

Commitments from the 'Berlin Process' on Rule of Law and Good Governance

PREPARATION FOR AGENDA "BERLIN PLUS"

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The views expressed in this paper do not reflect the views of the Konrad Adenauer Foundation.

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INTRODUCTION

Membership in European Union is not a right that must be given to any country simply for being geographically linked to the continent of Europe. The EU membership is an opportunity offered to the Western Balkan countries surrounded on all four sides by the European Union. The opportunity for membership must be gained with political will and dedication to aligning with high European standards. This is done by showing seriousness in meeting the obligations that are assumed in this very important process for the future of Kosovo. It is true that recent European Union decisions vis-a-vis some Western Balkan countries have been discouraging for the entire region. However, a step back in the process is no reason to distract from the journey. The so-called "Berlin Process", which started with the Berlin Summit in 2014, attended by the highest leaders of the 10 EU states and six Western Balkan states, including Kosovo, was a serious effort for the countries of our area to prepare, as a region, for membership at the time the conditions are met.

Following the great dedication from the host country, Germany and the German Chancellor, Angela Merkel, the Berlin Summit on the Western Balkans in 2014 concluded its work with three joint commitments that have become pillars of the 'Berlin Process' agenda. Among the pledges to intensify regional co-operation in the Western Balkans and increase prosperity through sustainable economic development, was the commitment to strengthen good governance. In the Final Summit Statement, the commitment had two key elements: strengthening the rule of law and improving good governance. So, good governance, including the rule of law, has been confirmed as a key pillar of EU approximation.

The 2014 Summit is followed by such Summits every year. Although in Berlin the participating countries gave themselves a four-year mandate for this process, this year the Poznan Summit for the Western Balkans was a continuation of this process which became known as the "Berlin Plus" Agenda¹. This process is continuing in order to further support our region in preparing for EU membership but also because the pledges made since the first Summit have a lot of work ahead, although there have been some concrete achievements from different countries of our region.

During these summits numerous pledges were made by the leaders of the Western Balkan countries that went beyond the first three commitments. Rule of law and good governance obligations followed in almost every summit, but areas have been expanded with new topics included depending on the current situation. In this regard, the Western Balkan countries have committed themselves to meet the obligations of regional cooperation in the areas of good governance, economic development, fight against extremism and radicalization, migration, youth, and connectivity among themselves through transport and energy.

This study focuses on the obligations of the region, and more specifically those of Kosovo, in the field of rule of law and good governance. Kosovo will face leaders of European Union countries at the Berlin Plus Agenda Summits. What will be on the minds of every European leader is what Kosovo and each of the Western Balkan countries have done for the obligations they have assumed in the Berlin Process since 2014. Further, they will certainly be asking themselves and the countries of our region, certainly diplomatically, what has been done in the most challenging areas for Balkan leaders, such as the rule of law and good governance.

Kosovo has benefited greatly from the Berlin process and has been an equal partner with other countries in our region. It has also benefited greatly from the connectivity infrastructure projects for which hundreds of millions have been allocated by the European Union in the process. Yet our leaders and the general public have often seen this process more as an investment-driven one, and the commitment to fulfill the obligations assumed in the process has been somewhat overshadowed. The new government of Kosovo should give a new impetus to

¹ The Berlin Plus Agenda here is not to be confused with the "Berlin Plus Agreement" between NATO and the European Union in 2002.

meeting the obligations assumed in this process because Kosovo, from across the entire region, is most interested that the process started in Berlin continues.

WHY 'BERLIN PLUS' AGENDA FOR KOSOVO

"Four years of real progress" was the call of the Final Declaration of the Western Balkans Conference in Berlin. This process gave itself a four-year mandate with the aim to have an increased dynamics of regional cooperation, the rule of law and sustainable development during these four years. The London Summit in 2018 was scheduled to be the last. However, the Minister of Foreign Affairs of Germany, Mr. Sigmar Gabriel, in May 2017 had just announced the continuation of the Berlin Process, or "Berlin Plus Agenda" as it was called². And this is just beginning to come to life with the 2019 Poznan Summit and the forthcoming 2020 Summit announced in Croatia.

During this four-year period there were calls from Western Balkan experts to abandon this process due to the lack of seriousness from key European Union countries.³ Further, there may be further arguments that this process should be stopped because it has not achieved sufficient success on the side of the Western Balkan countries. However, the benefits, especially from Kosovo, of continuing the Berlin Process or the "Berlin Plus" are manifold, despite some setbacks and criticisms of the process. Kosovo needs to be prepared for this process and most of all it must insist on this process for some key reasons.

In Step with Countries of the Region

The conclusion of the Berlin Process benefits Kosovo the least. Kosovo benefits the most from all countries in the region by a process that aims to put all these countries into a European integration process. The 'Berlin Process' is a process of European integration. It is a process that treats the whole region as a group in alignment with the European Union.

On this journey to the European Union, Kosovo is behind all the other countries in our region. Also, due to the non-recognition of Kosovo's citizenship by five EU countries, the EU has shown a tendency to evaluate Kosovo more unfairly in the integration processes. This is also shown in the visa liberalization process. Continuing the Berlin Process is an opportunity for Kosovo to move in step with the countries of the region in the integration process and to be assessed on the basis of some common standards for the six Western Balkan countries.

However, if Kosovo does not comply with the obligations it assumes in this process, does not show exceptional performance, at least with the countries of the region in this process, then the process can only be another confirmation that Kosovo is unwilling to work for integration processes as a state priority.

Connectivity Infrastructure Projects

One of the most tangible benefits of the Berlin Process have been the connectivity infrastructure projects through the Western Balkans Investment Framework (WBIF). Although this framework was established some years prior to the Berlin Summit, as the instrument was integrated into the Berlin Process, greater attention was paid to this instrument and a higher momentum for project realization. The instrument has allocated 1,3 billion euros for the Western Balkans mainly in the fields of energy, transport, environment and social issues.

There are over 17 projects that Kosovo has benefited under this instrument such as:

² Flessenkemper, Tobias. European Western Balkans. *'Berlin Plus' will not change the game.* 06/06/2017. <https://europeanwesternbalkans.com/2017/06/06/berlin-plus-will-not-change-the-game/>

³ Bieber, Florian. European Western Balkans. *"It's time to ditch the Berlin Process."* 07/10/2018. <https://europeanwesternbalkans.com/2018/07/10/time-ditch-berlin-process/>

1. Improvement of district heating in Prishtina (Phases I and II);
2. Implementation of energy efficiency measures in public buildings at municipal level;
3. Feasibility Study and Implementation of Energy Efficiency Measures in Central Public Buildings;
4. Feasibility Study - Fuel Change and Expansion of District Heating System in Gjakova;
5. Municipal Water and Sewerage in Prishtina (Phase II);
6. Feasibility studies for wastewater treatment plants in Kosovo;
7. Strengthening waste management;
8. Feasibility Study for Ibër Canal Protection;
9. Feasibility Study for the Lepenc Canal;
10. Municipal Water and Sewerage in Prishtina III;
11. Kosovo Education Improvement Project;
12. Orient / East-Med Corridor (R10) General Rehabilitation Phase 1:Fushe Kosove - border with Macedonia;
13. Sector E of Prishtina - Merdare highway;
14. Sector N9 of the road from Prishtina to Kijeva-Klina to Zahaq;
15. Orient / East-Med Corridor (R10) General Rehabilitation Phase 2:Fushë Kosovë - Mitrovica;
16. Orient / East-Med Corridor (R10) General Rehabilitation Phase 3:Mitrovica - border with Serbia;
17. Railway from Fushë Kosovë -Podujevë⁴.

Some of these projects have not been implemented yet and have stalled due to disagreements between Kosova and Serbia. However, the funds have been pledged and can be used at the time an agreement is reached. Moreover, the Berlin Process summits where the top leaders of the European Union countries are represented have always paid attention to such projects and provided political support. This plays an important role in the timeliness and effectiveness of this investment instrument and in the seriousness of the Western Balkan countries for preparing such projects.

The Balkan Schengen Initiative

In the absence of a coordinated process for all Western Balkan countries led by influential EU states, we have witnessed in recent months regional initiatives that run counter to Kosovo's interests. The "Balkan Schengen" Initiative, although seemingly good on the surface, tends to create an agreement that would be detrimental to Kosovo without resolving the disputes between Kosovo and Serbia.

This initiative, which was mainly the idea of the Prime Minister of Albania, Edi Rama, and the Prime Minister of Serbia, Aleksandar Vucic, was rejected by Kosovo and Montenegro. Such moves could only be made with European Union guarantees following the consultation of all parties. It is for this reason that the continuation of the Berlin Process becomes even more important.

But this initiative seems likely to continue even though it does not include states that will be affected by it, such as Kosovo and Montenegro. Likewise, this initiative may also be expanded or there may be other similar initiatives that look good on the surface but divide our region more than they unite it. Therefore, Kosovo should call for the 'Berlin Process' to continue and this process should be in coordination with the European Union. The 'Berlin Process' has been a good initiative. Although progress in several areas has proven slow, it is evident that there needs to be a 'Berlin Plus' and Kosovo should be the most vocal driver of this.

⁴ Ministry of European Integration.Government of the Republic of Kosovo. *Investment Framework for the Western Balkans.* <https://www.mei-ks.net/sq/vbif>

TOPICS IN THE BERLIN PROCESS

	BERLIN 2014	VIENNA 2015	PARIS 2016	TRIESTE 2017	LONDON 2018	POZNAN 2019
1	Regional cooperation	Regional cooperation and the resolution of bilateral disputes	Regional cooperation	Connectivity - Transport and Energy	Regional cooperation	Regional economic integration
2	Good governance	Rule of law and good governance	Connectivity and commerce	Regional economic integration	Safety	Recognition of higher education qualifications
3	Sustainable economic growth	The fight against extremist radicalism	Priority on youth	Private Sector and SME Development	Youth and civil society	Entrepreneurship
4		Migration	Migration	Connectivity of Youth	Wise Growth	Clean Energy
5		Economic prosperity	The fight against terrorist radicalism	Governance, the rule of law	Regional economic integration	Integration of Roma
6		Transport connectivity		Science	Support to the private sector	Transport
7		Energy connectivity		Outstanding bilateral issues	Anti-corruption	Energy
8		Market integration		Civil society		Digital Connectivity
9		Higher Education, and Vocational Education		The fight against terrorist radicalism		Missing persons, war crimes
10		Civil society		Migration		Anti-corruption and tracking of commitments

RULE OF LAW AND GOOD GOVERNANCE

Berlin 2014

The Berlin Summit on the Western Balkans in 2014 concluded its work with three conclusions that became the pillars of the Berlin process agenda. Among the pledges to intensify regional cooperation in the Western Balkans and increase prosperity through sustainable economic development, was the commitment to empower good governance. In the Berlin Summit Declaration, under the heading of "strengthening good governance" there were two points as a kind of commitment, the first being the rule of law and the second being good governance. So good governance, including the rule of law, became an important pillar of the Berlin process and was consequently confirmed as a key pillar of European Union approximation.

The Summit Declaration stated that "States Parties agree to take measures to eradicate corruption and organized crime. The Western Balkan countries emphasize their willingness to carry out further reforms in order to increase confidence in justice in their countries, to support and strengthen the independence of their judiciary, and to work together more intensively across borders in regional and bilateral structures⁵."

This was the first commitment to improving the rule of law that the six Western Balkan states, including Kosovo, made in the Berlin Process. This was five years ago and despite some achievements it is clear that much remains to be done in this area by all Western Balkan countries. Some achievements, such as the vetting in Albania and trust in justice in Northern Macedonia, or even legal advancements in Kosovo, can be mentioned here as achievements. However, this remains one of the weakest points in the Western Balkan countries and one of the biggest obstacles on the road to the European Union.

At this Summit the principles of good governance such as the conditions for pluralistic media, independent trade unions as well as an economy free from political interference emerged as joint pledges. In the final statement, Germany, as the host of this Summit, pledged to commit to strengthening media freedom in the region.

Vienna 2015

The Vienna Summit, a year later, expanded greatly on other topics for the Western Balkans since the "Connectivity Agenda" was introduced, mainly on transport and energy, and there were other urgent topics that year such as migration and religious extremism. However, rule of law and good governance were still the top priorities at this Summit. The Concluding Statement of this Summit was more of a call for Western Balkan countries than there were additional commitments from these countries. For rule of law and good governance it was stated that more efforts are needed to accelerate internal reform processes, especially in the areas of rule of law, economic governance and public administration reform, as well as in the fight against corruption and organized crime.

At this Summit, the issue of economic governance and public administration were in addition to the usual call to fight corruption and organized crime. However, due to the attention the Connectivity Agenda received with infrastructure projects where countries in our region also seem to receive more attention, issues of good governance and the rule of law were somewhat overlooked.

⁵ The Berlin Process Info. *Final Declaration by the Chair of the Conference on the Western Balkans.* <https://berlinprocess.info/wp-content/uploads/2017/11/Final-Declaration-by-the-Chair-of-the-Conference-on-the-Western-Balkans.pdf>

Paris 2016

At the Paris Summit, the rule of law issues were almost completely overlooked. There was a more formal point in the concluding statement unanimously stating that “the rule of law lies at the heart of the enlargement process, including judicial reforms, as well as tackling organized crime and corruption, and ensuring full respect for rights basic. ” However, there was no follow up to the Berlin Summit commitments or a build-up on what was worked in Berlin and Vienna.

At this Summit it seemed that the 'Berlin Process' was turning into a process of regional cooperation only through the 'Connectivity Agenda' and topics that were more concerning for the European Union, such as migration and religious extremism. This is also what the Western Balkan countries would like to see as the issues of rule of law and good governance are sensitive topics with little willingness to move in the right direction.

Trieste 2017

At the Trieste Summit in 2017 it seemed that the European Union countries participating in the Berlin Process noticed that the rule of law and good governance had been overlooked in Paris, so there was an increased attention to them. At this Summit, the Western Balkan countries and the 10 EU countries participating in the process jointly stated that improving governance and the rule of law are essential requirements for EU membership and for building a sustainable economic structure. Further on, concrete commitments by the countries of the region to the rule of law began in Trieste, which resulted in the Joint Declaration against Corruption.

This emerged as a result of the Italian National Anti-Corruption Authority (ANAC), which led a workshop with partner institutions from the Western Balkans and the Regional Anti-Corruption Initiative (RAI), working on five issues: preventing corruption; transparency; public procurement; signaling and conflict of interest. There was a pledge that thematic workshops will be held, with the cooperation of the European Commission, in order to deepen knowledge and contribute to improving operational capacity. This initiative showed the interest of partners to effectively address and collaborate on integrity issues. Workshop participants agreed to set out a series of commitments to improve their ability to respond to corruption.

At this Summit, the Western Balkan countries in the Joint Statement Against Corruption in Trieste declared that they 'express strong political will' for:

- strengthen our corruption prevention systems, combining a repressive approach to the fight against corruption with a preventive approach and respect for the full autonomy of responsible bodies;
- increasingly expand and deepen transparency, given that added transparency increases civic control over the behavior of public officials, especially with local governments;
- strengthen the professionalism of public procurement staff to improve the performance of public procurement systems, which are important parts of national economies, but also highly vulnerable to corruption and organized crime infiltration;
- promote the application of e-procurement systems;
- improve our legislative systems of whistleblowing and conflict of interest, to combat the phenomenon of ill administration at work and the behavior of public officials;

Furthermore, the governments of the Western Balkans countries were encouraged to adopt and apply the International Treaty of Regional Anti-Corruption Initiative on the Exchange of Data on Declaration of Assets and Conflicts of Interest. Establishing a mechanism for data exchange between national oversight bodies in the Western Balkans was said to further strengthen the accountability of public officials and advance the restraint of corruption at the regional level.

To achieve these objectives, these countries expressed their willingness to use a wide range of existing means and methodologies to prevent corruption based on best international practices, providing education and training, encouraging civic engagement and awareness-raising on anti-corruption practices, organizing closer cooperation and study visits, drafting concrete recommendations and offering guidance to improve the creation and implementation of legislative and administrative measures on corruption and better implementation of anti-corruption policies.

London 2018

The London Summit in 2018, which was foreseen to be the last in the Berlin Process, continued the momentum of the Trieste Summit on the Rule of Law and Good Governance by turning into a space to measure the progress of Western Balkan countries in the fight against corruption. The Summit, divided into thematic groups, urged countries in the region to specifically commit to issues that would prevent corruption. Therefore, at this Summit, Albania, Kosovo, Bosnia and Herzegovina and Macedonia made specific and concrete pledges against corruption for their countries through individual statements.

The Summit Leader's Concluding Statement said the pledges of the six Western Balkan countries to fight corruption and address organized crime were welcomed. Whereas, the Kosovo Government's Statement of Commitments on the Anti-Corruption Area, made public at this Summit, focused on exposing corruption, punishing the corrupt and expelling the culture of corruption. In this context, concrete commitments were made to achieve these three goals.

At this Summit, the Western Balkan countries also agreed to remain committed to adopting democracy, respect for human rights and fundamental freedoms, and the rule of law, and that civil society and independent media played a crucial role.

Poznan 2019

At the subsequent Summit in Poznan, Poland, during the Presidency of the Council of the European Union from this country, Western Balkan leaders reaffirmed their commitment to strengthening the rule of law, fundamental rights and good governance in the region. The participating countries agreed to focus on sharing good practices in the fight against corruption and ensuring the practical implementation of anti-corruption strategies and action plans. In the current international anti-corruption framework, including the UN Convention against Corruption, to which the region's partners are signatories, leaders declared their determination to continue the fight against corruption as a top priority on the Berlin Process agenda. Further, the leaders of the Western Balkan countries called on the EU to continue its support for preventing and combating corruption in the region.

However, the Poznan Summit turned to expanding the topics of the Summit and overshadowed the specifics of progress in the rule of law in the six countries of the region. As this Summit had a wider composition of participants, topics were also expected to expand. Upcoming summits of the "Berlin Plus" agenda will continue with this enhanced participation where other European Union countries other than the 10 EU countries since the beginning of the Berlin Process will play a role in this process.⁶

The Role of the Civil Society Forum

One of the most important pillars for the democratization of a state is the creation of a strong sector in civil society. The voice of civil society is also an added value of the Berlin Process, and is even directly involved in all developments surrounding the preparation of the Western Balkans for EU integration.

⁶ The European Union countries at the beginning of the Berlin Process were: Germany, France, the United Kingdom, Italy, Austria, Poland as well as Greece, Bulgaria, Slovenia and Croatia as they also had territorial alignment with the six countries of the Western Balkans.

The Vienna Summit is considered one of the most important meetings also due to the decision to engage civil society in such summits through the Civil Society Forum and Business Forum. The summit statement said that the voice of civil society should be part of the EU integration process of the Western Balkan states.

Throughout the Western Balkans civil society forums that have followed the Berlin Process Summits various areas of society in which it is necessary to increase the impact of civil society have been discussed. One of the newest challenges facing the Western Balkans in recent years has been the rise of skepticism towards the European Union and democracy as a whole in this region. To this end, civil society organizations have been mobilized to voice their claims to the European Union, following the risk assessment that may arise if the issue remains unaddressed.

At the 2015 Vienna summit, civil society organizations have sought to ensure freedom of expression and free media by providing legal protection and working conditions for journalists, independence of the public broadcaster providing long-term public media funding by the state but prevent media monopolization. In addition to the Vienna Summit, the importance of democratic governance and the preservation of democratic values was also discussed at the 2016 Paris Summit, which outlined concrete demands for the European Union to preserve democracy in the Western Balkans. The EU was urged to directly support organizations and protests in support of democracy. While achieving these objectives, the Summit is intended to focus on developing programs for youth and marginalized groups. Also, sharing experiences and enhancing regional cooperation among young people is one of the main pillars of maintaining democracy and continuing the democratic, pro-European spirit in the Western Balkans.

The Prishtina Summit in 2017 discussed about improving the work of CSOs in the region so that they can have more impact in achieving the goals they have set for themselves. Among other things, the participating organizations agreed that the Civil Society Forum should be more open, inclusive and accountable. On the other hand, communication of summit work to target groups should be improved, with an emphasis on communities and youth.

The topic discussed at the Trieste summit in the same year is that of the rule of law, and its implications for the fight against corruption. The EU's role continues to be key in the fight against corruption, but it must intensify co-operation with CSOs in the region. The impact of CSOs should also increase on the content of the progress report, prior to its drafting, so that the data collected are sent by local CSOs. This makes local institutions more open to provide data as well as provide more credible data. Civil society organizations were told they should also help create an alternative benchmarking system for the region for specific cases including corruption. The discussion on the rule of law and the fight against corruption continued at the 2017 summit in Tirana, discussing the areas in which the EU should cooperate with regional governments, as well as the ways the EU should exert pressure on these. Among other things, the importance of improving EU monitoring, increasing the transparency of the European integration process, as well as taking into account recommendations from CSOs in the region were mentioned.

ANTI-CORRUPTION COMMITMENTS OF THE GOVERNMENT OF KOSOVO

The Kosovo government at the London Summit pledged to continue the fight against corruption by focusing on three areas - exposing corruption, punishing the corrupt and expelling the culture of corruption. Measures to combat corruption are in line with the Trieste Joint Declaration against Corruption, in which states pledged that in addition to improving the corruption prevention system, they will fight to ensure that corruption does not continue to persist as the truth about the Western Balkans. States agreed on the need for regional cooperation to eliminate challenges such as preventing corruption, professionalizing public procurement, enhancing accountability by public officials, improving the legal framework for whistle-blowers of corruption and conflict

of interest, and achieving the Data Exchange Treaty on Declaration of Assets and Conflicts of Interest, which the Government of Kosovo pledged to adopt in line with national and constitutional procedures for the adoption of treaties.

The Government of Kosovo has pledged to ensure strict enforcement of the law on public procurement, the protection of whistle-blowers and the public administration in order to improve transparency and accountability by public authorities. Financial transparency was said to be improved by political parties too, so institutional integrity needs to increase by ensuring that anti-corruption bodies are fully independent, capable and have sufficient resources for which to the Government of Kosovo will make sure. In addition, in order to change the fight against corruption, moving more towards preventing it, anti-corruption education programs will be implemented, there will be meritocratic appointments in the civil service, re-evaluation of judges, prosecutors, legal advisers and law enforcement officials will take place.

Below are the Government of Kosovo Pledges in the field of Anti-Corruption made at the London Conference 2018. It is expected that these pledges will be followed up by the European Commission at future summits. That was already the topic at the next Poznan summit in 2019. There is a breakthrough from the 2018 London Summit on public procurement and whistle-blowers. However, in other commitments there are no tangible achievements yet and these remain a task for the new Kosovo Government.

Exposure to corruption

Private Public Partnerships

- Improving the flow of information between the financial sector and the FIU to ensure law enforcement with the intelligence necessary to detect and prevent money laundering related to corruption;
- Provide ongoing partnerships for sharing public private information to bring together governments, law enforcement, regulators and the financial sector to prevent and combat money laundering related to corruption;
- Commitment to working together with regional and other countries to exchange information in order to ensure the most effective response to international money laundering;
- Actively collaborate and participate in initiatives led by the Egmont network of Financial Intelligence Units.

Public procurement and open contracting

- Strict implementation of the legal provisions of the Public Procurement Law and its bylaws;
- Improvement the implementation of the Auditor General's recommendations;
- Implementation of the electronic public procurement system in all public procurement activities and use of the electronic procurement system for the publication of standardized public procurement information, so that it is accessible to interested parties as defined in the legal provisions of the public procurement law;

Taxes

- Strengthen the professional standards and investigation skills of the Tax Administration of Kosovo.

Whistleblowers

- Implement legislation on whistle-blower protection, on the protection of information obtained from the public and private sectors, and on encouraging citizens and employees to report corruption cases.

Beneficial ownership

- Ensure competent authorities conducting investigations to gain full and effective access to beneficial ownership information by providing complete, accurate and timely information on beneficial ownership.

Punishing the corrupt

Implementation skills

- Ensure that all anti-corruption bodies are fully independent, capable, with the necessary resources and receive full support and cooperation from all branches of government;

Property Repair and Return of Assets

- Improving and strengthening asset and asset recovery legislation.

Expelling the culture of corruption

Institutional integrity

- Enforcement of legislation concerning the integrity of persons exercising public office.
- Improving the transparency of political party financing through the functional mechanisms of control and audit systems.
- Improve the legal framework and organizational mechanisms for detecting and preventing conflicts of interest regarding public officials.
- Support the initiative for the signing of the International Treaty on the Exchange of Data for the Disclosure of Assets of Senior Public Officials and the Conflict of Interest and approve it in accordance with national and constitutional procedures for the adoption of international and regional treaties and conventions;
- Appoint merit-based civil service staff independently and transparently;
- Creation and implementation of legislation allowing reassessment of judges, prosecutors, legal advisers and law enforcement officials;
- The dynamics of implementation of the National Anti-Corruption Strategy and Action Plan increase;
- Strengthen the role of the Anti-Corruption Agency by adopting changes to the legal framework, enhancing administrative capacity, increasing the budget, in order to effectively prevent and combat corruption;
- Promote stronger skills in the defense and security sectors that are vulnerable to the threat of corruption, through participation in the UK-supported Building Integrity Centre.

Education against corruption

- Implement anti-corruption education programs by engaging public and private sector organizations in talks and dialogue on preventive measures.

International System

- Commitment, with the help and support of the European Union, to make Kosovo a member of the international and regional organizations of the mission to prevent and combat corruption.

OTHER KOSOVO OBLIGATIONS IN THE PROCESS

Regional Cooperation and Reconciliation

Although regional reconciliation and cooperation are two different concepts and processes, they can only happen best when put together. Therefore, the 'Berlin Process' is regarded as the locomotive of fostering cooperation between these countries, on this occasion also of their reconciliation and resolution of past disputes. Projects and joint ventures can help Western Balkan countries build good neighborly relations and integrate them into the EU.

The topic of reconciliation has been a subject since the first summit, held in Berlin in 2014. Despite the efforts of the western states, at this point only the leaders of the states that still have such conflicts can have the wheel.

Due to its importance, the reconciliation topic has continued at other summits. The Vienna Summit⁷ welcomed the conclusion of four agreements between Belgrade and Prishtina in the context of normalizing relations between the two countries, underlining the importance of further support. In this regard, Montenegro and Bosnia and Herzegovina have signed an important step, by signing the border demarcation agreement.

At the third summit⁸, held in the French capital in July 2016, the issue of regional reconciliation and cooperation has continued from past summits, calling to resolve conflicts and disputes between these states. In Paris, all six states in the region have reaffirmed their pledges in the Final Summit Declaration of 2015 on resolving these conflicts.

In addition to these commitments, one of the most important agreements was concluded at this summit enabling the Regional Youth Cooperation Office (RYCO) to be established. This office, under this agreement, will have the role of supporting activities promoting peoples' reconciliation, memory programs, diversity, cultural exchange, youth movement, civic participation, and the promotion of democratic values.

Even the summit held in Trieste, Italy⁹ has dedicated special attention to the issue of reconciliation and regional cooperation. At this summit, the EU has also called on the six countries of the region stressing its readiness to help them improve their pending reports, with the latter reiterating that they will make efforts for progress in the region in this regard.

The Western Balkans have made some progress in this regard at the London Summit, which has shown once again that the UK does not give up on the Western Balkans, providing financial support for various areas, worth 80 million pounds by 2020.

⁷ The Berlin Process Info. *Final Declaration by the Chair of the Vienna Western Balkans Summit 27 August 2015.* <https://berlinprocess.info/wp-content/uploads/2017/11/Final-Declaration-by-the-Chair-of-the-Vienna-Western-Balkans-Summit.pdf>

⁸ The Berlin Process Info. *Final Declaration by the Chair of the Paris Western Balkans Summit 4 July 2016.* <https://berlinprocess.info/wp-content/uploads/2017/11/Final-Declaration-by-the-Chair-of-the-Paris-Western-Balkans-Summit.pdf>

⁹ The Berlin Process Info. *Declaration by the Italian Chair.* <https://berlinprocess.info/wp-content/uploads/2017/11/Declaration-by-the-Italian-Chair.pdf>

In this regard, during the summit days, two joint statements were signed, one on war crimes and the fate of the missing persons and the other on regional cooperation and good neighborliness¹⁰.

The last summit held in Poznan, Poland¹¹, emphasized the need to take seriously the implementation of commitments specifically related to reconciliation and conflict resolution, which affect the development of processes in all areas of cooperation.

At this summit, the participating states again referred to the commitments of the Vienna Summit and the Declaration of Regional Cooperation and Good Neighborliness. The parties also emphasized the importance of the Treaty on Friendship, Cooperation and Good Neighborliness between Bulgaria and Northern Macedonia and the Prespa Agreement between the Hellenic Republic and Northern Macedonia.

The Connectivity Agenda (transport and energy)

The 'Berlin Process' has set itself the goal of laying the foundations for a common and sustainable economy that has its role in society without the interference of politics. Another issue mentioned at the first summit is increased competition. In this context, about a month after the first summit, a regional conference was held in Montenegro.

On the other hand, Germany at the Berlin Summit has shown its readiness to take further measures in the framework of the existing programs for economic cooperation and development in order to support the countries of the region in making more effective use of European measures to bring them closer to the EU through the Instrument for Pre-Accession Assistance - IPA.

In October 2014, at a conference in Belgrade on economic issues and connectivity, leaders agreed to annually prepare National Economic Reform Programs (NERPs), including macroeconomic, fiscal, structural reform and competition programs. These programs are technically supported by the European Commission and submitted by the governments of our region¹¹.

The Vienna Summit did even more in this area, approving six road infrastructure projects. These include an intermodal terminal, two bridges and three railway projects. In addition, these states have agreed to implement 4 energy projects, all of which totaling around 200 million euros.¹² To this end, the countries of the region have decided to create a regional energy market, where the "soft" measures of energy should be prioritized, the implementation of which will be led by the Energy Community Secretariat.

The 2017 Trieste Summit was focused on continuing the agenda for reforming transport and energy, improving the network for economic growth, increasing business opportunities and attracting investment. Participants agreed on seven other interconnection projects totaling over 500 million euros.

The Trieste Summit is also important because of the signing of the Transport Community Treaty, which is also considered the first treaty with the EU and the European Commission.¹³

This summit is also esteemed for the creation of the Regional Economic Area (REA), which is based on the CEFTA agreement, EU rules and principles enshrined in the Stabilization and Association Agreement. According to the Trieste Declaration, the initiative would enable the free movement of goods, services,

¹⁰ The Berlin Process Info. *Chair's Conclusion*. London. <https://berlinprocess.info/wp-content/uploads/2018/07/Chair's-Conclusions-of-the-Heads'-meeting-of-the-London-Western-Balkans-Summit-10-July-2018.pdf>

¹¹ The Berlin Process Info. *Western Balkans Summit Poznań- Chair's Conclusion*. https://berlinprocess.info/wp-content/uploads/2019/07/chairs_conclusions.pdf

investments in these six states. The steps these countries need to take to boost economic growth and facilitate procedures for facilitating goods are some of the criteria for EU membership. In this regard, the European Commission has helped this initiative with 7 million euros, in particular to improving the business environment. However, this initiative was required to be signed by each state individually, with Kosovo and Montenegro¹⁴ initially opposing it because of their experience with CEFTA, which according to them did not work as planned. Despite these obstacles, REA was finally supported by the six countries of the region, a plan to be overseen by the Regional Cooperation Council¹⁵.

One of the most successful summits in the economic sphere is the Poznan Summit. Western Balkan leaders at the summit reaffirmed their commitment to the REA, by also welcoming its action plan and achievements so far.

At this summit, an agreement was signed on the preparation of the Risk Management Strategy. Participants also welcomed the launch of the implementation of the fifth protocol dealing with the market facilitation agreement. In addition, they have also adopted an additional protocol to the CEFTA agreement. An important part of this summit was the decision to establish single contact points for services. The summit also mentioned the importance of an eighth CEFTA protocol that would regulate the part of trade dispute resolution.

To strengthen the private business sector, the European Commission had offered financial guarantees worth 150 million euros, which will be allocated through projects to be opened this year (2019). This amount will be earmarked especially for businesses engaged in agriculture, commerce and digitalization or for green investments whether as family businesses or municipal initiatives. The creation of an online platform, which will contribute to improving competition in the economy of the Western Balkan countries was also welcomed.

The Connectivity Agenda - Transport

The Connectivity Agenda as one of the key components of the first summit has played an extremely important role in linking the six countries to each other and the region to the EU countries. This agenda is about building a good infrastructure and facilitating the movement of goods and services, thereby increasing the potential for new jobs. This of course then fosters increased competition and diminishes monopoly of certain businesses.

Chancellor Merkel told a media conference following the end of the Berlin summit that Germany would be committed to integrating the Western Balkans into the EU, and that infrastructure projects would also improve contacts between states.¹⁶

In this regard, the Western Balkan countries have the opportunity to benefit from this agenda in road and energy infrastructure, as well as digital system. The allocation and selection of key projects began in a meeting of country leaders in April 2015 in Brussels, when they designed the Main Transport Network.

For Kosovo, the projects Krusevac (Serbia) - Kralevo (Serbia) - Prishtina (Kosovo) - Skopje (Northern Macedonia) were selected; and Construction of the highway Prishtina (Kosovo) - Skopje (North Macedonia) and Lezha - Prishtina (Kosovo) - Nolevac (Serbia).¹⁷

A total of 10 projects were approved at the Vienna Summit, six on infrastructure and four on energy. An important issue is also the definition of hard and soft measures in infrastructure investment, which the WB6 countries have pledged to apply. "Hard measures" include the implementation of infrastructure projects within these countries and throughout the region. Meanwhile, "soft measures" refer to border crossing procedures, information system, railway reform, road safety, obstruction of third party access and other measures.¹⁹ These measures usually help implement projects related to both transport and energy infrastructure.

One of the summits that has further strengthened the connectivity component is that of Poznan, where leaders have reiterated commitments to improve the transport, energy and digital systems, which create political stability and influence the development of the socio-economic field. On this occasion, the states have benefited from the launch of eight courier projects with a total investment of around 700 million euros. Of this amount, the EU has funded 180 million euros. In this case, Kosovo benefited from a project worth € 56.1 million, of which € 27.4 million was EU investment.

[The Connectivity Agenda - Energy](#)

The second component of connectivity concerns energy, which is considered one of the key initiatives to reform the energy market. At the Vienna Summit, the six Western Balkan countries have agreed to implement four energy projects, for which an amount of 200 million euros is foreseen. For this reason, the countries of the region had decided to create a regional energy market, whereby the "soft measures" of energy would be prioritized, the implementation of which would be led by the Energy Community Secretariat.

A year later, the Paris Summit welcomed an increase in EU financial support of 50 million for the energy sector. In addition, the EU had also prepared a plan for the Western Balkans for hydropower development in order to balance energy generation with environmental problems.

The application of "soft measures" related to the integrated power and transport network has also been reiterated. For this reason, the summit has urged Western Balkan countries to continue applying these measures, as it is important to improve the legal framework and attract investment in the country.

All six of these countries also agreed to have a roadmap for the regional energy and transport market, through the integration of renewable energy, thus linking the regional market with that of the EU.

One of the most important summits in this regard is the Trieste one, where the participating countries focused on, in addition to reforming the transport and energy, increasing the business opportunities and attracting investment. In this context, the Transport Community Treaty was signed, with Kosovo being a signatory to this Treaty. According to former Minister Justina Shiroka - Pula, who had served under Prime Minister Isa Mustafa's rule, the signing of the treaty meant that Kosovo must be bound by EU directives, which aim a sustainable market.²⁰ She had made this statement months after the meeting in Trieste.

The recent summit held in Poznan resulted in participants agreeing to complete the Connectivity Reform measures, thus creating energy markets within the Western Balkans, and then integrating into the EU's internal energy system.

RECOMMENDATIONS FOR THE NEW GOVERNMENT

Rule of law and good governance commitments have been conveyed at nearly every summit, and Kosovo has made some very important commitments in this regard, such as the regional cooperation and connectivity with the region. The continuation of the Berlin Process is of utmost importance to Kosovo even though there are significant benefits for the whole region in moving closer to the European Union. Therefore, the new Government of Kosovo should give new impetus to the fulfillment of the obligations assumed in this process. Many of the following recommendations are obligations that Kosovo's top officials have already pledged on at the Berlin Process Summits. We are highlighting the most important ones in the area of rule of law and good governance by providing additional suggestions for their implementation in Kosovo. The new government can and should take the primacy of advancing good governance and strengthening the rule of law and setting an example for the region at the "Berlin Plus" Agenda Summit.

Inclusion of Commitments in the Government Program

The new government needs to make an analysis of all the commitments of the "Berlin Process" in order to include them in the Governance Program that will be drafted for the next four years. As it would serve to report on Kosovo's progress in the following Summits and make Kosovo a more serious partner for senior EU leaders.

Annual Plan for Implementation of Anti-Corruption Commitments

The Prime Minister's Office should also draft and oversee the annual plans for the implementation of the Anti-Corruption Commitments announced by the Government of Kosovo at the London Summit in 2018.

Reforming the Law on Public Procurement

In the Berlin Process, the Government of Kosovo, along with five other Western Balkan countries, has committed itself to the strict implementation of the legal provisions of the Public Procurement Law and its bylaws. However, in the case of Kosovo, this law needs to be reformed by addressing shortcomings that have appeared in the past, for which there are many studies in Kosovo. Reform should be done not only to prevent corruption and increase transparency and efficiency of public procurement in Kosovo, which has presented many challenges;

Public Procurement Staff

This too is a pledge made by the Kosovo Government in the Berlin Process. In Kosovo, there is a need for professionalism and independence of procurement staff at local and central level. There are some local organizations and external donors working to professionalise this staff but independence remains a challenge.

Advancement of e-Procurement

This commitment has largely been implemented as e-procurement is now mandatory in Kosovo, but there is room for the system to advance towards further simplification and further increased transparency. Kosovo can become an example for the Western Balkans in this area if it works to advance this very important system.

Implementation of National Audit Office Recommendations

Improvement of the implementation of the Auditor General's recommendations. The New Government needs to show a new willingness to implement the NAO's recommendations for central and local public institutions. Particularly the NAO recommendations for ministries in 2018 and 2019 have come up with very disturbing recommendations. If the implementation of the NAO recommendations does not receive the increased attention of the New Government, we may have deterioration in this regard.

Financing of Political Parties

Kosovo should have a Law on Financing of Political Parties that ensures full transparency and functionality of the legal activity among political parties. This legislation should be strictly enforced by imposing strict financial sanctions for non-implementation of this law. Improving the transparency of political party financing through the functional mechanisms of control and audit systems. This pledge is taken from the 'Berlin Process' and should be applied not only for this purpose but also because it prohibits corruption by 'buying political parties' from government contractors.

Investigation Abilities of the Tax Administration of Kosovo (TAK)

Organized crime thrives when the tax system is unable to formalize the informal economy. Kosovo is committed to strengthening the professional standards and investigative capabilities of the Tax Administration of Kosovo. Therefore, Kosovo should invest further in TAK and especially in TAK's investigative capabilities. This will also have a good financial impact on Kosovo.

Promoting the Whistleblower Program

Whistleblowers are the most effective way to identify corruption in public institutions. The Law on Whistleblowers should be strictly enforced by the New Government and there should be a promotional campaign for whistleblowers to report corruption and be rewarded for stimulating these actions.

Meritocracy in Administration

Public Administration reform has begun but has not yet reached some delicate parts, such as the complete installation of meritocracy in the recruitment and promotion of civil servants. This is the next challenge in the administration reform and should be started by the New Government. This issue has been highlighted and emphasized several times for the Western Balkan countries at the Berlin Process Summits.

Cooperation with the Civil Society on the Road of the 'Berlin Process'

The new government must have a new approach to working with civil society to move forward in aligning the European Union and fulfilling the commitments deriving from the 'Berlin Process'. The successive summits have pledged to promote and involve civil society in the integration policies and processes. The Civil Society Forum set up at the Vienna Summit, in addition to promoting cooperation between civil society in the countries of our region, can and should serve to help the government move forward in this crucial process.

