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# Monitoring of EPAP Implementation

Supported by KFOS



*Prishtinë,  
Korrik 2009  
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## **Introduction:**

With the status of Kosovo being resolved, the process of integration in European Union (EU) is expected to constitute the main objective for Kosovo. The integration of a country in European Union is a long, difficult and challenging path. The road toward integration is a long and complicated process, since it includes fulfillment of criteria and standards that are a real challenge for a developing country, which is at the same time dealing with the state building and the process of integration. The situation gets even more complicated by the fact that Kosovo is still not recognized by all the states and international organizations, especially by member states of European Union (Slovakia, Greece Cyprus, Romania and Spain), Organization for Security and Cooperation in Europe (OSCE) and North Atlantic Treaty Organization (NATO). The problem of recognition hampers and decelerates the international affirmation of Kosovo, thus affecting its position in the international community. As a consequence, the opportunities for a greater political, economical and social benefit by international community are negatively affected.

The process of Kosovo's integration in EU includes the necessity of effective fulfillment of political, economical criteria, as well as criteria related to market, justice and security, including the conditions related to cooperation of Kosovo with neighboring states. On one side, according to EU, the process is based in support given to Kosovo and the conditions which must be met. On the other side, the process is also based in successful completion of conditions through concrete actions performed and through strengthening of administrative capacities on the road that leads Kosovo to the point of candidacy and eventual European Union membership. Currently, considering the situation of progress achieved, in the worst case, Kosovo remains many years away from a real possibility of membership into EU or in a more positive case, some years away from membership

The relation of Kosovo with EU is framed within Stabilization and Association Process Tracking Mechanism (STM) where one of the most important documents is European Partnership Action Plan (EPAP). The Government of Kosovo approved this strategic document – which planifies time-bound actions and measures to be completed; budgetary resources needed for these actions and measures, and it identifies competent institutions responsible to undertake all these commitments individually or in partnership. Thus, EPAP reflects the political and technical will of the government and other institutions to commit seriously to the issue, so that a progress can be achieved towards the integration in

European Union. EPAP is drafted upon the suggestions and requirements of European Partnership for Kosova and it is also based on annual EU progress report evaluations, reflecting Kosovo's institutional shortfalls and achievements. It is worth mentioning that local institutions have the main role and enjoy the credits for successful achievements however at the same time, domestic institutions are responsible for eventual failures.

EPAP is drafted and modified annually by government of Kosova, which evaluates the successes, improves planning and updates information (actions). However, the changes made to this document not always serve their purpose, which is the progress and efficacy related to European agenda.

Regarding the EPAP, it should be emphasized that this document reflects the complexity of integration processes, as it envisages more than 1.600 actions needed to be taken, which, according to initial assessment may be estimated more than one billion Euro. These actions often do not reflect real capacities of institutions and society for their successful fulfillment. The factors which may have negative impact are the lack of human resources, financial sources, communication and poor inter-institutional cooperation, lack of transparency, lack of political will as well as the lack of infrastructure and know-how for the process. However, the lack of progress through real and specific actions, as a result of above-mentioned factors, does not justify the responsible institutions and other stakeholders involved in the process, for both shortcoming and failures.

Non-governmental organization "Çelnaja" has chosen monitoring as a way of contributing in the process, offering arguments, explanation, information and conclusions related to European integration. "Çelnaja" is focused on monitoring an important part of EPAP, especially the chapter related to political criteria. This chapter is one of the most important parts of EPAP.

During the EPAP monitoring, "Çelnaja" has identified three priorities: 1. Monitoring of law-making institutions relevant for those laws we envisaged to monitor, 2. Monitoring of institutions most responsible to push forward Kosovo's European integration processes, so that we can evaluate more closely developments related to identifying of priorities, organization, coordination and addressing the challenges related to integration, challenges which have also been mentioned in the last report of European Commission and 3. Consulting the analysts regarding the achievement and failures related to EPAP.

Although not a part of monitoring, the report includes many other aspects, important for the European integration, including documents, conferences and important events which accompanied the process of integration of Kosova in European Union.

“Çelnaja” does not prejudge capacity of institutions in fulfilling the actions required by EPAP, or the relevance of a certain action in comparison with another. However, depending on deadlines and situation in the field our organization tries to be focused and maintain an adequate level of monitoring, so to assure that the report conclusions are objective and unbiased. For the same purpose, “Çelnaja” consults experts, and not only involved parts in the process that are the object of monitoring

Information in this report aim to offer an insight into the fulfilling the obligation set out in European Partnership Action Plan and aim to serve as an unbiased and independent source of information for all parts included in the process, in order to give more alternatives to reflect on the issue of integration, to inform media and public opinion and to serve other interested stakeholders and audience in Kosovo or abroad upon their specific needs

## **Methodology:**

### **General and specific approach**

An important aspect of the monitoring process, undoubtedly is the methodology used during the process. In this regard, and taking into consideration the nature of integration processes, “Çelnaja” used the well known methodology techniques, such as interviews and examination of office working materials/documents used by institutions, but other relevant materials as well. The interviews with field experts’ and others that are familiar with integration; comparison of the process in Kosova with other country examples has proven to be a good practice, which helps the drafting of the report. Depending on specifics, other forms have been used, such as media analysis or examination of other organization’s report, relevant to our monitoring.

Participation in public events with research and progress report agendas relevant to EU integration process for Kosovo was envisaged as one of monitoring ways – this helped to check the information credibility and comparison. These above mentioned methodological forms were used as a general monitoring approach. On the other hand, as a specific approach, “Çelnaja” prepared its internal action plans, identification of the monitoring actions, comparison of contradictory information collected in the field, making sure that the information presented is correct. “Çelnaja” has built pillars on which general approach is based, as well as pillars for more specific approach related to monitoring process. Monitoring in field and analysis in office has resulted with a compilation of the most important issues, presented in this report. We also must take note of a new practice, used in process, such as the discussion of report information with involved parties, but also with others, so that the subjectivity in report is minimized as much as possible.



## PROGRESS AFTER THE PROGRESS REPORT

**Lawmaking:** During the monitoring of lawmaking process, a number of shortcomings have been noticed. These shortcomings relate to the work of officials, inter-institutional coordination, conception and relevance of integration or the capacity and motivation of officials. As a consequence, the effective approval of laws is one of the fields negatively affected in this aspect. On central level, regarding relation between the Government of Kosovo and Assembly, it is noticed that the government hasn't shown any particular interest to include in due time and way the contribution of the representatives of the opposition, this happened during the drafting phase of the Law on Government. The opposition considers this law to be a very important part of legislation because it regulates the functioning of each government notwithstanding political changes. Therefore, to avoid complications in future, the law should have been discussed with opposition parties during the drafting process as required by opposition representatives. In drafting this law (*by the legal office of Ministry of Public Services*) have participated a selected official and civil society representatives, thus avoiding discussion and debate on the law substance and its implications. In this context, the Kosovo Assembly was not included, though the Assembly shouldn't act only as an institution which passes legislation, but also as an institution that exercises substantial influence during earlier law-making processes, such as drafting and discussions. In order of making this process a more inclusive and substantial one, the same principle applies to the participation of civil society and political parties, which should be invited and welcomed to take part in discussion during the law-making process.

It is well known that the consultations with the members of opposition, to enable them to contribute and provide inputs influencing the process is granted, but also for bridging out different positions of political subjects would make the legislation more substantial and comprehensive. In this context, debates in open sessions are enriched, thus raising the efficiency and quality of actions in government and assembly.

It has been noticed that there is a lack of more persistent attempts to involve the civil society and experts at an adequate level, although there are rare instances when certain institutions tend to use the practice of involvement and consulting with non-governmental parties.

Certainly, this process depends much from the will and readiness for cooperation of political forces in power, but in the law-drafting, a narrow and nontransparent approach towards opposition and other interested parties, *by not involving them adequately in the process of drafting*, negatively affects the substance of the laws approved and has longer term negative consequences related to their implementation and impact.

Another concerning aspect is the lack of information dissemination for the members of the parliament regarding the development and the phase of the law, or regarding professional expertise/competence of officials involved in drafting the laws. In this line, the opposition concerns are raised on the fact the laws do not reflect adequately the aim for which they have been drafted. This fact can be evidenced if parliamentary committees are asked on the process of laws being drafted - they don't have any prior information regarding to the law until the law is forwarded to them. An example: although laws covering justice were delayed for years, Committee of Courts and Legislation has not been informed by the drafter for the phase in which the laws are, or the reasons for their delay.

By not being adequately included in the drafting of laws, representatives of opposition, civil society and experts have the impression of being neglected and dominated by political force in power. This damages the lawmaking quality. Therefore, considering limited lawmaking capacities in Kosovo, the above-mentioned narrow approach affects the approval and implementation of laws.

Another important element is the lack of planning and notifying deadlines, not only by implementing institutions, but also by Government and Assembly, a practice that is damaging the performance and efficiency. Nevertheless, it is of crucial importance to mention that the officials involved in the law-making processes are increasingly trying to pay more attention to the complexities related to substance of laws but not equal attention in regard to the need of deadlines being respected.

By not respecting deadlines, approval of laws is delayed even for years. An example is laws on courts, prosecution, legal council and prosecutorial council. These laws, which, according to EPAP had to be approved during 2006-2008, put light into a huge shortcoming during implementation, such as the lack of analysis related to urgency and meeting deadlines. The delay of actions for months or years show the lack of planning and

implementation and in some instances the lack of experience and institutional responsibility. Regarding the delays in the integration process, another challenge during the approval of laws generally and laws which are subject of our monitoring specifically, is the lack of lawmaking practice of adopting a specific legal model used by other countries – a practice which would be based on both, the need for adoption of such a model and the fact that such a model is applicable within circumstances and legal infrastructure of Kosova.

Thus, any deliberations related to remarks presented in progress report must aim not only improving the field but also raising lawmaking efficiency. Another issue is delays during review of draft-laws from the first debate in the second one, as well as unnecessary delays by the government to send the laws to Assembly, in accordance with the strategy of legislation in assembly. This puts light into the lack of internal organization and coordination of institutions.

Furthermore, although the government pledged in her lawmaking strategy for 2009 that it will draft and approve 25 draft-laws during the period January-March, only twelve laws have been finalized and sent to the Assembly for their approval. Moreover, in the legislation strategy approved by the government there are laws which should have been approved last year, such as the draft-law for employment of foreigners in Kosova. The Government of Kosova justifies these delays with the fact that there is a lack of budget and that there is a huge volume of the laws being drafted at the same time by working groups. Another problem during drafting and proceeding of laws is the lack of staff in legal offices of ministries - which carry out the burden of drafting and pushing for their finalization act to the government. In the Ministry of Justice, *for example*, around 30 employees have resigned in less than two years, a fact that complicates the law drafting process. This phenomenon is not present only in Ministry of Justice, but also in various governmental sectors, mainly because of low salaries. This highlights the fact that there are no motivation initiatives taken for staffers involved in EU integration processes, which would have reduced the number of officials who resign their official posts.

On the other hand, a positive element is that all the laws in Assembly have the financial approval by Ministry of Economy and Finances, and are in line with EU *acquis communautaire* of the European Agency for Coordination of Development and European Integration. Speaking of declaration of compliance of laws with *acquis communautaire*, we

must note that it only eliminates contradictions with *acquis* principles, but it does not evaluate the quality or efficiency of the law under consideration. In other words, this means that a certain law is not in contradict with European standards, but it does not necessarily mean that the law will have a similar quality and impact as per EU legislation. Committee for Legislation has stated that the laws forwarded by the government have many shortcomings and are often not legible. In addition these laws come to the assembly with many grammatical mistakes.

Another concerning aspect is the lack of transparency and good practices by the institutions in charge of EPAP implementation. During the law-drafting process, key non-governmental players and experts are often neglected. In some instances, the institutions are not transparent, by undertaking actions without informing the specialized audience or public opinion in general. Hence, the implementing institutions adopt new practices of their own, without prior consulting and without any clear vision that would reflect the situation in the field. So, once the Law on Government comes into force, the government of Kosova is expected to change in some aspects, providing new governing competencies to the Prime Minister such as the right to create new ministries without portfolio as well as to reduce the number of deputy ministers in ministries that do not cover a wide area of responsibility.

A positive element which contributes to the increase of transparency is the fact that the Assembly and its Presidency sessions are always followed by minutes being displayed and distributed in the official Assembly's website and MPs get these documents in due time. However, the Assembly committees often do not publish their minutes or other conclusion remarks - which would help increase the public transparency. Moreover, some committees don't publish any minutes at all. In addition, there is also a lack of advanced use of parliamentary and democratic language by MPs, without offending and destructive tones. This negative development often damages the integration process, since it shifts priorities in the background and it puts attention in aspects not important or relevant for the EU integration processes. We have also found that MPs do not receive quarterly reports on Assembly's expenses, although the latter is obliged to submit them regularly. The Assembly, as all other institutions is obliged to submit regular reports, *open to the public*, related to their expenses. Even MPs who have served two mandates have stated that they have never received periodical reports on Parliament expenses, *except the annual reports*, though EPAP envisages regular quarterly reports.

Another aspect that affects the integration process is the lack of a professional public administration. In this direction, members of opposition, Anti-Corruption Agency and civil society have expressed their concerns regarding to the fact that Council on High Political Nominations is not functioning, a failure they consider to serve the political purpose and motivation. It is a fact that if Council would be operative, then high level appointments would clearly contribute toward increased professionalism in public administration, because the officials would be selected by their qualities. The Council did not hold a single meeting during this year, thus pushing the Anti-Corruption Agency and civil society representatives to accuse those responsible for a break of the law. In Council's absence, the political leaders are carrying dismiss and nomination of Permanent Secretaries in ministries, affecting the public administration. Thus, the claims that public vacancy do not have the importance for which they are published, having in mind that selection of candidates is done in political basis, seems to be justified.

Speaking of parliamentary questions as an instrument of democratic control, the representatives of various opposition parties have different opinions. Some of them claim that there is a lack of interest to use parliamentary questions properly.

Opposition criticizes the government for not attending regularly Assembly's hearings. The opposition representatives state that the participation of ministers and cabinet is massive only at the beginning of a hearing and afterwards almost all the ministers leave. However, this is expected to change through new agenda of Assembly, which states that the government should synchronize its working agenda with the assembly, in order to enable ministers to participate in hearing committees.

Some committees have begun to prepare plans for monitoring law implementation, for example Committee on Legislation. This is expected to help the Assembly in strengthening its capacities for exercising effectively its role and functions - not only by lawmaking and representation, but also by its oversight roles. However, until now there is no information regarding the results of law implementation oversight.

In general, a positive development is the fact that in lawmaking process MPs have shown interest on laws debated, being informed about most important aspects of it,

problems addressed by a certain law, changes expected to make or facts that deal with its entering into force.

Another development that deals with lawmaking is that MPs institutions have begun to reflect on criticism and recommendations set out in Kosovo Progress Report. Thus they called prime minister to report on progress report and expressed the political will of Assembly by approving a resolution on European integration.

On the other side, there are encouraging signs in terms of coordination, and effective implementation of laws. An inter-ministerial mechanism has been established to monitor implementation of legislation related. This mechanism is supposed to gather regularly on monthly basis to discuss progress or obstacles related to law implementation, offering at the same time recommendations related to law implementation in certain segments. Also, chiefs of legal offices are obliged to submit monthly reports to prime-minister's legal office, reporting on the degree of implementation and possible shortcomings.

#### **European Integration and institutional interaction:**

The Agency for Coordination of Development and European Integration (ACDEI) functions within the government of Kosova and reports directly to the prime minister. It is the central body related to integration. Every action related to the integration of Kosova in EU is initiated or carried out by this agency. Among many responsibilities of this agency are: drafting and updating the EPAP, coordination of pledged funds during Donor's Conference and coordination of Instrument for Pre-Accession Assistance (IPA). The importance and the role of ACDEI in this process is undisputable, although its genuine functioning is stagnating since it was created. First of all, legal background of this agency is not coherent, since the agency works pursuant to UNMIK regulations, despite the fact that Kosova became independent one and half year ago. The government, in its decision number 09/41 changed only the name of the agency, but not the foundations of its functioning. Secondly, this agency continuously deals with the phenomenon of high staff turnover and resignations, and finally there is a lack of work space, complicating the further development of the agency.

In its Progress Report, European Commission, and in the opinion of EU liaison office officials in Prishtina, it is clearly stressed that the problem with staff resignation should be solved, adding here that the agency had a lack of strategic and visionary leadership, as well as an absence of sense of responsibility. Coordination and monitoring of EPAP

implementation are among the main responsibilities of the agency, although there is a lack of an advanced practice for continuous monitoring of the progress. A positive development is the presence of an office for European integration in each ministry, since the role of these offices is highly important in coordination of integration processes. However, we must note that these offices are not present in some important institutions, such as Central Bank, Anti-Corruption Agency and in judiciary institutions. According to Integration Plan 2008-2010 drafted and approved by the government, these offices are obliged to submit monthly and quarterly reports, and may even be asked to send weekly reports. The Agency considers that reporting on the process is satisfactory, although more needs to be done in this regard. The more regular monitoring of the progress would have helped the government to improve communication and evaluation related to integration objectives reached. However, it appears that identifying the failures is not on the government's interest. Thus, as a consequence, integration processes are evaluated solely by European Commission in its progress report and other non-governmental actors. A more advanced concept on better governance would change this development – initially by paying more attention to challenges and failures. A more realistic internal evaluation of integration process would contribute in raising the efficiency, instead of having only positive evaluation in the document known as “Input document for progress report”, drafted twice a by the agency – a document that addresses solely to the achievements towards EPAP implementation, but it does not mention any short come or failure in the process.

A fact of concern is that the civil society and other non-governmental actors were not consulted for EPAP review and improvements. This model of governance, used by the government in Kosova is putting in background the relevance of non-governmental sector neglecting its influence and contribution in the process of drafting policy and legislation document, as well from public events of interest for potential stakeholders. The same is happening during the drafting and updating of EPAP, a process in which civil society has not been involved. Such actions negatively affect the institutional transparency and cooperation in general. It is important to mention that although the plan for public relations in ACDEI exists, it is not being actively implemented. Moreover, there is no media officer in the agency to communicate information about the process.

During the integration processes, there are frequent delays of actions, due to the fact that there is a huge number of actions needed to be taken – actions which are not

carefully and realistically planned by ACDEI. Therefore, the officials in ministries are overburdened with work. Moreover, there are instances when these officials undertake activities not related to the terms of reference for official position that they are responsible for. Thus, despite given commitments, deadlines are often not respected.

Another challenge affecting the aspect of good-functioning is resignation of staff and officials responsible for European integrations and EPAP implementation, leaving a vacuum related to experience, institutional relations, orientation or the spirit of cooperation – most of them are officials working in the ACDEI or line ministries. Apart from this, coordination between ACDEI and line ministries is often affected; because the high-level staff from ministries does not continuously respond to the ACDEI requirements in undertaking joint actions. Similarly, officials charged with European integration in line ministries are not actively involved in institutional undertakings with ACDEI, despite the serious attempts done by ACDEI in this aspect. It must be noted that according to their terms of reference, these officials are responsible for pushing forward the implementation of EPAP activities related to their ministry, although in reality their role is minimal, or does not exist at all. Another problem is the coordination among officials. Officials meet only during EPAP review and don't hold any other meetings for coordinating inter-ministerial actions or identifying priorities.

Having in mind that coordination is related to performance of officials, another negative development is the fact that activities related to European integrations, to EPAP specifically, are not always considered as a priority for institutions and implementers.

Thus, coordination among officials from line ministries and ACDEI is a process that is often left to good will and not followed as an institutional agenda. This happens despite the formal declarations that processes related to European integrations and EPAP are joint agenda of all the institutions.

As it can be noticed, official for European integration in line ministries do not appreciate properly the liability for their duties. Therefore, official performance in line ministries and ACDEI can be improved by raising the level of accountability in government, specifically by consistent organization of work in secretariat level and ACDEI. Another aspect would be to forward the issue of European integrations to one of the ministries without portfolio, after



the law on government enters into force. Hence, the government would prove to be dedicated in solving the shortcoming in decision making and addressing the liability for this process.

Currently, line ministries and ACDEI should be more involved in joint activities related to progress report and priorities in the report, and in analyzing difficulties during EPAP implementation. Also, a timely and proactive information exchange should take place between institutions followed by greater accountability regarding shortcomings and failures.

Currently there is a poor coordination, while the planning and accountability are isolated in ministries or ACDEI. In this sense, there is a lack of sharing and delegation of activities as for the moment often these activities are disorganized. It is evidenced that among other reasons there is also lack of knowledge, underestimation of the process or lack of an advanced institutional logic related to the organization of activities. Coordination of the process mainly remains a one-way communication - initiated by ACDEI towards ministries and other institutions.

Moreover, another negative development is the negligence of Assembly by the government regarding integration issues. The government has avoided a debate on EPAP in the Assembly of Kosovo, although integration plan 2008-2010 states that such debate must take place. Moreover there is a lack of communication on the process considering that the Parliamentary Committee for European Integrations has not received written reports by the deputy prime minister in charge.

In this sense, the Assembly's Committee for European Integration, although dealing with many difficulties in terms of functioning or the lack of support and external expertise, is not efficiently playing its oversight role, limiting itself only in daily assembly activities.

The above-mentioned Committee has lately drafted an action plan, titled European Partnership Action Plan of Kosova Assembly related to challenges set out in European Commission Progress Report for 2008 (*explanation: independently of its substance, the document carries the same name with the document known for several years as EPAP, something which should have been avoided. It is also drafted in the same form and uses the*

*same methodology*). This internal document recently adopted by the Assembly, even though it has some positive elements in terms of tending to seriously take remarks from the last Progress Report (*mainly inputs related to the institutional performance of the assembly*) it was absolutely unnecessary to duplicate the EPAP document's approach drafted in national level. Thus, to some extent it was a waste of MPs energies that could lead to confusion of responsibilities in the future in regard to the coordination of the process – which falls under ACDEI and not under other institutions.

These remarks could have been addressed by the Assembly through its strategic documents on performance improvement, or could have been included in the EPAP.

The use of same terminology for official documents of national interest or duplication of activities that serve the same purpose could only generate confusion and negatively affect institutional interaction. At the same, this shows that Committee's members have not understood relevance of strategic documents, relevance of identifying priorities, or that they are not aware of developments related to EU processes in the executive level, thus creating complications in terms of harmonizing both documents in future. Hence, despite political will, the Committee has shown a lack of knowledge in integration processes, by not identifying main strategies of the process.

At present, the committee is exercising its oversight role solely in relation to higher level, by expressing its concerns to ministers, although it should not limit its role. Opposition MPs have expressed their concerns; because there were instances when ministers didn't respond to Committee inquiries related to European integration (*it is worth to mention the cases of MEF minister, Ahmed Shala and Justice Minister, Nekibe Kelmendi*). The level of parliamentary hearings related to European integration does not match the relevance of European integration agenda. The reason is both the substance of discussion and the short time given for debate.

A positive development is the fact that ACDEI has started to include local structures in informing public opinion regarding the relevance of European integration. In this aspect it is worth to mention the cooperation with Prishtina Municipality. The meetings with local communities obviously help the agenda of European integration and contribute to raising public and institutional awareness and commitment.

**Coordination, organization and inter-institutional interaction:** Although it follows closely the activities carried out by assembly Committee for European Integrations, ACDEI still falls short behind on coordination of actions, proving to be a fragile institution. The reason is that the ACDEI officials encounter difficulties in terms of balancing the relations between the government to which it is accountable and with the Committee, that it is expected to deepen the cooperation.

As a consequence, the institution has an inactive approach in pushing forward integration issues through the cooperation with the Committee for European Integration. For example, ACDEI had worked in preparing the draft-resolution approved by the assembly, but they were not aware what version of the document was submitted/forwarded to the Committee, since ACDEI did not send any draft at all. In both instances, during EPAP and Integration Resolution approval, committee did not inform nor consult ACDEI. ACDEI considers EPAP more likely a legislative strategy.

Another element that affects coordination, *besides delegation and action sharing*, is the standardization of naming the offices and posts within line ministries, a process related to planning of human resources, naming the offices or integration units, thus avoiding different names for institutions which work for the same process.

Contrary to ACDEI, whose responsibility is to maintain regular contact with the institutions and staff engaged in European integration, it seems that assembly committee is not involved in direct monitoring of line ministries, despite the fact that monitoring is among their responsibilities.

Otherwise, according to ACDEI, an obvious defect in integration offices in line ministries is the absence of a standard that will serve better planning and reporting on activities related to EPAP implementation. Some of them organize the work pursuant to plans, some pursuant to strategies, while others work on ad-hoc basis. Another problem stipulated by this institution is that the integration officials in ministries have extra duties beside integration, which hampers their main responsibility – European integrations. Despite this fact, ministerial integration offices report regularly on the progress, on quarterly basis. However, a higher level of cooperation is needed, especially considering the fact that some Permanent Secretaries in ministries don't take part in meetings for harmonization and

finalization of EPAP. ACDEI and line ministries carry the main responsibility for not meeting the deadline on document's finalization, delaying it for months. Despite the fact that there are reasons for not meeting deadlines, this development negatively affects all aspects of EU integration processes, since it creates political and institutional confusion, spends unnecessary energy and damages the efficiency of institutions.

On the other hand, in terms of human resources, ACDEI has engaged new staff mainly from scholarship scheme, aiming to raise institutional capacity for integration and other processes. However, the institution remains understaffed. Having in mind that the volume of work and activities related to European integration are increasing, there is a need for employment of additional and experienced staff. At the same time, this measure should be accompanied with the motivation of present staff, so that they do not resign their posts in ACDEI and ministries, which affects the potential of the institution. The government has not dealt with problems facing the agency, choosing the silence instead. Example: in January 2009 almost the entire staff was on strike, because they were not satisfied with their salaries and with the process in general.

On another issue, MPs have expressed their concerns, since the Assembly lacks the support from experts. As a result of that, many laws are not consistent with the nature of problems that they aim to address. The reason is that during drafting process, many laws are translated and are not analyzed beforehand. An increase of professional staff would raise the efficiency in terms of EPAP implementation by the government. Because of the staff problems, the officials sometimes are overburdened with work and this affects their focus and creates problems in identifying and fulfilling priorities stipulated by EPAP. Speaking of experts, we must mention that the ministries and ministerial departments do not have enough budgets to finance the experts whose help they need sometimes. For example, during the preparation of four laws on justice (law on Courts, Prosecution Council, Legal Council, and Prosecution), experts were invited to offer their help, but they left the work groups since they were not paid for their contribution.

Another important aspect which is respected by the institutions is financial approval or compliance issues by Ministry of Finance, in relation to budgetary implications, or approval of ACDEI related to harmonization with European standards. However, it seems that these approvals are not consistent with the need for a detailed analysis of general impact and

situation in the ground. There is a lack of interest to study in details the budget impact of the laws which are approved, a process which would require a close cooperation of key players, in this case the Ministry of Economy and Finances and other stakeholders.

Another problem is the interdependent relation that exists between ACDEI and European Commission Office in Kosova. However, ACDEI does not always finds a proper way and approach in communicating with EC office, especially in terms of consulting it regarding with the integration process, information sharing, reporting of progress and difficulties, as well as other issues which may or may not be important. A joint initiative and a good will aiming to enhance the communication between EC office and ACDEI, helping the latter to improve its approach, would improve the level of communication among them.

In present circumstances, ACDEI officials seem to be confused as far as their relation with EC office is concerned, since there is a lack of a genuine and organized approach. Moreover, various officials of ACDEI often compete with each other – by the fact that they report to EC office the same information, thus creating the impression of not being organized and having personal communication agenda, though they work for/in the same institution. As a result of not understanding properly the competencies of each stakeholder, internal documents are often sent to EC office. Example: EC liaison office has refused to give input and comments regarding EPAP, stating that it is the sole responsibility of independent government of Kosova.

Harmonization of laws with *acquis communautaire* remains a challenge which was reported in Progress Report 2008, but nothing was done to improve the situation. The translation of *acquis* has stagnated, since the Cooperation Memorandum with Albania has not been signed, although it was planned for April 2009. ACDEI is also not organized in terms of public relations and there is no media officer in the agency, despite the fact that the opinion needs to be informed continuously about the process of integration.

Another challenge that defines clearly the need for a new and more active role of the agency is changing the old UNMIK regulation on whose basis it operates. The hierarchy scheme would then be set up according to the new decision and would not lack the legal basis, as it is the case. These are some of government's shortcoming, although the executive

body changed the name of the institution, which was previously called Agency for European Integration.

The above-mentioned developments seem to justify the voices that the ACDEI lacks a strategy and a more structured leadership, characterized by ad-hoc actions. Furthermore, some say that the reason is high staff turnover and the lack of experience of some of the chief executive officers, ever since the institution was created.

### **Challenges and recommendations:**

**Challenge:** A longstanding challenge related to European integrations is the fact that the process is comprehensive, which implies the need of undertaking actions by all local players.

**Recommendation:** In order to strengthen and accelerate this comprehensive process, institutions in general and particularly central institutions , must make sure that there is political and institutional will for taking actions, while keeping the focus and dedication to the needs in the field.

**Challenge:** Another challenge is the great volume of actions envisaged by EPAP, actions, which are not always possible to be fulfilled.

**Recommendation:** During EPAP drafting, institutions must make sure to include solely those actions which they consider being achievable, avoiding planning of unachievable actions and also civil society should be invited to contribute to this process.

**Challenge:** The process of European integration is a process that requires joining of minds and energies by the sides included, both from institutional and civil society.

**Recommendation:** Involvement of key players in the process will strengthen European agenda in Kosova, especially regarding the actions required by EPAP, which should be taken separately or jointly by the institutions. The laws and coordination, among others, requires joint actions.

**Challenge:** The process of European integration in Kosova is characterized by the lack of the cooperation among key political players, thus affecting the quality and continuance of institutional actions.

**Recommendation:** Political parties should engage in changing the situation in a cooperative manner. Forces in power should lead the efforts for changing this situation.

**Challenge:** Inter-institutional planning, coordination and information remain weak.

**Recommendation:** Institutions should take more seriously the need for improving the above-mentioned aspects.

**Challenge:** The cooperation of Assembly and the government in the process is not advanced and continuous.

**Recommendation:** The above-mentioned institutions should, as soon as possible, adopt new practices and forms of cooperation, so that their institutional role is exercised, strengthening the process at the same time.

**Challenge:** Resignation of staff in institutions remains a challenge.

**Recommendation:** The need for motivation and for strengthening the capacities should be addressed as soon as possible, so that there are no staff problems in the future. On the contrary, the process of integrations will be continuously affected.

**Challenge:** Prioritizing the integration process and actions related to it currently remains a challenge for high level and other officials.

**Recommendation:** Measures intended to improve the level of accountability in institutions should be taken by the government of Kosova.

**Challenge:** Assembly of Kosova remains not properly informed and engaged in European integration agenda and actions related to it.

**Recommendation:** Assembly needs supporting staff, whose duty would be to inform MPs about developments in field.

**Challenge:** ACDEI must be more persistent and active in relation to other institutions.

**Recommendation:** A direct involvement of government is needed in terms of strengthening and supporting ACDEI. It should not limit its role solely as advisory body in relation to other institutions.

**Challenge:** ACDE is having difficulties in communication with European Commission Office.

**Recommendation:** Chief-executive officer of ACDEI must engage in adopting advances Practices in terms of communication



## **Conclusion:**

The agenda of European integrations for Kosovo, is a complex and difficult process. Considerable political difficulties of institutional and technical nature accompany the agenda's implementers in Kosovo. The situation in Kosovo remains unfavorable, having in mind high expectations of Kosovo as a country and as society. The last Progress Report recommends the implementers to do more than they are doing currently. The same goes for political criteria included in European Partnership Action Plan. The actions planned in this document are facing serious problems during implementation. At the same time, it shows that Kosovo has limited capacities, while it faces difficulties in pushing forward the integration process. Therefore, an emergent push for improvement of planning and implementation of actions is needed. Otherwise, the European agenda for Kosovo remains uncertain. Certainly, only by monitoring we cannot expect undisputable conclusions, but generally it is reasonable to state that there are many shortcomings. Therefore, the report's finding should serve to institutions and other organizations as a help, prompting media to engage more seriously in covering this agenda in Kosovo.

The cooperation among all key players should be number one priority in order to strengthen the importance and achievements in this process. The cooperation should aim addressing the issues related to political development, lawmaking, standards observance, law implementation, coordination etc. Hence, such an orientation would help in fulfilling objectives, improving at the same time the efficiency.

A better performance by institutions, especially by executive and legislative bodies, should be a priority in this aspect. In democracy institutions balance the power but our monitoring has found that such a development is not advanced in inter-institutional relations in Kosovo. Institutions are not engaged properly in real and continuous evaluation of progress and also not showing interest to learn the valuable lessons and improve. Keeping the public informed about the achievements and failures is essential in furthering European agenda for Kosovo. As far as public administration staff is concerned, there is need for higher accountability for their active involvement, prioritizing the actions required by EPAP, since currently there is little attention paid to these actions. ACDEI faces many challenges in strengthening European agenda for Kosovo and liaising with the parties involved, especially in relation to EC Office in Kosovo. ACDEI is supposed to better manage this process, while its mandate,

competencies and orientation should be strengthened in order to have better results. As for political criteria of EPAP civil society and experts in Kosovo remain neglected. In addition, institutions should be more actively engaged in identifying challenges and solutions of sensitive problems presented in this report.

### **Fast Facts**

- EPAP is the acronym for European Partnership Action Plan. EPAP is the main strategic document of Kosovo's government in fulfilling the objectives required by European Partnership for Kosovo and in addressing requirements of European Union presented in Progress Report and other documents. These documents are part of the Stabilization Association Tracking Mechanism for Kosovo. EPAP consists of approximately 1.600 actions needed to be undertaken by Kosovo's institutions, actions which cover the entire state territory. The agency still lacks a legal base for its functioning and it still works in accordance with UNMIK regulation.
- Although EPAP should be approved in April of each year the approval usually delays for months. We are now in July 2009 and EPAP hasn't been approved by the government yet.
- \* EPAP is updated on yearly basis by adding new actions and removing fulfilled ones. Despite the fact that the civil society has expressed readiness to help the process of European integrations, they are not invited during EPAP's updating.
- According to the Integration Plan for 2008 – 2010, EPAP should be passed by the Assembly, but ever since the first EPAP was drafted, the document was never discussed in Assembly.
- European Commission during meetings of Stabilization Association Tracking Mechanism has stated that EPAP is unrealistic and highly ambitious documents, requiring unachievable actions with no budget line.
- The Agency for Coordination of Development and European Integration (ACDEI) is the central coordination mechanism for the integration process in Kosovo. Despite its achievements and continuous activities, the agency has dealt with many challenges, which have affected its normal development. Failure to elect a chief executive official, who would exercise its duties in

professional way has hampered the agency's development. The turnover of acting chiefs caused serious problems in terms of coordination and efficiency.

- ACDEI has only 32 officials, although Integration Plan for 2008-2010 stipulates that the agency shall have 85 employees by 2010.

- ACDEI operates in a small space. Approximately 35 people work in a space of 40 square meters.

- According to Integration Plan for 2008-2010, ACDEI shall submit reports on EPAP implementation on monthly, quarterly and six months basis, although only the latter is open to public.

- Progress Report has recommended raising the number of people who deal with harmonization of local legislation with *acquis*. However, instead of increasing, the number has fallen from 4 to 3. In two years 7 people have resigned their posts in ACEI. Some of them were people who obtained their scholarships by ACDEI and were supposed to work for 3 years.

- EPAP monitoring remains a huge problem. The outnumbered staff is overburdened with work. As a consequence there is a lack of analysis on EPAP actions. Hence, annual review of EPAP often concluded that many actions were not fulfilled. Officials for European integrations in line ministries do not respect deadlines set out in EPAP, despite the fact that it's their responsibility according to terms of reference of their posts.

- Deputy prime minister in charge of European Integration does not submit written reports to Assembly's Commission for European Integration, although the latter has requested such reports to be submitted.

- EPAP, being a strategic document was never a subject for debate or discussion in Kosova's Assembly.

\* In technical and administrative aspect, communication between ACDEI and Assembly is almost inexistent. Almost all deputies of the commission confirm this. The members of committee do not receive e-mails, phone calls or any kind of information by ACDEI.

- There is no external or public communication office in ACDEI. ACDEI does not have a media officer, thus lacking the transparency and public information. Although almost the entire staff was on strike during January 2009, ACDEI and the government chose not to inform the public on developments and preferred the silence instead.

- \* Certain ministries aren't committed properly on implementing EPAP. The above mentioned claim is proven by the fact that a number of Permanent Secretaries often boycott EPAP discussions.

- \* Commission for European Integration in Assembly of Kosova does not monitor EPAP implementation, although this is among their responsibilities. The commission has not published even a single report that would show the degree of EPAP implementation. Moreover, the officials for European integration in line ministries claim that they are never visited by MPs of committee.

- \* Laws on judiciary, criticized in the last Progress Report, haven't been approved by the Assembly yet. These laws are: Law on courts, law on prosecution, law on legal council and law on prosecution council. Some of these laws are mentioned as actions to be implemented in EPAP 2006.

- \*Laws on judiciary, finalized by now, are expecting the government's approval, so that they would be approved in the Assembly afterwards. These laws have encountered difficulties because of their content. One of the main reasons is high salaries for judges, which burdens Kosova's budget.

- \* Law on courts requires creation of new Courts, although in some cases there is a lack of adequate infrastructure. For example, the law envisages creation of Court of Appeals, although the building where the court will be situated does not exist, making the law implementation impossible. There will also be difficulties during merger of district and municipal courts in basic courts. The reason is the lack of proper spaces, which will negatively affect professional work.

\* Laws on judiciary have been drafted as package laws and submitted as such. There was no debate or discussion during their drafting. The Legal Council of Kosova, Chamber of Lawyers and experts were not properly involved in drafting,

\*Criticized in Progress Report, participation of ministers in parliamentary hearings, although improved after the approval of new work plan by the Assembly, still remains massive only at the beginning, whilst later almost all ministers leave.

**Special thanks to following people for their contribution:**

**Bajram Kosumi** – Ex prime minister of Kosova, member of Assembly's Commission for Legislation from AAK.

**Friederike Wünschmann** – Officer in European Commission Liaison Office to Kosova.

**Ibrahim Makolli** – Chief of AKR parliamentary group and member of Assembly's Commission for Legislation.

**Naser Rugova** – Member of Assembly's Commission for European Integration and MP from LDD party.

**Demush Shasha** – Director of Directorate for Managing Stability and Association Process.

**Besim Kajtazi** – Director of legal affairs department in Ministry of Public Services, respectively in Ministry for Public Administration.

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**Besim Kamberaj** – Head of Department for Local Government Reformation and European Integrations in Ministry of Local Governance Administration.

**Lulëzim Beqiri** – European Integrations officer in office for European Integrations in Ministry of Justice.

**Aishe Ramadani** – Media Officer in Judicial Council of Kosova

**Bahri Hyseni** – President of Commission for Legislation in Kosova's Assembly.

**Vedat Maxhuni** – Officer for European Integration in Ministry of Returns and Minorities.

**Tom Gashi** – Lawyer and expert on legal issues and local justice system.

**Arian Gola** – Chief of Office for European Integrations in Ministry of Public Administration.

**Fitim Sadiku** – Acting Permanent Secretary in Ministry of Public Administration.

**Besnik Tahiri** – Executive Director of Institute for Local Governance.

**Armend Rugova** – Coordinator of Human Rights Unit in Ministry of Public Administration.

**Documents reviewed during EPAP's monitoring:**

- European Partnership Action Plan 2008 (EPAP)
- Proposal of Action Plan of Kosova's Assembly related to Challenges of European Commission's Progress Report for 2008
- Plan for Integration 2008-2010.
- Progress Report 2008
- Strategy on reformation of public administration.
- Minutes of meetings of Association Process Tracking Mechanism for Kosova.
- Decisions of Government of Kosova.

- Communiqués of European Commissions and Conclusions of European Council.
- Draft law on Judicial Council of Kosova
- Draft law on Prosecutorial Council of Kosova.
- Draft law on Courts of Kosova.
- Draft law on Prosecutors Offices of Kosova.
- Draft law on Government of Kosova.
- Reports on statistics of employees in civil sector in Kosova.
- Reports on structures of high posts in ministries, ethnic and gender structures in Kosova's institutions.
- Legislative strategy of Government of Kosova for 2009.
- Bulletins of Commission for European Integrations in Kosova's Assembly.
- Reports of international and local NGO-s related to European Integrations in Kosova.