

# Standardization in the ICT Sector: A BARRIER OR AN ADVANTAGE?

**POSITION PAPER** 

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This position paper has been commissioned by STIKK. It contains an overview of development of the ICT sector in Kosovo as well as, a thorough analysis of the standardization in the sector. The views expressed in this position paper are of the authors and do not necessarily reflect those of STIKK.

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# **EXECUTIVE SUMMARY**

This study has been commissioned by STIKK with the objective of identifying most appropriate approaches and analyzing the potential pros and cons for standardization in the ICT sector. As such, it entails an overview of the situation in the ICT sector which is to be regulated, options for action, as well as a set of arguments in favor of greater degree of standardization in the ICT sector. The paper also pinpoints potential problems and obstacles in the standardization process as well as appropriate response to mitigate those risks. The benefits of standardization come for both sector development and the consumers and buyers. Raising the quality standards of ICT sector benefits the companies as it enables them to sell services also outside of Kosovo more easily, the government and other institutional buyers would get better value for money as due to increased quality, the competitiveness in the market is also increased, employability of individuals equipped with international certifications is automatically enhanced.

The ICT sector in Kosovo is characterized by generally smaller companies with up to 20 employees, which despite the continuous growth and development, could potentially experience hardship from the relatively high monetary value of internationally recognized certifications and standards. Vis-à-vis policy development and changes, government and other stakeholders in the ICT sector should assist market actors to successfully and less painfully undergo the process of standardization. The support can come in the form of technical assistance, direct subsidies for certification bills, or tax incentives (exemptions) for companies certifying their quality standards.

Being that Kosovo's European future has been confirmed both by the willingness of its people and political elites to join the EU and the EU leadership's willingness to accept Kosovo in its midst, the standardization is more of time-related matter than a question of whether standardization should occur. The ICT sector in EU is regulated by the EU Commission as part of its efforts to regulate the Common Market of the union. To this end, compulsory directives and other legally binding acts have been promulgated continuously, accounting for the regulatory framework on the standards for the ICT industry. The earlier the process is started in Kosovo, it will be better as it will give more time to ICT companies to manage the process of change more smoothly and easily.

The process of standardization should engage all relevant stakeholders including here the government agencies regulating and monitoring the sector, STIKK as the sectoral association, as well as private ICT companies whose activities will be regulated. By developing policies in such inclusive processes, the likelihood of setting up the most appropriate standardization framework is significantly increased. The process should also look into the EU requirements and standards in the ICT sector, as the main objective is policy approximation with the EU, which would ensure that Kosovo policies would be compliant with those prescribed by the acquis communitaire.

Technical assistance and financial support from the donor community presently active in Kosovo will most likely be required to support the standardization process. In the absence of such support, the smaller companies may perceive standardization as a barrier to growth and development. On the other hand, if the donor community supports the standardization process, it will directly contribute to the development and consolidation of the ICT sector, and consequently contribute to the overall economic development of Kosovo.

# 1. INTRODUCTION

The prosperity of the digital economy is a crucial component of a flourishing world economy, and one of the priorities for Europe expressed by its Digital Agenda strategy towards a thriving digital economy by 2020. It consists of policies and actions necessary to complete in order for all to get the most benefits of Information and Communication Technologies (ICT). Numerous actions are drafted to improve standard setting procedures in order for new information technology (IT) devices, applications, data storages and services to interact impeccably everywhere. As an aspiring future member of the European Union (EU), currently in transition of its economy and society, Kosovo should pay great consideration to ICT standardization measures, and its potential costs and benefits.

Being that Kosovo has confirmed its intent to join the European Union, standardization of the ICT sector is inevitable and is just a matter of how and when and not whether it will take place. The earlier the standardization process begins, there will be more time to complete the process (on the part of companies). The standardization of processes and setting of high minimum quality standards for ICT companies, may prove to be a stimulus for the growth and expansion of the entire sector. However, if not carried out properly, the entire sector can suffer greatly from new induced measures. This paper summarizes the good practices from other countries and the necessary steps for greater degree of standardization in Kosovo. It provides the arguments in favor and those against standardization of processes and products in the ICT sector, hence, giving a comprehensive overview of the impact of such potential standardization.

#### 1.1. Legal setting

While in the midst of the state building process, Kosovo has been laying down the foundations of its jurisdiction and passing a great deal of laws over the past couple of years. Nevertheless, being that there was a great deal of issues and priorities to be dealt with, prioritizing issues was a very difficult task for both initiators of legislation and the parliament as the legislative body. In such setting, ICT sectoral regulations were given a rather low priority in the legislation-makers agendas, hence, leaving the country with relatively little policy action in the sector. Though almost four years of passing laws (after the declared independence) have passed, there are yet many gaps in a diverse set of sectors. To this end, the way forward to ICT standardization is paved with several existing laws in Kosovo:

The law on industrial design, according to which an industrial design right is an intellectual property right that protects the visual design of objects that are not entirely practical. An industrial design consists of the creation of a shape, arrangement or composition of pattern or color, or combination of both holding aesthetic value. An industrial design can be a two- or three-dimensional pattern used to produce a product, industrial commodity or handicraft. The law provides the requirements and procedures fo r registering industrial and community design, as well as the deriving rights of this law.<sup>1</sup>

<u>The law on trademarks</u>, according to which a trademark is a distinctive sign or indicator used by an individual, business organization, or another legal entity to identify that the products or services to consumers with which the trademark appears originate from a unique source, and to distinguish their products or services from those of other entities.<sup>2</sup>

A trademark may be designated by the following symbols:

- ™ (for an unregistered trade mark, that is, a mark used to promote or brand goods)
- <sup>SM</sup> (for an unregistered service mark, that is, a mark used to promote or brand services)
- <sup>®</sup> (for a registered trademark)

<sup>1</sup> Industrial design Law: http://www.assembly-kosova.org/?cid=2,191,744

<sup>2</sup> Trademarks law: http://www.assembly-kosova.org/?cid=2,191,190

A trademark is usually a name, word, phrase, logo, symbol, design, image, or a combination of these elements. The law on trademarks determines the requirements and procedures of the registration of trademarks and the rights derived through the registration and implementation of these rights.

The law on patents, according to which a patent is a form of intellectual property. It consists of a set of exclusive rights granted by a sovereign state to an inventor or their assignee for a limited period of time in exchange for the public disclosure of an invention.

Typically a patent application must include one or more claims defining the invention which must meet the relevant patentability requirements such as novelty and non-obviousness. The exclusive right granted to a patentee in most countries is the right to prevent others from making, using, selling, or distributing the patented invention without permission.

#### 1.2. Current Situation in the ICT Sector

Based on a supply and demand research carried out in 2010, 'ICT in Kosovo – A sector decoded', which was commissioned by Kosovo Private Enterprise Program (KPEP), the ICT sector is comprised of relatively young companies, as most of them are incorporated after the armed conflict of 1999. The most prevalent consistence of ICT businesses is small companies of less than 20 employees, of which most are male. Larger companies also consist of higher numbers of female employees, and the overall stability of the ICT labor force is quite high with an average of 2 to 6 year per employee working at a company.

The bulk of the ICT sector sales is comprised of hardware sales as the main component, while software, services and consultancies contribute significantly less to the sector sales total. The customer base is comprised of individual clients, business clients and the government, where the government expenditures account for the largest sales incomes, but in a very concentrated number of companies.

62 percent of the ICT companies have reported to import goods for retail, meanwhile their exports are minimal and their market share growth is seen to be within Kosovo, and could reach as far as Macedonia and Albania. The average annual turnover in the sector is 250,000 Euros, with an increasing number of companies reporting turnovers in millions of Euros.

The same research reveals that the highest demand within ICT sector are international certificates and trainings, with the most demanded certification being ISO. Most surveyed companies claim to be in need for soft skill training for their staff, and a fewer number reported to be in need of technical training for their employees. In order for the sector to grow and develop, the companies' most demanded instruments are trainings and international expertise. The data provided in this research and other studies of the sector provide for clear evidence of the need for greater degree of standardization in the sector, which would impact the sectoral development in many aspects.

#### **IPR in Kosovo**

According to the Kosovo government strategy on intellectual property rights (IPR) 2010 – 2014, the notion of IPR refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce. The right holders can prohibit others to use their works without any preliminary authorization, or can benefit by permitting the use of their works in exchange of compensation for their efforts and investments during the entire creation. Intellectual property is divided into two branches, namely 'industrial property' and 'copyright'.

Industrial property includes rights relating to patents, industrial designs, trademarks and service marks, geographical indications, new plant varieties, topographies of integrated circuits, and protection from unfair competition.

Copyright relates to artistic creations of human intellect, novels, poems, musical compositions, sculptures, paintings, drawings, cinematographic works, architecture, choreography, photography, and similar. This branch of Intellectual Property encompasses also the so called rights related to copyright: rights of performing artists (singers, other musicians, dancers, actors and other who perform works); producers of phonograms, producers of films, and broadcasting organizations.

Research on the importance of intellectual property rights for the Kosovo business community commissioned by the American Chamber of Commerce in 2009 revealed that the implementation of IPR in Kosovo is deficient due to the lack of administrative capacities in the economic court of Kosovo. It is important to mention that the most affected groups of IPR abuse are international trademarks whose brands are used by forgery producers for imitated products which are imported to Kosovo; as well as the Kosovo artists and musicians who have often shown their dissatisfaction with the piracy issues in Kosovo publicly. Nevertheless, since 2009, when the study was conducted, there has been considerable improvements made in the IPR enforcement and management.

# 2. THE NEED FOR STANDARDIZATION

The world economy is in a constant move towards greater degree of information-based operations. Holding pace with these economic developments includes incisive decision making, as it is crucial to competitiveness and success in business. Based on these trends and their rationales, the systems used to access and distribute information, as well as their driving technologies, are at focus of both commercial and regulatory concerns.

Moreover, ICT applications such as mobile communications, wireless internet connections, payas-you-view video, personal computers, car navigation systems etc., have radically changed the way individuals work and enjoy their leisure time, and persistently change things rapidly and exponentially. In most of Europe and the U.S. everyday life has become unthinkable without these tools and gadgets.

However, according to the ICT Standardization Board<sup>3</sup> (hereinafter ICTBS) the above mentioned applications will not reach their full potential unless both they and their supporting infrastructures are fully interoperable, which is only possible through standards. Standards are technical specifications that support the development of open and competitive markets for the benefit of both consumers and industry, and the voluntary cooperation for the development of technical specifications based on consensus among stakeholders is standardization. This argument can be further strengthened in the Kosovo setting with the fact that standardization would also enable easier penetration of Kosovar companies in international market by providing quality assurance evidence for potential clients abroad. Another argument in favor of greater degree of standardization in the ICT sector would also positively impact the outcome/results of public and donor contracts in the field of ICT, whereby the minimum quality requirements would be raised, hence, maximizing the value of government or donor investment.

The need for standardization is also acknowledged by companies in the ICT sector, who invest significant amount of their income to train and re-train their employees and equip them with internationally recognized certifications. Similarly, the market leaders have also taken the step of certifying their companies with internationally recognized certificates of quality.

#### 2.1. The Benefits of ICT Standardization

The Benefits of ICT Standardization manifest themselves to all society stakeholders: individuals, businesses and public administration.

**Individuals** benefit from standardization in the form of additional choice and lower prices, as the standards are used to offer easier availability and access to more than one choice of the system, as greater quality (and lower prices) will be produced due to the increased competitiveness between the assemblers and service providers.

**Businesses** will benefit from higher consumer confidence in products and services of standard-applying enterprises of the industry, higher sales as flexible and inter-operable services will be more attractive to clients, and economies of scale as the standardization will help the ICT sector reach critical mass more quickly and achieve returns on R&D costs.

**Public administration** benefits from standardization as ICT standards are vital for the development of interoperable applications, which themselves are important to future economic growth. In addition, the number of non-performing ICT contracts commissioned by the public institutions would significantly decrease vis-à-vis greater standardization;

<sup>3</sup> ICT Standard Board Europe. http://www.ictsb.org/index.htm

The benefits of standardization have also been acknowledged by institutions at the EU level, whereby a number of Directives has been issued by the European Commission regulating the standardization of the ICT sector. European public authorities strongly support open standards in ICT because they can help to ensure open competition in the electronic marketplace and meet the basic requirements of the single market. Also, ICT standards provide a measure by which to judge bids for public procurement tenders, which helps both in processes and the transparency image of the sector.

In its path towards European integration, Kosovo too will have to establish a regulatory framework that is compliant with the acquis communitaire and the overall system imposed by the common market policies. To this end, the earlier the process starts, it will have less side effects on the Kosovar companies as it will give the local companies more time to prepare for the Common Market rules. Development of e-Commerce is another benefit that would come across as a result of standardization. To this end, the government institutions should invest more time and effort to complete the infrastructure for e-commerce and the related regulations of this branch of business. As there is an increasing number of companies willing and eager to conduct their business in e-platforms, the response from policy-makers should be providing them with a regulatory framework for doing so.

#### 2.2. The Values and different types of ICT Certifications

From the European Committee for Standardization (hereinafter CEN) workshop Agreement (ICT Certification in Europe) of 2009, an ICT certification (or e-Certification) can be considered as the set of processes by which an individual gains a "credential" in a particular ICT skill or more generally a range of skills. Such credentials are usually granted by recognized bodies, themselves often but not always accredited by some governmental or official organization. In order to achieve the qualification, that individual must achieve a declared standard, judged by a formal assessment process. The whole scheme is governed by quality assurance processes, covering both the development and maintenance of the skills standard, and the assessment procedures.

The probably most concise definition for the notion of certification in this context is the one of Dixon and Beier (CWA 15515, CEN 2006):

"Certification often means the awarding of a certificate, or other testimonial, that formally recognizes and records success in the assessment of Knowledge, Skills and/or Competencies, as the final step in the completion of a Qualification. However, it is also used, in particular in relation to ICT Practitioner occupations, to mean the Qualification as a whole. It is important to be aware of these two ("narrow" and "broad") meanings of Certification."

The values of ICT Certifications touch many different stakeholder groups:

- For employees, or candidates for employment, in providing an independent yardstick of their value to (prospective) employers, thus improving their prospects of selection or promotion, and thus pay;
- For employers, in providing that same external judgment, and a convenient tool of differentiation;
- For learners undergoing training, and their teachers, a benchmark of the competence to be achieved;
- For customers of IT products and services, a degree of confidence in the skills of their suppliers;
- For suppliers of IT products and services, a promotional tool to help obtain business, or to achieve a better price;
- For vendors, an additional source of revenue and margin, a skills base expert in the application
  of their products, and some protection of their distribution channel (by requiring that channel
  to itself obtain their certifications);

- For society, a degree of confidence in the professionalism of the ICT workforce;
- There are many types of ICT Certifications, the basic categorization being:
- Degrees and other national educational qualifications in ICT provided by recognized Universities and other public academic bodies
- Membership of professional bodies, often with different levels, allowing the use of pre- or post-nominal designations.
- Vendor specific qualifications, usually in the deployment of their own products, the most popular being Microsoft Certified Systems Engineer (MCSE) and other Microsoft certifications, with over four million issued
- Vendor neutral qualifications, which are somewhat similar, e.g. A-Plus provided by CompTIA, an association of vendors
- Vendor independent qualifications provided by organizations wholly independent of vendors, with the examples:
  - ISEB qualifications provided by BCS
  - EUCIP qualifications provided by CEPIS and its member societies
  - ISACA qualifications in IT governance

#### 2.3. Obstacles and Potential Issues

One of the biggest challenges to introduce higher degree of standardization in the ICT sector is the relatively high cost of most of the internationally recognized certificates. Being that most of the companies in the ICT sector are micro-enterprises with up to 20 employees, the cost of certification and standardization may be very difficult to cover. In addition to this, because of the poor level of contract enforcement in Kosovo and the overall functioning of the judiciary, it would be very difficult for companies to retain their employees once certified (at the account of the company), hence, making the return on investment in training and capacity building extremely difficult.

To this end, the government, sectoral associations (such as STIKK), and donor agencies supporting the development of the ICT sector should invest resources and develop tools that make the standardization less burdensome for the companies undergoing it. Also, national agencies for awarding standardization should be established, hence contributing to lowering the cost of standardization for Kosovo companies.

In order to address potential resistance on the part of the sector to change to higher quality standards, government authorities should also provide incentives for companies undergoing standardization. Incentives can come in the form of tax-breaks, subsidies for standardization processes, or in the form of conditioning participation to public tenders. Such attitude would be a clear signal for the sector about the commitment to standardization as a policy orientation of the regulatory institutions. However, if standardization regulations are adopted abruptly and without proper support from the public authorities, it may yield adverse effects on the smaller companies in the sector who would not be able to cope with the financial burden of standardization.

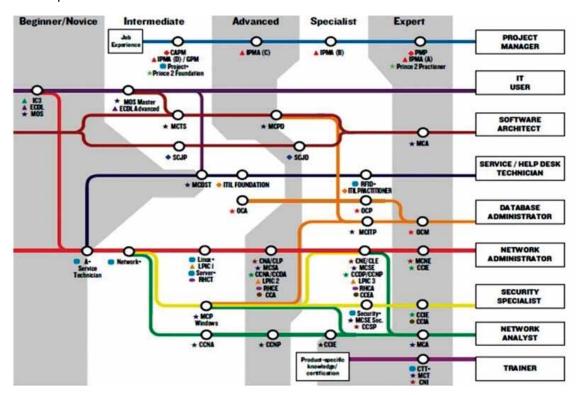
#### 2.4. The Standardization Process and Measures to be Taken

A scheme to look up from in regards to the ICT standardization process for Kosovo is the one used in the ICT Certification in Action Project launched by CEN and the European e-Competence Framework. The ICT Certification in Action conducts the data to launch ICT country maps, in some of which the sector composition in the market is shown and others presenting the standardization roadmap for the particular country. More particularly, Kosovo should follow the example of Bulgaria in this direction, as it fits a more similar country profile.

In brief, the Kosovo government institutions involved in the ICT sector should tailor the needed policy supplements for the ICT standardization process and certification requirements in ICT tenders for the future. Furthermore, the Kosovo Agency for Standardization and the Regulatory Office for Telecommunications should have their Certifying officials trained by foreign ICT

Certification experts. The Kosovo ICT Association (STIKK) would be using its network for supplying both participating ICT businesses and partial funding (deriving from the participating certificate applicants).

The ICT Certification in Action is a successor of the earlier mentioned CEN workshop agreement, and uses the methodology of the latter when drafting their country maps. An example of a Certification roadmap can be seen below:



The role of STIKK and the Kosovo government in achieving the standardization of the ICT sector are crucial. The government, as mentioned above, would play the initiation role in drafting the needed policy supplements (administrative and operational guidelines as well as incentivizing certifications for the public administration sector demands) for the ICT sector and maintaining and adjusting those policies in the future.

STIKK in the other hand has the role of the focal point of the ICT companies' network in Kosovo, and could also play the role of the ICT certification body, in order for the ICT sector to be self-sustainable within the standardization context. This approach would be a shift towards the self-regulation of the sector, whereby the government's role would be reduced to mere monitoring and evaluation of the sector once STIKK takes over the standardization process.

#### 2.5. EU Integration and ICT Standardization

Compliance with EU regulations on ICT are compulsory part of legislation approximation process for joining the common market. Some of the steps necessary to be taken are compulsory in stages before full membership (such as stabilization and association agreement with the EU). Early adaptation of those policies reduces the negative impacts that such processes may have on the private sector companies and especially in the smaller companies. All the references made and examples shown above are parts of on-going EU ICT sector programs and strategies, in most of which all EU member countries are part of. As Kosovo is striving for EU integration, having the standardization process initiated based on EU schemes would be a major advantage for the entire integration process; as compliance to these standards is inevitable. The fact that the ICT sector worldwide is getting more complex in a very rapid pace, it is apparent that action needs to be taken as soon as possible.

### 3. CONCLUSIONS AND RECOMMENDATIONS

Below some of the recommendations for sectoral stakeholders in regards to standardization of the ICT sector are presented and argued.

#### 3.1. Recommendations for the Government

The government bodies dealing with ICT industry should draft a strategy and workplan on standardization and take immediate action to functionalize this plan. Stakeholders should be involved in the process by providing input on the timelines and criteria for standardization.

**Inform adequately the stakeholders about the need and decision of standardization.** Information campaign about the upcoming changes in the regulatory framework for ICT companies' operations is necessary to preparing the companies ahead of time about the changes to be expected.

**Establish working groups to develop the strategy and action plan for standardization of ICT sector.** The relevant line ministry should assemble a team of people from concerned institutions, sectoral associations as well as representatives of ICT companies and jointly develop the strategy, criteria, and action plan for standardization.

**Draft legal and sub-legal acts for standardization in the ICT sector.** Once the strategy is complete, and a clear action plan is matched towards a clearly defined timeline, the line ministry should commence completing the legal infrastructure for regulating the standardization process.

**Begin developing the infrastructure for e-commerce.** One of the important components for standardization regards the e-payment system within Kosovo, as currently there is no adequate infrastructure for e-business in Kosovo. Such infrastructure can boost the ICT sector's growth as it would open an additional market segment for companies to provide services. This will have a positive effect on all sectors as e-services and sales are attractive for a multitude types of products and services.

**Establish an incentives scheme for standardization.** Aside from subsidies for certification processes, the government can also develop tax exemption policies for companies investing in standardization. By doing so, it would make standardization both more attractive for companies, but also it would alleviate the burden for the companies directly.

#### 3.2. Recommendations for STIKK

**STIKK** should establish an ad-hoc (or permanent) committee on standardization. The committee would be in charge of developing and revising policies and regulations regarding standardization. The committee (pending approval of higher bodies within STIKK) would be involved in policy advice and policy development, would participate in working groups with the government and advocate within legislative institutions for good policies to be adopted.

**Begin the process of standardization with ISO 9001.** As STIKK should promote the standardization in the ICT sector, it should initially certify itself with the above mentioned certification, hence providing an example of good practice for the entire sector.

Carry out an assessment on the most demanded and most appropriate certifications and standardization with the sector representatives. The association needs to engage in extensive consultations with ICT companies and identify the most appropriate approaches to regulate the standards in the sector, hence contributing to participative policy-making and regulation.

**Explore possibilities for being accredited as a standardization/certification center for one or more internationally recognized certifications.** This recommendation is based on the overall approach of self-regulation of the sector and it also adds to the financial and institutional sustainability of the association.

**Engage in information campaign with ICT businesses on standardization regulations and changes to be expected.** Once the relevant policies are developed, (strategies, action plans on standardization and other related policy documents), STIKK should inform the companies on the timeline of standardization and the requirements depicted in them.

#### 3.3. Recommendations for the Donor Community

The Donor Community in Kosovo (especially donors already supporting the ICT sector) should support STIKK and the Government in receiving adequate technical assistance and expertise when developing the standardization framework. Investments in this process would magnify the effect of the current and future assistance provided by these donors.

**Support the government in establishing and financing the incentives scheme.** By engaging in such processes through a grants' scheme or providing expertise and technical assistance, the donors would directly contribute to the overall development of the sector, and overall economy.

**Support STIKK in obtaining the necessary accreditation and certification for various standardization aspects.** Financial and technical assistance would be necessary for STIKK to complete the necessary steps of being accredited as a licensing/certification authority.

**Invest in raising the awareness of businesses about the importance and benefits from standardization.** In order to minimize resistance to change, donor agencies, in cooperation with the government and STIKK should develop an information and awareness raising platform aimed at adequately informing the relevant stakeholders.

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# ANNEX 1: INTELLECTUAL PROPERTY RIGHTS LEGAL INFRASTRUCTURE

#### 1.1. Laws

- Law No. 2004/49 of 27 September 2004 on Patents, as promulgated by Regulation
- No.2004/56 of 21 December 2004, and amended by Law No. 02/L-100, as promulgated by Regulation No. 2007/10 of 6 February 2007;
- Law No. 02/L-45 of 21 November 2005 on Industrial Design, as promulgated by Regulation No. 2006/17 of 21 April 2006;
- Law No. 02-L-54 of 23 February 2006 on Trademarks, as promulgated by Regulation No. 2006/38 of 28 June 2006;
- Law No. 2004/45 on Copyright and Related Rights, as promulgated by Regulation No. 2006/46 of 24 August 2006;
- Law No.02/L-98 of 26 January 2007 on Protection of Plant Varieties as promulgated by Regulation No 2008/24 of 16 May 2008;
- Law No. 2009/03-L-170 on Customs Measures for Protection of Intellectual Property Rights as promulgated by President's Decree DL-004-2010 of 8 January 2010`.
- The draft Law on Topographies of Integrated Circuits has passed the Governmental procedures and has been presented to the Assembly for adoption.

#### 1.2. By-laws/Administrative Instructions

- Al No. 2007/10 of 17.09.2007 on Patent Registration Procedures;
- Al No.2007/11 of 17.09.2007 on Representation in the Field of Industrial Property Rights, amended in 2008 (the amended Al is not available in English);
- Al No. 2007/12 of 17.09.2007 on Industrial Design Registration Procedures;
- Al No. 2007/13 of 17.09.07 on Trademark Registration Procedures; Kosovo under UNSCR 1244/99 2009, progress report, Brussels, 14.10.2009 / SEC (2009) 13409
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- Al No. 2007/19 of 5.10.2007 on the Tariff of Fees Collected by the Patent Office.



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