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1.Kosovo and the EU Stabilization and Association Agreement

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Kosovo and the EU Stabilization and Association Agreement

Abstract

The purpose of this research paper is to analyse the impact of the EU Stabilization and Association Agreement (“SAA”) in Kosovo. This agreement was signed between Kosovo and the European Union (“EU”) on 27 October 2015.¹ The High Representative for Foreign Affairs and Security Policy at that time, Federica Mogherini, signed the agreement on behalf of the EU and noted that a new phase was opened for the relationship between the two and prosperity and stability would be improved significantly.² On the other hand, Commissioner Johannes Hahn indicated that a milestone has been reached, and SAA will enable Kosovo to achieve the necessary reforms in creating investment opportunities. He also mentioned that the agreement will bring sustainable economic growth to Kosovo, in particular increase employment for the youth.³

The negotiations lasted for approximately three years, and the SAA entered into force in early 2016. The SAA covers numerous sectors in Kosovo, and enforces a contractual relationship with mutual obligations, with focus on certain principles entangling the single market of the EU.⁴ Free trade with European Standards in state aid, competition and intellectual property, and assistance in implementation of relevant reforms are all part of the SAA.⁵ In addition, political coordination and cooperation in education, energy, justice and environment, among other sectors, are all included in the agreement.⁶

The EU proves its commitment in advancing Kosovo’s path towards European integration through cooperation with the other Western Balkan countries, as SAA agreements are crucial element of this process. The funds over 11 billion euros allocated to this region, of which more than 600

¹ Stabilisation and Association Agreement with Kosovo (2015) Nr. 2015/0095 (NLE).

² Press release, Stabilisation and Association Agreement (SAA) between the European Union and Kosovo signed, 2015 : <https://www.consilium.europa.eu/en/press/press-releases/2015/10/27/kosovo-eu-stabilisation-association-agreement/>

³ Ibid.

⁴ Mousa, 2019, p. 25-29.

⁵ Ibid p. 25-29.

⁶ Stabilisation and Association Agreement with Kosovo (2015) Nr. 2015/0095 (NLE).

million euros were provided to Kosovo for the 2014-2020 period, demonstrate the tremendous efforts undertaken by the EU in this regard.⁷

The Republic of Kosovo has fostered its overall development enormously, taking into account its previous complex conflicts, even though there is still room for improvement. The progression process is continuously functioning as a result of the work done by international actors and improvement of political will in Kosovo. With the help of numerous international organizations, such as the European Union, Kosovo seeks to integrate itself into such organizations. This is most likely the only path to make improve the overall situation.

Introduction

The state of Kosovo attained its independence on 17 February 2008, and its independence it is recognized by more than 100 states.⁸ For years long it was considered merely a province of Serbia, not even a state of the Yugoslav Federation, and it became the seventh country to derive from the Yugoslavia. The European Union (“EU”) has been supporting Kosovo in its general development and on its path towards joining the EU. The independence of Kosovo is recognized by 23 of 28 countries of the European Union. Greece, Romania, Cyprus, Slovakia and Spain are the five remaining countries that do not recognize Kosovo.⁹

Apart from those states, the EU has its clear objectives to promote better governance, make developments on economy branch and establish the law, while making an effort to maintain an equal multi-national society. In order to make this plan successful, the institutions of European Union each have their correspondent function.¹⁰ One of the main institutions is the European Council, an institution which brings together the highest national leaders who establish the extensive superiorities of EU. This institution decides about the political orientation but does not have the right to pass the laws.

When it comes to the negotiations with countries that intend to join the EU, a certain procedure is implemented by the EU.¹¹ First, the EU stipulates Association Agreements in exchange for engagement in different areas such as political, economic, trade, or human rights reform in a given country. The latter can be provided with tariff-free entrance to some or all EU markets industrial goods, agricultural products, and financial or technical assistance. Also, branches of the Stabilization and Association process (SAA) and the European Neighbourhood Policy are agreements in the abovementioned fields. Currently, the region of the West Balkan is the center of attention of the SAA.

The particular agreements which have been reached related to the Stabilization and Association process have been enforced in numerous Balkan countries which comprise provisions for the planned

⁷ European Commission, Kosovo on its European Path, 2020: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/near_factograph_kosovo.pdf

⁸ The Economist, 2008.

⁹ European Commission Communication, 2012, p. 2.

¹⁰ Faith, 2012.

¹¹ European Commission Communication, 2012, p. 1.

European Union membership.¹² In case of Kosovo, a tool for the Stabilization and Association process was created and was named "the Stabilization Tracking Mechanism". For Kosovo, it was not possible to begin with the SAA, because of its difficult disputed position in relation with Serbia. Even though Kosovo gained its independence, it did not still have a final status. While the United Nations Interim Administration Mission in Kosovo (UNMIK) and the Provisional Institutions of Self-Government (PISG) existed, the UNMIK and the European commission wanted to guarantee that they would harmonize the appropriate practices in the political and economic reform processes. They acknowledged that a mechanism is required to monitor and push the course of action forward. Although developments in terms of reforms were not enough for Kosovo, it was still considered a beneficial project to achieve the methodology of the Stabilization and Association Process and eliminate desolation from the prominent idea of European integration.¹³

Opening of negotiations on the Stabilization and Association Agreement

After a study conducted by the European Commission, it was concluded that Kosovo was able to begin discussions for a Stabilization and Association process.¹⁴ While Kosovo would move forward on the fields of rule of law, public administration and protection of minorities and trade, the Commission would eventually propose directives to Kosovo for this agreement. Firstly, short-term objectives needed to be accomplished, such as, freedom of expression and confronting the organized crime and corruption. In addition, the Council also added that the partnership with the EULEX needed to be enhanced and it stated the opportunity of the European Investment Bank to develop its functions in Kosovo.

After all, Kosovo had constantly stated that it is anticipating fulfilling these requirements made jointly by the Commission and the Council.¹⁵ In the dialogue with Serbia, EU considered that Kosovo has reached major achievements. In the end, the Commission stated that Kosovo is a serious potential candidate and a continuous development would guarantee its accession into the EU in the future.

The content of the Stabilisation and Association Agreement

SAA is the initial contractual agreement between the EU and Kosovo, marking an advanced relationship between the two. This agreement underlines the reforms and the relevant implementation mechanisms necessary for the gradual alignment of Kosovo's standards with those of EU.¹⁶ In addition, it establishes the groundwork for relations of Kosovo with EU Member States directly related to the implementation of the agreement, which covers almost all political issues.¹⁷ The duration of the agreement is supposed to last until Kosovo joins the EU.¹⁸

¹² Ibid. p. 3.

¹³ European Commission Report, 2012, p. 3.

¹⁴ European Commission Report, 2013, p. 2.

¹⁵ Ibid. p. 11.

¹⁶ Stabilisation and Association Agreement with Kosovo (2015) Nr. 2015/0095 (NLE).

¹⁷ Republic of Kosovo, Ministry of European Integration: <http://mei-ks.net/en/saa>

¹⁸ Ibid.

Among numerous appendices, protocols and statements, SAA contains ten main chapters. They cover general principles, political dialogue, regional cooperation, free movement of goods, approximation of Kosovo's law to the EU Acquis etc. It is completely based on the EU law and policies, a way of incentivizing Kosovo to fulfil the required criteria by amending its domestic legislation and thus approaching its EU integration objective. It established various independent and joint structures, namely the Stabilisation and Association Council, Stabilisation and Association Committee and Sub-Committee, and the Stabilisation and Association Parliamentary Committee.

In other words, the SAA has ensured Kosovo's orientation for becoming part of the EU by establishing the adequate framework. The SAA sealed Kosovo's alignment with the EU both politically and economically, and the fact that the only remaining next agreement will grant Kosovo membership into the EU, shows the fundamental importance of the SAA.¹⁹

Impact of the Stabilisation and Association Agreement

The European Commission publishes annual reports on Kosovo's general progress, and the 2020 Report illustrates the main recent developments, in particular the implementation of SAA and economic and financial criteria. A joint statement announced on behalf of the EU by the High Representative for Foreign Affairs and Security Policy, Josep Borrell and Olivér Várhelyi stated the urgency for Kosovo to complete reform processes, respectively the second stage of the European Reform Agenda.²⁰ The EU representatives stressed the importance of political and institutional effective cooperation at all levels. The visa liberalization issue was also mentioned, as one of the most popular requests coming directly from Kosovo citizens. Priorities include mainly rule of law, judicial reform, economic development and education. Developments were also noted with the Kosovo Specialist Chambers, since numerous arrests were made.²¹ The dialogue with Serbia remains one of the most controversial processes, as it remains unstable throughout the frequent government elections in Kosovo. However, the willingness of all political parties to continue the dialogue was praised by the EU. The goal to accomplish a legally binding and comprehensive normalization agreement was reiterated again by the EU. Moreover, it was stated that previous reached agreements must be implemented accordingly.²² The Kosovo delegation was attended by Prime Minister Avdullah Hoti and his deputy prime ministers.²³

Among the numerous reforms achieved by Kosovo institutions in several areas, it is worth noting the achievements made in the business environment. Such successful reforms include the legal

¹⁹ Am Cham: Policy-Spotlight-Stabilization-and-Association-Agreement. <https://www.amchamksv.org/wp-content/uploads/2020/05/Policy-Spotlight-Stabilization-and-Association-Agreement.pdf>

²⁰ European Council, Council of the European Union, 2020: <https://www.consilium.europa.eu/en/press/press-releases/2015/10/27/kosovo-eu-stabilisation-association-agreement/>

²¹ Ibid.

²² Council of the European Union, 2020: <https://www.consilium.europa.eu/en/press/press-releases/2020/11/30/joint-press-statement-following-the-video-conference-of-the-members-of-the-eu-kosovo-stabilisation-and-association-council/>

²³ European Western Balkan, 2020: <https://europeanwesternbalkans.com/2020/12/01/sa-council-members-review-kosovos-progress-on-its-path-to-the-eu/>

amendments entitling the establishment of foreign companies and their branches in Kosovo and their equal treatment, including their right to rent real property.

Unfortunately, it appears that some of the SAA's effects have not shown to be productive in some areas. For instance, in the area of trade exchange with the EU, the numbers have remained the same. On the other hand, in the area of imports the levels decreased over the years.²⁴ The other barrier remarked by the European Commission continuously in its reports is the failure to implement the SAA fully. Further analysis is required to determine whether the reason for this is the weak democracy.²⁵

The Stabilisation and Association agreement is one of the prerequisite steps of Kosovo's integration into the EU.²⁶ The main conditions that Kosovo needs to fulfil are political, economic and legal. In the field of political conditions, a huge number of adjustments remains, like forming stability in institutions and promoting an advanced democracy. Also, the functioning of rule of law must be improved, along with the respect for human rights and for minorities. In the economic area, there is room for improvement on the functioning market economy. There is room for market power to compete within the European Union and to have a sustainable economic development. On these different economic matters, Kosovo is in its elementary phases and the dimensions of infrastructure and agriculture are going through the right path. In the third sphere, the legal criterion, law amendment is required in order to implement the entire European legislation, making it function effectively through administrative structures and rule of law. Altogether with this, there would be achieved a compatibility between the national legislation and the European Union legislation. All the unfilled criteria written by the author, they are absolutely accurate and accomplishing them would bring Kosovo a step closer to the European Union²⁷.

Conclusion

Kosovo has clear intentions on improving its democratic system by following the examples set by the EU Member States. Relations between Kosovo and EU should be carefully maintained, and it is in both parties' interest to advance them further. The SAA indicates that there is a common agreement among the EU Member States in integrating Kosovo into the EU in the future. The role of European Union proves to be fundamental for the development of Kosovo. The implementation of the SAA appears to be the biggest hurdle for Kosovo, and its low capacities seem to be the prevailing reason. Nevertheless, the SAA has built far larger opportunities for Kosovo to gradually accomplish its duties in becoming part of the EU in the future.²⁸

²⁴ Am Cham: Policy-Spotlight-Stabilization-and-Association-Agreement. <https://www.amchamksv.org/wp-content/uploads/2020/05/Policy-Spotlight-Stabilization-and-Association-Agreement.pdf>

²⁵ Mikullovc, 2020.

²⁶ Bajraktari, 2010, p. 6.

²⁷ Ibid.

²⁸ Jakupi, 2019.

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