

COST AND BENEFITS OF SIGNING SAA AGREEMENT WITH EU IMMEDIATE RESULTS FOR KOSOVO BUSSINES –PRODUCERS COMMUNITY

Sabiha Shala
University "Haxhi Zeka" Peje, Kosovo
sabiha.shala@gmail.com

Dardan Gerbeshi
College of ESLG, Kosovo

Mimoza Hyseni -Pajaziti
University "Haxhi Zeka" Peje, Kosovo

Abstract:

One of the main element of the Stabilisation and Association Process (SAP) as the European Union's policy towards the Western Balkan established with the aim of eventual EU membership of Western Balkan countries, is the Stabilisation and Association Agreement setting the bilateral contractual relationships between the parties.

Today, EU has signed this agreement with all western Balkan countries, including Kosovo being the latest country signing it. The entry into force of such agreement meant to bring benefits for both signing parties, especially on free movement of goods aspect. The main question is what are the main benefits for the business countries and producers of the country signing such agreement with EU?

The aim of this article is to analyse its immediate benefits for the business and producers community in Kosovo after the entry into force of such agreement. The findings shows the immediate results on the removal of customs duties and reduce of price for imported products as benefit for the Kosovo consumers, but on the other side the current producers and potential ones in Kosovo have more opportunity for exporting if complying with EU standards.

Keywords: EU Integration, visa liberalization, western Balkan countries, conditions, process, progress, barriers.

1. INTRODUCTION

Before four years Kosovo was rank as the third poorest state in Europe after Moldova and Ukraine. (CIA, 2014). Even though international reports continue to rank Kosovo as country with the very low level of economic development, its economy is supported from the fond of many developed countries (Shala and Kabashi, 2006). Diaspora of Kosovo is supporting continuously their family members but also through movement of financial means during the summer time while they are in Kosovo. According to the ex-Minister of Diaspora, Mr. Murati the annual income from the diaspora covers figures above 1.5 billion euro, including 665 million euro remittance, 676 million euro traveling expenses and 180 million euro direct investments (Murati, 2017).

However, Kosovo has already signed the Stabilization and Association Agreement (SAA) and will now have the advantage of participating in the third largest market in the world such as the EU market, composed of more than 508 million customers. Through the SAA, Kosovo aims improving the country's economy, especially employment in the private sector, as this deal will increase possibilities of trading and manufacturing businesses. The main hypothesis of the present article is that the immediate costs and benefits for Kosovo from signing the SAA with EU is that the shrunk of Kosovo budget due to the reduced income from the customs of Kosovo as the main source so far, and the price reduction for certain products imported in Kosovo.

In order to proof such hypothesis, the following research questions are addressed: Did the Republic of Kosovo benefited so far from the SAA? What is the SAA's impact on product prices and Kosovo budget? The first part of this article describes the process of signing SAA between Kosovo and EU. The second part concentrates on impacts of the SAA implementation for Kosovar business and producers. The third part presents the methodology used for this research, finding and results of the research. The final part includes conclusions.

2. RELATIONSHIP BETWEEN KOSOVO AND EU: SAA AS INSTRUMENT FOR CONTRACTUAL RELATION

Since 2008, Kosovo institutions have worked intensively on the implementation of the EU standards supported by the EU and its member states. Donations that open new jobs in various sectors, especially in justice and economic affairs, stimulate new businesses for young entrepreneurs and support women in business, resulting in Kosovo having the capacity to produce products with good quality thanks to the labour force that is free in Kosovo as result of high birth-rate. Over the next few years, open businesses or producers increased their capacity to expand businesses, but the market was already very small in Kosovo due to unmanaged foreign imports. By the end of 2009, the political dialogue between Kosovo and the European Union was developed through the Stabilization and Association Process Tracking Mechanism (STM). Since October 2009, the dialogue is being developed through the Stabilization and Association Process Dialogue (DPSA) and the visa liberalization process begins, the component for the Pre-Accession Instrument (IPA) cross-border co-operation was activated too. Meanwhile, the SAA signing process started in October 2011, when the European Commission, through the Progress Report, recommended initiating the SAA Feasibility Study. The SAA feasibility study between Kosovo and the EU was published in October 2012, concluding that Kosovo was ready to start SAA negotiations once it fulfilled the short-term criteria related to the rule of law, public administration, protection of minorities and trade. Fulfilling these criteria also brought the adoption of the European Commission's proposal to the Council of the European Union in December 2012. In April 2013, the European Commission published a monitoring report on the implementation of the short-term criteria and confirmed that Kosovo had met all short-term criteria for launching the negotiations for SAA (MEI, 2018). The negotiations began on October 2013, with the first meeting of the Chief Negotiators and after five rounds of negotiations, the Chief Negotiators conclude the same on 2 May 2014. The SAA was in principle approved by the Chief Negotiators on 25 July 2014 with the initials in Brussels. After review and approval by the Governments of the Member States, the SAA that was signed on 27th of October 2015 in Strasbourg, was approved by the Kosovo Government on 30th of October 2015 and ratified by the Assembly on 2d of November 2015 (MEI, 2015). This agreement, which is the framework of relations between the European Union and

Kosovo for the implementation of the SAP, aims to establish formal and contractual relations between the two parties with a view to Kosovo's accession to the European Union.

The SAA aims to provide our country with: support for strengthening democracy and rule of law, supporting political, economic and institutional stability, and stabilizing the region, an appropriate framework for political dialogue that will enable the development of relations close political relations between the parties; support for the development of economic and international cooperation, if objective circumstances permit, even by approximating Kosovo legislation with EU legislation; support for completing the transition to a functioning market economy; support in promoting genuine economic relations and gradual development of the common market between our country and the European Union; as well as support for strengthening regional cooperation in all areas covered by the SAA (SAA, 2016).

In addition to Kosovo's support, this agreement envisages tasks for Kosovo in 597 pages, 144 articles and 10 titles: i) General Principles; ii) Political Dialogue; iii) regional cooperation; iv) Free Movement of Goods; v) Establishment of Enterprises, Provision of Services and Capital Movement; vi) Approximation of Kosovo legislation with the *acquis* of the European Union, enforcement of legislation and competition rules; vii) Freedom, security and justice; viii) cooperation policies; ix) financial cooperation; x) Title X, Institutional, General and Final Provisions. Also, an integral part of the agreement are the seven appendices and 5 protocols, the purpose of which is to clarify or further detail the various articles of the agreement. The following will outline the aspects of Title IV on Free Movement of Goods, annexes and some protocols relevant to research questions (SAA, 2016). So, the implementation of SAA should contribute to the price regulatory aspect in favour of its citizens and business.

2.1. The SAA's requirements

Given the commitment of the parties to free trade, in accordance with the relevant principles of the World Trade Organization which must be implemented in a transparent and non-discriminatory manner, Title IV "Freedom of Movement of Goods" contains some essential provisions relevant to Chapter 1 of the European Union *Acquis* (SAA, 2016). Article 20 of the SAA envisages the gradual establishment of a free trade zone for a maximum period of 10 years, beginning with the entry into force of the SAA. With the entry into force of the SAA under Sections 22, 23 and 24 of the SAA, quantitative restrictions and measures having the same effect on products originating in Kosovo and the European Union (export and import) will be repealed. Kosovo has taken the same concession for industrial products originating in the European Union. The parties have the right to take safeguard measures in case of dumping as foreseen under World Trade Organisation's rules for up to two years. Kosovo should gradually approximate its legislation with the European Union's horizontal and sectorial product safety legislation and bring quality infrastructure, such as European standardization, metrology, accreditation and conformity assessment procedures (SAA, 2016).

In order to address the SAA requirements, Kosovo adopts the National Plan for the Implementation of the Stabilization and Association Agreement (NPISAA). Particular role in addressing the requirements regarding free movement of goods, play Kosovo customs and its policies.

3. CUSTOM POLICIES IN KOSOVO AND EUROPEAN UNION

According to Wyatt, the European Union aim was to establish a common market and also preserving it (Wyatt, D. 2002). The protection of the internal market comes from the customs and the European Union as from its establishment has foreseen its customs policies based on a customs union covering all trade in goods and which includes the prohibition between Member States of customs duties on imports and exports and all tariffs with the same effect and the approval of a common customs tariff in realities with a third digit (Wyatt, 202, p. 9). The common customs union policies of the European Union between member states on all goods are to be the same in the European Union but change fiscal policy through the national laws. According to the European Commission Progress Report: "Kosovo is moderately prepared in the area of customs and is at an early stage of tax preparation (European Commission, 2015/16). There has been good progress, especially in combating customs corruption, collecting customs revenues and reducing the administrative cost of exports. With regard to taxes, measures have been

taken to introduce electronic services. The first steps have continued with the aim of uniting customs and tax administrations. This should be carefully planned and handled to maintain budgetary stability and the first result should prove that and this will result in reducing the Kosovo budget due to the reduction of income from customs as stated in the hypothesis of such article (Krasniqi, L. 2017). Customs legislation is largely in line with the European Union's customs code. During this year, Kosovo must specifically implement customs legislation in line with European Union practices, strengthen the internal tax administration platform, its internal performance controls and the fight against corruption; as well as to increase the fight against informal economy and fiscal evasion and prevent excessive influence on customs and tax administration. The Customs and Excise Code in Kosovo regulates the basic elements of the system for customs protection of the economy in the Republic of Kosovo and the rights and obligations of all parties in the implementation of customs legislation (KDAK, 2010).

Customs plays a major role in Kosovo's internal competition as many companies are trying to escape the customs tariff to get cheaper on the market by means of documents that do not match the real situation what they are in the cargo, so customs has foreseen pronouncing different punishments by means of the Customs and Excise Code, but foreseeing criminal offenses in the Criminal Code under the procedure provided for in Article 297 of the Customs and Excise Code. The Customs Code has foreseen different sanctions only in order not to damage the competition and not damage the state budget, given that 70% to 80% of the state budget is created by Kosovo Customs. Therefore, the SAA releases all customs barriers from goods that are traded or manufactured to the European Union, and the very long columns in the borders are gradually being avoided. However, a question to be asked in this case with a view to a balanced analysis and assessment is as follows.

3.1. Are the Kosovo Customs always right with their reported work?

Kosovo Customs do not always act fairly in relation to the importing companies, since Kosovo Customs, while unable to control all means of transport, may be mistaken in their inspection because the waiting order of costumers is very long in the borders and they have no capacity to cope with. According to a United Nations Development Program (UNDP) report, the high rate of corruption in the Republic of Kosovo affects the customs sector as well, but according to the same report there is a significant decline in corruption in Kosovo Customs (UNDP, 2016). Of the 200 respondents surveyed, who were Kosovo customs clients, 86% of them stated that they did not bribe for performing the jobs at this institution. UNDP Representative Alessandra Roccasalvo said that during this research it was understood that the public perceives that there is corruption in the Customs: Our research was very small if we were to target 200 respondents, we asked people about the export, import, customs procedures, and on the perceptions of corruption, which is usually influenced by the complexity of the procedures or as manifested in people. Some people have said that they never thought about it, some of them said that they have done so. Without going into details let me tell you that a large majority of 86% did not bribe for customs. One thing I learned when I came to Kosovo is that news usually gets outdated very soon and public perception is more complex because there is always something new "(Indeksonline, 2016).

But, Kosovo's customs have rarely misplaced the application of penalties or factual qualifications. Customs officials have often failed to comply with international legislation and has imposed additional customs duties according to the domestic policy methods that Customs possesses. The complaint procedure by the importing companies was to first complain to the Customs Appeal Department, and once the Customs complaint was rejected, the Court continues to appeal. At the court, Customs Disputes are presented by the Ministry of Justice - State Advocacy.

3.2. The Role of the Kosovo Courts

Like Customs, Basis Court in Kosovo plays a crucial role on addressing the appeals of physical and legal persons. The backlog of cases is very high, for one month a judge receives about 80 different complaints in the disputes that have been faced with the aforementioned subjects, whereas throughout Kosovo only two profiled judges who have been customs officials in the past are working. This experience has served them to become a judge with "customs profile." Judges operate based on the Law no. 03 / L-202 on Administrative Disputes, through which the litigious legal issues of the litigants are examined. The largest number of complaints comes from Customs and Kosovo Tax Administration. Their decisions are not

enforceable because this court is a court of first instance. So, it is the possibility to appeal at the court of second instance or at the Court of Appeal where a college of 3 judges decides on the merits of the case.

3.3. Environemnt in Kosovo and Quality of Good

European Union requirements are for products to be as quality and as safety as possible due to overall health aspects. Kosovo suffers from an unclear climate due to the old generators of electricity, which do pollute the air. In some parts the polluting of environment is of high intensity, which also results in nutritional values of agricultural products that may be of weak quality in copmarisarion to the EU products. The institutions should therefore take measures prevent air pollution by replacing fuel plants to natural resources or renewale energy as are in the developed countries such as Germany, France, Italy, ect. Those countries apply natural resources to generate electricity through sunlight (solar energy), wind, water (hydro power plants), recyclable waste and many other technologies that contribute to preserving the environment to keep people healthier and better (source). For a clearer illustration of state of Kosovo air below is presented a picture of Kosovo power plants generating electricity.

Figure 1: Kosovo Power Plant for Electricity Production



Source: B. Latifi, 2017.

4. EU COMPANIES IN THE REPUBLIC OF KOSOVO

With the entry into force of the SAA, the customs taxes have been abolished for products originating from the European Union countries and as a result they are cheaper on the Kosovar market. Kosovo's Customs is Kosovo's largest budget collector and as a result of the removal of these taxes, Kosovo state budget shrinkage is caused. The latest data from Kosovo Foreign Trade show a higher trade deficit of 12.6% in July 2017. Exports of goods in July 2017 amounted to EUR 38.3 million, while the import EUR 275.3 million is an increase of 26.2% for export and 14.3% for imports, compared to the same period of

2016 (RTK, 2007). Although initially the SAA will cost the Kosovo budget, this agreement should not be considered a bad thing for Kosovo as in the near future, it will be an open door to local producers in order to export goods at EU countries. In addition, the gross domestic product will grow and with a better quality. Thus, the ultimate beneficiary of such agreement is going to be the consumer of the product by having the possibility to consume products of better quality and at the most affordable price (Ministry of Trade and Industry, 2017., p.9). The local producers do benefit from the agreement too, as they do not have barriers to trade goods to the EU market. The traders of heavy industry from machinery sector have benefited too, with an increase of 56% of car sales for the period from 01.04.2016 to 31.12.2016, compared to the same period last year. However, vehicles that were produced earlier than 01.04.2016 that are not zero mileage, means that they are not considered new ones, although they are produced in European Union countries, will pay a customs duty of 10% and excise tax depending on the age of the car. Kosovo's per Customs has foreseen that 10% of tax will be lifted for these cars, but should gradually (2% decrease year) as it causes destabilization on the market, meaning that within 5 years it will be removed all customs taxes also for cars that are not new. In fact, even earlier there were three taxes that were paid. They have been custom tax, excise tax and Value Added Tax (VAT).

Whereas, the SAA affects not only the cars, but all the other products. Now for new cars with zero mileage, the customs tax has been abolished by 10 percent, as it was, now is zero percent. While excise tax, with an earlier government decision is zero, for new cars up to 2000 cubic meters. But over 2000 cubic meters, for those cars citizens also pay (Free Europe, 2016). The older the date of the production of the machine is, the higher the value of the excise is.

5. RESEARCH METHODOLOGY

To validate the hypotheses raised in this article, the used methods are qualitative methods, interviews and practical analysis. Questionnaires and interviews in person were used as a research tool. The total number of respondents was 305, of which 5 judges, 80 importers, 100 producers, 20 customs officers, 20 ministry officials, 30 ordinary people, 20 consumers and 30 exporter. The questionnaire contained 11 key questions regarding the SAA (Annex 1: Questionnaire). Data analysis of respondents' responses is done through IBM SPSS Statistics 19.0 statistical program.

6. RESEARCH FINDINGS

All the questions relate to the hypotheses. Through the responses of the respondents, I tried to find a correlation formula between the past and the present problems. Based on responses, the SAA is welcomed by 80% of respondents, pointing out that Kosovo market has started to benefit for at least 30%. The percentage of vehicles sale produced by the EU with 00km, has increased. 70% of the exported beverages from Kosovo are exported to the European Union. With the growth of exports, the need for staff employment increases as well, which increases the number of employees. Regarding the immediate negative effects that the SAA has brought, the respondents have highlighted the contraction of the state budget due to the tax exemption for importers and the difficulties faced by the Kosovar producers as the state of Kosovo can not subsidise local producers, especially those with agricultural activity while EU producers have lower cost in terms of introducing the product on the market as subsidised by their state. These negative effects were noted by 20% of respondents.

Regarding the question about the SAA's impact on the European Union market, 95% of respondents consider that the impact is positive for the European Union market as European Union producers can sell their products in higher capacity in Kosovo due to tax release, while 5% of them consider that European Union consumers do not immediately benefit from the SAA as exported Kosovo products are very scarce in the absence of competition. In the third question closely related to the second, the analysis of European Union and Kosovo market communication, 50% of respondents (state administration officials) consider that the SAA has had positive effects for the Kosovo market, the European Union and in particular for the consumers. Representatives of importers and consumers bring examples such as the quantity of EU sold hygiene products that has increased 25% as a trigger for market release. Before ratifying SAA, a 300 ml deodorant Nivea cost about 2.55 - 2.60 euros in Kosovo hypermarkets, and now costs about 1.85-1.90. If we rely on this information, we can say that with this product the state budget has grown even more. According to interviewed importers and customs officials, the sale of new cars has

now only become a trend where customs duties have been abolished. According to them, state revenues are smaller than cargo taxes, but with the increase of their sales of 55% and the decrease of the customs tax of only 10% for a vehicle, it turns out to be that the state budget will also be enriched due to the sale percentages. Twenty percent (20%) of respondents consider that positive effects are more for Kosovo. Asked about the question "How much are the exporters towards the European Union stimulated?" Respondents point out that the Ministry of Agriculture in Kosovo has allocated about € 40 million annually for the agricultural sector (raspberry fruit and other small fruits). In the Rahovec region, 70% of the inhabitants cultivate grapes and the Ministry of Agriculture has subsidized 800 euros per hectare of vineyard but they have not yet managed to benefit from the European Union market. In addition to the Government of Kosovo, the agricultural sector has been supported by international donors such as the European Commission, USAID, etc. However, 45% of them think that this support up to now be not enough compared to the region's producers in Serbia, Macedonia, ect.

To the question of having a problem of legal nature, the respondents in a limited number (15%) claim to have problems in the past with the bureaucratic procedures of the Kosovo institutions and the European Union but now with the SAA, they hope to eliminate these problems. 85% of respondents did not answer this question. Regarding the role of courts and customs in relation to court cases (question 6 and 7), the interviewed officials of the Basic Court in Pristina - Administrative Department, Fiscal Division, declares that 65% of the lawsuit are against Kosovo Customs. In these lawsuits, the DUU (Customs Unitary Declaration) were contested if the Kosovo Customs has the power to apply its six methods as foreseen under Customs Code. Through it, the code regulates the legitimate price of a given product if there are doubts for manipulating the documentation, e.g. bill purchase. The Customs Complaints Department rejects 90% of cases. As a procedure, the dissatisfied party has a legal deadline from 30 days to complain to the court. The court verifies the evidence to file and it results that 60% of the lawsuits were rejected because they do not have grounds to approve the lawsuit, while 40% have been approved. If one of the parties disagree with the first instance verdict, it has the right to appeal to the second instance, to the Court of Appeal, which usually approves more than 50% of the Basic Court's decisions, i.e. the first instance. Parties may appeal also to the Supreme Court as a third instance, which decision is final. Customs respondents clarify that with the entry into force of the SAA, their work has become more flexible since half of the work and responsibilities are transferred to the Tax Administration as the customs tax was not imposed on EU products but only VAT (Value Added Tax).

For a more realistic assessment of the impact of the SAA, respondents were asked about the impact of barriers to the companies before signing the SAA. This question is mostly answered by the exporting and importing good companies, pointing out that in the past exporting companies have encountered difficulties in importing goods, especially in exports of goods. Part of the political problems that Kosovo has with Serbia, they have faced difficulties with the cost transport increase due to long customs queues. In addition, Kosovo's customs have been overloaded with freight vehicles before the SAA's ratification. Nowadays, Kosovo's customs are quieter in terms of long queues as a result of the SAA. However, the respondents responding to the question "how does MSA affect competition among manufacturing companies," declare that it promotes competition with effect on improving the quality of products and lowering their prices. Despite the financial and initial quality difficulties of products, some companies have managed to export the products to the European Union market by competing with European Union producers as well. What benefit and what will be the loss of the Republic of Kosovo in relation to the SAA, respondents stated that there will be a loss in Kosovo at first, but in the near future there will be a greater increase in budget and economic development. While a smaller group of respondents been of the opinion that Kosovo is losing with that agreement and benefiting. In the last question about the impact of the SAA on product prices, 95% of respondents think that the prices of the EU product have been set down.

7. RESULTS

Based on the findings mentioned above, the hypotheses raised have proved to be correct based on the above mentioned research findings. According to the respondents, Kosovo with the entry into force of the SAA has made a significant step in the economic development of the country. Research findings proof that Kosovo is no longer dependent on the CEFTA agreement since the SAA has even greater market penetration of goods and states of the EU do not discriminate against other products of the countries within the SAA. Customs officials, however, admit that Kosovo will initially have a loss of budget collection

such as: 1) Budget reduction of the customs debt by about 15-20%, and 2) the controls will be lower (because the competencies are transferred to Kosovo Tax Administration). However, the benefits will be indirect for Kosovo, such as the increase in gross production, the price reduction of products originating in the European Union, product quality improvement, the competition will be even more loyal, and domestic producers will be able to export goods such as EU states with equal rights.

8. CONSLUSIONS

After the adoption of the SAA, Kosovo has made a historic step and is the biggest winner in this agreement, showing itself ready to change the laws that had been different to the SAA requirements in relation to the various spheres, especially with the economic ones where over time Kosovo will be economically equal with the countries of the region. The strengthening of the rule of law, the fight against corruption and the fight against organized crime, in particular the money laundering, will result in greater security for the economic development.

The creation of new conditions for importers and exporters of European Union and Kosovo goods vice versa will have an impact on the decrease of the number unemployment persons because even foreign investors will now be more interested to invest in Kosovo. It can be concluded that the development of the state of Kosovo has only taken its course. The SAA is the best address that Kosovo has ever had for its developmen.

Kosovo Customs will now be weighed down with the procedural tasks, but they will have more work due to the lowering of the European Union product prices. Now the import will be even greater, so the task is now assigned to the Kosovo Tax Administration as responsible for controlling companies in relation to the goods they own in the stock and the merchandises sold. They must comply with the declarations they have. There should be greater transparency by removing suspicions of smuggling or tax evasion.

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APPENDIX 1 - Questionnaire for Qualitative Study

Name and surname of the respondent (not obligatory): _____

Position (not obligatory): _____

Institution (not mandatory): _____

1. What is the SAA's role in the Kosovo market?
2. What is the SAA's role in the European Union market?
3. What is the market analysis of the European Union - Kosovo?
4. Are producers of Kosovo stimulated for products dedicated to the European Union market?
5. Which are the legal problems so far in the Republic of Kosovo in relation to the SAA implementation?
6. What are the customs policies of Kosovo before the entry into force of the SAA?
7. What is the role of the Kosovo Courts in litigation concerning customs work?
8. What is the impact of companies' barriers to loss?
9. How does MSA affect competition among manufacturing companies?
10. What advantages and disadvantages will the Republic of Kosovo have in relation to the SAA?
11. What is the SAA's impact on product prices?