



Strasbourg, 10 December 2008

ACFC(2008)001

Progress Report
on the implementation of the Framework Convention for the
Protection of National Minorities in Kosovo
submitted by the United Nations Interim Administration Mission in
Kosovo

(received on 21 July 2008)

21 JUIL. 2008

(DGII)



PROGRESS REPORT SUBMITTED BY THE UNITED NATIONS INTERIM
ADMINISTRATION MISSION IN KOSOVO ON THE IMPLEMENTATION
OF THE COUNCIL OF EUROPE RECOMMENDATIONS ON THE
FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL
MINORITIES IN KOSOVO.

Acting under the Agreement between the United Nations Interim Administration Mission in Kosovo (UNMIK) and the Council of Europe on technical arrangements related to the Framework Convention for the Protection of National Minorities (FCNM), signed on 30 June 2004;

In response to the letter from the Advisory Committee on the FCNM, acting in conformity with Article 2.3 of the above-mentioned agreement, addressed to the Special Representative of the Secretary General (SRSG), dated 13 July 2007, requesting information on the progress of the implementation of the FCNM in Kosovo subsequent to the adoption of Resolution 2006/9 by the Council of Europe Committee of Ministers, 21 June 2006, on the implementation of the FCNM in Kosovo;

Wherefore the OSCE Mission in Kosovo (OSCE) prepared a draft of the Progress Report based on inputs from Offices of UNMIK and the Provisional Institutions of Self-Government (PISG), reviewed and revised by the Office of the Special Representative of the Secretary-General;

UNMIK hereby submits the Progress Report on the implementation of the recommendations in the Council of Europe Resolution 2006/9.

TABLE OF CONTENTS

LIST OF ABBREVIATION	- 5 -
INTRODUCTION	- 7 -
<i>General</i>	<i>- 8 -</i>
Council of Europe Recommendation No. 1	- 8 -
Council of Europe Recommendation No. 2	- 9 -
<i>Data collection.....</i>	<i>- 10 -</i>
Council of Europe Recommendation No 3	- 10 -
Council of Europe Recommendation No. 4	- 12 -
Council of Europe Recommendation No. 5	- 13 -
<i>Remedies and law-enforcement</i>	<i>- 13 -</i>
Council of Europe Recommendation No. 6	- 13 -
Council of Europe Recommendation No. 7	- 14 -
Council of Europe Recommendation No. 8	- 16 -
<i>Return process and security concerns</i>	<i>- 16 -</i>
Council of Europe Recommendation No. 9	- 16 -
Council of Europe Recommendation No. 10	- 20 -
Council of Europe Recommendation No. 11	- 21 -
Council of Europe Recommendation No. 12	- 22 -
<i>Minority cultures and media issues</i>	<i>- 23 -</i>
Council of Europe Recommendation No. 13	- 23 -
Council of Europe Recommendation No. 14	- 26 -
Council of Europe Recommendation No. 15	- 26 -
<i>Language use</i>	<i>- 28 -</i>
Council of Europe Recommendation No. 16	- 28 -
Council of Europe Recommendation No. 17	- 30 -
Council of Europe Recommendation No. 18	- 34 -
<i>Education</i>	<i>- 38 -</i>
Council of Europe Recommendation No. 19	- 38 -
Council of Europe Recommendation No. 20	- 39 -
Council of Europe Recommendation No. 21	- 41 -
Council of Europe Recommendation No. 22	- 42 -
Council of Europe Recommendation No. 23	- 42 -

Council of Europe Recommendation No. 24.....	- 43 -
<i>Participation</i>	- 44 -
Council of Europe Recommendation No. 25.....	- 44 -
Council of Europe Recommendation No. 26.....	- 44 -
Council of Europe Recommendation No. 27	- 44 -
Council of Europe Recommendation No. 28.....	- 45 -
Council of Europe Recommendation No. 29.....	- 45 -
<i>Protection against population changes</i>	- 46 -
Council of Europe Recommendation No. 30.....	- 46 -
Council of Europe Recommendation No. 31	- 46 -
<i>Cross-border contacts</i>	- 46 -
Council of Europe Recommendation No. 32.....	- 46 -
ANNEX I	- 47 -
ANNEX II.....	- 48 -
ANNEX III	- 50 -

LIST OF ABBREVIATION

AI	Administrative Instruction
AKM	Association of Kosovo Municipalities
AOGG	Advisory Office of Good Governance
AoK	Assembly of Kosovo
CC	Communities Committee
Central Language Monitoring Unit	Monitoring Unit for the Use of Official Languages in Central Institutions of Kosovo
CEO	Chief Executive Officer
Constitutional Framework	Constitutional Framework for the Provisional Self-Government in Kosovo
CRIC	Committee on the Rights and Interests of Communities
DCA	Department of Civil Affairs
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECRML	European Charter for Regional or Minority Languages
FCNM	Framework Convention for the Protection of National Minorities
HPCC	Housing and Property Claims Commission
HPD	Housing and Property Directorate
HRU	Human Rights Unit
ICO	International Civilian Office
ICCPR	International Covenant on Civil and Political Rights
IDP	Internally Displaced Person
IMC	Independent Media Commissioner
KEK	Kosovo Energy Corporation
KIPA	Kosovo Institute of Public Administration
KPA	Kosovo Property Agency
KPS	Kosovo Police Service
KPC	Kosovo Protection Corps
KSIP	Kosovo Standards Implementation Plan
KTDP	Kosovo Turkish Democratic Party
LAP	Law on the Administrative Procedure
LCH	Law on Cultural Heritage
Law on Education	Law on Primary and Secondary Education in Kosovo
LESPZ	Law on Establishing Special Protective Zones
DLPN	Draft Law on Personal Name

Law on Languages	Law on the Use of Languages
MCR	Ministry of Communities and Returns
MCYS	Ministry of Culture, Youth, Sport and Non Residential Issues
MEM	Ministry of Energy and Mining
MESP	Ministry of Environment and Spatial Planning
MEST	Ministry of Education, Science and Technology
MFE	Ministry of Finance and Economy
MLGA	Ministry of Local Government Administration
MLSW	Ministry of Labour and Social Welfare
MoH	Ministry of Health
MIA	Ministry of Internal Affairs
MoJ	Ministry of Justice
MTPT	Ministry of Transport and Post-Telecommunications
MPS	Ministry of Public Services
MTI	Ministry of Trade and Industry
OIK	Ombudsperson Institution in Kosovo
OPM	Office of the Prime Minister
OSCE	OSCE Mission in Kosovo
PCC	Property Claims Commission
PISG	Provisional Institutions of Self-Government
PMU	Pilot Municipal Unit
PS	Permanent Secretary
RIC	Reconstruction Implementation Commission
RTK	Radio and Television of Kosovo
SIMUOL	Section for the Inclusion of Minorities and the Use of Official Languages
SOK	Statistics Office of Kosovo
SPZ	Special Protective Zone
SRSG	Special Representative of the United Nations Secretary General
SWG	Sub-Working Group
TMC	Temporary Media Commission
UM	University of Mitrovicë/Mitrovica
UP	University of Prishtinë/Priština
UNDP	United Nations Development Programme
UNMIK	United Nations Interim Administration Mission in Kosovo

INTRODUCTION

The United Nations Interim Administration Mission in Kosovo (UNMIK) welcomes the opportunity to report on the progress on the implementation of the Council of Europe's Resolution 2006/9 and the recommendations contained therein. With this report UNMIK wishes to illustrate the progress in the development of policy and legislation aimed at preventing ethnic discrimination and to promote community reconciliation and cohesion, as well as guarantees on preserving minority languages and ensuring minority education.

UNMIK, and the Provisional Institutions of Self-Government (PISG), are firmly committed to fully comply with the principles of the Framework Convention for the Protection of National Minorities (FCNM) and to eliminate all forms of intolerance and ethnic discrimination, with the aim to build a cohesive Kosovo society. We aspire to achieve that for every individual, regardless of ethnic origin, there is an opportunity to fulfil his or her potential through the enjoyment of equal rights, life opportunities and responsibilities.

Since the Committee of Ministers adopted Resolution 2006/9, there has been further progress. In August 2006, the Special Representative of the Secretary General (SRSG) promulgated the Assembly of Kosovo (AoK) Law on Freedom of Religion, which stipulates the religious neutrality of Kosovo and safeguards the autonomy of religious conglomerations, in particular the Serbian Orthodox Church.

In September 2006, the PISG with the support and participation of international and local stakeholders, commenced drafting a Government Strategy on the Integration of persons belonging to the Roma, Ashkali, and Egyptian communities. Representatives from each community, the Office of the Prime Minister (OPM), the Kosovo Open Society Institute, and the OSCE Mission in Kosovo (OSCE) are all equal partners in developing the strategy.

In October 2006, the SRSG promulgated the Law on the Use of Languages, UNMIK Regulation 2006/51, which guarantees the use of minority languages in various areas of social life. This law is a vital instrument for protecting and preserving the languages of minority communities, as well as integrating municipal institutions into their everyday lives by supporting bilingual communication in local government management.

In November 2006, the SRSG promulgated the Law on Cultural Heritage, UNMIK Regulation 2006/52, under which municipal and central authorities are required to preserve and protect all cultural heritage sites with historical and cultural value. The same law also sets up a Kosovo Council for Cultural Heritage, for making decisions on which cultural sites shall come under Kosovo institutional protection.

In May 2007, the Advisory Office of Good Governance (AOGG) operating within the OPM, established a Working Group comprising of representatives from the Ministry for Communities and Return (MCR), and the OSCE to identify measures to implement the FCNM in Kosovo.

In June 2007, the OPM, together with the OSCE, published the report¹ on the implementation of the Anti-Discrimination Law in Kosovo. The report identifies and proposes various measures that will help in the implementation of the Anti-Discrimination Law and in the endeavour to achieve equality and building community cohesion.

In October 2007 the PISG are close to complete a list of action points to promote the participation of minority communities in the civil service and to raise awareness of the FCNM within PISG Ministries.

This forms part of the response to the review by the PISG of the Council of Europe Recommendations on the FCNM.

General

Council of Europe Recommendation No. 1. *Ensure that there is sufficient clarity as regards the responsibilities and accountability for the implementation of various articles of the Framework Convention and that no competences are prematurely delegated to local institutions in the relevant sectors.*

The PISG, with support of the international community, are dedicated to execute the transferred responsibilities from UNMIK with the aim to build and maintain representative institutions of Kosovo. Guided by international principles of minority protection that include non-discrimination, equality, and full participation in society, the PISG have the tools at hand to put in place sustainable structures supporting minority communities and a functional multi-ethnic Kosovo society. Emphasis on ensuring the rights of all communities is therefore a priority of the PISG.

Over the last years, Kosovo institutions have gained experience in implementing wide ranging legislation and programmes, reflected in the evaluation of the PISG's performance of the Kosovo Standards Implementation Plan. Recent legislative enactments in the field of language use, anti-discrimination, freedom of religion, non-legislative developments such as the returns to Roma Mahala in South Mitrovicë/Mitrovica, transfer of responsibilities in the police and justice sector, and the continued progress on the reconstruction of damaged religious and cultural sites all demonstrate that the PISG are capable of engaging in identifying structures and adopting supportive measures for minority communities. On the other hand, it is acknowledged that more efforts are required in order to improve the situation of minority communities and their effective integration. For Kosovo, minority returns, community reconciliation, education, increasing the confidence of minority communities in the judiciary, and unemployment are areas of concern that span across all communities. These concerns are most effectively addressed by increasing the capacity of the PISG to engage in the protection of rights of communities and to build a tolerant multi-ethnic society.

In May 2007, the Advisory Office for Good Governance, Office of the Prime Minister (AOGG/OPM), in response to the Council of Europe Committee of Ministers'

¹ Implementing the Anti-Discrimination Law; A challenge for Kosovo, June 2007.

Recommendations on the FCNM, established a Working Group on the implementation of the FCNM with the task to distribute the recommendations to the PISG ministries and to identify the required structures and tools to ensure an effective implementation. In June 2007, the chair of the Working Group, the AOGG/OPM, together with the Ministry for Communities and Return (MCR), initiated a project on the implementation of the FCNM recommendations. The project had two objectives: to clarify the responsibilities of individual ministries under the FCNM, and to identify objectives and concrete actions to be adopted by ministries to implement the recommendations.

To achieve these two aims, the AOGG/OPM organized workshops with all Human Rights Units² (HRU), to discuss the recommendations and identify the relevant ones for their respective ministries. These workshops were attended by the AOGG/OPM, MCR, an expert from the FCNM Secretariat, and the OSCE, which occurred in June 2007. At the workshops each HRU was consulted to identify objectives and to propose measures on the implementation of the FCNM within each ministry together with all Working Group participants. After the completion of the workshop a series of plenary meetings was organized with the Working Group and HRU Co-ordinators in the ministries, with the aim of summarizing the workshop experiences, providing general recommendations and identifying action points for all PISG ministries. The results of these workshops are compiled into matrices, one for each ministry, which comprise of proposed undertakings which will ensure compliance of all ministries under the FCNM.

The second phase commenced in early autumn 2007 and comprised of the HRUs going back to respective ministries to discuss the proposed measures in the matrices and to receive comments and a commitment from each ministry to endorse the identified actions and objectives. To ensure this end, the matrices have been forwarded to all permanent secretaries. The final version of the overall matrix is expected to be completed throughout the autumn 2007 and will be a result of a consensus within each ministry, in accordance with the mandate and responsibilities of its departments.

Upon the finalization of the second phase in the autumn, a conference was organized to discuss the matrices with the Council of Europe and Non-Governmental Organizations representing minority communities that reside in Kosovo. This conference occurred between 11 and 12 October 2007. A final document containing all identified objectives and action points will, with the agreement of each ministry, be forward to the government for endorsement.

Council of Europe Recommendation No. 2. Improve the awareness within the relevant bodies, both international and local, of the principles contained in Article 15 and other articles of the Framework Convention, with a view to ensuring their implementation.

The AOGG/OPM's project involving the HRUs on the implementation of the Council of Europe Recommendations on the FCNM foresees awareness raising and capacity building of the PISG ministries as one of the main objectives. A number of ministries are

² Human Rights Units are currently established in each PISG ministry pursuant to the OPM Administrative Instruction No. 2005/8 on Terms of Reference for Human Rights Units.

committed to establish specific mechanisms for this aim, such as interdepartmental working groups or focal points, whose function is to ensure the principles of FCNM are adhered to in the development, implementation, supervision and evaluation of ministry policies, programmes and internal working procedures.

Data collection

Council of Europe Recommendation No 3. Delay the organisation of the enumeration phase of the population and household census until a maximum level of participation of all communities can be ensured and the census can be carried out in accordance with international standards.

In Kosovo the availability of reliable statistical data on the ethnic composition of the population is a key factor in the implementation of the FCNM. The existence of such data does not just fulfil the requirement to ensure an effective minority policy, it is also a prerequisite for a variety of other purposes in Kosovo:

- in public administration, the results of the census will be used as a critical reference point to ensure equity in the distribution of public resources, government services, and representation
- in all elements of the national statistical system, generate statistics on small areas or small communities, groups with no/minimum sampling errors
- the results of the population census are used as a benchmark for research and analysis, such as population projections, including the ethnic composition, which are vital for all segments of public and private sector

Conducting a census is therefore expedient with the overall need for furthering the social and economic development in Kosovo.

At present there are no reliable data on the ethnic composition of the population. The last census of 1991 provided only a limited data at a low level of geographic detail. Resistance towards participating in the census resulted in an incomplete coverage. As such, the last census results are not invoked to implement specific measures in the field of minority policy. The need for a census is further exigent due to the significant changes as regards the ethnic composition of the population since 1999.

The PISG are committed to making sure that a census in Kosovo adheres to international standards with an extensive coverage amongst all communities, while also appreciating the urgency of obtaining demographic data to support the PISG's efforts in developing and implementing minority policies, programmes and legislation. A date for the foreseen census is not yet decided. Taking into consideration the time-consuming planning stage, the PISG, together with the international community, are currently preparing for the organisation of the census. On-going activities and previous exercises have been jointly planned and implemented by the Statistical Office of Kosovo (SOK) and a technical assistance project,³ a Census International Monitoring Mission established *ad hoc*,

³ Entitled "Support to the Statistical System and Preparation for the Census – Kosovo", an EU-funded project managed by the European Agency for Reconstruction. Contractors are the National Institute of

supported by the European Agency for Reconstruction, and the PISG Ministry of Public Service (MPS).

In November 2006, SOK together with project experts jointly conducted a pilot census to analyse and evaluate the various components of the census process, with a view to design the planning and organisation of the full census. The pilot census was approved by the Central Census Commission on 18 October 2006. The pilot took place in the Municipalities of Kamenicë/Kamenica, Pejë/Peć, and Štrpce/Shtërpçë. These three municipalities were chosen on the basis that each is composed, with different proportion, by multi-ethnic population. The pilot census was primarily of technical value. The sample is not statistically representative of Kosovo as a whole. As such, the exercise was an opportunity to test the preparation and evaluation of all census procedures, i.e. questionnaires, manuals, other census forms and their translations, maps and Geographic Information System tools,⁴ the training of field staff, field activities, data intake and processing components, data tabulation, information campaign, in order to identify technical and operational problems that may occur during the full census, or to understand where corrections are to be introduced, in order to ensure a high level of quality in the census results.

The pilot census is in most aspects positively evaluated by Eurostat and the project experts.⁵ Overall, the pilot brought SOK closer to being technically prepared to conduct a census. One particular achievement of the pilot census was the progressive adoption within SOK of a “census culture”, with the acquisition of specific knowledge and an appreciation of all different phases related to the preparation and operation of a population census. Still, the evaluation detects areas, technical and non-technical, which will require an assessment before the possibility to plan and undertake the full census, in line with international standards. In particular, involving all communities in the census remains an obstacle. In two of the selected municipalities for the pilot census, Kamenicë/Kamenica and Štrpce/Shtërpçë, Kosovo Serb enumerators, on the day of enumeration, refused to take part in the data collection, reporting that this was requested by Serbian local authorities. In the same manner, Roma enumerators also refused to start field activities, reporting that Roma representatives in Kamenicë/Kamenica Municipality did not authorise their participation. Hence, the Kosovo Serb and Roma populations are not covered in the pilot census. It is not possible to verify if this is due only to the opposition of local authorities, or if it was a general position also for the inhabitants. This raises a number of risks and assumptions that will require an evaluation before organising the full census. Although these may be non-technical, they are still of technical significance since they may lead to incomplete coverage.

In these conditions, when the social and political environment is not in favour of conducting a successful census, the PISG may have to consider alternative solutions to fill in the need of data. Otherwise, organising a census in Kosovo may precipitate a difficult relationship with one of the fundamental principles of census, namely “full

Statistics of Italy (ISTAT), Albanian Institute of Statistics (INSTAT), and Interuniversity Research Centre for Sustainable Development, University of Rome “La Sapienza” (SIRPS).

⁴ A collection of computer hardware, software, and geographic data for capturing, managing, analysing and displaying all forms of geographically referenced information.

⁵ The Pilot Census Report is available from the Statistical Office of Kosovo.

coverage and universality within a defined territory”, compromising the validity of the whole activity.

Council of Europe Recommendation No. 4. *Take measures to ensure effective protection of personal data relating to community affiliation.*

The government of Kosovo has recently forwarded a draft Law on Data Protection (the draft law) to the AoK. This draft law will ensure one of the fundamental rights and freedoms of individuals; the protection of individual rights to privacy and voluntary self-identification in relation to the collection and recording of personal data.

There is a strong need for a data protection law in Kosovo, particularly regarding the need for processing data on community affiliation. These data are vital for the effective running and monitoring of government policies, such as performance among communities at different stages in education, health programmes, and fulfilling statutory obligations under the Anti-Discrimination Law promulgated by UNMIK Regulation 2004/32, 20 August 2004. The draft law is therefore a critical piece of legislation for Kosovo designed to develop procedures on the collection and recording of personal data of all public organs, and non-public organs, including as well diplomatic-consular offices and other official representative offices of Kosovo abroad. By entering into force, Kosovo will have in place a normative framework to ensure a consistent system of the processing of data on community affiliation in accordance with principles of international human rights.

Under the draft Law on Data Protection, Article 6, personal data relating to community affiliation are classified as sensitive personal data. Under this classification come, *inter alia*, ethnic grouping and nationality. Such status implies that data on ethnicity and nationality can only be processed, i.e. collected and recorded, in limited cases and the individual to whom the data relate must have given his/her explicit consent. Sensitive personal data also require a specific archiving system with restricted access. During the processing, sensitive personal data must be specially marked and protected to ensure that access to them by unauthorised persons is prevented, except in instances where the individual to whom the sensitive personal data relate publicly announces them without any evident or explicit purpose of restricting their use.

A National Supervisory Body for Personal Data Protection (hereinafter the National Supervisory Body), is envisaged in the draft law, Article 37. As an independent body, responding only to the AoK, the National Supervisory Body will have a mandate to undertake inspections on the implementation of the provisions of the law, issue opinions to Ministers, the AoK, municipal authorities and other Kosovo institutions on compliance, and file a request to the Supreme Court of Kosovo to assess the constitutionality of laws, regulations and general acts issued to exercise public powers that directly or indirectly pertain to data processing.

Council of Europe Recommendation No. 5. *Set up a permanent system for collecting data on the investigation and prosecution of ethnically-based incidents.*

Collection of information on the investigation and prosecution of the ethnically-based incidents in the courts and prosecutor's offices is conducted through keeping Court Books. Each court has its own books in which all cases are registered and the information obtained throughout the court process is recorded, initiating with the registration of a particular case, and ending with the closure of a certain case. All information in the Court Reports is obtained from these books. The reporting process is done manually.

With the support of European Agency for Reconstruction, the Kosovo Judicial Council is currently in the final stage of installing a new database network for the collection of data, including ethnically based incidents, on all cases under investigation, and prosecution. Upon completion, the judiciary will have a computerized system linked to all courts and prosecution premises, supported by a software for managing all types and levels of court and prosecution cases. The aim of this project is to have a regular exchange of information between different courts and prosecution offices, including automatic processing of reports.

The Kosovo judiciary will greatly benefit from a computerised data base. The work conditions in courts and prosecution offices will be improved, it will reduce the time frame for solving cases, and increase the transparency of the judiciary since access to information regarding the specific case will be available at any time.

Remedies and law-enforcement

Council of Europe Recommendation No. 6. *Increase efforts to improve the functioning of the judiciary and to build the confidence of minority communities in the courts, inter alia, by further recruiting persons belonging to minorities and by improving the speed with which cases are dealt with.*

The Ministry of Justice (MoJ) and the Kosovo Judicial Council⁶ are responsible for the administration of justice throughout Kosovo. Both work in close partnership with (and overseen by) UNMIK's Department of Justice. To ensure impartiality and independence, international judges and prosecutors have been entrusted with the task of handling sensitive cases involving inter-ethnic crimes or cases in which there is a serious risk of bias.

The MoJ has adopted a five year strategic plan (2006-2011), with the aim to strengthen internal capacities and to improve the quality and efficiency of the services provided by the MoJ. To build community confidence it is essential that the MoJ and Kosovo Judicial Council have first of all the ability to provide impartial delivery of justice, and that the judiciary is representative of the multi-ethnic population in Kosovo.

After the establishment of the judicial system in Kosovo, the difficulties of convincing minority community members to participate in the judiciary became apparent. Therefore,

⁶ Established by UNMIK Regulation 2005/52, 20 December 2005.

increased efforts to recruit minority judges and prosecutors were undertaken. In 2005, the total number of judges was 308, among whom 14 were Kosovo Serbs and seven judges from other minority groups. The total number of prosecutors in 2005 was 89 in total, among whom two were Kosovo Serbs and six from other minority groups. The number of prosecutors of other minorities decreased during that period.

To further the recruitment of persons belonging to minority communities, on 27 April 2006 entered into force UNMIK Regulation 2006/25 On a Regulatory Framework for the Justice System in Kosovo. This law pays particular attention to ensuring that the judiciary and prosecutorial service reflects the multi-ethnic character of Kosovo. It is worth highlighting that the law stipulates that in the case of Kosovo Serbs representing less than eight percent of the judiciary and of the number of prosecutors, the law supports affirmative action designed for the Kosovo Serb community targeting the recruitment of qualified persons belonging to this community. The same affirmative action programmes are applied to other non-Kosovo Albanian communities in the event that they comprise of less than 15% of judiciary and prosecutorial service.⁷

At the time UNMIK Regulation 2006/25 entered into force, the total number of judges was 303, among whom 13 were Kosovo Serbs, nine Kosovo Bosniak, four Turkish and three from the Roma, Ashkali, and Egyptian communities (no detailed information is available on each of the three judges to identify which of the Roma, Ashkali, and Egyptian communities he/she affiliates with). The total number of prosecutors was 86, among whom were two Kosovo Serbs, four Kosovo Bosniak and one Turkish.

In 2007, the total number of judges is 308, among whom 15 are Kosovo Serbs, ten Kosovo Bosniaks, five Turkish and four persons from the Roma, Ashkali, and Egyptian communities. The number of Prosecutors in 2007 is 88, among whom three are Kosovo Serbs, and four Kosovo Bosniaks and one Turkish.

Hence, despite efforts to recruit from the Kosovo Serb community, as the figures show, between 2005 and 2007 only one additional Kosovo Serb judge and one additional Kosovo Serb prosecutor could be recruited, whereas the number of judges of other under-represented communities increased more significantly (12 additional judges from other minorities). More efforts are therefore required to improve the representation of these communities in the judiciary. As it stands, the current level of representation of non-Kosovo Albanian communities in the judiciary and prosecutorial service is not satisfactory in proportion to the overall population, in fact the level of participation still remains relatively low.

Council of Europe Recommendation No. 7. *Ensure that the transfer of the Ombudsperson institution into a local institution does not harm the effectiveness of the institution or erode the trust it has built to date amongst minority communities.*

By December 2005, the international Ombudsperson's mandate ended. By then the transfer into a local entity was almost complete. The acting SRSG at the time appointed the ethnic Albanian Deputy Ombudsperson as Acting Ombudsperson until a local

⁷ UNMIK Regulation 2006/25, Section 2.

Ombudsperson was appointed. Still, when the international Ombudsperson left there was no new legislation in place for a local Ombudsperson to be appointed – the existing UNMIK Regulation No. 2000/38, On the Establishment of the Ombudsperson Institution in Kosovo,⁸ foresaw an international Ombudsperson reporting directly to the SRSG.

In February 2006, the SRSG promulgated UNMIK Regulation No. 2006/06 On the Ombudsperson Institution in Kosovo (OIK), which provided the legal basis for a local Ombudsperson appointed by and reporting to the AoK. This completed the transfer into a local institution. The content of the new regulation sets out, inter alia, the drafting rules of procedure for the recruitment and appointment of a new Ombudsperson, a task which the AoK had never before attempted. These rules of procedure were passed in mid-2006 and the ensuing recruitment process occurred in December 2006. A vote before the AoK at that time, did not lead to the appointment of a new Ombudsperson because none of the candidates had obtained the required number of votes from the majority of the AoK members. A new recruitment proceeding is currently on-going and pending.

In compliance with UNMIK Regulation No. 2007/15 Amending UNMIK Regulation No. 2006/6 On the Ombudsperson Institution in Kosovo,⁹ the OIK shall have four Deputy Ombudspersons of which one shall be from the Kosovo Albanian community, one from the Kosovo Serb community, and at least one from the other non-majority Albanian and non-Kosovo Serb communities. Each Deputy shall act in his/her individual capacity but shall collectively represent the ethnic diversity of Kosovo society.

In order to implement the new mandate the OIK has adapted its Rules of Procedure. In practice, individual complaints are received either in person, or through mail, fax or email. *Ex officio* investigations are initiated once certain information has been received that indicates that a human rights violation has occurred. Once the OIK has acquired all necessary information from the complainant (or, in the case of *ex officio* investigations, from a number of various sources), the OIK will, following discussions with the competent lawyer and senior staff, decide on the appropriate action to take. This may involve high-level meetings with members of the PISG, intervention letters, interim measure requests and, when all other measures have been exhausted, the OIK will issue a report including a legal analysis of the situation and recommendations.

It should be highlighted that during the absence of a new Ombudsperson the OIK has, under temporary leadership, operated without difficulties. In fact, the daily work of the OIK has continued more or less unimpeded. Given the unusual situation the OIK is in, its authority and legitimacy under temporary leadership have still stayed intact. While there had been a certain fear that the number of complainants from minority communities would decrease following the departure of the international Ombudsperson, statistics indicate that since January 2006 the number of such complainants has remained at the same level, whilst the overall number of complaints has actually increased. Approximately one third of the complaints received by the OIK are submitted by members of minority communities as reported on the OIK's Seventh Annual Report published in July 2007.

⁸ Adopted on 30 June 2000

⁹ Adopted on 19 March 2007.

The OIK, under local leadership, has effectively intervened in issues relating to human rights and minority rights, e.g. in a letter dated 5 July 2007, the OIK requested the Prime Minister to suspend the practice implemented by the Ministry of Internal Affairs (MIA) on conditioning the registration of new vehicles and the renewal of old ones on the payment of electricity bills.

It is acknowledged that the new mandate of the OIK, limited to the PISG, implied that a number of pending cases had to be closed involving UNMIK because of a lack of jurisdiction. This scenario is an unfortunate consequence of the transfer of the OIK into a local entity with no mandate to act upon such cases.

A test for the OIK is to improve its oversight of the human rights situation in Northern Mitrovicë/Mitrovica, where the Acting Ombudsperson has limited to no contact with the authorities. Kosovo Serbs in this part continue to reject all co-operation with the PISG, despite that the Institution has a sub-office accessible to all residents. A similar situation exists in the Municipality of Štrpce/Shtërpce. Therefore, the current political situation and the lack of community integration undermines the OIK's oversight of the human rights situation in these parts of Kosovo.

Council of Europe Recommendation No. 8. *Address the perceived impunity as regards ethnically motivated crime by giving such crime the highest priority within law-enforcement and other bodies involved, and take steps to encourage reporting of everyday manifestations of intolerance.*

See comments under Recommendation No. 9.

Return process and security concerns

Council of Europe Recommendation No. 9. *Take vigorous practical measures to remove the obstacles to sustainable return by seriously addressing security concerns of Serbs and others concerned and also by ensuring, including in the implementation of the recently adopted legislation, repossession of, and unhindered access to, agricultural and other property and by designing further targeted income generating activities.*

In July 2006, UNMIK and the PISG adopted a new policy document, the "Revised Manual for Sustainable Return", introducing comprehensive returns mechanisms and strategies by UNMIK and the PISG. It reaffirms international standards and best practices and sets out a simplified and streamlined approach on return, with the objective to develop sustainable conditions for effective reintegration of returnees, and to have in place a strong and supportive institutional mechanisms at local and central level for such aim. With the Revised Manual for Sustainable Return the PISG and UNMIK have put in place a comprehensive framework to address all obstacles to return and reintegration. It comprises various measures from ensuring social services to returnees, increased access of IDPs/refugees to assistance schemes, improved protection mechanisms to ensure non-discrimination, to the incorporation of return needs and concerns in municipal and central development and budget planning.

Municipal Returns Strategies for 2007 have been developed and endorsed by 22 municipalities and another four are pending endorsement. The implementation of these strategies remains unsatisfactory due to the lack of financial resources. So far, six organized return projects costing 3.7 million Euro, targeting return of 140 families, have been launched this year in Lipjan/Lipljan, Abdullah Presheva neighbourhood in Gjilan/Gnjilane, Vushtrri/Vučitrn, Berkovë/Berkovo (Klinë/Klina), Lismir/ Dobri Dub and Nakaradë/Nakarade (Fushë Kosovë/ Kosovo Polje), and Klinavc/Klinavac (Klinë/Klina).

Still, the number of minority returns are decreasing. A large number of IDPs and refugees who left their homes in 1999 have chosen to take permanent residence at the place where they are currently residing or elsewhere outside of Kosovo after having lived as refugees for seven or more years. This scenario is reflected in the expected number for 2008 of voluntary returnees originating from the Kosovo Serb, Kosovo Bosniak and Roma, Ashkali and Egyptian communities.¹⁰

Despite this scenario, the PISG are committed to ensure that measures are implemented in support for the improvement of the security situation in Kosovo for returnees, in particular among the Kosovo Serb community. Efforts to strengthen the judiciary, improving access to property, granting official status to minority languages at municipal level, employment programmes, and training of the Kosovo Police Service (KPS) form part of strengthening the security of communities and enhancing community confidence in the rule of law and the enforcement mechanisms.

Community policing

The KPS is a key institution in ensuring effective security for returnees. It plays a part of developing sustainable conditions by enforcing measures protecting minority and returnee interests and supporting the process of community reconciliation. In the past two years, UNMIK and the PISG have made several efforts to improve community security and for that end have built up or strengthened existing safety mechanisms. Key to address the security concerns of returnees is active participation of all communities in maintaining effective security. As such, the KPS and the Kosovo Protection Corps (KPC) actively pursue recruitment among communities.¹¹ Community policing activities have been extended through the establishment of Municipal Community Safety Councils and Local Public Safety Committees as foreseen in the UNMIK Regulation 2005/54. Across each KPS police station exists a Communities Division and a Community Officer. An officer who operates in close contact with the local population, is appointed for each village in Kosovo.

Freedom of movement

Freedom of movement for members of minority communities has further improved with an increase in routes of the Humanitarian Bus Transportation system. The humanitarian bus service and Kosovo Rail monthly carry up to 28,500 and 32,000 passengers respectively. In addition, a commercial bus service connecting Gračanica/Gračanicë with

¹⁰ UNHCR monthly statistics on voluntary returns to Kosovo.

¹¹ Currently 10,22% of the KPS staff are Kosovo Serbs, 3.10% Kosovo Bosniaks, 1.19% Kosovo Turks, 0.52% Kosovo Gorani, 0.32% Kosovo Roma, 0.29% Kosovo Ashkali and 0.10% Kosovo Egyptians. Source – Kosovo Police Service.

Kosovo Serb villages in the north of Prishtinë/Priština was launched on 13 June of 2007 with the support of the municipality.

During the period January to March 2007, the OSCE has observed and reported that along 13 routes monitored, the humanitarian bus service functions relatively well and passengers are generally satisfied with its quality. Although in some cases there is an insufficient number of seats and the buses are overcrowded, the majority of the beneficiaries have access to the service on a regular basis.¹² As such, the increased freedom of movement, Kosovo Serb returnees have more opportunity to visit the main towns and to interact with the Kosovo Albanian population while shopping, using the local banks, and accessing municipal and public utility services.

As of 1 January 2007, the responsibility falls under the Ministry of Transport and Post-Telecommunication (MTPT) for this system, following the Operational Arrangement for the Transfer of Responsibilities for Humanitarian Transportation for Minority Communities in Kosovo, signed between UNMIK and the PISG. The PISG are therefore ensuring the continuity of this service and its supporting institutional framework is currently under final completion. Nonetheless, perception of fear for security incidents among some members of the Kosovo Serb community remains, these persons continue to remain largely within, or travel between, areas where they are in the majority.

Restitution of property

To address the restitution of residential property, initially UNMIK established the Housing and Property Directorate (HPD) and the Housing and Property Claims Commission (HPCC) to address post-conflict restitution of residential property. Despite difficulties encountered by the institution the first years, HPD/HPCC largely fulfilled its mandate. The HPD/HPCC has implemented 28,828 decisions concerning residential property claims (98.9% of the total case load of 29,741 claims).¹³ The remaining 332 decisions will be implemented in the coming months.¹⁴ The reason for the delay in implementation is that the decisions in question are pending reconsideration. It is acknowledged that in these cases "implementation" does not necessarily mean that the claimants have repossessed (and/or returned). It means either that:

- a) the owner has settled privately and no longer needed HPD services (which usually implies a sale);
- b) the property is destroyed so administration is not needed;
- c) the property is being administered by HPD;
- d) the case is dismissed; or
- e) the owner has taken possession.

The mandate of the HPD/HPCC was designed to deal exclusively with conflict related residential property claims. While immovable property, which was associated to a residence fell within the HPD/HPCC's mandate, privately owned agricultural and commercial property was left out of the process. To amend this situation, as pointed out by Kai Eide in his "Comprehensive Review of the Situation in Kosovo" (the "Kai Eide Report"), on 4 March 2006, UNMIK Regulation 2006/10, later substituted by UNMIK

¹² There are 1-2 buses operating on each of all 16 operational routes of the Humanitarian Transportation System.

¹³ Period from January 2001 to October 2007.

¹⁴ Final Report of the Housing and Property Claims Commission 2007.

Regulation 2006/50, established the Kosovo Property Agency (KPA), succeeding the HPD/HPCC. The KPA is an independent local institution with the mandate of resolving all outstanding residential, commercial and agricultural private immovable property disputes related to the conflict.

The KPA is formed by an Executive Secretariat, a Supervisory Board, and a Property Claims Commission (PCC) as a quasi judicial body comprising of two international members and one resident of Kosovo. The participation of the PISG in the administrative oversight and policy guidance of the KPA is ensured through the nomination by the Prime Minister of Kosovo of two of the members of the Supervisory Board.

On 1 June 2007, UNMIK Administrative Direction No. 2007/5 implementing UNMIK Regulation No. 2006/50 was promulgated for the purpose of providing detailed procedural guidance to the main bodies of the KPA.

On 14 May 2007, the members of the PCC were appointed by the SRSG. The resolution of claims constitutes the first phase of the process necessary to restore rights and put in place the conditions for a sustainable return. As for the claims dispute resolution the PCC shall reach a decision on the claimed property in relation to title, property use rights and lawful possession rights. By receiving a determination of title, the successful claimants will thereby be able to register the confirmed title in the Kosovo Immovable Property Rights Register. The decisions of the PCC are final if not appealed. Unlike the previous HPD/HPCC mechanism, commission decisions may be appealed to the Supreme Court to be adjudicated by a panel of three judges, two internationals and one local. Most importantly, the decisions of the PCC constitute title determinations and therefore successful claimants holding PCC decisions will be able to register their ownership (or right of use) in the Kosovo Immovable Property Rights Register. Information on and access to the claim in-take process is ensured through KPA offices, mobile teams within and outside Kosovo, outreach campaigns by non-governmental and international agencies, as well as the PISG. As of September 2007, the KPA has received more than 27,494 claims over residential, agricultural and commercial private property.

The resolution of a property claim does not necessarily imply the return of the displaced persons. The rightful owners may be unable, or, due to security concerns, unwilling, to repossess their homes which has lead to cases of illegal re-occupation. In these cases the applicable legislation allows for an action *ex officio* by the Police to remove the illegal occupant.¹⁵ However, to deter this scenario, UNMIK requested that the KPS Standard Operation Procedures to be revised to ensure adequate enforcement, in accordance with the "Contact Group's 13 Priorities for Standards Implementation". Moreover, the Kosovo Property Agency has appointed a focal point to monitor cases of re-occupation in co-operation with the police.

The enforcement of decisions of the PCC over claims related to land will require remedies other than evictions from closed premises, including, but not limited to placing the property under administration, lease agreements, seizure and demolition of unlawful structures, and auction, all of which will facilitate and ensure the return of properties to the lawful property right holder. In this context, the successful implementation of the

¹⁵ Section 13.6 of the UNMIK Regulation 2000/60 and Section 16.5 of the UNMIK Regulation 2006/50.

rental scheme should be mentioned which provides a monthly regular income for the rightful property title holder who has decided not to take repossession of his property in the current moment due to various reasons. The person occupying the property pays a certain amount of money into a fund held in the name of the KPA which pays out the rent to the rightful property title holder. Taking into account the experience of the HPD/HPCC process by the KPA, administration of land is likely to be the primary method of implementation of PCC decisions.

Employment

In July 2005, UNMIK, United Nations Development Programme (UNDP) and PISG signed a Memorandum of Understanding on the implementation of a government-supported returns programme in Kosovo. The Memorandum of Understanding formed the framework for the implementation of the Sustainable Partnerships for Assistance to Returns to Kosovo project amounting to 8,800,000 Euro from the Kosovo Consolidated Budget. The programme is providing assistance for individual, spontaneous, organised and group returns. Beside housing assistance and community development, it also entails a service line for socio-economic assistance.

According to the SOK, Kosovo has the highest unemployment rate in the Western Balkans with over 40%. Its population is very young (half of the inhabitants are under 25 years of age), and an approximate 30,000 new job seekers join the labour market every year. In this situation the hurdles for access to employment are even higher for members of minority communities who have limited or no knowledge of the majority language and who do not feel confident to move freely by their own means. This is also true for returnees who have been living outside of Kosovo for years and have little knowledge how the public institutions are functioning.

The PISG Ministry of Labour and Social Welfare is an implementing partner in the UNDP's Employment Generation Programme, through the Local and Regional Employment Offices. At the end of 2006, after two years in operation the programme has generated 5,000 jobs and created over 800 partnerships with private sector companies. It offers on-the-job training, pre-employment training, employment subsidy and an internship scheme. According to UNDP, 30% of beneficiaries of this project are from minority communities. Two specialized programs are part of the Employment Generation Programme. The "Support to Agricultural Organizations" assists individual farmers to join together into the Agricultural Cooperatives, provides technical assistance, grants and training. The "Active Labour Market Programme" has been designed in response to the high youth unemployment rate. Information on application procedures for the programs is also available in the Serbian language and at the employment offices in minority inhabited areas.

Council of Europe Recommendation No. 10. Pursue plans to make the assistance schemes more flexible so as to better guarantee the freedom of choice of place of residence in Kosovo for persons belonging to minority communities.

The return to the place of origin is always the primary goal of the return process. The PISG reaffirms each displaced individual's right to return to their place of origin. It is the

most durable solution for all displaced. The Revised Manual for Sustainable Return also endorses the provision of assistance for the reconstruction of pre-1999 secondary residential properties. However, housing construction assistance should not be granted if a member of the household owns a residential property in Kosovo which the members of the household can freely access, or own residential property in Serbia or Montenegro.

Furthermore, the Revised Manual for Sustainable Return emphasizes the principle that displaced persons shall make a free and informed choice of place of residence, and recommends that assistance schemes shall be available to those who wish to return to other places than the place of origin.¹⁶ Hence, the Revised Manual for Sustainable Return foresees the possibility of local integration in the area of origin and/or resettlement in a location different than their site of displacement and previous home, and thereby extends the beneficiary selection criteria.

UNMIK and the PISG are aware, however, that the Revised Manual for Sustainable Return does not contain concrete procedures to be followed in such cases for the allocation of land and housing reconstruction assistance or the provision of housing units to the displaced in areas other than their home of origin. This has had various implications for return projects, for instance cases of construction on municipal land without urban and construction permits and allocation of land. To assess possibilities for establishing clearer procedures co-operation may be required with the Department of Cadastre.

Council of Europe Recommendation No. 11. *Introduce assistance measures, and clearer allocation of institutional responsibilities, to ensure improved integration of those persons belonging to minority communities who have been forcibly returned to Kosovo.*

In a major step to facilitate reintegration of the repatriated individuals into Kosovo society, the PISG approved, on 10 October 2007, the Strategy for Reintegration of Persons repatriated to Kosovo from the host countries. Besides providing immediate assistance upon arrival, the Strategy seeks to ensure sustainable and durable solutions for the needs of repatriated persons in the areas of health, education, employment, legal reintegration, social welfare, housing and property related issues. It also addresses the needs of vulnerable sections of society and minority communities. It specifically recommends affirmative action for minority groups in areas such as employment, education, legal reintegration and others.

The Strategy was necessitated by the fact that the repatriated individuals face many problems upon readmission into Kosovo in accessing social assistance and civil registration, and the quantum of such assistance to repatriated Kosovars, particularly those of Roma, Ashkali and Egyptian origins, which is often not adequate. Few, if any municipalities include costs associated with reintegration of the repatriated and voluntary returns in their budgets, preferring instead to seek separate funding for such activities. The vast majority of international assistance is aimed to support voluntary return. Currently, despite of the policy framework put in place no action plan has been

¹⁶ The Revised Manual for Sustainable Return, p. 8.

developed, nor has any budgetary means been set aside, for any specific assistance programmes supporting repatriated persons.

The strategy was drafted by the inter-ministerial Steering Board that was co-chaired by the Ministry of Internal Affairs and UNMIK Office of Communities, Returns and Minorities and comprised of the representatives of Ministry for Labour and Social Welfare, Ministry of Environment and Spatial Planning, Ministry of Local Government Administration, Ministry of Internal Affairs, Ministry of Health, Ministry of Education, Science and Technology, international organizations and other international and local experts.

Council of Europe Recommendation No. 12. *Take further urgent measures to address the alarming health situation of Roma in the lead-contaminated camps in Northern Kosovo, keeping the well-being and health of the Roma at issue as the primary consideration, and take additional measures to accommodate the return of the Roma and to prevent such health crisis in the future.*

In order to address the health situation of Roma in the lead contaminated camps in Northern Kosovo, in spring 2006 in total 91 families (400 individuals) were relocated to the Osterode camp. In detail this number encompasses 43 families (198 individuals) from Žitkovac/Zitkovc, 22 families (80 individuals) from the Kablar Barracks and 26 families (122 individuals) from Cesmin Lug/Llugë. The facilities in the Osterode camp (formerly used by the French KFOR) have been upgraded, cleaned and refurbished. In addition, for approximately one year the health situation has been constantly monitored with the World Health Organization expertise and, in collaboration with the Norwegian Church Aid camp management, as well as the UNMIK Department of Civil Administration (DCA), to make sure the lead contaminated persons receive medical treatments including fresh food supply.

The internally displaced Roma still living in the Osterode camp (approximately 700) are medically assisted on daily basis by two doctors working directly in the camp. Apart from medical assistance, the doctors monitor the living conditions and conduct blood test analysis. Roma families at the Žitkovac/Zitkovc camp and at the Kablar Barracks who refuse to move to Osterode still have access to the medical services at this camp.

Further efforts were undertaken to reconstruct individual houses and to build apartment blocks in the former "Roma Mahala" (Roma Mahala Return Project) in South Mitrovicë/Mitrovica in order to enable return for the Roma IDPs. In March 2007, nine families (51 individuals) moved from the Osterode camp to South Mitrovicë/Mitrovica camp. Moreover, further nine families (48 individuals) from Osterode and Cesmin Lug/Llugë are expected to return to the reconstructed Roma Mahala in South Mitrovicë/a by end October 2007. In the selection process of beneficiaries, the Municipal Selection Commission pays high consideration to the most vulnerable cases especially to persons affected by lead contamination.

By the end of September 2007 the Roma Mahalla Return Project had enabled the accommodation for 164 persons in apartment blocks, while 165 Roma have returned to the reconstructed private houses. Investing in the return project is a sustainable solution to prevent a future health crisis as it ensures adequate housing facilities to those persons and families that remain in risk of further contamination. In this regard, the Municipal

Assembly has approved the urban plan for the “Roma Mahala” which foresees a further construction of five apartment blocks. Due to budgetary constraints the realization of this urban plan is yet to be realized.

After finalization of the second return phase planned for October 2007, the Roma Mahala Return Project will be taken over by the municipality and the United Nations Kosovo Team, composed of 13 UN agencies under the leadership of UNDP (replacing the former team consisting of the municipality, UNMIK, UNHCR and OSCE).

Minority cultures and media issues

Council of Europe Recommendation No. 13. Expand efforts to protect religious sites from any incidents, while pursuing the crucial process of reconstructing the damaged sites

The PISG have expressed full support to religious and cultural heritage protection measures foreseen in Ahtisaari’s Comprehensive Proposal. Legislation is being drafted and field activities are on-going in co-operation with the international community, to implement special protection measures to provide for the safety and functioning of cultural and religious sites, and to preserve their historical, cultural and natural environment by preventing any adverse and irregular development within their immediate vicinity or around them.

Security incidents, attacks, and vandalism have occurred in various regions, such as the rocket propelled grenade attack against Visoki monastery, Deçan/Dečane, in March 2007. This particular incident was immediately condemned by local and central authorities. The KPS launched and concluded the investigation with the apprehension of the perpetrator. In Istog/Istok following thefts of stolen metallic sheets from the church the Municipal Assembly President issued a press release denouncing the act and appealing for respect and tolerance for all religious confessions on 1 April 2007. Although in general attacks on religious and cultural sites are less prevalent in Kosovo than in previous years, the need for strengthening the protection of such sites remains a priority. It should also be highlighted that this form of attacks are not confined only to Serbian Orthodox Church sites. A number of other sites belonging to various religious denominations are targeted for their metallic sheets and religious objects. Unfortunately, many of these sites do not have anti-theft system installed, leaving them exposed to these forms of crimes.

The PISG have undertaken various measures to strengthen the legislative framework on protection of cultural and religious sites. To this end, in May 2007, the PISG established the Sub-Working group on Cultural Heritage (SWG) with the support of a technical group. The aim of the SWG is to identify necessary steps to implement Annex V of the Ahtisaari’s Comprehensive Proposal¹⁷ based on the Kosovo applicable law on cultural heritage and freedom of religion. The Deputy Minister of the Ministry of Culture, Youth and Sport (MCYS) and a representative of the International Civilian Office (ICO) co-chair the group in which representatives of the Office of the Prime

¹⁷ Annex V Religious and Cultural Heritage.

Minister (OPM), Ministry of Environment and Spatial Planning (MESP), and other key international stakeholders participate.

Moreover, the technical group to the SWG is drafting the Law on Establishing Special Protective Zones (LESPZ), incorporating most of the relevant provisions from Annex V of the Ahtisaari Comprehensive Proposal. The draft provides the establishment of so-called "Special Protective Zones" (SPZ) around 45 religious sites as identified by the Ahtisaari proposal for special protection. Certain Activities within the perimeter of those SPZ shall be prohibited. Certain other Activities may or may not be restricted following an agreement between municipal authorities and the Serbian Orthodox Church. Although the Serbian Orthodox Church is not represented in the SWG, it is in correspondence with the co-chairs of the SWG and has expressed positive feedback on the draft law. An Implementation and Monitoring Council is foreseen to, *inter alia*, monitor and facilitate the implementation of the law.

In a similar activity, MESP has adopted an action plan for harmonisation of legislation and activities on spatial planning with the draft LESPZ. Apart from identifying the applicable legislation in Kosovo to be harmonised, the MESP has identified measures to incorporate SPZs in spatial planning. At the central level, MESP together with the Institute of Spatial Planning, have agreed on procedures to be followed by the Institute of Spatial Planning in the Kosovo Spatial Plan, such as the incorporation of SPZs in the map and in the cadastral plans. At local level, the action plan foresees the incorporation of SPZs in local plans, and a review of municipal, urban and regulatory plans for such aim. The action plan further envisages training on spatial planning and legislation on spatial planning to central and municipal officers as well as the organisation of an awareness raising campaign targeting the community residing in the foreseen SPZs.

The KPS will be responsible for the security of cultural and religious sites. The KPS Standard Operational Order is currently being drafted with the assistance of UNMIK Police. It sets out the instructions for Regional Commanders, Police Stations and Units on conducting security assessments and the level of response to all security incidents involving cultural and religious sites.

Pending the adoption of an adequate framework, on 12 September 2007 the Prime Minister signed an Administrative Instruction (AI) No. 2007/11 temporarily restricting the construction in foreseen SPZs. The instruction lists various sites subject to SPZs included in Annex V of the Ahtisaari proposal. A set of activities are also prohibited including commercial constructions or developments such as buildings higher than the object, road constructions, warehouses, markets, restaurants etc. It is acknowledged that there is a legal vacuum as the AI does not include enforcement measures in case of breaches of its provisions or foresee rules applicable for constructions already initiated in the SPZs. It is not known whether any legislative measures will be adopted to ensure compensation and other property claims by owners affected by the restrictions on the use of property foreseen in SPZs.

A positive development is UNMIK Regulation No. 2006/52 On the Promulgation of the Law on Cultural Heritage¹⁸ (LCH). The LCH aims to regulate the scope of cultural

¹⁸ Assembly of Kosovo Law No. 02/L-88.

heritage regarding preservation, protection, public access, communication and provision of necessary resources in order that the heritage is enjoyed as a historical and cultural monument (Article 1.4). In complying with the law, municipal and central authorities are obligated to preserve, protect and conserve all cultural heritage sites with historical and cultural value including religious heritage.

On 24 August 2006, UNMIK Regulation 2006/48 On the Promulgation of the Law on the Freedom of Religion in Kosovo¹⁹ entered into force. With the Law on the Freedom of Religion in place, Kosovo has a platform to foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers. It incorporates all international standards on freedom of religion and endorses the values of religious neutrality and religious autonomy by providing basic recognition of the ownership and possession rights of religious communities regarding their places of worships (Articles 8.1 and 12.3), as well as a protection against criminal acts (Article 4.2). The Law on Freedom of Religion does not mention the active protection of religious sites such as the establishment of protective zones, protected areas, conservation, restoration and protection, such as the legal framework foreseen in the LCH. However, the foreseen promulgation of the draft law LESPZ will provide for the safety and functioning of all religious sites, and to preserve their historical and natural environment by preventing any adverse activities within their immediate vicinity or around them.

Reconstruction of damaged sites

The reconstruction process of sites damaged during the 2004 riots has progressed since 2005. In March 2004, 34 Serbian Orthodox sites were damaged. The PISG have allocated four million Euro for the reconstruction process, and another two million Euro have been funded by the European Agency for Reconstruction. A multi-stakeholder Reconstruction Implementation Commission (RIC) has successfully carried out works on seven priority sites and intervened in all religious sites to prevent further deterioration. The tender process is ongoing for the finalisation of the reconstruction in remaining sites. All works are to be completed by the end of 2008.

In 2005, the RIC carried out protection measures to 31 out of 34 religious sites. The sites were protected against further deterioration and this way the conditions for new interventions were created. The RIC completed the repairs to seven smaller or slightly damaged sites.

In 2006, the RIC carried out extensive reconstruction works to seven priority sites. The most extensive reconstructions took place at the Episcopal Church of Saint George in Prizren and the Church of Saint Nicholas in Prishtinë/Priština. In addition to that, a perimeter wall was reconstructed in the completely destroyed site of the old church in Gjakovë/Djakovica

In 2007, the RIC has tendered further reconstruction works in 12 sites (works currently ongoing in seven of them) which should be completed between the end of the year and spring 2008. The RIC is also doing preparatory work for the reconstruction/restoration of decorative elements (wall paintings, iconostasis, icons) which are programmed to be carried out during 2008.

¹⁹ Assembly of Kosovo Law No. 02/L-31.

Apart from reconstruction, the RIC has contributed to bringing religious authorities, local government and the international community together into an effective collaboration and joint decision making structure. Further activities have involved awareness raising campaigns on cultural diversity values together with the government and developed a capacity building component in parallel to the reconstruction works for the benefit of the local institutions, universities, experts and contractors. This has taken place through the organization of workshops and lectures from international experts, visits to the sites, experience sharing and spread of the results and activities of the RIC.

Council of Europe Recommendation No. 14. *Increase measures to support cultures of minority communities, including numerically smaller ones, and ensure the participation of persons belonging to minority communities in the relevant decision-making process.*

On 18 August 2006, UNMIK Regulation 2006/44 On the Promulgation of the Law on the Institutions of Culture entered into force.²⁰ This law protects and promotes cultural institutions of all communities. When registered and operating in accordance with law, cultural institutions are eligible to receive funding from the Kosovo Consolidated Budget.

Council of Europe Recommendation No. 15. *Process rapidly the delayed application for radio and TV licenses, with a view to expanding the scope and diversity of broadcasting for and by minority communities, and take further steps to ensure that all communities have equal access to public service broadcasting.*

The backlog of applications for licenses was finalized by the Temporary Media Commissioner (TMC) in 2006. Additionally the Media Appeals Board, set up under the legal successor of the TMC, the Independent Media Commissioner (IMC),²¹ revisited a decision regarding a Gorani application in southern Kosovo. This led to an additional Gorani station. No further applications for licenses or amendments for existing stations were granted by the IMC.

Kosovo has currently 114 licensed radio and television stations. Seven of them (three television and four radio stations) have Kosovo-wide licenses. The remaining ones operate locally or regionally. According to the IMC, 35 of these stations broadcast mainly in Serbian language, three in Bosnian, two in Gorani, three in Turkish and one in Roma. Two stations have no primary language, broadcasting equally in Albanian and Serbian (with additional Roma programming). Thirty-four stations broadcast programmes in more than one language in addition to their primary language.

The IMC has started developing the process for a comprehensive re-licensing of the entire broadcast frequency spectrum in Kosovo, which is expected to begin during 2008.

²⁰ Assembly of Kosovo Law No.02/L-57.

²¹ The Independent Media Commission (IMC) was established on 28 August 2006, the successor of the Temporary Media Commissioner (TMC). The IMC consists of the Office of the IMC (headed by a Chief Executive Officer), the seven member Council (five resident, two international members), and the Media Appeals Board, the final executive arm of the regulator (one international Chair, and two Kosovar judges).

The IMC's formally-adopted Broadcast Policy includes provisions which explicitly call for cultural and linguistic diversity, inter-communal dialogue, and access by minority communities to broadcasting in their respective languages.

The IMC has determined not to issue new licenses prior to this comprehensive re-licensing. However, the IMC Council made one exception in February 2007 in order to open a tender for Kosovo's first exclusively Roma-language radio station. After a delay due to an appeal by an unsuccessful applicant (the appeal was dismissed by the Media Appeals Board), the successful applicant was awarded a license in August 2007 and is expected to commence broadcasting by the end of the year.

During 2007, the IMC Council approved a regulation determining the level of license fees for broadcasters. The regulation offered discounts for broadcasters which serve minority communities, however it was subject to appeal by some broadcasters who believed the discounts were insufficient. In response to the appeal, in October 2007 the Media Appeals Board issued a Decision that instructs the IMC to review the license fee model.

During 2007, the IMC also began regulation of cable broadcasting in Kosovo. The new regulations contained provisions which provide incentives for cable operators to offer 20% of their channels in minority languages.

As the Public Service Broadcaster, RTK, with one television channel and two radio channels, has the legal obligation to broadcast 15% of its programmes time in non-Albanian languages. According to RTK, the proportion of its own-produced programming in minority languages on television is 16.4%, and on radio 18%. Monitoring by the IMC has indicated that only 9.8% of RTK television's total program time is in minority languages.

RTK terrestrial coverage currently extends to an estimated 75% of Kosovo's inhabited area. By law the broadcaster is obliged to increase this to 90%, including 90% of areas where minority communities live. In order to narrow the legal gap, since September 2006 RTK is broadcasting the minority programming in its entirety via its satellite channel. It is estimated that around 90% of all Kosovans receive RTK's unscrambled satellite programme. While the minority programme is now identical on both the terrestrial and the satellite channel, the same does not apply to the Albanian-language programming due to copyright agreements, preventing RTK from airing sporting events or movies by satellite. In order to reach out to the remaining 10% covered neither by the terrestrial nor by the satellite network, RTK offered to purchase satellite receivers for that part of the population, but has so far not started to do so.

On the local level, however, there are still complaints from residents in remote areas or areas poorly covered by terrestrial signal about limited access to information. In addition to problems to receive the RTK signal in some areas, the information provided by local broadcasters is decreasing, as some local stations that were airing programmes targeting non-Albanian communities had to reduce their informative programming due to financial constraints.

Also of concern especially regarding the sustainability of minority stations is the fact that the Kosovo-wide electricity provider KEK this summer has been sending out electricity

bills to some minority stations covering the electricity consumption of the last years. As an example, one media outlet has been asked to pay an electricity bill of 24,650.89 Euro. If KEK should decide to enforce these invoices without offering stations a long-term payment plan, it could seriously financially endanger minority stations and media outlets with a small audience.

The financial future of RTK is equally uncertain. RTK is mainly financed by means of a Public Broadcasting Fee of 3.50 Euro per month per household. The Public Broadcasting Fee is being collected by KEK on the basis of a service contract between RTK and KEK. On 3 August 2007, KEK gave notice terminating the service contract with RTK as of 3 February 2008. An alternative collection mechanism or financing method is not in sight and will need the joint effort of the PISG, the AoK and RTK for realization. The Public Broadcasting Fee contributes approximately 80% to the budget of RTK. It could be expected that a substantial cut of this budget will also have an impact on the quality of the minority programming.

Also affected by the termination of the service contract with KEK is the Fund for the Support of Minority, Multi-ethnic, and Disadvantaged Media set up within the OPM. By applicable law, this fund is financed by five percent of the Public Broadcasting Fee and should contain over 650,000 Euro by the end of 2007. However, KEK has to date failed to deposit any money into this Fund, and the Fund's overall future is threatened if KEK stops collecting the Public Broadcasting Fee.

Language use

Council of Europe Recommendation No. 16. Adopt new language legislation in order to improve clarity and legal certainty as regards the use of languages, including in relations with administrative authorities, topographical indications, and registration of personal names, and closely monitor compliance with language requirements in the relevant sectors, including the judiciary.

According to UNMIK Regulation 2001/9 On a Constitutional Framework for Provisional Self-Government in Kosovo, Chapter 4, communities and their members have the right to use their language and alphabets freely in Kosovo. This implies the free use in education, before the courts, government agencies, and other public bodies in Kosovo.

After a long drafting process, the promulgation of the Law on the Use of Languages (Law on Languages), UNMIK Regulation 2006/51, on 20 October 2006, has contributed to harmonise, clarify and comprehensively regulate the use of languages by the PISG and all other organisations performing public services and functions.

The preamble makes reference to the international human and minority rights standards based on which the Law on Languages was drafted. The "general provisions", Articles 1 - 3, provide definitions, principles and conditions for the recognition of specific languages and linguistic rights. The "specific provisions", Articles 4 - 30, regulate the use of languages in central institutions, municipal institutions, publicly and socially owned enterprises, judicial proceedings, education, media, the private sphere, personal names and on linguistic freedom. The "implementation" provisions, Articles 31 - 33, obligate

the Kosovo government to establish an institutional mechanism, the Language Commission, to oversee the implementation of the law, and to envisage sanctions in case of non compliance with the law. The “transitional and final provisions”, Articles 34 and 35, establish that PISG continue to use the English language during the period of UNMIK administration and require that all the PISG adopt detailed regulations for the use of languages in accordance with the Law on Languages within their by-laws.

Article 2.1 recognises Albanian and Serbian and their alphabets as the official languages of Kosovo, which shall have equal status in Kosovo institutions. Pursuant to Articles 2.3 and 2.4 the recognition of an “official language of the municipality” and of a “language in official use of the municipality” are subject to demographic thresholds, with the noticeable exception of the Turkish, which is given the status of official language in Prizren Municipality.

The use of languages in the Central Institutions, including the Government, the AoK, and its Committees, is clearly spelled out in Articles 4 and 5 whereby the use of official languages on an equal basis is reiterated. This entails the following PISG obligations: to ensure the availability of simultaneous interpretation; to translate and archive official records, documents and laws; to display official names of public institutions in the official languages and in general to “ensure that [the] work environment [is] conducive to the effective use of the official languages and accommodate the use of any official language by their officers and employees.” As for those members of the Government and of the AoK whose mother tongue is not one of the official languages, Articles 4.4 and 5.2 recognize their right to use their mother tongue in the meetings of the central institutions, and in public meetings organized by these institutions.

Simultaneous interpretation is regularly available during AoK plenary sessions. With reference to the AoK Committees there are some shortcomings as for the functioning of the equipment or the availability of language assistants.

Article 5.4 of the Law on Languages requires that all laws adopted by the AoK shall be issued and published in the official languages and into the Bosnian and Turkish languages. In April 2006, the Kosovo Government has established the Office for Management and Administration of the Official Gazette of the PISG, which on a monthly basis, publishes the Official Gazette translated in five languages: Albanian, Serbian, Turkish, Bosnian and English.

The use of languages in Municipal Institutions is regulated by Articles 7 - 10 of the Law on Languages. In addition to the obligation to ensure the equal use of the official languages of the municipality, under Article 7.1 the municipality is obliged to provide like status to other community languages provided the conditions set for by Article 2.3 of the Law on Languages are met.²² However, pending the implementation of an official census, Prizren is the only municipality in which an additional official language, the Turkish, is recognised. Article 8 defines the rights of persons whose mother tongue is a “language in official use of the municipality,” in accordance with Article 2.4. At the moment, Turkish language has obtained such recognition in Mitrovicë/Mitrovica and

²² Article 2.3 stipulates that if a community constitutes five percent of the total population of the municipality where it resides, and whose mother tongue is not an official language, the language of the community shall be recognised as an official language of that municipality.

Gjilan/Gnjilane. Dragash/Dragaš and Pejë/Peč Municipalities recognize Bosnian as the official language but have adopted no regulation on this.

Article 7 of the Law on Languages clearly stipulates that municipal regulations be printed and published in the official languages of the municipality. While a number of municipalities have made visible efforts to comply with the applicable legislation, there are also cases where such translation is pending. According to the OSCE Report on Legislative Activities in Kosovo Municipalities published in August 2007, 17 municipalities state that to translate and issue official documents in both the official languages or to display information in both languages within and outside the municipal building is difficult due to insufficient and unsatisfactory translation capacities.

The use of languages in judicial proceeding is regulated by Articles 12 - 18 of the Law on Languages. In January 2007, the OSCE Report on "Translation and Interpretation in the Judicial System of Kosovo" outlined the following: a) the Albanian, Serbian, English, and where applicable, the Turkish language, are the official languages of courts in Kosovo; b) all communities have the right to use their language and alphabet freely in all communication related to court proceedings; c) in order to exercise this right, persons belonging to such communities have an individual right to interpretation/translation free of charge; and d) the courts are obliged to publish signs, notices and bulletins in all official languages.

Personal names and, particularly the right to register patronymics into public registers in the official language chosen by the person is recognized by Article 27.1 of the Law on Languages. Prior to the existence of the Law on Languages, the AI 2005/06 (issued by MPS on the Original Use of the Personal Name in Personal and Public Documents) in Article 5.1 would limit the scope of the name's registration to the Latin alphabet only. However, it was considered that the exclusive reference to the Latin alphabet was incompatible with the unhindered use and equal status of the Serbian official language and its alphabets, as recognised by Article 2.1 of the Law on Languages according to which "Albanian and Serbian and their alphabets are official languages of Kosovo and have equal status in Kosovo institutions."

To accommodate communities other than Kosovo Albanians and Kosovo Serbs, the Law on Languages, Article 27.2, ensures the right of persons belonging to communities whose language is not an official language to "ent[er] ... the original form of their name and surname in the script according to the tradition and linguistic system of their language, in public registers, personal identification and other official documents." Therefore, with the Law on Languages in place there is a legal basis for minority communities to request to have their patronymics registered in mother tongue and that the authorities are required to respect the linguistic structure and alphabet of the respective language.

Council of Europe Recommendation No. 17. *Ensure that the adoption of new language legislation is coupled with adequate implementation capacity and that procedures, including judicial ones, are in place in case of non-compliance with language requirements, including for any illegal changes of places of names.*

The PISG have set up both central level and municipal mechanisms to ensure and monitor the implementation of the Law on Languages and other related legislation. The central Language Commission has been established by the OPM, through the AI No. 2007/3. The Language Commission has, *inter alia*, the authority to receive complaints and make investigations on its own initiative; perform mediation activities in situations in which such mediation is required to ensure implementation of the law; issue written warnings in case its recommendations have not been implemented within a reasonable time; issue an annual report to the Government and to the AoK, and review and provide recommendations regarding legislation that affects or may affect the status or use of the official languages, or languages of communities whose mother tongue is not an official language, as stipulated in the Law on Languages Article 32.

The composition of the Language Commission comprises of representatives from six Ministries and one representative of the AoK, all are appointed by the Prime Minister as prescribed by the AI. In accordance with Article 32.10, the commission is required to reflect the linguistic diversity of communities in Kosovo.

Within the central executive branch, the Ministry of Public Services (MPS) monitors language compliance at the central level, through a Monitoring Unit for the Use of Official Languages in Central Institutions of Kosovo (Central Language Monitoring Unit). This was established on 1 April 2005 pursuant to the Decision No. 2005/02 of the MPS and later provided with rules of procedures through the MPS AI No. 2006/10 on Rules and Work Procedures of the Monitoring Unit for Use of Official Languages in Central Institutions of Kosovo, which entered into force on 1 September 2006. The Central Language Monitoring Unit monitors compliance of ministries and other central institutions with the applicable language legislation. This includes the establishment of ministerial Translation Units, the availability of equipment for simultaneous interpretation, and the provision of the requested interpretation services in each ministry. To this effect, the Central Language Monitoring Unit keeps monthly statistics on interpretation services and documents translated by Ministries and other central institutions and reports on the progress achieved and ascertained irregularities. The AI introduces standard forms for the use of Translation Units, including a “request for written translation” and a “request for simultaneous translation”. The head of the translation units located in central institutions are obliged to use the described forms and to submit a monthly report to the Central Language Monitoring Unit.

The AI contains detailed provisions on the training and professional development of language assistance staff. In particular, the Kosovo Institute of Public Administration (KIPA), among other activities, is also responsible to provide training courses to develop the capacities of translators employed by both central and municipal PISG. In this regard, the Central Language Monitoring Unit in co-operation with KIPA are responsible to identify specific training needs of central translation units.

According to the Central Language Monitoring Unit,²³ all the PISG Ministries have established Translation Cells.²⁴ The current translation/interpretation capacity amounts to a total of 68 language assistants, 30 providing services in Albanian-Serbian-Albanian and

²³ Ministry of Public Services, Central Language Monitoring Unit, Annual Report 2006.

²⁴ See Annex 1.

38 in Albanian-English-Albanian. There are five lectors ensuring proof reading, grammar and syntax consistency of all Albanian language documents.

The PISG is developing its capacity to assess training needs and provide professional development for the involved staff. In particular language assistants undergo a language test on a quarterly basis and those results are used in order to design capacity building courses. Particularly, in 2007 the MPS and the Ministry of Local Government Administration (MLGA) in co-operation with KIPA have each organised one training on interpretation techniques which targeted all central level language assistants, and most of the language assistance staff employed in Kosovo's municipalities.

In 2008, the Kosovo government and KIPA plan to develop and provide a comprehensive training of trainers for three KIPA language trainers who would then develop training programmes for central and municipal translation cells on a regular basis. At the same time, there is also a need for advanced language training, including on legal and administrative terminology used by the PISG. In this regard, the Council of Europe have provided training to the PISG in intensive advanced English, delivered between February and June 2007.

Within the central executive branch of the PISG, the MLGA has set up a mechanism to monitor compliance with applicable legislation on the use of languages by municipal authorities. The HRU of the MLGA has a Section for the Inclusion of Minorities and the Use of Official Languages (SIMUOL) which collects from municipalities monthly statistics regarding translated documents. Such statistics are disaggregated with reference to the total number of documents adopted by the Municipal Assembly,²⁵ its Committees,²⁶ the Chief Executive Officer²⁷ and the Municipal departments,²⁸ and additionally convey information on the number of translation requests, as well as translated documents and pages. The SIMUOL also maintains statistics regarding the staffing of municipal translation units. It is a predominantly statistical approach to keep track and identify issues and obstacles to the use of languages. The SIMUOL, in co-ordination with the MPS and KIPA is also involved in central level training activities aimed at reinforcing the capacity of municipal translation cells.

UNMIK DCA and OSCE have collected information on the capacity of translation and interpretation capacity of municipalities (Annex II). As of April 2007, 24 of the 33 Municipalities and Pilot Municipal Units (PMUs) had established a Translation Unit. The current number of language assistants employed by the mentioned 33 municipal authorities is 1.6 per municipality. The translation cell in six municipalities has up to 3 - 4 language assistants. Furthermore, 24 (73%) municipalities have appointed a Language Focal Point, which constitutes a useful resource in order to co-ordinate municipal initiatives and policies on the use of languages or to tackle implementation problems emerging during the operation of municipal institutions.

The introduction of Translation Cells within all municipalities, including the PMU Mamuša/Mamushë/Mamuša, is a necessary response to the multi-lingual environment of

²⁵ Regulations, decisions, minutes and other written documents.

²⁶ Conclusions and proposals.

²⁷ Minutes.

²⁸ Decisions.

Kosovo, particularly in the six municipalities with three official languages. In Prishtinë/Priština and Vushtrri/Vučitrn Municipalities the Turkish community has forwarded a request to the respective municipal assembly to allow the Turkish language to be granted official status of the municipality. The decision is pending. Currently, a Turkish language assistant has not been appointed in Gjilan/Gnjilane and Mitrovicë/Mitrovica Municipalities. The government of Kosovo encourages the relevant municipal authorities to address this issue and to allocate adequate resources to ensure such end. This is also applicable in the Mamuşa/Mamushë/Mamuşa Municipality, where the hired language assistant is overburdened with the task to provide translation interpretation from the Turkish language to the official languages.

As to the availability of simultaneous interpretation equipment, 20 (60.6%) municipalities have equipment installed. In seven (21.2%) cases, the requirement of such equipment does not match the need with no or few minority communities living or not having returned to the municipality. Six (18.2%) municipalities are still to install translation equipment.

According to Article 7.3 of the Law on Languages, upon request, municipal institutions are obliged to make interpretation available from one official language of the municipality into another, during the meetings of representative and executive bodies of the municipality, as well as in public meetings organized by the municipality. While 15 (46%) municipalities provide such interpretation regularly and by default, in another 12 (36%) interpretation is provided when requested. In the three Kosovo Serbian majority municipalities located north of the river Ibar, UNMIK provides interpretation from Serbian into Albanian when requested. In six (18%) municipalities no interpretation is provided.

The tightening of public spending in Kosovo, as required by the International Monetary Fund, and the result of lowered municipal budgetary ceilings, has restrained municipal spending. However, the majority of the PISG ministries are committed to ensure, as pointed out in the matrices developed by HRUs on the implementation of the FCNM, that the budgetary allocation of resources shall take into consideration the need for effective participation of minority communities in the management of local government.

Sub-legal acts of the central government

The implementation of the Law on Languages is premised on the adoption of Administrative Instructions by various PISG Ministries.²⁹ Unless specific provisions require an earlier deadline, as specified in the table attached, Annex II, in accordance with Article 36 of the Law on Languages, the PISG have the obligation to adopt such instruments within six months of its promulgation (20 October 2006), namely by 28 April 2007. As of September 2007, the PISG had adopted seven out of nine sub-legal acts. Besides these specific Administrative Instructions, pursuant to Article 35 of the Law on Languages, in their by-laws the PISG is obliged to adopt detailed regulations concerning the use of languages in accordance with the Law on Languages. Based on Article 36.1, the Kosovo Government had also the obligation to conduct a public awareness program immediately upon promulgation of the law, this program is yet to be developed and disseminated.

²⁹ See Annex III.

The MLGA has adopted the AI No. 2007/06 on the Determination of Procedures for the Application of the Law on the Use of Languages. The AI aims at determining the procedures for: a) the recognition of languages in official use at the municipal level pursuant to Article 2.4 of the Law on Languages; b) the submission of requests from members of communities whose language is in official use. The AI provides guidance to municipalities regarding the enactment of procedures that will permit them to recognise official languages (communities whose share of the total municipal population is 5% or more) and languages in official use (communities whose share of the total municipal population is 3% to less than 5%). It also guides them in the process of recognising language traditionally spoken as languages in official use, through their respective Municipal Assemblies.

On 11 April 2007, the MPS has adopted the AI No. 2007/1 on Determining Administrative Sanctions for the Violation of the Law on the Use of Languages. Based on Article 1 of the AI, the aim of the AI is to devise administrative sanctions applicable against the PISG in cases of violation of the Law on Languages.

With reference to the recognition of languages traditionally spoken on their territory, pursuant to Article 2.4 (last part) of the Law on Languages, municipalities are obliged to adopt "detailed regulations" within six months of the promulgation of the law. Such obligation has expired 180 days after the promulgation of the law (20 October 2006), namely on 19 April 2007. This provision remains unimplemented in most municipalities. However, it is expected that with the MLGA AI No. 2007/6 in place, municipalities have received guidance to effectively ensure the adoption of such detailed municipal regulations.

Council of Europe Recommendation No. 18. Ensure that tangible results are achieved in the efforts to put an end to the insecurity experienced by Serbs and Roma and persons belonging to certain other minority communities, which prevents them from using their language in public places.

Members of minority communities meet their practical life needs in the municipalities in which they live, became displaced or returned. The freedom to use their mother tongue in public places such as streets, shops, market places, restaurants and bars is primarily an issue of security and freedom of movement towards and within areas inhabited by the majority population, be it the Kosovo Albanian community, in most parts of the territory, or the Kosovo Serb community, particularly in the municipalities north of the river Ibar or in Kosovo Serb enclaves in the south of Kosovo. Secondly, but not less importantly, it is an issue of interaction and communication between members of the minority and majority community. While urban returns continue to remain a challenge, in various municipalities the gradual implementation of urban return projects has also coincided with improved conditions for the use of minority community languages.

The FCNM's Advisory Committee and the Council of Europe's Committee of Ministers have rightly recorded concerns expressed by certain minority communities regarding their inability to use their mother tongue in public places. The situation in a number of municipalities has significantly improved since the events of March 2004, and best

practices were developed by local authorities especially in municipalities in which urban return projects are being successfully implemented. Further the PISG efforts to promote inter-community communication, learning of both the official languages within the education system, and the long term perspective that members of all communities receive education not only in their chosen primary official language, but also in the other official language, will improve the use of community languages in public places. This is particularly critical if the possibility of linguistic interaction and communication amongst all communities and particularly the youngest generations is to be ensured and promoted. According to the observations of the OSCE, the practical ability and confidence of members of minority communities to use their mother tongue in public places and the concrete measures enacted by public authorities to promote such outcome vary across the regions and municipalities.

In the Pejë/Peć region, municipalities have taken a number of positive initiatives to promote the free use of languages in public places. The decision of the Municipal Assembly in Pejë/Peć to recognise the Bosnian language as an official language of the municipality, and practices such as displaying all the street names in the Albanian, Serbian and Bosnian languages have contributed to promote a climate of growing tolerance towards minority communities and their languages.

The Klinë/Klina Municipality developed best practices of particular importance. Since March 2004 successful return projects have been implemented in the villages of Videjë/Vidanje, Dresnik/Drnsnik and Klinavac/Klinafc. In the first five years after the conflict, the return of Kosovo Serbs to a town where several Kosovo Albanians had become missing was considered unviable. At an early stage of the return process, the open public use of the Serbian language in Klinë/Klina Municipality continued to be a challenge. However, the appointment of a Kosovo Serb returnee as Head of Municipal Community Office in March 2004, and the growing number of rural returnees, all contributed to gradually change the attitude of the municipal administration towards the use of the Serbian language.

In Gjiilan/Gnjilane, a number of Kosovo Serbs and Roma visit the market place close to the Orthodox Church on the road leading to Prishtinë/Priština. Most of them are transported by the PISG humanitarian buses from the outlying villages. Kosovo Serbs and Roma generally do not use coffee bars and restaurants, except possibly those located on the abovementioned road, and only when there are larger number of minority community members present. Since events of March 2004, both Kosovo Serbs and Roma continue to be reluctant to speak openly in public places. As observed by the OSCE, in general they use muted or hushed tones in their encounters with other members of their community in Kosovo Albanian areas, and they try to keep to a minimum their engagement with members of the Kosovo Albanian community in the Serbian language (enquiries, taxis etc). Kosovo Serbs and Roma also face problems in making themselves understood as a growing percentage of the Kosovo Albanian population does not understand Serbian. Where possible, Kosovo Serbs opt to access seemingly neutral public areas, including international banks (ProCredit and Raiffeisen), large supermarkets and shops on the main streets, near the municipal building, and the Kosovo Police Service station and shops in the town centre. Roma community members appear to be slightly more comfortable in Kosovo Albanian areas, and the reaction to their presence is very different as compared to the reaction towards Kosovo Serbs.

In Kamenicë/Kamenica Municipality, the municipal authorities are contributing to create and maintain a bilingual Serb and Albanian environment. The municipality actively supports an environment conducive to the free use of languages in public places, particularly through multi-lingual information and outreach initiatives. These supportive measures include: the use of interpreters in all public meetings organised by the municipality; providing the public with multi-lingual leaflets on access to municipal services, multi-lingual awareness campaigns on municipal services and residents rights and responsibilities on local radio stations, a public board at the entrance of the municipality with plenty of information in both official languages regarding job vacancies, information about public and Municipal Assembly meetings, as well as municipal Regulations for public discussion.

Among the Kosovo Serb majority of Štrpce/Shtërpçë Municipality the interaction between the majority and Kosovo Albanian community located in specific areas remains minimal. Kosovo Serb residents mainly do not go to the Kosovo Albanian villages east of the Drajkovce/Drekoc KFOR checkpoint. As for the Kosovo Albanian community, they are able to freely use their language throughout the Municipality of Štrpce/Shtërpçë. In shops, coffee bars, restaurants, and in Kosovo Serb majority areas of the municipality, Kosovo Albanians mainly communicate with the staff in Serbian language.

After the event of March 2004, the Kosovo Serb and Roma communities in Viti/Vitina have gradually shown confidence to use their languages freely in the shops and at the market place, and to a lower extent, in restaurants and coffee bars. However, in Ferizaj/Uroševac the Roma freely use both their language and the Albanian language in cafes, restaurants, and other public places.

The situation in the Mitrovicë/Mitrovica region which continues to be divided between Kosovo Serb and Kosovo Albanian majority areas remains a matter of concern. The Mitrovicë/Mitrovica Municipality is also geographically divided along ethnic lines. North of the river Ibar, small Kosovo Albanian minority communities live in a small number of villages of Zvečan/Zveçan, Leposavić/Leposaviq and Zubin Potok. In these three northern municipalities the Kosovo Albanian minority population rarely participates in the social life of Kosovo Serb majority towns, but generally restrains the use of language to its places of settlement. Despite a successfully implemented post-March 2004 reconstruction project, the pace of return is slow with only two Kosovo Serbs returned to the Svinjare/Svinjarë village. They are currently living in the southern part of Mitrovicë/Mitrovica, where they do not move to or use their language in the main urban area.

On the other hand, members of the Roma, Ashkali and Egyptian communities who returned to the Roma Mahalla, the “Dy Korriku” neighbourhood, and to the town centre in Mitrovicë/Mitrovica speak fluently the Albanian language within their communities and in their relations with the majority population, both in private and in public. The Kosovo Bosniak community has freedom of movement, and uses their language also in public. Those who have good command of the Albanian language and live in the south would rather use the Albanian language in public places, especially when approaching Kosovo Albanian interlocutors. Members of the Turkish community use their language

freely. In northern Mitrovicë/Mitrovica, internally displaced Roma use Albanian in public without restraint.

With the exception of the mixed village of Banjska/Banjskë, the Kosovo Serb and Roma communities in the Vushtrri/Vučitrn Municipality live in villages/enclaves separate from the majority population. Apart from the market place in Stanovci i Ulët/Donje Stanovce, the Vushtrri/Vučitrn Municipality is a positive example of practiced freedom of movement and free use of the Serbian language in public places. This is a Kosovo Albanian town known for the variety and affordability of its merchandise where Kosovo Serbs from different enclaves supply their needs and use freely their language. Perceptions regarding freedom of movement and free use of one's language vary depending on the community. The Kosovo Albanians claim that Kosovo Serbs enjoy satisfactory level of freedom of movement and are able to use their language in public places. On the other hand, most Kosovo Serbs share the perception that there is lack of freedom of movement and free use of their language in public places.

Within the Prizren region, in Rahovec/Orahovac the interaction amongst members of the majority and minority communities in public places may be facilitated by the fact that all these communities use a local dialect, the *Rahovecki*. Kosovo Serbs from the upper town regularly move throughout the majority area and use their language without hindrance. In Prizren, the Turkish language, and local dialect/version of such language, may also represent a sort of *lingua franca*. Albanian, Serbian, Bosnian and Turkish are commonly spoken and Kosovo Serb returnees are often seen in the town centre, especially at main supermarkets, where they can use their language without restraint. In the Dragash/Dragaš Municipality members of the Gorani community regularly visit Kosovo Albanian majority areas where they can speak and use their language without restraint. In the recently established Pilot Municipal Unit of Mamuşa/Mamushë/Mamuşa, Turkish community represents approximately 90% of the total population and the other communities - Roma, and Kosovo Albanians (a minority in the context of the PMU) - do not face problems in using their respective languages in public places. Roma are reportedly using their mother tongue in public places in Suharekë/Suva Reka and Mamuşa/Mamushë/Mamuşa, but they use their mother tongue only within their community and families in Prizren and Malishevë/Mališevo.

In the Prishtinë/Priština region, a gradual progress was noticed since the events of March 2004. Persons belonging to the Kosovo Serb community use their language more freely today than prior 2004, in public places in town of Prishtinë/Priština (shops, market places, streets coffee bars etc). Minority communities living in Obiliq/Obilić show more confidence in using their languages in all public places. Although, the OSCE has observed a gradual increase among Kosovo Serbs and Roma to use their respective language more freely in public, persons belonging to these communities are still reluctant to use freely their language in public places, in particular in places (shops, market places, street, coffee bars, restaurants etc) outside their neighbourhoods.

In Lipjan/Lipljan Municipality, since March 2004, there have been no significant improvements regarding the ability of minority communities to use their language in public. The Kosovo Serbs and Roma speak the Serbian language, feel confident to use their language in certain public places, such as the municipal building, the Kosovo Serb populated area of Lipjan/Lipljan town, and in Kosovo Serb villages. They continue

however to feel insecure to use and restrain from using their language in the streets, shops, restaurants, and coffee bars located in the Kosovo Albanian populated areas.

Education

Council of Europe Recommendation No. 19. *Consider ways to create opportunities for interaction between pupils from Serbian and Albanian communities and design a comprehensive plan that would progressively remove barriers, including linguistic ones, between pupils from different communities.*

There is a continued lack of interaction between Kosovo Serb and Kosovo Albanian pupils, perpetuated with the presence of parallel educational structures. Efforts to unite parallel schools and to bring children of both communities into one classroom are inhibited due to the political situation in Kosovo, undermining the possibility to incorporate education as one component into the community reconciliation process.

Kosovo Serbs continue to refuse attending the PISG funded schooling within the Kosovo curriculum opting instead for attending parallel education structures, which have resulted in, according to the Ministry of Education, Science and Technology (MEST), Kosovo Serbs withdrawing from the process of developing a Serbian language version of the Kosovo curriculum. As such, a Serbian language curriculum or Serbian textbooks are not available in the education system. This approach falls short of the PISG obligation to provide and ensure access to education in both the official languages and to ensure the equal use of the Albanian and the Serbian languages and alphabets in the field of education. However, it is equally important to emphasize that the development of a Serbian language version should only be done in co-operation and with the participation of Kosovo Serb representatives. Far from promoting mutual understanding and integration, the on-going scenario perpetuates the linguistic divide between the Albanian and Serbian speaking communities.

The significance of a Serbian language curriculum should, however, not be overestimated with regard to removing barriers for improving interaction between Kosovo Serbs and Kosovo Albanians. Pressure within the Kosovo Serb community on parents to send their children to such schools, and the support to Kosovo Serb teachers from the budget of the Republic of Serbia, who receive a salary far higher than their counterparts teaching in the PISG education system, contribute to divide the populations and the perpetuation of parallel structures. These two scenarios should not be invoked to justify the exemption of the PISG to adopt a Serbian language version. Still, they portray the situation and the challenges ahead that need to be overcome in order to promote the process of reconciliation and uniting Kosovo Serb and Kosovo Albanian pupils in the same classroom. Of course, another factor impeding efforts to bring together pupils of Kosovo Serbs and Kosovo Albanians is the considerable disparity between the two languages of Albanian and Serbian. Hence to further the integration will also require that these pupils

have sufficient language skills in both languages. As such, the first step towards reducing the demand for parallel schools is for Kosovo Serb teachers, parents, and pupils, to acknowledge that the PISG funded education system and the Kosovo curriculum matches the services provided by parallel schools. The second step will require that MEST develops a bilingual school model in Albanian and Serbian languages to accommodate the individual needs of each community while also aiming at building a bilingual communicative domain. Without these complementary developments, the progress of integrating Kosovo Serbs into the Kosovo curriculum will continue to be stalled.

Council of Europe Recommendation No. 20. *Accommodate concerns of persons belonging to minority communities and introduce measures that could reduce the demand for maintaining a parallel educational system.*

Primary and secondary education

The Kosovo wide curriculum is taught in three languages, Albanian (official language), Bosnian, and Turkish. As described above, because of the reluctance of Kosovo Serbs to engage in a dialogue with the PISG, in particular MEST, a Serbian language version of the Kosovo curriculum has not been developed.

In accordance with Article 10.1 UNMIK Regulation 2002/19 On the Law on Primary and Secondary Education in Kosovo (Law on Education), MEST has ensured the development of a Bosnian and Turkish language curriculum for all levels of primary and secondary education. With reference to compulsory education (Levels 1 to 9), the publication of PISG curriculum based textbooks in these languages is progressing though with some difficulties. Textbooks are available in the Levels 1, 2, 6, 7 and 9. For the Levels 3, 4 and 8 the completion of the textbooks is still in process and for the 5th grade no textbooks are available. It should also be pointed out that the problems experienced by minority communities are shared by the majority Kosovo Albanian community. Lack of textbooks and quality of textbooks at primary level is a general concern in Kosovo and should not be understood as a specific “minority problem”.

As to secondary education, the situation is more exigent with no curriculum based textbooks in minority languages presently available. According to the PISG, the main reason lies in the high number of courses as opposed to the small number of secondary minority community students. As such, it makes the printing economically unattractive for potential print houses. Instead, books are usually obtained from Bosnia and Herzegovina (BiH -Bosnian language) and Turkey (Turkish language), but refer to the teaching programmes and historical and cultural identity of those countries.

Bosnian and Turkish language education is provided through five national subjects (history, language, literature, art, and music) and through general subjects which are translated from the Albanian language textbooks. There are some concerns about the quality of translation of such general subjects. In general the national subjects tend to reflect the history and culture of the kin-states (BiH and Turkey) rather than the history and culture of the Bosnian and Turkish speaking communities in Kosovo. This is particularly true for imported textbooks.

Opportunities for bilingual education are available under applicable law. On a voluntary basis, children learning in minority languages can have access to a two-class per week

education in the Albanian language if the parent of the pupil expresses such wish. A formal curriculum is to be developed for such bilingual education.

Tertiary education

In general a limited number of study programmes are available in Bosnian and Turkish language within public universities in Kosovo. Opportunities of mother tongue education thereby decrease progressively for these communities while moving from primary to tertiary education, whereas Albanian language instruction increases.

There are two study programmes in Bosnian language: one at the Faculty of Business Applied Sciences in Pejë/Peć (70 seats per academic year) and one at the Faculty of Education in Prizren (30 seats per academic year). As to Turkish higher education, one study programme is offered at the Faculty of Education in Prizren (30 seats per academic year), and a course of Turkish language philology is offered at the Faculty of Philology in Prishtinë/Priština (together with a Master Course in Turkish Language and Literature). Out of 123 bachelor programs, 4 are offered in minority languages (3.2%). The PISG managed universities have developed no faculty curricula and programs in the Serbian official language. In accordance with applicable law regulating the use of languages, public universities are guaranteed autonomous status. It does not necessarily secure the development of a Serbian language curriculum or teaching programs as a mandatory requirement. As stated in the Law on Languages “the use of official languages and of any other language in educational programs is determined by universities through their own regulations.” (Article 23.2).

The “University of Mitrovicë/Mitrovica (UM)” which is managed by the Ministry of Education of the Republic of Serbia is providing higher education in Serbian language. The UM has undergone a comprehensive reform process since August 2001 with the objective of achieving European standards and becoming a member of the European University Association. The progress achieved by the UM was explicitly recognised in March 2007, when the SRSB signed UNMIK Executive Decision 2007/17 On the extension of the accreditation of the University of Mitrovica, commending the UM for adopting a democratic governance structure, i.e. election of the new Rector of the UM and adoption of a new Bologna compliant statute in December 2006 implementing the Bologna action lines. However, the UM refuses to co-operate with the PISG which is part of the reason that it does not receive any funding from the Kosovo Consolidated Budget.

The UM currently has 10 faculties with 8,474 students enrolled in the 2004/2005 academic year (last available figures). It has a total staff of 1,329, out of this 539 are professors, 406 are assistants and 384 are non-teaching personnel. The UM also offers study courses in other locations in Kosovo, for example in the village Ranillug/Ranilug in Kamenicë/Kamenica Municipality with the Linguistics Faculty.

For the academic year 2007/8 persons belonging to minority communities are offered a possibility to enrol at any study programme at Prishtinë/Priština University (UP) through a system of reserved seats: a total of 107 reserved seats, distributed amongst 17 faculties, and divided amongst the Bosniak (44); Turkish (25); and Roma, Ashkali and Egyptian communities (38). This means that 1.4% of the total available (7,669) education slots are reserved to members of minority communities. As stipulated in UP’s regulations on admission policy, “non-Kosovan and minority candidates have the right to compete and

be admitted only for the quota reserved to them” (page 1). As such, persons belonging to minority communities compete on an equal basis within the community for a pre-determined number of seats available.

Council of Europe Recommendation No. 21. *Address as a matter of urgency the issue of safe transport of pupils from minority communities to educational facilities*

Under Article 22.1 of the Law on Education, in Kosovo it is the obligation of municipalities to arrange safe and efficient transport for pupils in compulsory education to attend school. The PISG supports transportation of pupils from minority communities to educational facilities, including to parallel structures, by means of municipal as well as central level funds. Municipal authorities have the duty to ensure physical access to schools for all pupils. However, and due to the fact that physical access to educational facilities with mother tongue teaching constitutes an issue particularly for minority communities, special measures are enacted at different levels to accommodate this specific need. This applies particularly, but not exclusively, to the Kosovo Serb community whose freedom of movement is still limited.

Primary education is usually made available within the minority inhabited areas. Where the pupils are not enough for a class to be created, then a number of municipalities³⁰ throughout Kosovo provide transportation service to the nearest village. This also applies to secondary education. The transportation service is ensured by way of mini-buses, often donated by international agencies, and currently run either directly by the municipal community offices or indirectly by private contractors.

As for the higher education, students belonging to minority communities are provided with transportation by means of the humanitarian bus project, now under the

³⁰ This is the case in: Shtërpçë/Štrpce; Kamenicë/Kamenica; Gjilan/Gnjilane (particularly from the Roma return site of Abdullah Preshevo to the primary school in the village of Silovo/Shillovo); Novobërdë/Novo Brdo (limited to the school year 2006/2007, for Kosovo Serb pupils from the villages of Bostan/Bostane and Tërniqec/Trničevce); Viti/Vitina; Klinë/Klina (where the Municipal Community Office provides transport to two Kosovo Serb children living in the village of Drsnik/Dresnik to the parallel school in Videjë/Vidanje); Pejë/Peć (for Kosovo Serb students from Belo Polje/Bellopojë village to Goraždevac/Gorazhdec primary and secondary schools); Rahovec/Orahovac (for Kosovo Serb pupils from the village of Velika Hoca/Hoçë e Madhe to the secondary school in Upper Rahovec/Orahovac); Dragash/Dragaš (for a limited number of Gorani/Bosniak secondary school students); Prizren/Prizren (for Kosovo Bosniak secondary school students from the villages of Lubinjë e Epërme/Gornje Ljubinjë and Lubinjë e Poshtme/Donje Ljubinjë to Prizren town); Prishtinë/Priština (for Kosovo Serb pupils from the villages of Laplje Selo/Lapllasellë, Preoce/Preoc and Čaglavica/Çagllavicë and Rural North to Gračanica/Gračanicë); Lipjan/Lipljan (for Kosovo Serb and Roma pupils from Janjevë/Janjevo village to the secondary schools in Gračanica/Gračanicë, Laplje Selo/Lapna Selë and Lipjan/Lipljan town); Obiliq/Obilic (where three mini buses are under municipal management though unable to operate due to registration issues); Fushë Kosovë/Kosovo Polje (for Kosovo Serb and Roma pupils to two parallel primary schools, in Bresje/Bresje and Uglar/Ugliare); Leposavič/Leposaviq (for Kosovo Albanian pupils from the villages of Košutovo/Koshutovë and Ceranja/Cerajë to Bistrica/Bistricë); Mitrovicë/Mitrovica (for Roma returnees pupils in the Roma Mahala south Mitrovicë/Mitrovica to the school in the north Mitrovicë/Mitrovica).

responsibility of the PISG and MTC. The humanitarian bus transportation service is managed by the local transport consortium "Kolasin Prevoz". The beneficiaries of the project are almost exclusively Kosovo Serbs living south of Ibar and among them the students attending the university in North Mitrovica/Mitrovicë. In addition, in the Gjilan/Gnjilane region Kosovo Serb students also benefit from the transport service funded by the Co-ordinating Centre for Kosovo and Metohija.

Council of Europe Recommendation No. 22. *Address the existing needs for education in the languages of the minority communities, including by clarifying the threshold for opening a class with instruction in a minority language while aiming to accommodate the requests made by numerically smaller communities and take measures to provide adequate textbooks and qualified teachers for instruction in mother tongue.*

In October 2007, the MEST co-chaired a series of round-tables on education for minority communities in Kosovo, together with the OSCE, UNMIK, UNICEF, and the Council of Europe. The aim of these round-tables was to address the educational needs of the Kosovo Bosniak, Gorani and Turkish communities. The round-tables followed from a needs assessment conducted by the OSCE in spring 2007 of each minority community. Round-tables on the Kosovo Serb and the Croat communities are expected to be held later in 2007 or early 2008. The educational needs of the Roma, Ashkali and Egyptian communities are addressed in the Government Strategy on Integration of Roma, Ashkali and Egyptian communities and therefore do not form part of the series of round-tables.

See also comments under Recommendation 20.

Council of Europe Recommendation No. 23. *Ensure that decisive steps are taken to address the educational needs of Roma, Ashkali and Egyptian communities including by ensuring the sustainability of the programmes designed to help pupils from these communities to integrate and stay in the education system.*

From 2004 to 2007, MEST in co-operation with the OSCE, implemented the Roma, Ashkali and Egyptian Catch-Up-Class Project to enable the integration of vulnerable Roma, Ashkali and Egyptian children into the Kosovo education system. The project targeted nine municipalities in Kosovo (Prishtinë/ Pristina, Lipjan/Lipljane, Suharekë/Suva Reka, Pejë/Pec, Istog/Istok, Prizren, Shtime/Štimlje, Gjakovë/Đakovica and Fushë Kosovë/Kosovo Polje) with the highest number of children from Roma, Ashkali and Egyptian communities not enrolled in regular schools.

The Catch-Up-Class curriculum applied a special methodology to enable pupils to complete two grades in one school year. In addition, extra-curriculum activities were planned to foster the engagement of children from Roma, Ashkali and Egyptian communities with their peers at mainstream schools in order to permit their full integration into the school system. In total 1,751 pupils from Roma, Ashkali and Egyptian communities attended the Catch-Up-Classes out of which 565 children were enrolled in the regular primary school system in the last three years. MEST and the Municipal Education Departments funded the project with 249.817 Euro for the teachers salaries from 2004-2007.

In 2006 the PISG committed itself to develop a Strategy for the Integration of Roma, Ashkali and Egyptians in co-operation with the OSCE and the Kosovo Foundation for Open Society. The strategy is expected to be finalized by the end of 2007 while the implementation process under the framework of the implementation of the Human Rights Strategy shall start once the integration strategy on Roma, Ashkali and Egyptian is adopted by the PISG. The latter strategy encompasses all relevant key issues to promote a sustainable integration of these communities into the wider Kosovo society, including the crucial component of education.

In line with the developed recommendations for the Roma, Ashkali and Egyptian Integration Strategy, MEST has developed its own Strategy to Improve the Education of Roma, Ashkali and Egyptian Children entitled "Strategy for the Integration of Roma, Ashkali and Egyptian Communities in Kosovo – Education Component 2007-2017" which was officially adopted by MEST in September 2007. The implementation period of this separate education strategy will be decided after the elections and the formation of the new PISG government. It should, however, be pointed out that members of the Roma, Ashkali and Egyptian communities are generally able to speak Albanian and Serbian language, and to integrate within the majority community, thereby can attend schools with language instruction in either Albanian or Serbian languages.

Council of Europe Recommendation No. 24. Allow for flexibility in the implementation of the educational reform in relation to those pupils from the Gorani community who have not yet integrated into the new education system.

Since the school year of 2002/2003, a new Kosovo wide curriculum, adapted to European education standards, has been operating in the majority of the PISG funded educational facilities. During this period, the MEST has granted annual exemptions to the Gorani community for all school years up to 2006/2007, to continue education according to the previous educational system in Serbian language. For those Gorani pupils who finish primary and lower secondary school in parallel education structures (eighth grade) and wish to continue studying at upper secondary level, have the opportunity to enrol in the first grade of upper secondary education following the Kosovo curriculum. In parallel to the first grade studies, catch-up classes are provided for Gorani pupils who did not finalize the mandatory nine years of schooling introduced in 2002/2003. At upper secondary level, parents of Gorani pupils can choose the language of instruction in either Albanian or Bosnian.

For the school year 2007/2008, the MEST has decided not continue with the exemption system. As shown, parallel schools have been considered since the educational reform, but the PISG also acknowledge that these educational facilities should not be a system for the catering of the educational needs of the Gorani community. These should be addressed and accommodated within the Kosovo education system. Far from promoting integration and socialisation into Kosovo society, the attendance in parallel structures perpetuates the distance of Gorani pupils from the wider population. With the Law on Primary and Secondary Education in place, the new Kosovo curriculum has the means to provide matching services currently offered by parallel structures. In late October 2007, the MEST met with the Gorani community to discuss the opportunities to accommodate

the needs of the Gorani community. The outcome of the round-table is yet to be seen, however, it provided an opportunity for MEST, municipal authorities, and representatives of the Gorani community to meet and address the current situation and together discuss measures that accommodate the interests of all stakeholders.

Participation

Council of Europe Recommendation No. 25. Ensure the meaningful participation and input of persons belonging to all communities in the talks concerning the future status of Kosovo

High political powers outside of Kosovo have dictated that the talks involve senior Albanian and Serb politicians in Kosovo. At this point, the interests of minorities are accommodated through the advisory body of the Communities Consultative Council, set up under the Office of the President in Kosovo. Furthermore, the status process also includes other elements, such as the constitutional process and preparation of a strong legislative base. In this way, minority communities are involved in the status process by participating in the dialogue on status legislation, particularly through the Committee for Communities Rights and Interests and Return to ensure their input is considered in the constitutional and legislative process prior to status is settled.

Council of Europe Recommendation No. 26. Pursue efforts to ensure improved participation of persons belonging to minority communities in the PISG structures and processes.

In compliance with UNMIK Regulation 2001/36, the recruitment process into Kosovo's civil service is dictated by a system of ethnic quotas to ensure equitable representation of minority communities in central and public authorities, including the KPS. As such, minority communities are ensured access to the decision-making authorities at local and central levels. Statistics for 2007 of the number of persons belonging to minority communities working in the civil service have not been obtained.

There is a current employment freeze and downsizing of Kosovo's civil service. The PISG are committed to ensuring that this process does not have any adverse effect on the representation of minority communities. Lowered budgetary ceilings for central and municipal authorities have implied redundancies and a restructuring of public administration to maintain efficiency and effectiveness. Most PISG ministries have agreed that after the lift of the employment freeze, each respective HRU will make sure that the quota targets foreseen by law are met.

Council of Europe Recommendation No. 27. Introduce regular meaningful dialogue between the relevant Government Ministries and the Committee on Rights and Interests of Communities of the Assembly of Kosovo.

The Committee on Rights and Interests of Communities (CRIC) is one of the main committees of the AoK. Established in 2001 after the first parliamentary elections, CRIC holds 13 members. Each community has one representative in the committee.

The 2007 Work Plan of the CRIC foresees regular contacts with the MCR and the MLGA, and other relevant ministries. It also includes a section on co-operation with the MLGA, which is adapted in line with the Ahtissari Comprehensive Proposal and its legislative agenda. Still, the dialogue and co-operation between the CRIC, the MCR, the MLG, and all other ministries can be further improved, particularly between the CRIC and the MCR. Civil staff from the various ministries attending the CRIC meetings are those from a sponsoring ministry of a draft law that is on the CRIC daily agenda. As such, they are invited to attend CRIC meetings on the basis of need, i.e. when committee members have questions on a specific draft Law.

Council of Europe Recommendation No. 28. *Consider ways to improve the representativeness and effectiveness of the communities committees in municipalities.*

The Communities Committee (CC) is a mandatory mechanism that each municipality must appoint under UNMIK Regulation 2000/45 on Self-Government of Municipalities in Kosovo, as amended by UNMIK Regulation No. 2007/30. Along with the Municipal Community Office, the CC functions as an anti-discrimination and community protection mechanism to ensure that every local community regardless of its size, language, religion, ethnic origin or any other characteristic of its members shall receive equal treatment by the municipal authorities.

As of March 2004, a CC has been appointed in 27 out of 30 municipalities³¹ in Kosovo. Due to the political uncertainty in Kosovo and the slow pace of community integration, a number of CCs have not had all the members selected, or do not meet on a regular basis. The process of selection of the CC members have proved to be a difficult task, particularly in overcoming the resistance from representatives of minority communities to participate. Some CCs only meet once per month which undermines their work and community confidence.

Council of Europe Recommendation No. 29. *Step up efforts to ensure that persons belonging to all communities can effectively take part in the economic and social life of Kosovo, including by monitoring how the privatisation process and its outcome impacts on, and involves, minority communities.*

In 2005, the SOK conducted a Labour Force Survey providing reliable data on the labour market indicators. According to the survey, in 2005 the unemployment rate had reached 41.4 %. The level of unemployment is a concern among all communities, though the rate is higher among smaller and the most vulnerable communities, such as the Gorani, Roma, Ashkali and Egyptian. According to the Wage and Skills Survey of the International Labour Organisation (March 2006), comprising of 12,126 workers employed in 1,547 enterprises, primarily private companies, only 0.1% of the persons working in these

³¹Not yet appointed in Glogovac/Glogovac, Kaçanik/Kaçanik and Malishevë/Mališevo.

enterprises were Roma, Ashkali and Egyptians, meaning around 12 persons. In the public civil service, non-Albanian communities constitutes altogether 10% of the total number, i.e. around 7000 persons.

International donors and local institutions have made certain efforts to improve the low rate of employment.³² For instance, the Ministry of Labour and Social Welfare (MLSW) is preparing a possible co-operation with the Ministry of Trade and Industry (MTI) on developing a strategy on empowerment of persons belonging to minority communities in private business through incentives, such as subsidies. Other sponsored programs comprise of strengthening the employment opportunities through job-training and pre-employment training, supporting rural income activities by providing technical assistance and grants to farmers, and support to the accounting and auditing profession in Kosovo through upgrading of the Society for Certified Accountants and Auditors. This investment will lead to a sustainable private sector in Kosovo by creating jobs and income for families from all communities.

In Kosovo, the privatisation process controlled by the Kosovo Trust Agency, is almost at its end with the majority of the publicly owned enterprises and socially owned enterprise privatised or the processes are in the pipeline. Under the privatisation process the workforce is entitled to 20% of the total amount of the company's value.

Protection against population changes

Council of Europe Recommendation No. 30. *Ensure that the right to return is honoured and that the return process, while guaranteeing the choice of the place of return in Kosovo, is organised in a manner that prevents political manipulation.*

See comments under Recommendations 10-11.

Council of Europe Recommendation No. 31. *Ensure that any proposed decentralisation plan allows for substantial consultation of members of all minority communities and fully respects the principles of Article 16 of the Framework Convention.*

No progress to report

Cross-border contacts

Council of Europe Recommendation No. 32. *Pursue efforts to address the remaining obstacles in the cross-border contacts in the region.*

No progress to report

³² See comments above: Return issues and security concerns, employment.

Annex I

Table 1: The availability of Translation Units in PISG Ministries

Translation Units in the institutions of central administration					
No.	Institution	Total number of translators and lectors	Number of translators Albanian-Serbian-Serbian	Number of translators Albanian-English-Albanian	Number of lectors
1	OPM	5	3	2	0
2	MPS	10	3	5	2
3	MLGA	5	2	3	0
4	MFE	4	1	2	1
5	MCYS	3	2	1	0
6	MLSW	3	2	1	0
7	MTI	4	2	1	1
8	MoH	2	1	1	0
9	MEST	4	2	2	0
10	MEM	2	1	1	0
11	MESP	8	1	6	1
12	MCR	3	2	1	0
13	MTC	2	1	1	0
14	MAFRD	4	2	2	0
15	MoJ	11	3	8	0
16	MIA	3	2	1	0
Total		73	30	38	5

Source: MPS, Central Language Monitoring Unit, August 2007.

Annex II

Table II: Assessment of the Translation/Interpretation Capacity of Kosovo Municipalities as of April 2007

Translation Units/Interpretation equipment/Training/Financial resources												
No.	Municipality	Translation Unit established?	No. Language Assistants					Training received? (3)	Simultaneous Interpretation	Interpretation provided during meetings (4): Y/(R)when requested/N	Allocated financial resources adequate? Y/N	LFP(S) appointed/N
			Alb-Ser	Alb/Ser-Fing	other mun. lang. (1)	Total (2)	Sufficient staff? Y/N					
1	Deçan/Dečane	N	1	0	0	1	N	?	Y	R	N	Y
2	Gjakovë/Đakovica	Y	2	0	0	2	N	Y	P	Y	N	Y
3	Glogoc/Glogovac	N	0	0	0	0	N	N	Y	N	N	N
4	Gjilan/Gnjilane*	Y	2	1	0	3	Y	?	Y	Y	Y	Y
5	Dragash/Dragaš **	Y	4	0	0	4	Y	Y	Y	Y	Y	Y
6	Istog/Istok **	Y	2	0	1	2	Y	Y	Y	Y	N	Y
7	Kaçanik/Kačanik	N	0	0	0	0	N	N	P	N	N	Y
8	Klinë/Klina	Y	1	0	0	1	N	?	Y	Y	N	Y
9	Fushë Kosovë/Kosovo Polje	Y	1	1	0	2	N	?	Y	Y	N	Y
10	Kamenicë/Kamenica	Y	2	0	0	2	Y	?	P	R	Y	Y
11	Mitrovicë/Mitrovica*	Y	2	0	0	2	N	Y	P	R	N	Y
12	Leposavić/Leposaviq	Y	1	0	0	1	N	N	P	R*	N	Y
13	Lipjan/Lipljan	Y	3	0	0	3	Y	?	Y	Y	Y	N
14	Novo Brdo/Novobërdë	Y	10	0	0	10	N	N	P	Y	Y	Y
15	Obiliq/Obilić	Y	2	0	0	2	Y	?	Y	Y	Y	Y
16	Rahovec/Orahovac	Y	1	0	0	1	N	N	Y	R	N	Y
17	Pejë/Peć **	Y	1	1	0	2	N	Y	Y	R	N	Y

18	Podujevë/Podujevo	Y	2	0	0	2	Y	Y	Y	R	Y	Y
19	Prishtinë/Priština **	Y	4	0	0	4	Y	?	Y	Y	Y	Y
20	Prizren* **	Y	3	0	1	4	Y	Y	Y	Y	N	Y
21	Skenderaj/Srbica	N	1	0	0	1	N	N	N	N	N	N
22	Shtime/Štimlje	Y	1	0	0	1	N	N	Y	R	N	Y
23	Štrpce/Shtërpçë	Y	2	0	0	2	N	Y	Y	Y	N	Y
24	Suharekë/Suva Reka	Y	2	0	0	2	N	?	Y	R	N	Y
25	Ferizaj/Uroševac	Y	4	0	0	4	Y	N	Y	Y	Y	Y
26	Viti/Vitina	Y	2	0	0	2	N	?	Y	Y	N	N
27	Vushtrri/Vučitrn	Y	1	0	0	1	N	?	Y	R	Y	Y
28	Zubin Potok	N	0	0	0	0	N	N	N	R*	N	N
29	Zvečan/Zvečan	N	0	0	0	0	N	N	N	R*	N	N
30	Malishevë/Mališevo	N	0	0	0	0	N	N	P	N	N	Y
31	Mamuša/Mamushë/Mamuša (PMU)**	Y	0	0	1	1	Y	N	N	Y	Y	N
32	Hani Elezit/Dëneral Janković (PMU)	N	0	0	0	0	N	N	N	N	N	N
33	Junik (PMU)	N	0	0	0	0	N	N	N	N	N	N
Total	33	(Y) 24	48	3	3	53	(Y) 11	(Y) 8	(Y) 20	(Y) 15	(Y) 11	(Y) 24
Tot *	3	(N) 9	/	/	/	/	(N) 22	(N) 14	(P) 7	(R) 12	(N) 22	(N) 9
Tot**	6	(Tot) 33	/	/	/	/	(Tot) 11	(?) 11	(N) 6	(N) 6	(Tot) 33	(T) 33

Legend: PMU means Pilot Municipal Unit. Alb = Albanian. Ser = Serbian. Eng. = English. * Municipalities which have recognised other official languages or languages in official use. ** Municipalities that do use other community languages, though not formally recognised. (1) Other municipal language means official municipal language, language in official use, or community language not formally recognised but in practice used by the municipality. (2) One language assistant may be used for more than one language and the total number of language assistants may be lower than the sum of assistants indicated under specific languages. (3) According to information collected by the OSCE Municipal Teams. (4) Meetings of municipal bodies. (5) LFP means Language Focal Point. P means equipment installed but not functioning or used. (6) There is in practice only one language assistant supported by two secretaries/typists. R* UNMIK provides interpretation, when requested. Source: table prepared based on the UNMIK DCA and OSCE Municipal Teams inputs to the Standards Assessment February-April 2007.

Annex III

**Table III: Administrative Instructions to be adopted to ensure the implementation of the
Law on the Use of Languages.**

No.	Provision	Responsible Ministry	Subject	Deadline from LUL promulgation (20-10-2006)	AI Adopted
1	Art. 10	MLGA	AI on procedures for the submission of requests related to languages in official use	(90 days) 28-01-2007	AI MLGA No. 2007/6 (07-08-2007) on Determination of Procedures for the Application of the Law on the Use of Language which repeals AI MLGA No. 2007/02 of 22-01-2007
2	Art 19.4 + 36.1	MEST	Procedures to ensure learning in the chosen official language which is not used by any school located in the municipality	(180 days) 28-04-2007	AI MEST 2007/10 on Learning in the Elective Official Language (06-04-2007)
3	Art. 20.2 + 36.1	MEST	AI on Rules enabling persons whose mother tongue is not an official language to receive instruction in such language in areas inhabited by such community	(180 days) 28-04-2007	Pending
4	Art. 21.2 + 36.1	MEST	AI on the procedure by which persons whose language of instruction is not an official language can declare which official language they wish to study as a second language	(180 days) 28-04-2007	AI MEST No. 2007/10 on Learning in the Elective Official Language (06-04-2007)
5	Art. 22.2+36.1	MEST	Procedure for the registration of private education structures in languages of one's choice	(180 days) 28-04-2007	AI MEST No. 2003/14 on Licensing of Private Providers for High Education in Kosovo (17-07-2003) covers only high education institutions
6	Art. 24.1+36.1	MEST	AI on procedure through which a person shall declare the official language in which he/she wishes his/her record to kept	(180 days) 28-04-2007	AI MEST No. 2007/10 on Learning in the Elective Official Language (06-04-2007)
7	Art. 24.2	MEST	AI on procedures for issuing school certificates in the official languages	(90 days) 28-01-2007	Pending

8	Art. 32.10	OPM	AI on Competences and Composition of the Language Commission	(90 days) 28-01-2007	AI OPM No. 2007/3 on the Composition and Competences of the Language Commission (21-02-2007)
9	Art. 33	MPS	AI on Administrative Sanctions	Not specified	AI MPS No. 2007/1 on determining Administrative Sanctions for Violations of the Law on the Use of Languages

