

Meeting the political and the legislative Copenhagen criteria, the case of Kosovo

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Abstract

The next enlargement of the European Union is predicted to be in the Balkans. Kosovo, a small country of the Balkan Peninsula, which has been declared as an independent state in 2008, aims the membership in EU. Kosovo is currently at the stage of negotiating the Stabilization and Association Agreement with EU. For the membership in EU, candidate countries are required to achieve certain criteria: political, legislative, economic and administrative. The first three are known as the Copenhagen Criteria, whereas the last one as the Madrid Criteria. This paper looks to briefly assess the difficulties of Kosovo in meeting the two Copenhagen Criteria: the political and the legislative one. Although, Kosovo has achieved certain progress related to this matter, this paper presents only the dimensions where Kosovo is lacking in achieving the aforementioned requirements.

Key words: European Union, Kosovo, membership, rule of law, *acquis*

1. Introduction

The European Union is one of the most important players at the world stage. The size, resources and the ability of the EU to act in a united manner regarding external policies, makes the Union as one of the most powerful actors at the international community.

The European Community as it was formerly named in the founding Treaty of Paris (1952), transformed frequently its institutional and legislative structure during the history throughout different treaties, the very last one being the Treaty of Lisbon (2009)¹. The founding members of the Union are France, Germany, Italy and Benelux countries².

Enlargement is at the core of the EU's main policies and interests. Even though there have been many differences between states in Europe regarding the approach to the European integration, each of the member states and each of the candidate states have taken the view that the advantages such as increased economic growth and increased political influence, unquestionably outweigh the disadvantages of joining the Union³. Any European State may apply to become a member of EU, though applicant states must respect and promote certain principles⁴, such as human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities⁵. The Union, which now consists of twenty eight Member States, already experienced seven enlargements in different periods. United Kingdom, Ireland and Denmark were the first countries to join in 1973 the originally founding members. They were followed by Greece (1981), Spain and Portugal (1986), Austria, Finland and Sweden (1995), Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia (2004), Bulgaria and Romania (2007), as well as Croatia the latest one to join the EU, on July 2013⁶. Yet, the next enlargement appears to be very close, knowing that Serbia, FYROM⁷, Montenegro and Turkey are already official candidates to join the Union⁸. Three remaining Balkan countries, Albania, Bosnia & Herzegovina and Kosovo are considered as potential candidates⁹.

¹ Mathijsen, 2010, p.13 - 27

² Treaty constituting the European Coal and Steel Community

³ Nugent, 2010, p.47

⁴ Consolidated Version on the Treaty of the European Union, Article 49

⁵ Ibid. Article 2

⁶ Nugent, 2010, p.35

⁷ Former Yugoslav Republic of Macedonia

⁸ European Commission – Enlargement, 2013

⁹ Ibid.

As abovementioned, these countries have to meet certain obligations in order to become part of the large European family. The aforementioned obligations of respecting and promoting liberty, democracy, respect for human rights and fundamental freedoms, as well as the rule of law, were formally introduced for the first time in the Treaty of Maastricht¹⁰. The Copenhagen European Council specified these obligations in 1993¹¹. Apart from these two requirements, candidate states have to meet also detailed conditions deriving from the framework of negotiations with particular candidate states¹².

Kosovo was declared an independent and sovereign state from Serbia in 2008¹³, currently aiming the European future. This working paper looks to assess whether Kosovo meets the two very important Copenhagen criteria for the EU membership, the political and the legislative one. Indisputably, Kosovo has already achieved particular progress in building the state, thus, even though the paper at the first sight may possess plenty of criticism, its main aim is to identify and present no more than the dimensions where Kosovo lacks in fulfilling the aforementioned criteria. The assessment of Kosovo's situation toward meeting these criteria is made at the stage of negotiations for the Stabilization and Association Agreement between Kosovo and the EU.

2. The Copenhagen Criteria

2.1. Overview

The fall of the Berlin Wall in 1989, symbolically signified the end of the communism era, as well as the end of the cold war, which lasted for almost five decades. These events implied that most of the post communism Central and East European countries will be aiming the membership in the EU. The European Council met in Copenhagen on June 1993, to discuss these new developments and as a matter of fact reached very important conclusions, which played critical role for the EU enlargement.

The EU's (at that time European Community) relations with Central and Eastern European Countries were the main points discussed at the Copenhagen European Council. These countries were invited to join the EU, provided that they fulfil certain political and economic conditions.¹⁴ The political criterion implies that a country seeking to join the Union must achieve stability of institutions guaranteeing democracy, the rule of law, human rights and the

¹⁰ The Maastricht Treaty, Article 49

¹¹ European Council in Copenhagen, Conclusions of the Presidency, 1993

¹² See Croatia - EU Negotiations Framework, 2005 or Montenegro - EU Negotiations Framework, 2012

¹³ Kosovo Declaration of Independence, 2008

¹⁴ European Council in Copenhagen, Conclusions of the Presidency, 1993, p.13

respect for as well as the protection of minorities, while the economic criterion stands for requirement that candidate countries must have a functioning market economy as well as the ability to cope with competitive pressure and market forces within the Union¹⁵.

Furthermore candidate countries must have the ability to take on the membership obligations, including adherence to the aims of political, economic and monetary union¹⁶. This condition constitutes the requirement that candidate countries must accept EU's *acquis*¹⁷, which further implies that applicant countries at the moment of the accession must have transposed into their national legal order all the required existing EU legislation along with the jurisprudence of the European Court of Justice. These criteria are known as the Copenhagen Criteria and along with the other conditions, they apply yet to this day as the main conditions for all the countries applying for the EU membership.

Surplus to these criteria, the 1995 Madrid European Council introduced further requirements for possible candidate countries. According to their conclusions, countries seeking the membership in EU would have to adjust also their administrative structures, so that the EU binding legislation could be appropriately incorporated in the national legislation and well implemented by the state institutions¹⁸.

Candidate countries must address their membership applications to the European Council, which shall act unanimously¹⁹. The European Commission shall be consulted during this procedure, while the European Parliament shall give its consent²⁰. The involvement of the three main EU institutions on the accession procedure implies that all of them participate in the examination process, deciding whether the candidate countries fulfil the membership conditions, being independent on their assessments and decisions making.

No more than the political and the legislative criteria will be reviewed hereunder as the main focus, with particular centre of attention on Kosovo's current situation and circumstances in meeting them.

2.2. The specificity of the Kosovo case

Prior discussing the political and the legislative criteria as the main focus of this paper, it is worth to briefly point out the uniqueness of the Kosovo case in foreign relations, embracing also the relations with the EU.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ The body of law accumulated by the EU. See Eur-Lex, 2013

¹⁸ Madrid European Council, Presidency Conclusions, 1995, Section III

¹⁹ Consolidated Version on the Treaty of the European Union, Article 49

²⁰ Ibid.

During the ex-Yugoslavia, Kosovo was formerly a region under the political and administrative control of the Republic of Serbia, enjoying a certain degree of autonomy guaranteed by the 1974 Constitution. However, the autonomy was abolished by the Parliament Constitutional amendments in 1989, emerging difficult cohabitation circumstances between the Albanian and Serbian population, ultimately leading to an open conflict and the NATO bombing campaign of Yugoslavia in 1999. The United Nations Security Council Resolution 1244 which ended the conflict, formally left the country *de jure* as a part of the Republic of Serbia, although *de facto* Kosovo was administered by the provisional government formed by the majority Albanian political parties and by the international community executive mission named UNMIK, performing under the supervision of the United Nations.²¹ The aforementioned Resolution did not decide firmly the Kosovo final status, but included only provisions on facilitating the political process designed to determine Kosovo's future status.²² Following the failed Vienna negotiations and the introduction of the Comprehensive Proposal for the Kosovo Status Settlement²³, which was rejected by the Republic of Serbia, the provisional Kosovo institutions bearing in mind that internationally brokered independence is impossible, unilaterally took the decision to declare Kosovo an independent state on the basis of "Ahtisaari Plan", as aforementioned. The Republic of Kosovo is currently recognized as an independent state by 105 United Nations member states.²⁴

Nevertheless, Kosovo is not yet a member state of the UN and still lacks recognition from the five out of the twenty eight EU member states,²⁵ which makes the country rather unique towards its relations with the EU. Although Kosovo is on the middle of its road to the EU, as it will be discussed below, the country could possibly face an opposition for its membership from the five EU states, as accession treaties of the new member states must be ratified by all the contracting states, in this case all the existing member states and the new member state in accordance with their constitutional internal rules.²⁶ The uniqueness of the Kosovo case comprises also the relations with the Republic of Serbia, a country strongly opposing the Kosovo independence and affirming their legal right over Kosovo in accordance with the Resolution 1244. As it is well known, the candidate states have to meet also detailed conditions deriving from the framework of negotiations as aforementioned, the normalization of

²¹ Elsie, 2011

²² United Nations Security Council Resolution 1244, par.11 (e)

²³ also known as the "Ahtisaari plan", as the plan was proposed by the UN Secretary General Special Envoy for the negotiations, the former finish president Martti Ahtisaari

²⁴ Who recognized Kosova as an independent state? 2013

²⁵ Cyprus, Greece, Romania, Spain and Slovakia

²⁶ Consolidated Version on the Treaty of the European Union, Article 49

relations between Belgrade and Pristina was established as a pre condition for both countries in order to continue their path towards the membership in the EU. To this extent, the EU mediated in April 2013 the “Brussels agreement”²⁷ governing the normalization of relations among the two countries, taking them a step closer to the EU, Republic of Serbia starting the negotiations for the membership and Kosovo eventually signing the Stabilization and Association Agreement. Yet, the implementation of this agreement remains a realistic challenge as the agreement itself is strongly observed and interconnected with the membership process of the both countries.

2.3. Political criteria

The respect for the democratic principles, the rule of law, human rights and fundamental freedoms, human dignity, equality and solidarity are internationally prominent principles. They constitute the guiding principles of the democratic world nowadays, where all democratic states aim to categorically respect, support and promote them internally, as well as externally, particularly in the developing countries. International treaties such as the Charter of the United Nations²⁸, Universal Declaration of Human Rights²⁹, the Helsinki Final Act³⁰ and the Charter of Paris for a New Europe³¹ have emphatically proclaimed these principles important for the world welfare, peace and prosperity.

The EU as one of the major players of the international community is guided by these principles, which inspired its own creation, development and enlargement³². The EU categorically promotes these principles in the wider world. Therefore, for a country to be able to join the EU, such principles must be achieved. This is referred to the achievement of the first criteria established in the Copenhagen European Council, as abovesaid,.

The political criteria are the basic and the most important criteria for EU membership, as they constitute the main criteria that must be satisfied, in order that the European Council could decide to open negotiations with a country seeking the membership³³. But, what is the main core of these criteria and how their fulfilment could be achieved, one could ask. For this reason, the political criteria will be elaborated more broadly following, with a focal point in Kosovo’s progress toward meeting these criteria.

²⁷ European Voice, 2013

²⁸ Charter of the ed Nations. 1945

²⁹ Universal Declaration of Human Rights. 1948

³⁰ The Final Act of the Conference on Security and Co-operation in Europe, 1975

³¹ Charter of Paris for a New Europe. 1990

³² Consolidated Version on the Treaty of the European Union, Article 21

³³ European Union, 2013

To remind, the Copenhagen European Council in 1993 envisaged the political criteria as a task for possible candidate countries, to achieve stability of institutions guaranteeing democracy, the rule of law, human rights and respect, as well as the protection of minorities³⁴.

2.3.1. Democracy

The stability of institutions as the first task deriving from the political criteria represents the requirement that a country shall, first of all be democratic, a form of government where all the country citizens participate in an equal manner, according to the law, directly or through their elected representatives in proposing, developing and making the laws. Regarding this requirement, Kosovo's Constitution states the democratic nature of the state and the free elections as the main institute in implementing the democracy³⁵. Assessments show that Kosovo has consolidated the functioning of the democracy and also established the necessary institutions required for a democratic state³⁶. Moreover, Kosovo demonstrated adequate commitment to respect the democratic principles of governance, therefore has recently commenced the negotiations for Stabilization and Association Agreement with the EU³⁷.

On the other hand certain issues of the democracy remain undeveloped. The election fraud in parliamentary elections of 2010 revealed certain weaknesses of the current legal system. Although the new Criminal Code which entered into force at the beginning of 2013, introduced stricter sanctions for criminal offences against voting rights³⁸, Kosovo still needs to adopt the new electoral reform which means, a new legal framework for the elections to better reflect the best election practices of the EU, as well as the implementation in line with the international recognized standards³⁹. The new electoral reform would greatly contribute and guarantee to a certain degree, free and democratic elections, as one of the main principles of the democracy.

The principle of separation of powers guaranteed by the Constitution of the Republic of Kosovo⁴⁰ remains unguaranteed completely. The judicial power

³⁴ European Council in Copenhagen, Conclusions of the Presidency, 1993, p.13

³⁵ Constitution of the Republic of Kosovo, 2008

³⁶ Communication from the Commission to the European Parliament and the Council on a feasibility study for a Stabilisation and Association Agreement between the European Union and Kosovo, 2012, p.7

³⁷ Ministry of European Integration, 2013

³⁸ Criminal Code of the Republic of Kosovo, 2012, Articles 210-220

³⁹ Commission staff working document, Kosovo 2013 Progress Report, 2013, p.7

⁴⁰ Constitution of the Republic of Kosovo, 2008, Article 4

exercised by the courts, remains interfered either by the executive branch⁴¹ or the legislative branch⁴², which constitutes a serious obstruction to Kosovo's effort to build independent, impartial and strong democratic institutions. This issue is sensitively related also to the rule of law requirement, as an influenced judiciary does not provide assurance for effective rule of law.

Moreover, the Kosovo Assembly, as the main legislative body in Kosovo, remains ineffective in exercising entirely the democracy. The Assembly surveillance and control of the budget, particularly in the areas such as health, agriculture, social assistance, culture and education remains low⁴³. Furthermore, there are few interpellations of the Government members, including Ministers, by the Assembly, concerning the issues falling into the scope of their activity⁴⁴. Increasing the effectiveness of these Assembly competences, would signify a vital contribute to the democracy, in particular to the principle of checks and balances.

2.3.2. The Rule of Law

Although the core institutional and legal framework for the rule of law is largely in place, Kosovo still lacks seriously in implementing this principle, mainly in two dimensions. The first problem is the north part of the country, made up by the Serbian majority, where state institutions, still, almost six years after being an independent country, lack to fully exercise their sovereignty, mostly due to the presence of illegal political and administrative structures formed by local Serbs. Generally, the European Rule of Law Mission in Kosovo (EULEX) assists the state institutions in performing its task in this strained part, particularly through its Task Force Mitrovica⁴⁵. The second dimension of the problem is the corruption and ineffectiveness of the state institutions responsible for guaranteeing the rule of law, in other parts of the country. Kosovo is nearly one of the most corrupted countries of the World, according to the Transparency International⁴⁶.

Referring to the second abovementioned dimension, Kosovo principally lacks in the implementation of its current legislation, as it was identified in the last European Commission Kosovo Progress Report⁴⁷. Although it can be considered Kosovo developed a proper legal framework for fighting organised crime, corruption, terrorism and other serious crimes, as well as knowing that

⁴¹ Bertelsmann Stiftung, BTI, 2012, p.2

⁴² Commission staff working document, Kosovo 2013 Progress Report, 2013, p.7

⁴³ Ibid. p.8

⁴⁴ Ibid. p.9

⁴⁵ European Union Rule of Law Mission in Kosovo, 2013

⁴⁶ Transparency International, 2013

⁴⁷ Commission staff working document, Kosovo 2013 Progress Report, 2013

Kosovo institutions are assisted by the EULEX mission which retains executive responsibilities in specific areas of competence⁴⁸, the state institutions still are short of investigating and adjudicating effectively these crimes. Therefore, Kosovo must reinforce the implementation of legislations and provide concrete evidences in fighting these crimes⁴⁹. An effective implementation of legislation needs budgetary resources as well as strong institutions with professional staff. The reform of public administration was also identified as one of the key factors for Kosovo progress⁵⁰. Although this matter is also related to the Madrid Criteria as abovementioned, it constitutes as well one of the main factors in implementing legislation and guaranteeing the rule of law. A law without implementation is completely useless.

Concerning the judiciary system, according to the reports more than 200,000 civil and criminal cases in Kosovo Courts remain unresolved⁵¹. Although the judicial reform was established, with the adoption of the new court system⁵² and with the introduction of private enforcement agents⁵³ with the aim of reducing the execution backlog of the court cases, Kosovo still needs to further improve, apart from the implementation, also the security and protection of judges and prosecutors, witnesses and plaintiffs⁵⁴. Regarding the implementation of the legislation on this area, more information will be provided under the subchapter of Legislative Criteria of this paper.

It is worth mentioning, that a weak and ineffective rule of law understandably hinders the economic development of a state and the social welfare, as well as the capacity to cope with competitive pressure and market forces within the Union, which is known as the economic criteria of the EU membership. The setbacks regarding the rule of law opened the way to Kosovo being nowadays a country with a large informal economy, high tax evasion, high rate of unemployment, corruption, poverty and other economic problems.

⁴⁸ Council Joint Action 2008/124/CFSP on the European Union rule of law mission in Kosovo, EULEX Kosovo, 2008

⁴⁹ Communication from the Commission to the European Parliament and the Council on a feasibility study for a Stabilisation and Association Agreement between the European Union and Kosovo, 2012, p.13

⁵⁰ Commission staff working document, Kosovo 2013 Progress Report, 2013, p.9

⁵¹ Bertelsmann Stiftung, BTI, 2012, p.2

⁵² Law No. 03/L-199 on Courts, 2010

⁵³ Law no. 04/L-139 on Enforcement Procedure, 2013

⁵⁴ Communication from the Commission to the European Parliament and the Council on a feasibility study for a Stabilisation and Association Agreement between the European Union and Kosovo, 2012, p.13

2.3.3. Human Rights and Protection of Minorities

Kosovo is not yet a member of the main World leading international organization, the United Nations. This narrows the Kosovo opportunities to become officially a part of the main international human rights treaties and instruments. However, the Constitution of Republic of Kosovo guarantees the direct applicability and the priority over the internal laws, of the main international human rights agreements and instruments⁵⁵.

Although, Kosovo has achieved great progress in addressing the human rights issues, Kosovo also here mostly lacks with implementing the existing legal framework and enforcing the decisions guaranteeing as well as investigating and adjudicating the infringements of human rights, for example violent incidents against the journalists, LGBT community and religious sites⁵⁶. It is well known that particularly the freedom of religion, along with other fundamental rights and freedoms are internationally recognized human rights, which are guaranteed also by the aforementioned Constitution. As a result, Kosovo institutions need to prioritise the proper implementation of the legislation guaranteeing these rights. It has to be noted that, Kosovo needs to adopt also the secondary legislation in order to guarantee the freedom of expression, as the current legislative framework has proved to be ineffective⁵⁷. Kosovo needs to amend also the law on gender equality and focus on implementing the children and persons with disabilities rights⁵⁸.

Albanians comprise the largest community in Kosovo forming more than 90 % of the population, whereas minorities living in Kosovo are: Serbs 5%⁵⁹, Bosniaks 1.5 %, Turks 1 %, and others (Roma, Ashkali, Gorani and Balkan Egyptians) 2.5 %⁶⁰. These minorities in Kosovo are represented properly at the decision making bodies. Twenty out of one hundred and twenty seats at the Kosovo Assembly are reserved for politicians coming from the non-majority communities in Kosovo⁶¹. At the government level, there are currently four ministers from the minorities⁶². Moreover, minorities are represented also at the judicial and municipal levels through certain quotas as set out in the legislative

⁵⁵ Constitution of the Republic of Kosovo, 2008, Article 22

⁵⁶ Commission staff working document, Kosovo 2013 Progress Report, 2013, p.15

⁵⁷ Ibid.

⁵⁸ Ibid. p.17

⁵⁹ According to the registration, Kosovo population which belongs to Serbian ethnicity is 1.46 % but it is believed that Serbs make 5 % of the Kosovo population, but not all of them (particularly the northern part of Kosovo) took part in the registration process as they do not recognize Independent Kosovo state Institutions

⁶⁰ Kosovo Agency of Statistics, 2013

⁶¹ Constitution of the Republic of Kosovo, 2008, Article 64

⁶² The Office of the Prime Minister, 2013

framework of Kosovo. However, Kosovo needs to address and improve certain points regarding this matter.

Kosovo is required to continue promoting multi-ethnic environment in Kosovo, as well as create conditions for the return of displaced people during the war⁶³. Moreover, decentralization foreseen by the Comprehensive Proposal for Kosovo Status Settlement, also known as the Ahtisaari plan, has to be implemented, along with the legislation which protects the Serbian Orthodox Church⁶⁴. The Roma, Ashkali and Egyptians minorities have to be protected and promoted. Generally, same as other areas, Kosovo has to adopt and implement current legislation, particularly the decentralization foreseen by the Ahtisaari Plan⁶⁵, as well as adopt secondary implementing legislation to protect the minorities⁶⁶.

The requirements for the membership in EU do not end only with political criteria. Although one can consider them as the main criteria and the first required step towards the membership, candidate countries must achieve also the legislative, economic and administrative criteria, as aforementioned. The legislative criteria as the second main focus will be discussed in the next subchapter.

2.4. Legislative Criteria

The *sui generis* nature of the EU is recognized by different authors of the European law and the European studies in general. Although, the EU is not itself a state but neither a classic international organization like UN, Council of Europe or Arab League, it has an enforceable legislative framework similar to the states, which determine and apply the common public policies of the EU member states. The main sources of the EU law are: a) Treaties; b) EU legislation (Regulations, Directives, Decisions, Recommendations and Opinions; c) Judicial interpretation; d) International law; and e) The general principles of law⁶⁷. The body of law accumulated by the EU comprise the *acquis communautaire*. The legislative criteria, as defined at the Copenhagen European Council, implies the requirement that countries seeking the membership to the EU must have transposed into their national legal order all the existing EU legislation, at the moment of accession. Even though, this requirement has to be achieved “formally” at the moment of applicant country accession to the EU,

⁶³ Communication from the Commission to the European Parliament and the Council on a feasibility study for a Stabilisation and Association Agreement between the European Union and Kosovo, 2012, p.14

⁶⁴ Ibid. p.13

⁶⁵ Comprehensive Proposal for Kosovo Status Settlement, 2007

⁶⁶ Commission staff working document, Kosovo 2013 Progress Report, 2013, p.20

⁶⁷ Nugent, 2010, p.208

countries take measures to transpose the *acquis* many years before the accession. This is due to the long procedure that a certain law undergoes until it is finally adopted (drafting, public consultation, assessment of budgetary costs and adoption by the legislative body).

Kosovo as a country aiming to join the EU has already started to transpose the *acquis* and adopt its new legislation in line with the EU requirements. Although still far away from the accession, the country has already achieved great progress. Unquestionably, in order to achieve the requirements deriving from the legislative criteria, many laws applicable in Kosovo had to be amended, still have to be amended or there is a need for new laws to regulate certain areas in relation with EU requirements. An important step in this direction are legal provisions establishing the procedure that all the government's draft laws prior to being presented for adoption at the Assembly have to undergo through the Department of EU Law at the Ministry of European Integration, which assesses every draft law and issues a Legal Opinion of the draft law compliance with the EU *acquis*⁶⁸. This procedure is a grant, to a certain degree, that the Kosovo legislation will be adopted in line with the abovementioned requirements, which further implies that the *acquis* is being transposed in proper way. Another significant measure is the introduction of Statements of Compliance and Tables of Compliance which have to be prepared by the law proposing body during the process of legal drafting⁶⁹. This entails that every draft law is required to have also the Statement of Compliance, where the proposing body states that the substance of the draft law in question is in line with the EU *acquis*. On the other hand, the Tables of Compliance demonstrate the level of compliance (fully compliant, partially compliant, non compliant or not applicable), between the domestic draft law and the legislative acts of the EU⁷⁰. The procedure above concerns only the procedure that a law in question undergoes at the Government, however, the Assembly needs to play also an important role in screening the legislation compliance with the *acquis*. The Assembly's ineffectiveness was criticized regarding this matter⁷¹. The Government has also to improve the strategies and the quality of human resources dealing with the transposition⁷².

So far only the technical side of meeting the requirements deriving from the legislative criteria was discussed above. The state policies are another very important matter for the discussion in this regard. This is related to the state

⁶⁸ Administrative Instruction no. 03/2013 on Standards for the Drafting of Normative Acts, 2013, Article 30 par.4

⁶⁹ Ibid. Article 30 par.1

⁷⁰ Ibid. Annex 16 and 17

⁷¹ Commission staff working document, Kosovo 2013 Progress Report, 2013, p.8

⁷² Ibid. p.9

policies in proposing and adopting the legislative acts, for effective transposition of the *acquis*. Although, the Kosovo legislation is generally in line with the aforementioned requirements and international standards, there are many laws which still require adoption to achieve these values.

Taking a look at the four freedoms of the internal market⁷³, Kosovo still lacks adopting and implementing certain laws to guarantee these freedoms after the signing of the Stabilization and Association Agreement. For the free movement of goods, Kosovo has to undertake efforts to improve alignment with the EU *acquis* on the area of consumer protection, specifically to improve its product safety legislation. Alignment with the *acquis* as regards the free movement of services is also low and Kosovo needs to adopt certain laws to eliminate the existing restrictions which would hinder the free movement of services. Administrative provisions prevent the free movement of capital, although the basic legal framework is in line⁷⁴.

The current legislation on environment protection is seriously seen as incomplete and not aligned with the *acquis*. Apart from lacking legislation for protecting the air quality, Kosovo lacks also in guaranteeing the implementing legislation for waste management at the early stage. The amendment of the law on water quality is also required. Conclusively, the alignment of laws on nature protection and biodiversity are required, as well as the adoption of comprehensive climate strategy along with the legal framework, which is currently missing in Kosovo⁷⁵.

Finally, regarding the justice, freedom and security area, the legislative framework is in line, although Kosovo still needs to adopt legislation for the interception of telecommunications. Implementation is seen as the greatest challenge also in this area⁷⁶.

3. Conclusions

The legislative and political criteria discussed as the main focus of this paper, are the two out of four criteria along with the economic and administrative ones, required for the membership at the EU. Apart from the administrative criteria, the other three are known with a common name, the Copenhagen criteria, as they were introduced at the Copenhagen European Council conclusions.

⁷³ The internal market is an area without internal frontiers where the free movement of goods, services, persons and capital is ensured

⁷⁴ Commission staff working document, Kosovo 2013 Progress Report, 2013, p.29 - 30

⁷⁵ Ibid. p.39 - 40

⁷⁶ Ibid. p.47-51

As discussed above, Kosovo although a country with specific relations with the EU, currently negotiating the Stabilization and Association Agreement, has achieved an important progress toward meeting these two criteria. Kosovo already established required institutions for providing democracy, rule of law and the respect of human rights and minorities. Apart from minor difficulties and further required developments to this extent, such as for ex. the electoral reform, Kosovo mainly lacks in enforcement procedures and implementation.

Concerning the legislative criteria, Kosovo still needs to further improve the alignment of its existing legislation with the *acquis* and adopt new laws to regulate certain areas, where is required. Generally, the procedure of drafting the laws in line with the *acquis* is at place. Same as political criteria, Kosovo lacks mostly in adopting implementing legislation as well as implement properly the current legislative framework.

Addressing appropriately the abovementioned setbacks, would greatly encourage and abbreviate the country's route of becoming part of the large EU family. However it has to be mentioned, that a country, in order to achieve this membership, needs to meet also the other two criteria, which due to the limits and scope of this paper, were not specifically presented.

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