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KOSOVO'S ROCKY ROAD TO EU

STABILISATION AND ASSOCIATION AGREEMENT: CHALLENGES AND OPPORTUNITIES

Pristina, July, 2013



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Acronyms

BaH - Bosnia and Herzegovina

CARDS – Community Assistance for Reconstruction, Development and Stabilisation

CFSP - Common Foreign and Security Policy

EAR - European Agency for Reconstruction

EC – European Commission

EP- European Parliament

EPP - European Partnership Plan

ECLO - European Commission Liaison Office

EU - European Union

EULEX - European Union Rule of Law Mission in Kosovo

ECMM – European Community Monitoring Mission

EUMM - European Union Monitoring Mission

EUPT - EU Planning Team for the EULEX mission

FYROM - Former Yugoslav Republic of Macedonia

HR CFSP - High Representative of the Common Foreign and Security Policy

IA – Interim Agreement

ICTY - International Criminal Tribunal for the former Yugoslavia

ICO - International Civilian Office

IPA- Instrument for Pre-accession Assistance

NATO - North Atlantic Treaty Organization

PHARE - Poland and Hungary Assistance for Reconstruction of Economy

SAA - Stabilisation and Association Agreement

SAP – Stabilisation and Association Process

SME - Small and Medium-Sized Enterprises

STM - Stabilisation Tracking Mechanism

TARIK - Integrated Tariff for Kosovo

UNMIK - United Nations Interim Administration Mission in Kosovo

USAID - United States Agency for International Development

1. Introduction

This project is of great *importance* particularly due to the fact that the success of Kosovo in negotiating and ratifying successfully the SAA will improve the quality of governance and the life of Kosovo's citizens.

The *main goal* of this study is to identify the challenges that Kosovo will encounter during the negotiation and eventual ratification stage of the SAA with EU. In addition, this study aims to prescribe the opportunities, procedures and processes (tactics and necessary steps and tools) for Kosovo Government to move forward during this process.

In doing so, the first part of this study provides the background of the EU involvement in the Western Balkans since 1997 until nowadays. This is followed with an analysis related to the position of Kosovo's relations with the EU, in comparison to the other Western Balkans countries. Then, the next section of this study looks up to EU-Kosovo's relations into two distinguished periods (1999-2008) and (2008-2013). Subsequently, based on the previous analysis and discussion, the following section of this study analysis the challenges that Kosovo might encounter during the negotiation and eventual ratification stage of the SAA with the EU. This section is supplemented with extensive examples and experience which were encountered from other Western Balkans countries, and the lessons that Kosovo might draw from them.

The *final result* of the project is this study in the form of a comprehensive report which intends to assist Kosovo's government, in particular to the Ministry of European Integration as a reliable tool for policy-making processes. RIDEA will undertake all the necessary steps to ensure that this report reaches all other relevant stakeholders.

1.1. Methodology

In order to achieve the expected project results, three research tools were utilized:

First, relates to the elite interviews which were conducted with relevant national and international stakeholders in Kosovo. In particular, people interviewed for this study come from or represent the following institutions:

1. Government of the Republic of Kosovo;
2. Assembly of the Republic of Kosovo (in particular Committee of European Integration);
3. Office of the President of the Republic of Kosovo;
4. Civil society organizations and academia in Kosovo;
5. EU presence in Kosovo (in particular EU Office in Kosovo); and
6. Diplomatic presence of the EU member-states, and other relevant international presence in Kosovo;

Second, is linked with the round-table discussions which were organized with various relevant national and international stakeholders; and

Third, is concerned with the process of gathering and analysing reports of various local and international organizations (e.g., European Commission annual progress reports) and other scholarly articles.

1.2. Questionnaire

In order to ease the implementation of the first and crucial methodological step of the project – interviews – it became necessary to formulate a series of specific questions, which in turn would help to achieve the aims of the project. In this way, in order to be able to gather the necessary information and achieve project's goals, RIDEA has drafted a comprehensive questionnaire which consisted of more than 20 questions. The complete text of the questionnaire together with the roundtable agenda are attached in the form of an annex in this report.

1.3. Target group and beneficiaries

The main target group of the project consists of the individuals, policy-makers and scholars engaged in European integration processes. More widely, the target group consists of students and researchers and other professionals' active in European integration processes. The main beneficiary of the study is Kosovo government and other institutions (e.g., Kosovo Assembly), and in particular the Ministry of European Integration. Other potential beneficiaries are civil society organizations involved in the European integration processes, international presence in Kosovo (in particular the EU presence). Even more, this study can be useful to potential donors or other investing institutions in this field.

2. EU's approach towards Western Balkans

2.1. The Post-Cold War Era

With the fall of the Communist regimes in Central and Eastern Europe new possibilities for further enlargement of the European Union came into place. In 1993, the Copenhagen European Council in 1993 took a very important decision that if a certain criteria were met they would offer a perspective membership for all the countries of Central and Eastern Europe. In essence, the Copenhagen Criteria include democracy, the rule of law, human rights, minority rights and a functioning market economy. Therefore, Association Agreements were signed by ten countries of the region.¹ These so-called Europe Agreements obliged the countries to bring their legislation in line with the EU standards, in order to modernise their administrations. In 1998 there were six

¹ Qerimi, Q. (2002) 'South-east Europe's EU integration: Dreams and realities', *South-East Europe Review*, Vol.1 No. 1, pp. 47.

countries that opened the negotiations (Estonia, Poland, Czech Republic, Hungary, Slovenia and Cyprus). The Commission recommended that other negotiations should be opened with other countries: Malta, Latvia, Lithuania and Slovakia. The first Central and Eastern European states joined the European Union in 2004. No country of the former Socialist Yugoslavia has obtained full membership of the EU by then, except Slovenia.²

In the context of the Western Balkans, as a response to the wars in ex-Yugoslavia, the EU began the development of a more coherent strategy towards this region. The first elements of such strategy were initiated shortly after the Rome Conference, 18 February 1996, under the framework of EU's Regional Approach. Through this program, EU offered technical assistance, unilateral trade preferences and contractual relations in the form of bilateral cooperation agreements upon commitment to political and economic reforms, country specific conditions and 'compliance with obligations under the Peace Agreements'.³

In other words, in order to stimulate the reforms in Western Balkans countries, EU adopted gradual approach towards the region. This approach meant that the benefits from technical and financial support were subjected to different degrees of conditionality. In fact, upon progressive compliance to the established conditions, the country is rewarded with intensified bilateral cooperation leading to contractual relations. On contrary, in case of non-compliance to the conditions, 'specific measures' resulted to the withdrawal of technical and financial support.⁴

Nevertheless, a more radical shift in EU's policy toward Western Balkans appeared after the Kosovo war in 1999. Apparently, it became clear to the EU leaders that a strategy aimed merely at economic reconstruction, political reform and regional cooperation is not enough to bring self-sustaining peace to the region, but only full integration into EU, seemed a promising way to achieve that.⁵

In this respect, the EU identifies its responsibility in the region and is devoted to fostering political and economic reform.⁶ Essentially, the enlargement of the EU is about the transfer of stability and to maintain the development. It is about enlarging the exclusive zone of freedom, peace and, stability, which has been growing up in Western Europe to the East of Europe for more than six decades.⁷ Countries that have been engaging in agreement negotiations with the European Union have understood that they must come to a solution for the conflicts with their neighbours in order for them to achieve the accession in the EU. The co-operation between

² Ibid.

³ Pippan, C. (2004) 'The Rocky Road to Europe: The EU's Stabilisation and Association Process for the Western Balkans and the Principle of Conditionality'. *European Foreign Affairs Review* 9: pp. 219–245.

⁴ Ibid.

⁵ Ibid.

⁶ Voss, J. (2002) 'The European Union yesterday, today and tomorrow', *Euro-Atlantic Review*, Vol. 1 No. 1, pp. 48.

⁷ Biermann, R. (2002) 'Robert Schuman's Perspective of Peace and Stability through Reconciliation', *Euro-Atlantic Review*, Vol. 1 No.1, pp. 71.

Hungary and Romania was a good example for this case, while the policy of Croatia towards Bosnia and Herzegovina (hereinafter: BaH) and Slovenia was another.⁸

Essentially, the European Council at Feira in June 2000 concluded that the relationship with the EU based on reliable outlook of a membership is the main incentive for this type of reform in Balkan countries, including the establishment of democracy, the rule of law and, building stable institutions and a functional free market economy. Countries of South-Eastern Europe have to be certain that an orientation towards the EU will not alone be sufficient, but also they have to accept the need for good bilateral relationships which will allow greater economic and political stability in the region.⁹

2.2. The Zagreb Summit

In November 2000 at the Zagreb Summit, EU and the countries of the region approved to continue with the Stabilisation and Association Process (hereinafter: SAP) as a way to prepare the region for sustainable reform and the EU integration process. This process consisted of the three key phases:

- a. Towards a Stabilisation and Association Agreement;
- b. Negotiating and implementing the Stabilisation and Association Agreements;
- c. Assistance.¹⁰

2.2.1. Towards a Stabilisation and Association Agreement

The key steps of the long-term commitment of the EU are linked with the Stabilisation and Association Agreements (hereinafter: SAA). In essence, the EU-policy based on the Copenhagen Criteria for serious steps towards political and economic reform offers the opening up of markets; also it provides an important financial and political assistance to the respective countries.¹¹ These respective countries have to show serious improvement of their economic and political reform agenda also they must be willing to overcome the obstacles for peace and stability within the region, then, the negotiations for such an agreement can be opened.¹²

2.2.2. Negotiating and implementing the Stabilisation and Association Agreements

After the Europe Agreements signed in the 1990s with ten central and eastern European states the SAA were created. The SAA as a contractual relation is a legally binding international

⁸ Ibid.

⁹ See footnote 1.

¹⁰ See footnote 6.

¹¹ See footnote 1.

¹² Ibid.

agreement, which requires the European Parliament's (EP) consent.¹³ The SAA are concentrated on respect for key democratic principles and values and the fundamentals of the EU single market. Throughout free trade agreements with the EU, this process provides for the economies of the respective countries the beginning of the integration with the EU economy. The SAA are fit to the situation in each of the respective countries. However, they all have a final goal, to fully realize the association after a transitional period through the implementation of the basic criteria and/or requirements.¹⁴ At the end of the day, it is evident that full integration into EU structures requires a long-term commitment on both sides. Therefore, in order to meet this challenge EU developed a more sophisticated policy framework – the SAP through transforming the established Regional Approach.¹⁵ This process included modified as well as new offers, in the field of trade liberalization, financial and economic assistance. Through this process, it changed the nature of the contractual relations on offer - replacing the prospect of a Cooperation Agreement with that of a Stabilization and Association Agreement.¹⁶

2.2.3. Assistance

With the Zagreb summit it was also launched a new EU programme, namely the Community Assistance for Reconstruction, Development and Stabilisation (hereinafter: CARDS), with an endowment of EUR 4.65 billion over the period 2000-2006. The Countries of the region that met Phase 1 and Phase 2 obligations were provided with broader assistance from the EU. While the assistance program for the Western Balkans was called CARDS (2000-2006), the program PHARE was for the countries of the fifth enlargement of the EU. CARDS programme was intended for the needs of each country in their path during the SAP. The main role and focus of the assistance was coordinated to the particular needs of each country and support for the reforms, institution-building and the regional cooperation. In other words, the key goal of CARDS was to promote and support institutional capacity-building, economic development and regional cooperation in the Western Balkans.¹⁷ Since 2007, EU pre-accession funding for the Western Balkans, as well as other candidate countries, is channelled through a single, unified Instrument for Pre-accession Assistance (hereinafter: IPA). In essence, IPA replaced the previous CARDS programme (2000-2006). The total pre-accession funding for the current

¹³ European Parliament (2011) *The Western Balkan Countries*. Available at: http://www.europarl.europa.eu/aboutparliament/en/displayFtu.html?ftuId=FTU_6.4.1.html (accessed on: 30/06/2013).

¹⁴ Ibid.

¹⁵ See footnote 3.

¹⁶ Commission of the European Communities (2000) *Communication from the Commission to the Council on Operational Conclusions EU Stabilisation and Association process for countries of South-Eastern Europe*. Available at: <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2000:0049:FIN:EN:PDF> (accessed on: 30/06/2013).

¹⁷ See footnote 13.

financial framework (2007–13) is EUR 11.5 billion.¹⁸ As far as the objectives are concerned the IPA objectives are similar to the previous CARDS programme.

The relationship that exists between the EU members-states must be encouraging and serve as a model for the countries of the region to develop their relations with each other. Strongly supported is a network of bilateral free trade agreements. Even though there is still a long way to go, the outlook of the full membership of the countries of the Western Balkans region is factual. However, it must be pointed out that membership in the EU commits all states to openness and tolerance with each other. The EU prerequisite of membership is that the lethal conflicts between the peoples of the region should be overcome. The countries of the region must understand that a peaceful co-existence is the answer to economic and political stability.¹⁹

2.2.4. Thessaloniki Summit

Another key formal momentum in the EU – Western Balkans relations is the Thessaloniki Summit, which reconfirmed the EU membership perspective of the region. In concrete words, the European Council in Thessaloniki in June 2003 promised a place for the Western Balkans in the European family. The EU's heads of state and governments committed that all of the Western Balkans countries have the prospect of eventual EU membership, and that they will be part of European family, once they meet the established criteria.

On the one side, political stability in the region is necessary to offer better times to people, while significant openness and competitiveness could transform the region into a magnet for foreign investment and know-how. However, as business-oriented policies are well-established facts, critical to the success of the economic recovery is sufficient macroeconomic and political stability at the regional level. Additionally, completing the privatization of large enterprises and services; and creating the right conditions for backing small and medium enterprises.

2.2.5. Sub-conclusions: EU's approach towards Western Balkans

As indicated, the applicable set of criteria for Balkan countries include those criteria defined by the Copenhagen European Council of 1993 and the conditions set for the SAP, most notably the Council's conditions as defined in its conclusions of 29 April 1997 and 21 and 22 June 1999, the content of the final declaration of the Zagreb Summit of 24 November 2000, and the Thessaloniki Agenda of 19 and 20 June 2003. The European Council reiterated this position in June 2005:

¹⁸ Ibid.

¹⁹ See footnote 1.

“[E]ach country’s progress towards European integration, taking account of the evaluation of the acquis, depends on its efforts to comply with the Copenhagen criteria and the conditionality of the Stabilization and Association process. Moreover, in this process, regional cooperation and good neighbourly relations will remain essential elements of EU policy.”

The evaluation of each country’s progress is thus made through mechanisms established under the SAP, notably the annual Progress Reports of the Commission. The integration process does also contain the element of conditionality. Such conditionality applies with respect to financial assistance. The advancement of each of the countries of the Western Balkans in the process of European integration is conditional on the progress made in satisfying the Copenhagen criteria, the progress in meeting specific priorities of the European Partnerships, as well as recipients’ undertaking to carry out democratic, economic and institutional reform. In case of failure to respect such conditions, the Council is assigned under Council Regulation (EC) No. 2666/2000 to take any such measures it considers “appropriate”, which may mean delaying, stopping or reducing the EU assistance.

3. Kosovo versus other countries of Western Balkans concerning the SAA

The conditions for the start of negotiations for SAA are laid down in the Council Conclusions of 29 April 1997. Whether conditions have been fulfilled, begins with, the ‘feasibility study’ of the individual country, assessing the compliance with relevant conditions. Upon positive assessment by the Council, the Commission establishes a formal proposal on negotiating directives for an SAA.²⁰

If accepted by the Council, the negotiations are conducted by the Commission in consultation with a special committee created by the Council for that purpose.

Negotiations on SAAs and their ratification on average can be considered as mid-term process. Upon its signature, country’s prospects of accession depend on the effective implementation of the SAA. For the agreement to become effective, it has to be ratified and concluded by the Member States and the European Communities. To date, SAAs have been signed and ratified with Albania, BaH, Croatia, the Former Yugoslav Republic of Macedonia, Serbia and Montenegro.

²⁰ Commission of the European Communities (1999) *Communication from the Commission to the Council and the European Parliament on the Stabilisation and Association process for countries of South-Eastern Europe*. Available at: <http://aei.pitt.edu/3571/1/3571.pdf> (accessed on: 30/06/2013).

The first countries to receive negotiating directives for Stabilisation and Association Agreements were Former Yugoslav Republic of Macedonia (FYROM)²¹ and Croatia²² in 2000. This process, the same year, was followed with the start of negotiations. While both countries signed the SAA in 2001, the agreement with FYROM entered into force in September 2004, while for Croatia in February 2005. Thus, in the case of FYROM²³ and Croatia²⁴ the negotiation process was about one year. While ratification process in the case of FYROM and Croatia took approximately another 3 years.²⁵

In the case of Albania²⁶, the SAA negotiation mandate was adopted in October 2002 while the negotiations were officially launched in January 2003. Similarly, the negotiation mandate for BaH²⁷ officially was launched in October 2005. While Albania²⁸ signed the SAA in June 2006, BaH²⁹ signed in June 2008. Thus, negotiation process for both countries took about three years. An SAA with Albania it entered into force in 2009, while for BaH although it has been ratified in 2010 by all EU member-states, it has not entered yet into force.

Concerning Serbia³⁰ and Montenegro, negotiations for SAA were launched in October 2005. Nevertheless, in May 2006 negotiations with Serbia³¹ were called off due to the non-cooperation with the International Criminal Tribunal for the former Yugoslavia (hereinafter: ICTY). But, about a year later, followed by the improvements in cooperation with ICTY, the negotiations resumed. The agreement with Montenegro³² was signed on October 2007 while with Serbia in

²¹ European Commission (2013) *Enlargement Countries, the Former Yugoslav Republic of Macedonia*. Available at: http://ec.europa.eu/enlargement/countries/detailed-country-information/former-yugoslav-republic-of-macedonia/index_en.htm (accessed on: 30/06/2013).

²² European Commission (2013) *Enlargement Countries, Croatia*. Available at: http://ec.europa.eu/enlargement/countries/detailed-country-information/croatia/index_en.htm (accessed on: 30/06/2013).

²³ See footnote 21.

²⁴ See footnote 22.

²⁵ Markiewicz, M. and Ivana, V. (2006) *Potential fiscal costs of the EU accession for Montenegro. Working paper series. Institute for Strategic Studies and Prognoses*. Available at: <http://issp.me/wp-content/uploads/2013/04/2006-WP-Fiscal-Cost-of-EU-Accession.pdf> (accessed on: 30/06/2013).

²⁶ European Commission (2012) *Enlargement Countries, key dates in Albania's path towards the EU*. Available at: http://eeas.europa.eu/delegations/albania/eu_albania/political_relations/index_en.htm (accessed on: 30/06/2013).

²⁷ European Commission (2013) *Enlargement Countries, Bosnia and Herzegovina*. Available at: http://ec.europa.eu/enlargement/countries/detailed-country-information/bosnia-herzegovina/index_en.htm (accessed on: 30/06/2013).

²⁸ See footnote 26.

²⁹ See footnote 27.

³⁰ European Commission (2013) *Enlargement Countries, Serbia*. Available at: http://ec.europa.eu/enlargement/countries/detailed-country-information/serbia/index_en.htm (accessed on: 30/06/2013).

³¹ Ibid.

³² European Commission (2013) *Enlargement Countries, Montenegro*. Available at: http://ec.europa.eu/enlargement/countries/detailed-country-information/montenegro/index_en.htm (accessed on 30/06/2013).

April 2008. While the agreement with Montenegro³³ was ratified on the same year, it took about two years to be ratified with Serbia.³⁴

Compared to other countries of the region of the Western Balkans, Kosovo's case is different into too many dimensions. Kosovo is a potential candidate for membership with the EU. Although it is not the only potential candidate from the region, its unique position and extraordinary circumstances have conditioned critical delays in the process of getting closer to the EU.

A relatively recent background that is specific to Kosovo dates back to 2005, when the European Commission adopts a communication on "A European Future for Kosovo". Three years later, in 2008, the Council adopts a Joint Action establishing the EU Rule of Law mission in Kosovo EULEX. Several key moments have taken place in the last two years. However, recently the EU has made some minor steps forward in its relations with Kosovo.

This is mostly linked with the conclusions of EU Council, dated 5 December 2011. It is worth noting, that the conclusions of the Council in a sense opened the door for visa dialogue of Kosovo with the European Commission.³⁵ Similarly, the Council conclusions opened the door for a possible trade agreement with Kosovo, Kosovo's membership at the European Bank for Reconstruction and Development and a possible participation of Kosovo in EU programs.³⁶ In January 2012, the Commission launched a visa liberalization dialogue with Kosovo. A few months later, the Structured Dialogue on the Rule of Law was launched, along with the issuance from the Commission of a visa liberalization roadmap.

Moreover, these minor steps forward were also followed with the Council conclusions in March 2012 and reached their highest level with the *feasibility study* for an SAA between EU and Kosovo. The feasibility study was published in October 2012 and it was considered as a de facto first concrete step for Kosovo in the long road of entering into formal and serious relations with the EU. It examined whether the political, economic and legal criteria for a Stabilisation and Association Agreement are fulfilled. The report notes that Kosovo '*... is largely ready to open negotiations for Stabilisation and Association Agreement*'.

³³ Ibid.

³⁴ See footnote 30.

³⁵ Council of the European Union (2011) *Council conclusions on enlargement and stabilization and association process*. Available at: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/126577.pdf (accessed on: 30/06/2013)

³⁶ Ibid.

Nonetheless, the Commission will propose negotiating directives upon fulfilment of priorities in the area of rule of law, public administration, protection of minorities and trade.³⁷ Most recently, in April 2013, the Commission proposed to the Council to decide on authorizing the opening of negotiations on an SAA between the EU and Kosovo.

However, considering the non-recognition of Kosovo's independence by the last five EU member-states, during the negotiations for the SAA, there will be lot of challenges – mainly related to this dimension. Similarly, even if the SAA between Kosovo and EU will be concluded, still the ratification process at the EU member-states will be challenging and in particular with the five non-recognizers.

3.1. Sub-conclusions: Kosovo versus other countries of Western Balkans concerning the SAA

In brief, compared to other countries of the Western Balkans, Kosovo is the only state in the Western Balkans region both without SAA and a visa-free regime with the EU. In other words, Kosovo remains the last country in the Western Balkans without having contractual relations with the EU (and this is also the case in post-independence period). Essentially, these are the key differences between Kosovo and other countries of the Western Balkans region.

In addition, Kosovo was and it is still the country with the largest EU presence (compared to other countries of the Western Balkans). Therefore, by considering the two previous facts, this represents a kind of contradiction in terms. Likewise, a challenge for Kosovo and the EU as well, remains the normalization of the situation in the North of Kosovo and the relations between Kosovo and Serbia and the ongoing dialogue between them. All this makes Kosovo's-EU relations as *sui generis* model, and very complicated, at the same time.

4. The EU-Kosovo's relations (1999-2013)

There are two crucial stages that this study considers of a peculiar importance in analysing EU-Kosovo's relations. The first one begins immediately after the NATO-led strikes against Serbia in 1999 until Kosovo's Declaration of Independence in 2008. The second stage in analysing EU-Kosovo's relations is linked with Kosovo's post-independence period until nowadays (June, 2013).

³⁷ European Commission (2012) *Feasibility Study for a Stabilisation and Association Agreement between the European Union and Kosovo*. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/ks_feasibility_2012_en.pdf (accessed on: 30/06/2013).

4.1. The EU - Kosovo's relations (1999 -2008)

Kosovo is in the process of consolidating its internal systems, structures and institutions of governance. It is undergoing a series of processes that are fundamental to all of its people and their future. These processes are not only correlated with the proper design and effective functioning of the structures of authority and control, but also with the system of desired values or outcomes, in particular those pertaining to the welfare system and to regional and/or international cooperation, safety and stability. The ever growing interconnectedness or inter-determination among peoples and problems demands particular actions and attention for affairs that transcend national boundaries. The assistance of international actors (in particular of the EU) is of a peculiar importance.

Since 1999, Kosovo and EU relations have been in constant partnership characterized by constructive approach and determination of the EU to assist Kosovo in its European path. In this respect, EU has continued to perform two major roles since 1999. One is related to the financial support – i.e., constant investments in order to support institutional and capacity development and adoption of EU norms and principles.³⁸ The other role of the EU in Kosovo is related to the EU commitment on keeping up the stability, peace and European perspective for the Western Balkans. In order to develop this perspective, it has offered political mediation to Kosovo by bringing good practices and examples.³⁹

In order to reach these goals, the EU had a large presence in Kosovo. Notwithstanding of the EU presence (known as Pillar IV) within the UNMIK, the EU continued steadily to establish its field presence in Kosovo.

In this respect, the first EU agency that was established in post-war Kosovo after EU Pillar was the European Agency for Reconstruction (hereinafter: EAR). The EAR in early 2000, took over from the European Commission Task Force for the Reconstruction of Kosovo (a temporary emergency assistance body set up in the summer of 1999), following the NATO led

³⁸ Interview 2: Senior Officer, Office of the President of the Republic of Kosovo (Pristina, 26/02/2013); Interview 3: MP at the Kosovo Assembly (Pristina, 28/02/2013); Interview 4: MP at the Kosovo Assembly (Pristina, 01/03/2013); Interview 5: MP at the Kosovo Assembly (Pristina, 01/03/2013); Interview 7: Western Diplomat in Kosovo (Pristina, 05/03/2013); Interview 11: MP at the Kosovo Assembly (Pristina, 11/03/2013); Interview 13: High Official, Kosova Chamber of Commerce (Pristina, 15/03/2013); Interview 16: Western Diplomat in Kosovo (Pristina, 25/03/2013); Interview 19: European Diplomat in Kosovo (Pristina, 22/04/2013); Interview 20: Senior Officer, Ministry of European Integration (Pristina, 24/04/2013); Interview 21: Senior Officer, Kosovo's Prime Minister Office (Pristina, 5/04/2013); Interview 23: Lecturer on European and International Law, Pristina University (Pristina, 29/04/2013); Interview 24: Researcher on EU Affairs (Pristina, 30/04/2013).

³⁹ Interview 6: Deputy Head of Office, Council of Europe Office (Pristina, 01/03/2013); Interview 8: Ambassador of Italy in Kosovo (Pristina, 06/03/2013); Interview 16: Western Diplomat in Kosovo (Pristina, 25/03/2013); Interview 18: Researcher on EU Integration (Pristina, 10/04/2013); Interview 19: European Diplomat in Kosovo (Pristina, 22/04/2013); Interview 22: Civil Society Activist (Pristina, 26/04/2013).

intervention.⁴⁰ This was followed with the establishment in mid 2000 of the European Union Monitoring Mission (EUMM), replacing the European Community Monitoring Mission (ECMM) which had operated in the Western Balkans since July 1991. In April 2004, the High Representative of the Common Foreign and Security Policy (HR CFSP), Javier Solana, appointed a Personal Representative in Kosovo and a new CFSP office was set up in Pristina (the so called ‘Solana’s Office’). This office has been a vigorous mediator in the feuding between local political forces and established good cooperation with Kosovo’s institutions. In this context, in September 2004 a small European Commission Liaison Office (hereinafter: ECLO) was set up in Pristina. The work of ECLO has been similar to that of Commission Delegations around the world, but with some limitations due to the unsolved political status of Kosovo until 2008 and by the EAR which has been administering all assistance projects in Kosovo until then. Consequently, the work of the ECLO has been directed more on assisting capacity-building of Kosovo’s institutions, as well as on implementing various EU policy instruments in Kosovo, including the Stabilisation and Association Process Tracking Mechanism (STM) and, later on Kosovo’s European Partnership Plan (EPP).⁴¹ The outlook of the ECLO was reshaped in post-independence period.

Additionally, in November 2006, Torbjorn Sohlstrom was appointed as the man in charge of setting up the International Civilian Office (ICO) – the institution which took over UNMIK’s role (although at a smaller degree) in post status Kosovo. To assist this process, by mid-2006 a new European Union Planning Team (EUPT) was established in Pristina.

In brief, despite the EU Pillar within UNMIK, the following are the EU agencies that acted in Kosovo from 2000-2008:

1. European Agency for Reconstruction (EAR);
2. European Union Monitoring Mission (EUMM);
3. Personal Representative of the EU High Representative, CFSP;
4. European Commission Liaison Office (ECLO);
5. EU Planning Team for the EULEX mission (EUPT); and
6. European Union Member States with their liaison offices in Pristina representing the EU Presidency.

⁴⁰ European Agency of Reconstruction (2006) *Quarterly Activity Report*. Available at: www.ear.europa.eu/publications/main/EAR-ActivityReports-Quarterly-ApriltoJune2006.htm (accessed on: 30/06/2013).

⁴¹ European Commission (2005). *A European Future for Kosovo*, COM 156 final.

On the other hand, despite its field-presence and the financial assistance (carrot mechanism), the EU in implementing its policies, similarly carried out the tool of (stick) in particular through its progress reports. In this respect, the first ever separate progress report for Kosovo by the European Commission was published in 2005 (previous to this year, Kosovo's progress report was published jointly with Serbia and Montenegro). This progress report covered issues related to the European standards, democratic development, various sectoral policies and other-related aspects. Certainly, it addressed issues which are also addressed in the progress reports of other countries of the Western Balkans. For instance, as far as the European standards are concerned in the Kosovo Progress Report 2005, it is mentioned that Kosovo started implementing the Integrated Tariff for Kosovo (TARIK). TARIK is based on international and European customs tariff systems.⁴² However, the report emphasizes the need to continue with reforms on the tax administration, with the purpose of enhancing collection and control capacity. In this sense, strengthening fight against corruption and reinforcing the non-discriminatory application of tax laws remained important challenges to be tackled.⁴³

Regarding the sectoral policies, it was assessed that Kosovo has noted small progress in the area of industry and SMEs. Nevertheless, SME sector continued to be faced with poor legal and regulatory environment, infrastructure and management skills.⁴⁴

As far as the democratic development is concerned, Kosovo Progress Report (2005) has pointed to the democratic deficit and efficiency in the way of functioning of the institutions and it emphasizes the need for more commitment by the political elite at the local and central level, in order to guarantee impartiality in the exercise of their public functions.⁴⁵ Whereas some progress has been pointed out in enhancing freedom of expression, the rule of law and administration capacity were identified as extremely weak with a need for further improvements.⁴⁶

A similar discourse related to the progress in Kosovo was also used in the Progress Reports on Kosovo, in 2006 and 2007. For instance, regarding European standards in Kosovo's Progress Report, in 2006 significant progress is apparent related to the improvements that have been made within the UNMIK customs service. Additionally, it is noted very little or no progress in other areas regarding internal market.⁴⁷ Similarly, concerning the *sectoral policies*, some progress was

⁴² European Commission (2005) *Kosovo * 2005 Progress Report*. Available at: http://ec.europa.eu/enlargement/archives/pdf/key_documents/2005/package/sec_1423_final_progress_report_ks_en.pdf (accessed on: 30/06/2013).

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ European Commission (2006) *Kosovo * 2006 Progress Report*. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/ks_sec_1386_en.pdf (accessed on: 30/06/2013);

European Commission (2007) *Kosovo * 2007 Progress Report*. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/kosovo_progress_reports_en.pdf (accessed on 30/06/2013).

noticed in industry and SME policies.⁴⁸ In addition, registration process of businesses was simplified and some progress was pointed out related to the taxation issues.⁴⁹ The 2008 progress Report highlights some progress related to the development of horizontal structure for the *acquis* on the free movement of goods and upgrading the administrative capacity to ensure alignment with European standards.⁵⁰ Some new challenges related to the northern Kosovo were also pointed out in the progress report of 2008. This is mainly related to the two border posts in Northern Kosovo which have been destroyed following Kosovo's independence. As in 2006 and 2007, similarly in 2008, limited or no progress was reported in other areas of internal market, except some progress was noted in the field of public procurement and research.⁵¹

4.2. Sub-conclusions: The EU-Kosovo's relations (1999-2008)

Since 1999, Kosovo's relations with the EU have faced substantial progress and partnership, which was characterized by constructive approach and determination of EU to assist Kosovo in its European path. In this respect, with its extensive presence in Kosovo, then with the tools of 'stick and carrot', the EU has performed two major roles from 1999-2008. The first related to the financial support for Kosovo and the second concerning the EU commitment in encouraging stability, peace and European perspective for Kosovo and wider for the Western Balkans.

4.3. The EU-Kosovo's relations (2008-2013)

Kosovo's Declaration of Independence, in February 2008, has marked a new beginning on the EU-Kosovo's-relations. The day after independence declaration, EU Council of General Affairs takes note on the declaration and stresses the European perspective of Kosovo. This event and this timing are also linked with the initiation stage of the reconfiguration of EU's role in Kosovo.⁵²

In 2009, EU-Kosovo's relations encountered further progress and challenges, too. This is the landscape of EU-Kosovo's relations in 2009. The 2009 Progress Report on Kosovo notes the fact that Kosovo joined the International Monetary Fund and the World Bank.⁵³ For instance, related to the economy of Kosovo as a challenge is identified a large informal sector and incomplete

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ European Commission (2008) *Kosovo * 2008 Progress Report*. Available at: http://ec.europa.eu/enlargement/pdf/press_corner/key_documents/reports_nov_2008/kosovo_progress_report_en.pdf (accessed on: 30/06/2013).

⁵¹ Ibid.

⁵² Interview 8: Ambassador of Italy in Kosovo (Pristina, 06/03/2013); Interview 15: Western Diplomat in Kosovo (Pristina, 22/03/2013).

⁵³ European Commission (2009) *Kosovo * 2009 Progress Report*. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2009/ks_rapport_2009_en.pdf (accessed on: 30/06/2013).

legal framework.⁵⁴ Additionally, concerning the public administration in Kosovo, this report emphasizes the fact that still remains weak and that there is a need for public administration reform, in order to strengthen the capacity, independence and professionalism.⁵⁵ Likewise, this report identifies the need to improve the business environment and demonstrate results in the fight against corruption and organized crime.⁵⁶ Furthermore, it highlights the needs of strengthening the efforts to protect minorities and enhance dialogue and reconciliation between communities in Kosovo.⁵⁷

In order to mark a new stage in the EU-Kosovo relations, the Commission proposed in 2009 to strengthen and widen Kosovo's participation in the SAP through creating a mechanism of consistent SAP dialogue.⁵⁸

On the other hand, the challenges noted in 2009 progress report were also similar in 2010 and 2011, while no remarkable progress was reached on the EU-Kosovo's relations during this period.

In 2012, launching and presentation of visa liberalisation roadmap and publication of feasibility study constitute the major developments on Kosovo's-EU relations. Of particular importance is the feasibility study (October 2012) issued by the EU institutions, which point out the fact that there is no legal obstacle for the EU to conclude an SAA with Kosovo.

Nevertheless, the feasibility study on SAA also identifies several challenges for Kosovo, in order for Kosovo to meet its obligations under SAA. The first of these obligations is related to the improvement of effectiveness, accountability and impartiality of the judiciary.⁵⁹ Then, another obligation is related to the reform in public administration. In concrete words, it is required that Kosovo ensures sustainable public administration reform, including the necessary funding and staffing.⁶⁰ Additional set of criteria or obligations for Kosovo are linked with the idea of promoting a multi-ethnic society, by creating conditions minorities and in particular for Serb minority to feel part of Kosovo's future and to facilitate return for persons wishing to do so.⁶¹

Regarding trade which is one of the most important aspects in the context of a SAA, it is required from Kosovo to implement the government decision on the restructuring of the Ministry for Trade and Industry.⁶² Similarly, it is requested from Kosovo to create the relevant

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ See footnote 37.

⁶⁰ Ibid

⁶¹ Ibid.

⁶² Ibid.

mechanisms which would lead coordinate negotiations, in this respect.⁶³ As a result of fulfilment of these criteria by Kosovo authorities, in April 2013, the European Commission proposed to the Council to decide on authorizing the opening of negotiations on a Stabilization and Association Agreement between the EU and Kosovo. This is essential as it lays the ground for contractual relations between Kosovo and EU.⁶⁴

In this context, it needs to be stressed out the fact that the current relations between Kosovo and the EU are characterized as dynamic and generally within the framework of European integration processes with other Balkan countries. The EU continues to serve as an incentive for the progress in the region. It supports Kosovo in all realms, with special emphasis on the rule of law.⁶⁵

However, in its path to European integration, Kosovo's relations with EU are also determined by the non-recognition of Kosovo's independence by five EU member states. Non-recognition by the five EU member-states has other implications, especially on political aspect. The EU has special difficulties on reaching consensus and decisions for Kosovo's integration processes with five non-recognizing states, therefore causing delays in EU processes. Moreover, this hinders not only materialization of European perspective of Kosovo, but challenges the EU institutions *per se*.⁶⁶

Another aspect that influences EU-Kosovo's relations is the ongoing dialogue between Kosovo and Serbia. Kosovo's commitment and constructive approach in dialogue with Serbia is seen to be as a precondition for strengthening its path in European integration.⁶⁷

Some more general challenges related to the current EU-Kosovo's relations are the followings: Failures of Kosovo's institutions in the European integration process shall not be projected to the EU, and instead Kosovo authorities shall focus on resolving these issues.

Moreover, Kosovo needs to establish true policy process by closing the gap between what is being said and done.⁶⁸ Related to this, EU-Kosovo's relations to a greater extent depend on meeting and implementing the EU standards. In this respect, rule of law sector is one of the

⁶³ Ibid.

⁶⁴ Interview 1: EUSR Officer (Pristina, 22/02/2013); Interview 8: Ambassador of Italy in Kosovo (Pristina, 06/03/2013); Interview 9: Senior Political Officer, European Union Office in Kosovo/EU Special Representative (Pristina, 08/03/2013); Interview 10: Political Officer, European Union Office in Kosovo/EU Special Representative (Pristina, 08/03/2013); Interview 11: MP at the Kosovo Assembly (Pristina, 11/03/2013); Interview 12: Western Diplomat in Kosovo (Pristina, 13/03/2013); Interview 16: Western Diplomat in Kosovo (Pristina, 25/03/2013).

⁶⁵ Interview 16: Western Diplomat in Kosovo (Pristina, 25/03/2013).

⁶⁶ Interview 17: Senior Officer, Ministry of Foreign Affairs Kosovo (Pristina, 29/03/2013).

⁶⁷ Interview 6: Deputy Head of Office, Council of Europe Office (Pristina, 01/03/2013); Interview 12: Western Diplomat in Kosovo (Pristina, 13/03/2013); Interview 14: European Diplomat in Kosovo (Pristina, 21/03/2013).

⁶⁸ Interview 5: MP at the Kosovo Assembly (Pristina, 01/03/2013); Interview 15: Western Diplomat in Kosovo (Pristina, 22/03/2013); Roundtable Meeting: "Identifying challenges, opportunities and strategies for the possible negotiation and ratification process of the SAA between the EU and Kosovo". Organized by RIDEA (14/05/2013).

main standards that needs improvement in Kosovo. For instance, implementing rule of law in the North of Kosovo and fighting organized crime and corruption will be important factors in shaping these relations.⁶⁹ Similarly, additional challenge of the EU-Kosovo's relations is the further internalization of EU norms and practices by entire society.⁷⁰

4.4. Sub-conclusions: The EU-Kosovo's relations (2008-2013)

Kosovo's Declaration of Independence, in February 2008, has marked a new beginning on EU-Kosovo's-relations, in particular related to the reshaping process of the EU presence in Kosovo. In 2009, the EU-Kosovo's relations encountered further progress, through the Commission proposal in 2009 to strengthen and widen Kosovo's participation in the SAP through creating a mechanism of consistent SAP dialogue. The 2010 and 2011 did not mark any particular or special momentum on EU-Kosovo's relations.

On the other hand, in 2012 some progress was noted on relations between Kosovo and the EU. In particular, this is linked with launching and presentation of visa liberalisation roadmap and publication of the feasibility study by the EU. This relation was further strengthened or consolidated in April 2013, when the European Commission proposed to the Council to decide on authorizing the opening of negotiations on an SAA between the EU and Kosovo. Finally, this relation between Kosovo and the EU culminated with the decision of the Council of the EU (June, 2013) to initiate negotiations with Kosovo related to the SAA. In this respect, the next section of this study analysis into details the challenges that Kosovo might encounter during the negotiation stage of the SAA, which will then be followed with a section related to the challenges of the eventual Kosovo's SAA ratification process by the EU.

5. Challenges and opportunities for Kosovo during the negotiation stage of the SAA

During the negotiation stage of the SAA, it is expected that Kosovo will be faced with multi-faceted challenges. The current study identified two categories of challenges that Kosovo might encounter during the negotiation stage of the SAA with the EU: *general* and *specific/unique* challenges. However, at the same time, it is worth noting that both challenges (general and specific) provide an opportunity for Kosovo to improve its governance and the quality of the life of its citizens.

There are several *general challenges* for Kosovo during the negotiation stage of the SAA. In order to list some of them it could be said that these *general challenges* are linked with Kosovo's

⁶⁹ Interview 6: Deputy Head of Office, Council of Europe Office (Pristina, 01/03/2013).

⁷⁰ Interview 2: Senior Officer, Office of the President of the Republic of Kosovo (Pristina, 26/02/2013); Interview 11: MP at the Kosovo Assembly (Pristina, 11/03/2013).

capacities to negotiate an SAA, challenges related to the rule of law, functioning market economy, etc.

In addition, this study has identified two more *specific or unique challenges* (compared to other countries of the Western Balkans) in the case of Kosovo. These *specific or unique challenges* are related with the non-recognition of Kosovo's statehood by the five EU member-states and the lack of recognition and its overall relations with Serbia. The below sections discuss all these issues into more details.

5.1. General Challenges

First of all, a challenge in itself was the decision of the EU related to the initiation of negotiations with Kosovo on SAA. Since the decision of the EU Council (28 June 2013) was positive, it is expected that the negotiations may start in September 2013.⁷¹

Another *general challenge* relates to ***Kosovo's capacity*** to take part in the negotiation process with EU. The challenge of the capacities and the reform of public administration should go hand in hand and the SAA negotiation stage provides a unique opportunity, in this respect. In order to be in line with the needs of negotiating the SAA with the EU, the Kosovo Government shall hire lawyers, other experts and technocrats (local and international) who will be able to tackle and undertake the necessary reforms. Existing staff has also to undergo through various trainings in order to improve their skills and become professional. Additionally, strengthening the management level, de-politicization of public administration and addressing corruption in public administration will be great challenges which must be tackled by Kosovo during the negotiation (and not only) of the SAA.⁷² The public administration reform was also a challenge for other countries of the Western Balkans during the SAP. For instance, in the case of Albania, the progress report (2005) emphasizes as a concern the ability of the public administration to implement a potential SAA.⁷³ Similarly, the EC progress report on Montenegro (2006) notes that a key challenge for the Montenegro related to the SAA remains upgrading of administrative capacity in order to ensure the implementation of agreement.⁷⁴

⁷¹ Interview 6: Deputy Head of Office, Council of Europe Office (Pristina, 01/03/2013); Interview 14: European Diplomat in Kosovo (Pristina, 21/03/2013); Interview 17: Senior Officer, Kosovo Ministry of Foreign Affairs (Pristina, 29/03/2013); Interview 6: Deputy Head of Office, Council of Europe Office (Pristina, 01/03/2013).

⁷² Interview 2: Senior Officer, Office of the President of the Republic of Kosovo (Pristina, 26/02/2013); Interview 15: Western Diplomat in Kosovo (Pristina, 22/03/2013).

⁷³ European Commission (2005) *Albania 2005 Progress Report*. Available at: http://ec.europa.eu/enlargement/archives/pdf/key_documents/2005/package/sec_1421_final_progress_report_al_en.pdf (accessed on: 30/06/2013).

⁷⁴ Commission of the European Communities (2006) *Montenegro 2006 Progress Report*. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/mn_sec_1388_en.pdf (accessed on: 30/06/2013).

In this context, it is worth noting that the current study finds out that Kosovo Government has undertaken some preventive measures. It has adopted negotiating structure and negotiating team for the SAA.⁷⁵ Similarly, it looks like that Ministry of European Integration has created an action plan and its officials are paying visits to neighbouring countries in order to learn experiences related to this process.⁷⁶

Rule of law is another challenge within the category of *general challenges* which Kosovo must deal with during and beyond the negotiation stage of the SAA. Huge reforms must be undertaken in this sector. In particular, fight against organized crime and corruption must be dealt in more concretely. Achieving concrete results in the fight against corruption and organized crime is of crucial importance for Kosovo's path to the EU. Additionally, Kosovo must close the gap between the laws adopted in the paper and the way that they are implemented into practice. It must ensure judicial independence and alleviate political interference in this sector.

Moreover, Kosovo must take measures to reduce the total backlog of cases in the judicial sector. Even more, based on the experiences from Croatia or other former federal units of ex-Yugoslavia, dealing with war crimes will be another issue for Kosovo to undertake.⁷⁷ To illustrate this, the EC progress report (2007) on BaH notes that before signing an SAA, Bosnia must prove evidence on full cooperation with the ICTY.⁷⁸ A similar discourse is also found in the EC progress report (2007) on Serbia where the full cooperation with ICTY is a required condition before signing an SAA.⁷⁹ In the context of Kosovo, its cooperation with EULEX related to war crimes or other-related dimension can be handled as a required condition for further progress related to the SAA negotiation stage or even later during the ratification stage. Similarly, Kosovo needs to strengthen and renew its capacities and improve further its legislation related to the judicial sector.

Reforms on establishing a **functioning market economy** is another *general challenge* that Kosovo shall address during and beyond the negotiation stage of the SAA. In concrete words, necessary trade legal frameworks such as food safety, sanitary control, must be established.

⁷⁵ Roundtable Meeting: "Identifying challenges, opportunities and strategies for the possible negotiation and ratification process of the SAA between the EU and Kosovo". Organized by RIDEA (14/05/2013).

⁷⁶ Interview 9: Senior Political Officer, European Union Office in Kosovo / EU Special Representative (Pristina, 08/03/2013); Interview 10: Political Officer, European Union Office in Kosovo / EU Special Representative (Pristina, 08/03/2013).

⁷⁷ Interview 3: MP at the Kosovo Assembly (Pristina, 28/02/2013); Interview 7: Western Diplomat in Kosovo (Pristina, 05/03/2013); Interview 11: MP at the Kosovo Assembly (Pristina, 11/03/2013); Interview 14: European Diplomat in Kosovo (Pristina, 21/03/2013).

⁷⁸ Commission of the European Communities (2007) *Bosnia and Herzegovina 2007 Progress Report*. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/bosnia_herzegovina_progress_reports_en.pdf (accessed on: 30/06/2013).

⁷⁹ Commission of the European Communities (2007) *Serbia 2007 Progress Report*. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/serbia_progress_reports_en.pdf (accessed on: 30/06/2013).

Likewise, during the negotiation stage of the SAA, Kosovo must reduce informality and improve business environment and support further development of the private sector.⁸⁰

Demonstrating implementation of the *European standards* is the other *general challenge* for Kosovo during and beyond the negotiation stage of the SAA. In particular, related to this challenge is of crucial importance the progress concerning customs sector, free movement of goods, and other related issues with trade and market, in order to ensure alignment with European standards. It is important that Kosovo demonstrates genuine attempt to implement EU standards.⁸¹ For example, in the case of Albania to recommend the conclusion of the agreement, Albania had to ensure the proper conduct of the 2005 parliamentary elections in line with European standards.⁸² Kosovo cannot be an exception, in this regard, too.

During the negotiation stage of the SAA, additional challenge will be the *involvement of relevant stakeholders* within this process. In other words, there shall be discussions in Kosovo's parliament and in other relevant institutions about the negotiated issues. Additionally, Kosovo Government during this process needs to make sure that will involve opposition parties, civil society, academia and other-relevant stakeholders within the process. This will create conditions for a successful negotiation process of the SAA. In this respect, Kosovo needs to talk to its neighbours, in order to learn from their experiences, and to be better prepared in this aspect.⁸³

5.2. Specific Challenges

As noted above, compared to other countries of the Western Balkans, in the case of Kosovo there are two additional specific/unique challenges related to the negotiation stage of the SAA.

The first of these *specific challenges* has to do with the non-recognition of Kosovo's independence from the *five EU member-states* (Cyprus, Greece, Romania, Slovakia and Spain). The EU is unified in terms of entering into SAA process with Kosovo. However, Kosovo has already been delayed in EU integration process due to the lack of consensus within the EU, and in particular with five non-recognizers. There might appear other particular problems at later stages when particular SAA directives have to be negotiated or in case of other bilateral agreements with EU member-states.⁸⁴ It seems that for the time being, in the case of Kosovo, EU

⁸⁰ Interview 5: MP at the Kosovo Assembly (Pristina, 01/03/2013). Interview 13: High Official, Kosova Chamber of Commerce (Pristina, 15/03/2013).

⁸¹ Interview 6: Deputy Head of Office, Council of Europe Office (01/03/2013); Policy Officer – EUSR. Roundtable Meeting: "Identifying challenges, opportunities and strategies for the possible negotiation and ratification process of the SAA between the EU and Kosovo". Organized by RIDEA (14/05/2013).

⁸² See footnote 73.

⁸³ Interview 1: EUSR Officer (Pristina, 22/02/2013); Interview 2: Senior Officer, Office of the President of the Republic of Kosovo (Pristina, 26/02/2013).

⁸⁴ Interview 8: Ambassador of Italy in Kosovo (Pristina, 06/03/2013); Interview 15: Western Diplomat in Kosovo (Pristina, 22/03/2013); Interview 17: Senior Officer, Kosovo Ministry of Foreign Affairs (Pristina, 29/03/2013).

always has to invent something new in order to reach consensus with five non-recognizing countries.⁸⁵

A second *specific challenge* related to and beyond the negotiation stage of the SAA for Kosovo are the *overall relations with Serbia*. In general, Kosovo's progress towards European integration processes will depend on the general situation of the countries in Balkans, but in particular related to its relations with Serbia. The recent agreement on the North of Kosovo creates a more optimistic perspective in this respect, but its implementation and other opened issues between Kosovo and Serbia (e.g., the reciprocal recognition of statehood) still remain a challenge. It seems that gradual normalisation of relations between Kosovo and Serbia shall be maintained, in order to foster European integration processes.⁸⁶

5.3. Sub-conclusions: Challenges and opportunities for Kosovo during the negotiation stage of the SAA

This section identified two categories of challenges that Kosovo might encounter during the negotiation stage of the SAA with the EU: general and specific/unique challenges. The *general challenges* for Kosovo during the negotiation stage of the SAA consisted of issues ranging from the rule of law to the functioning market economy and public administration reform. On the other hand, the *specific or unique challenges* in the case of Kosovo were linked with the non-recognition of Kosovo's statehood by the five EU member-states and the lack of recognition and the ongoing dialogue with Serbia.

However, both challenges and in particular the *general* ones provide an opportunity for Kosovo to improve its governance and the quality of the life of its citizens. In other words, the SAA negotiation process is a unique opportunity for Kosovo to deepen internal stability and strengthen its institutions. During this process, EU will enhance its financial and technical support to Kosovo through providing more expertise and more assistance to capacity building for Kosovo's institutions. Through SAA negotiation, Kosovo's legislation will comply more with the EU legislation which puts Kosovo in the right path towards its EU integration objectives.⁸⁷ Similarly, within this process, Kosovo must demonstrate positive willingness.

It is a chance for Kosovo to attract foreign investments and improve somehow the overall situation in the economy.⁸⁸ Therefore, through positive reforms in institutions, legislation and

⁸⁵ Ibid.

⁸⁶ Interview 1: EUSR Officer (Pristina, 22/02/2013); Interview 8: Ambassador of Italy in Kosovo (Pristina, 06/03/2013).

⁸⁷ Interview 15: Western Diplomat in Kosovo (Pristina, 22/03/2013).

⁸⁸ Interview 7: Western Diplomat in Kosovo (Pristina, 05/03/2013); Interview 11: MP at the Kosovo Assembly (Pristina, 11/03/2013); Interview 12: Western Diplomat in Kosovo (Pristina, 13/03/2013); Roundtable Meeting: "Identifying challenges, opportunities and strategies for the possible negotiation and ratification process of the SAA between the EU and Kosovo". Organized by RIDEA (14/05/2013).

economy, this will also imply the opportunity for improving citizen's lives in general. Certainly, the negotiation stage of the SAA will not change the entire landscape of the economic and political situation in Kosovo. But, if it will be taken seriously by Kosovo's institutions – it can serve as a minor and/or first step in the right path or direction.

6. Challenges and opportunities for Kosovo during the eventual ratification stage of the SAA

Similar to the negotiations stage of the SAA, likewise during the eventual ratification stage of the SAA, it is expected that Kosovo will be faced with multi-faceted challenges. If the path of Kosovo towards ratification process of the SAA will be of the same kind as to the other countries of the Western Balkans (i.e., if each EU member-state will have to ratify the SAA with Kosovo⁸⁹), it should be expected that Kosovo will encounter huge challenges (in particular with some of the five non-recognizers). In other words, despite those standard/general challenges which were faced by other countries of the Western Balkans (related to the SAA implementation and reforms in different sectors), Kosovo will also encounter some specific/unique challenges. As in the case of the negotiation stage of the SAA, these *specific or unique challenges* are related with the non-recognition of Kosovo's statehood by the five EU member-states and the lack of recognition and potentially with the ongoing dialogue with Serbia. The below sections discusses all these issues into more details.

6.1. General Challenges

During the ratification stage of the SAA by EU, Kosovo will encounter a crucial *general challenge* which is linked with the implementation of the IA/SAA. It is widely expected that majority of EU member-states (in particular those that have recognized Kosovo by then) will make their decisions upon reform implementation.

Another factor that will determine the ratification of the SAA will be the general political atmosphere within the EU in its entirety, and also in particular member-states.⁹⁰ Additionally, it is worth noting that the *general challenges* related to the ratification stage of the SAA remain almost the same as those during the negotiation stage. In other words, further progress is required in reform implementation in several fields and sectors (e.g., rule of law, political institutions, free market economy, European standards, etc).

⁸⁹ If any other mode of ratification will be carried out in the case of Kosovo (e.g., that the SAA with Kosovo will be ratified only at the EU level/institutional set-up) the challenges related to the ratification stage will certainly be much smaller.

⁹⁰ Interview 3: MP at the Kosovo Assembly (Pristina, 28/02/2013); Interview 14: European Diplomat in Kosovo (Pristina, 21/03/2013); Roundtable Meeting: "Identifying challenges, opportunities and strategies for the possible negotiation and ratification process of the SAA between the EU and Kosovo". Organized by RIDEA (14/05/2013).

Thus, to start with the first *general challenge* related to the ratification stage of the SAA it should be noted that this has to do with the *implementation of the IA/SAA*. In this respect, also the other countries of the Western Balkans encountered challenges, too. For instance, the year that Macedonia signed the SAA with the EU, it continued to face political crisis that had major impact on the economy and national institutions. After such crisis, the EC progress report (2002) notes that of particular importance is the implementation of the Interim Agreement. It is added that further progress in this respect, is related to the agreement implementation.⁹¹ A similar discourse related to the implementation of the IA/SAA is also found in the consecutive progress reports of the EC, after the signing of the SAA with Albania in 2005. For example, the EC progress report on Albania (2007), notes the lack of willingness among political parties to support reforms needed to fulfil SAA obligations. Similarly, in 2008 (when the ratification stage of the SAA with Albania was almost completed) the EC progress report on Albania points out the fact that no progress has been made by Albanian Parliament in monitoring the implementation of IA/SAA obligations.⁹²

As in the case of Albania and Macedonia, likewise in the case of BaH, the EC carried out the conditionality mechanism related to the implementation of IA/SAA, in order for the SAA to enter into force. Thus, although the SAA was ratified in 2010 by all EU member states, it has not entered into force yet. In other words, there was a need for the political leadership of Bosnia to implement conditionalities for the entry into force of the SAA.⁹³

The crucial attention that EC pays to the implementation of the IA/SAA is also reflected in the cases of Montenegro and Serbia. Hence, the EC progress report (2006) emphasizes the fact that Montenegro is continuing to implement its obligations under the SAA; however it needs to continue to upgrade the administrative capacity in order to implement all areas covered by the SAA.⁹⁴ Likewise, in the case of Serbia, EC progress report (2012) it is noted that Serbia is meeting its IA/SAA commitments in such areas as internal market, competition, taxation, agriculture and fisheries, nonetheless there is still a need for further improvement related to public administration.⁹⁵ In contrast to the previous cases, the signing of SAA between Croatia and the EU brought an immediate effect on the reform programme. The EC (2002) reports that

⁹¹ Commission of the European Communities (2002) *The Stabilisation and Association process for South East Europe. First Annual Report*. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2002:0163:FIN:EN:PDF> (accessed on: 30/06/2013).

⁹² Commission of the European Communities (2008) *Albania 2008 Progress Report*. Available at: http://ec.europa.eu/enlargement/pdf/press_corner/keydocuments/reports_nov_2008/albania_progress_report_en.pdf (accessed on: 30/06/2013).

⁹³ European Commission (2012) *Bosnia and Herzegovina 2012 Progress Report*. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/ba_rapport_2012_en.pdf (accessed on: 30/06/2013).

⁹⁴ See footnote 74.

⁹⁵ European Commission (2012) *Serbia 2012 Progress Report*. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/sr_rapport_2012_en.pdf (accessed on: 30/06/2013).

considerable progress had been achieved in the areas of democratisation, respect for human rights and minority rights.⁹⁶ As a result of this commitment, also the way of Croatia towards EU, was much faster compared to the other countries of Western Balkans.

Therefore, this discussion highlights the importance that the EU paid to the implementation of IA/SAA during the ratification stage of the SAA in other spots of the Western Balkans. In this context, Kosovo should try to learn and look forward to take preventive measures in addressing the first *general challenge* which is linked with the *implementation of the IA/SAA*.

Another set of *general challenges* which Kosovo needs to address during the ratification stage of the SAA is also linked with the *general challenges* of the negotiation stage (i.e., reform of public administration, free market economy, rule of law, etc). In essence, these are also the challenges which were encountered by some of the countries of the Western Balkans during the ratification stage of the SAA. To illustrate this in concrete terms, we will point out in the below passage some examples from the cases of Albania, Macedonia and Croatia.

In the case of Macedonia during the ratification stage, a serious challenge was the weak judiciary system and corruption, reform implementation of public administration and enforcing property rights.⁹⁷ Similarly in 2005, in the year that the SAA entered into force, the weak judiciary system remained also a serious challenge for Croatia.⁹⁸ Akin challenges related to weak judiciary system, widespread corruption and a need for the reform of public administration were also reported by the EC during the ratification stage of the SAA with Albania.⁹⁹

6.2. Specific Challenges

As noted earlier, in comparison to the other countries of the Western Balkans, in the case of Kosovo there are two additional *specific challenges* related to the negotiation stage of the SAA.

First of all, in addition to eventual implementation of the IA/SAA and meeting to a considerable extent the EU criteria, specific challenges are expected to derive from the *five EU member-states* that have not recognized Kosovo yet. And, it is worth noting that this challenge will even be more visible during the ratification stage compared to the negotiation one. In particular, this study finds out that special difficulties are expected from Spain and Cyprus due to their rigid

⁹⁶ See footnote 22.

⁹⁷ Commission of the European Communities (2004) *The Stabilisation and Association process for South East Europe. Third Annual Report*. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2004:0202:FIN:EN:PDF> (accessed on: 30/06/2013).

⁹⁸ European Commission (2005) *Croatia 2005 Progress Report*. Available at: http://ec.europa.eu/enlargement/archives/pdf/key_documents/2005/package/sec_1424_final_progress_report_hr_en.pdf (accessed on: 30/06/2013).

⁹⁹ Commission of the European Communities (2007) *Albania 2007 Progress Report*. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2007/nov/albania_progress_reports_en.pdf (accessed on: 30/06/2013).

positions. On the other hand, a more flexible course of action in this respect, it is expected by the three other non-recognizers of the EU. In other words, it is expected that Greece, Romania and Slovakia will be more pro-active and opened to this process. Moreover, by considering the fact that the ratification stage of the SAA with Kosovo will not be initiated at least in the next 18 months from the present timing, the positions of the five non-recognizers might change, as well. In this respect, it could happen that some of the five EU member-states that did not recognize Kosovo's independence will move forward and recognize Kosovo in the next two years. Similarly, additional factor in this respect is the general political atmosphere in those countries and the parties in the government which will be a determining factor of ratifying or not the SAA with Kosovo.¹⁰⁰

The second *specific challenge* for Kosovo during the ratification stage is also similar to that one of the negotiation stage (i.e., *Kosovo's relations with Serbia*). In other words, this study finds out that the factor which might be used pro or against during the ratification stage will be the progress on dialogue and overall relations with Serbia.¹⁰¹ It seems that there is an impression among relevant stakeholders that Kosovo must improve relations with Serbia in order to facilitate the ratification process to non-recognizing countries.¹⁰²

6.3. Sub-conclusions: Challenges and opportunities for Kosovo during the potential ratification stage of the SAA

As in the case of the negotiation stage of the SAA, similarly this section identified two categories of challenges that Kosovo might encounter during the ratification stage of the SAA with the EU: general and specific/unique challenges. Thus, the *general challenges* for Kosovo during the potential ratification stage of the SAA were similar to other countries of the Western Balkans (i.e., related to the implementation of the IA/SAA and various reforms on issues ranging from the rule of law, public administration, etc). In addition, the *specific or unique challenges* in the case of Kosovo were the same ones as those during the negotiation stage of the SAA and were linked with the non-recognition of Kosovo's statehood by the five EU member-states, and the lack of recognition and the overall relations with Serbia.

Nevertheless, *general challenges* as in the case of negotiation stage, similarly, during the ratification stage provide an opportunity for Kosovo to improve its governance and the quality of

¹⁰⁰ Interview 4: MP at the Kosovo Assembly (Pristina, 01/03/2013); Interview 5: MP at the Kosovo Assembly (Pristina, 01/03/2013); Interview 14: European Diplomat in Kosovo (Pristina, 21/03/2013).

¹⁰¹ Interview 13: High Official, Kosova Chamber of Commerce (Pristina, 15/03/2013).

¹⁰² Interview 1: EUSR Officer (Pristina, 22/02/2013); Roundtable Meeting: "Identifying challenges, opportunities and strategies for the possible negotiation and ratification process of the SAA between the EU and Kosovo". Organized by RIDEA (14/05/2013); Interview 2: Senior Officer, Office of the President of the Republic of Kosovo (Pristina, 26/02/2013); Interview 3: MP at the Kosovo Assembly (Pristina, 28/02/2013); Interview 5: MP at the Kosovo Assembly (Pristina, 01/03/2013); Interview 16: Western Diplomat in Kosovo (Pristina, 25/03/2013); Interview 19: European Diplomat in Kosovo (Pristina, 22/04/2013).

the life of its citizens. In other words, the ratification of the SAA with Kosovo will assist Kosovo in developing further its economic and political system in line with European standards.

Additionally, it helps Kosovo to move further at the next stage of European integration processes (i.e., to apply for a candidate country status and eventually to open the accession negotiations with the EU). Ultimately, a successful ratification process of the SAA with EU, will help Kosovo in creating a better and more prosperous future for its citizens.

7. Conclusions

Hence, in 1999, the EU proposed establishment of the SAP for the countries of the Western Balkans, as a framework for guiding the accession efforts.¹⁰³ The main principles of the SAP were outlined in the Commission Communication of May 1999 and were confirmed by the Council in June 1999. Through this process, the EU expressed its determination to take up the challenge and responsibility to contribute to the peace, stability and prosperity of the Western Balkans region.

In essence, since then the SAP was proven to be a successful story for the majority of the Western Balkans countries. Nonetheless, in the case of Kosovo this process was prolonged and delayed until nowadays. Recently, the European Council decided to initiate negotiations on SAA with Kosovo. And, the challenges that Kosovo might encounter during the negotiation stage of the SAA and the potential ratification stage of the SAA were addressed in this study.

It is worth noting that these study conclusions are based on analysis of different reports from national and international organizations, data gathered from interviews and round-table discussions with representatives of various national & international actors, including diplomatic presence in Kosovo, scholars and civil society representatives.

In doing so, the *first part* of this study provided the background of the EU involvement in the Western Balkans, which in more concrete terms is linked with the Council's conditions as defined in its conclusions of 29 April 1997 and 21 and 22 June 1999, the content of the final declaration of the Zagreb Summit of 24 November 2000, and the Thessaloniki Agenda of 19 and 20 June 2003. In this respect, the evaluation of each Western Balkans country's progress is thus made through mechanisms established under the SAP, notably the annual EC Progress Reports.

The *following part* of the study covered an analysis related to the position of Kosovo's relations with the EU, in comparison to the other Western Balkans countries. This part of the study found

¹⁰³ Republic of Kosovo (2012) *Action Plan on negotiation of the Stabilisation and Association Agreement*. Available at: <http://www.mei-ks.net/repository/docs/Anlisht.pdf> (accessed on: 30/06/2013).

out that Kosovo remained the last country in the Western Balkans without having contractual relations with the EU (and this is also the case in post-independence period).

The *next sections* of this study dealt with Kosovo's – EU relations (1999-2013). In this respect, it was engendered the finding that with its extensive presence in terrain, the EU in Kosovo has performed two major roles (1999-2008). The first related to the financial support for Kosovo and the second concerning the EU commitment in encouraging stability, peace and European perspective for Kosovo and wider for the Western Balkans. On the other hand, Kosovo's Declaration of Independence, in February 2008, has marked a new beginning on EU–Kosovo's relations, in particular related to the reshaping process of the EU presence in Kosovo. In 2009, EU–Kosovo's relations encountered further progress, through the Commission proposal in 2009 to strengthen and widen Kosovo's participation in the SAP by creating a mechanism of consistent SAP dialogue. Additionally, in 2012 some progress was noted on relations between Kosovo and the EU and this is chiefly linked with launching and presentation of visa liberalisation roadmap and publication of the feasibility study on Kosovo, by the EU. This relation was further consolidated in April 2013, when the European Commission proposed to the Council to decide on authorizing the opening of negotiations on an SAA between the EU and Kosovo. Finally, this relation between Kosovo and the EU culminated with the decision of the Council of the EU (June, 2013) to initiate negotiations with Kosovo related to the SAA.

In this context, the *subsequent parts* of this study discussed the challenges that Kosovo might encounter during the negotiation and eventual ratification stage of the SAA with the EU.

The section related to the negotiation stage of the SAA, identified two categories of challenges that Kosovo might encounter during this process: general and specific/unique challenges. The *general challenges* for Kosovo during this stage consisted of issues ranging from the rule of law to the functioning market economy and public administration reform. Additionally, the *specific or unique challenges* were linked with the non-recognition of Kosovo's statehood by the five EU member-states and the lack of recognition and the overall relations with Serbia.

At the same time, as in the case of the negotiation stage of the SAA, similarly during the ratification stage of the SAA, the current study identified two categories of challenges for Kosovo: general and specific/unique challenges. The *general challenges* for Kosovo during the potential ratification stage of the SAA were similar to other countries of the Western Balkans (i.e., related to the implementation of the IA/SAA and various reforms on issues ranging from the rule of law, public administration, etc). In addition, the *specific or unique challenges* in the case of Kosovo were the same ones as those identified for the negotiation stage of the SAA and were linked with the non-recognition of Kosovo's statehood by the five EU member-states, and the lack of recognition and the overall relations with Serbia.

However, during both stages (negotiation and ratification) of the SAA the identified *general challenges* provide an opportunity for Kosovo to improve its governance and the quality of the life of its citizens. In other words, the SAA is a unique opportunity for Kosovo to deepen internal stability and strengthen its institutions. During this process, EU will strengthen its financial and technical support to Kosovo through providing more expertise and more assistance to capacity building for Kosovo's institutions. Additionally, Kosovo's legislation will comply more with the EU legislation which puts Kosovo in the right path towards its EU integration objectives. Similarly, this is a chance for Kosovo enterprises to penetrate in the EU markets and also to attract foreign investments (in particular European ones) and improve somehow the overall situation in the economy. In brief, the SAA will assist Kosovo in developing further its economic and political system in line with European standards.

Therefore, through positive reforms in institutions, legislation and economy, this will also imply the opportunity for improving citizen's lives in general. Certainly, the SAA will not change the entire landscape of the economic and political system in Kosovo. Nonetheless, if it will be taken seriously by Kosovo's institutions – it can serve as a minor and/or first step in the right path. Ultimately, the successful completion of the negotiation and ratification stage of the SAA, it helps Kosovo to move further at the next stage of European integration processes (i.e., to apply for a candidate country status and to eventually open the accession negotiations with the EU). In order to accomplish successfully this process (i.e., negotiation and ratification of the SAA) the following section of this study offers several concise and concrete recommendations.

8. Recommendations

Hence, the recommendations of this study are summarized around two complementary categories: **(i)** the first category of recommendations is linked with the way of addressing the identified *general challenges* during the negotiation and ratification stage of the SAA; and **(ii)** the second category of recommendations is concerned with the course of action that Kosovo's institutions need to undertake, in order to address the identified *specific challenges* during both stages of the SAA. Above all, these are recommendations to Kosovo Government (in particular to the Ministry of European Integration) and other national institutions. In addition, these recommendations can also be helpful to the EU and other international presence in Kosovo.

8.1. Recommendations concerned with the *general challenges* during the negotiation and ratification stage of the SAA

In order to have a successful negotiation and ratification process of the SAA, Kosovo shall attempt to establish concrete policy-making and implementation processes in order to cope with the *general* and *specific challenges* that will face during both stages of the SAA. In this respect, the following recommendations can be useful:

- The findings of this study suggest that for a successful negotiation and ratification process of the SAA, Kosovo shall undertake reforms in various fields and sectors in line with European standards. These reforms relate to the field of rule of law, public administration, free market economy, political institutions, etc;
- In this respect, Kosovo government shall strengthen middle-management of its *public administration*, increase professionalism, and decrease political interference in this sector;
- Another set of reforms is related to the *rule of law* area. Kosovo's institutions shall achieve concrete results in the fight against organized crime and corruption. Moreover, it should strengthen judicial system and reduce political interference. Furthermore, dealing with war crimes in a successful manner will be another challenge for Kosovo during this process;
- The other sector where reforms are required is related to the field of economy. Kosovo shall seek to establish a fully *functioning economy*. More concretely, Kosovo government needs to reduce informal sector, improve business environment operating in Kosovo and strengthen private sector development;
- The relevant Kosovo institutions shall organize free, fair and democratic local elections in November 2013, which can be considered as a sign of the strengthened maturity of Kosovo's *political institutions*;
- If Kosovo will manage to have a successful negotiation process and sign an SAA with the EU, it needs to fully respect and implement the IA/SAA and the requirements which derive from this agreement. In other words, the SAA shall not be seen as a box-ticking exercise;
- In order to implement the above-mentioned reforms in its policies, and to be able to implement the IA/SAA, Kosovo should allocate additional financial resources and human capacities and needs to avoid politicizing the SAA process. In this context, Kosovo needs to establish a mixed team of technical (experts of the field, regardless of their political affiliation) and political leadership;
- This process requires interaction of several institutions in Kosovo. In this respect, the chairing team for the SAA shall establish the necessary mechanisms for coordinating the interaction of different national institutions (e.g., Kosovo Parliament and its committees) and other relevant stakeholders;

- Similarly, in order to have a successful negotiation and ratification process, Kosovo needs to increase its cooperation with its international partners and their presence in Kosovo. In this sense, Kosovo shall seek to utilize the financial assistance of other international actors (e.g., USAID) in improving some of the sectors which are essential for the SAA (i.e., rule of law, free market economy, etc);
- At the same time, there is a need for further public awareness related to the EU standards in Kosovo. In this respect, Kosovo government shall seek more public campaigning and communication with its citizens related to the values, norms and principles of the EU. In fact, this process is merely for improving the quality of the life of Kosovo's citizens and as a consequence they need to be more informed about this process. And, at the end of the day the reforms and modernization process shall be seen as necessary processes for Kosovo's society, rather than as requirements related to the EU conditionality;
- Additionally, Kosovo Government and other relevant institutions need to communicate further to the citizens and businesses (e.g., how they can penetrate in the EU markets) about the benefits and opportunities that the SAA will bring for them, too. This will ensure community spirit and strengthen the cohesion of the entire society in this process, and;
- Finally, Kosovo needs and it has an excellent chance to learn from the examples and experiences of other countries (i.e., countries of the Western Balkans). As this study has pointed out, the general challenges that Kosovo will encounter during the negotiation stage of the SAA were also faced by other countries of the Western Balkans. In this respect, the 'lessons learned mechanism' needs to be applied into practice by Kosovo's institutions;

8.2. Recommendations related to *specific challenges* during the negotiation and ratification stage of the SAA

This study identified two *specific or unique challenges* during the negotiation and ratification stage of the SAA: non-recognition of Kosovo's statehood by the five EU member-states and the lack of recognition and the overall relations with Serbia. Hence, to address both of these *specific challenges*, this study offers the following recommendations:

- In order to smooth the ratification process of the SAA, Kosovo government apart from implementing the IA/SAA shall expand lobbying process at various levels. There are at least *three* such levels that this study has identified;
- The *first level* is the lobbying process which needs to be carried out in the EU institutions in Brussels and their respective presence in Kosovo;

- The *second level* is linked with the direct and indirect lobbying to the five non-recognizers.¹⁰⁴ The *direct lobbying* needs to be carried out by Kosovo Government in cooperation with academia, business and civil society sector. Through this manner of lobbying, the non-recognizers need to be informed and clarified that the SAA ratification with Kosovo does not causes a precedent for other cases (e.g., Northern Cyprus). On the other hand, the *indirect lobbying* needs to be conducted by Kosovo Government in cooperation with the other EU member-states that have recognized Kosovo and are considered as a great supporters of Kosovo (e.g., Germany, France, UK, etc);
- Finally, the *third level* is linked with the idea of making Kosovo *visible* not only to the non-recognizers within the EU, but also to the EU members-states that have recognized Kosovo. One of the ways to reach this is through improving governance internally and by selling this news externally (in particular in the main EU-member-states). Additional way is through arranging and paying institutional visits to the national institutions of various EU member-states (e.g., Kosovo parliamentary delegations will pay visits to the national parliaments of various EU member-states and vice versa, civil society interaction, etc). This will ensure and strengthen the message that the ratification of the SAA with Kosovo will be integrated into the agenda of various EU member-states;
- On the other hand, in order to address successfully the challenge related to its *relations with Serbia*, Kosovo government needs to be commitment to the ongoing dialogue with Serbia and shall seek to normalise further neighbourly relations. However, this does not mean that Kosovo should make painful compromises and sacrifice the viability of its state, in order to please Serbian government or anyone else. Because if this happens, (the weakening of the nascent Kosovar state) then, the meaning of European integration processes can be considered as a pointless, too;
- Similarly, Kosovo government shall be more pro-active in engaging in a civil dialogue with ethnic Serbs in the North of Kosovo, and create a more tolerant and cohesive society within its territory. Kosovo's civil society can play an important role in this respect, too. The more cohesive society Kosovo becomes, the less space remains for the influence and involvement of the Serbian government in Kosovo (particularly in the North of Kosovo);
- Within the framework of the dialogue in Brussels and more broadly within the framework of normalising the entire relations between Serbs and Albanians, this can be a great momentum to address the issue of Albanians living in Presheva valley; and
- Ultimately, a comprehensive/inclusive approach from both sides in the ongoing dialogue will help both countries to move forward with their European agenda and to create a

¹⁰⁴ If the number of non-recognizers will not be decreased in the meantime.

peaceful and more prosperous future for the coming generations. At the end of the day, the ultimate goal of this ongoing dialogue shall not be only to have Kosovo's and Serbia's flag outside of the EU's buildings. But, the end goal should be the internalization of EU's standards, principles and values by the citizens of both countries and the entire region of the Western Balkans.

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Interview 3: MP at the Kosovo Assembly (Pristina, 28/02/2013).

Interview 4: MP at the Kosovo Assembly (Pristina, 01/03/2013).

Interview 5: MP at the Kosovo Assembly (Pristina, 01/03/2013).

Interview 6: Deputy Head of Office, Council of Europe Office (Pristina, 01/03/2013).

Interview 7: Western Diplomat in Kosovo (Pristina, 05/03/2013).

Interview 8: Ambassador of Italy in Kosovo (Pristina, 06/03/2013).

Interview 9: Senior Political Officer, European Union Office in Kosovo / EU Special Representative (Pristina, 08/03/2013).

Interview 10: Political Officer, European Union Office in Kosovo / EU Special Representative (Pristina, 08/03/2013).

Interview 11: MP at the Kosovo Assembly (Pristina, 11/03/2013).

Interview 12: Western Diplomat in Kosovo (Pristina, 13/03/2013).

Interview 13: High Official, Kosova Chamber of Commerce (Pristina, 15/03/2013).

Interview 14: European Diplomat in Kosovo (Pristina, 21/03/2013).

Interview 15: Western Diplomat in Kosovo (Pristina, 22/03/2013).

Interview 16: Western Diplomat in Kosovo (Pristina, 25/03/2013).

Interview 17: Senior Officer, Kosovo Ministry of Foreign Affairs (Pristina, 29/03/2013).

Interview 18: Researcher on EU Integration (Pristina, 10/04/2013).

Interview 19: European Diplomat in Kosovo (Pristina, 22/04/2013).

Interview 20: Senior Officer, Ministry of European Integration (Pristina, 24/04/2013).

Interview 21: Senior Officer, Kosovo's Prime Minister Office (Pristina, 5/04/2013).

Interview 22: Civil Society Activist (Pristina, 26/04/2013).

Interview 23: Lecturer on European and International Law, Pristina University (Pristina, 29/04/2013).

Interview 24: Researcher on EU Affairs (Pristina, 30/04/2013).

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10. Annexes

10.1. Questionnaire

‘Possible SAA negotiation and ratification process between EU and Kosovo: Challenges and Opportunities’ Project – Interview Questions

Please note that the following questions are indicative and are meant to provide the basis of an informal discussion. We do not assume that interviewees will be able to answer all of them.

Background questions

1. How long do you work in current position?
2. How long have you been working in EU Integration field?

EU-Kosovo’s relations questions

1. Broadly speaking how do you define the current relations between Kosovo and the EU?
2. Which do you see as a milestone events or development in the context of Kosovo’s-EU relations?
3. What do you find to be the most difficult aspect in Kosovo’s – EU relations?
4. In your eyes, what’s the most important role performed by the EU in Kosovo since 1999 (success vs. failure)?

SAA negotiation stage questions

1. When do you expect that Kosovo will be ready to initiate the *negotiations* with the EU related to the Stabilization and Association Agreement?
2. What do you expect to be the *three main* challenges related to the SAA negotiations between Kosovo and the EU? Could you be particularly specific, in this respect?
3. Are policy overlaps between the EU different agencies that operate here? Do you detect cultural differences between different agencies operating here (EULEX, EUSR, etc)?
4. Is EU unified when it comes to the SAA *negotiations* with Kosovo?
5. Which are Kosovo’s *opportunities* related to the potential SAA negotiation process?

SAA ratification stage questions

1. When do you expect that EU will be ready to initiate the *ratification* process of the Stabilization and Association Agreement with Kosovo?
2. What do you expect to be the *three main* challenges related to the potential SAA ratification process on Kosovo? Could you be particularly specific, in this respect?
3. Which are Kosovo’s *opportunities* related to the potential SAA ratification process?

Recommendations section questions

1. Which are the *three key* recommendations that you would suggest to Kosovo's institutions related to the potential *negotiation* process of the Stabilisation and Association Agreement?
2. What are the *three key* recommendations that you would suggest to Kosovo's institutions related to the potential *ratification* process of the Stabilisation and Association Agreement?

10.2. Roundtable Agenda

'Identifying challenges, opportunities and strategies for the possible negotiation and ratification process of the Stabilization and Association Agreement between Kosovo and the European Union'

09:30 – 09:45 Registration and coffee

09:45 – 10:30 Presentation of the Preliminary Findings of the Study
RIDEA Researchers

10:30 – 10:45 Coffee break

10:45 – 12:15 Discussions
RIDEA Moderator

12:15 – 12:30 Coffee break

12:30 – 13:15 Roundtable Conclusions