Human Rights in Kosovo and EU Accession Conditionality

Arberita Kryeziu

May 22, 2012

“Submitted as a draft Capstone Project Proposal in partial fulfillment of a Master of Science Degree in Professional Studies at the American University in Kosovo”
Importance of Human Rights for EU Accession

- Very important: 94%
- Important: 4%
- Not important: 2%
EU and Human Rights

- Human Rights, democracy & rule of law are core values of the EU
- A pre-condition for membership
- Internal part of the EU’s external relations
- The European Convention on Human Rights (4 Nov. 1950)
- The EU Human Rights Charter (December 2000)
Human Rights Institutions

- European Court of Human Rights
- Organization for Security and Cooperation in Europe
- Council of Europe
- Fundamental Rights Agency
Membership conditionality

  - Any European state which respects the **principles of liberty, democracy, respect for human rights** and fundamental freedoms, and the rule of law, and is committed to promoting them may apply to become a member of the Union (Article 49)

- Copenhagen Criteria:
  - **Political criteria:**
    - Stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities
  - **Economic criteria:**
    - A functioning market economy
  - **Acquis communautaire:**
    - Capacity to accept and adopt EU body of legislation
Membership conditionality
Western Balkans

Stabilization and Association Process (SAP):

- regional cooperation,
- good neighborly relations
- full cooperation with the International Criminal Tribunal for the former Yugoslavia,
- achieving the priorities set out in the partnerships, and
- concluding and implementing stabilisation and association agreements (SAAs).
The Western Balkans

Candidate countries:
- Macedonia
- Montenegro
- Serbia

Potential candidate countries:
- Albania
- Bosnia & Herzegovina
- Kosovo
EU-Kosovo Relations

- Recognized by 22 out of 27 EU states
- No contractual Relation with EU
- Stabilisation and Association Process
- Progress Report
- Instrument for Pre-Accession
- EU presence in Kosovo:
  - EU Office
  - European Union Rule of Law Mission (EULEX)
  - Human Rights Review Panel (HRRP)
Human Rights Legislations and Institutions in Kosovo

- The Constitution of the Republic of Kosovo
- Direct applicability of international agreements and instruments

Human Rights Institutions:
- Courts
- The Ombudsperson Institution
- Office for Good Governance and HR Units
- Agency for Gender Equality
- Parliamentary Committee on Human Rights
- Ministry for Communities and Return
Most violated rights in Kosovo

- Right to a fair trial: 21
- Discrimination: 15
- Gender Equality: 9
- Property rights: 2
- Minority rights: 1
Comparative cases

Albania

Macedonia
## Project survey

<table>
<thead>
<tr>
<th>INSTITUTION</th>
<th>POSITION</th>
<th>NO. OF QUESTIONNAIRES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Human rights Units in ministries</td>
<td>Unit Coordinators</td>
<td>17</td>
</tr>
<tr>
<td>Human rights Units in ministries</td>
<td>Unit Coordinators</td>
<td>30</td>
</tr>
<tr>
<td>NGOs working on Human Rights</td>
<td>Members of NGOs</td>
<td>10</td>
</tr>
</tbody>
</table>
Human rights situation in Kosovo
The need to reform human rights structures in Kosovo

86% YES
4% NO
10% TO SOME EXTENT
Are you independent to exercise your duties?

- YES: 81%
- NO: 19%
Reasons for not working independently

- My supervisors don't allow this: 51%
- Fear of punishment: 46%
- Not aware: 3%

Diagram showing the percentage for each reason.
Can Kosovo's citizen complain to the ECHR?

- YES: 81%
- NO: 19%
Impact of Culture on Human Rights

- Very much: 50%
- Significantly: 40%
- To some extent: 10%
- Not so much: 0%
- Very little: 0%
Recommendations
What should Kosovo do to improve human rights situation?

- Reform judiciary: 35%
- Strengthen OIK: 31%
- Training for HR employees: 21%
- Awareness campaigns: 13%

Legend:
- Reform judiciary
- Training for HR employees
- Strengthen OIK
- Awareness campaigns
1. Ensure implementation of legislation in practice

- Assembly and the Government of the Republic of Kosovo should ensure that the adopted legislation will be implemented in practice.
- Strategies for protection and promotion of human rights should consequently be implemented in practice.
- Laws not to be copy-pasted, but to be sure for their applicability
- it is necessary that the Covenant for Economic, Social and Cultural Rights and Convention in the Rights of Persons with Disabilities, to be included in the Constitution.
2. Continue with the reform of the judiciary

- Courts have to be provided with appropriate staff and resources.

- Appropriate security and protection measures to provide judges and court staff with a secure working environment and effective safeguards against threats or intimidation and political interference.

- Ensure extension of judicial power in the entire territory of the country including the northern part of Mitrovica and other Municipalities as foreseen by the Constitution of the Republic of Kosovo.
3. Strengthen Ombudsperson Institution of Kosovo

- OIK - lack of political support to ensure its proper functioning and financial independence.

- Recommendations must be properly implemented

- Adequate human and financial resources and working premises

- Respect its institutional independence of it by all state bodies.
3. Reform human rights structures

- The institutional set-up of human rights structures needs to be simplified and appropriate resources need to be allocated.

- Government has to ensure communication, coordination and independence and adequate resources for Human Rights Units in ministries and municipalities.

- They mustn't report directly to the ministry but to the Office for Good Governance, which has to be responsible for their financial resources as well.
4. Fight discrimination at all grounds

- Amendment of Anti-Discrimination, especially chapter II&III.

- Elimination of discrimination cannot be a de jure issue only, at all times it needs to be eliminated de facto and public institutions are legally responsible to take a lead on this.

- Establish an Office for Protection from Discrimination with binding powers
6. Raise awareness on human rights

- It is important to raise awareness among people, regarding human rights, especially in rural areas of Kosovo.

- Promote human rights and institutions for protection and promotion of them
THANK YOU!

Questions?