THE GREATER EUROPE

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ANALYSIS OF THE EUROPEAN INTEGRATION PROCESS OF ALBANIA AND KOSOVO: COOPERATION IN THE WAY FORWARD

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ABBREVIATIONS

COREPER	Committee of Permanent Representatives
COSME	Programme for the Competitiveness of SMEs
COWEB	Working Party on Western Balkan Region
DEIPC	Departments for Policy Coordination and European Integration
DG NEAR	Directorate-General for Neighbourhood and Enlargement Negotiations
EaSI	Programme for Employment and Social Innovation
EC	European Commission
EP	European Parliament
ERA	European Reform Agenda
EU	European Union
FP7	Framework Programme for Research and Technological Development
FWA	Framework Agreement
GAC	General Affairs Council
ICCEI	Inter-institutional Coordinating Committee for European Integration
ICEI	Inter-institutional Committee for European Integration
IPA	Instrument of Pre-Accession Assistance
IWGEI	Inter-institutional Working Groups for European Integration
MEFA	Ministry of Europe and Foreign Affairs
MEI	Ministry of European Integration
MTBP	Mid-Term Budget Programme
NATO	North Atlantic Treaty Organization
NCEI	National Council for European Integration
NPEI	National Plan for European Integration
NPISAA	National Programme for the Implementation of the SAA
SAA	Stabilisation and Association Agreement
SAP	Stabilisation and Association Process
SAPC	Stabilisation and Association Parliamentary Committee
SDG	Sustainable Development Goals
SEE	South Eastern Europe
STM	Stabilization and Association process Tracking Mechanism
SWG	Special Working Group
WBIF	Western Balkan Investment Framework

EXECUTIVE SUMMARY

Greater Albania – is a concept that populists in Albania and Kosovo like to mingle occasionally. By the same token, it is a concept that makes international community eerie.

In this paper we argue for more Europe between Albania and Kosovo – A Greater Europe. Whilst the two countries have put in place the foundations for closer cooperation in the area of European integration, it is necessary to build upon what was done, take into account lessons learned and elevate the cooperation into a more substantive and practical one. Albania and Kosovo face significant cooperation potential on their respective paths towards the EU. Such cooperation is not just legal obligation stemming from their respective Stabilisation and Association Agreements with the EU, but also a practical necessity for both countries.

On 24 June 2014, Albania was granted the status of candidate country for EU accession. Furthermore, on 17 April 2018, European Commission recommended to the Council the start of accession negotiations. On 18 June 2019, the Council “took good note of the Commission's recommendation to open accession negotiations with Albania based on its positive evaluation of the progress made and of the fulfilment of the conditions identified by the Council. In light of the limited time available and the importance of the matter, the Council will revert to the issue with a view to reaching a clear and substantive decision as soon as possible and no later than October 2019”[1]. The Council took same position on Northern Macedonia.

On the other hand, Kosovo-EU SAA entered into force on 1 April 2016[2]. In order to advance its European integration path, EU has underlined continuously that Kosovo must make progress in normalization of relations between Kosovo and Serbia, and establish a track-record in the implementation of the SAA.

Regarding the rest of the region, Bosnia and Herzegovina applied for membership on 15 February 2016. On 18 June 2019, Council took note of the Commission's opinion on Bosnia and Herzegovina's application for membership and committed to revert to the issue in later in 2019.

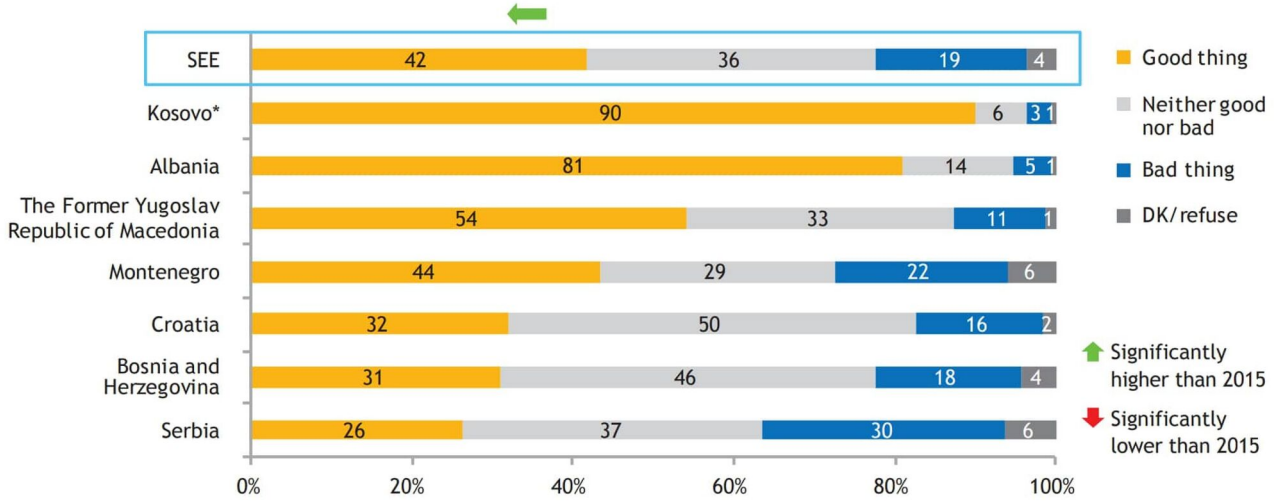
[1] https://www.consilium.europa.eu/en/press/press-releases/2019/06/18/council-conclusions-on-enlargement-and-stabilisation-and-association-process/

[2] http://data.consilium.europa.eu/doc/document/ST-10728-2015-REV-1/en/pdf

been provisionally closed so far. Serbia has started accession negotiations and has opened 17 chapters by now, whereas 2 chapters have been provisionally closed.

Albania and Kosovo enjoy high level of public support for the European integration process. In both countries more than 80% of the population is in favour of becoming an EU member[3]. This is also reflected in the strong political support for the European integration process in both countries. However, beyond political will there has been limited cooperation between two countries in the area of European integration.

Figure 1: Do you think that EU membership would be (is – for Croatia) a good thing, a bad thing, or neither good nor bad?



In this paper we suggest to avoid reinventing the wheel, rather we make a case for more dynamic and practical cooperation between the two countries, by putting forward a set of six (6) recommendations. In this light, we suggest intensification of cooperation in the area of EU-related reforms and administration of EU funds. Such incremental approach would build upon a success story such as cooperation in the area of acquis translation.

On the other hand, in midst of “enlargement fatigue” and domestic challenges, the EU landscape has changed in the recent years. The gravity of core elements regarding enlargement policy has shifted from the European Commission, to a more

[3] https://www.rcc.int/seeds/files/RCC_BalkanBarometer_PublicOpinion_2017.pdf

complex interaction with and between member states. This has made the process less predictable and more difficult for countries such as Albania and Kosovo.

In this respect, both countries need to rethink strategic approach and communication with the EU partners. In this paper we formulate six (6) recommendations for coping with the new EU reality. Our proposal is twofold: on one hand, to shift and re-orient the communication efforts and target range towards EU institutions, and, on the other hand, restructure domestic capacities and resources in the strategic interaction with the EU.

1. OVERVIEW OF THE EUROPEAN INTEGRATION PROCESS OF ALBANIA

1.1. Albania – EU relations

On 21 June 2003, the Thessaloniki European Council confirmed that the future of the Western Balkans, including Albania, is within the European Union. On 31 January 2003, Albania started negotiations with the EU for signing a Stabilisation and Association Agreement. The Agreement was signed with the EU on 12 June 2006 (in force since 1 April 2009).

Albania applied for EU membership on 28 April 2009. Following a request by the Council, the Commission submitted its Opinion on Albania's application on 9 November 2010. As of 15 December 2010, Albania has been granted visa free regime for Schengen area.

On 27 June 2014, the European Council granted candidate status to Albania, after the Commission had recommended it on 16 October 2013 on the understanding that Albania would continue to take action in the fight against organized crime and corruption. Following steady progress towards fulfilling all of the five key priorities, including the pivotal constitutional amendments of July 2016, on 9 November 2016 the Commission recommended opening accession negotiations with Albania, subject to credible and tangible progress in the implementation of the justice reform, in particular the re-evaluation of judges and prosecutors (vetting).

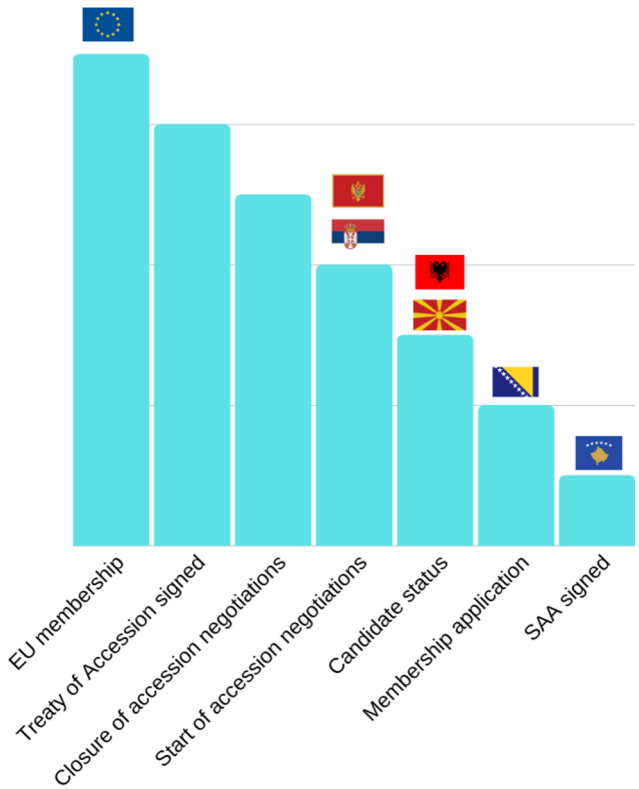
Albania is at an important moment of the European integration process. On 17 April 2018, the European Commission recommended the opening of the accession negotiations. On 26 June 2018, the EU General Affairs Council (GAC) took note of the intention of the Commission to begin the necessary preparatory work for the accession negotiation. To this end, the EC and Albania have started with explanatory meetings on different chapters.

On 29 May 2019, the European Commission recommended to the Council to open accession negotiations with Albania. The EU Council recognised and commended the progress made, in its meeting on 18 June 2019, however, without taking a decision upon the recommendation of the Commission. The decision was postponed to October 2019.

These latest development put Albania and Northern Macedonia on equal footing within the European integration process, as Northern Macedonia also awaits start of accession negotiations. Albania and Northern Macedonia are in the middle of “laggers” (Bosnia and Kosovo) and “frontrunners” (Montenegro and Serbia).

Bosnia applied for membership to the EU on 15 February 2016. On 18 June 2019, the Council took note of the Commission's opinion on Bosnia and Herzegovina's application for membership and committed to revert to the issue in later in 2019. Kosovo-EU SAA entered into force on 1 April 2016. In order to advance its European integration path, EU has underlined continuously that Kosovo must make progress in normalization of relations between Kosovo and Serbia, and establish a track-record in the implementation of the SAA. Montenegro has opened 32 out of 35 chapters, whereas 3 have been provisionally closed so far. Serbia has started accession negotiations and opened 17 chapters by now, whereas 2 chapters have been provisionally closed.

Figure 2: European integration process of Western Balkan countries



The Instrument for Pre-accession Assistance (IPA II) is the main EU financial instrument for providing support to the beneficiaries of the Western Balkan countries in implementing reforms. The priorities for EU financial assistance for the period 2014-2020 to support Albania on its European path are set out in the Indicative Strategy Paper. It translates the political priorities set out in the enlargement policy framework into key areas of financial assistance. Priorities are aligned with the United Nations 2030 Agenda and it's Sustainable Development Goals (SDGs). The strategy paper was initially adopted by the European Commission in August 2014 and has been revised and updated in August 2018.

IPA II (2014-2020) has an overall allocated budget of € 649,4million for Albania over the seven year period[4]. Under the Western Balkans Investment Framework (WBIF), Albania has benefited a number of technical assistance projects, as well as infrastructural grants. Since 2009, Albania has built 800 km of new roads, water/wastewater systems for more than 260,000 people and it has improved schools for 18,400 pupils. Overall, in the period 2009-2019 Albania has benefited €137.5 million in grants that have generated €2 billion in project investments[5].

In addition, Albania has access to several EU programmes such as: Horizon 2020 (a continuation of FP7, focused on research and innovation); COSME (focused on competitiveness and small and medium enterprises); Erasmus+ (in the area of academic exchange, education, strengthening capacities, and youth employment); Creative Europe (focused on culture projects and their economic impact); Europe for Citizens (cooperation among organisations and citizens of different countries for strengthening European identity); Customs 2020 (supporting technical and administrative capacities); Fiscalis 2020 (in the area of tax collection and efficiency); EaSI (programme on facilitating employment and innovation in social policy), etc.

[4] Under IPA 2007-2013 Albania received €594 million.
[5] https://wbif.eu/beneficiaries/albania

Figure 3: WBIF beneficiaries

No of projects: 30
Projects value: €2 billion
Grants value: €137.5 million

No of projects: 25
Projects value: €3.3 billion
Grants value: €180.1 million

No of projects: 20
Projects value: €0.9 billion
Grants value: €111.2 million

No of projects: 17
Projects value: €0.9 billion
Grants value: €164.2 million

No of projects: 18
Projects value: €1.9 billion
Grants value: €135.3 million

No of projects: 34
Projects value: €4.9 billion
Grants value: €191 million

1.2 Review of institutional structures and policy framework

In the recent years, planning framework in the area of European Integration has been composed of two main documents: the Roadmap for addressing the Five Key Priorities and the National Plan for European Integration (NPEI) 2015-2020. The NPEI has been updated regularly up to 2019-2020 and the MEFA (after merging with MEI) monitors its implementation. The Roadmap provided short term measures designed to meet the five key priorities presented in the EC Enlargement Strategy of 2013, in order to receive the recommendation for opening of negotiations. This document has guided government's work and efforts since 2014 for the achievement of this goal. As of June 2018, the Roadmap is considered as implemented and thus defunct.

The NPEI was introduced in 2015, transiting from the previous National Plan for the Implementation of the SAA (NPISAA), which was entirely focused on the SAA. Due to the new phase and the perspective of opening negotiations, the new plan (NPEI) was designed to prepare public institutions for the next stage (beyond the SAA) and the format required under the negotiations process. The NPEI extends to medium and long term measures in order for Albania to reach full legal approximation of the national legislation with the EU acquis and to align all its sectors with standards set by the acquis chapters. Furthermore, NPEI is in line with the budget for the upcoming year and the Mid-Term Budget Programme (MTBP). Monitoring and reporting of the implementation of the NPEI and the Roadmap has been coordinated by the Ministry for Europe and Foreign Affairs (MEFA). MEFA produces quarterly and annual reports regarding the implementation of the NPEI.

On the institutional front, the main Government body in charge of European integration framework is the Ministry for Europe and Foreign Affairs (MEFA). At line ministries level, in each ministry there is a European Integration Unit and each ministry has been allocated acquis chapters responsibility as part of their mandate. According to their field(s) of competence, ministries have been assigned areas of responsibilities matching the content of the EU acquis chapters. In addition to the ministries, other state institutions are also involved as leading body for some of the chapters (such as the Bank of Albania).

In terms of inter-institutional coordination of the process, until December 2018, Albania was officially organised (internally) in three levels:

- First, the Inter-institutional Committee for European Integration (ICEI), which was led by the Prime Minister and was in charge of overseeing all political and strategic aspects of the European integration process.

- Second, the Inter-institutional Coordinating Committee for European Integration (ICCEI), which was led by the minister in charge of the process at ministerial level and deputy ministers were members. Its mandate was to coordinate in the decision-making of issues being transferred from the technical level.

- Third, the technical level which consisted in the Inter-institutional Working Groups for European Integration (IWGEI), which carried out the day to day work regarding the process and reported to the upper level.

After the European Commission recommended opening of negotiations in 2018, Albanian institutions started preparations for the start of accession negotiations. In that light[6], the Government has established an accession negotiation architecture, which substitutes the former inter-institutional coordination structure with the three levels, explained above.

[6] Government decision no. 749, dated 19.12.2018: https://qbz.gov.al/eli/fz/2018/194/166af39f-72b0-4361-927a-fd5dd890c5c5;q=P%C3%ABr%20krijimin,%20organizimin%20dhe%20funksionimin%20e%20struktur%C3%ABs%20shtet%C3%ABrore,%20p%C3%ABrgjegj%C3%ABse%20p%C3%ABr%20zhvillimin%20e%20negociatave%20dhe%20lidhjen%20e%20Traktatit%20t%C3%AB%20Aderimit%20t%C3%AB%20Republik%C3%ABs%20s%C3%AB%20Shqip%C3%ABris%C3%AB%20n%C3%AB%20Bashkimin%20Evropian

Figure 4: Institutional framework for the accession negotiation

STATE COMMITTEE FOR EUROPEAN INTEGRATION	OVERSEES NEGOTIATION PROCESS. COORDINATES NEGOTIATING POSITIONS Chaired by the Prime Minister. Members: Head of State Delegation, Chief Negotiator, Ministers of internal affairs, economy, finance and justice, General Secretary of the Government
STATE DELEGATION	MAINTAINS POLITICAL DIALOGUE. RESPONSIBLE FOR THE ENTIRE NEGOTIATION PROCESS Chaired by the Foreign Minister. Members: Chief Negotiator, Head of Mission to the EU, other representatives of state institutions
NEGOTIATION GROUP	RESPONSIBLE FOR TECHNICAL NEGOTIATIONS OF ALL ACQUIS CHAPTERS Chaired by the Chief Negotiator. Members: 7 negotiators
ALBANIA MISSION TO THE EU	MAINTAINS DIPLOMATIC AND TECHNICAL COMMUNICATION WITH THE EU INSTITUTIONS AND MEMBER STATES
SECRETARIAT FOR EUROPEAN INTEGRATION	OFFERS TECHNICAL ASSISTANCE TO ENTIRE NEGOTIATION STRUCTURE Diplomatic and civil service of MEFA
35 INTER-INSTITUTIONAL WORKING GROUPS	ANALYTICAL SUPPORT FOR EACH ACQUIS CHAPTER Chaired by the Deputy Minister or General Secretary. Members: technical experts from state institutions
PARTNERSHIP PLATFORM	ENSURES INVOLVEMENT, CONSULTATION, COMMUNICATION AND INCLUSION OF SOCIAL STAKEHOLDERS Civil society, business community, unions, academia, municipalities, etc

Furthermore, Albania and EU, in line with regional experience, have established all bilateral SAA bodies, respectfully:

- The Stabilisation and Association Council;
- The Stabilisation and Association Committee;
- Seven Stabilisation and Association sub-committees, one Special Working Group;
- The Stabilisation and Association Parliamentary Committee.

The SA Council is established by the Article 116 of the SAA between Albania and the EU. It is responsible for monitoring the application and implementation of the SAA. In this light, for the purpose of attaining the objectives of the Agreement, it has the power to take binding decisions and settle disputes within the scope of the SAA. The Parties must take the measures necessary to implement the decisions taken. The SA Council may also make appropriate recommendations. In its annual meetings, it is co-chaired by Albanian Minister for Europe and Foreign Affairs and the High Representative of the EU.

The SA Council is assisted in its duties by a Stabilisation and Association Committee (article 120). The annual meetings of the Committee are co-chaired by the Albanian Deputy Minister for Europe and Foreign Affairs[7] and Director for Western Balkans/DG NEAR.

The SA sub-committees and one SWG cover different thematic acquis chapters. They are co-chaired by the Deputy Minister for Europe and Foreign Affairs and the Head of Albania Unit/DG NEAR.

The SA Parliamentary Committee is a forum for Members of the European Parliament and Members of the Parliament of Albania to meet, discuss, and support the country in its European integration process. It is co-chaired by the representative of Albanian Parliament Assembly and the European Parliament.

[7] Previously it was co-chaired by the Minister of European Integration of Albania.

1.3. Critical outlook of the EU accession process

Albania's journey in the European integration process has faced several challenges. In spite of the fact that the country was not directly affected by the 1990s wars in the region, its democratic and institutional fragility did not allow it to make good use of the first decade after communism and join the rest of the European post-communist countries in their European integration efforts. Thus, as the other countries of the region, the Stabilisation and Association Process was the umbrella under which Albania started working towards EU membership. This process and the agreement deriving from it (SAA) have been the main structure of bilateral relations with the EU and the blueprint for the road towards accession.

Albania experienced a positive momentum after signing the SAA. A plan for implementation of the commitments was drafted and approved (NPISAA), the country became member of NATO, the economy was growing at an appropriate pace for its stage, and the institutional capacities and structures were being built.

After sending in the application in 2009, the European Commission sent a questionnaire by procedure, in order to assess country's situation and readiness for the next steps. This exercise was very useful and important for domestic institutional structures, which were faced with a challenge and time pressure that helped them in better understanding the process and its requirements. The questionnaire was composed by 2,280 questions (a total of 384 pages) and it explored in-depth many aspects and areas regarding Albania's stage of preparedness in the European integration process. Albanian public administration managed successfully this exercise which helped for moving to the next stage towards the candidate status.

However, the successful implementation of the questionnaire signed the end of the positive momentum of the preceding years. On one hand, the country entered a political crisis which slowed down the pace of required reforms. On the other hand, most of the EU countries were still suffering from the 2008 global crisis and the slow recovery had negative repercussions on the political perception of EU enlargement. The domestic political class was not able to reach an agreement until May 2013 and in October of the same year the European Commission

recommended the candidate status for the country. However, the EU Council postponed the decision to June 2014, when the member states granted Albania the candidate status. More than five years after, in October 2019 Albania is “holding its breath” for the Council decision on whether to open accession negotiations with the country.

Apart from the formal steps of the process summarized above, the country has faced some challenges regarding the pace of reforms and the implementation of the commitments undertaken in the SAA. While Albania has continued to implement recommendations from bilateral meetings under the SAA,[8] the work has not always been consistent and political climate has had a direct impact in determining the speed of reforms. In 2014, after five years of the SAA implementation, in some of the most important chapters, only 50% of foreseen measures had been completed, while 20% were partially implemented and 30% had not started the implementation process.[9] In April 2019 the SAA concluded its 10th year of implementation, from its entry into force in 2009. Albania was supposed to have adopted all necessary measures and legislation that was foreseen in the agreement. Only 38% of the overall foreseen commitments were fully implemented by 2019 and 68% are still work in progress (partially implemented). In spite of some positive record, there is still much work left and especially in some chapters of the acquis, the country needs to catch up quickly. This is particularly relevant for the implementation of the already transposed legislation.

In view of the positive recommendation of the EC for opening negotiations, the country has been commended for the in-depth justice reform being implemented, however, the rule of law, and in particular the fight against corruption and organized crime will need to be further deepen and consolidated.

[8] European Commission (2019) Albania Report 2019, Communication on EU Enlargement Strategy. https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-albania-report.pdf
[9] OSFA (2014) Civic Monitoring of the SAA, Press release. https://www.osfa.al/sites/default/files/permbledhja_per_konferencen.pdf

Another important point regards involvement of non-state actors in the process. In terms of inter-institutional coordination of the process, the structures that have been in place until 2018 did not work consistently and efficiently.[10] Not all working groups met regularly[11] and the other structures above them have met only for important moments or issues and not periodically as foreseen. In spite of having an overall clear structure and mandate, functionality of inter-institutional structures has suffered from discontinuity, dependence on political will, and overlapping practices/ad hoc formats. The NPEI, which is being updated every year, sets out the work for each institution in the process, but has not helped much for coordination among them.

Regarding the new structure that was set up in December 2018, in view of the opening of negotiations, it is quite early to make considerations about the functionality. However, there are some issues and concerns that could be point out. Inter-institutional coordination has always been a challenge for Albanian institutions involved in the process. It is not clear how this new multi-layers structure will be able to tackle this problem. With time pressure and amount of work rising during negotiations, the system set in place might experience shortcomings that might harm the quality and pace of the process. Since 2017 the competences of the former Ministry of European Integration have been transferred into the new Ministry for Europe and Foreign Affairs (following the Croatian experience before opening accession negotiations). While this might bring some improvement in terms of coordination, the horizontal aspect still remains a challenge and the capacities need to be strengthened considerably, in view of the negotiations. Public administration has suffered from continuous changes of staff and, consequently, loss of institutional memory. This pattern might result determinant in the negotiations process, especially since there are no special/ad hoc provisions safeguarding the civil servants involved in the process. While preparing for the process means expanding the number of people and strengthening capacities, merging the two ministries has resulted in a smaller number of civil servants, compared to what the negotiations will require. Therefore, it will be important that the newly established structures have the appropriate human resources, support, and capacities.

[10] EU policy HUB (2017) EU integration structures, Hub Monitor, Issue brief: http://www.eupolicyhub.eu/wp-content/uploads/2017/06/Institucionet_koordinuese_dhe_strukturat-3.pdf
[11] EU policy HUB (2017) Performance of inter-institutional working structures, Hub Monitor, Issue Brief: http://www.eupolicyhub.eu/wp-content/uploads/2017/06/Performanca_e_Grupeve_Nder-institucional.pdf

In spite of creating a partnership platform, it is unclear how this will work. The accession negotiations require contribution from many sectors of society which would be an asset to complement and compensate for the poor administrative capacities. However, in these last years there have been very little (structured) efforts from authorities to involve non-state actors. Apart from few ad-hoc meetings and sporadic open calls for contributions, the only instrument that was supposed to create this opportunity has been the National Council for European Integration (NCEI). The NCEI was set up three years ago but it has not helped in this direction. This body has had very few meetings and, in terms of contribution on non-state actors, there has been little space available for their involvement.[12] On the contrary, the meetings have often turned into political debates among the parties, making it look more like a parliamentary committee. Making sure that non-state actors have the possibility to contribute in a structured way is a key point to be addressed. It will require considerable efforts and firm political will.

When it comes to the SAA bilateral structures, there has been a smooth delivery throughout the years. Both sides have coordinated efficiently and the regular meetings of the sub-committees and the upper structures (SAA Committee and Council) have contributed to an effective organization and monitoring of the work of implementing the commitments under the agreement. This has been a positive experience for the Albanian public administration as well, in terms of preparations for negotiations and socialization with EU rules and procedures. However, there is a need to consolidate these capacities and ensure their continuity in the process, in spite of political changes.

The only SAA bilateral structure that has not always functioned properly has been the Stabilisation and Association Parliamentary Committee (SAPC). While its mandate is to help and contribute to the process with political support and guidance, it has often turned into a political fight arena among Albanian MPs and, in some cases, has actually harmed the process by not reaching joint conclusions and recommendations. There is a need for more political dialogue and fewer polarisations[13] in this respect, with a consensus on the need to make better use of this important forum, for the benefit of the process and the country.

[12] Madhi, G. (2019) Parliament's role in the EU integration process: In search of a genuine catalyst, EU policy HUB, issue brief: http://www.eupolicyhub.eu/wp-content/uploads/2019/04/KKIE-brief-en.pdf
[13] Madhi, G. (2017) Dialogue wanted: the experience of EU-Albania inter-parliamentary cooperation, EU policy HUB, issue brief: http://www.eupolicyhub.eu/wp-content/uploads/2019/05/Dialogue_wanted_The_experience_of_EU_Alb.pdf

2. OVERVIEW OF THE EUROPEAN INTEGRATION PROCESS OF KOSOVO

2.1 Kosovo – EU relations

In 1999, the EU proposed the establishment of the Stabilisation and Association Process (SAP) for the Western Balkans, as a framework for their EU membership process. SAP was officially launched in 2000, at the Zagreb summit, emphasizing that the European perspective of these countries shall be determined based on their progress toward a sustainable democracy, rule of law, market economy and regional cooperation. This perspective was reaffirmed at the Thessaloniki European Council on 21 June 2003. Kosovo is part of the SAP framework since the Thessaloniki Summit.

Until the end of 2009, political and policy dialogue between Kosovo and EU within the European agenda was taking place within the Stabilization and Association process Tracking Mechanism (STM). However, on 14 October 2009, EC published the communication "Kosovo – Fulfilling its European Perspective"[14], whereby proposed the deepening and strengthening of the European perspective of Kosovo. Publication of the communication "Kosovo – Fulfilling its European Perspective" failed to offer to Kosovo meaningful EU integration perspective. It fell short of offering a SAA, as a first formal step towards the EU membership. Instead, it offered basis for the launch of visa dialogue and Kosovo participation in Community programmes, deepening of trade relations, and integration of Kosovo into the economic and fiscal surveillance framework of the Western Balkans. It also brought advancement from STM to 'Stabilisation and Association Dialogue' and it offered to Kosovo access to IPA component II: Cross-Border Co-operation.

Noting that the proposed approach was insufficient to elevate Kosovo EU integration path, and noting good progress in regional cooperation, in particular on the dialogue between Kosovo and Serbia, in October 2011 the Commission, through the Progress Report, recommended the initiation of the Feasibility Study for the SAA.

Following its completion in the summer of 2012, the Feasibility Study was published on 10 October 2012[15], concluding that Kosovo was ready to commence

[14] https://eeas.europa.eu/headquarters/headquarters-homepage/7220/node/7220_gl
[15] https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2012/package/ks_feasibility_2012_en.pdf

negotiations for the SAA after fulfilling of 4 short-term criteria. On 22 April 2013, EC published the monitoring report on implementation of the short-term criteria and confirmed that Kosovo fulfilled all short-term criteria necessary for launching SAA negotiations.

The SAA negotiations commenced on 28 October 2013, and were concluded on 25 July 2014. The SAA was signed on 27 October 2015, in Strasbourg, adopted by Kosovo Government on 30 October 2015 and ratified by the Assembly on 2 November 2015. Finally, the entry into force of the SAA, on 1 April 2016, marked the advancement of relations with the EU from mainly political relations to contractual ones.

On 11 November 2016, the European Reform Agenda (ERA) was launched by the Prime Minister of Kosovo and the Commissioner for European Neighbourhood Policy and EU Enlargement Negotiations. The purpose of ERA was to focus on the implementation of key SAA priorities in order to advance the European perspective of Kosovo and improve the lives of citizens. A total of 22 priorities were selected to be met by the end of 2017. Priorities were based on 3 key pillars: (1) rule of law and good governance (2) competitiveness and business environment, and (3) education and employment.

On 14 June 2012, Kosovo received a roadmap for visa liberalisation with a total of 95 criteria to be met in areas such as repatriation and reintegration, document security, border management, asylum, migration, public safety and freedom of movement and fundamental rights[16]. On 18 July 2018, the Commission assessed that Kosovo has met all criteria stemming from the visa liberalisation roadmap[17]. On 13 September 2018, European Parliament voted the start of inter-institutional negotiations or commonly known as trialogue, for the amendment of the Regulation 539/2001 in order to allow free movement of Kosovo citizens throughout Schengen area. However, since September 2018, negotiations have come to a halt because of the lack of consensus within the Council to move forward with the proposal.

The Instrument for Pre-accession Assistance (IPA II) is the main financial instrument

[16] https://eeas.europa.eu/sites/eeas/files/visa_liberalisation_with_kosovo_roadmap.pdf
[17] https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20180718_com-2018-543-report_en.pdf

to provide EU support to the beneficiaries of the Western Balkan countries in implementing reforms. Kosovo has received over EUR 650 million from IPA I (2007-2013). IPA II (2014-2020) has an overall allocated budget of €602 million for Kosovo over the seven year period.

With a view to support implementation of the reforms, in complementary to other EU financial support, a Framework Agreement (FWA) between Kosovo and the European Commission on general principles for participation in EU Programmes was signed on 25 November 2016[18]. The FWA includes a list of the 17 EU Programs in which Kosovo is eligible to participate. Kosovo Government decided to enter four programs: Europe for Citizens, Creative Europe, Erasmus+, and COSME. Respective MoUs have entered into force.

Under the Western Balkans Investment Framework (WBIF), Kosovo has benefited a number of technical assistance projects, as well as infrastructural grants - most notably a rehabilitation of railway line X. Discussions are on-going for the support of a flagship regional project, a so-called “Peace Highway”, a highway section between Kosovo and Serbia. Overall, Kosovo has benefited €111.2 million in grants that have generated €940 million in project investments.[19]

2.2. Review of institutional structures and policy framework

Planning framework in the area of European Integration is composed of two main documents: National Program for Implementation of the Stabilization and Association Agreement (NPISAA), and the European Reform Agenda (ERA).

The NPISSA is a main Government document that strives to implement provisions stemming from the SAA. NPISAA defines a comprehensive mid-term framework of all reforms necessary to fulfil the SAA obligations, namely the measures and priorities for gradual approximation of legislation with the acquis through the transposition of the latter, as well as for implementing the approximated legislation. The NPISAA includes actions related to implementation of short term measures addressing requirements based on 33 chapters of the acquis.[20]

[18] http://www.europarl.europa.eu/doceo/document/TA-8-2017-0276_EN.html
[19] https://wbif.eu/beneficiaries/kosovo
[20] https://www.mei-ks.net/sq/programi-kombetar-per-zbatimin-e-msa-se

The European Reform Agenda (ERA) is a platform of a high level dialogue launched between the Government of Kosovo and European Commission on the key priorities of the SAA. While the NPISAA is the umbrella framework, ERA serves as a more focused document that outlines 22 medium and short-term priorities of the highest political importance.[21]

Monitoring and reporting of the implementation of the NPISAA and ERA is done through the online monitoring and reporting database. MEI produces quarterly and annual reports.

On the institutional front, the main Government body in charge of European integration framework is the Ministry of European Integration. Across the Government, each ministry has established Departments for Policy Coordination and European Integration (DEIPC). Creation of DEIPCs has brought functions of policy planning, European integration and donor coordination under single structure within all line ministries. DEIPCs are MEI's gateway to the line ministries.

The government has also established three-layer inter-institutional structures to enhance the coordination of the European integration issues[22]:

- The Ministerial Council for European Integration is the highest coordination body, led by the Prime Minister, with the participation at the ministerial level;

- The Working Committee for European Integration, led by the Minister of European Integration, with the participation of the General Secretaries;

- Seven Executive Committees, led by the General Secretary of the lead sectorial ministry. The Executive Committees are technical forums organised according to different acquis chapters.

[21] http://mei-ks.net/en/european-reform-agenda-era
[22] http://mei-ks.net/en/government-structures-for-european-integration-

Figure 5: Institutional framework in the area of Europoean integration

Furthermore, Kosovo and EU, in line with regional experience, have established all SAA bodies, respectfully[23]:

- The Stabilisation and Association Council;
- The Stabilisation and Association Committee;
- Seven Stabilisation and Association sub-committees and two Special Working Groups (SWG);
- The Stabilisation and Association Parliamentary Committee.

The SA Council, as established by the Article 126 of the SAA, is responsible for supervising the application and implementation of the SAA.

[23] http://mei-ks.net/en/council

In this light, for the purpose of attaining the objectives of the Agreement, it has the power to take decisions within the scope of the SAA. The decisions taken are binding on the Parties, which must take the measures necessary to implement the decisions taken. The SA Council may also make appropriate recommendations. It is co-chaired by Kosovo Minister of Foreign Affairs[24] and High Representative of the EU.

The SA Council is assisted in its mission and duties by a Stabilisation and Association Committee. The Committee is co-chaired by Kosovo Minister of European Integration and Director for Western Balkans/DG NEAR.

The SA sub-committees and two SWGs cover different thematic acquis chapters. They are co-chaired by General Secretaries of lead Kosovo sectorial ministry and Head of Kosovo Unit/DG NEAR.

The SA Parliamentary Committee is a forum for Members of the European Parliament and Members of the Parliament of Kosovo to meet, exchange views, and support the process. It is co-chaired by the representative of Kosovo Assembly and European Parliament.

2.3. Critical outlook of the EU accession process

Kosovo is at early stage of EU accession process and its accession agenda is challenged by both external and internal factors.

Externally, Kosovo is not recognized by 5 Member States: Cyprus, Greece, Romania, Slovakia and Spain. As a consequence any substantive decision with regard to Kosovo EU accession process has been faced with particular challenges and delays. It took the EU three years to convince all EU member states to start SAA negotiations with Kosovo. Substantive delays were also caused in the entire procedure of ensuring Kosovo access to EU programs. Proposal for inclusion of Kosovo in the programs was made in 2009, whereas ultimately Kosovo and EU signed Framework Agreement between them on the general principles for the participation of Kosovo in Union programmes in 2016.

[24] In practice, last three meetings of the Council were chaired by Kosovo Prime Minister.

In Brussels, any decision with regard to Kosovo carries additional diplomatic burden that needs to be navigated around the 5 non-recognizers. It is very hard to imagine how the EU will find an avenue in advancing Kosovo accession path, without the recognition of Kosovo by 5 member states. Next step in Kosovo accession process will be application for the membership, and subsequent granting of candidate country for the accession to the EU. This will require a unanimous decision, which, at the moment, is impossible to be backed by 5 non-recognizers.

Second external obstacle is Kosovo relationship with Serbia. The EU has made clear that it will not import unresolved bilateral disputes between countries into the EU. Since February 2018, the EU has asked both countries to reach a comprehensive legally binding normalization of relations agreement. Since then relationship between Kosovo and Serbia have only gone soar. Serbia embarked into a diplomatic campaign of blocking Kosovo international recognition and accession to international organizations, to which Kosovo responded with 100% tax on goods imported from Serbia.

Since 2018, Presidents of Kosovo and Serbia announced an idea of border correction or land swap as a means to normalization of relations. The idea was faced with mounting national objections in both countries and division of opinion in the international community.

Amid the political stalemate, Chancellor Merkel and President Macron reached out to the two countries to facilitate the dialogue between the parties. However, both – Serbia and Kosovo, haven't indicated strong signs of political will to come to an agreement. An unresolved relationship between Kosovo and Serbia will continue to hamper European integration efforts of both countries.

Internally, Kosovo has demonstrated lack of political will to tackle key reforms stemming from the European integration agenda. As captured by the most recent Country Report on Kosovo: "Kosovo should put the political focus back on advancing on its European path"[25].

[25] https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-kosovo-report.pdf

As explained, each year, in order to ensure implementation of the SAA obligations Kosovo adopts National Program for the Implementation of the SAA (NPISAA). The NPISAA has continuously faced notoriously low level of implementation:

· In 2016, out of 1,347 measures, only 741 were implemented.
· In 2017, out of 967 measures, only 600 were implemented.
· In 2018, out of 532 measures, only 362 were implemented.

In November 2016, Kosovo launched an ambitious European Reform Agenda (ERA), with 22 priorities to be met within a year. ERA was organised according to the three pillars:

1. Good governance and rule of law;
2. Competitiveness and business environment;
3. Education and employment.

After nearly three years, only 5 out of 22 priorities have been met. Main reason behind such a sluggish performance in building a credible track-record of reforms is to be found in the lack of political will and consensus for moving forward key reforms stemming from the EU integration process.

In area of rule of law, Kosovo adopted with substantive delays a revised Penal Code and has failed to adopt a revised Penal Procedural Code. Since the independence of the country in 2008, the judicial system has failed to deliver a single case in fight against high level corruption. Latest Country Report, noted: “Corruption is widespread and remains an issue of concern…The judiciary is still vulnerable to undue political influence.”[26]

With regard to good governance, in last few years Kosovo has built a coherent and modern policy and legal framework for the reform of public administration. However, the Government has taken a number of steps that have severely backtracked Kosovo standing in the area of good governance. First, during the outgoing Government mandate, Kosovo witnessed unprecedented spike in the appointments of Deputy Ministers that reached a total of 80+ Deputy Ministers. Furthermore, it invented for the first time positions of “National Coordinators” – which proved to be simply new ways of inflating public administration.

[26] https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-kosovo-report.pdf

Secondly, the Government took aggressive steps in politicizing virtually all high-level civil service appointments, as well as boards of Publicly Owned Enterprises. Latest Country Report, noted: “The excessive size of the government, including further increases in the number of deputy ministers, has continued to affect its credibility and effectiveness….Moreover, a number of measures taken by the government over the reporting period were not in line with its states reform objectives, notably non-merit based recruitments and ad hoc decisions influenced by special interests.”[27]

With regard to long-required electoral reform, EU electoral observation missions offered specific recommendations following 2014 and 2017 elections. As the latest, Country Report underlined “most of the recommendations have not been addressed”.

Kosovo institutional structures for the coordination of the EU integration process remain fragile. The Ministry of European Integration is the main Government body in charge of European integration. Its political power has continuously continued to deteriorate, rendering it incapable of steering important political reforms, as required by the EU integration agenda. The Government has failed to design a human resources retention policy for the qualified staff that works on the EU integration issues, which resulted in high staff turnover at MEI and subsequent weakening of technical capacities.

With regard to inter-institutional structures, the former President of the Republic of Kosovo, Ms Atifete Jahjaga, established on 27 March 2012 a Nation Council for European Integration[28]. However, the Council became defunct very quickly after establishment. Since 2014, the Council met only twice. It has not met since October 2016.

When it comes to inter-institutional coordination structures, they continue to function on ad-hoc basis and without clearly defined purpose and operational guidance. Usually, the date is set few days prior to the meeting. Purpose of the meetings is unclear to most of the participants and hence always ends up with

[27] https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-kosovo-report.pdf
[28] https://www.president-ksgov.net/en/national-council-for-european-integration

pain-staking long and formalistic speeches bringing no added value to the process. Political meetings lack genuine political will and agenda setting, whereas technical meetings lack commitment and accountability. On a slightly different front, lack of visa liberalization for Kosovo has overshadowed Kosovo EU integration process. Despite the fact that the European Commission and the Parliament recommended lifting visa regime for Kosovo, the Council has disagreed with the assessment that Kosovo has met all criteria, with a particular emphasis in the absence of results in fight against high-level corruption. Since 2016, when the EC recommended visa liberalization for Kosovo, Kosovo has failed to bring to justice a single case of high-profile corruption.

With regard to the inclusion of the civil society in the European integration process, efforts have been made to establish a partnership between state institutions and civil society. Civil society has been invited at the meeting of the National Council for European Integration. Nevertheless, civil society has criticized the working methodology of the NCEI as unproductive and formalistic. Furthermore, as mentioned earlier, the NCEI eventually became defunct since it had not convened since October 2016.

Concerning inclusion of the civil society in the workings of the SAA structures, in February 2018, MEI adopted “Guideline on Consultations with Civil Society Organisations and Other Stakeholders in the Framework of the EU – Kosovo Stabilisation and Association Bodies”[29]. This was an important step forward and novelty in Western Balkan countries, since no other country started this early a structured consultation process with civil society organizations in light of the SAA implementation.

The guidelines consist of four sections. The first one describes the legal basis, while the second focuses on the guiding principles governing this consultation framework. The third section describes the preparatory steps that will be followed for creating this consultation mechanism. The last section lays out in detail the procedural steps that will be followed for conducting consultations in the framework of each SAA structure, including timeframes and institutional responsibilities.

[29] http://mei-ks.net/repository/docs/konsultimet_osa_udhezuesi_eng.PDF

However, in practical terms, the established consultation mechanism presents a number of deficiencies. MEI on one side is faced with limited human resources for the administration of additional burden that consultation process entails. On the other hand, civil society is still not familiar with their role and what is expected from them in the entire process. Furthermore, the process needs to be structured in such a fashion that working relationship between MEI staff and members of the civil society is much closer and practical. Although MEI consults civil society in the preparation of the NPISAA, these consultations are done on ad hoc basis, superficially and within limited time-frame. These pre-conditions do not allow meaningful involvement of the civil society.

With regard to the European Reform Agenda, there is no structured consultation mechanism. In the absence of Government initiative, civil society took steps to monitor implementation of ERA 1 independently from the state institutions[30]. In light of ERA 2, Government invited civil society to contribute to the preparation of ERA 2. However, neither feedback, nor structured follow-up, was provided.

Overall, Kosovo EU integration agenda prospect will highly depend on two factors:

1. With regard to external factors, Kosovo and Serbia **must reach a legally binding agreement.** Such an agreement will unleash the potential of both counties in their respective EU accession path. An agreement would create an environment for recognition by 5 EU non-recognizers and allow Kosovo to move closer to candidate status.

2. Internally, Kosovo must demonstrate **clear political commitment to EU-related reforms**. At an early stage focus must be put on rule of law, de-politicization of judiciary system and establishing a robust track-record in fight against high-level corruption and organized crime.

[30] http://www.eramonitoring.org/en/

3. ALBANIA - KOSOVO COOPERATION UNDER THE STABILISATION AND ASSOCIATION PROCESS

The legal basis for the cooperation between the countries that are part of the Stabilisation and Association Process stems from the Title III of their respective Stabilisation and Association Agreements. It calls upon Western Balkan countries to develop good neighbourly relations, and actively promote regional cooperation. It specifically calls upon Western Balkan countries to conclude bilateral conventions on regional cooperation, the aim of which is to enhance the scope of cooperation between them.

Kosovo and Albania have launched a general political framework of cooperation within the umbrella of regular meetings of the two governments. First inaugural meeting took place on 14 January 2014 in Prizren, Kosovo. Since then four annual meetings were convened in Tirana (23 March 2015), Pristina (3 June 2016), Korça (27 November 2017) and Peja (26 November 2018).

3.1. Agreements in place

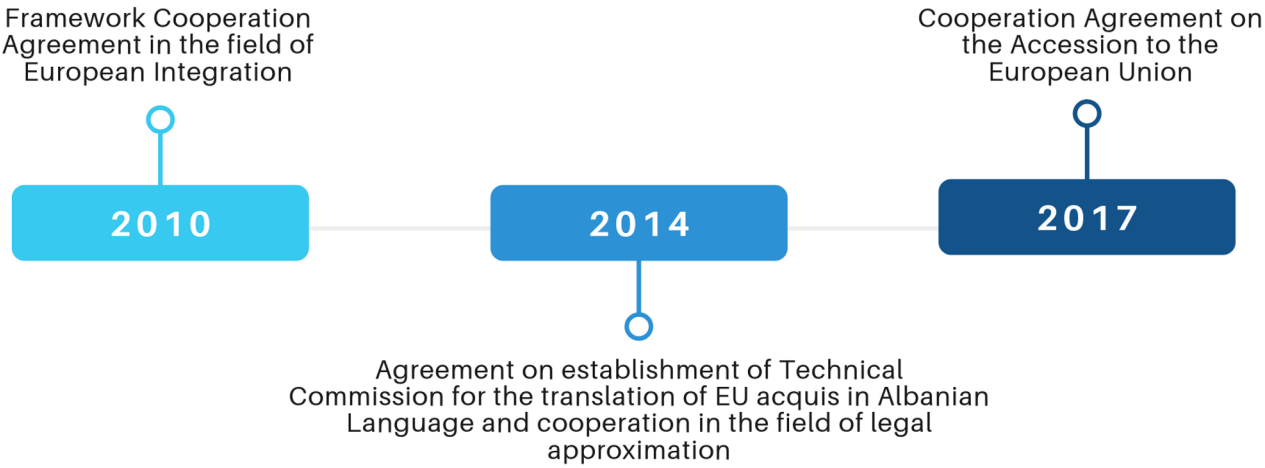
First effort to establish cooperation between Albania and Kosovo on European integration issues was made in 2010 when two respective Ministers signed a Framework Cooperation Agreement in the field of European Integration. As the two countries were heavily focused on their respective EU integration issues, little time and energy was put in implementation of the provisions of the 2010 agreement. The agreement furthermore, did not identify specific structures, responsibilities and procedures through which it would be implemented. The document was rather a political statement.

However, one area of cooperation did mark progress. In 2014, Albania and Kosovo signed an Agreement on establishment of Technical Commission for the translation of EU acquis in Albanian Language and cooperation in the field of legal approximation. The Agreement established institutional structure, responsibilities and work methodology in the area of acquis translation between the two parties.

Since 2014, a range of agreements have been reached in areas such as foreign affairs, customs cooperation, investment promotion, diaspora, environment, mutual recognition of driving licenses, public finances, health, etc.

At the fourth meeting between the two governments, on 27 November 2017, in Korça, a Cooperation Agreement between the Government of the Republic of Kosovo and Council of Ministers of the Republic of Albania on the Accession to the European Union was signed.

Figure 6: Current agreements on cooperation in European integration issues between Albania and Kosovo



2017 Cooperation Agreement established a framework for a political dialogue that would have two main objectives:

1. Enhance cooperation within the European integration process and affirm the European values in bilateral and regional cooperation;

2. Foster cooperation in areas of mutual interest in the process of EU accession and matters related to the stability in the region and strengthening of regional cooperation.

The Agreement identified the following areas of cooperation:

1. The reform of legislation and alignment of the national legislation with the acquis;

2. Enhancement of cooperation in the process of translation and revision of

translation of the acquis into Albanian language, through the use of unified contemporary technology;

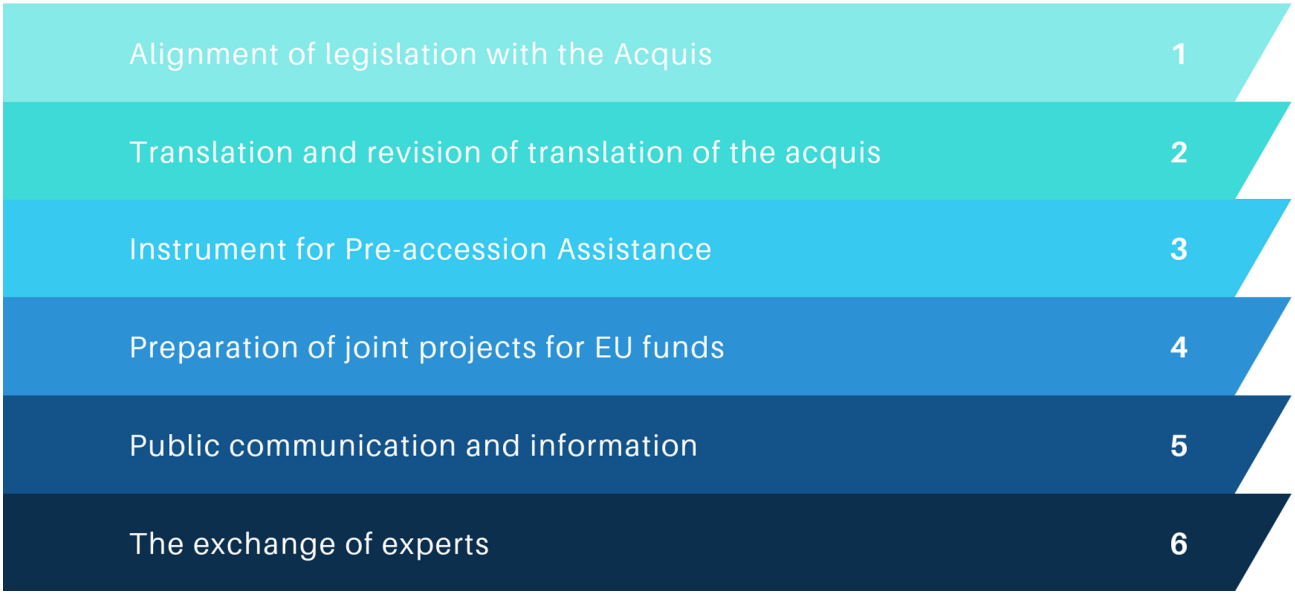
3. Management of the Instrument for Pre-accession Assistance and other assistance related to the integration of the two countries to the EU;

4. Preparation of joint projects in light of applying for the EU funds;

5. Public communication and information with regard to the European integration process;

6. The exchange of experts of respective institutions and provision of mutual assistance in the areas of European integration.

Figure 7: Areas of cooperation, under the 2017 Cooperation Agreement



The Agreement also envisaged other areas of cooperation such as customs, rule of law and freedom of movement. It established a two-layers institutional structure responsible for the implementation of the agreement:

1. Meeting of Ministers responsible for European integration;
2. Joint Committee.

The Joint Committee has been envisaged as operational structure composed of representative of two sides, who meet twice a year based on a regular calendar. Main task of the Joint Committee is to oversee implementation of the agreement and prepare Meetings of the Ministers - that take place annually.

Figure 8: Institutional structure responsible for the implementation of the 2017 Cooperation Agreement

Bodies	Political vs technical	Tasks	Frequency
Meeting of Ministers	Political	Political dialogue, Bilateral cooperation, Accession to the EU, Regional issues, CFSP	Annual
Joint Committee	Technical	Review the implementation, Prepare MoM	Biannual

3.2. Results

The 2010 Framework Cooperation Agreement in the field of European Integration is largely out of date and practically, but not formally, defunct, since the coming into force of the 2017 agreement. The agreement did not produce any specific results. The agreement lacked specific structures, responsibilities and procedures of implementation; hence it was rather a political statement, then a cooperation agreement. However, the agreement was a first step of connection between the two administrations about the potential of cooperation.

The 2014 Agreement on establishment of Technical Commission for translation of EU acquis in Albanian Language and cooperation in the field of legal approximation is in particular an important technical agreement. The EU Acquis is the aggregation of legislation, legal acts, and court decisions, which altogether constitute the body of the European Union law. The translation of the EU Acquis differs from other translation processes in many ways. This is closely linked with the fact that:

- Some of the EU legal acts are directly applicable and therefore have legal impact;

- The EU Acquis covers a wide range of fields, so experts from these fields must revise the translated texts in order to confirm the terminology used in the translation;

- The total volume of texts is considerable (about 120,000 pages) and it takes several years to translate.

Therefore, the translation of the EU Acquis cannot be compared to any other translation process. In recent years, it has been the largest translation project conducted by any new EU Member State.

Kosovo is in a particular situation because it has two official languages (Albanian and Serbian), and the translation of the Acquis in both languages of these languages has already started in Albania and Serbia. Albania has already started to translate the Acquis into the Albanian language and Serbia has been translating the Acquis into the Serbian language since 2008. Currently, the number of the EU Acquis that have been translated into Serbian is higher than the number of EU Acquis acts into Albanian. However, not all of these translated acts are made publicly available by any of these countries, thus the volume of EU legal acts that are already translated is not known, as well as the topics and areas where translation of EU legal acts is available.

In this light, the agreement established guidelines for cooperation between Kosovo and Albania on translation of the EU acquis. Since 2014, Kosovo and Albania have established a Joint Committee on the Coordination of the Translation of the Acquis.

A joint manual for the translation of the acquis has been adopted. Furthermore, the Committee has agreed an annual calendar for the joint translation of the acquis. The Committee has met regularly since, twice a year.

With regard to the 2017 Cooperation Agreement between the Government of the Republic of Kosovo and Council of Ministers of the Republic of Albania on the Accession to the European Union no progress can be reported. Institutional structures, composed of the Meetings of the Ministers and Joint Committee have never convened.

There have been sporadic meetings at the technical level on issues such as exchange of experience on the preparation of the National Program for the Implementation of the SAA, or administration of EU funds. These were largely ad-hoc meetings without a clear objective and follow-up. Meetings were driven by the pro-active approach of particular individuals' rather than systematic institutional format.

3.3. Next steps for a greater cooperation between Albania and Kosovo

Albania and Kosovo enjoy high level of public support for the European integration process. In both countries more than 80% of the population is in favour of becoming an EU member. This is reflected in the strong political support for the European integration process in both countries. However, beyond political will there has been limited cooperation between two countries in the area of European integration. Potential of cooperation is significant, not least because of a common language and strong political will between the parties. We propose following next steps in order to enhance cooperation between two countries in the area of European integration.

3.3.1. Institutional

The 2017 agreement has put in place a logical and practical institutional framework. We should not reinvent the wheel. The structure needs political push and technical commitment to be functionalized. We suggest that the two respective ministers should meet by the end 0f 2019 and agree a tentative calendar of meetings for 2020 for both Meeting of Ministers and Joint Committee.

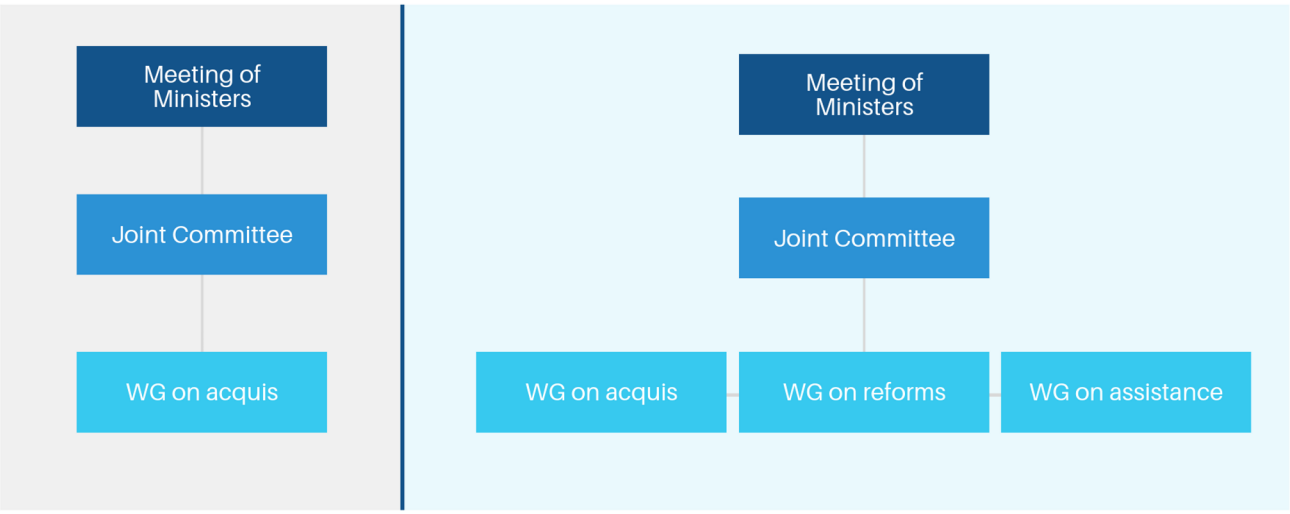
Furthermore, they should agree to establish two thematic working groups that will report to the Joint Committee and advance cooperation on respective areas. We are of the opinion that the two countries should not start with more than two areas of cooperation for two chief reasons.

First, cooperation does not come without a labour cost. It requires administrative resources – which are scarce and overstretched for the moment in both Albania and Kosovo. Hence we would not suggest overburdening these technical resources with a wide pallet of cooperation areas.

Secondly, we suggest that the cooperation starts from these limited number of areas, then slowly evaluate how the cooperation is progressing, and, on that basis, conduct annual assessment which will determine whether to enlarge the cooperation in additional areas.

The good example of the Technical Commission on Acquis Translation should be extended to other areas of cooperation. Such an approach will put responsibility on a particular file under the respective structure/individual.

Figure 9: Current vs proposed institutional cooperation structure



3.3.2. Thematic

Herewith we suggest that Albania and Kosovo establish two thematic working groups in the area of European integration.

a) Working Group on EU reforms

The working group should meet at least twice a year. It should be chaired by the Head of EU Directorate on MEFA/Albania side and Director of SAP Coordination/MEI side.

The WG should focus on the exchange of experience in the following issues:

- Implementation of the SAA;
- Implementation of annual key EI priorities;
- Functioning of the EI inter-ministerial structures;
- Accession negotiations;
- Visa liberalisation.

The WG should adopt its rules of procedure by the end of 2019. Rules of procedure should detail membership, chairmanship, responsibilities, decision-making and work methodology. The WG should start its work from very practical issues, such as discussion on the causes for the low level of implementation of the National Programs for the Implementation in either countries, or lessons learned from the implementation of key annual EI priorities. Albania's experience in achieving the candidate status is an important discussion point for Kosovo.

Furthermore, the workings of the group could be enlarged to cover the two countries' experience in visa liberalisation with the EU, in particular on issues such as communication and information campaigns or migration-related issues.

b) Working Group on EU assistance

The working group should meet at least twice a year. It should be chaired by the Head of EU Funds Directorate on MEFA/Albania side and Director of Department of Development Assistance/MEI side.

The WG should focus on the exchange of experience in the following issues:

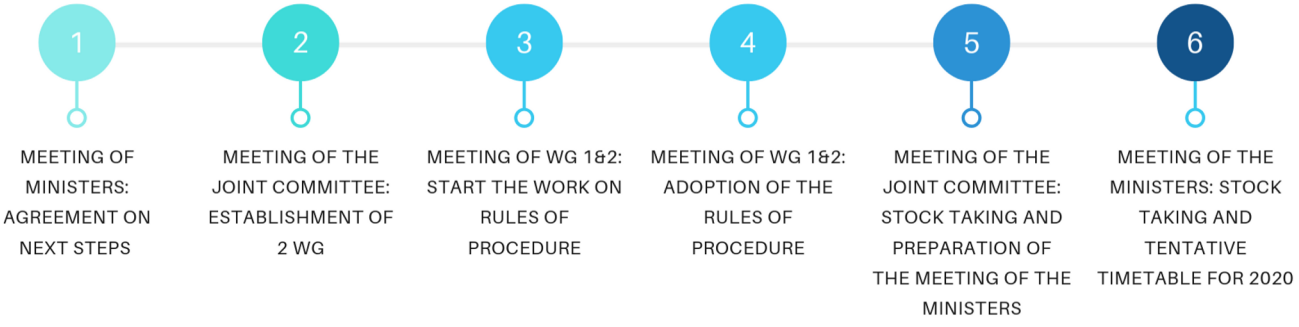
- Annual IPA programing;
- WBIF;
- EU programs.

The WG should adopt its rules of procedure by the end of 2019. Rules of procedure should detail membership, chairmanship, responsibilities, decision-making and work methodology. The WG should start its work from very practical issues, such as discussion on the potential pipeline of joint projects for the WBIF financing and success stories from the national IPA programming. Recently, Kosovo and Albania cooperated successfully in replicating Young Cell Scheme project from Pristina to Tirana. Such examples should be explored further by the two administrations.

Figure 10: Proposed working groups

WGs	Tasks	Frequency
WG on acquis	Legal approximation, translation of EU acquis in Albanian language	Biannual
WG on EU reforms	Implementation of the SAA, implementation of annual key EI priorities, functioning of the EI inter ministerial structures, accession negotiations, visa liberalization	Biannual
WG on EU assistance	Annual IPA programing, WBIF, EU programs	Biannual

Figure 11: Next steps for the operationalization of the cooperation between Albania and Kosovo in the area of European integration



4. REPOSITIONING TO A NEW EU REALITY

Becoming a member state of the EU is first of all a political decision of the countries already in the club. Although Enlargement policy has always been a core part of the European project, the approach towards is has experienced a variety of attitudes, depending on internal developments to the EU and political moods. The EU leaders have often reminded that enlargement is a strategic choice to ensure peace, stability, and prosperity for the whole continent. However, in the last decade, there have been important changes in power balances within the EU institutional framework due also to the new political landscape in some member states. These changes have determined the attitude towards enlargement to the Western Balkan countries by increasing scepticism and displaying even more fatigue. In these circumstances, Albania and Kosovo need to, first, understand these changes and their meaning and repercussions for their process of European integration. Second, they need to adjust to this new reality in terms of political and institutional approach to the process.

4.1. Tectonic power shift

Enlargement of the EU is considered one of the most important policies of the Union. Decision-making process in this area has always been a prerogative of the member states (the Council) since the early days of the project. There have been times when this mandate has been politically used to block new member states from coming in (such as in the case of United Kingdom in the 1960s) or to welcome countries that the EU strategically needed as members at the time (Southern Europe and post-communist countries). In all cases, member states have had the final say. The European Parliament (EP) has joined in through the co-decision procedure. However, since the EP has not registered yet a majority against enlargement, our focus in explaining this internal power shift is between two institutions: the Council
and the Commission.

The European Commission is responsible for managing the enlargement process. Its mandate includes not only guiding and supporting countries which apply for membership, but it also monitors and evaluates their readiness to become members. This is done on the strict basis of the Copenhagen criteria and the EC is in

charge of checking if all conditions are met. In this light, in its communication with the Council, the EC prepares each year the enlargement package, with country reports and recommendations for the next steps. Starting with the Delors Commission in the 1980s, the EC has been very pro-active in this area, assuming a leadership position in advancing the enlargement agenda (by exercising conditionality upon the accession countries and by working efficiently with member states for preparing the ground). This approach continued throughout the 1990s and especially until mid-2000s, when the big enlargement happened (the EU went from 15 members to 27). To reassume it in simple terms, the EC would evaluate and recommend, the Council would rule upon that opinion. Until 2008, there were rare cases when the Council ruled differently from the Commission recommendation. And whenever this happened, it was in the direction of favouring enlargement (see the case of positive decision on Greece in spite of negative recommendation from the Commission).

The 2008 crisis brought several ramifications in terms of domestic politics in member states. Increased perceived insecurity, rise of populism, unemployment, migration, terrorist threats, etc. were some of the main issues that determined the political landscape of the second decade of the 2000s. The EU Enlargement policy has been a victim of this turbulent political period. Signals coming from member states were indicating to slow down the process. At present, France, the Netherlands, Denmark, and few other countries have expressed concerns related to the enlargement process in the Western Balkans. In these circumstances, the Commission has lost its pro-active role and leadership in this process, and has been paying extra attention to the sensitivities of national politics of the member states. On one hand, in some occasions it has been quite hesitant in advocating with member states about its findings. On the other hand, in other cases, it has recommended advancing in next stages and the Council has not ruled following Commission's recommendation. Albania and Kosovo have experienced this first-hand. In the case of Albania, in spite of a positive recommendation for candidate status in October 2013, the Council did not grant it in its successive meeting. It waited until European elections took place in 2014 and then took a decision in favour in June of that year. The same with the 2018 and 2019 recommendation for opening of negotiations. Whereas, in Kosovo case, despite EC July 2018

recommendation to grant Kosovo visa-free regime, the Council did not move forward the decision-making process. What we are describing above is what we have called ‘a tectonic power shift’ between EU institutions in the area of enlargement. The EC, which is the main and daily interlocutor in the accession process, has taken the back sit and is just giving instructions. This position has undermined its role and leadership in this policy area. On the other hand, member states and their domestic political agendas have taken over. This process has been called by some scholars as the ‘nationalisation of the enlargement process’, reflecting the shift of leadership from the EC to the single member states and the Council as a body. There are many clear signs, episodes, and practices showing evidence of this new dynamics. As O’Brennan has observed since 2014, “the Council, rather than the Commission, is increasingly setting the ‘benchmarks’ for delineating progress in accession talks, thus largely determining the pace at which negotiations proceed” (O’Brennan, 2014, p. 227).[31] In spite of the fact that the EC, following its mandate, monitors and evaluates in depth these countries during the year and in its annual report with exhaustive analytical work, member states have continuously “overlapped” with EC’s work in several occasions. As an example, in the last years there have been few “fact-gathering missions” to Albania, from national MPs of member states. On one hand this has turned to be a rather confusing experience for national authorities, since they provide detailed information to the EC regularly. On the other hand, it might reflect the power shift and the mistrust that political agenda is creating among the institutional framework. The role of domestic politics and national elections is sometimes determining official approach that certain member states have, in spite of facts being stubborn. This could be concluded even in the most recent case of the Netherlands parliament and government asking the EC to activate the visa mechanism on the case of Albania or France request to postpone 2019 publication of the Western Balkans Enlargement Strategy for after the EP 2019 elections – as France saw the publication of reports as potential interference into the EP elections.

As explained above, apart from the increased role of member states invidually, there is also shift of power between the EC and the Council and within the Council structures. Let us put one thing clear. The Council has always held the power of

[31] O’Brennan, J. (2014). On the slow train to nowhere? The European Union, “enlargement fatigue” and the Western Balkans. European Foreign Affairs Review, 19(2), 221–242.

decision in the area of enlargement. What we are aiming to explain is that its involvement has now become more present and invasive, occupying the position of a more timid Commission, in certain crucial moments. We must admit that the enlargement agenda has been very low in the Council priorities for few years now. This comes out mainly in election periods and/or when it is time to take a decision on a certain step recommended by the Commission. However, certain structures of the Council work on the Balkans on weekly basis. And here we can observe another shift of power, but this time within the Council. While the Committee of Permanent Representatives (COREPER) is the main political filter in the decision-making process (including enlargement), the Working Party on Western Balkan Region (COWEB) is the body dealing and covering more in detail Albania and Kosovo, among others. Due to the lack of interest from above and to internal dynamics, COWEB has assumed more and more power in these last years in terms of reaching agreements among member states on positions to take on most issues (the most sensitive ones are taken to the higher levels). Members of the COWEB are representatives of member states, who interact intensively with other Council structures, Commission, their respective ministries for foreign affairs, and their embassies, when needed. Their importance in setting the tone of discussion in certain issues and mediating between different positions among each other, has become relevant in view of the lower importance that the enlargement agenda is receiving. Of course, decision is always up to the higher political level. However, the preparatory work and the negotiation results deriving from their meetings are more often pointing the direction on certain areas. The Council and its internal dynamics have now become a continuous part of the process and, therefore, there is a need to re-evaluate and adjust existing practices and strategies adopted by Albania and Kosovo when interacting with the EU on their European integration agenda.

4.2. Reframing approach and communication strategy

In light of the developments described in the previous section, Albania and Kosovo institutions need to reconsider their strategic approach in engaging with the multitude of actors involved in the process. The European Commission will still be the main official interlocutor and a firm but fair advocate of the accession countries. Therefore, work with the Commission needs to continue, improved and intensified

as the process moves forward. However, engaging only with the Commission has proved to be an insufficient practice, in these new circumstances within the EU. Considering the EU political developments and the spider net created in the Enlargement process, we are putting forward six recommendations on how to efficiently cope and communicate strategically with the “new EU” in the years to come:

1. A structure for monitoring and analysing political dynamics of main member states[32].

While both countries have their own departments for covering Europe in their respective ministries of foreign affairs, a restructuring of the approach in the work for following internal political developments in main European countries needs to be adopted. This would require an additional structure and format beyond existing practices, with a bigger focus on political positions on enlargement and agenda developments of domestic political landscapes. In addition, a better coordination work with embassies will need to be put in place. By preparing periodical analytical reports and assessing possible positions of domestic political factors in each of the main countries, Albania and Kosovo will be able to have better predictability and prepare better by working ahead bilaterally with each country (rather than finding out from the European Commission in the final weeks). Think-tanks, individual scholars and researchers, could be involved to fill in for the required capacities.

2. Improve coordination work with the European Commission

As already mentioned, the EC has been a great supporter and guide for the Balkan countries so far. However, there is plenty of room on improving interaction at a strategic level. In spite of the shadowed role of the EC in the recent years, its mandate is clear and very important in relation to managing the enlargement process. Albania and Kosovo need to build beyond the formal meetings (committees and subcommittees) and reach out to the most senior officers in the Commission for exploring their thoughts and advices on how to deal with the current stalemate. Very often what they explain and suggest in informal settings (as many of Brussels dynamics develop), is more important and relevant than the

[32] Similar to the European Institute of Romania (quite a unique structure), but adapted to Albania and Kosovo.

formal declarations and minutes. This requires a more pro-active approach from national diplomats to engage in regular meetings and discuss the possibility of initiating a functional review discussion on the future of the process.

3. Communicate effectively and regularly with member states

In spite of the communication with the Commission, both countries will need to establish a practice of sending carefully designed reports to member states. The aim is to provide them with up-to-date information and data on the progress made by the country, in a very clear and simple way. These “fiches”, rather than extensive reports, need to become an important reference not only for the respective ministries which will elaborate and send them to embassies, but also for all institutional representatives when they meet counterparts in bilateral meetings. If European integration agenda is a strategic priority, this needs to be reflected with tangible data in each contact with member states, and not only with political declarations. The last years have demonstrated that effective communication based on figures and facts has had more impact at bilateral level. For this to work, coordination among political and administrative staff within the countries need to further improve, by efficiently using inter-institutional bodies in place.

4. Meet regularly and exchange information with COWEB

COWEB is the main working group in the Council dealing on weekly[33] basis with Albania and Kosovo. Representatives of the two countries meet sporadically and ad hoc with its members (not more than once a year). In view of the shifts explained, meetings with this structure need to be intensified and exchange of information needs to be developed (in spite of possible overlapping with their own embassies sending information). It is crucial to listen to their issues and try to grasp what are the main concerns on a more detailed basis. Therefore, these meetings should be held by the deputy minister and the technical staff, rather than the higher political level.

[33] COWEB holds two meetings every week

5. Action plan on public diplomacy

Both countries suffer from bad image and reputation, especially in some member states. More often these are based on preconceived ideas and perceptions that do not correspond to reality. However, there has been a relatively poor work done from public institutions to change this through public diplomacy. We propose drafting bi-annual public diplomacy action plans, targeting mostly countries where lack of information and other internal dynamics have caused such perception. The plans can draw from previous experiences of other countries and, in presence of lack of financial and human resources from state institutions, a better cooperation with distinguished representatives of both countries diasporas need to be developed. The program need to include variety of activities and events, using creativity and adapting to the respective member state circumstances, in order to be as efficient as possible.

6. Use of EU funds strategically for short and medium term goals

Both countries have access to a variety of EU programs, including Creative Europe. A working group within the respective ministries should be set-up in order to prepare a strategic paper on how these programs can fit and help the above mentioned actions. Especially when discussing about the importance of public diplomacy, European programs can help and become very useful experiences in terms of exchanges and cultural activities. For the coming 2-4 years, there should be an internal reflection on what the countries want to achieve with the financial and technical assistance provided.

Figure 12: Six recommendations to strengthen the communication with the EU

5. RECOMMENDATIONS: GREATER COOPERATION BETWEEN ALBANIA AND KOSOVO & RESPONDING TO NEW EU POWER-SHARING REALITY

With regard to the cooperation between Albania and Kosovo in the area of European integration we are proposing following next steps:

1. Meeting of Ministers;
2. Agreement on the work calendar for 2019;
3. Meeting of the Joint Committee;
4. Establishment of the Working Group on EU reforms;
5. Establishment of the Working Group on EU funds;
6. Meeting of Ministers and work calendar for 2020.

In order to address gaps created by the 'tectonic power shift' within the EU institutional architecture, we are proposing following next steps:

1. A structure for monitoring and analysing political dynamics of main member states;
2. Improve coordination work with the European Commission;
3. Communicate effectively and regularly with member states;
4. Meet regularly and exchange information with COWEB;
5. Action plan on public diplomacy;
6. Use of EU funds strategically for short and medium term goals.

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REFERENCES

1. Council Conclusions on Enlargement and Stabilisation and Association process, 18 June 2019: https://www.consilium.europa.eu/en/press/press-releases/2019/06/18/council-conclusions-on-enlargement-and-stabilisation-and-association-process/

2. Stabilisation and Association agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo*, of the other part: http://data.consilium.europa.eu/doc/document/ST-10728-2015-REV-1/en/pdf

3. PUBLIC OPINION SURVEY Balkan Barometer 2017: https://www.rcc.int/seeds/files/RCC_BalkanBarometer_PublicOpinion_2017.pdf

4. Albania in WBIF: https://wbif.eu/beneficiaries/albania

5. Government of Albania Decision on accession negotiation architecture: https://qbz.gov.al/eli/fz/2018/194/166af39f-72b0-4361-927a-fd5dd890c5c5;q=P%C3%ABr%20krijimin,%20organizimin%20dhe%20funksionimin%20e%20struktur%C3%ABs%20shtet%C3%ABrore,%20p%C3%ABrgjegj%C3%ABse%20p%C3%ABr%20zhvillimin%20e%20negociatave%20dhe%20lidhjen%20e%20Traktatit%20t%C3%AB%20Aderimit%20t%C3%AB%20Republik%C3%ABs%20s%C3%AB%20Shqip%C3%ABris%C3%AB%20n%C3%AB%20Bashkimin%20Evropian

6. European Commission (2019) Albania Report 2019, Communication on EU Enlargement Strategy. https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-albania-report.pdf

7. OSFA (2014) Civic Monitoring of the SAA, Press release: https://www.osfa.al/sites/default/files/permbledhja_per_konferencen.pdf

8. EU policy HUB (2017) EU integration structures, Hub Monitor, Issue brief: http://www.eupolicyhub.eu/wp-content/uploads/2017/06/Institucionet_koordinuese_dhe_strukturat-3.pdf

9. EU policy HUB (2017) Performance of inter-institutional working structures, Hub Monitor, Issue Brief: http://www.eupolicyhub.eu/wp-content/uploads/2017/06/Performanca_e_Grupeve_Nder-institucional.pdf

10. Madhi, G. (2019) Parliament's role in the EU integration process: In search of a genuine catalyst, EU policy HUB, issue brief: http://www.eupolicyhub.eu/wp-content/uploads/2019/04/KKIE-brief-en.pdf

11. Madhi, G. (2017) Dialogue wanted: the experience of EU-Albania inter-parliamentary cooperation, EU policy HUB, issue brief. http://www.eupolicyhub.eu/wp-content/uploads/2019/05/Dialogue_wanted_The_experience_of_EU_Alb.pdf

12. Communication "Kosovo – Fulfilling its European Perspective": https://eeas.europa.eu/headquarters/headquarters-homepage/7220/node/7220_gl

13. Feasibility Study for a Stabilisation and Association Agreement between the European Union and Kosovo: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2012/package/ks_feasibility_2012_en.pdf

14. Kosovo received a roadmap for visa liberalisation: https://eeas.europa.eu/sites/eeas/files/visa_liberalisation_with_kosovo_roadmap.pdf

15. Fifth and final EC report on the implementation of the remaining benchmarks of the visa liberalisation roadmap by Kosovo: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20180718_com-2018-543-report_en.pdf

16. Framework Agreement (FWA) between Kosovo and the European Commission on general principles for participation in EU Programmes: http://www.europarl.europa.eu/doceo/document/TA-8-2017-0276_EN.html

17. Kosovo in WBIF: https://wbif.eu/beneficiaries/kosovo

18. National Programme for the Implementation of the SAA: https://www.mei-ks.net/en/national-programme-for-implementation-of-saa

19. European Reform Agenda: http://mei-ks.net/en/european-reform-agenda-era

20. Inter-institutional structures for the coordination of the European integration process: http://mei-ks.net/en/government-structures-for-european-integration-

21. Decision of the SAA Council on the adoption of the Rules of Procedures for the SAA structures: http://mei-ks.net/en/council

22. Kosovo Country Report 2019: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-kosovo-report.pdf

23. Nation Council for European Integration: https://www.president-ksgov.net/en/national-council-for-european-integration

24. Guideline on Consultations with Civil Society Organisations and Other Stakeholders in the Framework of the EU – Kosovo Stabilisation and Association Bodies: http://mei-ks.net/repository/docs/konsultimet_osa_udhezuesi_eng.PDF

25. Civil society ERA monitoring platform: http://www.eramonitoring.org/en/

26. O'Brennan, J. (2014). On the slow train to nowhere? The European Union, "enlargement fatigue" and the Western Balkans. European Foreign Affairs Review, 19(2), 221–242.

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