Special report 18/2012 (2011 discharge): European Union assistance to Kosovo related to the rule of law

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PURPOSE: to present the European Court of Auditor's Special Report No 18/2012 on European Union Assistance to Kosovo relating to the rule of law.

CONTENT: Kosovo is the largest per capita recipient of EU financial aid in the world and is home to the largest civilian crisis management mission ever launched by the Union (EULEX).

The audit: the European Court of Auditors has audited the EU's assistance to Kosovo in the field of the rule of law. The Court assessed whether assistance is achieving its intended results and what has been its impact on overall progress in different areas of the rule of law. It also examined the management of the assistance, particularly with regard to coordination and the management of EULEX. The audit included a sample of 17 EU interventions in Kosovo.

The Court found that this **assistance has not been sufficiently effective**. Although the EU helped to build capacity, notably in the area of customs, assistance to the police and the judiciary has had only modest success:

- levels of organised crime and corruption in Kosovo remain high;
- the judiciary continues to suffer from political interference, inefficiency and a lack of transparency and enforcement of the legislation;
- Kosovo's limited capacity to protect key witnesses and the difficulties relocating witnesses abroad are important shortcomings;
- there has been almost **no progress in establishing the rule of law in the north of Kosovo**.

During the period 1999-2007, Kosovo received EUR 3.5 billion in donor assistance, two thirds of which came from the European Commission and EU Member States. Between 2007 and 2011, EU assistance to rule of law through the IPA and EULEX totalled approximately EUR 700 000 million.

Court's conclusions: the limited effectiveness of EU assistance can be explained by the specific circumstances of Kosovo, including the low starting point at independence for building up the rule of law. Nevertheless, the audit found there were significant areas where **better management by the EEAS and Commission could have made EU assistance more effective**.

For example, EU Member States have seconded insufficient and unqualified staff to EULEX, and for too short periods. Cooperation between Europol and EULEX is subject to legal restrictions.

The EU institutions have made significant efforts to **coordinate with the USA** which is the largest bilateral donor in Kosovo. Nonetheless, it remains difficult to achieve full coordination with the USA.

EU interventions have had **limited results in tackling corruption** which remains a major concern. Kosovo's three anti-corruption bodies have weak powers and overlapping responsibilities. The supervision of public procurement is similarly complex; moreover, there are more than 150 contracting authorities in Kosovo. Although this complexity and fragmentation increases the risk of corruption, the EU has not addressed this at political level.

Lack of unanimity on the Kosovo issue: in contrast to the rest of the Western Balkans, in the case of Kosovo, the incentive of potential EU accession is jeopardised by the **absence of a common EU position on its independence.**

Court's recommendations: in conclusion, the Court considers that the EU's coordination mechanisms need to be further improved, including with the international community. It recommends, *inter alia*, that:

- the EEAS and the Commission should make better use of policy dialogue and conditions;
- the possibility of visa liberalisation may act as an incentive to improve the rule of law in Kosovo. However, the EU has set 95 requirements for visa liberalisation, which risks undermining the incentive effect;
- policy dialogue should focus on priority conditions;
- the EU support for Kosovo be linked to concrete benchmarks and take into account EU internal security objectives.