

In General

The Stabilisation and Association Process (SAP) is the EU's policy framework for the Western Balkan countries, all the way to their eventual accession.

The SAP pursues three aims: stabilisation and a swift transition to a market economy; the promotion of regional cooperation; and the prospect of EU accession. It helps the countries of the region to build their capacity to adopt and implement European standards, including the *acquis communautaire*, as well as international standards.

The SAP is based on a progressive partnership, in which the EU offers a mixture of trade concessions, economic and financial assistance and contractual relationships (Stabilisation and Association Agreements). Each country moves forward on the basis of the fulfillment of its commitments in the framework of the SAP. Annual Progress Reports assess the readiness of the Western Balkan countries to move closer to the EU.

Following the EU Regional Approach for the Western Balkans of 1997, the European Commission set out in 1999 the rationale for moving to a more ambitious vision for the region's development – the SAP. Its instruments were formulated at the Zagreb summit in November 2000. The Thessaloniki Summit in June 2003 enriched the SAP with elements inspired by the enlargement process, so that it can better meet the new challenges. The Thessaloniki Agenda introduced an array of new instruments to support the reform process in the Western Balkan countries, and bring them closer to the European Union. The most far-reaching of these new instruments are the European Partnerships, inspired by the Accession Partnerships. The first set of European Partnerships was approved in 2004. By identifying short and medium-term priorities which the countries need to address, the European Partnerships will help the Western Balkans countries with their reforms and preparations for future membership.

All the countries of the Western Balkans have the prospect of future membership of the European Union, an objective endorsed by the European Council in Feira in June 2000 and confirmed by the European Council in Thessaloniki in June 2003. The European Council in June 2005 re-confirmed these existing commitments.


Croatia and the former Yugoslav Republic of Macedonia, which have been granted candidate country status, remain part of the SAP.

The rest of the Western Balkans are potential candidates: Albania, Bosnia and Herzegovina, Montenegro, Serbia and Kosovo (under United Nations Security Council Resolution 1244).

In January 2006, the European Commission adopted a Communication on “The Western Balkans on the road to the EU: consolidating stability and raising prosperity”. The Communication assessed progress made since the Thessaloniki Summit and set out concrete measures to reinforce the EU policy for the Western Balkans and its instruments.

In its March 2008 communication on the Western Balkans, **Enhancing the European Perspective**, the Commission adopted new enhanced existing initiatives to support the political and economic development in the Western Balkans, thus helping to accelerate their progress on the road towards EU membership.

In Particular

The vehicle currently keeping Kosovo firmly anchored to the EU policy for the Western Balkans is the Stabilisation and Association Process Tracking Mechanism (STM). This mechanism was set up in November 2002, and aims to assist the Kosovo authorities to benefit fully from the core elements of the Stabilisation and Association Process, notably, EU assistance, policy advice, monitoring of EU standards and trade concessions. The speech by Kosovo's Minister of Agriculture to the 29 May 2008 STM is attached. 

Within SAP, conditionality is the EU's most powerful instrument when dealing with the candidate and potential candidate countries and their desire for EU membership

In this respect, the prospect of Kosovo for EU membership, apart of a legal status allowing for contractual relations at a state level, clearly lies, same as for any country willing to join the EU, behind the completion of the Copenhagen Criteria. They require that Kosovo has:

- stable institutions guaranteeing democracy, the rule of law, human rights and respect for and the protection of minorities;
- a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union; and
- the ability to take on the obligations of membership, including adherence to aims of political, economic and monetary union i.e. the Acquis Communautaire.

EU conditionality is an asymmetrical process, where conditions are defined exclusively by the EU and must be accepted unconditionally. Out of the three criteria, the most expensive and time consuming is the transposition of the *acquis communautaire*. Its alignment with national laws and policies usually results in high costs, economic disturbances and headaches in implementation. Kosovo's capability and capacity is currently limited to meet the demands required from the EU, and much weaker than other countries in the region.

The legal basis for the approximation of Kosovo's legislation with the Acquis is contained in section 5.7 of the Constitutional Framework for Provisional Institution of Self-Government (PISG) of Kosovo. It requires them to align their legislation and practices in all areas of responsibility with relevant European and international standards and norms.

According to the UNMIK Administrative Direction 2006/6, the Agency for European Integration is the responsible institution to coordinate and oversee the approximation of

Kosovo's legislation with the Acquis Communautaire. However, currently, Kosovo is not fully approximating its legislation with the Acquis, with Kosovo's legislation only undergoing the procedure of compatibility checking, meaning that AEI is checking only if a draft law does or does not violate the general principles of the Acquis Communautaire.

The approximation of legislation is of high importance, and should be treated seriously. It is a complex and dynamic process that requires sustainable and appropriate rules and mechanisms. But, its capacities to carry out this process are very limited. Urgent action in recruitment of young professionals with EU legislation background is needed.

The approximation of legislation is part of the whole EU integration process. In terms of the legislation process, there is a necessity to adopt a National Plan for the Approximation of Kosovo's Legislation which will serve as a tool for coordination, planning and reporting of the approximation process.

On the other side, the process of approximation is to precede, or at least occur in parallel with, the translation of the Acquis. The process of Acquis translation not only helps the approximation process but is also a condition to be fulfilled for EU membership. Possible ways of cooperation should be explored with other SAP countries which share the same languages. Such cooperation would contribute to diminution of the costs, prevent duplication of work, accelerate the process, and use equal legal terminology.

With regard to conditionality and alignment, a pragmatic decision is taken for Kosovo. EU can only negotiate a Stabilisation and Association Agreement with a fully sovereign and functional state. In order to circumvent this dilemma, and not complicate SAA preparations with Serbia and Montenegro, the EU has set up the STM for Kosovo. As part of this process, Kosovo stays on track with the SAP as well as gains EU support towards accomplishing the required set of standards, namely the European integration criteria. The main aim of STM is to support Kosovo in its EU-compatible structural reforms through advice and guidance. This instrument has helped Kosovo to stay on track in its progress towards European structures.

The day-to-day work of the STM is conducted by the Agency for European Integration (AEI) within the Office of the Prime Minister. This agency was established by UNMIK Administrative Direction 2006/06, and is "responsible for coordination of Government actions in aligning practices and legislative activities with relevant European Union (EU) norms and standards in the context of the EU SAP with a view to facilitating economic, social and other reforms and capacity-building to support Kosovo's involvement in European integration processes".

The AIE has established a mechanism through which it coordinates activities among line ministries and governmental agencies. Line ministry Offices for European Integration function as focal points and reference offices for all EU related activities. This network is mainly facilitated to draft progress-reports and organize STM meetings, as well as report to the European Commission on different issues. The government has established

political and sector Working Groups to coordinate the work, as well as monitor and report on the implementation of the European Partnership Action Plan.

Due to Kosovo's unresolved legal status, negotiating a fully fledged Stabilisation and Association Agreement with Kosovo is not yet possible. Kosovo has reached a stage when the status decision process is irreversibly linked with the EU integration process. Kosovo institutions have to take the initiative in arguing that the STM process has reached its limits, and should be succeeded by Kosovo's formal inclusion in the SAA.

A positive feasibility report should lead to the conclusion that Kosovo has made sufficient progress in meeting prerequisites and developed capacities to start negotiating an SAA. The next stage then is to negotiate and implement the SAA.

Further steps should be defined in a Roadmap for the European Integration process, based on a thorough analysis of political, legal, economic and administrative capacities of Kosovo's institutions.