structures. A new legally defined region of four northern municipalities will have its own regional police commander, while the second instance court – the Appellate Court – will be divided through the establishment of a separate panel of Kosovo Serb judges which will deal with all Kosovo Serb majority municipalities. Kosovo local elections will be organized in northern municipalities in 2013 with the facilitation of the Organization for Security and Cooperation in Europe (OSCE). Finally, with this agreement Kosovo and Serbia pledge not to block each other in their EU path. In the Agreement, the parties had committed to find solutions to energy and telecommunications by 15 June, 2013, including an implementation plan by 24 April 2013.¹⁵ None of the deadlines have been respected.

- Agreement: Implementation Plan:

On 21 of May 2013, instead of 26 April as specified on the First Agreement, the two Prime-Ministers and HR Catherine Ashton initialed the implementation plan on the principles governing the normalization of relations.¹⁶ Under the Implementation Plan parties agreed that the Implementation Committee consisted of both sides under the facilitation of the EU, will oversee the process in the following areas: Both Kosovo and Serbia shall adjust their legal frameworks in order to implement the First Agreement; Create a management team for the establishment of the Association/Community; Set-up a working group to develop detailed plans and timelines for the integration of the Serbian Security personnel into Kosovo structures and appoint an Acting Regional Commander for Northern Kosovo; Establish a working group that consists of both Serbia and Kosovo representatives to develop a plan on the integration of the Serbian judicial authorities into Kosovo structures, including basic courts and public prosecutors offices in Northern Kosovo; and lastly the Implementation Committee will initiate the discussions and under the lead of the OSCE of the working groups decide on the municipal elections in Northern Kosovo. The Implementation Plan also enlists deadlines when the actions enlisted should end. In ending the plan specifies in the general provisions that all funding of parallel structures by Serbia in Northern Kosovo should be made available to the Implementation Committee and both sides should agree on the principles for transparent funding. Finally, in the meeting that was held on 20 of June 2013, thirteenth consecutive meeting of both Prime-Ministers, issues regarding justice, police and municipal elections were discussed and agreed upon.¹⁷

- a) Adjustment of the Legal Framework:

¹⁵<http://www.rts.rs/upload/storyBoxFileData/2013/04/20/3224318/Originalni%20tekst%20Predloga%20sporazuma.pdf>

¹⁶ <http://euobserver.com/media/src/0807580ad8281aefa2a89e38c49689f9.pdf>

¹⁷ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/137550.pdf

The Implementation plan calls for enactment of “all necessary legal changes” by both Kosovo and Serbia required for the implementation of the First Agreement by mid June 2013. This deadline was not respected.

The First Agreement reached in Brussels between Kosovo and Serbia on 19 April 2013, creates a de-facto Kosovo Serb government (the Association/Community) with conflicting legal guarantees by Kosovo Constitution and the applicable law. Hence, the government proceeded to Kosovo Assembly on 28 of May 2013 the agreement as a Draft Law on ratification of the “First International Agreement Of Principles Governing The Normalization Of Relations between the Republic of Kosovo and the Republic of Serbia” and the implementation plan for the agreement.¹⁸ Under Kosovo’s Constitution international agreements should be ratified by two thirds (2/3) of votes when issues of territory, peace, alliances, political and military issues and fundamental rights and freedoms are changed.¹⁹ Further, international agreements - ratified by the Kosovo Assembly - have superiority over the Constitution and laws of Kosovo, in accordance with the Article 19, paragraph 2 of the Kosovo Constitution.²⁰ On the other hand, whether this agreement can be qualified as international agreement has been a subject of Kosovo domestic debate as the agreement has been initialed as a final authentic draft but not signed neither with the Serbian Prime-Minister nor HR Catherine Ashton.²¹ On 27 June, 2013 the Assembly of Kosovo ratified the Agreement as an international agreement by 84 votes in favor, 3 against, and 1 abstention.

The First Agreement was also voted as a Resolution by Kosovo Assembly, with two thirds of majority votes on 22, April 2013.²² The Serbian government voted in the government meeting of 22 of April on the approval of the First Agreement, followed by an approval vote of the Serbian Parliament on 26, April 2013 by 173 votes in favor, 24 against, and 1 abstention out of total 250 MPs.

In the meantime Kosovo continued to amend its laws in order to implement the First Agreement requirements. In June, three proposals were submitted to the Assembly on amending the Law on Local Self-Governance, the Law on Protection and Promotion of the Rights of Communities And their Members in Republic of Kosovo and the draft Law on Amnesty of Kosovo.

It remains unclear how many laws will be changed. Initially a senior official in the Prime-minister’s office stated that around 40 to 50 laws will be amended.²³ According to information by 26 June 2013 from the GoK only three laws will need amendments i.e. the laws that have been sent to the Assembly. This is a new tendency to lead the process of legal adjustments either after ratification of the First Agreement, or more likely by overstretched creative interpretations of the current laws. In any case, even if the decisions are not coherent with the current legal framework of Kosovo, the ratification of the First Agreement as an international agreement supersedes both the Constitution

¹⁸ http://www.kryeministri-ks.net/repository/docs/Vendimet_e_mbledhjes_se_132-te_te_Qeverise_2013.pdf

¹⁹ See Article 18, paragraphs 1 and 2, of the Constitution of Republic of Kosovo at <http://www.kuvendikosoves.org/common/docs/Constitution1%20of%20the%20Republic%20of%20Kosovo.pdf>.

²⁰ Article 19, paragraph 2 states that “Ratified international agreements and legally binding norms of international law have superiority over the laws of the Republic of Kosovo.”

²¹ See First Agreement at

<http://www.rts.rs/upload/storyBoxFileData/2013/04/20/3224318/Originalni%20tekst%20Predloga%20sporazuma.pdf>

²² <http://www.assembly-kosova.org/?cid=1,128,5582>

²³ <http://www.gazetatribuna.com/en/?FaqeID=2&LajmID=310>

and the laws of Kosovo, hence disabling legal initiatives against the implementation of the legal provisions deriving from the Agreement.

On the Serbian side, it remains unclear when will Belgrade enter the legal codification of the First Agreement. Numerous officials from Belgrade have claimed that Serbia will enact a “Law on substantial autonomy for Kosovo and Metohija”, including provisions for Community of Serb Municipalities at a later stage.

The Assembly of Kosovo ratified the First Agreement without Kosovo’s prior clarification of which legal steps Serbia will undertake for the implementation of the Agreement. This may bring a stalemate to implementation due to “creative ambiguity” which gives the power to the two parties to treat the Agreement through their legal lenses, i.e. Kosovo as an international agreement, Serbia as a domestic affair through enacting a constitutional law.

b) Community of Serbian Municipalities:

The First Agreement enabled the establishment of the Community of Serb Municipalities (ZSO). The Government of Serbia on 14 June 2013 appointed ZSO Management Team. The Government of Serbia appointed four officers of this team Igor Kalamar (NS) – Mitrovica North, Ljubomir Maric (SNS) - Zvecan, Dragan Jablanovic (SPS) - Leposavic, and Dejan Radojkovic (SNS)- Zubin Potok.²⁴ This Management Team will draft the Statute of the ZSO, with a provisional authority governing authority until after municipal elections. Following municipal elections the Preparatory Team will be dissolved. Prishtina and Belgrade still have to produce – through a working group – a detailed plan and timeline for the integration of Serbian security personnel into Kosovo structures and the establishment of any new structures required under the agreement to be carried out with the assistance of EULEX. The ZSO Management Team functions outside of Kosovo’s state authority. Its appointment by Belgrade has created a precedent of Serbia’s supremacy and future joint governance with Prishtina of northern Kosovo.

On 18 June, 2013 the Government of Kosovo amended the Law on Local Self-Government, to include the ZSO in it, including provisions for dissolution of ZSO and its general scope of work; and amended the Law on Protection and Promotion of Communities and their Members – specifying representation of ZSO in Community Consultative Council (CCC) within the Office of the President (OP).

The Implementation plan called for the creation of a Management Team by both parties for the establishment of ZSO by end of May, 2013. This deadline was not respected. Furthermore, there was no formal endorsement of the Serbia appointed Management Team by the Government of Kosovo, as the Implementation plan envisaged.

c) Police:

The Implementation plan calls for establishment of a joint Kosovo-Serbia working group to implement Articles 7-9 of the First Agreement, and the appointment of an Acting Regional Police Commander for four Kosovo Serb northern municipalities by end of May, 2013. This deadline was not respected.

²⁴ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/137476.pdf

Following the meeting of prime ministers in Brussels on 20 June, an acting Regional Police Director for the four northern municipalities was appointed by Kosovo Minister Bajram Rexhepi on 25 of June 2013, proposed by Belgrade on behalf of ZSO and northern municipalities. There was no legal basis for the appointment of the Regional Police Director for Regional Directorate of Mitrovica-North. Even though the Kosovo law on Police in Article 40, 41 and 42²⁵ provides details on appointments of Regional Directors of Police and Station Commanders in municipalities with Serb Majority, after the proposal of the Municipal Assembly and approval of Police General Director and the Ministry of Internal Affairs. The creation of Regional Commands and their territorial jurisdiction are allowed only after the decision of the Police General Director. No proposal by the Police Director General is referred as a basis in the Ministers decision.²⁶

Nenad Djuric appointed by the Kosovo Minister Bajram Rexhepi as Regional Director for Mitrovica-North Region, was dismissed from service in Kosovo Police in 2011 by explicit proposal of the Police General Director and the decision of Minister Bajram Rexhepi. Djuric had been close to Zvonko Veselinovic and other controversial and underground centers in northern Kosovo, and was dismissed from Kosovo Police for misconduct and disobedience and aiding criminal activities. His appointment was done even before the vote of the Amnesty Law by the Assembly of Kosovo.

By mid-June Serbia disclosed its 800 security sponsored personnel in northern Kosovo, including the names of employed in judiciary, and in accordance with the First Agreement demanded for their full integration in Kosovo's institutions.

d) Justice:

Article 10 of the Agreement of principles governing the normalization of relations²⁷ foresees the integration and operation of judicial authorities within the Kosovo legal framework. Furthermore, the agreement states that the Appellate Court in Prishtina will establish a panel composed of a majority of Kosovo Serb judges to deal with all Kosovo Serb majority municipalities. A division of this Appellate Court, composed both by administrative staff and judges, will sit permanently in northern Mitrovica (Mitrovica District Court). Each panel of the above division will be composed by a majority of K/S judges. Appropriate judges will sit dependent on the nature of the case involved.²⁸ In addition, on its forth clause the Implementation Plan of the agreement states that by 15 June, Serbia will provide information on the number of its judiciary personnel employed in Kosovo who have expressed an interest in joining Kosovo structures, immediately after the law on Amnesty is passed, while by the end of year the integration of judicial authorities will have been completed. All Serbian court premises in Kosovo will have been closed and new bodies are set up, and personnel integrated into Kosovo system.²⁹

By mid-June, Serbia informed the branch of its Appellate Court employers in northern Mitrovica to receive cases by 15 July; solve as many cases by 31 August 2013, and cease of contract to all employers by 1 September, 2013.

²⁵ See Law on Kosovo Police at http://www.kosovopolice.com/repository/docs/Ligji_i_Policise1.pdf

²⁶ Ibid, Article 32.

²⁷ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/136875.pdf

²⁸ <http://www.rts.rs/upload/storyBoxFileData/2013/04/20/3224318/Originalni%20tekst%20Predloga%20sporazuma.pdf>

²⁹ <http://euobserver.com/media/src/0807580ad8281aefa2a89e38c49689f9.pdf>

e) Law on Amnesty:

The Implementation plan calls for enactment of Law on Amnesty in Kosovo by mid June, 2013. This deadline was not respected. On 25 June 2013, after the agreement reach in Brussels with the Serbian side, the Government of Kosovo approved the draft law on Amnesty.³⁰ Serbia had conditioned the dissolution of its sponsored structures in police and judiciary with the approval of this law.³¹

f) Municipal elections:

The Implementation plan envisaged the end of October 2013 as the month when local elections in Kosovo will be held. This deadline was not respected. The municipal elections were discussed on the 20 of June 2013 meeting between two Prime-Ministers. No details were made public on the date set for the elections. Only Prime-Minister of Serbia Dacic declared that the elections will be held on 3 of November 2013. Later on Thaci also announced that Kosovo will hold its municipal elections on 3 of November 2013. This was also confirmed few days earlier, by Vice Prime-Minister Edita Tahiri that the date set for municipal election was proposed by the EU as the most appropriate date.³² All Kosovo political parties, apart from Vetevendosje Movement, have supported 3 of November as a date for holding municipal elections, despite a previous all party consensus to hold the municipal elections by 20 October, 2013.

IV. Way Forward

Full normalization of relations between Kosovo and Serbia is very important for the future stability and democratic development of the Western Balkans. The current position of a majority of EU member states is that Serbia cannot join the EU without recognition of Kosovo's independence, regardless that there are no public calls for this decision. Approximation with the EU of both Kosovo and Serbia should lead from current transition to normalization and from normalization to full inter-state cooperation at bilateral and multilateral levels. This process will take time, but for a successful normalization and cooperation the following *key issues* should be pushed forward:

Key mid-term issues:

- **Comprehensive agreement on normalization of relations** – A legally binding agreement on normalization of relations should regulate the entire relationship between Kosovo and Serbia in absence of mutual formal recognition. This agreement should also bring the recognition of Kosovo from the international sphere to a bilateral unresolved issue with Serbia. It should, among other things, open the door for Kosovo's membership in the United Nations and all other multilateral international organizations. This agreement should also include aspects of political cooperation at bilateral and multilateral levels; security cooperation and fighting cross-border organized crime; establish the basis for future defense cooperation that would enable the withdrawal of KFOR in the years to come; as well as institutionalizing economic cooperation.

³⁰ http://www.kryeministri-ks.net/repository/docs/Vendimet_e_mbledhjes_se_135-te_te_Qeverise_2013.pdf

³¹ <http://www.telegrafi.com/lajme/vulin-shperberja-e-strukturave-ilegale-pas-ligjit-per-amnisti-2-32932.html>

³² <http://www.telegrafi.com/lajme/propozimi-i-be-se-zgjedhjet-lokale-me-3-nentor-2-33410.html>

- **Reconciliation** – The issue of the 1,754 missing persons is a big obstacle to begin reconciliation, which supports long-term normalization and cooperation. This humanitarian issue must receive decisive focus, with a legal follow up to investigations and prosecution of the perpetrators of crimes against the civilians. At the same time, the return of refugees and Internally Displaced Persons (IDPs) who wish to do so – the Albanians in northern Kosovo and the Serbs south of Ibar - should be ensured. Inter-ethnic and inter-faith dialogue in Kosovo should begin to depoliticize religious institutions and fundamentally increase mutual understanding and tolerance.
- **Political ownership** – the leaderships in Prishtina and Belgrade should stop portraying the results of the dialogue as a pressure of Brussels and Washington D.C, rather they should develop a political rhetoric that serves long-term normalization and eventual cooperation of the two countries.

Key short-term issues:

- **Key aspects of implementation of the First Agreement** – The implementation of the First Agreement will be very complex and difficult. Full regulation of Kosovo Serb education, healthcare and Belgrade’s civil service in Kosovo (the administrative staff of parallel institutions) is needed. There are approximately a total of 21,000 out of 50,000 who reside in Kosovo but paid by Belgrade working in Serbia’s structures in Kosovo. Their future employment, contracts and insurance, among others, must be clarified as soon as possible.
- **Legitimacy of institutions** – the new municipalities and institutions which will be established after the municipal elections in November 2013, including the north, must be a result of free and fair democratic local elections. These institutions should have the trust, confidence and legitimacy of the local population. Both the Kosovo Albanians and Kosovo Serbs should have confidence in the democratic process. At the same time, a voter turnout in northern Kosovo Serb majority municipalities should be substantial to provide legitimacy ; on the contrary a low turnout will endanger the entire inclusion of the north within the new Kosovo legal and institutional framework.
- **Serbia’s legal actions** – Belgrade’s “Constitutional Law”/”Law on Autonomy of Kosovo and Metohija” which explicitly will include the ZSO will lead to dubious and conflicting legal ZSO legitimacy. The ZSO cannot be a part of Kosovo’s and Serbia’s legal framework at the same time.
- **Solving energy and telecommunications** – A final solution to energy and telecommunications is fundamental for Kosovo’s further development of its energy potential and telecommunications. The ongoing negotiations between Kosovo and Serbia on the issue of Telecommunications whereby Kosovo would want to adopt a "country code" from the ITU, while Serbia wants to legalize its Telekom Srbije operations and network over the territory of Kosovo, or at least where the Serb majority population lives in return. While obtaining a "country code" is important and in Kosovo's interest, Kosovo must be cautious

on the solutions on the table. The telecommunications operations in Kosovo are open to all its citizens and there is no ethnic division as to the services provided to all the citizens of Kosovo. Prices are competitive, also compared to the countries in the region. The Kosovo Serbs have equal access to telecommunications services and the main telecommunications providers have branches in majority Serb living areas and a distribution network over almost the entire territory. Therefore, there is no reason for Telekom Srbije to legalize its services in Kosovo through a political dialogue. Telekom Srbije should however be encouraged to apply for a telecommunications license whenever the Telecommunications Regulatory Authority (ART) and the Government of Kosovo decide to do so, a process which should be open and equal to everyone who is interested in obtaining the license.

ANNEX – Implementation of the political agreements between Kosovo and Serbia

1. Civil Registry Books

Agreement: This agreement was reached on 2 July 2011, on the fifth round of the technical dialogue establishing a ‘fully reliable civil registry in Kosovo’³³ requiring Serbia to submit the copies of the originals to EULEX, and EULEX to GoK. EULEX chairs the tripartite ‘joint committee’ consisted also of civil registry experts from Serbia and Kosovo tasked to certify the originality of the copies submitted by Serbia. Serbia agreed to submit only copies of the Civil Registry Books instead of returning original books to Kosovo. The GoK presumes that the full implementation of this agreement will lead to the closure of all Serb parallel structures in this area, namely the closure of illegal offices run by Serbia’s Ministry of Internal Affairs (MIA) responsible for issuing such documents.

Implementation: The agreement had a slow start. The implementation depended on the will of Serbia to start scanning the documents. EU offered to finance a project to buy the equipment and train the staff in Serbia for this purpose. According to the reporting by the Kosovo authorities, “even after Serbia’s promise to speed up the implementation, starting at 20 March 2012, with a capacity of 10 working stations/10 persons”, the process commenced with two months delay (on 10 May 2012) and with half of the capacities (five working stations/five persons).³⁴

Delays were also caused by the Kosovo side. Upon noticing that several transferred documents were incomplete the Kosovo expert team sent a report on deficiencies to the tripartite implementation group. The report was submitted two months later instead of only one week as it was originally promised. Also, delays have occurred in the completion of the lists due to the lack of agreement on the format of the lists and delays on both sides (such as provision of lists but also delays in providing feedback and crosschecking the lists with Kosovo data).³⁵ Additionally, some inventory lists initially provided by the Serbian Government included ‘Duplicates’, i.e. civil registry books which were in original in Kosovo (e.g. Gjakova/Đakovica, Dečan/Dečane) and were a duplicate in Serbia.

Further, by mid-2012, the implementation on the *Large scale scanning project* had not started yet. GoK reported that Serbia asked from the EU an amount of 2.5 million Euro for the implementation of the project. However, this statement was not substantiated by the Danish Refugee Council (DRC) that was selected as an implementing partner for the project by the EU.³⁶ Additionally, for the purpose of rationalizing costs, Kosovo gave its scanning software to Serbia which resulted in the

³³ See Agreed Conclusions 2 July 2011 on Civil Registry Books, paragraph 1.

³⁴ Report on implementation of TD agreements, February – August 2012, Reporting by the Kosovo authorities, 23.08.2012.

³⁵ E-mail communication with Danish Refugee Council, 30 January 2013.

³⁶ The first figure presented by the Office for Expert and Operational Affairs in the Negotiation Process of the Government of Serbia regarding the required costs amounted to approx. 1,2 mill Euro. The EU is financing the project with 1 million Euro, while the Government of Kosovo provided the software, previously developed for a similar project carried out in Kosovo and proposed by the Kosovo Government for the method of data recording and processing. The Serbian Government co-finances the project with covering the salary of 50 staff working on the data processing (1 IT expert and 49 data processing assistants). Additionally, both delegations assigned coordinators (2 respectively) and data verification officers (5 from Kosovo and 4 from Serbia), who support the project implementation. E-mail communication with DRC, 30 January 2013.

decrease in costs of €400,000. The implementation started with slight delays in October 2012, after the three months preparatory phase in October with training of the staff.³⁷

According to the authorities in Prishtina, Kosovo has been largely effective in fulfilling its implementation obligations. The DRC as the implementing partner of the EU, has also found overall willingness on the Kosovo authorities to implement the agreement.³⁸ Further, in October 2012, the Kosovo Ministry of Internal Affairs (MIA) issued a sub-legal act to implement the agreement. Specifically, the Administrative Instruction (AI) on the use of certified copies of original records of civil status of Kosovo was issued defining the procedures on how certified copies in particular cases should be considered as original based on the agreements reached between Kosovo and Serbia in Brussels.³⁹ Even though the legality of such an AI is disputable (see section on implementing the agreements through by-laws) it has shown willingness on GoK side to implement the reached agreements through by-laws.

Problems: The October 2012 report on the state of implementation by Brussels has reported on the delays on the Serbian side. It states that “to date Belgrade has not enacted the necessary amendments to the law on Personal Data Protection to enable EULEX to arrange for copies of the original civil registries kept to be made” adding that “to this date Serbia has not provided feedback on its preferred option for the implementation out of three options developed by the Joint Committee.”⁴⁰

Despite these obstacles, a slow progress has been observed on the ground. According to EULEX in January 2013, 972 certified copies of Civil Registry Books were handed over to the Civil Registration Agency of Kosovo. In total by July 2013, EULEX has handed over 4770 certified copies of Civil Registry books, covering the municipalities of Prishtinë/Priština (1013), Lipjan/Lipjan (848), Obiliq/Obilič (264), Fushë Kosovë/ Kosovo Polje (219) and Glllogoc/Glogovac (425), Podujevë/Podujevo (1066) and Gjilan/Gnjilane (935)⁴¹ This is only around 30% of the total of what it needs to be handed over to Kosovo, as it is estimated that Serbia withholds approximately 12,036 registry books from Kosovo.

2. Freedom of Movement

Agreement: The agreement was reached on 2 July 2011 and began to be implemented on 26 December, 2011. The aim of the agreement is to enable free travel within and through territory of Kosovo and Serbia. The main points of this agreement are: the mutual use of ID card system and driving licenses for cross border/boundary travel; allowing purchasing of the border insurance until a commercial arrangement on mutual vehicle insurance is facilitated under the EU auspices; authorities of Belgrade would allow vehicles with KS plates to travel freely within their territory of Serbia with temporary vehicle plates allowed; including ending the parallelism in vehicle plates in

³⁷ Ibid.

³⁸ Ibid.

³⁹ Article 2 of the MIA AI Nr. 37/2012 at http://www.mpb-ks.org/repository/docs/Udhezim_Administrativ_Nr_37_2012_anglisht.pdf

⁴⁰ Implementation, state of play, Reporting by EU, 3 October 2012.

⁴¹ EULEX, Press release, Copies of Gjilan/Gnjilane registry books handed over, 1 July 2013

Kosovo where all car owners of Kosovo would use RKS or KS vehicle license plates. The latter would introduce Kosovo vehicle plates and ID cards in northern Kosovo by November 2011.

Implementation: Overall, the implementation of the agreement is going well. Through this Agreement, free movement of people from Kosovo to Serbia was established and citizens of Kosovo can now enter Serbia using ID cards and passports issued by the Kosovo authorities, excluding northern Kosovo.

According to Kosovo Police, from December 2011 to May 2013 in total there have been 809,686 persons travelling from Kosovo to Serbia and vice versa – 791,748 persons entered Kosovo from Serbia.⁴² There were 234,416 passenger vehicles, 9,617 buses and 39,202 trucks, entering Kosovo from Serbia. Also, there were 230,014 passenger vehicles, 9,553 buses and 35,149 trucks, entering Serbia from Kosovo⁴³ with RKS vehicle plates; while, there were 15,230 passenger vehicles, 2,514 buses and 8,205 trucks with KS vehicle plates.

Also, only by the end of April 2013, were the two border crossings, Mutivode and Muqibabe linking Kosovo with Preshevo Valley, made operational. The first travelers from Kosovo with Kosovo ID have started travelling on the 1st of May 2013.⁴⁴ The initial cut-off of these two border crossings was also problematic for ethnic Albanians to travel from Merdare to Prishtina – increasing the time of travel by almost one hour. Ethnic Albanians from Preshevo in order to travel to Gjilan, by being unable to use the previous border crossing, had to use Dheu i Bardhe and travel through Bujanovac, making a 25 minute drive longer (about 1 hour).

Problems: The interim solution for issuance of car insurances at the border in between Kosovo and Serbia remains a challenge. Vehicle insurance payments remain very high as Kosovo is still not member of the Green Card Bureau. Kosovo and Serbia have been reciprocally applying different insurance prices for vehicles at the borders.

Serbia's vehicles pay up to €40 for entrance into Kosovo for up to 40 days, €368 for 6 months, and €603 for one year car insurance. Differently, vehicles from Kosovo with KS and RKS vehicle plates have to pay €100 for a 30 day period, including €40 for temporary vehicle plates for Kosovo vehicles with RKS plates, including a €1 Euro daily fee; and a border tax of €13. Such high fees make the travel between the two countries very expensive, especially for citizens of Kosovo travelling to Serbia.

Kosovo insurance companies after some public and GoK pressure lowered the initial vehicle insurance fees, mainly because of the complaints of ethnic Albanians from Preshevo Valley.

The KS vehicle plates and ID cards are still not introduced in northern Kosovo for the ethnic Serbs. They use Serbia's vehicle plates and do not pay vehicle insurance fees. This situation is a violation of the agreement of freedom of movement, which explicitly stated that vehicle plate arrangement would be applied from 11 November, 2011.

⁴² KIPRED e-mail communication with Kosovo Police official, 13 of June 2013.

⁴³ KIPRED e-mail communication with Kosovo Police official, 13 of June 2013.

⁴⁴ 'Today the IBM started implementation in Mutivode and Mucibabe,' at <http://kosovapress.com/?cid=1,2,164441&app=cms>

3. Customs Stamps

Agreement: The agreement was reached on 2 September, 2011. The conclusions stated that the parties agreed to ‘ensure free movement of goods in accordance with CEFTA.’⁴⁵ The Kosovo customs stamps were denominated as ‘Kosovo Customs’ since UNMIK administration, and had not changed after the Declaration of Independence, which Serbia accepted. This meant that GoK waived its right to refer to its constitutional name “Republic of Kosovo” in sanitary and veterinary documents necessary for exporting. This stamp usage was to be reflected in all other documents and communication accompanying the movement of goods.

The agreement on Customs Stamps intended to find a solution acceptable to both sides and to enable goods from Kosovo to enter Serbia. The implementation began in September 2011, initially by Kosovo side. Serbia had started implementation on acceptance of the Kosovo stamps without informing the EU and CEFTA⁴⁶ for starting the implementation.

Implementation: According to GoK the “agreement is being implemented to a satisfactory level.”⁴⁷ Authorities in Prishtina complain of the long waiting-hours (up to 12 hours) for Kosovo exporters at the Serbian border. On the other side there have not been delays reported on the Kosovo side. The EU reported that “after initial difficulties it now appears that trucks from Kosovo with correct documentation are now entering Serbia freely.”⁴⁸

Problems: Nevertheless, Kosovo side continues to complain that: a) Serbia continues to request collection of Value Added Tax (VAT) on exports from Kosovo. This requires Kosovo exporters to register with offices of the Republic of Serbia illegally operating within the territory of Kosovo; b) It has been reported that Serbia prohibited entering of goods with certificates issued by the Kosovo Food and Veterinary Agency even for transit through territory of Serbia to third countries and EU destinations and vice versa.⁴⁹ According to officials of this Agency, Kosovo exporters have not reported problems of such nature except in one case. Generally, exporters have continued to enter freely in Serbia with the certificates from the Food and Veterinary Agency. Additionally, the Agency has reported that Serbia demands another certificate of phytosanitary control that Kosovo officials view as unnecessary.⁵⁰

4. Cadastral Records

Agreement: This agreement was reached on 2 September 2011, and similar to the issue of the Civil Registry Records, it aims to find a solution for the Kosovo Cadastral Records, taken by Serbia in June 1999. The conclusion acknowledged the legitimate right of people to claims of property therefore the parties agreed to establish a fully reliable cadastre in Kosovo. Under the monitoring of the EU, a tripartite implementation group was established. It consisted of a Kosovo, Serb and EU

⁴⁵ See Agreed Conclusions 2 September 2011, on ‘Customs Stamps.’

⁴⁶ The Central European Free Trade Agreement (CEFTA) is a trade agreement between non-EU countries in Southeast Europe. The original CEFTA agreement was signed by Visegrád Group countries. As of 1 May 2007, the parties of the CEFTA agreement are: Albania, Bosnia and Herzegovina, Croatia, Macedonia, Moldova, Montenegro, Serbia and Kosovo (UNMIK).

⁴⁷ Kosova update on implementation of TD agreements 230812, February – August 2012.

⁴⁸ *Implementation, state of play*, EU reporting on implementation of TD agreements, 3 October 2012.

⁴⁹ *State of play in implementation of the Technical Dialogue agreements, September 2012 – November 2012*, Reporting by the Kosovo authorities, 16 November 2012.

⁵⁰ KIPRED phone communication with Kosovo Food and Veterinary Agency official, 12 of June 2013.

experts who, through a technical agency, will act as an adjudication mechanism. The agency will have to identify all gaps in the pre-1999 cadastral records and finally determine the correctness of the cadastral records. The Kosovo Supreme Court in this case is appointed as the second appeal instance to the decisions of the technical agency.

Implementation: In 2012, there has been limited progress reported in the implementation of this agreement by either side. Kosovo side delayed promulgating the required laws on establishing the Technical agency to implement the Agreement. The Draft law on Agency for Comparison and Verification of Property (AKKVP) was approved by the Government of the Republic of Kosovo in November 2012 and has yet to be adopted by Kosovo Assembly.⁵¹ EU, on the other hand, until now has presented initial ideas on how to implement the operational conclusions.⁵²

Problems: Meanwhile, Serbian side has not yet started the scanning of cadastral documents, in total 12 million pages. To date, the only step taken by Serbia is the submission of the list of cadastral documents taken from Kosovo to the Implementation Group meeting on 15 April 2012.

5. Acceptance of the University Diplomas

Agreement: Agreement on reciprocal acceptance of diplomas was reached in principle on 2 July, 2011 and finalized on 21 November, 2011. The agreement stipulates the acceptance of the university diplomas by the European University Association (EUA). The association will certify the diplomas issued by both parties by appointing the Committee of European Academic experts. The final effect of the agreement should be that each party will accept the qualifications stated in diplomas.

Implementation: The implementation of this Agreement began on 1 March, 2012 by Kosovo authorities, with the opening of an implementation office in the Ministry of Education, Science and Technology (MEST) and in cooperation with SPARK, while the Association of European Universities (AEU) has started to certify Kosovo's diplomas. On 26 July 2012, 73 diplomas were certified, while by January 2013 another batch of 100 diplomas were certified, totaling 173. Up to date the total number of the diplomas certified is 186. The Office of the Head of Technical dialogue of the Government of Kosovo monitors the implementation of this agreement in cooperation with ethnic Albanian municipal authority from Preshevo Valley.

In principle the group, composed of 5-7 members, meets every three months and decides on the certification of diplomas, which is a student demand-driven process.

Problems: It's not certain whether the diplomas certified will be accepted in Serbia, as Serbian universities and employers are not obliged to accept them as valid. In cases when the Serbian side accepts the diplomas, officials of GoK have stated that in few cases, the denomination "Kosovo and Metohija" is added to the diploma.⁵³

⁵¹ *State of play in implementation of the Technical Dialogue agreements, September 2012 – November 2012*, Reporting by the Kosovo authorities, 16 November 2012.

⁵² Implementation, State of Play, EU reporting on implementation of TD agreements, 3 October 2012.

⁵³ Interview with GoK Coordinator on Diplomas and Freedom of Movement, 16 of May 2013.

6. Regional Representation and Cooperation

Agreement: This agreement was reached on 24 February, 2012 after the issue had been discussed in several rounds of talks. Ultimately, it was agreed that Kosovo would be represented in the *regional* organizations with a footnote and an asterisk next to the name of Kosovo. The footnote to be used with the asterisk would read ‘This designation is without prejudice to positions on status and is in line with UNSCR 1244 and the ICJ opinion on the Kosovo Declaration of independence’. The agreement does not clearly specify the use of the footnote and has allowed for different interpretation by Kosovo and Serbia but also different interpretation by organizers of meetings in regional organizations and forums. Furthermore, conclusions also foresee that the EU, as a facilitator, should also inform relevant regional organizations for the agreed denomination on representation and signature, by also monitoring the implementation of the conclusions.

Implementation: Until mid 2012, Serbia was conditioning Kosovo’s participation in different regional organizations with printing of the footnote in a specific location in the relevant documents.

As of 31 May, 2013, Kosovo has applied for membership in thirty-four regional organizations with thirteen of them responding positively and two of them negatively. Out of thirty-four applications by Kosovo, by spring 2013, five of them offered a preliminary positive answer. But so far positive answers are awaiting, with one of the regional organizations conditioning their acceptance with the approval of Kosovo’s membership in other organizations and two others are under UNMIK’s mandate, in other words only UNMIK can negotiate Kosovo’s membership in them.⁵⁴

Outside of Cooper’s list, Kosovo Ministry of Foreign Affairs has applied in eight more organizations. They have received positive response from five of them, negative response from one of them, and with two of them the Ministry is in the consultation process.⁵⁵

From the beginning of 2013, the Ministry of Foreign Affairs has been focused for Kosovo to be a member of SEECP (South-East European Cooperation Process). The meeting scheduled for Foreign Ministers of the SEECP was held on 31 May 2013 in Ohrid-FYROM under the chairmanship of FYROM, whilst the Presidential meeting was scheduled to be held on 1 of June 2013. As Kosovo President was not invited, the organizer was forced to cancel the meeting, given that the Croatian, Albanian, and Bulgarian presidents refused to participate citing the omission of the Kosovo President as a cause.⁵⁶

From the day this agreement was reached there have been one hundred and three (133) regional meetings and events. Both Kosovo and Serbia have participated in sixty five (65) of these events. In twenty one (21) of them Serbia has refused to participate due to Kosovo presence, in sixteen (16) of them Kosovo hasn’t participated due to the footnote placed at the table tags, but also in three or four events due to delays in visa issuance for Kosovo delegations and lack of budget.⁵⁷

⁵⁴ Interview with GoK Coordinator on Regional Representation and Cooperation, 8 of May 2013.

⁵⁵ Interview with GoK Coordinator on Regional Representation and Cooperation, 8 of May 2013.

⁵⁶ Press Release of the FYROM President **Dr. Gjorge Ivanov, 29 May 2013** at <http://www.president.gov.mk/en/media-centre/press-releases/2142.html>

⁵⁷ Interview with GoK Coordinator on Regional Representation and Cooperation, 8 of May 2013.

The Kosovo government reported that in a meeting organised by the Ministry of Internal Affairs of Macedonia, supported by DCAF, on 16-18 October 2012 'Drug criminal organizations, the situation in the EU with special focus on the Balkan area,' only the Kosovo delegation was represented without a flag. Also in the "Initial meeting of Heads of Parliamentary Committees on East European Foreign Policy", organized by the Parliament of the Republic of Croatia on 18 and 19 October, in Zagreb, Kosovo was not invited to attend.⁵⁸

In general terms, regional organizations have positively responded to the Agreement.⁵⁹ By June 2013, no major changes in implementation were reported.

Problems: In few cases Serbia has lobbied against Kosovo membership in some organizations by using as a justification that Kosovo is applying to more regional organizations beyond the Cooper's list. However the agreement doesn't state that Kosovo is limited to the list generated by the EU facilitator of the Technical Dialogue Mr. Robert Cooper. As stated by GoK official, Serbia constantly undermines this process⁶⁰ but they will, eventually, compromise.⁶¹

Additionally, the GoK coordinator on Regional Representation and Cooperation has observed improvement in the implementation of this agreement in general.⁶²

Finally, the implementation and problems related to the agreement remain as most controversial for the Kosovo delegation. Opposition parties, civil society and media in Kosovo accused the Government of Kosovo that it is accepting to distinguish Kosovo from the other representing countries (by accepting to use an asterix – and the Kosovo contested footnote - next to the name of Kosovo) therefore questioning the statehood of Kosovo. Government of Kosovo itself was reluctant to accept the agreement initially. However, Kosovo accepted the agreement only after it was convinced by the USA to do so. Generally, the agreement has been seen as a step back since it accepted that Kosovo's political status is still unresolved. The ambiguity of the details of the agreement put Serbia in a rather strange position, where at times they would refuse to attend or were made to storm out of the meetings due to the fact that Kosovo was being represented with an asterisk only, and not the entire text of the footnote. Nonetheless, compared to Kosovo, the implementation of this agreement was less controversial in Serbia.

⁵⁸ State of play in implementation of the Technical Dialogue agreements, September 2012 – November 2012, Reporting by the Kosovo authorities, 16 November 2012.

⁵⁹ State of play in implementation of the Technical Dialogue agreements, February 2012 – August 2012, Reporting by the Kosovo authorities, 23 August 2012.

⁶⁰ Kosovo has been also applying to become member of the MARRI (Migration, Asylum, Refugees Regional Initiative). The Ministry of Internal Affairs is coordinating the process by sending the request to the Bosnia and Hercegovina Ministry of Foreign Affairs. A meeting on this issue was held in May 2013. Serbia is also objecting with the same justification that this regional organisation isn't listed in the Coopers list. Also, Serbia gave similar justification for Kosovo's possible membership in RESPA (an international organization which has been entrusted with the mission of boosting regional cooperation in the field of public administration in the Western Balkans). KIPRED interview with GoK Coordinator on Regional Representation and Cooperation, 8 of May 2013

⁶¹ Ibid.

⁶² Interview with GoK Coordinator on Regional Representation and Cooperation, 8 of May 2013.

7. Integrated Border/Boundary Management (IBM)

Agreement: In principle this agreement was reached during the last two rounds of the technical dialogue held in December 2011 but its implementation commenced only a year later, in December 2012 after the political dialogue between the two prime-ministers of Kosovo and Serbia kicked-off. The agreement stipulates that both countries should install joint, integrated, single and secure posts at all border crossings (six in total), that are jointly delineated in order to pursue cooperation as defined by EU law. None of the parties will display any symbols of their respective jurisdiction to the common IBM areas.

Implementation and problems: The Agreement contains the signing of a technical protocol by both Kosovo and Serbia with the EU that would provide technical details for implementation. The Technical Protocol was signed by the Kosovo side on 29 February 2012. However, the presidential and parliamentary elections in Serbia during May 2012 stalled the implementation of this agreement. By 24 September 2012, the Serbian government sent a letter to the EU, on ‘mutual control of the administrative crossings with Kosovo’ affirming that the new government will be implementing the IBM agreement.

a. IBM and the political dialogue

The new nationalist government in Serbia pledged to implement all previously reached agreements in the dialogue with Kosovo. However, the implementation of IBM still continued to lag behind because the implementation would seal off Belgrade’s influence in the north and it would create the terrain for the integration of the northern part of Kosovo in accordance with the Ahtisaari Plan. Besides the fact that Serbia was postponing the implementation of this agreement, the guarantors (EU and US) used a soft approach when they asked Serbia to implement it. This delay enabled Serbia to re-negotiate the implementation of this agreement reached during the “technical” dialogue. The agreement was re-negotiated between the two Prime Ministers, which included the agreements on the collection of customs at border crossing in the north.

In a meeting between Prime Minister Thaçi and Dacic, held on 4 December 2012, an agreement was reached that the first three temporary crossings were to be established in Merdarë on the Kosovo side and Rudnica and Konculj on the Serbian side. The temporary walkway of IBM in Bernjak (territory of Kosovo) was operationalized three weeks later (31 December, 2012) due “to the need for consultations with the local community.”⁶³

From the EU’s perspective, implementation of the agreement was going better than expected. In reality, while implementation had gone smoothly in the crossings in Merdarë/Merdare and Konçul/Konçul, there are still difficulties with implementation in two crossings in the northern part of Kosovo. This agreement was one of the most difficult ones to implement for Serbia. While the Kosovo side represented this agreement as recognition by Serbia of the border between Kosovo and Serbia, Serbia had to convince its public opinion that the agreement does not recognize the border between Kosovo and Serbia. Serbia claims that the agreement does not mention the word “Border” but instead it uses the word “Boundary” and the dispute between Kosovo and Serbia continues. This is helped by the fact that the agreement itself uses only the acronym IBM, allowing for different interpretation by each side.

⁶³ *State of play in implementation of the Technical Dialogue agreements, September 2012 – November 2012*, Reporting by the Kosovo authorities, 16 November 2012.

The agreement was also difficult to implement due to resistance by the Kosovo Serb citizens living in the northern part of Kosovo who refuse to recognize Prishtina's authority and only recognise Belgrade as their authority. Establishment of IBM posts requires that all the goods entering Kosovo in this part are subject to custom duties as required by the Kosovo laws, which the Kosovo Serb citizens refuse to accept and pay duties that go to the Kosovo budget. A solution for this dispute is said to have been found in the last meeting between Prime-Minister of Kosovo and Serbia, held on 17 January 2013, though details of the agreement are not known yet. Both sides, Kosovo and Serbia, gave contradictory accounts of what has been agreed.