



Republika e Kosovës
Republika Kosova-Republic of Kosovo
Qeveria-Vlada-Government

**STATE OF PLAY IN IMPLEMENTATION
OF THE BRUSSELS AGREEMENTS**

8 March -25 September 2011

**REPORT SUBMITTED TO THE EUROPEAN UNION / EUROPEAN EXTERNAL
ACTION SERVICE**

BY THE GOVERNMENT OF THE REPUBLIC OF KOSOVA

Prishtina, September 27, 2011

Foreword

In this Report you will find the updates on implementation of the five agreements reached in Brussels. Except for the Custom Stamps Agreement which has been implemented only by the Government of Kosova since September 16, 2011, the process of implementation is generally delaying.

The Government of Kosova considers that implementation of agreements in effective and efficient manner presents a key to the success of dialogue. Therefore, we would like to kindly ask you/EU to take every possible measure on implementation, particularly by establishing timelines subject to a mandatory fulfillment by both parties.

Sincerely,



Edita Tahiri

Deputy Prime Minister

Chief Negotiator and the Head of the Republic of Kosovo Delegation
at the Brussels Technical Dialogue

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1.

UPDATE ON IMPLEMENTATION OF THE CUSTOMS STAMP AGREEMENT

27 September 2011

Since the agreement of September 2, 2011 which resulted in mutual acceptance of Customs stamps between Kosovo and Serbia, we have made every possible effort to ensure the free movement of goods in accordance with CEFTA rules. Kosovo and Serbia agreed that the Customs stamps, stating 'Kosovo Customs', as confirmed to all CEFTA parties are accepted and all accompanying documents and communication will also reflect this usage. As a result of this agreement, normal trade should have resumed shortly after that and in line with the CEFTA Agreement. From our side this agreement had come into force on September 16, 2011 and the Government of Kosovo has made every possible effort to create all necessary operational conditions for the implementation of the Agreement on due date. By September 19, 2011, 182 trucks with goods originating from Serbia have entered Kosovo.

Four days into the implementation of the agreement of the September 2, 2011, unfortunately, Serbia did not share the willingness to implement the agreement. All trucks with goods originating from Kosovo have been turned back at the border. The justification from the Serbian Customs then was that they had no instructions from the Serbian authorities to accept the Kosovo Customs stamps. On September 19, 2011, three trucks from Kosovo have been allowed to enter Serbia shortly. They were sent to the Customs Terminal in Presevo, Serbia, and the same trucks were sent back to Kosovo the next day, on September 20, 2011.

Since then, Serbian authorities have introduced a new requirement (that entered into force on 16/09/2011) according to which all shipments from Kosovo need to have a Serbian VAT payment receipt which can only be paid at parallel Serbian offices in Ranillug or northern Mitrovica. There is no justification for Serbia to ask for more documents for goods originating from Kosovo, a requirement which they do not ask from other CEFTA parties.

Trucks from Kosovo waiting to enter Serbia had no other documents than commercial receipts and export statement which are stamped by the Kosovo Customs, as a confirmation of leaving Kosovo. In principle, according to CEFTA agreement, if the value of exported goods is lower than €5000, the company does not need to present the EUR1

document and export statement. From this rule are excluded cases of food and other goods which need to be presented with the phytosanitary and veterinary documents.

Although these developments are contrary to the implementation of conclusions of the September 2, 2011 agreement, in the spirit of the dialogue and for the sake of free movement of goods we have shown to be constructive. Economically, Kosovo is much more important for Serbia than Serbia is for Kosovo. However, we have shown restraint not to go back to reciprocity measures (as done on the July, 20, 2011). While we believe that Serbia will change its position in favor of implementing the complete September 2, 2011 agreement, we must underline that this situation will not be acceptable for us. We expect that in the next round of talks during September 27-28, 2011, the timeline will be established in full and complete implementation of the agreement by Serbia, otherwise make no sense a unilateral free trade pursued by Kosova side, given its negative consequences for our economy and increasing pressure by bossiness sector.

Between September 16-27, 2011, in Kosova have entered 1400 trucks from Serbia; in the border point Merdare have entered 1020 trucks with goods originating from Serbia, in the border point Dheu i Bardhe 380 trucks have entered Kosovo. Yesterday, September 23, 2011, we have received the news from the Customs of Kosovo that 4 trucks from Kosovo, with regular Kosovo documents, have been allowed into Serbia. At the time of the writing we have received no information confirming otherwise.

On a related note, the Food and Veterinary Agency of Kosovo have informed us that the respective Serbian food and veterinary agency does not allow the transit of live animals coming from the EU countries through Serbia. Moreover, the Serbian side do not supply a health certificate for live animals when exporting them from Serbia. The health certificate is issued by all other countries. They do not issue phytosanitary certificates for phito-based products either.

Nevertheless, we are following the situation closely and we will update you on the new developments. In the meantime, I am attaching for you several letters and documents which might be useful. For any further information and clarification please contact me again.

2.

UPDATE ON THE IMPLEMENTATION OF THE AGREEMENT ON FREEDOM OF MOVEMENT

25 September 2011

Background:

The Framework agreement on the freedom of movement was reached on the 2nd of July 2011. The framework calls for and it was also decided to establish expert working groups in order to prepare all the necessary formal conditions in functionalizing the agreement.

Until now, three meetings have been held between the expert working groups chaired by an EU designated facilitator. The meetings were held on; the 11th July 2011, the 19th of July 2011, and the 5th of September 2011.

The working groups have discussed these issues:

1. Methodologies of border crossing
 - ID Cards and Driving License;
 - Entry exit paper;
 - Border crossing for children/youth;
 - Border crossing points for transit to third country.
2. Border Insurance
3. Vehicle Registration

Until the meeting held between the delegates of the Kosovo expert working group and the EU chairman/facilitator of the expert working group on freedom of movement held on the 13th of September 2011, the issues that were concluded and the issues that remain unresolved are:

Concluded Issues:

1. Under the Methodologies of border crossing, it was agreed that:

- Children from 0-12 years of age from both countries can cross the border using documents such as birth certificate, social institution document, court document etc without an entry exit document. Whereas children from 12-18 can cross the border with the above stated papers but have to be issued a entry exit paper;
- After both sides have exchanged the necessary documentation for expert examination of the ID and driving license specifications, it was agreed that every Kosovo citizen must have the new driving license.
- It was concluded that for the purpose of identification of the persons traveling or transiting in Serbia, the ID card and entry exit paper are to be shown together;
- It was agreed that the paper issued by Serbian authorities in the border to be called officially the Entry Exit Paper. The Serbian side is to find another security feature from the ID except the picture in order to finalize the paper;
- Border points for crossing and also for transit to a third country have been agreed. Initially based on the request by the Serbian side, it was agreed for five crossing points to be initiated in the beginning of the regime. The border crossing points 1, 3 and 5 on Kosovo-Serbia border and Horgosh on the border with Hungary and Batrovci on the border with Croatia are to be opened in order to start the freedom of movement regime.

2. With regard to border insurance it was agreed that:

- Parties agreed to use the resources of a third country Insurance Bureau for the purpose of acting as a guarantee to the border insurance regime ;
- Both parties agreed to establish a fund under the management of the third party as a guarantee fund;
- Parties, with the approval from all the three chairmen, agreed to meet and discuss any outstanding issues in order to make the border insurance regime ready for the entire freedom of movement regime.

3. Vehicle Registration plates

- The current usage of temporary vehicle registration plates used in Serbia, with the state symbols, is to be the initial system in use, provided that in due course Serbia changes the necessary legislation and other aspects required to facilitate a system without state symbols.
- Kosovo will reciprocate any measure undertaken by Serbia with regard to temporary registration plates.

Outstanding Issues:

1. Methodologies of border crossing

- With regard to ID Cards and Driving License the Serbian side, after many questions asked on this regard, is to examine the necessary technical aspects for processing of the IDs and driving licenses. The Serbian party was supposed to give a time line required to procure the necessary technical items such as scanner,¹ but have failed to do so until now. Basically the expert working group on implementation of the freedom of movement has not been informed on the time required under the Serbian law to implement this procedure.
- The Entry Exit Paper specifications such as the issue of picture disputed by our side and, the disclaimers in the back of the document have not been finalized yet;

2. Border Insurance

- Many issues remain unresolved with regard to border insurance. This is due to the Serbian side eluding meetings with the Kosovo side to discuss options even after the insistence of the Kosovo side to meet and discuss the outstanding issues as agreed in the meeting of the 4th of September 2011.²

¹ The dates for the longitude of procurement were promised in the second meeting held on the 11th of July 2011. However, even in the last meeting they were not able to say when they can procure the necessary technology for reading the ID cards. They continued to ask for more and more information which was presented to them in the second meeting.

² See the attached e-mail correspondence between Mr. Rrahim Pacolli chairman of the Bureau of the Kosovo Insurers and Mr. Vladan Manic Secretary General of the Association of the Serbian Insurers.

Comments and Recommendations

In my understanding some elements may bring the implementation of freedom of movement agreement to the point where it may either not be able to reach the deadline of the 1st of November 2011 or fall apart altogether. These elements are:

- ID Cards and Driving License, the time required to implement the necessary technical issues may be longer than the deadline of 1st November ascribed in the framework agreement.
- Entry exit paper has been the most difficult item under discussion. Two points have been of major obstacle to the discussions:
 - a) The Serb insistence to have the EEP as the sole identification document in the territory of Serbia, thus producing it with a picture, and;
 - b) Including in the paper the disclaimer stating that this will be the identification document in the territory of Serbia.
- Kosovo side has insisted to avoid including the picture and the text of the disclaimer in the EEP, otherwise the issue will be put forth to the plenary dialogue meetings. Thus it either requires a political decision by the Serbian side or a mediated proposal by the EU facilitator
- Border Insurance may not be as problematic in reaching the agreements required, but due to avoiding the meetings by the Serbian side, it may have negative impact on the freedom of movement regime, especially in meeting the deadline of the 1st of November.

3.

UPDATE ON THE IMPLEMENTATION OF THE CIVIL REGISTRY AGREEMENT 25 September 2011

Background:

The issue of the return of Civil Registry books was discussed at the first round (8 and 9 March 2011) in Brussels. As a follow-up to the first meeting, on 28 March, in Brussels, the *finalization of the implementation of the agreement on Civil Registry* was discussed following the establishment of a joint Working Group on Implementation led by EULEX in order to facilitate this agreement. Mr. Andy Sparks, Deputy Head of EULEX Mission, was appointed as head of the implementation working group.

So far five meetings were held at the technical level:

1. First Meeting of the Working Group led by EULEX, held on 5 April 2011 – Brussels
2. Second Meeting of the Working Group led by EULEX, held on 15 April 2011 – Brussels
3. Visit of the Kosovo and EULEX Delegation to Nis, Serbia, with regard to a Pilot project on civil registers (09.06.2011)
4. Visit of the Serbian delegation to Prishtina and Lipjan, Kosovo, with regard to a Pilot project on civil registers (23.06.2011)
5. Meeting of the working group led by EUELEX on 19.07.2011 in Brussels

State of affairs:

In accordance with some of the agreed points by delegations of experts from Kosovo and Serbia at the meeting held in Brussels on 15 April 2011, the Kosovo delegation paid a visit to Nis on 09 June 2011. **During this visit, parties exchanged statistics on civil status registers for the municipality of Lipjan** and agreed to prepare a document “Record of the Handover of statistics on the Civil Status Registers for the Lipjan municipality”. The document was to be signed by all the parties during the follow-on visit of the Serbian delegation to Lipjan.

The Serbian delegation paid a visit to Lipjan on 23 June 2011 **but they neither brought the document as agreed in Nis, nor did they sign the document of “The record of the**

handover of statistics on the civil status register for Lipjan municipality”, presented by the Kosovo delegation.

The Kosovo delegation reacted to the failure of the Serbian party recalling obligations assumed upon at the meeting in Nis by stating that the failure to accomplish them represented a violation of the agreement. This was also confirmed by the EU facilitator who stated that they would review the case.

A subsequent meeting was held in Brussels on 19.07.2011 between the operational groups on the implementation of the agreement on civil registry.

Discussions of parallel structures and parallel/double registration need to be solved by the political format from both parties. From EU point of view the parallel/double registration is a problem and opens the way for organized crime and identity theft.

It was stated that the Serbian Parliament is to decide on adopting **proposed changes /amendments in the Law on Personal Data Protection** for starting the procedure for certified copies of the original CR books by EULEX.

Proposed options for the process of certified copies:

- A) Certified copies process will be done through the already existing Kosovo model of scanning of CR Books in Pristina.
- B) Re-producing (replicating) the existing Kosovo model of scanning but done in Serbia. This re-production system should be fully compatible with the existing Kosovo model.
- C) Simple physical hard/paper copy of the CR books, page by page followed by certification of the copies.

Due to the fact that based on the Serbian legislation, the religious books will be returned to its holders by January 2012 (the religious communities such as: Islamic, Christian, Jewish...), all parties have suggested that the certified copies procedure should **first start with the religious books.**

State of affairs and outstanding issues:

1. Parties exchanged statistics (hard copy) on civil status registers for municipality of Lipjan on 09 June 2011 in Nis.
2. Kosovo delegation prepared the "Record of the Handover of statistics on the Civil Status Registers for Lipjan municipality", while Serbian delegation had not prepared their hand over document for the already exchanged inventory tables as agreed during the 1st visit in Nis . Serbian party verbally stated that Nis holds a total of 1293 Civil Status Registers of Birth, Marriage and Death, all originals from the Municipality of Lipjan and that they have neither electronic database nor electronic archive of the data.
3. The "Record of the Handover of statistics on the Civil Status Registers for Lipjan municipality" document prepared by Kosovo delegation was not signed by the Serbian delegation in Lipjan on the 23/06/2011 with the justification that their Head, Dejan Pavliqevic, who is authorized to sign for these statistics, was absent.
4. The Serbian side had to decide for one of the three options of scanning, in 7 days after the meeting of 19 July 2011, however there is no response so far.
5. The Kosovo side has technical and technological specifications of its scanning equipment ready, but no request came from the Serbian side.
6. No updates have been received from Mr. Andy Sparks about a state of affairs in this matter.

4.

UPDATE ON THE ACCEPTANCE OF UNIVERSITY DIPLOMAS
25 September 2011

Background:

On the 2nd of July 2011, an agreed conclusions on University Diplomas was reached which called for a third party to be the intermediary in 'certifying' university diplomas. The agreed conclusions did not specify who will be the third party, but in the meeting held on the 2nd of September 2011 and consequently in the EU letter proposal, a solution to the mutual acceptance of university diplomas was given to the European University Association (EUA) is to perform this task. The proposal, amongst other things, specifies the methodology of certifying the university diplomas.

Kosovo has in principle agreed to the proposed EU solution to the matter. The issue was communicated to the proposing party on 15 September 2011 and it remains on Serbian side to reply to the proposal. So far, we have not been communicated any feedback for the proposal.

Recommendations:

As stated in the reply to the EU proposal, the aim of the agreement is to ease problems that students face either in their employment opportunities or in the furthering of their studies. Thus, with assurances from EU and Serbian side that the process of accepting the diplomas will be a closed chapter, and that from now on students in both countries will be able to acquire employment or further studies in both countries will strengthen the commitment from both sides and also the role of the EUA. No other barriers in mutual recognition of diplomas should be imposed in the future to the students graduating from the universities in Kosovo, we will act reciprocally.

5.

UPDATE ON IMPLEMENTATION OF THE CADASTRE RECORDS AGREEMENT 25 September 2011

Background:

In the meeting between EU experts and our team on September 13, 2011, the process to implement the agreement on cadastral records was discussed.³

EU representatives raised following issues:

1. Asked our readiness to start implementing the cadastral agreement.
2. To initiate the amendment of law on the KPA because the agreement provided for an expanded role of the KPA which investigates complaints and, together with a third mechanism of the EU to refer complaints of judicial mechanism (Mechanism adjudication).
3. To change the name of the Kosovo Property Agency or to become a name that reflects the additional commitments for cadastral disputes.
4. EUSR will have responsibility to elect the new chief of KPA, and not by the International Civilian Representatives, as written in current law.

Kosova response:

1. Readiness to start implementing the cadastral agreement.
2. We will start the process to amend the law for the Kosovo Property Agency. Already now we have contact the Legal Office to the Prime Ministers Office about the process of amendments the law through legal office of Prime Ministers Office. When the parties are ready to start this process they will continue the process of preparing the ground for this process together with all other actors which will be involved ,for example Kosovo Assembly, Government, EUSR, ICO, European Commission etc.
3. Kosovo will provide the concrete proposal for the changing the name of the KPA Agency but this will be done also through the amendments of the law for KPA.
4. Kosovo will establish the implementation group

³ Dren Zeka, Qemajl Marmullakaj, Thomas Busch and Andrej Kiendl participated in the meeting

Implementation steps taken by Kosovo:

1. The implementation group of Kosova is established. It is composed of Gazmir Raci from DPM Tahiri office, Murat Meha from KCA, Scot Bowen and Xhevat Ademi from KPA
2. Initial meetings are held in starting the preparation. On September 14, 2011, meeting took place with the Kosovo Cadastral Agency and on September 16, 2011, meeting with the Kosovo Property Agency (KPA).
3. KPA confirmed readiness to actively participate in this process whenever required needs.
4. The legal office of Priminister is working on procedures of amending law that will refelect in expanding KPA mandate and name for integration an adjudication mechanism as required by Cadastral Records Agreement
5. We are waiting to hear from EU regarding the technical agency and establishment of three partite implementation group.

Annex 1:

Kosovo Coordinators and experts

I. Custom stamps

Coordinator: Dren Zeka:

1. Naim Huruglica – Director of the Kosovo Customs
2. Florent Bakija – Ministry of Trade and Industry

II. Freedom of Movement

Coordinator: Lirim Greiçevci

1. Fisnik Rexhepi – Adviser to the Minister of Internal Affairs
2. Shaban Guda – Director of Border Police Unit
3. Flamur Mrasori – Central Bank of Kosovo
4. Rrahim Pacolli – Chief of the Kosovo Insurance Network
5. Qemajl Marmullakaj – SPO – Office of the Prime Minister (MIA)
6. Sebahate Muharremi Pllana – Director of the Department of Vehicles registration and driver licenses (MIA)

III. Civil Registry Books

Coordinator: Arjeta Rexhaj

1. Blerim Camaj - CEO – Agency for Civil Registration (MIA)
2. Shkumbin Kastrati – Director of the Department for Civil Registry (MIA)
3. Shefket Ismaili – Head of the Unit Civil Registry (MIA)

IV. Acceptance of Diplomas

Coordinator: Qemajl Marmullakaj

1. Gjylbehare Llapi – Ministry of Education, Science and Technology

V. Cadastral Records

Coordinator: Gazmir Raci

1. Murat Meha – CEO, Kosovo Cadastral Agency
2. Scott Bowen – Director, Kosovo Property Agency
3. Xhevat Ademi – Deputy Director, Kosovo Property Agency