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**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON  
ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Document submitted by the United Nations Interim Administration  
Mission in Kosovo under articles 16 and 17 of the Covenant**

**KOSOVO (SERBIA)\* \*\* \*\*\***

[Date of submission - 16 October 2007]

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\* The present document was requested by the Committee during its thirty-fourth session, May 2005 (E/C.12/1/Add.108, para. 9).

\*\* The present document was submitted simultaneously and should be read together with the Common Core Document submitted by the United Nations Interim Administration Mission in Kosovo (HRI/CORE/UNK/2007).

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## **Introduction**

1. In submitting this report on the implementation of the International Covenant on Economic, Social and Cultural Rights in Kosovo to the Committee on Economic, Social and Cultural Rights (CESCR), the United Nations Interim Administration Mission in Kosovo (UNMIK) is acting under the authority granted to it under United Nations Security Council Resolution 1244 (1999) (UNSCR 1244).
2. A draft of this report was prepared by the OSCE Mission in Kosovo on the basis of inputs provided by the Provisional Institutions of Self-Government (PISG) and the Pillars and Offices of UNMIK, and on the basis of other public sources. The Government of Kosovo, through the recently established Human Rights Units in the Ministries, played a significant role in preparing inputs for the report and in commenting on the draft. The draft was subsequently reviewed and revised by the Office of the Special Representative of the Secretary-General of the United Nations.

## **Article 1**

3. In light of the mandate of UNMIK under UNSCR 1244, there are no observations to be made in relation to this Article.

## **Article 2**

### **A. Budgetary development and protection**

#### **1. Development cooperation**

4. Kosovo has received a significant amount of international assistance since the end of the conflict in 1999, much of it allocated to specific sectoral projects implemented by various agencies, and a part of it provided as direct budget assistance. The total amount of aid committed by donors between 1999-2005 amounts to 2.7 billion Euro. Between 1999 and 2004, 199,336,299.62 Euro of this amount was disbursed as non-designated budget support - an aid modality that was not sought again until 2006. In addition, between 1999 and 2005, 233.81 million Euro was disbursed as donor designated grants (in effect, designated budget support). The rest of the 2.7 billion Euro disbursed between 1999 until 2005, was issued as project aid, supporting projects implemented either by the donors themselves or by contracted agencies.
5. In the early years, international aid concentrated on emergency humanitarian and reconstruction assistance. Gradually, however, international donor funding was increasingly channelled toward supporting economic development. The contributions of the international donor community have included support to macroeconomic policy (IMF), the coordination of humanitarian aid (UNHCR and the EU), damage assessment and housing (the EU through

the International Management Group), post-conflict needs assessment, the development of reconstruction and recovery programs, as well as programs for economic and social reform (World Bank, the EU, EBRD, and bilateral donors), agriculture (FAO), support to the private sector (EBRD, IFC, and bilateral donors), and community-based development (World Bank, the EU and bilateral donors).

6. The first Donor Conference for Kosovo, organised by the Joint European Commission/World Bank Office, took place on 28 July 1999 in Brussels, focusing on the humanitarian situation and the transition to civil administration. The meeting endorsed an action plan aimed at rebuilding Kosovo through the support of the international community. This event initiated a co-ordinated process of international support throughout the reconstruction period, which lasted from 1999-2003. The Reconstruction and Recovery Programme prepared by the World Bank and EC, in cooperation with UNMIK, estimated that an amount of USD 2.3 billion was required during the reconstruction period in order to achieve three objectives: the development of an open and transparent market economy; the establishment of a public administration and transparent, effective and sustainable institutions; and the mitigation of the effects of conflict/the legacy of the 1990s.

7. Pledges made at the Second Donor Conference (also organised by the Joint European Commission/World Bank Office) which was held on 17 November 1999 in Brussels reached USD 1.06 billion, out of the USD 1.1 billion required to commence the first phase of the recovery programme and to cover the recovery needs to the end of 2000. By December 2000, donors had committed a total of USD 1.3 billion.

8. The Third Donor Conference (also organised by the Joint European Commission/World Bank Office) was held in Prishtinë/Priština in February 2001, and asked donors to respond with new pledges by the end of March 2001. Donors committed an amount of USD 0.6 billion. Donors were asked to concentrate their efforts on economic development and reform and were presented with a Medium Term Expenditure Framework for Kosovo prepared by UNMIK

9. The fourth Donor Meeting (also organised by the Joint European Commission/World Bank Office) was held in Prishtinë/Priština in April 2006, and introduced donors to the new Medium Term Expenditure Framework 2006-2008 (MTEF), which had been prepared in close cooperation between the PISG Ministry of Finance and Economy (MFE) and the UNMIK Fiscal Affairs Office (FAO). The MTEF provided both a three-year expenditure and revenue forecast, and sectoral analyses. The sectoral analyses included lists of spending initiatives, both those already funded by the Kosovo Consolidated Budget (KCB) and those that were ripe for donor support. Donors pledged 55 million Euro toward Budget support.

10. Meanwhile, work has been underway throughout 2005 and 2006 to produce a Kosovo Development Strategy and Plan (KDSP) - a comprehensive mid-term socio-economic

development strategy for Kosovo, along the lines of the National Development Plans (NDP) that are usually required by the EU in the pre-accession processes. Spearheaded by the PISG, and with financial and technical support from the donor community, a first draft of the KDSP was completed on 18 December 2006. While substantial work is still necessary, the KDSP, as the most sought out development framework by international financial institutions, multi-lateral and bilateral donors alike, should serve as a future basis for identifying priority areas for donor support.

11. It should be noted that the establishment of two data bases - one housed by the Joint European Commission/World Bank Office in Brussels, and the other with the MFE in Prishtinë/Priština - known as RIMS (Reconstruction Intervention Monitoring System) - have, from the very beginning, contributed to aligning donor pledges and commitments with Kosovo's needs. The database maintained by the Joint Office tracks overall pledges made at donor meetings and has a direct communication with donor capitals. Its objectives are to provide an additional reference for the Government in its effort to integrate external financing into the budget; to identify donor resources and funding gaps in various economic sectors; and to help the international community to have a better idea of overall aid flows to Kosovo. The database provides aggregated information on donor pledges, commitments, and expenditure. The database maintained by the MFE (initially maintained by the UNMIK Department of Reconstruction) is a detailed contract-based database, providing information on the progress of donor funded projects. The database is meant to help donors design their assistance programs while avoiding overlap with other donor interventions, as well as to help the MFE in monitoring the programmes. Project specific information for this database was initially collected by the UNMIK Department of Reconstruction from local sources (donors, implementing agencies) rather than from the donor capitals. It is verified with local donor representatives on a bi-annual basis.

12. Finally, donor co-ordination efforts took on an institutional dimension with the establishment of structures such as the MFE's Unit of Donor Coordination, which functioned from 2002-2005. In April 2006, a new Donor Coordination Unit was established within the Office of the Prime Minister. Its role is to handle inquiries from donors and help direct donors to meritorious projects.

13. The tables below contain information on the aid disbursement during the time period 2000-2003 for each sector.

14. Data from the MFE indicates that much has been achieved as a result of international assistance, including the repair of more than a thousand kilometres of road and an increased provision of energy supply. Schools and clinics have also been constructed throughout Kosovo, thereby ensuring basic infrastructure for health and education.



**Table 1**  
**Kosovo Reconstruction and Recovery Programme,**  
**External Financing Requirements (in US Dollars)<sup>a</sup>**

Activity	First phase (until December 2000)			Second phase (2001-2003)	Total
	Until March 2000 <sup>b</sup>	April-Dec 2000	Total		
Agriculture	8	86	94	141	235
Private Sector	16	104	120	110	230
Development/Industry					
Institutions	15	35	50	50	100
Housing	36	270	306	214	520
Water and waste	30	49	79	181	260
Landmine clearing	7	14	21	9	30
Education	11	38	49	36	85
Health	16	24	40	45	85
Telecommunications	15	26	41	54	95
Energy	51	78	129	281	410
Transport	12	57	69	96	165
Subtotal	217	781	998	1 217	2 215
Budgetary support <sup>c</sup>	68	60	128	TBD	TBD
Total	285	841	1 126	1 217	2 343

*This table has been extracted from the "Report on Activities of the European Commission/World Bank Office for South East Europe 2001".*

<sup>a</sup> The figures are estimates and do not include humanitarian requirements.

<sup>b</sup> The requirements until March 2000 correspond to urgent activities.

<sup>c</sup> Budgetary support will be needed to finance a deficit, estimated at the time of writing at USD 48 million for 1999 and USD 80 million for 2000 (including USD 20 million for the period January to March 2000). Budgetary support requirements for the period 2001 to 2003 were not known at the time of writing.

**Table 2****Outcome indicators of infrastructure projects relating to reconstruction and repairs**

	1999	2000	2001	2002	2003	Total
Kilometre of road	0	487	926	36	26	1 475
No. of houses	0	11 782	5 828	2 074	0	19 684
No. of schools	81	89	110	99	80	459
No. of health care centres	10	28	46	18	73	175
No. of household hours with electricity (million)	4.0	4.6	5.1	5.6	5.5	24.8
m2 landmines cleared (million)	4.7	27.5	0.2	0.3	0	32.7

*Source:* Donor Coordination Unit, MFE.

**Table 3****Data for sectoral donor budget distribution, January-December 2004**

Sectors	Committed	Contracted	Spent
Trade and industry	38 065	23 821	21 034
Democratic governance and civil society	36 963	29 245	22 374
Public utilities	26 310	34 657	53 862
Economy and finance	14 128	12 700	11 275
Justice	11 351	9 847	10 066
Local administration	8 915	4 321	3 026
Agriculture	6 729	3 574	3 995
Education and science	6 251	4 206	8 050
Housing	5 767	5 409	6 809
Health	4 696	6 809	7 253
Environment	3 580	1 058	1 049
Culture	3 530	856	574
Social welfare	3 429	4 672	2 702
Other Sectors	2 978	3 059	3 190
Labour and employment	2 177	1 387	1 202
Public services	2 167	3 355	1 684
Youth	1 409	559	547
Kosovo Police Service	1 386	1 887	1 778
Mine Action Co-ordination Center	860	860	
Civil security and emergency preparedness	400	400	375
Transport and infrastructure	176	456	1 956
Total	181 267	153 139	162 799

*Source:* MFE.

*Note:* amounts are in thousands of Euro.

## **2. The establishment of a public sector budget for Kosovo**

15. A Central Fiscal Authority (CFA) was established in November 1999 through UNMIK Regulation No. 1999/16 On the Establishment of a Central Fiscal Authority of Kosovo and Other Related Matters.<sup>1</sup> Acting under the authority of the SRSG, the CFA was responsible for the overall financial management of the Kosovo General Government Budget and the budgets falling under the responsibility of municipalities (which together form the Kosovo Consolidated Budget - the KCB). In February 2003, the responsibilities of the CFA were handed over to the PISG Ministry of Finance and Economy (MFE), which bears responsibility for budget development and execution. In May 2003, the Law No. 2003/2 On Public Financial Management and Accountabilities (LPFMA) was promulgated through UNMIK Regulation No. 2003/17 of 12 May 2003, providing the legal framework for the development and execution of, as well as the reporting on, central and municipal budgets, the control of the receipt and expenditure of public money, and other aspects of public financial management. The MFE has the authority to issue administrative instructions and other subsidiary executive instruments (such as financial rules) for the implementation of the LPFMA. In accordance with the Constitutional Framework,<sup>2</sup> the final approval of the Kosovo budget is a reserved responsibility of the SRSG.

## **3. Training on human rights based budgeting**

16. In the second half of 2006, the OSCE/Pillar III provided two rounds of introductory training on human rights based budgeting to selected municipal officials relevant to the municipal budget process. The first round addressed all municipal finance officers of each municipality of Kosovo, although the finance officers of Serbian dominated municipalities in the north of Kosovo declined the invitation to attend. The first round gave a basic introduction to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and its applicability in Kosovo under UNMIK Regulation No. 1999/24 On the Law Applicable in Kosovo of 12 December 1999, as amended. Using the example of a recent report by OXFAM on the significance of public sector health, education and water services to overall development, the training discussed the relationship between municipal budget allocation and enjoyment of economic and social rights. The training concluded with a basic case study highlighting the operation of principles of non-discrimination in the delivery of public services.

17. The second round of training addressed all members of the Boards of Directors of five municipalities in the region of Pejë/Peć. This training round elaborated on the previous content and developed the significance of budgeting as a human rights process. The training discussed the range of ICESCR articles and reviewed the general obligations of public authorities to take steps towards the full realisation of economic, social and cultural rights, non-discrimination and

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<sup>1</sup> UNMIK Regulation No. 1999/16 On the Establishment of a Central Fiscal Authority of Kosovo and Other Related Matters of 6 November 1999, as amended by UNMIK Regulation No. 2000/7 of 18 February 2000.

<sup>2</sup> UNMIK Regulation No. 2001/9 On a Constitutional Framework for Provisional Self-Government in Kosovo of 15 May 2001, as amended by UNMIK Regulation No. 2002/9 of 3 May 2002.

equal rights between men and women. The specific obligations to respect, protect and fulfil socio-economic rights were reviewed. Through a number of case studies on the rights to health and adequate housing specific elements of each right were discussed including availability, accessibility, affordability, quality and security of tenure (for housing). Principles of non-discrimination were discussed and the concrete link was highlighted between municipal budgets and implementation of public obligations to secure socio-economic rights for all, especially the most vulnerable groups. The training round concluded with a complex exercise to highlight the relationship between budgetary choices and effective realisation of ICESCR rights.

#### **4. Taxation**

18. On 31 August 1999, and following a surge of uncontrolled imports after the armed conflict, UNMIK established a Customs Service<sup>3</sup> with the aim of collecting customs duties, excise duties on specific goods, and sales tax on imports. The Customs Service developed quickly, increasing its staff from 36 persons in 1999 to 577 in 2006. Its efficiency has improved throughout the years, with an average collection rate of 0.8 million Euro per employee. Revenues collected by the Customs Service constitute the largest contribution to the Kosovo Consolidated Budget, providing more than 65% of total revenues.

19. A Sales Tax (at the rate of 15%) was introduced in January 2000, and a Service Tax (at the rate of 10% of gross receipts) for hotels and restaurants was introduced in February 2000. These two taxes were replaced by a Value Added Tax (at the rate of 15%) in June 2001. An excise tax was subsequently introduced and represents a solid share of budget revenues. The taxation of income started in May 2000 with the introduction of a Presumptive Tax. Another step was the introduction of a Profit Tax and an Income Tax in February 2002. These three taxes have been consolidated and replaced by a Corporate Income Tax and a Personal Income Tax with effect from January 2005. The Corporate Income Tax is charged at a flat 20% rate on income, while the Personal Income Tax is progressive. The tax system was built in a relatively short period of time so as to ensure sustainable resources for the KCB. The result has been a continuous growth in revenues, from 287 million Euro in 2000 to about 700 million Euro in 2006.

20. The administration of domestic taxes was conducted by the CFA until February 2003. The responsibility was subsequently transferred to the Tax Administration of Kosovo (TAK). The collection of domestic taxes remains weak and the efficiency of TAK compared to UNMIK Customs is low, with an average collection rate of 0.25 million Euro per employee.

#### **5. Public procurement**

21. The Law on Public Procurement, promulgated by UNMIK Regulation No. 2004/3,<sup>4</sup> sets out the rules and procedures for public procurement with the purpose to ensure the most

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<sup>3</sup> See UNMIK Regulation No. 1999/3 On the Establishment of the Customs and Other Related Services in Kosovo of 31 August 1999, as amended.

<sup>4</sup> Law No. 2003/17 On Public Procurement in Kosovo, promulgated by UNMIK Regulation No. 2004/3 of 9 February 2004.

efficient, cost-effective, transparent and fair use of public funds and resources in Kosovo. The law also aims to ensure the integrity and accountability of public officials, civil servants and other persons conducting or being involved in public procurement activities.<sup>5</sup> Responsible for the implementation of the law is the Public Procurement Rules Committee (Rules Committee), which shall develop rules and procedures for the tendering and review process.<sup>6</sup> The Rules Committee has drafted several public procurement rules and the Public Procurement Agency (PPA)<sup>7</sup> has adopted a Working Regulation and Administrative Guide No. 2006/1 further implementing the Law on Public Procurement. It includes amendments in the tender dossier for supply, work and services. In view of public procurement, the PPA has also introduced eight manuals explaining a wide spectrum of issues such as the preparation of tender dossiers, procurement procedures, contract notices, determination of the procurement procedure, procurement planning, evaluation of needs and availability of means. It has also produced a brochure for procurement officials and a guide on reading the Law on Public Procurement. A revised law on public procurement with the aim of further simplifying and improving the procedure of procurement has been passed by the Assembly of Kosovo and promulgated as UNMIK Regulation No. 2007/20.

## **6. Financial investigations**

22. One of the key policies of UNMIK is the policy of zero tolerance against crime. In the framework of this policy, the Financial Investigation Unit (FIU) was established on the initiative of the Special Representative of the Secretary-General (SRSG) in 2003. The Italian Government agreed to provide Guardia di Finanza investigators to staff this specialized unit. There are three key documents, which define the legal status, role, mandate, and the scope of activities of the FIU: (a) The Agreement between UNMIK, the European Agency for Reconstruction (EAR) and the Government of Italy; (b) UNMIK Administrative Direction No. 2003/3 On the Establishment of the Financial Investigation Unit of 31 January 2003; and (c) Executive Decision No. 2003/16 on the Establishment of the Investigation Task Force.

23. Firstly, the Agreement, signed on 26 February 2004, specifies the terms and conditions, the rights and responsibilities of UNMIK, EAR and the Government of Italy as parties to the agreement on the provision of specialized financial investigation services. It defines the undertakings of the Italian government to provide specialized financial police investigators; UNMIK to provide an appropriate working environment; and EAR to provide financial contribution to staff costs and other relevant expenses.

24. Secondly, the UNMIK Administrative Direction 2003/3 establishes the Financial Investigation Unit (FIU) as the specialized unit responsible for investigating the activities of entities funded from the Kosovo Consolidated Budget; defines the mandate of the FIU as to fight

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<sup>5</sup> Ibid.

<sup>6</sup> For further reference as to the Rules Committee's functions, see Law No. 2003/17, Title VII.

<sup>7</sup> For further reference as to the PPA's mandated functions, see Law No. 2003/17, Articles 90-93.

financial crime and crime involving corruption in Kosovo; and states that the powers and the responsibilities of the FIU are determined as those of the law enforcement authorities under the applicable law in Kosovo. The powers of the FIU are to conduct administrative inspections (searches of offices, premises, and documents); to conduct investigations where there are grounds to suspect that a financial crime or a crime involving corruption has been committed; and to proceed in accordance with the applicable law on criminal procedure once there are grounds to suspect that a financial crime or a crime involving corruption has been committed.

25. Thirdly, the Executive Decision No. 2003/16, signed on 21 October 2003, establishes the Investigation Task Force (ITF), consisting of the representatives of the Office of Internal Oversight Services of the United Nations, the European Anti-Fraud Office (OLAF) and the FIU. The Decision defines the mandate of the ITF as “to identify fraud and corruption involving any of the following institutions and entities, and the personnel thereof”: (a) UNMIK, including its Pillars and other organizational structures; (b) Local governmental institutions; (c) Independent bodies and offices established pursuant to the Constitutional Framework; (d) Publicly-owned enterprises and other entities operating with public assets and socially-owned enterprises operating under the general authority of the Kosovo Trust Agency; or (e) Any other institution or entity performing activities that are funded, in whole or in part, from the Kosovo Consolidated Budget. In particular, the FIU is contributing to ITF activities with a permanent deployment of investigators; following up the criminal cases deriving from ITF administrative investigations; and co-operating and providing information and assistance to OLAF for preliminary enquiries as well as operations on the field.

26. The FIU activities are developed according to the information collated by the examination of KCB revenues and expenditure; intelligence activities; activities delegated by International Prosecutors; activities developed in co-ordination and close co-operation with other agencies; and activities related to capacity building of Kosovo Police Service (KPS) Officers (especially those of them deployed in Economic Crime Units established within local Police Stations). By processing all the data, the FIU operates the detection of sectors to be investigated. Based on the results of the review of the Kosovo Consolidated Budget, the FIU focuses its investigative activities on sectors that are considered particularly sensitive. Factors such as amounts of funding assigned to KCB and categories of expenses with potentially high risk of criminal violations (bribery, procurement related crimes, misappropriation, etc.) are taken into account. In the FIU’s activities intelligence information is very important. Several successful investigations were initiated based on information acquired through intelligence channels. It is not possible to forecast which kinds of information intelligence sources can provide in the future, but it is possible to focus on some sources close to sectors considered the most sensitive. The operational plan should also consider that FIU is often entrusted by International Prosecutors to carry on judicial investigations related to financial crimes. Some of the FIU activities are developed in co-operation with other agencies. The FIU has developed co-operation and institutional co-ordination with the following entities: Investigation Task Force; Office of the Auditor-General; Public Procurement Regulatory Commission; Financial Information Centre; Financial Intelligence Unit; UNMIK Police Specialized Units (Economic Crimes Unit, Kosovo Organized Crime Bureau) and a number of other entities.

27. The FIU has developed a wide range of investigative activities. In all cases where an international UNMIK staff member or other person benefiting from immunity from prosecution, the FIU has sought and been granted a waiver of immunity in order to undertake its investigation. It is also examining the functioning of the PISG, Publicly Owned Enterprises (POEs) and Socially Owned Enterprises (SOEs), with particular interest in the privatization process. The fight against organized crime, financial crime and corruption has been noted as key areas where in the future international involvement will be necessary and essential. The prevalence of cross-boundary, cross-border and multi-national organized crime with some or all of its roots in Kosovo justifies the presence of an international unit for the time being. A European Union Planning Team is currently analyzing and studying an appropriate structure to meet the relevant needs.

28. Some statistics from 2005 of the activities of the FIU are the following. Sums indicated to be recoverable FIU investigations amounted to 948.935 Euro. Seizures and forfeitures were: 1 passport, 3 cellular phones with SIM cards, 2,310 cellular recharge scratch cards (valued at 63,673 Euro), 62,800 Euro in embezzled incomes and 10,000 Euro nominal value of 50% of shares in a private activity. The table below shows a number of activities related to the work of the FIU.

**Table 4**  
**Financial Investigation Unit activities 2005**

Financial Investigation Unit statistical data	1 Jan 05- 28 Feb 05	1 Mar 05- 31 May 05	1 Jun 05- 31 Aug 05	1 Sep 05- 31 Dec 05	Total
No. of arrest warrants	1	0	1	0	2
No. of administrative searches	1	3	3	7	14
No. of inspections	2	8	4	5	19
No of ongoing investigations	6	10	5	17	
No. of interviews	37	39	12	34	122
No. of financial transactions requests	1	9	45	20	75
No. of covert technical measures	1	6	8	1	16
No. of crime reports submitted	18	29	10	23	80
No. of summons	5	2	11	7	25

*Source:* Financial Investigation Unit.s

## 7. Anti-corruption measures

29. The Kosovo Assembly Law No. 2004/34 On the Suppression of Corruption<sup>8</sup> prescribes measures against corruption within the scope of the anti-corruption strategy, particularly within the field of administrative investigation of public corruption. This is to “eliminat[e] the causes of

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<sup>8</sup> Law No. 2004/34 On the Suppression of Corruption, promulgated by UNMIK Regulation No. 2005/26 of 12 May 2005.

corruption, the incompatibility of holding public office and performing profit-making activities for official persons, restrictions regarding the acceptance of gifts in connection with their execution of office, supervision of their assets and those of persons from their domestic relationship, and restrictions regarding contracting entities participating in public tenders conducting business transactions with firms in which the official person or person from his/her domestic relationship is involved".<sup>9</sup> The law envisages the creation of the Kosovo Anti-Corruption Agency, directly supervised by the Agency Council.<sup>10</sup> The Action Plan against Corruption, which will make possible the implementation of the referred to strategy, was approved in October 2006. It presents a mutual initiative by local and international experts regarding the situation of corruption in Kosovo, tackling the public opinion, as well as the first steps in the process of eliminating corruption. On 7 February 2006, the Government of Kosovo approved its Anticorruption Action Plan. The Anti Corruption Agency and Agency Council have established their procedural rules and guidelines.

### **8. Management of Publicly Owned Enterprises**

30. The Kosovo Trust Agency (KTA) has been working on the incorporation, corporate governance and capacity building of those Publicly Owned Enterprises (POEs) that fall under the responsibility of its POE Division. These enterprises cover the water, waste and irrigation sector, the post and telecommunications sector, the airport, the district heating sector, UNMIK Railways, and the energy sector. Incorporation has been necessary due to the fact that POEs, like many other former socialist enterprises, had an unclear legal status and internal structures unfamiliar to investors, banks, suppliers, consultants and auditors. Incorporation is meant to give the POEs a clear legal status by turning them into Joint Stock Companies (JSCs) under the regulation on business organisations in Kosovo.<sup>11</sup>

31. The incorporation process consists of the following: (a) Legal and financial work leading to the incorporation of legal entities with comprehensive company data compiled in an information memorandum; (b) Implementation of corporate governance structures, leading to transparent business decision processes, permitting management and control of planning and execution of activities in a most efficient manner; (c) Preparation of the enterprises to manage funds according to established regulations and to increase efficiency; and (d) Preparation of the enterprises to effectively plan and realize new projects and receive debt capital from international finance institutions and syndicate lenders for such projects. In short, incorporation is meant to improve corporate governance, financial transparency, accounting procedures, and the efficiency of the POEs, making them more attractive to outside licensing agencies, investors and lenders, and suppliers.

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<sup>9</sup> Law No. 2004/34 On the Suppression of Corruption Law, Article 1.

<sup>10</sup> Law No. 2004/34 On the Suppression of Corruption Law, Article 8 and 19.

<sup>11</sup> UNMIK Regulation No. 2001/6 On Business Organizations of 8 February 2001.



32. In January 2006, assisted by funds from the European Agency for Reconstruction (EAR), the KTA completed the incorporation of the Kosovo Energy Corporation (KEK), UNMIK Railways, and the district heating enterprises Termkos and Gjakove, thus finalizing the incorporation of all major POEs in Kosovo. Pristina International Airport and Post and Telecommunications of Kosovo had been incorporated in June 2005. The incorporation of water, waste, and irrigation enterprises commenced in late 2006 and is expected to be completed by August 2007.

33. An incorporated company, by definition, has the necessary prerequisites for a reliable corporate governance structure. The KTA's POE division has thus been implementing a single board of directors structure, complemented by a supervisory board in all POEs. In 2006, all incorporated POEs had functioning boards of directors, comprised of members nominated by UNMIK, the PISG, and POE management. In the second half of 2006, the KTA Board also approved PISG nominations to the supervisory boards of the POEs. Finally, the KTA has continued to work on a capacity-building programme with the POEs in order to empower POE staff to independently undertake duties related to procurement, legal issues, internal audit, and budget and finance.

## **B. Principle of non-discrimination**

### **1. Legal framework**

34. The principle of non-discrimination is part of the fundamental laws of UNMIK Regulation No. 1999/24 On the Law Applicable in Kosovo<sup>12</sup> and the Constitutional Framework.<sup>13</sup> Furthermore, UNMIK Regulation No. 1999/1 On the Authority of the Interim Administration in Kosovo of 25 July 1999, which was the first Regulation to be adopted, enshrines these principles in its Section 2 by stating that: "In exercising their functions, all persons undertaking public duties or holding public office in Kosovo shall observe internationally recognized human rights standards and shall not discriminate against any person on any ground such as sex, race, colour, language, religion, political or other opinion, national, ethnic or social origin, association with a national community, property, birth or other status".

35. The principle of non discrimination is further reaffirmed in Article 2 of the Anti-Discrimination Law (ADL),<sup>14</sup> as "equal treatment shall mean that there shall be no direct or indirect discrimination against any person or persons, based on sex, gender, age, marital status,

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<sup>12</sup> UNMIK Regulation No. 1999/24 On the Law Applicable in Kosovo of 12 December 1999, as amended.

<sup>13</sup> UNMIK Regulation No. 2001/9 On a Constitutional Framework for Provisional Self-Government in Kosovo of 15 May 2001, as amended.

<sup>14</sup> Law No. 2004/3 On Anti-Discrimination, promulgated by UNMIK Regulation No. 2004/32 of 20 August 2004.

language, mental or physical disability, sexual orientation, political affiliation or conviction, ethnic origin, nationality, religion or belief, race, social, origin, property, birth or any other status”.

36. The purpose of the ADL is to provide effective implementation and enforcement mechanisms, proportionate and dissuasive sanctions in the case of violations by either public or private actors. The proscription of discrimination encompasses both direct and indirect discrimination, harassment, instruction to discriminate, victimization and segregation. The ADL applies to “all natural and legal persons as regards both the public and private sectors, including public bodies, in relation to any action or inaction which violates those rights of any natural or legal person or persons” and comprehensively encompasses economic, political, social and cultural areas. Any claim of discrimination under the ADL is to be decided or adjudicated upon in accordance with the applicable law by administrative bodies and courts with subject-matter jurisdiction over the case. A fundamental aspect of the ADL, enhancing protection to victims of discrimination in claims against institutions, is shifting the burden of proof to the respondent accused of discriminatory treatment. Alleged victims can be supported by various organisations or legal entities when making the claim.

37. The Law empowers courts not only to grant compensation for damages to the victims of discriminatory treatment but also to impose fines up to 2,000 Euro on any institution violating the ADL. Furthermore, the Law authorises the Ombudsperson of Kosovo to receive and investigate complaints concerning discrimination cases. It is important to note that the ADL encourages the use of positive actions to ensure a genuine equality in daily practice. Such actions aim at the prevention of, or compensation for, disadvantages experienced by individuals belonging to certain groups, such as persons with disabilities, women, IDPs, returnees, etc. Additionally, in the case of violation of the law, positive measures can be judicially imposed. In addition, contracts for public financing or benefits must include provisions for compliance with the ADL and shall be revoked by the body awarding it in case of violation of the law. Finally, the ADL provides that all monies collected through the imposition of penalties on those who have violated the Law shall be placed in a fund for the purposes of supplying free legal assistance to any natural or legal person whose right to equal treatment is violated.

## **2. Implementation of laws**

38. The Constitutional Framework, the ADL as well as the mandate of all of the PISG’s Ministries provide for legal protection against discrimination, which has significantly improved formal equality of all groups subject to discrimination in Kosovo. However, assessing the extent of discrimination towards women, children, minorities, persons with disability and other vulnerable groups at both central and local level is difficult to perform due to lack of data. Numbers and statistics on the representation and proportion of minorities, women and IDPs in issues related to returns, re-integration, accessing social services and participation in decision-making procedures is limited. The absence of adequate information is a problem. The statistics that are available show disparities between majority and minority communities, and especially for Roma, Ashkali and Egyptians, in respect of education, employment and poverty. Women, especially rural women, are mostly disadvantaged in respect to employment (rural female labour force participation is at 25.54% versus for rural male 74.39%) and education (mean years of schooling 7.94 for women versus 10 for men).

39. An important aspect of ensuring that theory is transformed into practice and that laws are properly adhered to, is to have a reliable system for monitoring the implementation of laws. In order to better being able to monitor the level of implementation of laws, the Government is currently working on an internal oversight mechanism of the implementation of laws and a formalised administrative link to the Assembly Secretariat. In addition, the Assembly is reviewing their capacities on legislative oversight over the executive branch.

40. Another crucial aspect of the implementation of laws is the undertaking of promotional activities. The Advisory Office for Good Governance in the Prime Minister's Office (AOGG), upon promulgation of the ADL, organized a public information campaign to raise awareness of the ADL and of the rights it guarantees. The campaign consisted of a press conference, a workshop for the ministries and UNMIK officials and a two-phase promotional campaign where brochures, leaflets and posters were produced (in Albanian, Serbian, Bosniak, Turkish and Romany) and first disseminated to civil servants and then to the general public. The Department of Central Administration at the Ministry of Public Services (MPS), Municipal Gender Officers and NGOs were engaged in making sure that dissemination was Kosovo-wide reaching all municipalities. Additionally, AOGG contributed to a number of donor supported initiatives to raise awareness and knowledge within the general public with regard to the content of the Law as well as training activities for lawyers and judges.

41. The Permanent Secretary of the Office of the Prime Minister established a working group to draft all sub-legal acts for the implementation of the ADL. Since August 2005 the working group meets regularly and during its second meeting comments were given on the draft Administrative Instruction proposed by the MPS. To address the matter in a comprehensive way, throughout 2005 a co-ordinated plan of action identifying the critical path for the effective implementation of the plan has been developed by the Office of the Prime Minister, in cooperation with the OSCE/Pillar III, the Office of the High Commissioner for Human Rights (OHCHR) and UNMIK. On 11 October 2005, the Anti Discrimination Law Comprehensive Action Plan was adopted after a public debate was organized by the Prime Minister.

42. Furthermore, in the sphere of promotion and implementation of legislation on equal opportunities and anti-discrimination, during November 2006, the AOGG has concluded a two-year campaign implemented in the whole territory of Kosovo. This contributed to capacity building of municipal officials regarding implementation of the ADL, especially identification of institutional mechanisms for its implementation, identification of priorities, including the possibilities for implementation and drafting of special plans and strategies related to elimination of shortcomings identified in this sphere. Identification was also carried out of mandatory obligations deriving from legislation, or obstacles and difficulties, respectively. A series of debates were organised from which the following recommendations relating to economic, social and cultural rights were made: (a) Better working conditions and working environment in Municipal Returns and Dialogue Offices should be created; (b) renovation or reconstruction of certain run down school facilities should take place; (c) road infrastructure should be improved in some areas; (d) the situation in the sphere of education should be improved; and (e) the situation in the sphere of health should be improved through, inter alia, the opening of a Medical-Nursery Unit in a particular area.

### **3. Non-discrimination and affirmative action in the civil service**

43. UNMIK Regulation No. 2001/19 On the Executive Branch of the Provisional Institutions of Self-Government in Kosovo<sup>15</sup> offers an important example of affirmative action in the sphere of public employment. Permanent Secretaries of the Ministries and Chief Executive Officers of the Executive Agencies are mandated to implement “non-discriminatory personnel policies within the Ministry or Executive Agency, including equitable gender representation, in all areas and levels and ensuring that the composition of the personnel reflects the multi-ethnic character of Kosovo”. The Regulation specifies that “representation in the composition of the Civil Service at all levels shall be closely proportionate to the representation of non majority communities in the Assembly.”

44. To give effect to the principle of “Fair Representation in Civil Service”, intended to correct imbalances effectively excluding minorities, including IDPs and refugees, from access to jobs and resources on the basis of their ethnicity and/or gender, UNMIK Regulation No. 2001/36 (the Civil Service Law)<sup>16</sup> and, in particular, UNMIK Administrative Direction No. 2003/2 implementing it, establishes that: “All employing authorities [...] may utilize the following affirmative action measures as needed: (a) Active recruitment: making special efforts to identify and solicit job applications from under-represented populations, especially internally displaced persons and refugees; (b) Addressing results of long-term discrimination: developing on-the-job training programs for commonly disadvantaged populations to enhance their ability to apply and compete for promotions; and (c) Addressing discrimination by ensuring that personnel understand anti-discrimination policies and have access to adequate grievance procedures”.

45. Another important aspect of this Law is that it provides, through an Administrative Instruction (AI) all employing authorities with guidance to enable them to meet their legal responsibilities for building a multi-ethnic civil service based on the principle of Equal Opportunities. According to the AI, Equal Opportunities Officers shall be appointed in all Ministries, Municipalities and Executive Agencies and tasked to prepare Equal Opportunity Policies (EOP) and their correlated Implementation Strategies, setting out the practical steps to be taken over the next three years to achieve the objectives set out in the EOPs including the active steps to be taken to: “(a) Encourage applications for employment in the Ministry/ Municipality/ Executive agency from under-represented sections of Kosovo society, including members of minority communities, women and people with disabilities; (b) Ensure that minority communities, women and people with disabilities are represented at all levels within the employing authority; (c) Promote understanding of the importance and benefits of a genuinely representative civil service among all employees; (d) Encourage the use of

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<sup>15</sup> UNMIK Regulation No. 2001/19 On the Executive Branch of the Provisional Institutions of Self-Government in Kosovo of 13 September 2001, as amended.

<sup>16</sup> UNMIK Regulation No. 2001/36 On the Kosovo Civil Service of 22 December 2001, as amended.

both Kosovo's official languages by all employees; and (e) Ensure that all clients of the Ministry/ Municipality/Executive Agency's services are offered the same high quality of service in accordance with equal opportunities procedures". Each Permanent Secretary/Chief Executive Officer within Municipalities, Ministries and Executive Agencies should monitor and report on progress in implementing equal opportunities on a regular basis.

46. However, so far little action has been taken to appoint Equal Opportunities Officers in Ministries, Municipalities and Executive Agencies, and also for establishing criteria and procedures for implementing and monitoring Fair Representation in the Civil Service at all levels. Despite recent improvements, mostly as a result of the Standards process, several posts reserved for minorities remain unfilled.

47. To enforce the principle of fair representation in the civil service, UNMIK adopted a decision in June 2002 to establish Proportional Community Representation. The Advisory Board on Communities (ABC) Working Group on Minority Employment (WGME), consisting of representatives from Pillar II/ Office of Community Affairs, Pillar III/OSCE, Pillar IV/EU, Office of the Prime Minister, Ministry of Labour and Social Welfare, Ministry of Public Services, UNHCR, the Alliance for Rights and Tolerance, and the Office of Returns and Communities, developed an effective methodology for establishing proportional community representation in the civil service. The then-SRSG Michael Steiner approved the representational goals and plans.

48. The point of departure for the WGME was the results of the Central Assembly election of 17 November 2001. Based on these accepted proportions, the Working Group developed representation ranges for achieving community proportionality in central level civil service employment, which would reflect to the extent possible the representation of communities in the Assembly of Kosovo. Under the concept described above, the representation ranges can reflect one of two non-majority Assembly member totals: (1) the number of set-aside seats for minorities, or (2) the total number of minority seat holders. Under such formulations Kosovo Serb representation would range between 8.3 and 18.3 %, while non-Serb minorities would collectively represent between 8.3% and 10.8%. These ranges can assist in the identification of appropriate representational goals. They can also be used as benchmarks for a monitoring mechanism: exceeding the maximum raises questions about favouritism, while failure to reach the minimum threshold should raise concerns about discrimination. Either development would point to the need for intervention.

49. In addition, affirmative action to accompany the representation ranges was proposed: promoting equal opportunity in hiring by "expanding the active recruitment drive for members of minority communities and extending their job application deadline appropriately" if a balanced pool of applicants has not been reached by the job application deadline, promoting affirmative preference by offering "hiring and promotion preferences to members of minority communities who meet the required eligibility standards, in order to meet representation range requirements that ensure proportional representation at all levels of civil service", and, addressing the results of long-term discrimination by developing "job-training programs for commonly disadvantaged populations (i.e. the RAE<sup>17</sup> communities) to enhance their ability to apply and compete for jobs".

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<sup>17</sup> RAE stands for Roma, Ashkali and Egyptian.

Unfortunately, neither the methodology for establishing proportional community representation, nor the affirmative action proposals have been implemented to the present date and, particularly at senior level management positions, the recruitment of minorities has too often been seen as a question of filling a quota than providing meaningful participation.

#### 4. Remedies

50. The sustainable protection of any human rights, including non-discrimination in relation to economic, social and cultural rights, includes the use of effective remedies in order to address the relevant violation. Many of the Ministries have adopted Administrative Instructions which request the establishment of an Office for Complaints, to which Kosovo residents may submit their appeals for insufficient provision of services.<sup>18</sup> Currently the Ministries have different ways in which they deal with requests, however many have expressed budgetary constraints as an impediment to the establishment of relevant offices.

51. The Ministry of Industry and Trade has an office for processing of claims, which is based on Administrative Instruction No. 05/2006. Until now, the Office for Complaints had a considerable number of claims from citizens and the business community. Claims from citizens and working enterprises are checked by the chief of the office, the legal office of the Permanent Secretary and a consultant. Claims are mostly related to discrimination, as the claimants consider that they have not been offered equal opportunities to other groups. Cases are solved by giving responses or advice to the applicants. If the claims are of a too difficult nature so that the Ministry is not capable of resolving them, they are sent to the relevant Municipality or Court. One of the challenges faced by the Ministry is that currently there is only a chief of the office, but no other staff. Based on Administrative Instruction 2006/5 the Ministry of Transport and Post-Telecommunication (MTPT) has appointed responsible officers for working in its Office for Complaints. When the Office receives a complaint, there is an ad-hoc Commission created for review of the complaint. The complaints mostly relate to public transportation, technical control and road infra-structure. In both Ministries the recruitment of staff was either not possible or complicated because of budgetary limitations.

52. The Ministry of Education, Science and Technology has, through Administrative Instruction No. MEST 19/2003, established administrative procedures on appeals issues. Based on the Instruction, the Appeals Commission has been established as part of the Office of the Permanent Secretary and is composed of the Chief Inspector, the Head of the Legal Office and a third member that will vary depending on the nature of the complaint. In cases of alleged discrimination, the Commission investigates the case and responds to the applicant based on legal provisions. If the response is negative, the applicant can address the complaint to the Permanent Secretary within 15 days of receipt. If the applicant again receives a negative response, the person can address the matter to the court. Based on Administrative

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<sup>18</sup> See for example Administrative Instruction No. MPS 2006/03 On Organizing and Functioning of Offices for Receiving Requests and Appeals.

Instruction 2004/4 the Ministry of Local Governance and Administration has established the Legal Department which functions as the Section for Transparency and Claims for Citizens, where claims are received. This Section receives citizens' claims also through the Ombudsperson Institution and after processing they send them to the relevant municipality for implementation.

53. The Ministry of Culture, Youth and Sports has not yet established the Office for Complaints based on the Administrative Instruction No. 2006/5 for budgetary reasons. At present, any submitted complaint is received by the Human Rights Unit of the Ministry. The Permanent Commission of the Ministry then analyses the claim and brings a decision. If the party is not satisfied with the decision, the person has the right to bring the complaint to the Independent Oversight Board.

### **Article 3**

#### **A. Constitutional and legal framework**

54. The principle of equal rights for men and women in Kosovo is established as one of the fundamental rules enshrined in the constitutional and legal framework. The Constitutional Framework<sup>19</sup> guarantees to all persons in Kosovo enjoyment of human rights and fundamental freedoms in full equality and without discrimination on any ground.<sup>20</sup> Furthermore, international instruments that protect human rights and fundamental freedoms are directly applicable in Kosovo through the Constitutional Framework including, among others, the provisions set forth in the Convention on the Elimination of All Forms of Discrimination Against Women.<sup>21</sup>

55. The Provisional Criminal Code of Kosovo (PCKK)<sup>22</sup> sanctions denying or limiting the rights and freedoms of Kosovo residents on the basis of, inter alia, a difference of sex, as well as the granting any privilege or advantage on the basis of such a difference. The prescribed punishment is imprisonment of six months to five years, whereas if the offence is committed by an official person in the exercise of their official duties, the prescribed imprisonment is of one to seven years.<sup>23</sup>

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<sup>19</sup> UNMIK Regulation No. 2001/9 On a Constitutional Framework for Provisional Self-Government in Kosovo of 15 May 2001, as amended.

<sup>20</sup> UNMIK Regulation No. 2001/9, Section 3.1.

<sup>21</sup> Ibid., Section 3.2.

<sup>22</sup> UNMIK Regulation No. 2003/25 On the Provisional Criminal Code of Kosovo of 6 July 2003, as amended.

<sup>23</sup> Article 158 of UNMIK Regulation No. 2003/25 envisages as criminal offence violating the equal status of residents of Kosovo.

56. The Kosovo Anti-Discrimination Law<sup>24</sup> has been enacted to prevent and combat discrimination, but also to promote effective equality and enforce the principle of equal treatment of persons in Kosovo.<sup>25</sup> Aside from establishing that there shall be no direct or indirect discrimination against any person or persons, based on sex, gender, ethnic origin or nationality, the Law foresees the possibility of undertaking positive actions, such as measures to prevent or compensate for disadvantages.<sup>26</sup>

57. To further equality for women and men, in 2004, the Kosovo Assembly adopted the Law on Gender Equality.<sup>27</sup>

58. The aim of the Law on the Gender Equality is to promote and establish gender equality as a fundamental value for the democratic development of Kosovo society, providing equal opportunities for both female and male participation in the political, economical, cultural and other fields of social life.<sup>28</sup>

59. The Law defines gender equality as equal female and male participation in all relevant fields of social life, equal status, equal opportunities for enjoyment of their rights and equal benefit from the development of society. Equal gender treatment is defined as elimination of all direct and indirect forms of gender-based discrimination.<sup>29</sup>

60. Furthermore, the Law brings a quantitative aspect to the aim to achieve equitable gender representation by increasing balance and parity. The Law calls for the establishment of equal participation of men and women at all levels in executive, legislative and judicial bodies, public institutions, and appointments in central and local government bodies. It is explicitly determined under the Law that equal gender participation of men and women is achieved in cases where the participation of the particular gender in the institutions, bodies or at the level of authority is 40%.<sup>30</sup>

61. The bodies responsible for the achievement of gender equality are: the Kosovo Assembly, Government and ministries, the Gender Equality Unit within the Ombudsperson Institution and local government bodies.

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<sup>24</sup> Law No. 2004/3 On Anti-Discrimination, promulgated by UNMIK Regulation No. 2004/32 of 20 August 2004.

<sup>25</sup> Ibid., Article 1.

<sup>26</sup> Ibid., Articles 2 and 6.

<sup>27</sup> Law No. 2004/2 On Gender Equality, promulgated by UNMIK Regulation No. 2004/18 of 7 June 2004.

<sup>28</sup> Law No. 2004/2 on Gender Equality, Section 1.1.

<sup>29</sup> Ibid., Sections 2.1 and 2.2.

<sup>30</sup> Ibid., Section 3.2.



62. In addition, provisions of the Gender Equality Law provide for a set of rules as additional safeguards to ensure equal rights of men and in the areas of employment, education, media and civil rights.<sup>31</sup> The Law also foresees penalties, i.e. fines from 500 up to 20,000 Euro for responsible persons, institutions and other legal entities, in cases of violations of the provisions of the Law.<sup>32</sup>

63. Separate legislation provides for protection against domestic violence, while trafficking in human beings is proscribed as a criminal offence according to the PCCK.<sup>33</sup>

## **B. Institutional framework**

64. The awareness of the need to foster equal rights of men and women, advance the position of women in Kosovo and prevent their marginalisation, resulted in the establishment of several bodies at the level of central and local authorities.

### **1. Central level**

#### **(a) UNMIK Office of Gender Affairs**

65. From the outset of its Mission in Kosovo, UNMIK created the Office of Gender Affairs (OGA) to integrate a gender-based approach into the mission. The OGA is responsible for: (1) mainstreaming of a gender equality approach in the monitoring and joint implementation of the Standards for Kosovo, the Standards Implementation Plan, and the European Partnership Priorities;<sup>34</sup> (2) coordination on gender equality issues in UNMIK's pillars and substantive offices; (3) strengthening of the capacity of the Provisional Institutions of Self Government to address gender issues at the central and local levels; (4) promotion of minority women's interests and encouragement of cross-cultural understanding and inter-ethnic acceptance; (5) boosting the opportunity of women's organizations to voice their concerns and articulate their proposals to the highest UNMIK authorities.

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<sup>31</sup> Ibid., Sections 13 to 16.

<sup>32</sup> Ibid., Section 17.

<sup>33</sup> UNMIK Regulation No. 2003/12 On Protection Against Domestic Violence of 9 May 2003.

<sup>34</sup> The gender equality principle has been taken up at the working level through the Standards for Kosovo process. The Standards for Kosovo were launched on 10 December 2003 in Prishtinë/Priština and subsequently endorsed by the UN Security Council in its statement of 12 December 2003. The Standards envisage a set of eight priority goals that should be reached in areas in which Kosovo needs to make progress (functioning democratic institutions, rule of law, freedom of movement, sustainable returns of IDPs and community rights, a well-functioning economy, property and cultural heritage rights), in order to be a functioning and stable democracy on its way towards Europe. The Kosovo Standards Implementation Plan (KSIP) is a detailed action plan that describes precise actions needed to meet the Standards. The KSIP was agreed between the PISG and UNMIK and finalised on 31 March 2004.

**(b) Provisional Institutions of Self-Government**

66. Following the elections of the Kosovo Assembly in November 2001, the responsibility for a wide range of functions was gradually transferred to elected bodies within the Provisional Institutions of Self Government (PISG). The Law on Gender Equality places the responsibility to establish and promote policies for equal opportunities and to create, approve and execute measures for gender equality, under the competencies of the PISG.

**(i) Kosovo Assembly's sub-committee for gender equality**

67. The Kosovo Assembly has established a separate sub-committee for gender equality that operates within the Assembly's Committee for Judicial, Legislative Matters and the Constitutional Framework. The sub-committee for gender equality seeks to ensure gender mainstreaming in the legislative process by assessing the implications for women and men of any proposed legislation and planned actions.

**(ii) Agency for Gender Equality**

68. The Kosovo Government established the Office for Gender Equality under the auspices of the Prime Minister's Office, in February 2005. This Office helps incorporate a gender perspective as an integral part of all governmental activities.<sup>35</sup> The working method and internal organisation of the Office were defined in June 2005.<sup>36</sup> Prior to the establishment of the Office for Gender Equality, gender issues were dealt within the Prime Minister's Advisory Office on Good Governance, Human Rights, Equal Opportunity and Gender, that had been functioning since 2002.

69. The Office for Gender Equality is responsible for bringing the needs of women and men into the policy and decision-making level and for promoting equal values and opportunities irrespective of gender. The Office is the main body responsible for the implementation and monitoring of the implementation of the Gender Equality Law. The Office can propose compilation, alteration and amendment of laws and regulations to the Government and ministries, and other measures for enhancement of gender equality. Furthermore, the Office is liable for drafting policy for the promotion of gender equality and supervising its implementation, as well as for the co-ordination of activities for the implementation of gender regulations. The Office co-operates with non-governmental organisations acting in the field of gender equality and public institutions, and works on increasing gender equality awareness.<sup>37</sup> The Office is funded from the Kosovo Consolidated Budget.

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<sup>35</sup> Kosovo Government Decision No. 5/131 of 11 February 2005.

<sup>36</sup> Kosovo Government Regulation No. 2/2005 on Establishment and Internal Organization of the Office on Gender Equality, signed by the Prime Minister of Kosovo on 16 June 2005.

<sup>37</sup> Law No. 2004/2 On Gender Equality, Section 5.2.

70. Starting from 1 September 2006, by a decision of the Kosovo Government, the Office for Gender Equality has been transformed into the Agency for Gender Equality that operates under the Prime Minister's Office.<sup>38</sup>

71. In 2005 and 2006, the Office for Gender Equality received 50,000 Euro from the Kosovo budget, while the proposed budget for the Agency for Gender Equality for 2007 is 184,261 Euro.<sup>39</sup>

### **(iii) Inter-Ministerial Council for Gender Equality**

72. In the scope of efforts to advance gender equality, the Kosovo Government has established the Inter-Ministerial Council of Provisional Institutions of Self-Government in February 2006. The Council is established with the aim of "creation of policies and project programs suitable for achievement of gender equality".<sup>40</sup> The Inter-Ministerial Council for Gender Equality is composed of officers of the Agency for Gender Equality, the Office of Good Governance within the Prime Minister's Office and gender equality officers in the ministries.

73. The functions of the Inter-Ministerial Council for Gender Equality are: (a) Compilation of policies and strategies for achievement of gender equality; (b) Coordination and supervision of implementation of strategies, policies, programs and projects; and (c) Exchange of information, lobbying and advocating for the achievement of gender equality in Kosovo.

74. The Inter-Ministerial Council co-ordinates activity in policy drafting in order to integrate gender perspectives and compile strategies based on best practices in the region. Co-ordination and supervision of implementation of strategies and policies include their interpretation, with special focus on the drafting of a Kosovo Programme for Gender Equality, as well as the monitoring of progress in the realization of gender equality.<sup>41</sup>

### **(iv) Gender Equality Unit within the Ombudsperson Institution**

75. On 2 July 2004, the Gender Equality Unit was established within the Ombudsperson Institution in Kosovo.<sup>42</sup> The Unit became operational in March 2005. The Gender Equality Unit

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<sup>38</sup> Kosovo Government Decision No. 3/2006 of 12 July 2006.

<sup>39</sup> Figures provided by the Ministry of Finance and Economy.

<sup>40</sup> Kosovo Government Decision No. 04/189 of 28 February 2006.

<sup>41</sup> Kosovo Government Regulation No. 1/2006 On Establishment, Competences and Assignments of the Inter-Ministerial Council for Gender Equality.

<sup>42</sup> The Ombudsperson was established by UNMIK Regulation No. 2000/38 On the Establishment of the Ombudsperson Institution in Kosovo of 30 June 2000.

addresses issues of discrimination that relate directly to gender. Moreover, the Unit has the responsibility for reviewing draft legislation and commenting on implementation of legislation as it relates to gender issues.<sup>43</sup> The Gender Equality Unit focuses on cases of gender discrimination and attempts to influence policies and processes aimed at the prevention of gender-based human rights violations. Issues dealt with by this Unit have included: domestic violence, gender discrimination in public employment, financial and material support for single mothers, discrimination on the basis of sexual orientation and the rights of married couples to establish residence in Kosovo.

## **C. Local government bodies**

### **1. Municipal officers for gender equality**

76. The Law on Gender Equality also envisages the establishment and promotion of equal opportunities for men and women by governmental bodies at the local level.<sup>44</sup> The law builds upon the structure established by UNMIK Pillar II (Civil Administration) that set up municipal officers for gender equality in September 2002. Municipal officers for gender equality are established in each of Kosovo's 30 municipalities and since 2003 function as a part of the municipal civil service, under the supervision of the Ministry of Local Government Administration (MLGA).

77. Municipal gender officers ensure application of the Law on Gender Equality at the local level, address gender disparities, foster inclusion of women's interests in the municipal political agenda and assure integration of a gender perspective in the creation of policies for local governance. The responsibilities of the municipal officers for gender equality include co-ordination and supervision of all activities related to gender affairs within the municipality, including formulation of programmes to help create a suitable environment for the enjoyment of equal rights within the municipality. Moreover, the municipal gender officers participate in drafting of municipal legislation to ensure conformity of municipal legal acts with the principles of gender rights and equal opportunities.<sup>45</sup>

### **2. Gender Equality Committees**

78. At the local governance level, Gender Equality Committees have been established in 18 municipalities of Kosovo. These committees consist of Municipal Assembly members and civil society representatives. The committees should further enhance integration of a gender perspective at the local level.

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<sup>43</sup> Law No. 2004/2 On Gender Equality, Section 6.

<sup>44</sup> Ibid., Sections 4.14 to 4.17.

<sup>45</sup> MLGA Administrative Instruction No. 2005/08 on the Description of Duties and Responsibilities of the Municipal Officers for Gender Equality.

## **D. Mechanisms for the achievement of gender equality**

### **1. The Kosovo Action Plan for the Achievement of Gender Equality**

79. The Kosovo Action Plan for the Achievement of Gender Equality<sup>46</sup> was endorsed by the Government of Kosovo in April 2004. The Action Plan serves as a roadmap that promotes the equal participation of women and men in the development of Kosovo. It aims at accelerating the advancement of women in Kosovo and at removing all the obstacles to women's active participation in all spheres of public and private life. The Action Plan developed strategic objectives and actions to be taken on two levels: within the general context of Kosovo, and on the level of specific critical areas of concern.

80. Strategic objectives addressing the general context of Kosovo are:

- Integrate the gender perspective into policies relating to all spheres of society
- Generate and disseminate gender-disaggregated data and information
- Develop gender responsive budgets
- Use a gender requirement and if necessary other positive action to increase the participation of women in decision-making, with the intermediary goal of requiring women in a minimum of 30% of all decision-making positions
- Modify the regular workday to designate the hours between 8:00 am and 4:00 pm as regular working hours
- Create employment opportunities for members of vulnerable groups

81. Strategic objectives and actions addressing the specific critical areas of concern are:

- Integration of Women in the Economy
- Increase women's access to credit
- Ensure that women become equal participants in the transformation of public and social enterprises
- Promote and support the start-up, development and sustainability of women's businesses
- Human Rights and Violence Against Women and Children

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<sup>46</sup> The Action Plan was compiled by a working group comprised of representatives of the Kosovo Assembly, government institutions, NGOs, media, and experts from a cross-section of fields, under the lead of UNIFEM.

- Strengthen institutional mechanisms for the promotion and protection of the human rights of women and children
- Raise public awareness of the human rights of women and children, and the causes and consequences of violence against women and children
- Support the recovery of victims of violence by ensuring their access to shelters and other appropriate services
- Women in Politics
- Empower women in all roles and at all levels within political parties
- Increase the number of women in politics and in government
- Equal Education for Women and Men
- Create an educational and social environment that is free of gender-based stereotypes and discrimination, and that promotes equal access to education
- Establish innovative programs and services in education, and monitor educational reforms
- Health and Social Welfare
- Ensure equal access to health care and social welfare services
- Promote public education and research on health and social welfare issues relating to women, vulnerable groups and the general population of Kosovo
- Culture
- Incorporate a gender perspective into all aspects of cultural policies, programs and institutions
- Promote a balanced and non-stereotyped portrayal of women and girls in the media and in school textbooks
- Take positive measures to provide institutional support to female artists in Kosovo

82. In order to achieve these strategic objectives, a series of actions are required from governmental and non-governmental actors. The Government of Kosovo should create policies aimed at promoting gender equality, by exercising the gender perspective in all decision-making processes, as well as review and modify existing policies. Local NGOs and professional institutions should establish monitoring mechanisms to develop governmental accountability.

83. An additional objective is to ensure effective implementation of the National Action Plan, and to monitor and evaluate progress toward the achievement of its strategic objectives. The Inter-Ministerial Council for Gender Equality is requested to assume this responsibility.

## **2. The Kosovo Development Strategy**

84. The Government of Kosovo developed the Kosovo Development Strategy to determine the direction for achievement of objectives related to economic and social development and fulfilment of European standards. The Strategy triggers the integration of a gender perspective in Kosovo, while the sectoral strategy for gender issues envisages: (a) Integration of Women in Economy; (b) Extension of employment opportunities and social welfare; (c) Obvious improvement of education services; (d) Improvement of health services for women; (e) Increasing of the number of women on decision-making positions; and (f) Improvement of women's image in media and culture.

## **E. Specific measures and actions taken**

85. The UNMIK Office of Gender Affairs (OGA) has advocated the inclusion of gender equality goals in the Standards for Kosovo, centralizing gender issues within the Kosovo political agenda. This achievement represents an important step for the advancement of the gender equality agenda in Kosovo and led to a number of results including the creation of the Office for Gender Equality in the Prime Minister's Office, the preparation of the Kosovo Action Plan for the Achievement of Gender Equality, the promulgation of gender sensitive legislation and the integration of gender issues in administrative instructions covering a wide range of governmental sectors. To ensure that gender equality objectives as defined in the Standards for Kosovo are pursued efficiently, OGA has developed specific checklists for ensuring equal opportunities for men and women and the advancement of women in Kosovo. OGA has also participated in the eight Standards Implementation Working Groups - set up as mechanisms for monitoring and joint implementation - by offering technical assistance to ensure that a gender equality approach is used throughout the exercise. Moreover, the OGA has developed a series of gender-sensitive indicators to facilitate monitoring activities. To enhance the capacity of local institutions to fulfil the gender equality objectives in the Standards for Kosovo, OGA has regularly delivered training workshops to all levels of civil servants.

86. In 2006, the OGA in coordination with the Office for Gender Equality in the Prime Minister's Office, revised the gender equality objectives of the Standards Implementation Plan with the purpose of defining, renewing and expanding commitments for the creation of equal opportunities between men and women to be incorporated into the European Partnership Priorities. Specific actions cross-cutting relevant priorities with indications of responsible actors and deadlines were negotiated with the PISG. This joint effort will guarantee that gender issues are pursued by the Kosovo Government beyond the withdrawal of UNMIK.

87. As part of continued efforts to implement UN Security Council Resolution 1325 (2000) on Women, Peace and Security, the OGA has ensured that the concerns and proposals of women leaders and representatives of local institutions and organizations, including women's organizations and networks, are voiced to the highest authorities in the UN. In this context, as

an initiative of the OGA the practice of quarterly meetings between Kosovo women leaders and the SRSG was established in 2005. These discussions have brought to the table various issues of common interest comprising problems faced by women leaders and women's organizations for their full participation in the current political process.

88. Since the appointment of the Secretary-General's Special Envoy for the Future Status Process for Kosovo in 2005, the OGA has been advocating for the inclusion of women representatives in the political talks. In this respect, the OGA has organized meetings between the Special Envoy and Kosovo women leaders in order to create opportunities for women to directly voice their concerns. In addition, the OGA has requested the SRSG to raise this matter with local decision makers, namely the President of Kosovo, the Prime Minister and the presidents of all major political parties. The OGA has moreover advocated with representatives of Member States both in New York and in Kosovo. The OGA has conceptualized and produced the documentary film "Whose security?" focused on the implementation of the UNSCR 1325. The film explores the implications of sustainable peace and security, analyzing how women view these issues differently from men and how current policies often fail to incorporate gender-based perspectives. The documentary has been widely disseminated throughout Kosovo.

89. The OGA has also organized and facilitated a series of tailor-made training activities on gender mainstreaming for the judiciary in cooperation with KIPA.

90. The PISG Agency for Gender Equality (previously Gender Equality Office) has drafted the Strategy on Increasing the Number and Improving the Position of Women in PISG and is in the process of drafting a new plan for achieving gender equality in Kosovo.

91. The Statistical Office of Kosovo, in partnership with UNMIK OGA and the Gender Equality Office, established a long-term strategy to incorporate a gender perspective into the collection and processing of statistical information. As a result, two publications of gender-disaggregated data "Women and Men in Kosovo", were produced. These publications, issued in 2003 and 2007, present complete surveys of all available sex-disaggregated statistics in Kosovo.<sup>47</sup>

92. The Gender Equality Unit within the Ombudsperson Institution (OI/GEU), besides dealing with issues of discrimination related directly to gender, carried out general inquiries into certain job vacancy notices and advertised competitions in the public sector as published in the daily newspaper "Koha Ditore" during the period between 1 August 2004 and 31 August 2005, which set gender limitations for potential candidates. The OI/GEU examined whether the use of gender as a mandatory requisite for candidates taking part in employment competitions in the public sector denotes a gender-based discrimination. The OI/GEU found gender limitations in employment competitions unjustified and as such constituting a direct discrimination based on gender. The Ombudsperson accordingly recommended to the Kosovo Assembly to ensure that relevant legal provisions concerning the prohibition of gender-based discrimination in access to employment are implemented properly.

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<sup>47</sup> Available at: <http://www.ks-gov.net/esk/>.



93. Moreover, the OI/GEU held regular meetings with numerous local and international actors to discuss issues of mutual interest, including with the UNMIK OGA, the Office for Gender Equality, representatives of the foreign ministries of various countries, the UNMIK Office for Political Affairs and the UN Special Envoy for Status Negotiations.

94. The OI/GEU worked with representatives of the Ministry of Public Services and the Agency for Gender Equality, and the Office for Good Governance from the Prime Minister's Office to prepare an action plan for improving the protection of women's rights in Kosovo. The action plan calls for efforts of the above-mentioned institutions to incorporate the protection of women's rights into their annual work plans and to organize and conduct training on women's rights through the Kosovo Institute for Public Administration (KIPA).

95. Training on Gender Equality and Women's Human Rights has been organized by the OGE for the OGE staff and Gender Equality Officers within PISG ministries. The training is supported by UNIFEM. Trainings on gender equality are being organized by the KIPA for all civil servants, also supported by UNIFEM. The beneficiaries of this training include: Municipal Gender Officers; Gender Equality Committees at the municipal level; the Commission for Gender Equality in the Kosovo Assembly; the Inter-Ministerial Council for Gender Equality; Gender Officers, also known as Gender Focal Points within the ministries, and the OI/GEU.

96. The local NGO, Kosovo Women's Network (KWN), supported by UNIFEM, has conducted a Kosovo wide legal literacy campaign. The aim was to promote awareness of and access to resources for legal rights and the protection for women. A group of law professionals - known as the Group for Analysis and Studies of Gender Equality (GASGE) has published a legal literacy brochure "Know our rights" in a user-friendly format to further raise awareness in this area.

97. UNIFEM played an active role in facilitating co-operation between women's NGOs and other sectors of society, for example in building a relationship between the Kosovo Police Service (KPS) and the KWN and in advocating for the inclusion of women's organizations in a coalition of civil society organizations working on election law reform.

98. In 2004 KWN and youth-organizations conducted a Kosovo wide campaign called "Women Propose" aiming to promote women's preferences and priorities. As a follow up to this campaign another campaign called "Political Parties Work for Women" was launched. The aim of this campaign was to promote greater and more effective participation of women in elections. Another campaign that has been conducted was the "Go and Vote" campaign that was organized by KWN in October 2004 with the aim to encourage greater voters' participation.

### **1. Measures taken in education**

99. The current situation in Kosovo in regard to school attendance by female students, shows that female participation is slightly lower than male participation.

100. The drop out rate from learning institutions is higher for female than male students. According to PISG data, the introduction of the 9th grade as the final year of primary education in 2002, has had a negative impact on female school attendance. The 9th grade is not taught in all upper primary schools, thus many students wishing to attend it must travel to a new school.

Female students usually drop out after grade eight due to travel constraints. This is especially true in rural areas where the distances between schools are greater. According to the Statistical Office of Kosovo (SOK) data, the drop-out rate for the school year 2003/2004 in primary schools was exceptionally high for girls -81%, compared to 19% for boys. This drop-out rate was more balanced in the year 2004/2005 with 52% for girls and 48% for boys.

**Table 5****Number of pupils and students graduated**

Pupils and students	2002-2003		2003-2004		2004-2005	
	Women	Men	Women	Men	Women	Men
Total	23 900	27 960	20 448	27 424	22 463	25 156
Pupils basic 9 years education	15 163	16 768	9 726	15 921	13 861	17 716
Licensed secondary education	7 543	9 763	9 297	9 915	8 602	8 440
Graduated at University	1 194	1 429	1 425	1 588	-	-
In %	46	54	43	57	46	54

*Source:* Statistical Office of Kosovo (SOK), Education Statistics.

101. Activities taken by the Ministry of Education, Science and Technology (MEST)/Office for Gender Equality, to raise public awareness of importance of education of woman and to improve gender equality in Kosovo, are as follows:

- MEST, in co-operation with Canadian Education Development Program (CEDP), has organised three one-day symposiums on equal opportunities, in the period 2002-2005. The annual symposiums involved around 250 participants (education officials, school principals, teachers, parents, and pupils) from all Kosovo municipalities. Discussed subjects covered gender issues, human rights, and rights of disabled persons.
- MEST in co-operation with CRS and Parents-Teachers Association (PTA) is carrying out a project on “Preventing girls from leaving schools”.
- Gender issues are included as a part of the curricula for compulsory education.
- MEST, supported by UNICEF, has incorporated a topic called “Skills for life” as an elective subject for the eighth grade classes at the primary level. Specific curricula, books and teachers have being made available for pupils. Within this programme, one of the modules is “what are the stereotypes and gender roles” and several other modules (how to keep violence out of my life, personal health care, what is the trafficking in human beings, what is the sexuality, etc). The subject is being piloted in 30 primary schools and after the monitoring and assessment will be expanded to cover 100 other schools.
- MEST in co-operation with CEDP, has built gender training capacities (gender trainers). These trainers cover 7 regions (Prishtinë/Priština, Mitrovicë/Mitrovica, Pejë/Peć, Gjakovë/Đakovica, Ferizaj/Uroševac, Prizren, Gjiilan/Gnjilane).

- During 2005, 270 teachers from primary and secondary schools, including from minority communities, were trained on gender issues in education.
- On 2002-2003, a project on “gender issues, human rights, and democracy in education” was implemented. The purpose of this project was to educate the community on gender issues and human rights by effecting directly education and education institutions. There were 38 participants trained, from various backgrounds and from all Kosovo communities and municipalities.
- MEST, in co-operation with CEDP, has published two manuals on gender issues in education, one of which for use by gender trainers and the other for those participating in such trainings.
- MEST, in co-operation with UNICEF, in 2004-2005, carried out research on “Education of Girls” with the focus on identifying reasons why girls in Kosovo actually drop out of school.
- Round table discussions were held in 2004, covering topics related to gender issues in education such as school abandonment, particularly by girls.
- The document “Gender Reflection in Education” was prepared by UNICEF in co-operation with MEST. This document contains a summary about female education in Kosovo and was completed in 2002-2003.
- In 2005, a working group was established to cover gender issues in higher education. The working group is composed of University of Prishtinë/Priština representatives and MEST representative.
- A gender strategy on education has been completed by the PISG; an action plan has yet to be drafted and attached to this strategy.

## **F. Domestic violence**

102. Prior to 2003, domestic violence was not defined in legislation as an offence. Domestic violence was often confused with an issuer regarding a violation of public peace and order and sanctioned as a minor offence. Domestic violence was prosecuted only if the victim suffered bodily injuries.

103. UNMIK Regulation No. 2003/12 On Protection against Domestic Violence,<sup>48</sup> defines domestic violence as “one or more of the following intentional acts or omissions when committed by a person against another person with whom he or she is, or has been, in a domestic relationship: (a) Inflicting bodily injury; (b) Non-consensual sexual acts or sexual exploitation;

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<sup>48</sup> UNMIK Regulation No. 2003/12 On Protection against Domestic Violence of 9 May 2003.

(c) Causing the other person to fear for his or her physical, emotional or economic well-being; (d) Kidnapping; (e) Causing property damage; (f) Unlawfully limiting the freedom of movement of the other person; (g) Forcibly entering the property of the other person; (h) Forcibly removing the other person from a common residence; (i) Prohibiting the other person from entering or leaving a common residence; or (j) Engaging in a pattern of conduct with the intent to degrade the other person.”<sup>49</sup>

104. Under the UNMIK Regulation on Protection against Domestic Violence, a series of measures are available to protect victims of domestic violence. The court can issue protection orders, emergency protection orders and interim emergency protection orders to protect persons subjected to domestic violence.<sup>50</sup> In 2005, the new Law on Social and Family Services<sup>51</sup> further articulated services available to victims of domestic violence. Under this Law, victims of domestic violence fall into the category of persons in need, while Centres for Social Work are responsible for providing social protection on the municipal level, in collaboration with local NGOs. In addition, the Provisional Criminal Procedural Code of Kosovo (PCPCK) gives the authority to the Victim Advocacy and Assistance Unit (VAAU) of the Ministry of Justice to act as authorized representative of vulnerable victims, including victims of domestic violence, through the provision of legal guidance and assistance.<sup>52</sup>

105. According to the statistics of the Ministry of Justice, 341 cases of domestic violence were reported to victim advocates in 2006. In 2005, this number was 592, in 2004, 414 while in 2003, there were 314 victims of domestic violence who required the assistance of victims’ advocates. The type of assistance provided depended on the victims’ individual needs. The assistance available includes shelter, psycho-social support, legal aid and legal representation, marital counselling (provided by Centres for Social Work), vocational training for victims, and child care programs for their children, provided by NGOs.

106. The Centre for Protection of Women and Children, a local NGO, received 3,650 requests for assistance from victims of violence during 2005, and 4,700 in 2006. Through October 2006, UNMIK victim advocates were involved in 1,468 domestic violence cases. The judicial system processed 77 protection orders from January to October 2006; authorities arrested 341 persons, resulting in the opening of 1,045 cases. A total of 52 of the 53 cases completed resulted in convictions, with sentences ranging from judicial reprimands to imprisonment. However, traditional social attitudes towards women in Kosovo male-dominated society contributed to the high level of domestic abuse and a low number of reported cases.

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<sup>49</sup> UNMIK Regulation No. 2003/12, Section 1.2.

<sup>50</sup> Ibid., Sections 2, 7 to 13.

<sup>51</sup> Law No. 02/L-17 On Social and Family Services, promulgated by UNMIK Regulation 2005/46 of 14 October 2005.

<sup>52</sup> The PCPCK was promulgated by UNMIK Regulation No. 2003/26 On the Provisional Criminal Procedure Code of Kosovo on 6 July 2003, and entered into force on 6 April 2004.

107. Currently, four shelters assist victims of domestic violence and trafficking, two run by local NGOs and two by international NGOs. The Kosovo Police Service (KPS) reported that 66 victims of domestic violence received shelter during 2006. Several domestic and international NGOs pursued activities to assist women; however, many incidents are not reported due to a tradition of silence about domestic- and gender-based violence. Therefore, in 2006 an anonymous hotline to report domestic abuse was also established. In addition, the KPS training school offered special courses on domestic violence and rape in its curriculum.

108. In addition, representatives of the Ombudsperson Institution (OI) monitored whether the municipal courts in Kosovo complied with the time limits required by the UNMIK Regulation on Protection against Domestic Violence.<sup>53</sup> Under the Regulation, the court shall decide on a petition for a protection order within 15 days of receipt, while in cases of petition for an emergency protection order the court shall decide within 24 hours of the petition being filed.<sup>54</sup> Municipal courts in nine major Kosovo municipalities were monitored in the period between March and November 2006. The OI found that of the cases under investigation, the time limit outlined in the Regulation was not adhered to in a single case. The Ombudsperson thus concluded that the municipal courts in question have not been fulfilling their obligation to protect victims of domestic violence in line with the applicable law, and accordingly recommended that the presidents of municipal courts should ensure that the cases of domestic violence are given priority. Moreover, it was recommended to the Kosovo Judicial Council to, as soon as possible, nominate a sufficient number of judges to deal with cases of domestic violence, following prior training on domestic violence issues.

109. Besides creating new legislation giving more protection to the victims of domestic violence, UNMIK has, in cooperation with local institutions, organized a number of information campaigns to raise awareness against domestic violence. The OGA produced a public awareness campaign to combat violence against women that was conceptualized on the basis of a qualitative research study on adolescents' perceptions of gender-based violence carried out by the OGA, in collaboration with a local research institute. The campaign addressed new generations and calls on their direct responsibility to break the cycle of violence that restrains women's individual and collective advancement. The campaign was broadcast by the public Radio Television of Kosovo.

110. The OSCE/Pillar III, together with local municipal authorities, has organized interactive training sessions for Kosovo youth on how to recognize violent relationships, how to protect themselves and seek help. Dates such as November 25th have been utilized for raising awareness regarding violence against women across Kosovo. There have also been

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<sup>53</sup> Ombudsperson Institution in Kosovo Report No. 1/06 concerning the implementation of Sections 7 and 9 of UNMIK Regulation No. 2003/12 On Protection against Domestic Violence, released on 26 November 2006, available at: <http://www.ombudspersonkosovo.org/>.

<sup>54</sup> UNMIK Regulation No. 2003/12, Sections 7.1 and 9.1.

numerous educational sessions organized for police, judiciary and the social service sector on new legislation. No comprehensive evaluation has been conducted as of yet to examine the effectiveness of the anti-domestic violence mechanisms. Nevertheless, the increase of reported cases of violence indicates that each year more and more women ask for protection.

### **G. Trafficking in human beings**

111. The Victim Advocacy and Assistance Unit of the Ministry of Justice reported 35 cases of trafficking identified in the year 2006. In 2005 this Unit was called in to deal with 32 cases, out of which 28% were cases where the victims were children.<sup>55</sup>

112. According to the information received by the Ministry of Justice, in 2005, 38 persons had been charged with trafficking in human beings, but only 17 had been convicted for trafficking while two persons had been acquitted. In the majority of cases the defendants were sentenced from five months to three years' imprisonment. However, in one case five accused were sentenced from one year to 12 years' imprisonment. Thus the sentences pronounced by the courts by the end of 2005 ranged from six months to 12 years, with the majority being between five months and three years. In 2006, five cases of trafficking were filed with the courts; 15 cases were pending; 38 persons had been charged with trafficking, which resulted only in two convictions from six months to eight months of imprisonment. Although the PCCK provides for very serious punitive measures for those involved in trafficking, prosecutors and courts often resort to minimal charges and subsequent convictions for facilitation of prostitution, instead of opting for charges on trafficking.<sup>56</sup>

113. For more information in relation to trafficking in human beings, please see the information provided under Article 8, paras. 27-34, of the Report submitted by the United Nations Interim Administration Mission in Kosovo to the Human Rights Committee on the human rights situation in Kosovo since June 1999, CCPR/C/UNK/1 of 13 March 2006.

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<sup>55</sup> See further information on trafficking in children under Article 10 of this report.

<sup>56</sup> Article 139 of UNMIK Regulation No. 2003/26 (the PCCK) provides severe punitive measures of two to 12 years' imprisonment for those who engage in trafficking in human beings; while in aggravating circumstances when a victim of trafficking is a child, the punitive measures prescribed by the law range from three to 15 years' imprisonment. The punishment for organizing trafficking ranges from seven to 20 years' imprisonment. When the offence of trafficking is committed by an official person in the exercise of official duties, the penalty ranges from five to 15 years' imprisonment. Finally, Article 140 of the PCCK criminalizes the withholding of identity documents of victims of trafficking by employers and managers and the penalty is from one to five years' imprisonment.

#### **Article 4**

114. Inasmuch as CFK Chapter 3.2(a)-(c) and 3.3 make the UDHR, ECHR and ICCPR directly applicable, the provisions of those international instruments restricting the exercise of ICESCR-related rights, “as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, [health,] public order and the general welfare in a democratic society”, likewise apply. ADL, Article 12.2 only permits such restrictions on the rights to work, vocational training, safe working conditions, join and form trade unions, social protection, health, education and housing as “the purpose[s] for which they have been prescribed”.

115. However, none of the UNMIK Regulations/Kosovo Assembly Laws which govern the rights to work, vocational training, occupational safety, social protection, health and education, that are discussed below in Sections VI-VII, IX and XII-XIII of this Report, contain any provisions restricting their exercise in the interests of the public health, safety or morals of Kosovo’s democratic society. Section 3.1 of UNMIK Regulation 2001/27, 8 October 2001, on Essential Labour Law in Kosovo (Essential Labour Law) likewise does not expressly prescribe any comparable limitations on employees’ and employers’ rights to establish and join organisations of their own choosing without prior authorisation, its Section 5.4 requiring public authorities to refrain from interference “that would restrict the exercise of [these] rights.” The latter notwithstanding, Section 5.8 of the Essential Labour Law subsumes the enjoyment of the right to organise under that regulation to the “directly applicable law in Kosovo” viz. The restrictions permitted under ECHR, Article 11(2) and ICCPR, Article 22(2) mirroring those of UDHR, Article 29(2) quoted above.

#### **Article 5**

##### **A. Abuse of rights**

116. CFK, Chapters 3.3 and 14.1 incorporate UDHR, Article 30, ECHR, Article 17 and ICCPR, Article 5(1) - all of which prohibit any interpretation destructive or excessively restrictive of the rights recognised under those instruments by any government, group or person - as part of the constitutional framework, with primacy over any conflicting Assembly law.

117. This UDHR, ECHR and ICCPR prohibition of the abuse of rights is re-iterated in ADL, Article 12(1). In Addition, Article 158 (Violating Equal Status of Residents of Kosovo) of UNMIK Regulation No. 2003/35, 6 July 2003, Provisional Criminal Code of Kosovo (PCCCK) makes it a general criminal offence punishable by imprisonment of six months to five years “unlawfully [to] den[y] or limit[.] the freedoms or rights of a resident of Kosovo as set forth in the Constitutional Framework and the applicable law, on [any of] the [proscribed] bas[e]s

of [discrimination].” Articles 182-183 and 185 of the PCCK specifically penalise any prohibited form of denial or restriction of “rights in labour relations,” “rights of employment and unemployment” and “social insurance rights” with a fine or imprisonment of up to one year. The precise nature of those proscriptions is discussed in Sections VI (A), VII (A),(D) and IX below.

### **B. The principle of the primacy of more favourable rights**

118. The incorporation of ICCPR, Article 5(2) by the CFK directly applies the primacy of more favourable rights congruent to the ICCPR and ICESCR (viz. the basic principles of non-discrimination and gender equality as well as the rights to work, unionise, family, marry and child protection) “pursuant to law, conventions, regulations or custom”.

119. Inasmuch as Section 1.1(b) of the Directly Applicable Regulation as amended continues pre-March 1989 law in effect throughout Kosovo until such time as repealed by UNMIK Regulations, those international treaties - such as the Conventions of the International Labour Organisation (ILO) - which were promulgated by the Socialist Federal Republic of Yugoslavia (SFRY) are directly applicable by the courts - especially if they are more protective of workers’, family and children’s rights. Exceptionally, courts may also apply such international human rights instruments together with non-discriminatory laws, which are consonant with the international treaties listed in the discussion of ICESCR, Article 2(1) above, that were promulgated after March 1989 in the absence of otherwise directly applicable law, pursuant to Directly Applicable Law Regulation, Section 1.2, as amended. They “may request clarification from the Special Representative of the Secretary-General in connection with the implementation of the Regulation[’s provisions]” - and consequently the application of international human rights conventions and non-discriminatory laws - when adjudicating rights and obligations in accordance with ICCPR, Article 14(1) and CFK, Chapter 9.4.3. The omnibus provisions contained in all laws adopted by the Kosovo Assembly and UNMIK Regulations to the effect that a given law supersedes all previous laws on the same subject matter call for similar elucidation.

120. One such clarification was sought by the President of the Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters (KTA Special Chamber) on the implementation of Section 10.6(b) of UNMIK Regulation No. 2003/13, 9 May 2003, on The Transformation of the Right of Use to Socially Owned Immoveable Property (SOE Property Regulation) in 2004, bearing in mind its apparent inconsistency with the ADL - which had been promulgated that year - and the jurisprudence of the European Court of Human Rights (ECtHR). That provision requires “[a]ny complaint filed with the Special Chamber on the grounds of discrimination as reason for being excluded from the list of eligible employees [to a share of the proceeds from privatisation on a priority basis] . to be accompanied by documentary evidence”. Responding in 2005, the SRSB advised that the KTA Special Chamber



should apply the ICCPR-Article 5(2) primacy of more favourable rights to such immoveable property claims of discrimination and shift the burden of proof in those cases to the KTA, as the respondent, consistent with Article 8.1 of the ADL. The KTA Special Chamber has amended its rules of evidence accordingly, construing Section 10.6 of the SOE Property Regulation to call on complainants to establish a prima facie case of discrimination and the KTA “to prove that there has been no breach of the principle of equal treatment”.

121. Article 11(2) of the ADL itself also emulates the principle of the primacy of More Favourable Rights, requiring “[t]he provisions of the legislation introduced or into force for the protection of the principle of equal treatment . [to] be applied if they are more favourable than provisions in this Law”.

122. Because the PISG is concerned about how best to determine legal certainty and human-rights conformity of directly applicable pre and post 1989 law and the law superseding it as well as the primacy of more favourable rights during the transitional period and thereafter, it requested the OHCHR to provide technical assistance with the conduct of a comprehensive legislative review during the presentation of the Report Submitted by the United Nations Interim Administration Mission in Kosovo to the Human Rights Committee on the Human Rights Situation in Kosovo Since June 1999 in July 2006.

## **Article 6**

### **A. Legislative framework**

123. UNMIK and the PISG have introduced important legislative measures to protect the right to work, as guaranteed under Article 6 of the ICESCR. The main legal acts by means of which the right to work is regulated in Kosovo are the following:

- UNMIK Regulation No. 2001/27 On Essential Labour Law in Kosovo of 8 October 2001
- UNMIK Regulation No. 2001/36 On the Kosovo Civil Service of 22 December 2001, as amended by UNMIK Regulation No. 2006/20
- Law No. 2002/9 On the Labour Inspectorate of Kosovo, promulgated by UNMIK Regulation No. 2003/4 of 21 February 2003
- Law No. 2003/19 On Occupational Safety, Health and the Working Environment, promulgated by UNMIK Regulation No. 2003/33 of 6 November 2003

- Law No. 02/L-42 On Vocational Education and Training, promulgated by UNMIK Regulation No. 2006/24 of 25 April 2006

124. Other important legal and policy instruments by means of which the right to work and its progressive implementation is realised include:

- General Collective Agreement (GCA) between the Union of Independent Trade Unions of Kosovo (BSPK), the Ministry of Labour and Social Welfare (MLSW) and the Chamber of Commerce of Kosovo, of September 2004
- Strategy for the Increase of the Number and Position of Women in PISG 2006-2015 approved by the Kosovo Government, and
- Kosovo Youth Employment Action Plan, A mid-term policy framework, 2006-2009

## **1. Labour law and legislation**

### **(a) General**

125. Labour relations in Kosovo are mainly governed by UNMIK Regulation No. 2001/27 On Essential Labour Law in Kosovo (the Essential Labour Law). The purpose of the regulation is to set out the essential labour law in Kosovo and to regulate employment in Kosovo. It proscribes discrimination at the workplace as well as sexual harassment in the working place. While the general minimum age for employment is 18 years, a younger person can be employed in light work not harmful to his or her health. It is prohibited to employ anyone under 15 years of age.

126. A labour contract may be concluded for an indefinite or a definite period in an official language used in Kosovo. A termination of the labour contract may happen upon the death of the employee, by a written agreement between the employee and employer, on grounds of serious misconduct by the employee, and following the expiration of the contract.<sup>57</sup> Salary shall be equal for women and men and payable at least every month, through bank transfer with an accompanying pay slip.<sup>58</sup> Working hours shall not exceed 40 hours per week, a working day shall not exceed 12 hours, whereas in the transport sector, the working day for drivers shall not exceed 9 hours.<sup>59</sup>

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<sup>57</sup> See articles 10, 11, and 12 of UNMIK Regulation No. 2001/27 On Essential Labour Law in Kosovo of 8 October 2001.

<sup>58</sup> See articles 13 and 14 of UNMIK Regulation No. 2001/27.

<sup>59</sup> See article 16 of UNMIK Regulation No. 2001/27.

127. The legislator has also foreseen a 30 minute unpaid break during a working day, one day off during the working week and that overtime shall be paid at a rate of an additional 20% per hour and not exceed 20 hours per week and 40 hours per month. Persons younger than 18 shall not be permitted to work over 40 hours per week, and these persons as well as pregnant women shall not be permitted to work at night, i.e. between the hours of 22:00 and 05:00.

128. Every employee shall be entitled to paid annual leave of at least 18 working days during the calendar year. Additional leave is foreseen for certain family matters.<sup>60</sup> In case of sick leave the employee shall notify the employer within 48 hours. If it is a result of a work related accident or illness, the employee shall be entitled to the salary for that period.<sup>61</sup> There are penalties foreseen in case of violations or non-implementation of the law.<sup>62</sup>

**(b) Specifics in the mining sector**

129. Working hours for employees in mines are determined by article 16.7 of the Essential Labour Law according to which the working day in the mineral sector for those working underground shall not last longer than 8 hours. The minimum age to work in mines is 18 years.<sup>63</sup> The Ministry of Energy and Mines (MEM) has in 2006 prepared a draft Law for security and health of employees in the mine sector, which has passed the phase of ministerial discussion and is going to be sent to the Government.

130. The responsible body for the inspection of mines is the inspectorate of the Independent Commission for Mines and Minerals (ICMM), whose competencies and responsibilities are set out by UNMIK Regulation No. 2005/2 On the Establishment of the Independent Commission for Mines and Minerals of 21 January 2005.<sup>64</sup> In the future, once the Law on Mines and Minerals,<sup>65</sup> approved by the Kosovo Assembly on 19 January 2006, has been promulgated, the issue of mines inspection will be passed to the inspectorate of the MEM.

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<sup>60</sup> See article 17 of UNMIK Regulation No. 2001/27.

<sup>61</sup> See articles 21 and 22 of UNMIK Regulation No. 2001/27.

<sup>62</sup> See article 25 of UNMIK Regulation No. 2001/27.

<sup>63</sup> See article 3.1 of UNMIK Regulation No. 2001/27.

<sup>64</sup> UNMIK Regulation No. 2005/2 On the Establishment of the Independent Commission for Mines and Minerals of 21 January 2005 as amended by UNMIK Regulation No. 2005/38. See also UNMIK Regulation No. 2005/3 On Mines and Minerals in Kosovo of 21 January 2005.

<sup>65</sup> Law No. 02/L-55 On Mines and Minerals approved by the Kosovo Assembly on 19 January 2006, pending promulgation by the SRSG.

**(c) Vocational education and training**

131. See under Article 13 of this report for a discussion on vocational education and training.

**B. Establishment of a functioning market economy**

132. Following the end of the conflict, the economy of Kosovo was in a state of collapse. UNMIK was mandated by the UN Security Council to support the reconstruction of key infrastructure and other economic and social systems in order to promote peace and prosperity in Kosovo and to facilitate the development of an economic life that brings better prospects for the future.<sup>66</sup>

**1. State of employment and economic organization**

133. At the time of UNMIK's arrival in 1999, Kosovo's economy was devastated. Socialist-style institutions had disintegrated. Kosovo lacked the institutional and administrative capacity to govern and support its economy. There were no banks. There was no authority to conduct fiscal policy: no one to collect taxes or manage public revenues. There was virtually no official employment. The agricultural sector was destroyed to the point where even subsistence farming had ceased. Kosovo depended almost entirely on foreign aid provided by the Kosovo diaspora and the international donor community. The tasks of rebuilding physical and institutional infrastructure and transforming Kosovo into a market economy had to be carried out simultaneously.

134. The change in the state of the economy from 1999 to 2006 has been profound. Despite a vast number of obstacles, UNMIK - and increasingly the PISG - have successfully completed a large number of economic reforms. Today, Kosovo has the main building blocks of a market economy, including essential institutional and legal infrastructure, macroeconomic stability, a financial system, and a stable fiscal sector many aspects of which surpass those in developed countries.

135. All the same, Kosovo's agriculture, industry, mining, and service sectors have not undergone substantial development. Economic transition is an intrinsically challenging process. Given its experience of conflict as well as its economic legacy (Kosovo was once the poorest region of the former Yugoslavia), Kosovo's economic transition has been even more so. The significant amount of investment that is necessary to revive these sectors can only be expected once a business environment that provides adequate incentives to investors has been established. This kind of business environment has been taking shape. Kosovo's relatively low taxes, macroeconomic stability, and a growing number of institutions whose capacity to support private sector development is on the rise, are important aspects thereof.

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<sup>66</sup> See paragraph 11(g) of UNSCR 1244.

## **2. Reducing unemployment**

136. One of UNMIK's key objectives has been to facilitate the development of a sustainable market economy in Kosovo. Significant resources and institutional instruments have been deployed to achieve this objective, including the establishment of UNMIK's Economic Reconstruction Pillar (Pillar IV) whose mandate is geared towards modernising the economic framework of Kosovo so as to develop the structures and instruments that form the basis of a modern market economy. By taking on roles in external economic affairs, privatisation, customs, financial system regulation and supervision, fiscal affairs, market regulation, and by assisting the development of Kosovo's own institutions to manage economic affairs, Pillar IV has been the instrumental driver of Kosovo's economic transformation. The successful economic reconstruction and transformation ensures an economic, business and entrepreneurial environment that is increasingly contributing to the generation of employment in Kosovo.

137. Kosovo now has the key elements of a legal framework that is needed to support the development of a market economy. Laws have been adopted to enable the institution and protection of property rights as well as to regulate business registration and the conduct of business activities. From the perspective of a potential investor, it should be noted that the current legal and institutional system allows for a company to be registered rather quickly, while most taxes in Kosovo are relatively low for the region. Legislation enables Kosovo to import many raw materials and machinery duty- and VAT free, and to export without having to pay export taxes.

138. Furthermore, investors are protected under Kosovo's Law on Foreign Investment, which rules out any discrimination and stipulates unimpeded repatriation of profits. Other benefits include macroeconomic stability, one pillar of which has been the adoption of the Euro as Kosovo's legal tender. The Euro precludes inflationary monetary policies and eliminates currency risk, thus contributing to investor confidence. A balanced and sustainable fiscal regime has also been developed. The PISG runs a balanced budget, now predominantly funded from tax revenues. The financial sector includes seven commercial banks plus the Central Banking Authority of Kosovo (CBAK). The sector is well regulated and relatively competitive.

139. UNMIK and the PISG have also achieved significant progress in integrating Kosovo into regional and wider economic institutions and initiatives. Following the signing of several bilateral free-trade agreements with regional neighbours, Kosovo has recently acceded to the enlarged Central European Free Trade Agreement (CEFTA). The inclusion of Kosovo into CEFTA, combined with unilateral duty-free access for Kosovo goods into the markets of the European Union, render Kosovo a part of the "pan-European duty free market" - an advantage for any potential exporter. Furthermore, UNMIK on behalf of Kosovo has acceded to the South East Europe Energy Treaty, which should facilitate the future development of Kosovo's energy sector. UNMIK on behalf of Kosovo has also acceded to the European Common Aviation Area

(creating a single market for commercial flights in Europe), is part of the South Europe Transport Observatory (facilitating the development of a regional transport network), and is an active participant in the European Charter for Small Enterprises Western Balkans + Moldova forum.

140. The process of developing a business-friendly environment in Kosovo has been a challenging one. The inclusion of Kosovo into regional economic initiatives and other international economic institutions, for example, was made difficult by Kosovo's undefined status, even as UNMIK found legal solutions to overcome this obstacle in most cases. Furthermore, the process of building the capacity of Kosovo's fledgling institutions has been made more difficult by the legacy of Kosovo's poor education system. Improving the quality of formal education must become a priority of future local and international institutions.

### **3. Post and Telecommunications**

141. On 21 December 2006, the Post and Telecommunications of Kosovo (PTK) celebrated its 47th anniversary - it had originally been established as the Post, Telephone and Telegraph of Kosovo by a decision of the Steering Council of Yugoslavian PTT Communion in 1959. During the conflict of 1999, many of the PTK's assets were stolen or damaged, and a number of its premises demolished. Postal services had ceased, while Telephony and Telegraphy within Kosovo as well as international connections were all but inoperative.

142. Six years later, PTK has been fully revived through a combination of donor funding (EAR), private sector loans, and own-source revenue, and now has three business units: Post of Kosovo, Telecom of Kosovo, and the Vala mobile network operator - all licensed by the Kosovo Telecommunications Regulatory Authority (TRA). A Training and Development Centre was established in September 2004 to support the professional development of PTK staff. PTK currently has 2,410 regular employees and 66 external contractors. Today, 99% of the territory of Kosovo has mobile phone coverage, while 90% of urban and 25% of rural areas have landline telephony.

143. On 29 June 2005, under the guidance of the Kosovo Trust Agency (KTA), the PTK was incorporated and transformed into a joint-stock-company. It now has a five year business plan (2007-2012) with projected investments of some 550 million Euro. In July 2005, the PTK launched its website ([www.ptkonline.com](http://www.ptkonline.com)) in order to facilitate information sharing with customers.

144. A significant problem faced by the PTK is that Kosovo currently does not have its own dialling code. Under the existing regime, the PTK uses the International Dialling Code of Serbia (+381) for its fixed line network, and the Monaco International Dialling Code (+377) for its mobile network, thus incurring a significant financial loss. In January 2005, the management

of PTK approached the International Telecommunications Union (ITU) with a request for an International Dialling code for Kosovo. A formal application for an International Dialling Code for Kosovo has since been placed with the ITU. However, the potential allocation of an International Dialling Code for Kosovo has not yet been resolved.

145. In November 2006, the Government of Kosovo launched a tender for a second mobile phone operator for Kosovo. A previous tender prepared by the MTC and administered by the Telecommunications Regulatory Authority (TRA) in the year 2004 was declared null and void that same year by SRSG Executive Decision 2004/25 due to a flawed tender process. By February 2007, a selection of a second provider has been made and subsequently a second mobile telephony services license had been issued.

#### **4. Central Banking Authority of Kosovo**

##### **(a) Framework, organization and authorities**

146. The Central Banking Authority of Kosovo (CBAK) - formerly the Banking and Payments Authority of Kosovo (BPK), as per the Constitutional Framework - is an independent body governed by a Governing Board and accountable to the SRSG.<sup>67</sup> The role of the CBAK is to foster the development of financial and payment systems in Kosovo. It supervises and regulates Kosovo's banking sector, insurance industry, pension funds, and other micro finance institutions, and performs a number of other tasks normally undertaken by a central bank. These include cash management, transfers, clearing, management of funds deposited by the Treasury or other public institutions, collection of financial data, and the management of a credit register. The CBAK, however, is not authorised to grant any loans, including liquidity, to banks.

147. The CBAK has an international Managing Director and two Kosovo Deputies. According to UNMIK Regulation No. 2006/47 On the Central Banking Authority of Kosovo, the Governing Board of CBAK consists of five members: three nominated by UNMIK, two nominated by the PISG, and all appointed by the SRSG. The CBAK has put in place a modern managerial structure, which includes an Executive Committee, a Supervision Committee and a Training Committee. The CBAK has also implemented an impartial and transparent recruitment process. The CBAK has also made strong efforts to increase the participation of minorities in its personnel structure through aggressive advertising. Minorities' participation currently stands at 4.7% of CBAK staff.

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<sup>67</sup> See UNMIK Regulation No. 2006/47 On the Central Banking Authority of Kosovo of 24 August 2006 as amended by UNMIK Regulation No. 2007/8 of 1 February 2007.

**(b) Establishment of sound financial institutions**

148. Since its inception, the CBAK has developed a framework of supervisory rules and policies to implement its mandate. Each segment of the financial system is governed by a framework of prudential rules that regulate entry into the system and the conduct of business within it. These include the usual prudential requirements concerning ownership, capital adequacy, liquidity, audit, and the management of various financial and operational risks. These rules are, for the most part, consistent with Basel Guidelines and EU/EC requirements. The CBAK regularly monitors compliance by-, as well as the overall condition of-, financial institutions through onsite inspections and offsite analysis of reported financial data.

149. Moreover, the CBAK has implemented a variety of punitive and remedial measures to resolve issues of non-compliance or inordinate risk. In one case, the CBAK revoked the license of a bank and several insurance companies. Pension funds, microfinance institutions, and other non-bank financial entities are similarly supervised. The CBAK, with the help of donors, has dedicated a significant amount of time and money in the training and development of its supervisory staff in order to be able to implement a sound supervisory regime. Finally, the CBAK has promoted competition and a greater supply of financial services by supporting viable and experienced new actors in the financial sector.

**(c) The role of BPK/CBAK since its establishment**

150. The role of the CBAK has remained unchanged since its establishment. Its mission is to protect primarily depositors/clients, as well as other stakeholders, and to maintain stability in the financial sector. The CBAK does so in line with its strategic vision of a stable and growing financial sector driven by market forces, but operating within a prudent regulatory and supervisory policy framework harmonised with EU/EC directives. This vision implies the establishment of sound entry standards, transparency of operations, viable participants capable of assessing and managing business risks, maintenance of adequate financial and human capital to support business activities, and the efficient resolution of financial sector problems in a manner that is least disruptive.

151. The manner in which the CBAK has implemented its role has, however, evolved consistent with the evolution of international best practice for supervisors. Namely, the CBAK has moved from a “rules-based” approach to a “risk-based” approach (formulated on the basis of the Basel Core Principles and Pillar 2 of Basel II for banks) and a risk-based solvency regime that is being adopted internationally for insurance companies. Rather than simply monitoring actors’ compliance with a set of rules, the risk-based approach constitutes a comprehensive qualitative assessment of financial institutions’ internal systems and processes for identifying, monitoring, and controlling their



own risks. A risk-based regime means that financial institutions are expected to adopt “best practice” methodologies in order to manage their activities and the risks inherent therein.

**(d) Employment levels in the banking and insurance sector**

152. In 2006, the total number of employees in the banking sector (six banks) was 2,416. The total number of employees in the insurance industry (nine companies) was 596. CBAK does not have an ethnicity/gender breakdown or employment figures per year.

**(e) Economic figures**

153. As of 31 December 2006, the total number of depositors in the six banks was 770,392. As of 31 December 2006, the total amount of loans disbursed by commercial banks was 610,016,000 Euro distributed as follows:

**Table 6**  
**Loans disbursed by commercial banks as**  
**at 31 December 2006**

Personal Loans	145 412 000 Euro
Commercial Loans	264 643 000 Euro
Mortgages	32 081 000 Euro
Other loans	167 880 000 Euro

*Source:* Central Banking Authority of Kosovo.

**(f) Closure of Credit Bank of Pristina**

154. Following the license revocation of the Credit Bank of Pristina (CBP) on 13 March 2006, the Receiver rapidly performed two waves of payments to the depositors: the first wave for deposits of up to 1,000 Euro, and the second for deposits of up to 2,500 Euro. Following these two waves of payments, 89.45% of all depositors were entirely refunded. The Receiver continued to make additional payments that partially reimbursed the remaining depositors.

155. The CBAK and the Receiver have emphasised that the amount of the remaining payments would depend on the capacity, or willingness, of those who borrowed money from the former CBP to pay back their loans. Based on the present expectation of loan recoveries, the Receiver foresees a good possibility to refund the remaining depositors up to 70% of their deposits during the course of the Receivership. Quicker payments, at a higher payment rate (above 70%), or even full payment could be achieved if borrowers paid back their loans in full.

156. As the Receiver collects sufficient funds, the repayment process will be performed in several waves in order to cover 70% of the deposits, with a repayment ceiling of 20,000 Euro. Once all remaining account holders have received up to 20,000 Euro, the Receiver will cover progressively, and on a pro-rata basis, all depositors up to 70% of their deposits. When all depositors are paid up to 70% of their deposits, additional payments may be performed by the Receiver, on a pro-rata basis, and based on the amount of loans recovered.

## **5. Kosovo Railways**

157. Following the conflict of 1999, the former “Railway Organization Prishtina (ROP)” came under the responsibility of UNMIK and was renamed UNMIK Railways. At this time, the railway infrastructure, as well as the rolling stock (locomotives, passenger wagons, etc.), was largely destroyed or damaged, and, with regard to the latter, had partly been taken to Serbia proper.

158. With the support of UNMIK, Italian KFOR, and donations from SIDA, GTZ, the EAR, and others, UNMIK Railways began repairing the railway infrastructure in 1999 and initially resumed railway traffic for KFOR needs on the line Fushë Kosovë/Kosovo Polje - Skopje. This same line was opened for passenger traffic in February 2006. After the establishment of the Kosovo Trust Agency (KTA), UNMIK Railways, as all other Publicly Owned Enterprises (POE), came under the authority of the KTA, and was incorporated as Kosovo Railways J.S.C, in January 2006.

159. Between 1999 and 2006, Kosovo Railways managed to repair its railway infrastructure and rolling stock to a satisfactory level, which today enables the company to operate daily passenger and freight trains, especially on the main railway line Lešak/Leshak - Mitrovicë/Mitrovica - Fushë Kosovë/Kosovo Polje - Hani Elezit/ Đeneral Janković. Today, Kosovo Railways is either a member or an observer of a number of railway organizations and working groups within the region and beyond, including the International Community of Railways (member), the South East European Transport Observatory (member), and the Community European Railways (observer).

160. The following capital projects were completed with the help of donor funding:

- Repair of damaged railway tracks
- Repair and limited modernisation of signalling equipments on the north/south line
- Repair of telecommunications equipment and installation of a railway radio system

- Repair of buildings in the locomotive and wagon workshops
- Repair of a number of signalling buildings
- Supply of ten locomotives
- Supply of ten passenger wagons
- Supply of one manoeuvring locomotive, and
- Supply of three motor trains

161. The KTA also invested efforts in developing the human resources of Kosovo Railways. This was achieved through various training programmes, the engagement of foreign experts etc. At the same time, UNMIK on behalf of Kosovo signed agreements on the development of railway traffic with Serbia (March 2002) and FYROM (August 2005). In June 2006, Kosovo Railways got a Kosovo Managing Director.

## **6. Pristina International Airport**

162. Given the geographical situation of Kosovo, aggravated by its undefined political status, the establishment of a well-functioning international civil aviation facility is of crucial importance to the economic development of Kosovo. A Publicly Owned Enterprise (POE), Pristina International Airport is under the administrative mandate of the Kosovo Trust Agency (KTA). During the early seventies and early nineties, the Airport, formally in use by the military, was also permitted to develop some commercial traffic. A terminal building, relatively small by today's standards, was constructed, and a separate company known as PEAP allowed to run and control it. The rest of the Airport's operation was mainly controlled by the military. The two sections of the airport had little to do with each other. Revenue grew on the PEAP side as they had little in the way of overheads apart from staffing costs, while the part controlled by the military went into decline along with the rest of the Airport operation. At the end of the conflict in 1999, the Airport could not continue under its established structure. KFOR took over its operational management and provided the necessary staff to look after its operations. UNMIK took over civilian control of the Airport on 1 April 2004.

163. Though significant infrastructural, security, and human resources developments have taken place at the Airport since 1999, the Airport still does not have international certification. Efforts are ongoing to bring the Airport up to the international standards prescribed by the International Civil Aviation Organisation (ICAO), with the help of the Icelandic Civil Aviation Authority (ICAA) which has "adopted" Pristina International Airport for this purpose (the "adoption" was necessary as Kosovo itself, not being a sovereign state, cannot certify the airport), and has, in

the meantime, issued the Airport with an “Interim Declaration of Fitness” enabling it to continue its operations. There are currently, at the end of 2006, 32 “non-conformities” at Pristina International Airport. In order to address some of the more significant ones, the Airport needs to do the following:

- Construct an airport drainage system
- Resurface the runway
- Increase the bearing capacity of taxiways
- Construct an apron extension
- Design and implement the airfield lighting, and
- Develop a Safety Management System (SMS)

164. A number of these projects are already under way. The Airport itself cannot finance everything, and has sought funding from external sources. On 11 July 2005, it signed an agreement with the Ministry of Finance and Economy for a 12 million Euro loan.

165. On 14 June 2006, Pristina International Airport received the “Best Airport 2006 Award,” in the category of airports serving under one million passengers per year, at the 16th Airports Council International (ACI) Europe Annual Congress in Athens. The award recognised the Airport’s 300% increase in passenger traffic over the recent years, as well as its significant investment in facilities, its rapidly expanding network, and intensive capacity building efforts.

166. The Airport has designated a Kosovo Managing Director who is awaiting approval by the Airport’s and the KTA’s Boards of Directors.

## **7. Privatisation of Socially Owned Enterprises**

167. Kosovo’s Socially Owned Enterprises (SOEs) operate in all sectors of the economy, and it is estimated that they represent 90% of Kosovo’s industrial assets. In the agricultural sector, 20% of prime agricultural land (including the only parcels suitable for large-scale commercial agricultural production) is SOE land. In addition, 60% of Kosovo’s forests (270,000 hectares) are SOE land. A significant lack of investment in plant and equipment, combined with a lack of modern corporate governance over the past fifteen years, has caused the SOEs to become ineffective business organizations. The loss of market share for SOE products has also made the majority of SOEs effectively bankrupt. Most are currently surviving by leasing out their assets to third parties.

168. The Kosovo Trust Agency (KTA) was established by UNMIK Regulation No. 2002/12<sup>68</sup> and mandated to administer Publicly Owned Enterprises (POEs), and to administer, as well as privatise and liquidate the SOEs. SOEs are sold off via regular or special spin-off procedure, whereby New Companies (NewCos) are created from the assets of existing SOEs and tendered for sale. After the sale of a NewCo, the parent SOE is liquidated through the sale of any remaining assets. All sale proceeds (from liquidation and privatisation) are held in trust by the KTA, except for 20%, which are paid to the eligible workers of the SOEs (as per UNMIK Regulation No. 2003/13 On the Transformation of the Right of Use to Socially-Owned Immovable Property<sup>69</sup>). Proceeds held in trust are to be used for settling possible legitimate claims of creditors or owners (as per UNMIK Regulation No. 2005/48 On the Reorganization and Liquidation of Enterprises and their Assets under the Administrative Authority of the Kosovo Trust Agency<sup>70</sup>). The proceeds are held at the Central Banking Authority of Kosovo (CBAK) for the KTA on behalf of the enterprises concerned.

169. When a company is offered for sale via special spin-off procedure, a number of conditions, such as future investment and employment guarantees, are taken into consideration in addition to the price in determining the winning bidder. Special spin-off conditions can also include parameters concerning the ethnic composition of the workforce, as in cases where a company already employs a large number of minority workers. Special spin-off procedures normally apply to SOEs that satisfy any of the following criteria: a) employment of, and regular tax payments for at least 300 persons over a three month period starting from 1 September 2002 and ending 30 November 2002, and b) total revenues of at least 10 million Euro in 2002. The Management of the KTA or a member of its Board of Directors may nonetheless propose to the Board that a particular SOE, which does not meet any of these criteria, should, all the same, be offered for sale via special spin-off procedure, if its privatisation is expected to have an extraordinary economic impact on Kosovo. After the sale, the implementation of the conditions included in special spin-off contracts is monitored by the KTA.

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<sup>68</sup> UNMIK Regulation No. 2002/12 On the Establishment of the Kosovo Trust Agency of 13 June 2002, later amended by UNMIK Regulation No. 2005/18 of 22 April 2005.

<sup>69</sup> UNMIK Regulation No. 2003/13 On the Transformation of the Right of Use to Socially-Owned Immovable Property of 9 May 2003, as amended.

<sup>70</sup> UNMIK Regulation No. 2005/48 On the Reorganization and Liquidation of Enterprises and their Assets under the Administrative Authority of the Kosovo Trust Agency of 21 November 2005.

170. By the end of 2006, the KTA had launched 22 waves of privatisation. 393 NewCos had been tendered for sale and 216 sales contracts signed, (of these, 16 for special spin-offs), with total privatisation proceeds (received and banked) amounting to 267,784,767 Euro. Employees' entitlement amounted to 53,556,953 Euro, of which 9,867,284 Euro had been paid out by the Independent Union of Trade Unions of Kosovo (BSPK). In addition, the KTA Board had approved a total of 76 liquidations, with proceeds amounting to 2,856,040 Euro.

**Table 7****Total number of enterprises by sector of activities and capital origin**

Total number of SOEs by sector						
	Enterprises				Total	%
	SOE	Without determined status	JSC	Cooperative		
Agr. or food processing	35	3	4	2	44	7.26
Agriculture	96	16	1	30	143	23.60
Chem./Plast/Paper/ Rubber/Glass	16				16	2.64
Construction materials	44	7	1		52	8.58
Forestry	19	2			21	3.47
Metal processing	39	2	3		44	7.26
Mining	5	3	1		9	1.49
Other <sup>a</sup>	45	11	3	1	60	9.90
Pharmacy	5	3	1		9	1.49
Services	30	18	5	1	54	8.91
Textiles	22		2		24	3.96
Tourism & Hospitality	21	3			24	3.96
Trade & Retail	54	7	2	1	64	10.56
Transport	25	2	1		28	4.62
Wood processing	11	2	1		14	2.31
Total	467	79	25	35	606	100.00

Source: KTA.

<sup>a</sup> Banks, veterinary stations, traffic schools, radio stations, city cinema, artisan's associations.

**Table 8**  
**Total number of privatised SOEs by sector (as of 31 December 2006)**

	Number of SOEs tendered for Privatisation	Number of NewCos created	Withdrawn/ No bid	NewCo sales contracts signed	NewCo contracts pending signature	Sales to be approved by KTA board
Agr. or Food Processing	28	41	4	32	3	2
Agriculture	38	76	9	25	31	11
Chem./Plast/Paper/ Rubber/Glass	10	14	0	12	1	1
Construction Materials	26	42	1	32	8	1
Forestry	0	0	0	0	0	0
Metal Processing	22	29	0	20	3	6
Mining	4	4	1	1	0	2
Other	9	12	0	10	1	1
Pharmacy	2	2	0	2	0	0
Services	16	25	0	11	8	6
Textiles	15	22	0	17	5	0
Tourism & Hospitality	9	33	2	23	6	2
Trade & Retail	31	82	3	37	28	14
Transport	8	8	1	4	2	1
Wood Processing	8	9		5	3	1
Total	226	399	21	231	99	48

Source: KTA.

**Table 9**  
**Revenue from privatised SOEs by sector**

Sector	Total (in Euro)
Ag. and food processing	31 656 982
Agriculture	12 978 140
Chemical	9 907 714
Construction material	48 732 630
Hotel and tourism	26 030 106
Metal processing	50 586 885
Mining	109 136
Other	9 845 700
Pharmacy	1 325 479
Service	7 061 469
Textile	13 402 944
Trade and Retail	21 619 893
Transport	2 647 611
Wood processing	7 408 185
Grand total	243 312 874

Source: KTA.

### C. Prohibition of forced labour

171. Inasmuch as the applicability of international conventions proscribing enslavement, forced or compulsory labour and child labour is concerned please refer to the discussion thereof in the UNMIK Report to the Human Rights Committee on the Human Rights Situation in Kosovo since June 1999 dated 13 March 2006<sup>71</sup> under Article 8. Furthermore, the Essential Labour Law explicitly prohibits forced or compulsory labour, which is defined as all work or services which is exacted from any person under the menace of a penalty and for which such person has not offered himself/herself voluntarily.<sup>72</sup> Violations can be punished with fines up to 10,000 Euro.<sup>73</sup>

172. Work in prisons is regulated by UNMIK Regulation No. 2004/46 On the Law on Execution of Penal Sanctions of 19 November 2004. Penal sanctions are carried out by the UNMIK Department of Justice Penal Management Division (PMD) which is gradually transferring its functions to the Kosovo Correctional Service. The Law grants the right to a rehabilitation programme to a convicted person which shall include the participation in vocational training activities<sup>74</sup> or work. It also stipulates that a convicted person who is capable of working has the right and obligation to work.<sup>75</sup> The work shall be useful and not degrading and may not be imposed as a form of disciplinary punishment. To the extent possible, a convicted person can choose the type of work he or she prefers to perform and may be employed inside or outside the correctional facility. There is a right to remuneration and annual leave in accordance with the general provisions on labour. Also, other benefits as well as safety and health precautions shall be done in accordance with the Essential Labour Law, which is generally applicable for these purposes.

173. During a natural or other disaster, all Kosovo residents are obliged to assist the protection, rescue and aid forces, or to do other work assigned to them by the authorities. The obligation to assistance starts from the age of 18 up to the age of 65 (men) or 55 (women) for all persons who are sufficiently healthy to fulfil the tasks.<sup>76</sup> This is stipulated in Law No. 02/L-68 On Protection Against Natural and Other Disasters, promulgated by UNMIK Regulation No. 2007/4 of 15 January 2007 which defines a disaster as an event caused by uncontrolled natural and other forces that risk life and health of people, animals and property, causing damages to cultural and

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<sup>71</sup> UNMIK Report to the Human Rights Committee on the Human Rights Situation in Kosovo since June 1999, CCPR/C/UNK/1, 13 March 2006.

<sup>72</sup> See article 4 of UNMIK Regulation No. 2001/27.

<sup>73</sup> See article 25 of UNMIK Regulation No. 2001/27.

<sup>74</sup> See article 83 of the Law on Execution of Penal Sanctions, promulgated by UNMIK Regulation No. 2004/46 of 19 November 2004.

<sup>75</sup> See article 72 of UNMIK Regulation No. 2004/46.

<sup>76</sup> Law No. 02/L-68 for Protection Against Natural and Other Disasters, promulgated by UNMIK Regulation No. 2007/4 of 15 January 2007.



natural heritage and environment, where particular forces and tools are needed to manage them. The law contains also non-exhaustive lists of situations considered to be such natural or other disasters.

#### **D. Prohibition of discrimination**

174. The applicable laws in Kosovo foresee the realisation of the right for everyone to have the opportunity to earn money through work in a freely chosen or accepted job. All men and women shall have equal access to a work place at all levels and all professions.

##### **1. Labour Law**

175. The Essential Labour Law proscribes any discrimination in employment and occupation, also any distinction, exclusion or preference made on the basis of race, colour, sex, religion, age, family status, political opinion, national extraction or social origin, sexual orientation, language or union membership which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.<sup>77</sup>

176. The Essential Labour Law stipulates likewise that any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.<sup>78</sup> Furthermore, discrimination against a disabled person, whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognised physical or mental impairment, is prohibited. Also discrimination, direct or indirect, against a female employee arising from her pregnancy or childbirth is prohibited. Sexual harassment at the workplace is prohibited.

177. Furthermore, the law stipulates that employees shall enjoy adequate protection against acts of anti-union discrimination.<sup>79</sup> Acts of anti-union discrimination are defined as making an offer of employment subject to the condition that the prospective employee shall not join a union or, where applicable, relinquish union membership; or discharging or otherwise prejudicing an employee because of his/her union membership, or participation in union activities. Article 13 stipulates equal pay for women and men for work of equal value. There are sanctions up to 10.000 Euros foreseen for the infringement of these rights.<sup>80</sup>

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<sup>77</sup> See article 2 of UNMIK Regulation No. 2001/27.

<sup>78</sup> See article 2.3 of UNMIK Regulation No. 2001/27.

<sup>79</sup> See article 7 of UNMIK Regulation No. 2001/27.

<sup>80</sup> See article 25 of UNMIK Regulation No. 2001/27.

## 2. Civil Service Law

178. The Civil Service Law<sup>81</sup> stipulates that employment in the civil service is carried out by fair and open competition, based on merit and in accordance with the principles of the equal gender representation in all fields. Furthermore, there shall be no discrimination, direct or indirect, based on sex, race, colour, language, religion, political opinion, national, ethnic or social origin, association with a national community, property, birth, disability, family status, pregnancy, sexual orientation, or age; and recruitment at all levels in the civil service shall reflect the multi-ethnic character of Kosovo and the need for equitable representation of all the communities in Kosovo.<sup>82</sup> The hiring of senior public appointees such as Permanent Secretaries in Ministries and Chief Executive Officers in Executive Agencies is within the competence of the Senior Public Appointments Committee (SPAC) established under Chapter IV of UNMIK Regulation No. 2001/36 on the Kosovo Civil Service.

179. Section 4 of the law grants the right to civil servants to belong to political parties and other political organizations but proscribes active involvement in political activity. Likewise, they have the right to belong to trade unions. Yet restrictions regarding the right to strike for certain categories of civil servants are in place.<sup>83</sup>

## 3. Gender Equality Law

180. According to the Gender Equality Law,<sup>84</sup> public and private sector undertakings and legislative and executive institutions shall provide equal rights and opportunities for females and males in labour and the employment sector. Vacancies shall be available equally for females and males and job vacancies shall not contain any discriminatory expressions. Employers shall take measures to ensure that positions are not categorised specifically for females or males. An exception from the requirement to have gender-neutrally formulated job vacancies is foreseen in cases where the announcement is published to achieve a gender balance in a certain professional sector, provided however that such intention is clearly stated in the announcement.

181. The Law reiterates the equal pay condition and stipulates further that women and men shall have equal employment and working conditions and rights. Also, employers shall ensure that both female and male employees have equal opportunity to attend education and professional

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<sup>81</sup> UNMIK Regulation No. 2001/36 On the Kosovo Civil Service of 22 December 2001, as amended.

<sup>81</sup> See article 2 of UNMIK Regulation No. 2001/36.

<sup>82</sup> See article 2 of UNMIK Regulation No. 2001/36.

<sup>83</sup> See article 5 of UNMIK Regulation No. 2001/36.

<sup>84</sup> Law No. 2004/2 on Gender Equality, promulgated by UNMIK Regulation No. 2004/18 of 7 June 2004.

training that aim to improve professional skills or prepare them for other professions. Employers shall take all necessary measures to enable females and males to correspond to both their professional and family obligations. The Law requires from the employer that the time schedule, in accordance with the needs of the labour market and family-state of employees, be organised in such a way that female employers can return to their previous posts after maternity leave, parental leave, sick leave or after the time spent out of the place of work due to family emergencies or professional training.

182. The Law requires from employers to organise the work and time schedule so that female staff can return to their previous posts after maternity and parental leave. The same should be made possible for those staff who are on longer sick leave or absence from the work place due to family emergencies or professional training. The Law furthermore proscribes sexual or other harassment at the work place. Furthermore gender discrimination is proscribed in cases of job cuts.

### **E. Labour market situation**

183. The economic situation of Kosovo started deteriorating in the early 1980s, when output fell to 1.8% compared to the average annual growth of 6% recorded in the 1970s. In 1988, Kosovo was by far the least developed province among the federal units of the SFRY, with only 27.8% (USD 700) of the average GDP per capita of Yugoslavia (USD 2,520). The contraction continued throughout the 1990s, with decreasing rates of output and income, widespread unemployment and increasing levels of poverty. Since the end of the 1999 conflict, per-capita income increased four times, driven by extensive donor reconstruction aid, income transfers from the large international presence - i.e. the UNMIK and the NATO-led military forces - and remittances from migrant workers.<sup>85</sup>

184. However, the post-conflict recovery in industry, agriculture and mining was very slow. The structure of the economy has shifted towards the service sector, which now accounts for 60% of GDP while agriculture accounts for only 25% and the industrial sector for 15%. During the emergency phase from mid-1999 to 2002 there was substantial international support for reconstruction and revitalisation of the economy.

185. Estimates put foreign assistance in the period 2000-2003 at a total of 4.1 billion Euro, with private inflows adding another 2.4 billion Euro.<sup>86</sup> Six years after the conflict Kosovo's economy is still partly dependent on external assistance, with donor funding and remittances

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<sup>85</sup> See page 9 of Kosovo Youth Employment Action Plan, A mid term policy framework 2006-2009.

<sup>86</sup> IMF, Kosovo - Gearing policies toward growth and development, Washington D.C., 2004.

contributing 23% and 15% respectively to the GDP.<sup>87</sup> These inflows had a negative impact on economic and employment growth. During the reconstruction period, factors of production shifted to those goods and services demanded by aid agencies, expatriates and remittances' investment - mainly construction, housing, retail trade and other services - to the detriment of traditional sectors such as agriculture and manufacturing. Most importantly, the multiplier effect on the economy was quite limited due to the preference for imported goods. Hence, the employment impact of reconstruction was restricted to a number of occupations and dwindled down once these needs were over. Access to external financing and the adoption of the Euro in 2001 helped reduce inflation from 11.7% in 2001 to 1.2% in 2003.<sup>88</sup>

**Table 10**  
**Kosovo selected economic indicators 2002-2006**

	2002 <sup>e</sup>	2003 <sup>e</sup>	2004 <sup>e</sup>	2005 <sup>e</sup>	2006 <sup>p</sup>
National accounts					
Real GDP growth	-0.1	-0.5	2.0	-1.5	2.0
Investment (% GDP)	23.7	22.9	26.3	28.2	28.9
Gross Domestic Savings (% GDP)	-7.1	-5.7	-4.2	-8.3	-5.3
Government budget <sup>a</sup>					
Overall balance (millions of Euros)	98	47	-138	-67	-77
Overall balance (% GDP)	4.0	1.9	-5.4	-2.9	-3.0
External accounts					
Current account balance (% GDP) <sup>b</sup>	-32.8	-26.6	-26.3	-31.5	-29.2
Foreign assistance (millions Euro)	887	688	570	553	546
Workers' remittances (millions Euro)	341	341	341	345	347
Consumer Price Index (CPI)	3.6	1.2	-1.5	-2.1	-1.8

*Source:* World Bank and IMF staff estimates; in World Bank, Interim Strategy for Kosovo for the Period 2006-2007, Washington D.C. 2006.

<sup>e</sup>=Estimate, <sup>p</sup>=Projections.

<sup>a</sup> Excludes donor designated grants and off -budget UNMIK and donor expenditures.

<sup>b</sup> Before donor grants.

<sup>87</sup> UNMIK, the economic foundations of status, Kosovo economic outlook, European Union Pillar, Pristina, 2006.

<sup>88</sup> Banking and Payment Authority of Kosovo (BPK), Annual report 2004, Pristina, 2005.

**Table 11****Number of registered taxpaying enterprises by ownership and size**

Year-quarter	Total	Enterprises		
		Small	Medium	Large
2004 - 1st	29 129	27 458	1 456	215
2004 - 2nd	29 538	27 854	1 470	214
2004 - 3rd	29 436	27 781	1 446	209
2004 - 4th	29 524	27 907	1 417	200
2005 - 1st	29 863	28 247	1 419	197
2005 - 2nd	29 704	28 072	1 428	204
2005 - 3rd	29 294	27 654	1 432	208
2005 - 4th	27 311	25 755	1 356	200

*Source:* MFE, Tax Administration, published in SOK Monthly Bulletin 10/2006.

**Table 12****Number of registered taxpaying enterprises by economic activity**

Year - quarter	Total	Economic activity						
		Agriculture	Industry	Construction	Trade	Transport	Finance	Services
2004 - 1st	29 129	262	3 185	1 400	16 230	2 583	42	5 427
2004 - 2nd	29 538	254	3 161	1 411	16 448	2 585	43	5 636
2004 - 3rd	29 436	258	3 144	1 402	16 330	2 575	47	5 680
2004 - 4th	29 524	258	3 153	1 366	16 400	2 591	50	5 706
2005 - 1st	29 863	254	3 114	1 448	16 424	2 741	49	5 833
2005 - 2nd	29 704	263	3 135	1 425	16 380	2 528	46	5 927
2005 - 3rd	29 294	254	3 112	1 349	16 133	2 464	47	5 935
2005 - 4th	27 311	236	2 898	1 251	16 132	2 209	45	5 540

*Source:* MFE, Tax Administration, published in SOK Monthly Bulletin 10/2006.

186. The Kosovo population grows fast. Estimates suggest that in 2004 over 50% of the population was under the age of 25,<sup>89</sup> with more than 21% of it falling under the UN statistical definition of youth. The population at working age, i.e. from the age of 15 to 64, is thus comparably low. Further, the overall labour force participation rate in Kosovo is one of the lowest in the region.<sup>90</sup> Main reasons for this are that increasing numbers of young people continue to study after having completed compulsory education. At the same time many older workers (above 55) leave the labour force well before retirement age.

<sup>89</sup> RIINVEST, Labour market study, Pristina 2003, confirmed by the LFS (2003) and UNDP Human Development Report, Pristina, 2004.

<sup>90</sup> See Kosovo Youth Employment Action Plan.

187. The largest impact, however, must be the extremely low participation rate of women, especially those aged between 25 and 39, who usually take on child care and household responsibilities instead of engaging in the labour market. Women participation rate is at 30% which is less than half of that of men (68%). The extremely low figures suggest that, besides other problems, also discrimination in employment and occupation resulting from stereotyped gender roles and societal rules as well as institutional and other barriers that limit women's access to the labour market could play a role.<sup>91</sup> However, it is noteworthy that the employment situation in Kosovo even before 1999 was the lowest compared to other areas of the FRY for manifold reasons.

188. There is a positive correlation between employment and educational attainment - over 57% of young people with tertiary education was employed in 2004, against only 14% of youth with less than primary education. The structure of employment by sector and branch indicates that the service sector is the first provider of employment in Kosovo accounting for more than 65% of total employment.<sup>92</sup> There is also a high percentage of self-employment in Kosovo, about one quarter of the total employed in 2004.<sup>93</sup>

189. There exists no reliable data on informal employment. According to a survey conducted in 2003, about half of the employment in Kosovo was in the informal economy, according to the ILO criteria of whether employees had a signed contract and the enterprises were registered. The degree of informality was higher if measured according to whether payroll taxes were paid or withheld (two-thirds were informally employed based on this criterion).<sup>94</sup> Also among the young self-employed informality is widespread. More than 23% of young self-employed were not registered with the competent authorities in 2004, among established enterprises the percentage was 5.2%.<sup>95</sup>

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<sup>91</sup> See page 16 of Kosovo Youth Employment Action Plan.

<sup>92</sup> See page 17 of Kosovo Youth Employment Action Plan.

<sup>93</sup> See page 17 of Kosovo Youth Employment Action Plan.

<sup>94</sup> World Bank, Kosovo labour market study: Policy challenges of formal and informal employment, Washington D.C., 2003.

<sup>95</sup> See page 20 of Kosovo Youth Employment Action Plan.

**Table 13**  
**Labour force participation and employment (%)**

		2002	2003	2004	2005
Population at working age (age 15-64)	Women	64	63	63	64
	Men	62	60	61	61
Participation rate	Women	35	30	25	30
	Men	72	72	68	68
Employment rate	Women	9	8	10	12
	Men	39	43	46	46
Unemployment rate	Women	74	72	61	60
	Men	45	40	31	33

*Source:* SOK Labour Force Survey (LFS), 2002, 2003, 2004, 2005.

**Table 14**  
**Employment by sex and age-groups (%)**

Age groups	2002		2003		2004		2005	
	Women	Men	Women	Men	Women	Men	Women	Men
15-24	4	16	3	18	4	19	4	19
25-54	13	55	12	60	14	63	14	63
55-64	3	33	2	38	7	42	7	42
65+	-	-	-	-	0	4	0	4
Total: 15-64	9	39	8	43	9	43	9	43

*Source:* SOK, LFS 2002, 2003, 2004, 2005.

190. There is a close link between the level of education and the employment rate. The higher the education the easier it seems it is to find a job and keep it. Unemployment is comparably low especially for those with higher education.

**Table 15**  
**Employment by sex and education (%)**

Education	2002		2003		2004		2005	
	Women	Men	Women	Men	Women	Men	Women	Men
Primary	2	25	2	31	4	34	5	31
Secondary	20	43	18	47	18	50	19	49
Higher education	63	80	67	78	75	83	64	82

*Source:* SOK, LFS 2002, 2003, 2004, 2005.

191. Women are to a large extent employed in sectors labeled as light activities, i.e. trade, education and health. However, the share of women working in agriculture increased over the last years. One explanation suggests that migration into cities seems not to have brought jobs to the women, forcing them to return to agricultural jobs.<sup>96</sup>

**Table 16**  
**Employment by sex and by economic activities (%)**

Economic activity	2002		2003		2004		2005	
	Women	Men	Women	Men	Women	Men	Women	Men
Agriculture	7	11	9	19	22	25	21	18
Mining	0	2	1	1	0	1	0	2
Industrial production	8	11	8	11	7	9	6	11
Energy sector	3	5	1	4	2	5	1	4
Construction	1	14	1	13	2	9	1	10
Trade	13	18	13	14	13	14	13	14
Hotels and restaurants	3	4	1	3	1	4	2	4
Transport	2	5	2	5	2	5	2	5
Finance	1	1	2	1	1	1	2	1
Business services	1	1	1	1	2	2	1	3
Public administration	7	9	11	9	8	6	7	8
Education	18	10	23	10	18	9	19	9
Health	21	2	19	2	14	3	15	3
Other	15	8	9	6	9	6	9	10

Source: SOK, LFS 2002, 2003, 2004, 2005.

**Table 17**  
**Employment by main groups of occupation and sex (%)**

Occupation	Women	Men
Professional worker	28	12
Servants and sellers	16	17
Technicians	17	7
Agricultural workers	13	11
Elementary professions	13	17
Clerks/civil servants	9	4
Craftsmen	3	17
Managers	2	7
Machine operators	1	7

Source: SOK, LFS 2005.

<sup>96</sup> See page 34 of Kosovo Youth Employment Action Plan.



**Table 18**  
**Employment by sex and professional status (%)**

Employment status	Women	Men
Employed	69	59
Self-employed 1 or more paid employees	2	9
Self-employed 0 employees	8	18
Work in the family	21	16

Source: SOK, LFS 2002, 2003, 2004, 2005.

**Table 19**  
**Employed by sex and contract assignment (%)**

Type of contract	2002		2003		2004		2005	
	Women	Men	Women	Men	Women	Men	Women	Men
Part-time	31	23	31	30	31	30	26	21
Full-time	69	77	69	70	69	70	74	79
Temporary	12	13	15	14	67	64	53	45
Permanent	88	87	85	86	33	36	47	55

Source: SOK, LFS 2002, 2003, 2004, 2005.

**Table 20**  
**Average working hours per week by assignment and sex (in hours)**

Type of contract	2002		2003		2004		2005	
	Women	Men	Women	Men	Women	Men	Women	Men
Part-time	22	24	23	25	23	23	24	22
Full-time	43	46	42	45	42	43	42	44

Source: SOK, LFS 2002, 2003, 2004, 2005.

**Table 21**  
**Unemployment by sex and by age groups (%)**

Age group	2002		2003		2004		2005	
	Women	Men	Women	Men	Women	Men	Women	Men
15-24	90	68	90	66	82	58	81	64
25-54	66	39	63	33	53	25	54	26
55-64	35	34	29	22	26	17	17	19
Total 15-64	74	45	72	40	61	31	60	33

Source: SOK, LFS 2002, 2003, 2004, 2005.

**Table 22****Unemployment by sex and education (%), age 15-64**

Education	2002		2003		2004		2005	
	Women	Men	Women	Men	Women	Men	Women	Men
Primary	90	53	88	45	73	35	72	38
Secondary	67	48	68	43	62	34	63	36
Higher	22	14	20	14	16	9	22	9

Source: SOK, LFS 2002, 2003, 2004, 2005.

**Table 23****Inactive by sex and age groups (%)**

Age group	2003		2004		2005	
	Women	Men	Women	Men	Women	Men
under 15	37	59	36	57	36	56
15-24	16	18	18	19	17	19
25-54	31	6	31	9	31	9
55-64	8	6	7	5	8	6
65+	8	11	8	9	9	11
15-64	55	30	56	34	55	34

Source: SOK, LFS 2002, 2003, 2004, 2005.

**Table 24****Women employed in leadership positions, public sector, 2005**

Position	Number		%	
	Women	Men	Women	Men
Head of Division	44	131	25	75
Coordinator/Head of Unit	76	233	25	75
Department Director	11	83	12	88
Executive Director	1	8	11	89
Parliamentary Secretary	0	12	0	100
Total	132	467	22	78

Source: Ministry of Public Service (MPS), Department of Civil Service Administration (DCSA).

192. Women occupying positions at the central government level are 38%. The highest percentage of women work at the Ministry of Culture, Youth and Sports and the Ministry of Local Government (43%). Women have limited representation at the Ministry of Agriculture, Forestry and Rural Development (12%).

**Table 25**

**Participation of women in institutions, 2006**

Ministry	Number		%	
	Women	Men	Women	Men
Ministry of Local Government	23	30	43	57
Ministry of Culture, Youth and Sports	207	275	43	57
Ministry of Public Service	1 074	1 541	41	59
Ministry of Labor and Social Security	616	901	41	59
Ministry of Education, Science and Technology	87	137	39	61
Ministry of Environment	104	164	39	61
Ministry of Health	2 894	4 620	39	61
Ministry of Economy and Finance	320	556	37	63
Ministry of Communities and Returns	47	91	34	66
Ministry of Trade and Industry	52	109	32	68
Office of the Prime Minister	46	102	31	69
Ministry of Energy and Mines	29	65	31	69
Ministry of Transport and Post-Telecommunications	69	223	24	76
Ministry of agriculture, Forestry and Rural Development	58	439	12	88
Total	5 626	9 253	38	62

*Source:* Ministry of Public Service (MPS), Department of Civil Service Administration (DCSA).

193. Out of 120 members of the Kosovo Assembly 35 are women (29%). Only two out of ten Assembly Commissions are chaired by women.

### **1. Minorities**

194. The Kosovo education system, despite progresses, is still unable to overcome the exclusion of some minority groups, with nearly 36% of youth belonging to the RAE community having less than primary education attainment in 2004.

**Table 26****Youth educational attainment, 2004 (%)**

Highest educational attainment	Total	Albanian	Serbian	RAE
Less than primary	2.7	1.6	2.4	35.7
Primary	9.7	9.1	8.4	30.9
Vocational	16.5	17.9	4.8	4.8
High School	54.2	53.4	77.1	21.5
University and higher	16.9	18.0	7.2	7.1

Source: ILO, STWS (2005).

**Table 27****Key youth labour market indicators, 15-24 years old, by ethnicity (%)**

	Total	Albanian	Serbs	RAE
Participation rate	56.9	56.5	63.4	41.2
Inactivity rates	43.1	43.5	36.6	48.8
Employed persons	28.7	29.2	23.4	17.4
Unemployed persons	28.2	27.3	40.0	33.8
Unemployment rate	49.5	48.4	63.0	66.1

Source: ILO, STWS (2005).

**Table 28****Young workers with and without employment contact (by ethnicity, in %)**

	With employment contract	Without employment contract
Total	79.6	20.4
Albanians	81.1	18.9
Serbs	38.5	61.5
RAE	57.1	42.9

Source: ILO, STWS (2005).

**Table 29****Youth long-term unemployment by ethnicity (%)**

	Long-term unemployment
Total	42.6
Albanians	36.2
Serbs	88.6
RAE	72.2

Source: ILO, STWS (2005).

**Table 30****Minorities employed in Publicly Owned Enterprises as of 31 December 2006**

POE	Total Employees	Number of Minority Employees	Breakdown by Ethnicity		% of Minority Employees	
KEK	8 100	106	Albanians	7 994	Albanians	98.69
			Serbs	24	Serbs	0.30
			Montenegrin	1	Montenegrin	0.01
			Bosniaks	29	Bosniaks	0.36
			Turks	27	Turks	0.33
			Roma	3	Roma	0.04
			Other	22	Other	0.27
PTK	2 198	87	Albanians	2 111	Albanians	96.04
			Serbs	11	Serbs	0.50
			Bosniaks	13	Bosniaks	0.60
			Turks	28	Turks	1.27
			Muslim	22	Muslim	1.00
			Roma	10	Roma	0.45
			Other	3	Other	0.14
Railways	390	60	Albanians	330	Albanians	84.61
			Serbs	60	Serbs	15.38
Airport	632	12	Albanians	620	Albanians	98.31
			Serbs	5	Serbs	0.84
			Turks	3	Turks	0.67
			Egyptians	2	Egyptians	0.17
			Muslim	2	Muslim	0.17
Waste Companies	1 587	374	Albanians	1 213	Albanians	76.43
			Serbs	108	Serbs	6.80
			Roma	218	Roma	13.73
			Bosniaks	45	Bosniaks	2.84
			Turks	3	Turks	0.20
Water and Irrigation Companies	2 114	371	Albanians	1 743	Albanians	82.40
			Serbs	263	Serbs	12.42
			Bosniaks	72	Bosniaks	3.40
			Turks	17	Turks	0.80
			Roma	10	Roma	0.47
			Ashkali	6	Ashkali	0.28
			Other	3	Other	0.23
District Heating	196	25	Albanians	171	Albanians	87.24
			Serbs	19	Serbs	9.69
			Other	6	Other	3.06
Grand total:	15 221	1 035	n/a		6.79	

Source: UNMIK (EU Pillar).

## **2. Employment in the mining sector**

195. The Ministry on Energy and Mines (MEM) reports that the Trade Union of Trepça organised protests in the year 2006 in order to address their concern over the direction the mine was going and to protest against more workers being made redundant. MEM further reports that, according to information provided by the General Director of Trepça Mining, there was an increase of salaries from 166 Euro to 236 Euro for the workers that work inside the mines, due to the hazardous work. In addition, according to information provided by the Technical Director of Trepça Mining, the workers working outside of the mine receive now 206 Euro, while the workers that work inside the mines receive 265 Euro. It is worth to mention that transportation and a daily meal are provided free of charge for all workers of Trepça Mining. Following the temporary closure by UNMIK of lead smelting activities in 2000, due to extreme levels of environmental pollution, over 930 former workers are out of the production process in Trepça and are not able to return to work either due to reduction of production capacities or due to their state of health. These workers receive pensions which vary between 30 Euro, 50 Euro and up to 80 Euro.

196. The Kosovo Energy Corporation (KEK) also conducts mining activities for coal, predominantly for use in the generation of electricity. Furthermore, a private company has also recently purchased a privatised former socially owned mining enterprise.

## **3. Employment within UNMIK Pillars**

197. A review<sup>97</sup> of employment levels for local staff of all UNMIK components - the UN Pillars and Offices (financed and managed by the UN), the OSCE Pillar (funded and administered by the OSCE) and the EU Pillar (funded and administered by the European Union) - reveals that UNMIK accounts for less than 1% of official employment in Kosovo. As of 2006, UNMIK employs about 3,250 local staff, of which the majority have high school degrees and higher education,<sup>98</sup> accounting for 4% of official employment of persons with higher levels of education

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<sup>97</sup> The information on local staff employment and wage levels in UNMIK Pillars is taken from a report commissioned by the EU Pillar and compiled by its Economic Policy Office entitled “UNMIK’s Impact on the Kosovo Economy. Spending Effects 1999-2006 and Potential Consequences of Downsizing”, July 2006 [hereinafter: EPO Review].

<sup>98</sup> According to the EPO Review “at least three quarters of UNMIK local staff have a minimum of 12 years of school. Information on staff with university degrees was not available for the UN and OSCE, but in the EU Pillar as many as 60% of the local staff have a university degree. In contrast, only 9.7% of employees in the rest of the economy have a university degree. Because it offers much higher compensation, UNMIK employs a disproportionately high number of well-educated and, perhaps, especially bright individuals. For example, UNMIK often employs better translators and better skilled local staff than the Government. Private sector operators complain that they cannot get the same quality people due to competition from not only UNMIK, but also other international organizations and foreign liaison offices.” EPO Review, p. 24.

in Kosovo. The review suggests that “while this has caused a temporary talent drain from the rest of the economy, in the long run this may be advantageous as UNMIK has provided skills (on the job and through additional training) that can help meet the demand for higher skills in the future.”<sup>99</sup>

198. UNMIK employs a high proportion of minorities - 18% is double their representation in Kosovo. The review speculates that “there could be several reasons that have played a role in a relatively high employment of minorities. First, UNMIK has actively attempted to provide employment opportunities to minorities. Moreover, a large proportion of minorities do not speak Albanian, which restricts their mobility in the labour market. On the other hand, members of the Serbian community appreciate not only the higher salaries, but also the high degree of personal security in UNMIK employment.”<sup>100</sup>

199. The review identifies that “of the current local UNMIK staff, 70% are male and 30% are female, compared to a ratio of 80% to 20% in the rest of the Kosovo economy.”<sup>101</sup>

200. Furthermore, the review notes that “resembling the average labour force age structure, 74% of local UNMIK employees are under the age of 40.”<sup>102</sup> However, local staff in UNMIK are younger in comparison to the rest of the economy, where 65.8% of employees are under 40. This is not too surprising because one of the main employment criteria in UNMIK is knowledge of English, which is more prevalent among younger generations.”<sup>103</sup>

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<sup>99</sup> EPO Review, page 4.

<sup>100</sup> EPO Review, page 23.

<sup>101</sup> EPO Review, page 23.

<sup>102</sup> Of UNMIK local staff, approximately 27% are under 30 years of age, 47% are between 30 and 40, while 26% are over 40 years old.

<sup>103</sup> EPO Review, page 22.

**Table 31**  
**Employment of Local Staff in UNMIK<sup>a, b</sup>**

	2000	2001	2002	2003	2004	2005	2006 <sup>c</sup>
UN	2 177	3 626	3 533	3 273	2 916	2 692	2 246
OSCE	1 852	1 487	1 108	962	897	833	697
EU Pillar <sup>d</sup>	82	129	136	201	243	313	320
UNMIK Total	4 111	5 242	4 777	4 436	4 056	3 838	3 263

*Source:* Performance reports on the budget of UNMIK, OSCE and EU Pillar Personnel Departments.

<sup>a</sup> EPO Review, page 13.

<sup>b</sup> All figures, except for the EU Pillar, are annual averages and are calculated by adding up the number of staff at each year and dividing the sum by 12.

<sup>c</sup> 2006 figures are all actuals in February 2006.

<sup>d</sup> For the EU Pillar actuals for December of each year were received. The difference between two adjacent years was divided by two and added to the first of the two.

201. Around 64% of the jobs created by UNMIK are concentrated in the Prishtinë/Priština region. In 2006, the percentages for other regions are 9% for Prizren, 7% for Gjilan/Gnjilane, 7% for Pejë/Peć and 13% for Mitrovicë/Mitrovica region.<sup>104</sup>

202. The review notes that “average gross salaries paid to UNMIK local staff are 5.7 times higher than the Kosovo average and account for 4.6% of Kosovo’s total gross wage bill. Although there is no conclusive evidence, UNMIK spending appears to have put a slight upward pressure on the overall wage level, which is estimated at some 2.5%. However, UNMIK might also have contributed to keeping in Kosovo those who otherwise would have migrated abroad.”<sup>105</sup>

203. Contracts for local employment in the three organizations of UNMIK (UN, EU and OSCE) are fixed-term appointments with no expectation of extension. Conditions of service are determined by the respective staff rules and regulations that each of the three organizations has established governing their operations world-wide. As such, conditions of service of local staff contracts are not governed by locally applicable legislation in Kosovo.

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<sup>104</sup> EPO Review, page 23.

<sup>105</sup> EPO Review, page 4.



## **F. Active employment policy**

### **1. Kosovo Economic Policy Strategy**

204. In November 2005, the then Prime Minister together with the SRSG published a Memorandum of Economic and Financial Policies of Kosovo outlining the policies and development objectives for the next three years.<sup>106</sup> It declares reduction of the unacceptably high level of unemployment and especially trying to provide jobs for the young and rapidly expanding labour force to be the most important economic policy objective.

205. The use of the Euro has created confidence and fostered the development of a fast growing financial sector. In addition, the modern and efficient tax system, with low uniform rates and few exemptions, in combination with the liberal trade and tariff regime has allowed Kosovo to raise the revenues required to operate government with a minimum of distortions. Moreover, the generally light regulation has helped private entrepreneurs to use Kosovo's resources where they can be productively employed.

206. This principled approach to economic policy has already delivered results, even in Kosovo's difficult conditions, where resolving the status is a key requirement for progress. Still more needs to be done. Importantly, Kosovo's competitiveness must be improved further and investments in the private sector are vital. In addition priority needs to be set on improving the physical infrastructure as well as raising human capital through better health services and education.

### **2. Kosovo Development Strategy Plan 2007-2013**

207. In 2005, the PISG acknowledged the necessity to formulate a development paradigm for Kosovo. As a result, the Kosovo Development Strategy Plan (KDSP) process had been initiated, led by the Office of the Prime Minister. This inclusive process took place with the participation of (a) civil society, who, following seven regional comprehensive workshops, developed a platform for civil society consensus over the course of six months; (b) a macro-economic and fiscal team which worked closely with the Ministry of Finance and Economy to identify a macro-economic reform-driven scenario; and (c) a network of technical and policy groups in the line ministries which produced policy papers and public expenditures estimates. Following the status settlement, a revision of the KDSP will take place to incorporate status related decisions.

208. The KDSP recognises the need to reduce the unacceptably high level of unemployment and foresees the creation of sustainable employment generating growth based on three building blocks: (a) a stable governance framework, (b) economic growth driven by Small and Medium Enterprises (SMEs), and (c) promotion and mobilisation of human resources. In light of the very young population and the high birth-rate, the main challenge for the labour market will be the difficulties to absorb those entering the labour market for the first time.

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<sup>106</sup> Kosovo: Memorandum of Economic and Financial Policies, 2 November 2005.

209. The KDSP describes two scenarios, a baseline and a reform-driven scenario. However, even under the assumption of a high growth rate of around 4.5% per annum, given the present levels of unemployment and the labour force trends, it seems likely that employment growth will not be sufficient to bring unemployment down to acceptable levels. The KDSP projections suggest that 'only' some 15,000 jobs could be generated per annum. With such a growth rate, unemployment would be around 25% in 2013, whereas 25,000 jobs per annum would be required to reduce unemployment to 15%. This demonstrates the importance of promoting private sector development, particularly of SMEs, which will be the engine for employment generation.

210. The three building blocks necessary to achieve this aim, a stable governance framework, economic growth driven by SMEs, and promotion and mobilisation of human resources, are closely intertwined. Building of stable governance is the strategic path to ensure internal security and rule of law as a precondition to inter alia business development and the attraction of foreign capital and investors. Ensuring effective protection of minority rights is another priority since it will guarantee stability and peace.

211. Economic growth will be driven by SMEs, since according to the macro-economic analysis and possible scenarios developed so far, Kosovo will become more and more an import/export society based on SMEs rather than based on large enterprises. Primary exports that were dominant in the past would not alone ensure stable and sufficient incomes, while they would also be unable to generate the needed employment and in addition they produce negative externalities on the environment. In the short term it is also paramount to quickly complete the privatisation process and recover the existing capacities as well as to develop the infrastructure.

212. Human resource development will provide the basic resource to support the overall strategy - a qualified human factor. The available workforce needs to increase its skills and capacities. One key objective is to improve employability and manage migration since for the medium-term the labour market will be able to absorb only in part the large existing unemployment. Another key objective is the upgrading of the education system and facilitating the access to technology and innovation. The third key objective is a sustainable health system and safety nets for social cohesion.

213. The KDSP foresees two phases of implementation to take place: in 2007-2009 the Government, with the support of international partners, will create a business environment attractive to SMEs, and will attract some foreign investment in Telecommunications and the mining sector, as well as completing privatisation. Reforms in the education and health sectors, with particular attention in these and other policy areas to the most vulnerable groups of Kosovo's society, will complement this effort. From 2010 to 2013 the reforms will have created a favourable context for significant foreign investment in energy production and possibly the SME sector, at which time the main focus will be to improve the infrastructure and access to technology further while maintaining the high standards in governance.

### **3. Private sector development**

214. Due to the necessity to provide institutional support to the Kosovo private sector, the Ministry of Trade and Industry (MTI) established the Department of Private Sector Policy Development (DPSPD). It is aiming at facilitating a free and unimpeded development, without

physical, procedural and bureaucratic barriers, while at the same time creating an environment for the development of sustainable businesses, with strong competing abilities in the internal, the regional and the international market.

215. The DPSPD is comprised of two divisions. First, the division of analysis, strategies and enterprise policies staffed with four employees. It covers mainly the areas of development policy making, issuing recommendations on privatization, and economic policy analysis. Second, the division of enterprise support and regional development staffed with twelve employees (four of which belong to minorities). It covers mainly the areas of database creation, enterprise stimulation and promotion, and regional co-ordination. The division is represented in the regions with offices in Prishtinë/Priština, Pejë/Peć, Prizren, Mitrovicë/Mitrovica, and Gjilan/Gnjilane.

216. The DPSPD has drafted a Law on Loan Guarantee Schemes, however, it is stuck in the legislative process due to budgetary limitations. The draft Law on Trade Companies is envisaged to be finalised within the current year.

217. The DPSPD, through various activities and projects, provides extensive support to the economic development of the private sector including Small and Medium Enterprises (SMEs). Among activities of DPSPD involvements are:

- European Charter on Small Enterprises (the project has been implemented)
- Work premises (space) (three incubators are about to be completed in Shtimje/Štimlje, Deçan/Dečane and Gjilan/Gnjilane, while in Glogovac/Glogovac the implementation of the project Industrial Park is ongoing)
- Strategy on Private Sector Development (first draft of the strategy has been compiled)
- Advisory and Training Scheme Voucher (implementation of first phase has been successfully completed and implementation of second phase is ongoing)
- Research on SMEs and structured interviews (on going projects for 2006)
- Consultative Board of SMEs (the project has been implemented)
- Kosovo SMEs Observer (the first draft of analysis has been compiled)
- The 2005 most successful enterprise (ongoing), and
- Women in Business Fair (ongoing)

#### **4. Support to small and medium enterprises**

218. A law to support SMEs has been promulgated in 2005,<sup>107</sup> and it is expected to be operationalized in the beginning of 2007. It regulates governmental policies and measures

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<sup>107</sup> Law No. 02/L-5 On support to Small and Medium Enterprises, promulgated by UNMIK Regulation No. 2005/44 of 8 September 2005.

to classify small (<9 employees; <500,000 Euros turnover the previous year) and medium (10-49 employees; <2,400,000 Euros turnover the previous year) enterprises and aims at inciting their establishment and supporting their development.

219. The objectives of the SME support programmes are:

- To create a favourable private entrepreneurial environment
- To increase employment
- To increase exports and adjustment to the global market
- To increase SME efficiency, quality and competition
- The application of contemporary technologies and innovations
- To increase the number of SME entities and
- To stimulate activities that do not pollute the environment

220. The concept of the law is that enterprises meeting the criteria need to submit an application for participation in one or more of the programmes offered. In view of that the law provides the basis to establish an SMEs Support Agency within the MTI. The Government of Kosovo may authorise the Support Agency to support the establishment of a sound SME environment by for example: ensuring and simplifying access to private loans and other credit facilities; disseminate relevant statistics from the Statistical Office of Kosovo; close cooperation with SMEs; promoting supportive infrastructure; etc.

## **5. Investment in the electricity sector**

221. The Ministry for Energy and Mines (MEM) has drafted a Strategy for Electricity in Kosovo which has been approved by the Assembly of Kosovo in August 2006. For the implementation of that strategy, MEM co-operates with the relevant policy making bodies in Kosovo as well as internationally. One major topic is to encourage private investment in the electricity sector. Some offers have already been received regarding the construction of a steam power-plant “Kosova C” on the basis of modern technology with minimal pollution. Such a big project would also have a significant impact on the number of unemployed people besides creating stability in view of providing electricity for private as well as commercial customers. This will in the end also make Kosovo more interesting for investments.

222. Although still dependent on reserved powers regarding the privatisation process of the Kosovo Trust Agency, MEM has drafted a number of laws in this field which are in the process of being promulgated by the SRSG. Moreover, MEM is in the process of finalising a strategy on minerals, which is very important for the development of this sector that has great potential for a number of new jobs.

223. The Department of Industry in MTI, within its projects on industry development, assisted various enterprises in presenting their products in fairs held in Kosovo. Moreover, this year a feasibility study for the construction of a new industrial zone has been completed. Such a zone would be of a great support to develop industry and thus for the creation of new work places.

## **6. Insurance for credits**

224. The Ministry of Trade and Industry (MTI) has developed a Scheme of Insurance for Credits (SIC). It is a financial mechanism to cover the debtor in case of inability to pay the credit back. The mechanism diminishes the risk for the creditor and could be implemented through a special fund established by the Government comprised of some money from the KCB as well as donations or credits from international financial institutions. The aim of the scheme is to support access to bank credits for Small and Big Enterprises (SBE). Further, SIC aims at mediating between SBEs and financial institutions as well as promoting credits for enterprises in the start-up phase, also in order to enhance competition within trade.

225. A draft law by MTI on the scheme has been discussed in a governmental working group (bank association, commercial banks, legal office of Prime Minister, MTI, MFE, EAR). However, the Government has stopped the process and sent it back for review. The difficulties in regards to the scheme mainly result from limited resources in the KCB.

## **7. Employment of young people**

226. From a demographic perspective, youth in Kosovo presents the far biggest part of the population and thus also the largest number of people requesting work in employment offices. Too many young people are not prepared or qualified to participate in the labour market. Therefore, emphasis should be given to education, since young people are the biggest resource to support economic development in the future.

227. The Youth Department of the Ministry of Culture, Youth and Sports (MYCS) has compiled a programme on orientation and support of employment of young people in co-operation with the Ministry of Labour and Social Welfare; the Ministry of Education, Science and Technology; the Ministry of Trade and Industry, the Ministry for Economy and Finance; NGOs and youth centres. The programme has the following objectives:

- Advancement of capacities of young people through programmes of informal education
- Preparation in conformity with the needs of the market
- Facilitating start-ups, chances for self-employment and economic growth through creation of new work places
- Support of youth initiatives with activities and projects of fund raising, and
- Support non-discrimination at the work place

228. The programme organises training courses, seminars, appointments, debates for young people who need additional qualification also in view of receiving additional information on micro/small enterprises as a means of self-employment. This is supported by publications and dissemination of leaflets with information for the various economic interests of young people. The programme supports the establishment and co-operation with training centres/-schools and takes also into account the special needs of young people with disabilities and young females. The co-operation with donors for the support of projects is ensured.

229. In addition, the MYCS is planning to provide training in view of supporting business development for young entrepreneurs. At the beginning a market analysis will explore possibilities and conditions for micro- and small enterprises in Kosovo and identify sectors for successful business activities. The training courses will be conducted in the youth centres or schools (or other appropriate facilities) to guarantee easy access also for young people from rural areas. They will address the needs of a broad variety of potential young entrepreneurs, interested in developing business ideas in crafts, services, agricultural production and food processing. Training will be provided by internationally trained local NGOs and supervised by international experts. Moreover specific support (training and coaching) will be offered to already existing young micro-entrepreneurs to support their efforts in sustaining and extending their business activities.

230. To cover all municipalities and ensure sufficient rural participation, 10 training sessions per year with 30 participants each will be conducted. The project will therefore in three years train approximately 900 potential young entrepreneurs. In the case that demand exceeds the training capacities, an appropriate pre-selection instrument will be developed in close cooperation with the trainers and experts. In addition to the training classes, the project will provide coaching and advice to 30 already operating young entrepreneurs.

#### **(a) The Kosovo Youth Employment Action Plan**

231. Since September 2005 the Kosovo Government, under the aegis of the ILO, has gathered the knowledge and experience of policy-makers, representatives of employer and worker organizations and other stakeholders to address the youth employment challenge through the development of a number of policy options affecting both demand and supply of labour. The results of this year long work were consolidated in the Kosovo Youth Employment Action Plan (the Action Plan).<sup>108</sup>

232. The Action Plan is divided into three distinct parts. Part I presents a thorough analysis of the youth employment situation in Kosovo. Part II elaborates on a set of priority policies to tackle youth employment. Part III sets the operational aspects relating to the implementation of the Action Plan. The annexes provide the Action Plan Matrix, Work-plan and brief description of technical co-operation projects related to the Action Plan to be proposed for donor-funding.

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<sup>108</sup> Kosovo Youth Employment Action Plan.

233. The complexity and magnitude of the youth employment challenge in Kosovo call for preventive and curative approaches that address at the same time labour supply and labour demand and requires the sustained involvement of governmental agencies, labour market institutions including employers' and workers' organizations, as well as civil society. To this end, the Action Plan identifies three strategic objectives - touching upon the education, enterprise development and labour market policy areas - and a number of key outcomes to be pursued in the short to medium term for the promotion of full, productive and freely chosen employment for young people.

**(b) Kosovo Youth Policy and Action Plan**

234. The Kosovo Youth Policy and Action Plan for the years 2007-2010 (KYAP) is the comprehensive strategy of the Kosovo Government on- and for youth. It aims at improving the situation of young people from 15-24 years of age by involving governmental and non-governmental institutions in exploring and meeting the needs of youth and by finding ways and mechanisms for youth participation in the decision making process in Kosovo. The KYAP promotes co-operation between youth organizations and the Government, between all youth-related Ministries and between central and municipal bodies in the area of youth policies and programmes.

235. The KYAP contains of two parts: the actual Policy document and the Action Plan. It starts with a diagnosis of the current situation and frames the policy objectives into six thematic areas that affect young peoples' life: youth participation, education, employment, health, social/human security, culture, sports and leisure time activities. These are further developed in the KYAP matrixes, which link concrete activities, with measurable outcomes, responsible institutions and necessary funds.

236. The KYAP is mainstreamed into the "Kosovo Youth Employment Action Plan: A mid-term policy framework 2006-2009". Regarding employment the KYAP focuses on the following objectives:

- To support youth employment through a favourable tax relief system and allocation of funds for employability training
- To increase capacities of the public employment services
- To increase awareness and prevent exploitation of youth workers
- To establish an information system on labour market and job opportunities
- To facilitate youth transition from school to work, and
- To promote youth entrepreneurship and self-employment

237. The overall KYAP budget amounts 7,140,400 Euro. 5,141,088 Euro will be covered by the KCB, and 1,999,312 Euro from the donor community. The budgetary amounts for each objective (thematic area) and the funding sources are as follows:

**Table 32**

**Kosovo Youth Policy and Action Plan budget and funding sources**

Objective (thematic area)	Total budget in Euro	KCB (72%) in Euro	Donors (28%) in Euro
Participation	1 817 000	1 308 240	508 760
Education	1 472 000	1 059 840	412 160
Employment	1 054 400	759 168	295 232
Health	510 000	367 200	142 800
Human Security	550 000	396 000	154 000
Culture, Sports and Recreation	1 737 000	1 250 640	486 360
<b>Total</b>	<b>7 140 400</b>	<b>5 141 088</b>	<b>1 999 312</b>

*Source:* Ministry of Culture, Youth, Sports and Non-Resident Affairs.

**Article 7**

238. UNMIK Regulation No. 2001/27 On Essential Labour Law in Kosovo (the Essential Labour Law) entered into force 8 October 2001. Employment within the civil service, UNMIK, KFOR and the offices or missions of foreign governments and international organizations is not governed by this regulation. The Essential Labour Law establishes that a collective agreement may be concluded for a fixed period of no more than three years and that it should apply to employers and its employees who agree to be bound by such collective agreement. A collective agreement should furthermore not include provisions that limit employees' rights or that result in less favourable conditions than those set out in this regulation.<sup>109</sup> Disputes between the parties of the established General Collective Agreement<sup>110</sup> which were not solved through social dialogue, should be solved by the Commission for reconciliation and arbitration<sup>111</sup>

<sup>109</sup> UNMIK Regulation No. 2001/27, Section 6.

<sup>110</sup> As implemented by the Decision of the Kosovo Government, No. 02/201 of 31 May 2006. Signatories to the agreement are for the employees - the United Independent Trade Unions of Kosovo, for the government of Kosovo - the Ministry of Labour and Social Welfare and for the employers - the Chamber of Economy of Kosovo. Provisions in the agreement is stated to apply to "all employers, which are doing [...] any kind of [...] economical, non-economical operation and civil services. Unions' branches of non-economical operations (civil and public services and public enterprises), make a particular contract with their employer (respective ministries, of public services, education, health etc..., in accordance with their specifics)".

<sup>111</sup> General Collective Agreement, Article 55. For further information regarding the procedures, see Articles 56-63.



239. The Law On the Labour Inspectorate of Kosovo (Labour Inspectorate Law) was promulgated 21 February 2003.<sup>112</sup> It recognises the need for the establishment of the Labour Inspection Authority as an important mechanism to control implementation of the Essential Labour Law and other protection labour rules.<sup>113</sup> The Authority of Labour Inspection should apply to all workplaces except for within UNMIK, and other offices or missions of foreign governments and international governmental or non-governmental organisations operating in Kosovo.<sup>114</sup> The Labour Inspection Authority shall consist of the Chief Labour Inspector and labour inspectors who exercise their functions throughout Kosovo.<sup>115</sup> Responsibilities of labour inspection are to: (a) Ensure implementation of the labour law, conditions of work and protection at work; (b) Provide technical information and advice to employers and employees on the most effective means of observing the legal provisions; (c) Notify the Minister of Labour and Social Welfare or other competent authorities on any deficiencies in the applicable law; (d) Supply information and advice to employers and employees and which would comply with the law and forewarn the competent authorities on any defects or abuses not covered by existing legal provisions; and (e) Give advice on issues relating to labour law and protection of employees in a case of reorganization or restructuring of an enterprise.<sup>116</sup>

240. If a labour inspector determines that an employer is in violation of a provision of the Essential Labour Law, the labour inspector may issue a written warning to the employer or impose a fine. Furthermore, an employer may request that the Administrative Department of Labour and Employment, or the authority that will succeed it, review the labour inspector's decision to fine the employer. An employer may also appeal to a competent court in Kosovo for a review of such decision.<sup>117</sup> An appeal to the Law Inspection Authority may be filed within eight days, an administrative challenge to the court within 30 days time limit.<sup>118</sup>

241. According to the Labour Inspectorate Law, the labour inspector must inform the employer of his/her presence, unless the labour inspector considers that doing so will influence the results of the inspection.<sup>119</sup> The Ministry of Labour and Social Welfare confirms that in some cases there is a need to visit the workplace without prior notification. In general however, the labour

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<sup>112</sup> Law No. 2002/9 On the Labour Inspectorate of Kosovo, promulgated by UNMIK Regulation No. 2003/4 of 21 February 2003.

<sup>113</sup> Law No. 2002/9 On the Labour Inspectorate of Kosovo, Preamble.

<sup>114</sup> Ibid., Section 1.

<sup>115</sup> Ibid., Section 3.2.

<sup>116</sup> Ibid., Section 5.

<sup>117</sup> UNMIK Regulation No. 2001/27, Section 25.

<sup>118</sup> Law No. 2002/9 On the Labour Inspectorate of Kosovo 4, Section 6.

<sup>119</sup> Ibid., Section 5.3.

inspectors conduct their inspection in the presence of the employer or his representative, whereas interviews with employees are done with or without the presence of the employer. Moreover, the labour inspectors evaluate the real situation through the recorded minutes where they include information on the name of the inspected subject, time, participants, date and address. In these recorded minutes the labour inspectors also put the violations of the subject. The employer is informed about the violation and is also given a deadline for the elimination of the violation. If the employer does not respect the deadline that was set up, the Labour Inspectorate proceeds with other measures, such as issuing a fine and preparing a report for the competent municipal court. In cases of direct hazard for the life of employees, the Labour Inspectorate will use the measure of work prohibition until the employer clears out the causes and the faults which represent the hazard.

242. The purpose of UNMIK Regulation No. 2001/36 On the Kosovo Civil Service (Civil Service Regulation)<sup>120</sup> is to establish a legal and administrative framework to facilitate the functioning of an effective and impartial civil service in Kosovo, based on merit, and reflecting the multi-ethnic character of Kosovo.

243. In accordance with the Civil Service Regulation, an Independent Oversight Board (Board) is established. The Board shall be an autonomous unit located within the Ministry of Public Services. The Board shall be composed of seven members, appointed by the SRSG in consultation with the Prime Minister.<sup>121</sup> A civil servant who is aggrieved by a decision of an employing authority in breach of the governing principles of the regulation may appeal such decision to the Board. However, before appealing to the Board, the civil servant must exhaust internal appeals procedures of the employing authority, unless certain exceptions are made.<sup>122</sup> In addition, the Board shall determine whether the appointments of civil servants at the level of heads of department are made in accordance with the Civil Service Regulation; provide an annual assessment of employing authorities' compliance with the Civil Service Regulation; and provide an annual report to the Prime Minister and the SRSG.<sup>123</sup>

#### **A. Fair wages**

244. The Essential Labour Law, establishes that “[a]n employer shall pay equal remuneration, which includes the basic salary/wage and any additional entitlements and emoluments [...] to women and men for work of equal value”.<sup>124</sup>

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<sup>120</sup> UNMIK Regulation No. 2001/36 On the Kosovo Civil Service of 22 December 2001, amended by UNMIK Regulation No. 2006/20 of 22 April 2006.

<sup>121</sup> UNMIK Regulation No. 2001/36 On the Kosovo Civil Service, as amended, Sections 7-8.

<sup>122</sup> UNMIK Regulation No. 2001/36, Section 11.

<sup>123</sup> UNMIK Regulation No. 2001/36, Section 10.

<sup>124</sup> UNMIK Regulation No. 2001/27, Section 13.

245. According to the General Collective Agreement in cases where employees are exposed to high risk level, the value of special supplements to be paid, depending on the risk level, should be established in the collective contract of the appropriate enterprise and the collective contract of the employer.<sup>125</sup> However, according to the Ministry of Health there is not a good general system in place, in which all workers are given an opportunity to ask for and to get benefits for difficult and dangerous working conditions.

246. One of the governing principles of the Civil Service Regulation is that of equity, i.e. fair and equitable treatment of civil servants.<sup>126</sup> In UNMIK Administrative Direction 2003/2 it is furthermore stated that the Ministry shall issue classification standards and salary rates applicable to positions in the civil service. Classification standards should be reviewed from time to time and at least every five years.<sup>127</sup> This should be interpreted that there are existing legal provisions for a system that salaries are set on the basis of competence and level in a fair and equitable manner. Statistics from 2005 from the Statistical Office of Kosovo indicate that the average income earner in Kosovo received 2,032 Euro in salary. Kosovo Serbs earned only 1,400 Euro compared to 2,100 Euro for Kosovo Albanians. In general, women have significantly lower income than men. During 2005 men obtained 2,200 Euro whereas women only had 1,500 Euro per month. Some explanations for the difference could be that women work less hours than men or have less qualified work. There is no data for actual wages per hour, but there is data regarding income for permanent full time employees. Full time in this case is considered to be 12 months per year. An average income for 12 months employment is for men 2,850 Euro and for women 2,400 Euro. This shows that men earn almost 20% more than women for 12 months employment.

### **B. Decent living**

247. During and after the NATO campaign in 1999, business organizations continued to pay wages, but within the public services no salaries were paid. During the 1990s, it is understood that the informal structures established by the Kosovo Albanians paid salaries, usually to teachers, in an amount of around 75-80 Euro per month. Consequently, it was UNMIK's top priority to pay salaries to those who would have to support the re-starting of a normal life for people. This included areas of civil administration, health service, education and public utilities. In 1999 public service employees were paid stipends. From 1 January 2000 these were substituted by salaries based on a uniform public salary scale. UNMIK's initiative to employ local staff in public services on the basis of work contracts was the first step towards the re-establishment of a legal employment system. Salaries paid from the Kosovo Consolidated

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<sup>125</sup> General Collective Agreement, Article 38.

<sup>126</sup> UNMIK Regulation No. 2001/36, Section 2.1(a).

<sup>127</sup> Administrative Direction No. 2003/2 Implementing UNMIK Regulation No. 2001/36 On the Kosovo Civil Service, Section 16.

Budget on the salary scale were originally in the range of approximately 75 Euro per month for technical support staff to 300 Euro per month for local co-directors of departments in the Joint Interim Administration System (JIAS). The average level of salaries was around 135 Euro per month for people employed on the basis of the general government budget. Hospital doctors and professors in schools were paid approximately 180 Euro per month. Later on, the salary of professors increased to around 500 Euro per month.<sup>128</sup>

248. The Essential Labour Law sets out that all employers should pay their employees at least the minimum wage, as set by the Administrative Department of Public Services, or the authority that will succeed it.<sup>129</sup> Furthermore, for those to which the General Collective Agreement applies, the employee is guaranteed a basic salary, even in situations where salaries are based on work results.<sup>130</sup>

249. Regarding civil servants, UNMIK Administrative Direction 2003/2 states that the Ministry shall recommend to the Government and, upon approval of the Government, shall issue the classification standards and salary rates applicable to positions in the Civil Service. Salary rates may be reviewed from time to time by the Ministry in consultation with the Ministry for Finance and Economy and may be revised by the Ministry following approval by the Government.<sup>131</sup> This provision should ensure that there is a regular review of the level of the salaries to ensure a decent living for civil servants.

### **C. Safe and healthy working conditions**

250. Law No. 2003/19 On Occupational Safety, Health and the Working Environment, promulgated by UNMIK Regulation No. 2003/33 (the Occupational Safety Law) was promulgated 6 November 2003. The purpose of the Occupational Safety Law is to create conditions for occupational safety, health and the working environment in Kosovo. It accounts for the establishment of the Kosovo Council for Occupational Safety and Health.<sup>132</sup> According to the Occupational Safety Law, employees have a right to elect and appoint a safety officer.<sup>133</sup> Furthermore, the employee should have the right to refuse work if he/she believes that there is

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<sup>128</sup> This was paid out of funds, which were obligatory donations of 3% of income made by Kosovo Albanians and by the Kosovo Albanian diaspora in Western Europe.

<sup>129</sup> UNMIK Regulation No. 2001/27, Section 15.

<sup>130</sup> General Collective Agreement, Article 37.

<sup>131</sup> Administrative Direction No. 2003/2, Section 16.

<sup>132</sup> Section 1.5 of the Law No. 2003/19 On Occupational Safety, Health and the Working Environment, promulgated by UNMIK Regulation No. 2003/33 of 6 November 2003.

<sup>133</sup> Law No. 2003/19, Section 3.3.

an imminent danger to his/her life and health and should also have a right to consult with the employer on all aspects of occupational safety, health and working environment associated with their work.<sup>134</sup> In addition, the employee should have the right to make suggestions to improve the safety and health situation at the workplace and the employee should also have the right to report deficiencies and safety measures directly to a labour inspector.<sup>135</sup> The Occupational Safety Law contains a separate section for the protection of young people, women and disabled people. It states that they should not be assigned to particularly hard manual work, work beyond working hours and night work. Finally there are a number of provisions benefiting employees regarding rest rooms, changing rooms, air pollution, drinking water, noise, vibration, lighting, electrical hazards, chemical products and fires.<sup>136</sup>

251. As for civil servants, detailed provisions concerning terms of employment are to be set out in an administrative direction, which should include, inter alia, the right to a safe and healthy working environment.<sup>137</sup> According to UNMIK Administrative Direction 2003/2 each employing authority shall ensure that civil servants have a safe and healthy working environment.<sup>138</sup> Claims or grievances about the working environment should be directed to the personnel manager of the employing authority, and appealed to the Appeals Board. An Appeals Board shall be established by each employing authority to hear civil servants' appeals against a decision of the Disciplinary Board and claims against other managerial decisions. The Appeals Board should be multi-ethnic and gender balanced and should as far as possible complete the hearings of a case within 30 days of its receipt.<sup>139</sup>

252. According to the Ministry of Labour and Social Welfare, the most common irregularities from the procedures as evidenced by employers are:

- Disrespect of working hours
- Non-signing of work contracts
- No regular payment of salaries

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<sup>134</sup> Law No. 2003/19, Sections 3.5 and 3.7.

<sup>135</sup> Law No. 2003/19, Sections 3.9 and 3.10.

<sup>136</sup> Law No. 2003/19, Sections 4 - 13. For those to which the General Collective Agreement applies, further areas such as the responsibility of the employer to select working and technological procedures in order to avoid monotony at work and heavy working rhythm are provided. See Article 26.

<sup>137</sup> UNMIK Regulation No. 2001/36, Section 3.1(h).

<sup>138</sup> Administrative Direction 2003/2, Section 34.

<sup>139</sup> Administrative Direction 2003/2, Section 33.

- Disrespect of maternity leave (making pregnant employees redundant)
- Non-fulfilment of normal working conditions (insufficient light, draught, humidity, extreme noise, radiation, lack of proper equipment for protection at work etc.)

253. There are three Occupational Health Institutes (OHIs) in Kosovo dealing with occupational health related issues. The first one is the OHI in Mitrovica South which deals with specific health hazards arising from the Trepca Industrial Complex, specifically lead poisoning. The second one is an OHI in Obiliq/Obilić which deals with specific health hazards arising from the generation of electricity at KEK and includes health checks for radiation poisoning. The third OHI is placed in Gjakovë/Đakovica and it deals with specific health hazards arising from the previously existing textile industries of Gjakovë/Đakovica and Prizren (apparently most of those industries are now closed). The OHI of Gjakovë/Đakovica was recently declared by the PISG to be the lead Occupational Health Institute for all of Kosovo. According to the Ministry of Health, this OHI only has diagnostic capability and could not truly fulfil the function of an occupational health authority. Each municipal primary health care centre (Health House or Ambulanta) has an occupational health office. However, according to the Ministry of Health, predominantly these offices provide generic family health care services rather than truly functioning as occupational health services.

#### **D. Equal opportunity for promotion**

254. There are no direct provisions in the Essential Labour Law on promotion in employment. However, there are some non-discrimination provisions. One states that it is prohibited to act with discrimination against a disabled person, whose prospects of securing, retaining and advancing in suitable employment are substantially reduced as a result of a duly recognized natural or mental impairment. Discrimination is also prohibited against a female employee when it arises from her pregnancy or childbirth.<sup>140</sup>

255. According to the Civil Service Regulation one of the governing principles of the civil service should be that promotion should be only by means of fair, open and competitive procedures, based on objective, job-related criteria.<sup>141</sup> Furthermore in UNMIK Administrative Direction 2003/2 it is stated that all promotions should be based on an objective and considered decision as to the suitability of the civil servant, based on merit and other relevant criteria. Promotion opportunities should also be widely advertised and candidates should be selected following a competitive process.<sup>142</sup> Furthermore, according to Administrative Instruction

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<sup>140</sup> UNMIK Regulation No. 2001/27, Section 2.

<sup>141</sup> UNMIK Regulation No. 2001/36, Section 2.1(f).

<sup>142</sup> Administrative Direction 2003/2, Section 14.

MSHP/DCSA 2003/12 there are procedures developed to ensure promotion of non-discrimination through, inter alia, the development of Equal Opportunities Policy Statements.<sup>143</sup>

256. There have been methods adopted to promote an objective appraisal of jobs on the basis of the work to be performed. In the Civil Service Regulation, it is established that employing authorities shall provide civil servants with annual written performance evaluations.<sup>144</sup> Furthermore, according to Administrative Instruction MPS/DCSA 2003/08, the purpose of a job assessment is, inter alia, to review quality of performance against key tasks undertaken during the previous working year and to receive positive and, where appropriate, negative feedback on aspects of performance. It also includes information on the job assessment cycle, setting key tasks, managing day-to-day performance, mid-year review of performance, formal review of performance, disagreement on job assessments and monitoring and evaluating the job assessment system.<sup>145</sup>

#### **E. Rest, leisure, periodic holidays with pay and remuneration for public holidays**

257. In the Essential Labour Law working times, annual leave, official holidays, maternity leave, compassionate leave, unpaid leave and sick leave are regulated. Working hours should not exceed 40 hours per week and a working day should not exceed 12 hours. An employee should be entitled to a 30 minute unpaid rest break during a working day. When overtime takes place, there are limitations as to how long this is allowed and related remuneration. There are additional rules for limitation of work regarding people under 18 years of age, disabled people and pregnant women.<sup>146</sup> An employee should be entitled

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<sup>143</sup> Administrative Instruction No. MSHP/DCSA 2003/12 Equal Opportunities' Procedures for Implementation of Administrative Direction, No. 2003/2, Section 4.2.2 states: "The [Equal Opportunities Implementation Strategy] will set out the practical steps to be taken over the next three years to achieve the objectives set out in the employing authorities equal opportunities policy statement, together with indicators by which such achievements will be measured. These will include but not be limited to the active steps to be taken: [E]nsure that minority communities, women and people with disabilities are represented at all levels within the employing authority."

<sup>144</sup> UNMIK Regulation No. 2001/36, Section 3 (d).

<sup>145</sup> Administrative Instruction No. MPS/DCSA 2003/08 Job Assessment Procedures for Implementation of Administrative Direction No. 2003/2.

<sup>146</sup> According to UNMIK Regulation No. 2001/27, Section 16.16 "A person under 18 years of age shall not be permitted to work over 40 hours per week", Section 16.17 "A disabled person and a pregnant woman in her third trimester shall not be permitted to work over 40 hours per week" and 16.18 "A person under 18 years of age and a pregnant woman shall not be permitted to work during the hours 10:00 p.m. and 5:00 a.m".

to 18 working days of paid annual leave during each calendar year, except for the first year of employment when an employee should be entitled 12 working days of paid annual leave. An employee should be entitled to paid leave during official holidays. Furthermore a female employee should be entitled to at least 12 weeks paid maternity leave upon the birth of a child. An employee should be entitled to compassionate leave for marriage, birth or death in the family. An employer may, at the request of the employee, approve unpaid leave. An employee should also be entitled to sick leave when notifying the employer within 48 hours. If the sick leave relates to a work-related accident or illness, an employee should be entitled to his/her full salary for that period of leave.<sup>147</sup>

258. For civil servants the standard hours of work are 40 hours per week, excluding rest breaks. Employees are entitled to a one hour break per eight hour work day and, in addition, a weekly rest period of at least 48 hours. Civil servants may work part-time as agreed with the employing authority. When overtime takes place there are limitations as to the time and rules set up regarding compensatory time off or remuneration. Similar to other employees, civil servants are entitled to 18 working days of paid annual leave during each calendar year, except for the first year of employment when an employee shall be entitled to 12 working days of paid annual leave. There is no legal provision stating the right for a civil servant to paid leave during official holidays. However, UNMIK Administrative Direction 2003/2 states that: "A civil servant shall not normally be required to work on official holidays. When a civil servant is required to work on official holidays he or she is entitled to a day off in lieu of each official holiday worked". Unlike for other employees, civil servants are entitled to 15 days of paid sick leave irrespectively of if the sick leave is caused by occupational accidents or illness, or not. Female civil servants are entitled to 12 weeks of full paid maternity leave. Inasmuch as the details of this entitlement are concerned please refer to the discussion thereof under Article 10 of this Report. A civil servant should be entitled to compassionate leave for marriage and death of a close relative. A civil servant may be permitted to take unpaid leave for a maximum period of six months.<sup>148</sup> Furthermore, Administrative Instruction MPS/DCSA 2003/10 establishes the possibility for the employer and the employee to agree on flexible working hours and part-time work. This is stated to include benefits of a better balance for staff between work and private lives and as a welcoming opportunity for mothers with young children.<sup>149</sup>

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<sup>147</sup> UNMIK Regulation No. 2001/27, Sections 16-22.

<sup>148</sup> Administrative Direction 2003/2, Section 17-25.

<sup>149</sup> Administrative Instruction No. MPS/DCSA 2003/09 Working Hours and Attendance for Implementation of Administrative Direction 2003/2, Step 1b and 2e.



## **Article 8**

### **A. Constitutional and legislative framework**

259. Inasmuch as the right to associate in trade unions is concerned - guaranteed also by UDHR, Article 20(1) and CCPR Article 22(1) - please refer to the discussion thereof in the UNMIK Report to the Human Rights Committee on the Human Rights Situation in Kosovo since June 1999 dated 13.03.2006<sup>150</sup> under Article 22(1), paragraphs 216 and the following.

260. The main legal acts by means of which the right to establish, join and operate trade unions is regulated in Kosovo are the following:

- UNMIK Regulation No. 1999/22 On the Registration and Operation of Non Governmental Organizations in Kosovo of 15 November 1999 and
- UNMIK Regulation No. 2001/27 On Essential Labour Law in Kosovo of 8 October 2001

261. The right to join trade unions for workers and civil servants is reiterated in:

- UNMIK Regulation No. 2001/36 On the Kosovo Civil Service of 22 December 2001 (article 5 section 1), and
- Law No. 2004/2 On Gender Equality in Kosovo, promulgated by UNMIK Regulation No. 2004/18 of 7 June 2004 (article 13 section 10)

262. Several draft Laws by means of which the trade union freedom will be regulated in more detail have recently been under consideration in the Assembly of Kosovo. A new labour Law has had its first reading on 16 November 2006. The draft Laws on strike, first reading 24 June 2005, and on freedom of association in trade unions in Kosovo, first reading 19 December 2005, once adopted and entered into force, will contain more specific legal provisions as regards the right to strike and the establishment and operation of trade unions for specific categories of employees.

### **B. Establishing, operating and joining trade unions**

#### **1. Establishing and operating trade unions**

##### **(a) General**

263. Inasmuch as the substantive or formal conditions for the establishment of trade unions are concerned please refer to the discussion thereof at the UNMIK Report to the Human Rights Committee on the Human Rights Situation in Kosovo since June 1999 dated 13.03.2006 under Article 22(1), paragraphs 222 and 223.

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<sup>150</sup> UNMIK Report to the Human Rights Committee on the Human Rights Situation in Kosovo since June 1999, CCPR/C/UNK/1, 13 March 2006.

264. Upon registration trade unions assume legal personality; this is regulated by UNMIK Regulation No. 1999/22. A draft Law on freedom of association in trade unions in Kosovo (the draft trade union Law) is also under consideration by the Assembly of Kosovo.

**(b) Draft trade union law**

265. In the future, the trade union freedom will be guaranteed and regulated by a Law on freedom of association in trade unions in Kosovo, which is currently under consideration by the Assembly of Kosovo.<sup>151</sup>

**(c) Collective agreements**

266. In addition to the aforementioned laws, the area of operating of trade unions is further regulated by an agreement of general validity in Kosovo, the General Collective Agreement (GCA).<sup>152</sup> This agreement, based on article 6 of UNMIK Regulation No. 2001/27, should have been implemented since 1 January 2005<sup>153</sup> but according to the MLSW certain provisions are not being implemented due to the lack of budgetary means.

267. The GCA stipulates that trade unions can be formed and operate freely at any employer bound by the GCA. The employer is obliged to ensure co-operation with the trade unions regarding all procedures in the field of working relations, in accordance with ILO Convention No. 87. Employers are to ensure free access to the representatives of the trade union at their enterprise and freedom of trade union information and delivery and dissemination of trade union publications.

268. The GCA further provides that trade union representatives enjoy immunity which ends three months after the end of the representative's term in office. Representatives of trade unions shall not be assigned a different job or made redundant. Without prior agreement from the trade union, the trade union representatives' salaries cannot be reduced, and disciplinary procedures or damage compensation claims cannot be initiated. If the employer wishes to initiate such procedures, the trade union has eight days to decide, and, in case no agreement is reached, the employer can initiate a reconciliation procedure.

269. Furthermore, the Agreement stipulates rules regarding the establishment of labour relationships; rights, obligations and responsibilities of employer and employees; the assignment or reassignment to another position or another location of employees in extraordinary

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<sup>151</sup> Assembly of Kosovo Draft Law on Association in Trade Unions, first reading 19.12.2005.

<sup>152</sup> General Collective Agreement (GCA) between the Union of Independent Trade Unions of Kosovo (BSPK), the Ministry of Labour and Social Welfare (MLSW) and the Chamber of Commerce of Kosovo, of September 2004.

<sup>153</sup> See Article 64 GCA.

circumstances; home-work; redundancy compensation; working hours and night shift work; the right to paid and unpaid leave; the working place for persons with disabilities; annual and maternity leave; disciplinary procedures; safety and security at work; general rules for salary and other personal incomes; and rights and obligations of parties and method of dispute resolution.

270. Collective agreements can not only be concluded at the Kosovo level; but also at the branch level or level of an enterprise. The MLSW reports that they have registered two such collective agreements by (a) Kosovo Energy Corporation J.S.C. (KEK), and (b) Sharr Beteiligungs GmbH Factory (cement producing).

## **2. Joining trade unions**

### **(a) Joining**

271. Trade union freedom is guaranteed as part of the freedom of association, according to the Constitutional Framework<sup>154</sup> and more specifically elaborated in UNMIK Regulations No. 2001/27 and 1999/22. Trade union freedom in Kosovo embraces both, the positive union freedom, meaning the right of individuals to become members of trade unions by their own choice, and the negative trade union freedom, covering the right to decide freely whether or not to join a trade union. This is similarly regulated in article 4.2 of the draft trade union Law.

272. Employees become a trade union member upon written request to the trade union, having personally signed a declaration to this end.<sup>155</sup> The membership fee is 1% of the salary, non-payment of it for a period of three months leads to cancellation of the membership.<sup>156</sup> So far there are no cases of exclusion of trade union members for non-payment. The unemployed and students pay a reduced membership fee of 1.00 and 0.20 Euro per month respectively.<sup>157</sup>

### **(b) Discrimination**

273. The Union of Independent Trade Unions of Kosovo (BSPK) reports that since the end of the conflict in 1999 there has not been any discrimination towards any person wishing to join a trade union. The statute clearly proscribes any form of discrimination. Any employee, including members of minority communities in Kosovo, can join a trade union.

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<sup>154</sup> UNMIK Regulation No. 2001/9 On a Constitutional Framework for Provisional Self-Government in Kosovo of 15 May 2001 as amended.

<sup>155</sup> See article 9 of the draft trade union Law and article 8 of the Statute.

<sup>156</sup> See articles 10 and 35 of the Statute.

<sup>157</sup> See articles 10 and 35 of the Statute.

274. The BSPK currently has members from all communities. To further the integration of minority community employees, an aim stipulated in all its documents, the BSPK will implement a comprehensive project in 2007. This project, funded by the European Agency for Reconstruction (EAR), was drafted by professional staff of the BSPK with professional assistance of the Office for Social Dialogue in Pristinë/Priština. It aims to integrate and promote membership of minorities with a special focus on the Serbian minority in the trade unions structures and its leadership. It is focused on four main geographic areas: Gračanica/Gračanicë, Mitrovicë/Mitrovica, Gjilan/Gnjilane and Dragash/Dragaš.

275. As of December 2006, 19% of the overall number of 92,580 BSPK members were female. BSPK reports that it has held several seminars on the issue of female participation in trade unions. While there is no special project for raising the percentage of female participation, the issue has again been discussed at the BSPK managing council held in February 2007.

276. Another issue, discussed at the BSPK managing council was the participation of youth. The council approved the regulation on the BSPK youth network organisation with the aim of empowering and advancing the role of youth in the BSPK and of supporting the affirmative policies of the international trade union organizations International Confederation of Free Trade Unions (ICFTU) and European Free Trade Union Confederation (ETUC). The regulation determines the functioning, competences, and bodies as well as the relationship between the BSPK and the youth network, which is an internal organizational structure of the BSPK.

### **3. Limitations and restrictions**

277. The BSPK reports that there were no institutional limitations on the work of trade unions in Kosovo. There were only a few cases of discrimination in practice. In some cases, the management of public enterprises did not treat trade unions as social partners, and did not allow them adequate space to carry out their activities by excluding trade union members from corporate boards. The UNMIK Non Governmental Organizations Registration and Liaison Unit reports that no NGOs, including no trade unions, have been denied registration in Kosovo since 1999. Nor have any NGOs had their registration suspended or revoked.

278. There are no laws regulating or limiting the right to associate in trade unions for employees working in UNMIK, KFOR, foreign governmental offices in Kosovo and international governmental organizations that work in Kosovo. Also, the scope of the draft trade union Law does not encompass regulation of this issue.<sup>158</sup> Until now there are no trade unions active in these organisations.

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<sup>158</sup> See article 1 paragraph 2 draft trade union Law.

279. There are no limitations regarding the right to establish and join a trade union for civil servants, including members of the Kosovo Police Service and the Kosovo Protection Corps.<sup>159</sup>

280. There are no limitations for persons not qualifying as habitual residents of Kosovo, as set forth in section 3 of UNMIK Regulation No. 2000/13 On the Central Civil Registry of 17 March 2000. The relevant legislation including the Statute stipulates as the only requirement that the employment age has to be reached. Also the draft trade union Law contains no limitations on the nationality of members.

### **C. Trade unions and their links on the Kosovo-wide and international level**

#### **1. Number and structure of trade unions**

281. The BSPK, established at the first Congress on 30 June - 1 July 1990, had previously been registered in the Register of the Federative Secretariat for Administration and Judiciary in Yugoslavia (no 2/3-054/1991-03, dated 7 May 1991). After the recent conflict it was registered in the registry of the MLSW (no 2/2000 dated 16 August 2000).<sup>160</sup> Its internal organisation is governed by its Statute, in accordance with both the applicable law as well as ILO Conventions. The latest, fourth, congress of the BSPK was held on 16 December 2006.

282. The BSPK reports that as of 16 December 2006, there were 18 independent trade unions which are part of the BSPK in accordance with to Article 33 of the Statute:

- Trade union of the agro complex
- Trade union of the miners
- Trade union of the energy sector
- Trade union of the metalworkers
- Trade union of the textiles
- Trade union of small economy and handicraft
- Trade union of trade, hotel and tourism
- Trade union of construction and construction material

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<sup>159</sup> Section 5.1 of UNMIK Regulation No. 2001/36.

<sup>160</sup> Registration of trade unions with the MLSW is regulated in article 5.7 of UNMIK Regulation No. 2001/27 On Essential Labour Law in Kosovo.

- Trade union of forestry
- Trade union of education, science and culture
- Trade union of Kosovo administration
- Trade union of communication connections of Kosovo
- Trade union of the municipal and housing activities
- Trade union of metallurgy
- Trade union of wood and paper industry
- Trade union of Kosovo Police Service
- Trade union of health sector, and
- Trade union of judiciary

283. The MLSW reports that in 2006 the following unions were registered with the ministry:

- Branch of Independent Trade Union of Metallurgists of Kosovo
- Independent Trade Union of Insurance Company “Kosova e Re”
- Independent Trade Union of Pensioners and Labour Invalids of Kosovo
- Independent Trade Union of Small Economy and Craftsmanship of Kosovo
- Hotelier and Tourism Independent Trade Union of Kosovo
- Independent Trade Union of Textile and Leather Shoes Industry of Kosovo
- Independent Trade Union of Metal Processing lists of Kosovo
- Trade Union of Electro-Energetic Employees of Kosovo
- Independent Trade Union of Forestry, Wood and Paper Industry in Kosovo
- Independent Trade Union of Education, Science and Culture
- Independent Trade Union of Agronomy of Kosovo

- Transport and Post-telecommunication of Kosovo
- Trade Union Federation of Health in Kosovo
- Independent Trade Union of Administration and Justice of Kosovo
- Independent Trade Union of Reconstruction and Planning in Kosovo
- Independent Trade Union of Kosovo Police
- Independent Trade Union of KEK
- Independent Trade Union of Control Services of Air Transport
- Independent Trade Union of Police Service of Kosovo
- Independent Trade Union of Construction of Kosovo
- Independent Trade Union of Municipal and Housing Activities
- Independent Trade Union of International Airport of Prishtina
- Independent Trade Union of Civil Servants of Kosovo and
- Independent Trade Union of Radio Television for Prishtina

284. Independent trade unions declaring themselves as representing Kosovo Serbian workers registered with MLSW are:

- Independent Trade Union of Education Committee in Kosovo and
- Independent Trade Union on Accomplishment of the Rights of Employees

## **2. Kosovo wide confederations**

285. The applicable law does not contain specific provisions regarding the linking of trade unions. However, the MLSW reports that every confederation which is created by the unification of two or more independent trade unions can apply for registration in MLSW. The registration procedure within the MLSW is governed by Administrative Instruction No. 22/2001 on the registration of trade unions.<sup>161</sup>

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<sup>161</sup> MLSW Administrative Instruction No. 22/2001 On the Registration of Trade Unions.

286. The draft trade union Law provides for the establishment not only of independent trade unions, but also of federations and confederations. Federations are unions of independent trade unions whereas confederations are trade union associations consisting of several federations. Currently, there is only one Kosovo wide federation of trade unions, the BSPK.

### **3. International level**

287. The issue of international links is not explicitly regulated in the Kosovo legal framework. As for the future, article 5 paragraph 2 of the draft Law on freedom of association in trade unions in Kosovo grants the right to unite and co-operate with international trade union organisations.

288. Over the last years, the Kosovo Government actively assisted trade unions in their endeavours to join international trade union organisations. Assistance was mainly provided through the tripartite advisory council established by the MLSW according to Annex VII (x) of UNMIK Regulation No. 2001/19.<sup>162</sup> According to Administrative Instruction No. 17/2001 on the structure and function of the tripartite advisory council<sup>163</sup> the council consists of:

- Five representatives of trade unions, including one representative of Serb workers
- Five representatives of employers organisations, including one Serb employer and
- Five representative of the PISG, including two from the Ministry of Labour and Social Welfare

289. The advisory council assists trade unions in the process of joining international organisations. It assisted the BSPK in joining the Brussels based International Trade Union Confederation (ITUC) through the secondment of experts and consultants as well as giving advice. It also supported other independent trade unions, members of the BSPK, which joined international trade unions confederations as follows:

- Trade union of the Agro complex of Kosovo - registered with the IUF (International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and allied Workers' Associations) and the ICM
- Trade union of the Kosovo Metalworkers - registered with the European Metal Workers Federation (EMF) and International Metal Workers Federation
- Trade union of the Textiles, Clothes and Leather - registered with the World Confederation of the Textile, Clothes and Leather

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<sup>162</sup> UNMIK Regulation No. 2001/19 On the Executive Branch of the Provisional Institutions of Self Government, as amended.

<sup>163</sup> MLSW Administrative Instruction No. 17/2001 On the Structure and Function of the Tripartite Advisory Council of 26 October 2001.



- Association of the Trade Union - registered with Education International (EI)
- Trade union of the energy sector - registered with the European Mine Chemical and Energy Workers Federation (EMCEF) and
- Trade union of the Miners of Kosovo - registered with the European Mine Chemical and Energy Workers Federation (EMCEF)

290. There are no cases in which the Government proscribed any international co-operation or joining of trade unions in international, European or regional trade union confederations.

#### **D. Right to strike**

291. There are no laws regulating the right to strike explicitly. Section 5.2 of UNMIK No. Regulation 2001/36, proscribing the right to strike for certain categories of civil servants, confirms by way of an argumentum a contrario that the legislator guarantees the general right to strike.

292. Based on article 40 of the Statute, trade union members have different categories of trade union pressure, including the means of strike, at their disposal. The Statute stipulates that they can use the following types of trade union pressure to exercise their rights:

- Developing social dialogue
- Writing a warning and ask for mediation with assistance of a third party
- Writing a request for realising their goals in accordance with positive provisions
- Initiating a procedure to the competent body regarding the contest
- Taking a decision on the use of (more robust) trade union pressure
- Boycott
- Organising a protest (demonstrations) and
- Organising a strike

293. The strike is considered the ultimate means of trade union pressure and is used only when all other means for resolving the dispute, respectively social dialogue, have been used to no avail.

294. According to section 5.2 of UNMIK Regulation No. 2001/36 civil servants employed with the police, correctional and emergency services (i.e. Kosovo Protection Corps) and any other category of civil servants whose services are declared by the Government to be essential, shall not strike or take any other industrial action, which may disrupt essential services.

295. The Ministry of Internal Affairs' department of internal security foresees in its 2007 working plan, following the approval of the police Law, to draft acts and normative regulations in the field of police work which will include a strategic plan for the situation in case police officers strike.

296. In practice, strikes, including in the public sector, have taken place. In the public sector, areas affected included the health, education, administration, and public corporation sector. From 1999 to 2006, BSPK reports that there are no data on punishment or dismissal of workers against those workers that have participated in strikes.

297. A strike is considered legal, if it is organised by a registered trade union, its purpose is the fulfilment of economic and social interests deriving from work, and the trade union and the employers' organisation have tried but failed to find an agreement on the contentious subjects following the lawful procedures.

298. A strike shall be announced by the strike council to the employer at least 7 days in advance. The announcement shall contain the reasons for the strike, the demands and the time and place where it will be held. A strike can be organised in an enterprise, part of an enterprise, at the employer, in a branch, in an activity or as a general strike. The decision to take industrial action shall be done by the corresponding organ of the trade union at the respective level.

299. Workers shall not be discriminated for organising and participating in a legal strike nor shall they be prevented from participating in any way. The strike council has the obligation to organise and lead the strike and to prevent threats to the safety and health of people.

300. A strike shall not be held or must be suspended in case of extraordinary circumstances (natural disasters, state of war or emergency) as long as these circumstances last.

301. Essential work obligations necessary for the functioning of organs and organizations which shall be carried out even during the period of strike shall be determined in a general collective agreement, respectively a collective agreement on branches' level. The competent organs must take measures in order to prevent a direct risk, or extraordinary negative consequences for human life, people's health, people's safety, the safety of property as well as other avoidable consequences.

302. The draft Law stipulates the following services of vital importance, where the use of the means of strike is proscribed:

- Indispensable medical and hospital services
- Water supply services
- Electricity power supply services
- Air traffic control services
- Services for protection against fire and
- The prison service

303. In case of an illegal strike, the employer may terminate the working relationship with the striker. He has the right to terminate the working contract with immediate effect with those employees that do not continue the work within three days.

## Article 9

### A. Emergency phase

304. Immediately following the termination of the conflict in June 1999, there was an urgent need to provide some form of social protection system. Given that most Kosovo Albanians had lost their jobs within the public, publicly-owned and socially-owned sectors of employment, they had also lost their claims to pension and social assistance entitlements under Yugoslav law. The loss of employment included the termination of the payment of employee and other contributions into pension and social welfare systems.

305. The first UNMIK budget for Kosovo envisaged immediate financial assistance to some 72,000 persons at a flat rate of 100 DM per month (circa 51 Euro). The category of beneficiaries included pensioners, orphans, widows and persons with disabilities. The numbers of targeted beneficiaries increased during the remainder of 1999 to over 100,000 and the rate of assistance decreased commensurately to 70 DM (circa 36 Euro). Financial assistance was directed at the most in need, including persons over the age of 70, single-parent families and persons with disabilities. In the second half of 2000, the emergency assistance scheme was extended to include unemployed parents with dependents.

**Table 33**

#### **Emergency social assistance payments as budgeted in Euro<sup>a</sup>**

	Total payments	In % of budget
1999 (1 Sep through 31 Dec)	10 225 838	16
2000	38 346 891	17.4
2001	41 414 642	14.4

*Source:* UNMIK budget schedules 1999, 2000, and 2001.

<sup>a</sup> The original amounts in Deutsche Mark have been converted for clarity's sake into Euro at the official exchange rate of 1.95583 DM per EUR. The official exchange rate is given in UNMIK Administrative Direction No. 2001/24 of 21 December 2001.

## **B. Legal arrangement of the social security system**

306. The main legal acts that regulate the right to social security and related social insurance in Kosovo are:

- UNMIK Regulation No. 2000/66 On Benefits for War Invalids of Kosovo and for the Next of Kin of those who Died as a Result of the Armed Conflict in Kosovo of 21 December 2000
- UNMIK Regulation No. 2001/35 On Pensions in Kosovo of 22 December 2001, as amended by UNMIK Regulation No. 2005/20 of 29 April 2005
- Law No. 2002/1 On the Methodology for Setting the Level of Basic Pension in Kosovo and Determining the Commencement Date for Provision of Basic Pensions, promulgated by UNMIK Regulation No. 2002/15 of 26 July 2002
- Law No. 2003/23 On Disability Pensions in Kosovo, promulgated by UNMIK Regulation No. 2003/40 of 17 December 2003
- Law No. 2003/15 On the Social Assistance Scheme in Kosovo, promulgated by UNMIK Regulation No. 2003/28 of 18 August 2003
- Law No. 2004/4 On Health, promulgated by UNMIK Regulation No. 2004/31 of 20 August 2004

## **C. Social welfare system**

307. Social security in Kosovo is in a very early stage of development. It presently includes benefits for the war invalids and survivors benefits, old-age benefits (basic pension and individual savings pension) and social assistance.

308. In order to benefit from the system of social security, a person must be a habitual resident of Kosovo. The right to register as a habitual resident of Kosovo belongs to the following categories: (a) persons born in Kosovo or who have at least one parent born in Kosovo; (b) persons who can prove that they have resided in Kosovo for at least a continuous period of five years; (c) other persons who were forced to leave Kosovo and for that reason were unable to meet the five years residency requirement; and (d) dependent children of Kosovo habitual residents.<sup>164</sup>

309. All the social protection schemes are financed from the Kosovo Consolidated Budget, with the exception of the second and third pillar of the old-age pension scheme. Healthcare in public institutions is also fully financed by the Kosovo budget, but the users of health services need to pay participation fees.

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<sup>164</sup> Section 3 of UNMIK Regulation No. 2000/13 On the Civil Register of 17 March 2000.

**Table 34**  
**GDP, social assistance and pensions (from 2000-2007)**

Description	2000 Est.	2001 Est.	2002 Est.	2003 Est.	2004 Est.	2005 Est.	2006 Proj.	2007 Proj.
Real growth rates (in percent) GDP	...	...	-2.5	2.4	3.2	-1.0	3.0	0.8
Main aggregates (in millions of Euros) GDP	1 504	2 220	2 246	2 313	2 308	2 222	2 257	2 250
GDP per capita (in Euros)	826	1 189	1 182	1 197	1 174	1 112	1 111	1 088
Budget expenditures	204	239	402	543	748	698	676	718
As a share to GDP	13.6	10.8	17.9	23.5	32.4	31.4	29.9	31.9
Social Welfare (in millions of Euros)	n/a	33.5	52.9	84.7	106.2	114.0	116.9	
War Invalids	n/a	n/a	2.9	7.4	4.6	4.8	5.3	
Basic pensions	n/a	n/a	17.9	44.4	54.9	60.1	62.4	
Disability pensions	n/a	n/a	n/a	n/a	12.8	15.5	15.6	
Trepca pensions	n/a	n/a	n/a	0.7	1.5	2.5	3.0	
Social Assistance	n/a	33.5	32.1	32.2	32.5	31.1	30.6	
Social assistance in % of the budget	n/a	14.0	13.2	15.6	14.2	16.3	17.3	
War Invalids	n/a	n/a	0.7	1.4	0.6	0.7	0.8	
Basic pensions	n/a	n/a	4.5	8.2	7.3	8.6	9.2	
Disability pensions	n/a	n/a	n/a	n/a	1.7	2.2	2.3	
Trepca pensions	n/a	n/a	n/a	0.1	0.2	0.4	0.4	
Social Assistance	n/a	14.0	8.0	5.9	4.3	4.4	4.5	
Social assistance in % of GDP		1.5	2.4	3.7	4.6	5.1	5.2	
War Invalids	n/a	n/a	0.1	0.3	0.2	0.2	0.2	
Basic pensions	n/a	n/a	0.8	1.9	2.4	2.7	2.8	
Disability pensions	n/a	n/a	n/a	n/a	0.6	0.7	0.7	
Trepca pensions	n/a	n/a	n/a	0.0	0.1	0.1	0.1	
Social Assistance	n/a	1.5	1.4	1.4	1.4	1.4	1.4	

*Source:* Ministry of Finance and Economy.

Est. = estimation, Proj. = projection

**Table 35**  
**Statistics for pensions - social schemes**

Kinds of schemes	2001	2002	2003	2004	2005	2006
Subventions and transfers	40 500 000	59 201 976				
Basic Pensions	-	-	43 435 542	43 260 000	60 690 000	62 512 000
Pensions for disabled persons	-	-		12 600 000	12 600 000	13 900 000
Pensions for war veterans	-	-		4 410 000	5 155 656	7 200 000
Early pensions (Trepça)	-	-		1 260 000	1 770 000	2 820 000
Social assistance Scheme	-		28 251 231	32 625 000	33 000 000	28 668 000
Social services	-		235 255	250 000	800 000	2 550 000
Total	40 500 000	59 201 976	71 922 028	94 405 000	114 015 656	117 650 000

*Source:* Ministry of Finance and Economy (MFE).

#### **D. War invalids and survivors benefits**

310. The legal framework for war invalidity and survivors benefits in Kosovo is set by UNMIK Regulation No. 2000/66 which provides special arrangements for the benefit of the war invalids of Kosovo and for the benefit of the next of kin of those who died as a result of the armed conflict in Kosovo. Persons entitled to war invalids and survivors benefits are only persons who qualify as habitual residents of Kosovo.<sup>165</sup> The Regulation provides for a definition of a war invalid as any person who has received a physical injury as a direct result of the armed conflict in Kosovo, while for the purpose of the Regulation, the armed conflict in Kosovo is deemed to have occurred between 27 February 1998 and 20 June 1999. The terms “war invalids” and “those who died as a result of the armed conflict in Kosovo” cover combatants, including members of the former Kosovo Liberation Army (KLA), and civilians.<sup>166</sup>

311. Benefits provided for war invalids and for the next of kin of those who died as a result of the armed conflict in Kosovo include: (a) Financial payments for war invalids; (b) Free access to the medical care provided in government health centres and rehabilitation centres in Kosovo for war invalids and their next of kin; (c) Exemption from sales tax, excise tax and customs duties

<sup>165</sup> Section 1.4 of UNMIK Regulation No. 2000/66 On Benefits for War Invalids of Kosovo and for the Next of Kin of those who Died as a Result of the Armed Conflict in Kosovo.

<sup>166</sup> Sections 1.1, 1.5 and 1.2 of UNMIK Regulation No. 2000/66.

on vehicles adapted for the specific disability of the war invalid; and (d) Financial payments for the next of kin of those who died as a result of the armed conflict in Kosovo.<sup>167</sup>

312. UNMIK Administrative Direction (AD) No. 2001/19, implementing UNMIK Regulation No. 2000/66<sup>168</sup> determines the categories of next of kin entitled to the survivors' benefits: a child or children under the age of 18 of the deceased person; and the spouse of the deceased person.<sup>169</sup> Moreover, the AD defines payment levels for those who enjoy benefits. There are five payment levels determined:<sup>170</sup>

**Table 36**  
**Payment levels for war invalids and their next of kin**

	Criteria	Payment levels set by AD <sup>a</sup> at:
1	War invalids with 70%-100% disability	150 DM; now payable 77 Euro
2	War invalids with 40%-69% disability	100 DM; now payable 52 Euro
3	Children who have no surviving parent	150 DM; now payable 77 Euro
4	Spouse with responsibility for children	120 DM; now payable 62 Euro
5	Spouse with no children	70 DM; now payable 36 Euro

<sup>a</sup> Annex to UNMIK Administrative Direction No. 2001/19.

313. The Ministry of Labour and Social Welfare (MLSW) administers the war invalids and survivors benefits in Kosovo. In 2006, the MLSW issued Administrative Instruction (AI) 08/2006 on the Work of the Medical Commission Regarding Evaluation and Determination of Invalidity of KLA War Invalids and Civil Invalids. The AI establishes the medical commission for evaluation, medical assessment of ability, and determination of invalidity level of KLA war invalids and civilian invalids. This commission is established as a two-level commission within the Department of Martyrs' Families, War Invalids and Civil Invalids of the MLSW. The decision of the second level commission may be subjected to judicial review.

314. Currently, financial payments are being made to war invalids and survivors in Kosovo as follows:<sup>171</sup>

315. There are 122 war invalids and 147 civilian invalids of war in Kosovo with 70%-100% disability, at payment level 1. There are 1,327 war invalids and 1,247 civilian invalids of war

<sup>167</sup> Section 2.1 of UNMIK Regulation No. 2000/66.

<sup>168</sup> UNMIK Administrative Direction No. 2001/19 Implementing UNMIK Regulation No. 2000/66 was issued on 28 November 2001.

<sup>169</sup> Section 3.1 of UNMIK Administrative Direction No. 2001/19.

<sup>170</sup> Sections 2.1 and 3.2 of UNMIK Administrative Direction No. 2001/19.

<sup>171</sup> Data provided by the MLSW.

with 40%-69% disability, at payment level 2. To payment level 3 are entitled 277 beneficiaries. Payment level 4, is at the moment being paid to 2,397 beneficiaries in Kosovo. To payment level 5 are currently entitled 1,952 persons in Kosovo.

316. The following tables show statistical data about payment of benefits for the war invalids of Kosovo and the next of kin of those who died as a result of the armed conflict in Kosovo.

**Table 37**

**War invalids and their family members registered and paid in 2004  
(breakdown by months and regions)**

Months	Regions					Total
	Prishtinë/ Priština	Gjilan/ Gnjilane	Prizren	Pejë/Peć	Mitrovicë/ Mitrovica	
January						
Registered	2 095	697	1 554	1 880	1 758	7 984
Paid	1 518	509	1 281	1 497	1 393	6 198
February						
Registered	2 134	709	1 591	1 921	1 792	8 147
Paid	1 541	514	1 300	1 529	1 411	6 295
March						
Registered	2 148	719	1 610	1 955	1 811	8 243
Paid	1 562	519	1 318	1 552	1 432	6 383
April						
Registered	2 175	730	1 639	1 972	1 845	8 361
Paid	1 582	524	1 332	1 561	1 444	6 443
May						
Registered	2 207	735	1 647	1 997	1 846	8 432
Paid	1 600	530	1 345	1 578	1 449	6 502
June						
Registered	2 249	739	1 652	2 015	1 866	8 521
Paid	1 628	534	1 351	1 593	1 464	6 570
July						
Registered	2 258	742	1 664	2 031	1 874	8 569
Paid	1 634	535	1 360	1 601	1 472	6 602
August						
Registered	2 262	745	1 666	2 051	1 884	8 608
Paid	1 646	539	1 363	1 610	1 480	6 638
September						
Registered	2 272	756	1 668	2 074	1 923	8 693
Paid	1 651	539	1 363	1 614	1 486	6 653
October						
Registered	2 308	761	1 688	2 096	1 931	8 784
Paid	1 666	541	1 379	1 631	1 492	6 709
November						
Registered	2 342	769	1 705	2 126	1 940	8 882
Paid	1 684	544	1 389	1 655	1 497	6 769
December						
Registered	2 369	777	1 714	2 150	1 952	8 962
Paid	1 701	548	1 394	1 669	1 503	6 815

Source: Statistical Office of Kosovo (SOK).



317. According to the figures from December 2004, the number of war invalids registered was 8,692, whereas the number of those being paid was 6,815.

318. Considering the distribution per region, the biggest number of invalids was registered in Prishtinë/Priština region with 2,369 persons. The smallest number of invalids was registered in Gjiilan/Gnjilane region with 777 persons. During 2004, the number of invalids registered increased by 1,131 persons, or an increase of 12.6%, whereas the number of invalids paid increased by 709 persons, or an increase of 11.6%.

**Table 38**

**War invalids and their relatives in 2004 (breakdown by age and months)**

Months	Age							Total
	0 >18	18-25	26-35	36-45	46-55	56-65	>65	
January								
Registered	140	540	1 624	1 908	1 596	1 248	928	7 984
Paid	102	349	1 286	1 615	1 271	893	682	6 198
February								
Registered	145	556	1 657	1 962	1 619	1 268	940	8 147
Paid	104	355	1 308	1 647	1 285	906	690	6 295
March								
Registered	146	565	1 680	1 986	1 634	1 283	949	8 243
Paid	107	364	1 328	1 664	1 301	918	701	6 383
April								
Registered	150	577	1 703	2 019	1 652	1 301	959	8 361
Paid	109	366	1 337	1 684	1 313	927	707	6 443
May								
Registered	155	585	1 713	2 033	1 675	1 305	966	8 432
Paid	114	372	1 345	1 700	1 327	932	712	6 502
June								
Registered	161	596	1 731	2 055	1 688	1 312	978	8 521
Paid	120	378	1 358	1 716	1 339	938	721	6 570
July								
Registered	167	603	1 741	2 061	1 694	1 318	985	8 569
Paid	124	383	1 364	1 720	1 343	940	728	6 602
August								
Registered	169	608	1 748	2 071	1 700	1 324	988	8 608
Paid	126	385	1 373	1 728	1 349	948	729	6 638
September								
Registered	173	619	1 769	2 094	1 712	1 336	990	8 693
Paid	127	387	1 381	1 738	1 355	953	712	6 653
October								
Registered	174	628	1 798	2 114	1 725	1 349	996	8 784
Paid	128	393	1 397	1 751	1 365	959	716	6 709
November								
Registered	176	637	1 824	2 143	1 739	1 362	1 001	8 882
Paid	128	402	1 414	1 773	1 374	963	715	6 769
December								
Registered	182	647	1 837	2 160	1 754	1 372	1 010	8 962
Paid	129	406	1 422	1 785	1 381	970	722	6 815

Source: SOK.

**Table 39**

**War invalids according to community belonging of applicants in 2004**

Months	Kosovo Albanian		Kosovo Serb		Total		Total
	F	M	F	M	F	M	
January	4 025	2 151	17	5	4 042	2 156	6 198
February	4 073	2 199	17	6	4 090	2 205	6 295
March	4 113	2 246	17	7	4 130	2 253	6 383
April	4 132	2 287	17	7	4 149	2 294	6 443
May	4 159	2 319	17	7	4 176	2 326	6 502
June	4 181	2 365	17	7	4 198	2 372	6 570
July	4 202	2 376	17	7	4 219	2 383	6 602
August	4 218	2 396	17	7	4 235	2 403	6 638
September	4 224	2 406	17	6	4 241	2 412	6 653
October	4 253	2 433	17	6	4 270	2 439	6 709
November	4 284	2 461	17	7	4 301	2 468	6 769
December	4 308	2 483	17	7	4 325	2 490	6 815

Source: SOK.

**Table 40**

**War invalids according to gender and total payment in 2004**

Months	Number of persons registered		Total	Total payment (in Euro)
	M	F		
January	2 156	4 042	6 198	375 558 00
February	2 205	4 090	6 295	364 383 50
March	2 253	4 130	6 383	375 985 25
April	2 294	4 149	6 443	370 348 25
May	2 326	4 176	6 502	377 272 25
June	2 372	4 198	6 570	380 534 75
July	2 383	4 219	6 602	376 355 25
August	2 403	4 235	6 638	379 626 25
September	2 412	4 241	6 653	380 250 25
October	2 439	4 270	6 709	387 742 25
November	2 468	4 301	6 769	397 688 25
December	2 490	4 325	6 815	387 073 75

Source: SOK.

**Table 41**  
**War invalids and their family members registered and paid in 2005**  
**(breakdown by months and regions)**

Months	Regions					Total
	Prishtinë/ Priština	Gjilan/ Gnjilane	Pejë/ Peć	Prizren	Mitrovicë/ Mitrovica	
January						
Registered	2 388	780	2 156	1 728	1 961	9 013
Paid	1 708	552	1 675	1 402	1 507	6 844
February						
Registered	2 398	784	2 175	1 742	1 974	9 073
Paid	1 722	556	1 692	1 412	1 517	6 899
March						
Registered	2 421	790	2 193	1 752	1 985	9 141
Paid	1 742	561	1 703	1 417	1 523	6 946
April						
Registered	2 434	794	2 216	1 772	1 992	9 208
Paid	1 753	563	1 719	1 425	1 524	6 984
May						
Registered	2 446	799	2 235	1 784	2 011	9 275
Paid	1 768	564	1 734	1 438	1 536	7 040
June						
Registered	2 465	804	2 243	1 790	2 022	9 324
Paid	1 785	566	1 741	1 440	1 547	7 079
July						
Registered	2 472	805	2 252	1 794	2 028	9 351
Paid	1 791	568	1 750	1 443	1 553	7 105
August						
Registered	2 472	805	2 252	1 794	2 028	9 351
Paid	1 791	568	1 749	1 443	1 552	7 103
September						
Registered	2 486	809	2 270	1 807	2 036	9 408
Paid	1 794	572	1 766	1 450	1 556	7 138
October						
Registered	2 499	812	2 293	1 813	2 045	9 462
Paid	1 801	575	1 785	1 454	1 557	7 172
November						
Registered	2 511	814	2 307	1 815	2 058	9 505
Paid	1 814	578	1 799	1 456	1 569	7 216
December						
Registered	2 544	815	2 321	1 822	2 072	9 574
Paid	1 848	578	1 810	1 465	1 585	7 286

Source: SOK.

**Table 42**

**War invalids and their family members in 2005 (breakdown by age and months)**

Months	Age							Total
	>18	18-25	26-35	36-45	46-55	56-65	>65	
January								
Registered	147	536	1 797	2 164	1 822	1 424	1 123	9 013
Paid	108	342	1 344	1 798	1 440	1 009	803	6 844
February								
Registered	148	538	1 809	2 187	1 831	1 429	1 131	9 073
Paid	109	345	1 357	1 812	1 451	1 017	808	6 899
March								
Registered	149	543	1 833	2 199	1 845	1 440	1 132	9 141
Paid	111	347	1 368	1 825	1 458	1 028	809	6 946
April								
Registered	150	550	1 847	2 216	1 856	1 451	1 138	9 208
Paid	113	349	1 373	1 836	1 467	1 035	811	6 984
May								
Registered	153	558	1 859	2 238	1 869	1 457	1 141	9 275
Paid	115	358	1 382	1 856	1 477	1 039	813	7 040
June								
Registered	154	561	1 876	2 250	1 876	1 463	1 144	9 324
Paid	116	360	1 393	1 866	1 486	1 043	815	7 079
July								
Registered	156	561	1 883	2 258	1 880	1 465	1 148	9 351
Paid	117	359	1 403	1 874	1 491	1 044	817	7 105
August								
Registered	156	561	1 883	2 258	1 880	1 465	1 148	9 351
Paid	116	359	1 403	1 874	1 491	1 044	816	7 103
September								
Registered	158	570	1 894	2 271	1 895	1 470	1 150	9 408
Paid	117	363	1 408	1 883	1 503	1 048	816	7 138
October								
Registered	162	575	1 909	2 288	1 903	1 475	1 150	9 462
Paid	118	368	1 419	1 895	1 507	1 052	813	7 172
November								
Registered	162	577	1 921	2 306	1 910	1 478	1 151	9 505
Paid	119	370	1 429	1 914	1 513	1 055	816	7 216
December								
Registered	165	579	1 936	2 316	1 920	1 497	1 161	9 574
Paid	123	373	1 444	1 923	1 522	1 075	826	7 286

Source: SOK.

**Table 43**

**War invalids according to community belonging in 2005**

Months	Kosovo Albanians		Kosovo Serbs		Total		Total
	Female	Male	Female	Male	Female	Male	
January	4 326	2 494	17	7	4 343	2 501	6 844
February	4 358	2 517	17	7	4 375	2 524	6 899
March	4 387	2 535	17	7	4 404	2 542	6 946
April	4 411	2 549	17	7	4 428	2 556	6 984
May	4 449	2 567	17	7	4 466	2 574	7 040
June	4 469	2 586	17	7	4 486	2 593	7 079
July	4 476	2 604	18	7	4 494	2 611	7 105
August	4 475	2 603	18	7	4 493	2 610	7 103
September	4 496	2 617	18	7	4 514	2 624	7 138
October	4 521	2 626	18	7	4 539	2 633	7 172
November	4 544	2 647	18	7	4 562	2 654	7 216
December	4 584	2 677	18	7	4 602	2 684	7 286

Source: SOK.

**Table 44**

**War invalids according to gender and total payment in 2005**

Months	Number of registered			
	Female	Male	Total	Total payment
January	4 343	2 501	6 844	386 001.75 €
February	4 375	2 524	6 899	394 403.25 €
March	4 404	2 542	6 946	394 723.25 €
April	4 428	2 556	6 984	393 558.25 €
May	4 466	2 574	7 040	399 041.75 €
June	4 486	2 593	7 079	403 446.25 €
July	4 494	2 611	7 105	407 311.75 €
August	4 493	2 610	7 103	434 795.25 €
September	4 514	2 624	7 138	458 886.25 €
October	4 539	2 633	7 172	443 301.75 €
November	4 562	2 654	7 216	421 675.25 €
December	4 602	2 684	7 286	423 817.00 €

Source: SOK.

**E. Old-age and disability benefits**

**1. General**

319. This group of benefits envisages the right to a basic pension.

320. The legal framework regulating pension insurance in Kosovo is provided by UNMIK Regulation No. 2001/35 On Pensions in Kosovo of 22 December 2001, as amended by UNMIK Regulation No. 2005/20 of 29 April 2005. In addition, Law No. 2003/23 On Disability Pensions in Kosovo, promulgated by UNMIK Regulation No. 2003/40 of 17 December 2003, introduces a disability pension scheme for the purpose of creating a social safety net, which provides adequate minimum protection for the most vulnerable members of society.

321. Pension is defined as a regular monthly payment made to a participant or beneficiary for life, beginning at pension age, disability or death of the participant. Pension age is set at sixty-five (65) years.<sup>172</sup>

322. The new post-conflict pension system in Kosovo, introduced in December 2001, consists of three pillars:

**Table 45**  
**Structure of pensions in Kosovo**

	Pillar 1 Basic Pension (mandatory)	Pillar 2 Individual Savings Pension (mandatory)	Pillar 3 Employer or Individual Pension (voluntary)
Eligibility and coverage	All habitual residents of Kosovo over 65	Contributors, gradual expansion	Contributors, very limited
Contribution rate	-	5% employee 5% employer	Varies
Funding method	General revenue of the Kosovo budget	Funded Payroll contributions	Funded by employer and/or individual contribution
Participation	Mandatory	Mandatory	Voluntary
Benefit level	Monthly rate	Defined contribution	Defined contribution
Provider	Kosovo Pension Administration	Kosovo Pension Savings Trust	Licensed Pension funds, insurance companies, banks
Regulatory or Oversight bodies	Ministry of Labour and Social Welfare, Central Fiscal Authority	Banking and Payments Authority of Kosovo	Banking and Payments Authority of Kosovo

<sup>172</sup> Section 1 of UNMIK Regulation No. 2005/20 Amending UNMIK Regulation No. 2001/35 On Pensions in Kosovo of 29 April 2005.

323. The first pillar is the basic old-age pension provided for all habitual residents of Kosovo who have reached pension age (65 years). The basic pension is financed from general budget resources. The Kosovo Pension Administration, under the authority of the MLSW, administers the basic pension scheme.<sup>173</sup>

324. The second pillar is a mandatory, fully funded, defined-contribution pension scheme financed by mandatory payroll contributions from employees and employers, each contributing 5% of total gross wages (additional voluntary contributions are allowed up to a maximum total of 15% of annual salary). The Kosovo Pension Savings Trust, established as an independent legal entity is the sole body responsible for administering and managing individual accounts for savings pensions. The Trust is supervised by the Central Banking Authority of Kosovo (CBAK). However, the setting of economic policy with respect to pensions, as a part of budgetary and fiscal policy, remains under the direct supervision of the SRSG.<sup>174</sup>

325. Individual savings pension is defined as a pension paid by the Kosovo Pensions Savings Trust to persons of pension age (65 years), meeting the requirements with respect to pension contributions. Upon reaching a pensions age, a participant will use the amount on his/her individual account to purchase an individual saving pension, in one of the forms of annuities, provided by licensed insurance companies.

326. The types of annuity are the following:

- A single life annuity payable until the death of the participant
- A single life annuity guaranteed for a period of at least five years whereby if the participant dies during the guarantee period, the outstanding payments which would have been paid to the participant for that period shall be paid to beneficiaries designated by the participant
- A survivor's annuity payable for the life of the participant and then to his or her spouse for the remainder of his or her life
- A survivor's annuity payable for the life of the participant and then to his or her spouse for the remainder of his or her life with a guarantee period of at least five years
- Such other types of annuity as are specified in rules issued by the CBAK.<sup>175</sup>

327. Participation in the system of individual savings pensions became mandatory for public sector employees in March 2002 and was extended to cover all employers including

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<sup>173</sup> Sections 2.4 and 3 of UNMIK Regulation No. 2005/20.

<sup>174</sup> UNMIK Regulation No. 2005/20, Sections 1 and 5.1.

<sup>175</sup> Ibid., Section 13.8.

self-employed persons in March 2003. Employers are obliged to make contributions for a savings pension for all persons habitually residing in Kosovo who were born in the year 1946 or later.<sup>176</sup>

328. The third pillar is a voluntary pension scheme. It is the responsibility of the CBAK to license and supervise the operation of this scheme, as contributions are transferred to private pension providers (pension funds, insurance companies, or banks). In the voluntary scheme are included: supplementary employer pensions, that is pensions provided to employees by an employer in accordance with statutory requirements; and supplementary individual pensions, that is pensions for individual natural persons purchased from pension providers in accordance with statutory requirements.<sup>177</sup>

329. The Ministry of Finance and Economy transfers general revenues to the Pension Administration to finance the basic pension in accordance with appropriations made by the SRSG. The amount of the basic pension is set according to the methodology adopted by the Kosovo Assembly, such that the same rate applies to all qualified old-age pensioners.<sup>178</sup>

330. Kosovo Assembly Law No. 2002/1 On the Methodology for Setting the Level of Basic Pension in Kosovo, and Determining the Commencement Date for Provision of Basic Pensions, promulgated by UNMIK Regulation No. 2002/15 of 26 July 2002 (the Law), established the methodology for setting the amount of basic pension and determined the commencement date for providing basic pensions.

331. According to the Law, basic pensions are being paid in Kosovo effective from 1 July 2002. Eligible pensioners applying to the Kosovo Pension Administration after 31 October 2002 are receiving payments effective from the beginning of the month in which such application is made. For the year 2002, the rate of the basic pension was set by the Law at 28 Euro per month. The Law envisaged that for the subsequent years the rate of the basic pension shall be set annually based on the value of the minimum-calorie food basket containing 2,100 calorie needs per day per adult, which costs 0.925 Euro per day or 27.75 Euro per month.

332. In 2003 the amount of basic pension was 35 Euro, while since 2004 this amount has increased to 40 Euros. The current number of basic pension beneficiaries is: 127,991.<sup>179</sup>

333. The following data about payment of basic pensions in Kosovo are received from the Statistical Office of Kosovo (SOK).

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<sup>176</sup> Ibid., Sections 2.5, 13 and 36.

<sup>177</sup> Ibid., Sections 1,14, 15,16, 21 and 22.

<sup>178</sup> Section 4 of UNMIK Regulation No. 2005/20.

<sup>179</sup> Data obtained by MLSW.



**Table 46**  
**Pensioners registered and total payment for 2004**

Months	Registered number of pensioners			Total payment (in Euro)
	Female	Male	Total	
January	58 678	50 064	108 742	3 876 648 00
February	59 196	50 470	109 666	5 005 485 00
March	59 632	50 807	110 439	4 510 460 00
April	59 873	50 989	110 862	4 488 267 00
May	60 290	51 398	111 688	4 524 089 00
June	60 745	51 897	112 642	4 588 038 00
July	61 141	52 295	113 436	4 584 398 00
August	61 497	52 666	114 163	4 609 600 00
September	61 855	53 047	114 902	4 642 520 00
October	62 170	53 330	115 500	4 659 678 00
November	62 535	53 608	116 143	4 690 296 00
December	62 920	54 012	116 932	4 733 080 00

Source: SOK.

334. According to the data received by SOK concerning the number of persons registered, the majority were female with 62.920, equivalent to 54%, whereas registered males were 54.012, or 46%.

**Table 47**  
**Pensioners by regions and months for 2004**

Months	Region					Total by gender		Total
	Prishtinë/ Priština	Gjilan/ Gnjilane	Pejë/ Peć	Prizren	Mitrovicë/ Mitrovica	Male	Female	
January								
Registered	26 344	23 679	21 383	23 267	19 149	52 904	60 918	113 822
Paid	24 979	22 527	20 374	22 321	18 541	50 064	58 678	108 742
February								
Registered	26 586	23 842	21 595	23 436	19 277	53 345	61 391	114 736
Paid	25 331	22 608	20 544	22 435	18 748	50 470	59 196	109 666
March								
Registered	26 855	24 057	21 784	23 609	19 563	53 885	61 983	115 868
Paid	25 568	22 779	20 625	22 573	18 894	50 807	59 632	110 439
April								
Registered	27 062	24 297	22 012	23 768	19 689	54 335	62 493	116 828
Paid	24 353	24 281	20 720	22 613	18 895	50 989	59 873	110 862
May								
Registered	27 319	24 536	22 212	23 968	19 891	54 887	63 039	117 926
Paid	25 942	23 101	20 858	22 728	19 059	51 398	60 290	111 688
June								
Registered	27 615	24 817	22 413	24 220	20 090	55 534	63 621	119 155
Paid	26 217	23 289	20 971	22 941	19 224	51 897	60 745	112 642

Table 47 (*continued*)

Months	Region					Total by gender		Total
	Prishtinë/ Priština	Gjilan/ Gnjilane	Pejë/ Peć	Prizren	Mitrovicë/ Mitrovica	Male	Female	
July								
Registered	27 870	25 052	22 642	24 422	20 537	56 222	64 301	120 523
Paid	26 401	23 395	21 109	23 045	19 486	52 295	61 141	113 436
August								
Registered	28 072	25 261	22 793	24 598	20 694	56 678	64 740	121 418
Paid	26 573	23 576	21 186	23 095	19 733	52 666	61 497	114 163
September								
Registered	26 777	26 907	22 977	24 783	20 838	57 137	65 145	122 282
Paid	25 333	25 157	21 349	23 280	19 783	53 047	61 855	114 902
October								
Registered	28 324	25 677	23 139	24 971	21 103	57 593	65 621	123 214
Paid	26 799	23 835	21 453	23 397	20 016	53 330	62 170	115 500
November								
Registered	28 498	25 884	23 287	25 139	21 402	58 075	66 133	124 210
Paid	26 913	23 935	21 506	23 499	20 290	53 608	62 535	116 143
December								
Registered	27 433	27 531	23 395	25 270	21 558	58 592	66 598	125 187
Paid	27 136	24 189	21 542	23 601	20 464	54 012	62 920	116 932

Source: SOK.

335. According to the data provided to SOK in December 2004, the number of persons registered for basic pensions was 125,187, whereas the number of pensions paid was 116,932. This means that the number of pensioners in 2004 has increased by 12,255 persons or 9.8% as compared to figures provided in December 2003.

Table 48

**Pensioners registered by community belonging of applicants in 2004**

Months	Kosovo Albanians		Kosovo Serbs		Total	
	F	M	F	M	F	M
January	47 569	41 285	11 109	8 779	58 678	50 064
February	47 906	41 543	11 290	8 927	59 196	50 470
March	48 199	41 758	11 433	9 049	59 632	50 807
April	50 454	44 717	12 039	9 618	62 493	54 335
May	48 713	42 222	11 577	9 176	60 290	51 398
June	49 040	42 575	11 705	9 322	60 745	51 897
July	49 243	42 812	11 705	11 898	60 948	54 710
August	49 411	42 998	12 086	9 668	61 497	52 666
September	49 704	43 330	12 151	9 717	61 855	53 047
October	49 857	43 469	12 313	9 861	62 170	53 330
November	50 077	43 623	12 458	9 985	62 535	53 608
December	50 282	43 834	12 638	10 178	62 920	54 012

Source: SOK.

336. The number of pensioners registered according to language of applicants shows that the majority is comprised of members of the Kosovo Albanian community with 94,116 persons, or 80%, including also the other communities in this percentage (except Kosovo Serb community), whereas from the Kosovo Serb community there are 22,816 persons registered for basic pensions, or 20% of the total.

**Table 49****Basic pensions according to regions and months in 2005**

Months	Regions					Total by gender		Total
	Prishtinë/ Priština	Gjilan/ Gnjilane	Pejë/Peć	Prizren	Mitrovicë/ Mitrovica	F	M	
January								
Registered	27 597	27 722	23 519	25 393	21 915	67 071	59 075	126 146
Paid	27 400	24 262	21 613	23 673	20 739	63 292	54 395	117 687
February								
Registered	27 814	28 012	23 690	25 534	22 099	67 641	59 508	127 149
Paid	26 184	25 834	21 675	23 733	20 825	63 643	54 608	118 251
March								
Registered	28 132	28 232	23 855	25 698	22 434	68 254	60 097	128 351
Paid	26 442	25 967	21 760	23 860	21 112	64 117	55 024	119 141
April								
Registered	30 006	27 015	24 106	25 917	22 772	68 995	60 821	129 816
Paid	28 122	24 710	21 915	24 013	21 321	64 604	55 478	120 082
May								
Registered	30 251	27 230	24 249	26 157	23 101	69 599	61 389	130 988
Paid	28 312	24 883	21 987	24 189	21 622	65 082	55 911	120 993
June								
Registered	30 528	27 622	24 535	26 414	23 487	70 419	62 162	132 581
Paid	28 503	25 141	22 166	24 344	21 993	65 688	56 459	122 147
July								
Registered	30 863	27 911	24 763	26 681	23 865	71 170	62 913	134 083
Paid	28 825	25 404	22 303	24 526	22 040	66 155	56 943	123 098
August								
Registered	31 237	28 292	25 008	26 985	24 383	72 082	63 823	135 905
Paid	29 031	25 502	22 418	24 724	22 349	66 613	57 411	124 024
September								
Registered	31 311	28 331	25 131	27 017	24 396	72 215	63 971	136 186
Paid	29 191	25 603	22 450	24 679	22 671	66 886	57 708	124 594
October								
Registered	31 614	28 676	25 330	27 305	24 780	72 948	64 757	137 705
Paid	29 324	25 683	22 480	24 691	22 751	67 025	57 904	124 929
November								
Registered	31 877	28 874	25 450	27 425	24 971	73 372	65 225	138 597
Paid	29 406	25 698	22 434	24 706	22 675	67 041	57 878	124 919
December								
Registered	32 065	29 180	25 646	27 609	25 309	73 985	65 825	139 810
Paid	29 431	25 695	22 377	24 767	22 623	67 036	57 857	124 893

Source: SOK.

**Table 50**

**Registered pensioners and total payment in 2005**

Months	Overall number		Total	Payment in total (in Euro)
	Female	Male		
January	63 292	54 395	117 687	4 763 395.00
February	63 643	54 608	118 251	4 774 990.00
March	64 117	55 024	119 141	4 825 840.00
April	64 604	55 477	120 081	4 866 160.00
May	65 082	55 911	120 993	4 895 520.00
June	65 688	56 459	122 147	4 964 080.00
July	66 155	56 943	123 098	4 992 600.00
August	66 613	57 411	124 024	5 039 640.00
September	66 886	57 708	124 594	5 046 068.00
October	67 025	57 904	124 929	5 046 840.00
November	67 041	57 878	124 919	5 048 200.00
December	67 036	57 857	124 893	5 050 000.00

*Source: SOK.*

**Table 51**

**Pensioners registered according to applicants language in 2005**

Months	Albanians		Serbs		Total	
	Female	Male	Female	Male	Female	Male
January	50 392	43 967	12 900	10 428	63 292	54 395
February	50 719	44 134	12 924	10 474	63 643	54 608
March	51 048	44 426	13 069	10 598	64 117	55 024
April	51 381	44 746	13 223	10 731	64 604	55 477
May	51 685	45 041	13 397	10 870	65 082	55 911
June	52 118	45 451	13 570	11 008	65 688	56 459
July	52 514	45 843	13 641	11 100	66 155	56 943
August	52 819	46 186	13 794	11 225	66 613	57 411
September	52 845	46 263	14 041	11 445	66 886	57 708
October	52 937	46 413	14 088	11 491	67 025	57 904
November	52 914	46 359	14 127	11 519	67 041	57 878
December	52 879	46 301	14 157	11 556	67 036	57 857

*Source: SOK.*

**2. Early pensions for “Trepça” workers**

337. Prior to 1990, as an integrated company engaged primarily in mining and processing of lead and zinc, “Trepça” used to be a large employer and an important source of foreign exchange earnings. In the 1980s, it started to suffer from inadequate investment, maintenance, and repairs. After the end of the 1999 conflict, KFOR ordered the closure of the smelter as the level of

pollution was deemed unacceptable; as a result, all production stopped. In response to the pressure from miners, the government introduced a temporary early retirement scheme for over 3,000 “Trepça” workers at the beginning of 2004. This entitlement was supposed to be temporary, but it has been extended because of the delays in developing a comprehensive solution.<sup>180</sup>

338. The amount of this early pension is equal to the basic pension (40 Euro). According to the data obtained by the MLSW, the current number of beneficiaries is: 4,613.

### **3. Disability pensions**

339. The disability pension provides monthly cash benefits for total and permanent disability until the recipient reaches the entitlement age for old-age basic pension (65 years).

340. The Law On Disability Pensions determines a disability pension as a benefit administered by the MLSW to provide financial support to adult persons who are habitual residents of Kosovo and who are totally and permanently disabled and incapable of any form of occupational activity.<sup>181</sup>

341. Disability pensions are paid to habitual residents of Kosovo between the ages of 18 and 65 years of age who meet disability requirements. The disability pension is a fixed benefit, as the amount of monthly rate of disability pension is set at the same level as the monthly rate for basic pension (currently 40 Euro). The disability pensions are paid from the Kosovo Consolidated Budget.<sup>182</sup>

342. A person is considered to be permanently and totally disabled if he/she has a medically diagnosed physical, sensory or mental condition, disease or disability rendering him/her incapable of any work for remuneration. The designated authority by the MLSW to administrate the disability pensions, is the Kosovo Pension Administration. The Doctor’s Commission established by the MLSW, assesses the individual cases and subsequently decides if they fulfil the medical criteria. The condition, disease or disability must render the person totally incapable of any work for remuneration at the time of application and in the future. Onset of the condition, disease or disability must be no less than one year prior to the date of submitting a complete application to the MLSW. The law envisages extensive medical examination procedures to minimize the error of inclusion within this scheme. The decision of the Doctor’s Commission can be appealed to the Appeals Council within the designed authority, whose decision can be challenged in a competent court.<sup>183</sup>

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<sup>180</sup> See: International Monetary Fund report: Kosovo-Gearing Policies Toward Growth and Development, available at: <http://www.imf.org/external/pubs/ft/kosovo/2004/eng/111804.pdf>.

<sup>181</sup> Section 1.3 of the Law No. 2003/23 On Disability Pensions in Kosovo, promulgated by UNMIK Regulation No. 2003/40 of 17 December 2003.

<sup>182</sup> Sections 1.5 and 6.1 of the Law No. 2003/23 On Disability Pensions in Kosovo.

<sup>183</sup> Sections 1, 2.2, 3, 4 and 10 of the Law No. 2003/23 On Disability Pensions in Kosovo.

343. Additional benefits envisaged for permanent and totally disabled persons are exemption from participation payments in health care, and discount payments in urban transportation or entrance fee to the artistic performances, museums or sporting manifestations.<sup>184</sup> However, there is no defined system in place that would enable persons with disabilities to enjoy non-material benefits of a wider range.

344. According to the data obtained by the MLSW, the present number of beneficiaries of disability pensions is: 18,432.

#### **F. Health care and health insurance**

345. Law No. 2004/4 On Health, promulgated by UNMIK Regulation No. 2004/31 of 20 August 2004 establishes legal grounds for the regulation, advancement and improvement of the provision of health care for Kosovo residents.

346. The Law defines health care as measures and activities undertaken by health care institutions, health workers and citizens for the purpose of advancing the overall physical, mental and social well-being of Kosovo residents. Health care is implemented at the primary, secondary and tertiary level, and is supervised by the Ministry of Health.<sup>185</sup>

347. Health care services are provided free of charge in the public health institutions for vulnerable and special groups of the population that include:

- Children and adolescents up to 15 years of age
- Pupils and students until the end of regular school terms
- Habitual residents over 65 years of age
- Close family members of martyrs, war invalids and other invalids, their close family members as well users of overall social schemes for social assistance and close members of their families
- Persons with disabilities<sup>186</sup>

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<sup>184</sup> Section 13 of the Law No. 2003/23 On Disability Pensions in Kosovo.

<sup>185</sup> Sections 1, 2 and 10 of the Law No. 2004/4 On Health, promulgated by UNMIK Regulation No. 2004/31 of 20 August 2004.

<sup>186</sup> Section 22.1 of the Kosovo Health Law. No. 2004/4.

348. In addition, all residents are entitled free of charge to the following types of health services in the public health institutions:

- Preventive health care
- Reproductive health care which includes family planning and health care during the pregnancy, birth and maternity
- Health care for patients suffering from diseases, disorders and injuries that severely endanger or hamper their lives
- Rehabilitation services as defined by special sub-legal act
- Health care treatment to the dying person at his/her house provided by a Family Medicine Centre<sup>187</sup>

349. The legal setting envisages health insurance provided as a basic health insurance or private health insurance. Basic health insurance is a compulsory insurance for all employed Kosovo residents, while private health insurance is a voluntary insurance. The law also envisages establishment of the Health Insurance Fund and organisations which offer private insurance schemes.<sup>188</sup> However, there is no data on the level of implementation of the health insurance scheme.

#### **G. Social assistance scheme**

350. In the emergency phase immediately after June 1999, persons in need in Kosovo were provided financial aid by various international humanitarian organisations. However, as this support has decreased significantly, in 2003 the Kosovo Assembly adopted the Law on Social Assistance Scheme<sup>189</sup> for the purpose of providing a social safety net within the broader context of the social protection system and for alleviating poverty by providing social assistance to poor and vulnerable families in need.

351. The Law creates a social assistance scheme that provides financial support from the allocated resources of the Kosovo Consolidated Budget to families in need. The MLSW has designated the municipal Centres for Social Work to administer the social assistance Kosovo wide.<sup>190</sup>

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<sup>187</sup> Section 22.2 of the Kosovo Health Law No. 2004/4.

<sup>188</sup> Section 59 and 60 of the Kosovo Health Law No. 2004/4.

<sup>189</sup> Law No. 2003/15 On the Social Assistance Scheme in Kosovo, promulgated by UNMIK Regulation No. 2003/28 of 18 August 2003, entered into force in December 2003.

<sup>190</sup> Section 3 of the Law No. 2003/15 On the Social Assistance Scheme in Kosovo.

352. The social assistance is a monthly cash benefit paid on a family basis. The basic eligibility criteria is that all family members are habitually residing in Kosovo. The Law and subsidiary legal acts issued by the MLSW divides users of the social assistance scheme into two categories.<sup>191</sup> The eligibility criteria are the following:

### **1. First category criteria**

353. In order for a family to be eligible for the first category, all members of the family should be qualified as dependent:

- Persons over 65 years of age
- Adults with permanent disabilities to work
- Guardian of a person with permanent disability to work or of a person above 65 years of age who needs full care
- Dependent children under 15 years of age
- Dependent children between 15-18 years who continue to be regular students
- Self-supporting parents with children under 15 years of age and other immature children in the family
- The family should not own more than a half (0.5 ha) hectare of land

### **2. Second category criteria**

354. In order for a family to be eligible for the second category, the family should fulfil the following conditions:

- All members of the family should be unemployed
- Every member of the family that is capable of work should be registered in the Office of Employment and get certification from this institution that he/she is capable for work and is searching for work
- The family should have no income
- The family should not own more than a half (0.5 ha) hectare of land
- The family should have at least one child under the age of 5, or has to be fully supporting an orphan under the age of 15 years

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<sup>191</sup> Sections 4, 5 of the Law No. 2003/15 On the Social Assistance Scheme in Kosovo.



355. Eligible families in both categories are entitled to receive social assistance up to six months. In order to receive further social assistance the family needs to reapply.

356. The scale of monthly payments for social assistance is determined based on the size of the family, with the minimum values as follows:

**Table 52**

**Family size and social assistance payments**

Family size, i.e. family with	Monthly Gross Standard Rate (in Euro)
one (1) member	35
two (2) members	50
three (3) members	55
four (4) members	60
five (5) members	65
six (6) members	70
seven (7) or more members	75

357. The amount of monthly social assistance to be paid to an eligible family shall be 'C', where:  $C = A - B$  and where: 'A' is the monthly gross standard rate of social assistance applicable to a family of that size, and 'B' is the reckonable net monthly income of the eligible family after allowable deductions have been applied.<sup>192</sup>

358. In calculating the size of the family that determines the amount of the awarded social assistance those family members receiving the basic or disability pensions are excluded. The family incomes received for war invalids of Kosovo and for the benefit of the next of kin of those who died as a result of the armed conflict in Kosovo are deducted from the amount of the social assistance.

359. The social assistance sums are calculated on a food basket for an adult, which is based on 2,100 calories diet that amounts to 0.925 Euro per day or 27.75 Euro per month.

360. The decisions on social assistance are subject to first and second instance administrative appeal and judicial review.<sup>193</sup>

361. According to the social assistance scheme, there is also an ad hoc and immediate financial support available to meet exceptional needs that are current, once off, extraordinary and not continuous. Such support is provided for funeral expenses, fuel for heating, or shelter and food

<sup>192</sup> Section 9 and 2 of the Law No. 2003/15 On the Social Assistance Scheme in Kosovo.

<sup>193</sup> Section 11 the Law No. 2003/15 On the Social Assistance Scheme in Kosovo.

in cases of natural disasters. The financial support for exceptional needs is 100 Euro, while in extraordinarily severe cases it can be increased up to a maximum of 300 Euro.<sup>194</sup>

362. Tables below show payments made for social assistance in the period 2001-2006:

**Table 53**  
**Payment for social assistance in 2001**

Months	No. of families	Family members	Amount
January	50 686		DEM 5 452 798.00
February	53 405		DEM 5 636 464.00
March	54 860		DEM 5 553 746.00
April	55 573		DEM 5 525 267.00
May	55 866		DEM 5 545 631.00
June	56 069		DEM 5 490 279.00
July	56 438		DEM 5 521 281.00
August	55 756		DEM 5 422 547.00
September	54 456		DEM 5 352 362.00
October	54 256		DEM 5 252 201.00
November	55 208		DEM 5 363 847.00
December	55 000		2 744 660.00 €
Total			32 863 108.00 €

*Source:* Ministry of Finance and Economy (MFE).

**Table 54**  
**Payment for social assistance in 2002**

Months	No. of families	Family members	Amount (in Euro)
January	54 769	189 989	2 735 980.00
February	54 599	188 955	2 730 911.00
March	54 456	188 751	2 747 194.00
April	53 266	185 230	2 689 503.00
May	52 580	184 337	1 691 422.00
June	52 438	183 794	2 676 330.00
July	51 044	179 951	2 632 501.00
August	51 119	180 975	2 679 506.00
September	50 673	180 408	2 631 985.00
October	50 622	181 333	2 621 344.00
November	51 161	184 319	2 657 399.00
December	51 213	185 472	2 643 332.00
Total			31 137 407.00

*Source:* MFE.

<sup>194</sup> Section 12 of the Law No. 2003/15 On the Social Assistance Scheme in Kosovo and MLSW Administrative Instruction 06/2005.

**Table 55**

**Payment for social assistance in 2003**

Months	No. of families	Family members	Amount (in Euro)
January	50 723	186 198	2 642 475.00
February	51 107	189 629	2 691 309.00
March	50 843	190 141	2 676 223.00
April	51 025	191 559	2 695 378.00
May	50 720	191 609	2 690 475.00
June	50 943	192 807	2 706 089.00
July	49 940	188 973	2 650 934.00
August	50 221	190 503	2 697 124.00
September	49 733	188 465	2 642 453.00
October	40 301	190 731	2 690 276.00
November	51 342	195 034	2 732 770.00
December	51 791	197 191	2 744 698.00
Total			32 260 204.00

*Source:* MFE.

**Table 56**

**Payment for social assistance in 2004**

Months	No. of families	Family members	Amount (in Euro)
January	51 327	196 327	2 716 243.00
February	49 425	191 993	2 657 445.00
March	48 190	188 919	2 693 236.00
April	47 301	187 285	2 732 233.00
May	46 269	185 807	2 752 946.00
June	45 789	184 359	2 774 187.00
July	44 527	181 628	2 721 398.00
August	44 694	181 993	2 672 620.00
September	45 057	183 594	2 694 085.00
October	45 078	184 508	2 696 307.00
November	44 727	183 430	2 677 290.00
December	44 911	184 974	2 691 088.00
Total			32 479 078.00

*Source:* MFE.

**Table 57**

**Payment for social assistance in 2005**

Months	No. of families	Family members	Amount (in Euro)
January	44 354	182 970	2 655 203.00
February	43 481	180 803	2 620 893.00
March	43 600	181 524	2 624 791.00
April	43 728	182 012	2 623 257.00
May	43 655	182 386	2 629 942.00
June	43 088	180 765	2 598 552.00
July	42 870	180 613	2 592 197.00
August	42 359	178 350	2 554 009.00
September	41 991	176 630	2 536 075.00
October	41 804	175 948	2 519 788.00
November	41 768	177 033	2 545 610.00
December	42 052	178 121	2 564 632.00
Total			31 064 949.00

*Source:* MFE.

**Table 58**

**Payment for social assistance in 2006**

Months	No. of families	Family members	Amount (in Euro)
January	42 468	180 211	2 583 160.00
February	42 503	180 401	2 577 158.00
March	42 447	180 773	2 575 947.00
April	42 002	178 999	2 548 810.00
May	42 024	179 326	2 555 582.00
June	42 026	179 411	2 551 099.00
July	41 935	179 359	2 542 389.00
August	41 566	178 114	2 522 308.00
September	41 083	176 007	2 493 054.00
October	40 745	174 646	2 470 778.00
November	40 701	174 555	2 473 815.00
December	40 569	174 131	2 463 944.00
Total			30 358 044.00

*Source:* MFE.

**Table 59**

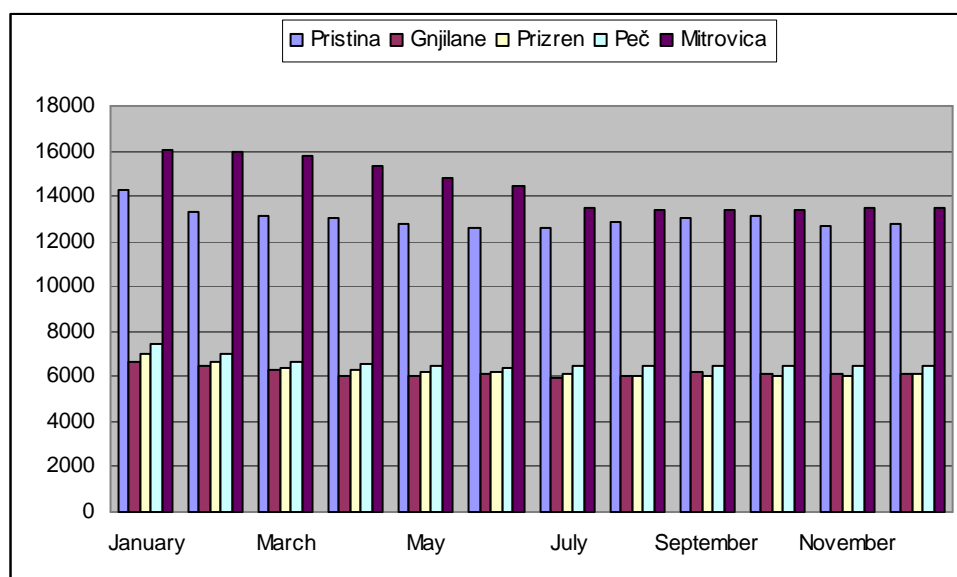
**Number of families receiving social benefits by month  
and region in 2004 (by region)**

Months	Prishtinë/ Priština	Gjilan/ Gnjilane	Prizren	Pejë/Peć	Mitrovicë/ Mitrovica
January	14 274	6 645	6 972	7 418	16 026
February	13 299	6 465	6 674	7 010	15 977
March	13 113	6 300	6 347	6 674	15 756
April	13 050	6 061	6 268	6 559	15 363
May	12 800	5 991	6 215	6 437	14 827
June	12 583	6 131	6 215	6 374	14 486
July	12 588	5 978	6 077	6 440	13 444
August	12 844	6 064	5 997	6 439	13 368
September	13 034	6 196	6 046	6 457	13 351
October	13 110	6 105	6 047	6 455	13 361
November	12 647	6 088	6 052	6 474	13 466
December	12 802	6 139	6 077	6 439	13 454

*Source: SOK.*

**Figure I**

**Families receiving social assistance in 2004**



*Source: SOK.*

363. It can be observed from the chart above see that the biggest number of families who were receiving social assistance, is in Mitrovica region with 16,026 families.

**Table 60**

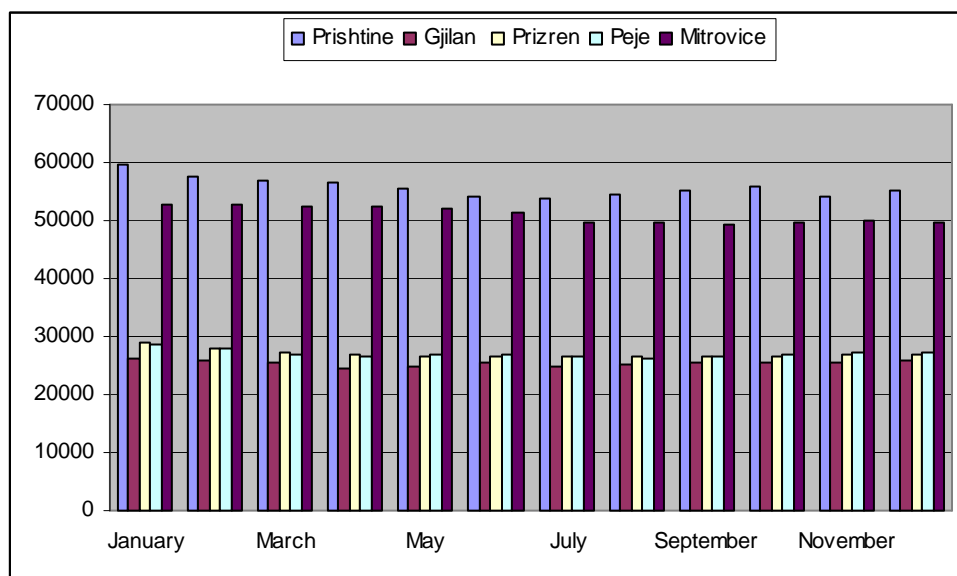
**Number of family members receiving social assistance  
by months in 2004 (by region)**

Months	Prishtinë/ Priština	Gjilan/ Gnjilane	Prizren	Pejë/Peć	Mitrovicë/ Mitrovica
January	59 554	26 367	28 906	28 608	52 892
February	57 710	25 859	27 967	27 784	52 673
March	56 979	25 415	27 196	27 037	52 292
April	56 702	24 441	27 042	26 663	52 437
May	55 419	24 833	27 039	26 520	51 996
June	54 082	25 387	26 400	27 034	51 456
July	53 827	24 815	26 594	26 590	49 802
August	54 536	25 055	26 549	26 263	49 590
September	55 276	25 682	26 553	26 720	49 363
October	55 856	25 470	26 550	26 866	49 766
November	54 269	25 496	26 736	27 073	49 856
December	55 191	25 803	27 029	27 176	49 775

Source: SOK.

**Figure II**

**Number of family members receiving social assistance in 2004**



Source: SOK.

364. The chart shows that the biggest number of family members receiving social assistance were in Prishtinë/Priština region, with 57,710 family members.

**Table 61**

**Numbers of families that receive social assistance based on regions, in 2005**

Months	Prishtinë/ Priština	Gjilan/ Gnjilane	Prizren	Pejë/Peć	Mitrovicë/ Mitrovica	Total
January	12 621	6 108	5 954	6 437	13 234	44 354
February	12 554	6 011	5 846	6 298	12 772	43 481
March	12 664	6 054	5 853	6 192	12 837	43 600
April	12 753	6 078	5 818	6 387	12 692	43 728
May	12 714	6 123	5 839	6 465	12 514	43 655
June	12 243	6 115	5 828	6 525	12 377	43 088
July	12 261	6 116	5 807	6 498	12 188	42 870
August	12 006	6 082	5 677	6 439	12 155	42 359
September	11 962	5 980	5 638	6 344	12 067	41 991
October	11 999	5 951	5 644	6 432	11 779	41 805
November	12 007	5 984	5 669	6 441	11 666	41 767
December	12 111	6 101	5 680	6 250	11 910	42 052

Source: SOK.

**Table 62**

**Number of family members that receive social assistance in 2005, by regions**

Months	Prishtinë/ Priština	Gjilan/ Gnjilane	Prizren	Pejë/Peć	Mitrovicë/ Mitrovica	Total
January	54 631	25 677	26 543	27 168	48 951	182 970
February	54 509	25 283	26 147	27 013	47 851	180 803
March	54 964	25 553	26 356	26 711	47 940	181 524
April	55 447	25 671	26 143	27 621	47 130	182 012
May	55 413	25 934	26 290	28 029	46 720	182 386
June	53 662	25 934	26 290	28 317	46 543	180 746
July	53 896	25 958	26 271	28 338	46 150	180 613
August	52 787	25 822	25 714	28 097	45 930	178 350
September	52 502	25 302	25 482	27 706	45 638	176 630
October	52 604	25 211	25 553	28 033	44 547	175 948
November	52 892	25 367	25 778	28 094	44 916	177 047
December	53 406	25 952	27 320	25 784	45 659	178 121

Source: SOK.

**Table 63**  
**Number of families that receive social assistance in 2005,**  
**by region and months**

Months	Number of families	Number of family members
January	44 354	182 970
February	43 481	180 803
March	43 655	181 524
April	43 728	182 012
May	43 655	182 386
June	43 088	180 746
July	42 870	180 613
August	42 359	178 350
September	41 991	176 630
October	41 805	175 948
November	41 767	177 047
December	42 052	178 121

*Source:* SOK.

**Table 64**  
**Social assistance in 2004 and 2005 (number of families**  
**and family members)**

Months	Number of families		Number of family members	
	Year		Year	
	2004	2005	2004	2005
January	51 335	44 354	196 327	182 970
February	49 425	43 481	191 993	180 803
March	48 190	43 600	188 919	181 524
April	47 301	43 728	187 285	182 012
May	46 269	43 655	185 807	182 386
June	45 789	43 088	184 359	180 746
July	44 527	42 870	181 628	180 613
August	44 694	42 359	181 993	178 350
September	45 057	41 991	183 594	176 630
October	45 078	41 805	184 508	175 948
November	44 727	41 767	183 430	177 047
December	44 911	42 052	184 974	178 121

*Source:* SOK.



## **Article 10**

### **A. Legislative framework**

365. Until 2005-2006, family relations in Kosovo were regulated by the following legislative acts:

- Law of Marriage and Family Relations (Official Gazette of Autonomous Socialist Province of Kosova (ASPK) no. 10, adopted at 28.03.1984)
- Law on Inheritance (1974)
- Law on Registry (1974)

366. As a result of the political and social changes in Kosovo after 1999 a new family law was adopted, Law No. 2004/32 On Family, promulgated by UNMIK Regulation No. 2006/7 of 16 February 2006.

367. The main legal acts with which Kosovo currently regulates the protection of the family, motherhood and children are:

- Law No. 2004/32 On Family, promulgated by UNMIK Regulation No. 2006/7 of 16 February 2006
- Law No. 2004/26 On Inheritance, promulgated by UNMIK Regulation No. 2005/7 of 4 February 2005
- UNMIK Regulation No. 2001/27 On Essential Labour Law in Kosovo of 8 October 2001
- Law No. 2004/3 On Anti-Discrimination, promulgated by UNMIK Regulation No. 2004/32 of 20 August 2004
- Law No. 2004/46 On Civil Status Registers, promulgated by UNMIK Regulation No. 2005/21 of 7 May 2005
- Law No. 2004/2 On Gender Equality, promulgated by UNMIK Regulation No. 2004/18 of 7 June 2004
- UNMIK Regulation No. 2001/36 On the Kosovo Civil Services of 22 December 2001, as amended by UNMIK Regulation No. 2006/20 of 22 April 2006
- Administrative Direction 2003/2 on the implementation of UNMIK Regulation No. 2001/36, as amended by UNMIK Regulation No. 2006/20 of 22 April 2006
- General Collective Agreement of 2004

368. The Family Law of Kosovo regulates engagement, marriage, relations between parents and children, adoption, custody, protection of children without parental care, family property relations and special court procedures for disputes of family relations.

## **B. Marriage**

### **1. Definition of “Family”**

369. According to article 2 of the Family Law of Kosovo, “[a] family is a vital community of parents and their children and other persons of the kin”, and thus is “the natural and fundamental nucleus of society and enjoys the right to protection”.

370. Until recently, society in Kosovo was predominantly rural with large extended families and strong patriarchal traditions. Most people still live in extended family households with several generations living under the same roof. It is still common for a woman to move into the extended family of her husband upon marriage and for the children to be considered wards of the father’s family.<sup>195</sup>

### **2. Definition of “Marriage”**

371. According to the Family Law of Kosovo, article 14(1), “marriage is a legally registered community of two persons of different sexes, through which they freely decide to live together with the goal of creating a family.”

### **3. Factual relationship (out-of-marriage relationship)**

372. According to article 39(1) of the Family Law of Kosovo, a factual relationship is the relationship “between the husband and the wife who live in couple, characterized by a joint life that represents a character of stability and continuation”. According to article 39(2) “a factual relationship (out-of-marriage relationship) is equal with the marital status on the aspect of rights and obligations for caretaking, reciprocal financial support, and property rights” as specified in the Family Law.

### **4. Equality of both spouses**

373. According to the Constitutional Framework (article 3.1) - “all persons in Kosovo shall enjoy, without discrimination on any ground and in full equality, human rights and fundamental freedoms”.

374. Article 14(2) of the Family Law of Kosovo, states that “men and women, without any limitation due to race, nationality or religion, have the right to marry and found a family”. Furthermore article 14(2) explicitly provides that both spouses are “equal to marriage, during marriage and at its dissolution”. According to article 42 (1) “in marriage, namely in all personal and property relations, spouses are equal”.

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<sup>195</sup> See: UNICEF Situation Analysis of Children and Women in Kosovo, 2004, page 16 and page 38.

### **C. Family protection**

375. According to article 5.1 (k) of the Constitutional Framework the PISG have responsibilities in the fields of “family, gender and minors”.

#### **1. Institutional protection of rights**

376. According to the Family Law (article 6), protection and family assistance shall be governed by the competent body of the municipal administration which is responsible for issues of social assistance. Furthermore it states that the Custodianship Body is an administrative municipal body competent for social issues.

### **D. Contracting and terminating marriage**

377. According to article 28 (1) of the Family Law of Kosovo “to enter into wedlock, it is necessary that two persons of opposite sex in the presence of one another freely declare their will and full consent for marriage in front of the registrar”. Furthermore, according to article 28 (2), the statement should be absolute and without date or term. According to article 18 “marriage shall not be valid when the will has been obtained under coercion, threat or by mistake or any other lack of free will of the future spouses.”

378. According to article 63 of the Family Law, a marriage shall be annulled if one of the spouses has provided consent due to fear, violence or serious threat. Marriage may be annulled if it is contracted by error regarding the identity of the spouse, if it is entered into because of wilful deceit regarding facts which make common life unbearable and if the marriage is entered into without the aim of co-existence of the spouses. According to article 67 of the Family Law persons eligible to file a claim for the annulment of marriage are the spouses, the public prosecutor and all other persons who have a direct legal interest in the annulment.

379. According to article 60(1) of the Family Law, marriage ceases upon the death of a spouse, the pronouncement of the missing spouse dead, an annulment (void marriage) or dissolution (divorce).

#### **1. Permissible age for marriage**

380. According to article 16(1) of the Family Law, the permissible age for marriage for both genders is eighteen (18) years. A minor aged sixteen (16) or more may contract marriage with the court’s permission “upon his request”, if the court “concludes that the person reached the necessary physical and psychological maturity for exercising his marital rights and fulfil his marital obligations”. Prior to the decision the court shall take into consideration the opinion of the Custodianship Body, respectively of the municipal Centres for Social Work (Law on Gender Equality and Law on Social and Family Services<sup>196</sup>) and shall hear the minor and his parents, respectively the custodian. The court shall also hear the person with whom the minor intends

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<sup>196</sup> Law No. 02/L-17 On Social and Family Services, promulgated by UNMIK Regulation No. 2005/46 of 14 October 2005.

to enter into wedlock, the opinion of the respective health institution and shall investigate other circumstances important for the decision (article 16(3) of the Family Law of Kosovo).

381 In addition, the court may allow a person who has been deprived of his/her legal capacity to marry upon submission of a request. In such cases, the court could seek the opinion of the parents, guardian or custodian of the person and the Custodianship Body (Municipal Centre for Social Work) (article 20(2)) of the Family Law of Kosovo).

382. Every marriage shall be recorded on the marriage register, which is then signed by the spouses, two witnesses and the registrar, and immediately upon wedlock, the spouses are provided with a certificate from the marriage register (article 35(1) and 35 (2) of the Family Law).

383. According to the Statistical Office of Kosovo (SOK) the average age at marriage in Kosovo is 27 years for women and 30 years for men. The highest number of marriages is for women in the age group 20-29 and for men the age group 25-34. According to the statistics for 2005 the average age for marriage increased by 11 months for men and by 14 months for women.

384. In Kosovo still presents the practice of marrying prior to reaching the majority age of 18. Underage marriages are not uncommon especially in rural areas in Kosovo where particularly females often marry under the age of 18. In such cases the court rarely gives permission since there is no submission of a request, however the couple lives in an extramarital relationship until they reach majority age and then marry legally.

385. According to the SOK for 2004 and 2005 the number of divorces is increasing. The rate of divorces for 2005 was 9 divorces for 100 marriages, which is 1.6 percent higher compared to 2004.

**Table 65**

**Rate of divorce**

Year	Marriages	Divorces
2002	18 280	-
2003	17 034	-
2004	16 989	1 293
2005	15 732	1 445

*Source:* Statistical Office of Kosovo.

**2. Property relations between spouses**

386. According to article 45 of the Family Law, on the basis of the legal institute of “Joint Ownership of Subsequently Acquired Property”, the property of spouses may be separate property or joint property.

### **E. System of maternity protection - protection of motherhood**

387. According to article 7 (1) of the Family Law, the mother and child are provided special protection by means of social welfare.

388. According to Section 19 of UNMIK Regulation No. 2001/27 On Essential Labour Law in Kosovo, “a female employee shall be entitled to at least 12 weeks paid maternity leave upon the birth of a child”. Furthermore this leave shall be considered as a working period and shall be paid by the employer at a rate of no less than two-thirds of the woman’s earnings.

389. Based on Kosovo Government Decree Nr. 02/201 from 31 May 2006, the implementation of the General Collective Agreement (GCA) commenced. Article 23 of this agreement extends the right to Maternity leave.<sup>197</sup> Those employed women to who the GCA applies are entitled to six months (6) in succession of maternity leave (at a rate of at least 2/3 of the woman’s earnings). Maternity leave is considered as a working period. The first three (3) months are paid by the employer while for the second three (3) months the payment is charged to the Kosovo Government’s Fund for the protection of maternity. In addition employed women are entitled to unpaid leave. During the unpaid leave, all the rights of employee from the working relation are frozen, except for health insurance.

390. Based on the ascertainment of a competent health body, a woman may start her maternity leave up to forty five days (45) before childbirth, while she must necessarily commence leave twenty eight (28) days before the child’s scheduled birth.

391. If the woman’s child is stillborn, or the child dies before the end of maternity leave, she has the right to maternity leave to the extent necessary for her to recover from the birth and the psychological situation caused by the loss of her child, but no less than forty five (45) days. Based on a personal written request, a woman may start to work before the child is six (6) months of age, but not before forty-five (45) days from the birth of the child. The mother or the father have the right to part time work until the child is two (2) years old, if the child is diagnosed with mental or physical disorders.

392. Civil servants are, according to the Administrative Instruction No. 2003/10, entitled to paid maternity leave for 12 weeks in succession. The leave cannot be taken earlier than 10 weeks before the expected birth date. In addition, male civil servants are also entitled to paternity leave for at least two days for each child.<sup>198</sup> After return to work, civil servants

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<sup>197</sup> Based on article 6 of UNMIK Regulation No. 2001/27 On Essential Labour Law, UNMIK Regulation No. 2001/36 On the Kosovo Civil Service, article 2 section (b) of Guideline No. 2001/17 related to structure and operation of the Tripartite Consultative Council and articles 5 and 6 of the Statute of the BSPK, the Ministry of Labour and Social Welfare, the BSPK and the Chamber of Economy of Kosovo signed in 2004 the General Collective Agreement of Kosovo.

<sup>198</sup> Administrative Direction No. 2003/2, Section 17-24.

are entitled to a two hour reduction of working hours for a six month period after the birth and one hour reduction for the next three months until the child's 9th month of age.

393. According to Administrative Instruction MPS/DCSA 2003/10, a civil servant who is going on maternity leave is not guaranteed to return to her previous post. Although maternity leave is stated not to affect a female civil servant's seniority, pay or posting to a certain municipality or ministry, the changing of a post could negatively affect the female civil servant.<sup>199</sup> In addition, this particular provision is not in accordance with the Law on Gender Equality, which states that "[e]mployers [should] take all necessary measures to enable females and males to correspond to both their professional and family obligations. The time schedule [...] must be organized in such a way that female employers can return to their previous posts after maternity leave [...]".<sup>200</sup>

**Table 66**

**Fertility rate for women by age groups and residence**

Age group	Total	Urban resident	Rural resident
15-19	0.012	0.023	0.008
20-24	0.147	0.153	0.144
25-29	0.213	0.141	0.244
30-34	0.140	0.104	0.156
35-39	0.059	0.056	0.061
40-44	0.023	0.012	0.030
45-49	0.000	0.001	0.000
Total fertility rate	3.0	2.5	3.2

*Source:* SOK.

394. According to the SOK data, the average fertility rate is three children per mother. Women in rural areas have an average of 3.2 children per mother, while women in urban areas have on average 2.5 children per mother. The fertility rates for the age group 15-25 in the urban and rural areas are approximately the same. After 25 years the fertility rate in rural areas rises faster than in urban areas and reaches its peak in the age group 25-29. The fertility rate in urban and rural areas becomes approximately the same again for the age group 35-39.

## **F. Protection of children and minors**

### **1. Legal framework**

- Law No. 2004/32 On Family, promulgated by UNMIK Regulation No. 2006/7 of 16 February 2006

<sup>199</sup> Administrative Instruction No. MPS/DCSA 2003/10 for Implementation of UNMIK Administrative Direction 2003/2, Step 4c.

<sup>200</sup> Law No. 2004/2 On Gender Equality in Kosovo, Section 13.9.

- Law of Marriage and Family Relations (Official Gazette of Autonomous Socialist Province of Kosova (ASPK) no. 10, dt. 28.03.1984)
- UNMIK Regulation No. 2004/8 On Juvenile Justice Code of Kosovo of 20 April 2004
- UNMIK Regulation No. 2001/27 On Essential Labour Law in Kosovo of 8 October 2001
- UNMIK Regulation No. 2001/4 On the Prohibition of Trafficking in Persons in Kosovo of 12 January 2001
- UNMIK Regulation No. 2004/29 On Protection Against International Child Abduction of 5 August 2004
- UNMIK Regulation No. 2003/12 On Protection Against Domestic Violence of 9 May 2003
- Law No. 2002/9 On the Labour Inspectorate of Kosovo, promulgated by UNMIK Regulation No. 2003/4 of 23 February 2003

395. The population of Kosovo is young. According to the Statistical Office of Kosovo the proportion of the population aged 0-18 years is 46 percent. According to a 2004 UN Children's Fund (UNICEF) report, an estimated 40 percent of the population of Kosovo is under the age of 18, and 33 percent of the population is under 15.

## **2. Majority age**

396. In Kosovo a person attains majority upon reaching eighteen (18) years of age. According to article 15(3) of the Family Law “full capacity to act is obtained upon reaching majority or by entering into wedlock prior to this age”.

397. Some of the basic principles set out in the Family Law (article 3) are: protection of children's rights; responsibility of both parents for the growth and education of their children; and children born in and out of wedlock enjoy equal rights.

398. According to article 125(2) of the Family Law, children have the right to grow up in a family with parents. Children also enjoy the right of protection from economic utilization, child exploitation, trafficking and sexual exploitation, and from any activity which could be harmful or hazardous to their education or health.

399. While there has been no comprehensive study of child-rearing practices in Kosovo, discussions with young mothers suggest that traditional practices continue to play a strong role in how children are raised. Grandparents or elder siblings often share childcare duties with limited direct interaction between a child and its parents (and in particular fathers).<sup>201</sup>

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<sup>201</sup> See: UNICEF Situation Analysis of Children and Women in Kosovo, 2004, page 38.

### 3. Child labour

400. According to Section 3 of UNMIK Regulation No. 2001/27 On Essential Labour Law in Kosovo, “a person under 15 years of age may not be employed”. A person under 18 years of age may only be employed in light work that is not likely to be harmful to his/her health or development, and shall not affect his/her attendance at school.

401. In practice, in many cases these norms are not respected because of poverty, underdevelopment, and inadequate care and protection from families and institutions. In many cases parents are forcing their children to work in order to support the family budget.

402. According to the 2004 UNICEF Situation Analysis of Children and Women in Kosovo, child labor has long been an established practice, particularly in rural areas, and is regarded as an accepted means to integrate children into the family and kinship network. In post conflict Kosovo, the number of children who are engaged in some form of employment has become a major concern.<sup>202</sup>

403. The 2000 World Bank Living Standards Measurement Survey estimated that approximately 4.5 per cent of children between the ages of 10 and 14 were engaged in some form of employment (paid and unpaid) mostly in agriculture, household work and petty trade.<sup>203</sup>

404. According to a background paper prepared by CARE for the 2004 UNICEF Situation Analysis of Children and Women Report, the most worrying finding is the age at which children begin to enter the labour force. The CARE study shows an important trend - increase of the number of children beginning to work before their tenth birthday. According to the survey, approximately 40 % of all children start working before their tenth birthday and there were several cases of children beginning work before the age of five (5). Such children traditionally engage in household work and agricultural activities. The survey also found that more than 30 % of working children under the age of 10 work in sales activities either on the street or in shops and markets. Some children are working after 10 ‘o-clock in the evening. These new trends are troubling because of the risks of school non-attendance and vulnerability of young children to exploitation and violence.

405. According to the 2004 UNICEF Situation Analysis of Children and Women in Kosovo, there are some important sex-related differences in child labour. While boys predominantly work in the selling and trading of items in public places, girls mostly work in households. Furthermore, boys start work at an earlier stage and work more hours per day than girls. However, the survey showed that girls are also more likely not to receive any financial remuneration for their work and are more likely not to attend school.<sup>204</sup>

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<sup>202</sup> Ibid., page 74.

<sup>203</sup> Ibid.

<sup>204</sup> Due to the non-representative nature of the survey sample it is not possible to draw definitive conclusion about child labour in Kosovo but the survey does point to important trends.



406. The bulk of child labour in Kosovo is concentrated in the informal sector. Based on 480 interviews with child labourers, resulting from the field visits of the Child Labour Monitoring Committee, it appears that the bulk of child labour is concentrated in the following categories: street working, different services, agriculture, scavenging, night bars and illicit activities.<sup>205</sup>

407. Urban centres are considered attractive work locations because of their perceived earning potential and greater access to customers. The highest number of children involved in street working and scavenging were identified in Prishtinë/Priština. Of 48 working children interviewed who were using Prishtinë/Priština as their main work location, 25 reported commuting to the city from rural areas. On top of long working hours and late night shifts, many child workers have to travel to and from their working locations. Sixteen per cent of working children interviewed by UNICEF reported having health problems, primarily injuries due to physical work, including back and muscle pain, wounds, broken bones, headaches and eye problems. These problems are related to physical activities like carrying goods in markets and in streets, construction work, agricultural activities and scavenging in dumpsites. The majority of children, about 87 per cent, reported that they did not abandon school but worked late at night. About 11% of the working children interviewed had been victims of criminal acts (theft, attack, threats).<sup>206</sup>

408. According to the US Department of State Country Report on Human Rights Practices 2006 for Serbia (including Kosovo), Romani children in particular tended to be disadvantaged by poverty, leading many to start work both at home and in the streets at an early age to contribute to family income.<sup>207</sup>

#### **4. Institutional protection of children's rights and public policy**

##### **(a) International Programme on the Elimination of Child Labour (IPEC) - activities in Kosovo**

409. Kosovo participates in the PROTECT CEE<sup>208</sup> since January 2004. A Memorandum of understanding between the International Labour Organization (ILO) and UNMIK, acting for the PISG in Kosovo, was signed by the SRSG on 21 January 2005.

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<sup>205</sup> See: International Programme on the Elimination of Child Labour (IPEC), International Labour Organization (ILO), Province Situation - Kosovo, 2005, page 4.

<sup>206</sup> See: International Programme on the Elimination of Child Labour (IPEC), International Labour Organization (ILO), Province Situation - Kosovo, 2005, page 4.

<sup>207</sup> US Department of State Country Report on Human Rights Practices for Serbia (including Kosovo), 2006.

<sup>208</sup> Project of Technical Assistance against labour and sexual exploitation of children, including trafficking, in countries of Central and Eastern Europe.

410. On February 2005, a Child Labour Unit (CLU) was established under the Labour Department within the Ministry of Labour and Social Welfare (MLSW) as part of the PROTECT CEE capacity building efforts and based on the commitment of the MLSW to the issue of combating the worst forms of child labour in Kosovo. The CLU serves as a coordination body on child labour related activities of the MLSW, as well as other governmental structures, social partners and NGOs.

411. A Focal Point for protection of children from labour and sexual exploitation has been appointed in the Department of Youth of the Ministry of Culture, Youth, Sports. Establishment of a focal point for Child Labour Monitoring in the Labour Inspectorate has been agreed with the Head of the Labour Inspectorate and Deputy Minister of Labour and Social Welfare. Child Rights Co-ordinators were appointed in almost all municipalities during 2003.

412. The Strategic Programme Impact Framework (SPIF) exercise of 2004 in Kosovo showed that the main reason for the lack of implementation of the legislation and policies related to the Worst Forms of Child Labour (WFCL) is the lack of coordinating mechanisms between institutions, both at central and local levels, on issues of prevention of WFCL, withdrawal of children from WFCL, rehabilitation and long term reintegration of these children, as well as tracking during and after rehabilitation.

413. As a result of the SPIF exercise, IPEC and the MLSW prepared a Strategy for establishing Child Labour Monitoring Structures at central and local level by setting up and training a core team of trainers on Child Labour Monitoring (CLM) to provide training, guidance and continuous support for their colleagues at the local level, establishing Local Action Committees at the local level in selected municipalities, and documenting generated good practices. The CLM strategy is based on testing the CLM process in selected pilot areas, including Prishtinë/Priština, Prizren and Mitrovica (North and South).<sup>209</sup>

414. As decided within the Memorandum of Understanding between UNMIK acting for the PISG, Ministry of Labour and Social Welfare and the ILO, represented by the International Labour Office, the Ministry of Labour and Social Welfare agreed to establish the Kosovo Steering Committee for the Elimination of Child Labour (MoU article 4) as a coordinating body in combating child labour in Kosovo.

415. IPEC has so far signed three Action Programmes for partners to undertake the following activities: (a) an awareness raising campaign to increase the knowledge and change the attitude of key stakeholders on the issue of child labour; (b) pilot testing a model of a child labour monitoring system; (c) pilot testing a model for the long term rehabilitation of children victims of trafficking, based on psycho-social rehabilitation and economic empowerment. The know-how generated from the pilot activities will be shared with policy makers for replication.

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<sup>209</sup> Kosovo Child Labour Monitoring Profile, Draft proposal for the Kosovo Committee on Prevention and Elimination of Child Labour, Ministry of Labour and Social Welfare, January 2007, page 2.

To this end, (a) a database of beneficiaries will be established and regular impact reviews will be conducted, (b) emerging good practices will be documented, validated and shared with practitioners, and (c) recommendations based on practice will be submitted to the Government through seminars.<sup>210</sup>

416. A Technical Working Group on Child Labour Monitoring (TWG) was established by decision of the Kosovo Committee on Prevention and Elimination of Child Labour. The TWG was mandated to support the set-up of local Child Labour Monitoring Structures with capacity building, and to ensure that the information collected from workplaces, schools and the community at large is fed into social planning processes through the Institute for Social Policy, that will act as an information processing unit.

417. The CLM framework in Kosovo is designed to serve and operate at the local level. CLM will involve monitoring work places and schools in the community. The process is seeking to ensure that girls and boys are not involved in WFCL and attend schools. The framework in Kosovo is area based, operates at the local level, is based on the authority of the local and central government, and is linked to national CL policy. The management of the CLM at local level will be placed in the Municipal Directorates of Health and Social Welfare. The MDHSW will co-ordinate the process at local level. At central level, CLM will be managed by the Institute of Social Policy.

418. The TWG on CLM is organized into four multi-disciplinary Task Forces, each responsible for one of the selected municipalities: Prishtinë/Priština, Prizren and Mitrovica (North and South).<sup>211</sup>

#### **(b) Ministries**

419. The Ministry of Labour and Social Welfare (MLSW) coordinates child protection policies. The Department of Social Welfare within the MLSW has the responsibility for implementing interventions for the care and protection of children and young people. Centres for Social Work (CSW) under MLSW, are responsible for social protection of vulnerable people in their municipality. The CSW have wide ranging statutory powers to enable them to carry out their role in protecting children from abuse and neglect.

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<sup>210</sup> See: Project of Technical Assistance against labour and sexual exploitation of children, including trafficking, in countries of Central and Eastern Europe, International Programme on the Elimination of Child Labour (IPEC), International Labour Organization (ILO), Province Situation - Kosovo, 2005, page 9.

<sup>211</sup> Kosovo Child Labour Monitoring Profile, Draft proposal for the Kosovo Committee on Prevention and Elimination of Child Labour, Ministry of Labour and Social Welfare, January 2007.

420. The role of the Ministry of Education, Science and Technology in child protection is to promote the safety, welfare and well-being of children and youth whether they are students, apprentices or trainees in schools, colleges, workplaces, or under programmes conducted by the Ministry under the auspices of the Department of Education.

421. The Ministry of Culture, Youth, Sports and Non-Resident Affairs coordinates all the activities relating to young people in Kosovo (15 to 24 year of age). Policies and procedures are handled by the Department of Youth (DY) and there are municipal youth officers responsible for interacting with youth groups in the community. The DY actively promotes youth networks to increase co-operation and contacts between youth organisations, social agencies and institutions.

### **(c) Social protection**

422. According to Article 5(1) of the Family Law - children without parental care, and those with diagnosed mental or physical disorders, as well as parents who are not capable of creating necessary living conditions for themselves and their children are entitled to special financial and social support.

423. Furthermore Article 7(2) of the Family Law provides that children without parental care are given special protection through custody, family shelter, residential shelter and adoption.

424. The Custodianship Body exercises general and continuous supervision of the exercise of parental custody. According to article 147 of the Family Law, if the Custodianship Body learns about the existence of danger to the child, because of abuse of parental rights or any danger to the child by serious neglect of parental obligations, it is obliged to urgently undertake measures for the protection of the personality, the rights and the interests of the child, including to ask the court to decide on removal of custody of the child from the parents.

425. According to article 148(2) of the Family Law, exceptionally, where the Custodianship body has reasonable grounds to believe that there is an immediate serious risk to the health, safety or welfare of a child, it may enter the premises and remove the child to a place of safety where he/she will be cared for a period not exceeding 72 hours.

### **(d) Child care following divorce**

426. Under article 70 of the Family Law of Kosovo, children enjoy legal protection before and after the divorce. According to article 70(1), spouses are not allowed to file a claim for divorce by mutual agreement during the pregnancy of the wife, nor until their joint child becomes one year old. With the proposal for divorce by mutual agreement, spouses are obliged to submit a written agreement of care-taking, educating and feeding their joint children, as well as a written proposal on how personal contacts between the child and both of the parents shall be guaranteed in future. A divorce permission may not be granted or may be postponed, even though the marriage has failed, if the court decides that the maintenance of the marriage is in the best interests of the child.

427. The Family Law not only provides legal protection to the child but also gives protection to the spouse who experiences financial difficulties. According to article 71(1), “during the marriage court disputes, the court based on claim, may determine by decision about temporary measures to provide financial maintenance and accommodation for the spouse”.

428. According to the Family Law there is no discrimination in relation to the right for child care, as the joint children can be entrusted by the court to any of the spouses after the divorce for protection and education, taking into account the best interests of the child. In practice, in the majority of cases, fathers are favoured when entrusting the children after the divorce because of their financial independence. Women usually not only lose the custody of children but also often experience financial difficulties because of unemployment and financial dependence on the husband during the marriage.

429. According to article 82 of the Family Law, during reconciliation procedures the Custodianship body concludes under what living and developing conditions the joint children of the spouses are found, and undertakes all necessary measures to ensure education, security and financial maintenance, by making efforts to achieve agreement between the spouses in order to protect the children’s interests.

**(e) Protection of children without parental care**

430. According to article 157 of the Family law children without parental care enjoy special social protection in the form of custody, family shelter, residential shelter and adoption.

**(f) Adoption**

431. Adoption is regulated by the Family Law, which, in the art. 160, provides that the aim of adoption is to place a child under the custody of a person who wishes to take a child under his care and responsibility. Intermediation of the adoption also means to administer data about the prospective parents who wish to adopt a child.

432. The procedure for adoption is within the competence of the court. The court can ask for advice from the Custodianship Body in making a determination on adoption. The consent of the parents is required for the adoption of a child. The consent must be declared towards the competent court and becomes legally effective at the time it is delivered. The adoption of a child is permissible if it serves the child’s well-being and it is to be expected that a parent and child relationship will be created between the prospective adoptive parent and the child. Adoption is pronounced by the court only after the adopter has been caring for the child for an appropriate period of time not exceeding three months.

**(g) Organized placement within a family**

433. According to article 203 of the Family Law, children without parents or without parental care, and children whose development has been impeded by circumstances in their family, are placed with another family to ensure necessary conditions of development and education. They are guaranteed a placement in a family until they are considered able to lead an independent life and work. Placement is determined with the preliminary approval of the biological parents and is made with a family which can successfully fulfil parental obligations. According to article 206 of

the Family Law, the family in which a child with special needs, a neglected child, or a child with limited abilities is placed, is chosen upon the proposal of professionals assigned by the Custodianship Body, comprised of social workers, teachers, psychologists and doctors. Before making a decision upon a placement, the Custodianship Body provides full documentation on all relevant data.

**(h) Centres for social work**

434. Social services provided by municipal Centres for Social Work (CSW), are under the direction of the Ministry of Labour and Social Welfare, Department of Social Welfare. The Family Law of Kosovo,<sup>212</sup> the Law on Social Protection (LSP) of 1974, the Law on Marriage and Family Relations (LMFR) of 1984, and the Law on Social and Family Services (LSFS),<sup>213</sup> provide a general legal framework for the work of social services.

435. The LMFR states that the CSW is obliged to adequately investigate circumstances important for the child's psychological and physical development<sup>214</sup> but that a child may only be taken away from the parents if the child's upbringing is seriously endangered.

436. The role of social services in Kosovo is two folded, namely first to protect children and second to preserve families. The LSFS complements the Family Law of Kosovo, Article 138 which elaborates that "[t]he Custodianship body decides on appeal of a third person, in cases when custody of the child is under its control or upon a court decision." Furthermore, in accordance with Article 146, the Custodianship Body is responsible for "general and continuous supervision of the exercise of parental custody".

437. The LSFS adds, in Article 3(3.3)(g), that the Department of Social Welfare retains direct responsibility in all matters related to applications to the court initiated by a municipal Centre for Social Work. According to the LSFS, social services are to be provided to persons in need and Article 1(e) defines the beneficiaries to include: (a) children without parental care, (b) children with anti-social behaviour, (c) juvenile delinquents, (d) disordered family relations, (e) the elderly, (f) persons with physical illness or disability, (g) persons with mental disability, (h) persons with mental illness, (i) persons vulnerable to exploitation or abuse, (j) victims of domestic violence, (k) victims of trafficking in humans, (l) persons with an addiction to alcohol or drugs, (m) persons suffering from a natural or contrived disaster or emergency, and (n) persons suffering from other causes that renders them in need. Some of these categories are incorporated into the LSFS from the provisions of the 1974 Law on Social Protection. However, the law does not provide detailed definitions of the categories.

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<sup>212</sup> Law No. 2004/32 On Family, promulgated by UNMIK Regulation No. 2006/7 of 16 February 2006.

<sup>213</sup> Law No. 02/L-17 On Social and Family Services.

<sup>214</sup> LMFR article 116.

438. The Centers for Social Work (CSW) play an important role regarding protection of children during and after the divorce proceedings. The role of the CSW in cases of divorce is manifold. First the Custodianship Body settles the conjugal relations, and if conjugal relations cannot be settled for a certain period of time, the CSW provides the court with a written report (social history) regarding the socio-economic situation of the spouses and the children's emotional connection with their parents. This report is an essential condition based on which the CSW makes the decision on entrusting the child to one of the parents. The CSW always takes into consideration the child's interest and protection, as well as factors that influence the child's development and growth in an adequate manner.

439. In practice, in accordance to the previously applicable Law on Marriage and Family Relations to date, the Custodianship Body entrusted the child to one of the parents in cases when the couple was not in wedlock.

440. The CSW, respectively the Custodianship Body, after divorce-separation of spouses, arranges contacts between the child and the other parent. The contacts take place under supervision of the Custodianship Body, especially in cases when the child-parent contact is arranged to take place at the CSW premises. The CSW has a special office where the contacts take place, which is equipped with toys and other items for children in order for them to feel as comfortable as possible while the contacts take place. Even in cases when the contact is arranged out of CSW premises - upon agreement of the former Couple - the CSW observes such contacts in case misunderstandings occur during the contact.

441. Furthermore the CSW plays an important role regarding orphans and abandoned children. The Custodianship Body provides to orphans/abandoned children the following forms of protection: Custody, Family Sheltering and Fostering. First, it assigns a guardian who is a close family member of the orphan or abandoned child, if he/she has any, or a member of the extended family, if that is possible. The Ministry of Labour and Social Welfare provides a monthly financial assistance of 50 Euro to children sheltered with their relatives, while children sheltered with families that are not in family relation with them, receive an assistance in the amount of 100 Euro per month. This form of protection continues until the child turns 18 years of age. As Custodianship Body, the CSW provides care for the children whose parent's relationship is disordered, who are mentally ill or divested from the capacity to act and/or from their parental rights. The children are placed at a family shelter or temporarily at the charitable institutions of "Hope and Homes for Children" or at "SOS - Kinderdorf" (SOS mother). Even for these children, a guardian and a manager are assigned and efforts are made to assign them from the ranks of the child's relatives. A guardian is also assigned from the ranks of CSW staff.

442. Regarding abandoned children, the Custodianship Body undertakes several actions. First of all a guardian and manager are assigned to the child, who registers the child, then the child is provided with shelter at the transitional house or with a sheltering family. Considerable efforts are made to return the child to its biological parents. In cases when the biological parents are not found, after regulating the child's status, the child is transferred into a pre-adoption stage and is adopted at a later stage.

443. According to the US Department of State Country Report on Human Rights Practices 2006 for Serbia (including Kosovo), the high unemployment and family dislocation in Kosovo has resulted in abandonment of newborns. The Ministry of Labour and Social Welfare reported that

1,200 children were either orphaned or abandoned since the end of the 1999 conflict, although the abandonment rate was decreasing, and only 56 children were abandoned between January and October of 2006. The children were housed in various residential placements including extended family care, foster care, and community-based homes. However, because domestic adoptions and foster family programs did not keep pace with the rate of abandonment, authorities sometimes housed infants and children in group homes with limited numbers of caregivers.

444. Children with disabilities were often hidden away without proper care, particularly in rural areas. Available data on the number of children with disabilities is limited. Handicap International has estimated that there are around 2000 mentally and/or physically disabled children in Kosovo, but consider that this figure is probably higher in reality. Part of the problem has to do with societal attitudes towards children with disabilities, and there are still many taboos connected with having a disabled child. Evidence suggests that in more remote rural villages, disabled children are hidden away and do not attend school, or do not have access to basic rehabilitative healthcare. A study of 300 children with disabilities carried out by local NGO, Handikos, found that most suffered from some form of physical disability (41 per cent) with approximately 16 per cent of children suffering some form of mental disability. An equal proportion (14 per cent) was found to be either deaf or blind.<sup>215</sup>

445. According to the US Department of State Country Report on Human Rights Practices, 2006 for Serbia (including Kosovo) during the year 2006, the Ministry of Labour and Social Welfare's Centres for Social Work assisted 1,188 orphans, 1,695 delinquent children, 66 abused children, 66 abandoned children, and 388 children with behavioural problems. The Ministry also managed foster homes and co-ordinated with NGOs to place children in temporary shelters. According to the Centres for Social Work, 19 abandoned disabled children, ranging from three to 18 years of age, were living in two government-funded community homes with 24-hour care.<sup>216</sup>

## **5. Right of children to inheritance**

446. Article 11 of the Law on Inheritance in Kosovo<sup>217</sup> foresees as heirs at law: the decedent's children, his/her adoptees, and their descendants.

447. Article 3, guarantees equality in inheritance. It provides that children born out of wedlock as well as adopted children are considered equal to the children born in wedlock. Furthermore, article 24 provides that the adoptee and his descendants shall have the same rights towards the adopter as the adopter's biological children and their descendants. Article 12 of the Law on Inheritance in Kosovo provides that the decedent shall be inherited, prior to all others, by his

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<sup>215</sup> See: UNICEF Situation Analysis of Children and Women in Kosovo, 2004, page 83.

<sup>216</sup> US Department of State Country Report on Human Rights Practices, for Serbia (including Kosovo), 2006.

<sup>217</sup> Law No. 2004/26 On Inheritance, promulgated by UNMIK Regulation No. 2005/7 of 4 February 2005.



children and spouse putting them in the first rank of inheritance. In Article 13, the Law envisages the right to representation, providing that descendants of the children (grandchildren) shall have the right to inheritance from the decedent.

## **6. Trafficking of children**

448. UNMIK Regulation No. 2001/4 On the Prohibition of Trafficking in Persons in Kosovo was adopted on 12 January 2001, and, prior to the entry into effect of the Provisional Criminal Code of Kosovo, it was the main legal instrument to combat trafficking.

449. The Provisional Criminal Code of Kosovo came into force on 6 April 2004.<sup>218</sup> Article 139 of the Provisional Criminal Code of Kosovo (PCCCK) defines the term “trafficking in persons” in accordance with the Palermo Protocol.<sup>219</sup> The difference from the Palermo definition includes the fact that there is no requirement for the crime to be organised (i.e. it does not need to be committed by more than two persons to be qualified as trafficking), or to be of a trans-border character (i.e. internal trafficking is included).

### **(a) Definitions**

450. Kosovo legislation differentiates trafficking in humans from illegal migrants, prostitutes and smuggled migrants.

451. Trafficking in persons is defined as, “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”<sup>220</sup>

452. Exploitation is further defined in this article as, “exploitation of the prostitution of others, or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.” The victim’s consent for exploitation is irrelevant, especially in circumstances where the victim was recruited by means of force and/or manipulation. The threshold for classifying children as victims of trafficking is much lower. Because a child cannot give consent to exploitation, any of the means listed in the definition (“threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent”) are not relevant.

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<sup>218</sup> UNMIK Regulation No. 2003/25 On the Provisional Criminal Code of Kosovo of 6 July 2003.

<sup>219</sup> The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), supplementing the United Nations Convention against Transnational Organized Crime.

<sup>220</sup> See Article 139 of UNMIK Regulation No. 2003/25 On the Provisional Criminal Code of Kosovo.

**(b) Identification of child-victims of trafficking in humans for the purposes of sexual exploitation**

453. UNMIK has established the Trafficking and Prostitution Investigation Unit (TPIU) within the UNMIK Police in order to address cases related to commercial sex work and the trafficking of young women and girls. Of special concern are both minors who are found to have been trafficked and Kosovo residents who themselves have been discovered in commercial sex work or as victims of trafficking themselves.

454. Statistics have been recorded by the Kosovo NGO, the Centre for the Protection of Women and Children, which assisted 271 Kosovo victims of trafficking between 2000 and 2002. Four victims were trafficked to France and seven to Italy, while the rest were trafficked internally within Kosovo. Over a third of the victims were between the age of 11 and 14 and another 50 per cent between the ages of 15 and 18. In total, the number of cases reported involving minors was 291.<sup>221</sup> Out of the total number of children victims of trafficking identified in 2005, 86% were originally from Kosovo.<sup>222</sup> Centres for Social Work also reported 10 cases of children forced into prostitution and 36 cases of children being trafficked. All of these cases involve children, aged 16-18.

455. A child, defined as a person under the age of 18, cannot consent to be trafficked as defined in article 139 of the Provisional Criminal Code of Kosovo. The age of sexual consent in Kosovo is 16. By reporting cases of “voluntary prostitution” that concern children, social services often make a wrong interpretation that a child can legally consent to prostitution.

456. In addition to the unclear differentiation between “voluntary prostitution”, forced prostitution and trafficking for the purposes for sexual exploitation of children, there is also a definition of “anti-social” children that social services often use in their practice that requires further clarification in the law. Social service officers define the term by giving an example of a child who is: troubled, abandoned by parents, does not go to school, engages in small theft and/or “begs or sells on the street”. From this definition it appears that abused and exploited children, who would display the above-mentioned behavioural changes, may be mis-identified as “anti-social” and deprived of the special forms of protection available for children victims of

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<sup>221</sup> Save the Children study on child trafficking in Kosovo suggests that CPWC reports do not distinguish clearly between cases of violence, abuse and trafficking.

<sup>222</sup> This information is collected from the Department of Justice, Trafficking in Human Beings Section of the police (THBS), Yearly Report 2005. In 2005, the THBS reported that 14 children had been identified as victims of trafficking and 11 of them were assisted.

trafficking. The number of “anti-social children” in Prishtinë/Priština alone in the year 2005 was 358.<sup>223</sup> By May of 2006, social services have reported 358 cases of anti-social children Kosovo-wide.

## **7. Juvenile justice**

457. The Juvenile Justice Code<sup>224</sup> came into force on 20 April 2004 and clearly defines how the justice system should treat juvenile crime, with provisions for mediation, specialised courts and alternatives to imprisonment.

458. The Juvenile Justice Code (JJC) prescribes extra protection for juveniles victims of sexual crimes, including trafficking. These cases are to be handled by a juvenile panel. Article 141 of the JJC stipulates that the juvenile panel and juvenile judge shall try adults for certain criminal offences which are committed against a child. This provision was introduced with the intent of providing juveniles who have been victims of certain types of serious criminal offences with a special protection within the criminal justice system, in compliance with the applicable international standards.

459. The Juvenile Justice Code of Kosovo (JJC) states in Article 143(2) that “the examination of a child shall be conducted with the assistance of a pedagogue, psychologist or another expert” if the juvenile is examined as a witness in cases involving specific serious crimes, such as trafficking, sexual offences, or forced labour/slavery.<sup>225</sup> It appears that, in practice, the requirement of the presence of an expert is not always respected.

460. The Victim Advocates of the Ministry of Justice, Department of Civil Rights, Victim Advocacy and Assistance Division, are mandated to assist victims of crime, in accordance with Article 82 of the Provisional Criminal Procedure Code of Kosovo (PCPCK).<sup>226</sup> Under this article, Victim Advocates are responsible to assist victims of trafficking from the initiation of the proceedings. Victim Advocates function as authorized representatives and they have a duty to safeguard the rights of the injured party, “especially to protect his or her integrity during

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<sup>223</sup> In Gjilan/Gnjilane region there were 213 “anti-social children”, in Mitrovicë/Mitrovica region 174, Prizren region had 143 and in Pejë/Peć 102. The few municipalities with no identified cases of “anti-social children” are Zubin Potok, Zvečan, Lipjan/Lipljan and Fushë Kosovë/Kosovo Polje.

<sup>224</sup> UNMIK Regulation No. 2004/8 On the Juvenile Justice Code of Kosovo of 20 April 2004.

<sup>225</sup> In the spirit of “the best interest of the child” principle, the Juvenile Justice Code provides in Article 143(1) that “when conducting proceedings involving a criminal offence committed against a child, the authorities or institutions shall act with particular care in relation to the child who suffered harm from the criminal offence, bearing in mind his or her age, personal characteristics, education and environment in which he or she lives, so as to avoid any possible harmful consequences for his or her upbringing and development.”

<sup>226</sup> UNMIK Regulation No. 2003/26 On the Provisional Criminal Procedure Code of Kosovo.

examination before the authority conducting the proceedings and to file and pursue property claims.” Victim Advocates are further responsible to “assist injured parties in safeguarding their rights, including, where appropriate, as authorized representatives of the injured parties”.

461. With regard to non-custodial sentences, in 2002, the NGO “Terres des Hommes”, supported by UNICEF, and in partnership with the Department of Social Welfare and the Department of Justice, introduced a pilot programme of Community Service Orders as an alternative to detention for juvenile offenders. This programme was extended to all of Kosovo in 2003.

462. The role of the Kosovo Police Service in child protection is to identify, to report and to investigate child abuse and neglect. The Kosovo Police Training School in Vushtrri/Vučitrn, with the support of UNICEF, includes a three-hour training component on the policing of juveniles for all new police recruits.

## **Article 11**

### **A. Legislative framework**

463. The development of a modernized legislative framework for issues arising in relation to the right to an adequate standard of living has received considerable attention since 1999. Developments in legislation have related to property rights and housing, healthy environment, sanitary standards and quality control, energy and electricity, and agriculture.

#### **1. Property rights and housing**

- UNMIK Regulation No. 1999/10 On the Repeal of Discriminatory Legislation Affecting Housing and Rights in Property of 13 October 1999
- UNMIK Regulation No. 1999/23 On the Establishment of the Housing and Property Directorate and the Housing and Property Claims Commission of 15 November 1999
- UNMIK Regulation No. 2000/53 On Construction in Kosovo, also known as “the Rexhep Luci Regulation on Construction” of 25 September 2000
- UNMIK Regulation No. 2000/60 On Residential Property Claims and the Rules of Procedure and Evidence of the Housing and Property Directorate and the Housing and Property Claims Commission of 31 October 2000
- UNMIK Regulation No. 2001/17 On the Registration of Contracts for the Sale of Real Property in Specific Geographical Areas of Kosovo of 22 August 2001
- UNMIK Regulation No. 2002/12 On the Establishment of the Kosovo Trust Agency of 13 June 2002, as amended by UNMIK Regulation No. 2005/18
- Law No. 2002/4 On Mortgages, promulgated by UNMIK Regulation No. 2002/21 of 20 December 2002

- Law No. 2002/5 On the Establishment of an Immovable Property Rights Register, promulgated by UNMIK Regulation No. 2002/22 of 20 December 2002, as amended by Law No. 2003/13, promulgated by UNMIK Regulation No. 2003/27 of 18 August 2003
- UNMIK Regulation No. 2003/13 On the Transformation of the Right of Use to Socially-Owned Immovable Property of 9 May 2003
- Law No. 2003/14 On Spatial Planning, promulgated by UNMIK Regulation No. 2003/30 of 10 September 2003
- Law No. 2003/25 On Cadastre, promulgated by UNMIK Regulation No. 2004/4 of 18 February 2004
- Law No. 2004/15 On Construction, promulgated by UNMIK Regulation No. 2004/37 of 14 October 2004
- Law No. 02/L-14 On Construction Products, promulgated by UNMIK Regulation No. 2005/28 of 17 May 2005
- UNMIK Regulation No. 2006/10 On the Resolution of Claims Relating to Private Immovable Property, including Agricultural and Commercial Property of 4 March 2006, as amended by UNMIK Regulation No. 2006/50 of 16 October 2006
- Law No. 02/L-62 On the Inspectorate of Construction Products, promulgated by UNMIK Regulation No. 2006/39 of 11 August 2006

## **2. Healthy environment**

- Law No. 2002/8 On Environmental Protection, promulgated by UNMIK Regulation No. 2003/9 of 15 April 2003
- Law No. 2003/19 On Occupational Safety, Health and the Working Environment, promulgated by UNMIK Regulation No. 2003/33 of 6 November 2003
- Law No. 2003/22 on the Sanitary Inspectorate of Kosovo, promulgated by UNMIK Regulation No. 2003/39 of 17 December 2003
- Law No. 2004/24 On Kosovo Water, promulgated by UNMIK Regulation No. 2004/41 of 14 October 2004
- Law No. 2004/30 On Air Protection, promulgated by UNMIK Regulation No. 2004/48 of November 2004
- UNMIK Regulation No. 2004/49 On the Activities of Water, Wastewater and Waste Services Providers of 26 November 2004
- Law No. 02/L-18 On Nature Conservation, promulgated by UNMIK Regulation No. 2006/22 of 24 April 2006

- Law No. 02/L-30 On Waste, promulgated by UNMIK Regulation No. 2006/31 of 5 May 2006
- Law No. 02/L-68 On Protection Against Natural and Other Disasters, promulgated by UNMIK Regulation No. 2007/4 of 15 January 2007

### **3. Sanitary laws/Quality control**

- UNMIK Regulation No. 2000/69 On the Importation of Live Animals into Kosovo of 30 December 2000
- Law No. 2004/11 On Measurement Units, promulgated by UNMIK Regulation No. 2004/14 of 28 May 2004
- Law No. 2004/12 On Standardisation, promulgated by UNMIK Regulation No. 2004/15 of 28 May 2004
- Law No. 2004/17 On Consumer Protection, promulgated by UNMIK Regulation No. 2004/42 of 19 October 2004
- Law No. 02/L-1 On Market Inspection, promulgated by UNMIK Regulation No. 2005/29 of 31 May 2005
- Law No. 02/L-20 On Technical Demands for Products and Valuation of Conformation, promulgated by UNMIK Regulation No. 2005/36 of 21 July 2005

### **4. Energy and electricity**

- Law No. 2004/8 On Energy, promulgated by UNMIK Regulation No. 2004/21 of 30 June 2004
- Law No. 2004/10 On Electricity, promulgated by UNMIK Regulation No. 2004/22 of 30 June 2004
- Law No. 2004/9 On the Energy Regulator, promulgated by UNMIK Regulation No. 2004/20 of 30 June 2004

### **5. Agriculture**

- Law No. 2003/3 On Forests, promulgated by UNMIK Regulation No. 2003/6 of 20 March 2003, as amended by Law No. 2004/29, promulgated by UNMIK Regulation No. 2004/40 of 14 October 2004
- Law No. 2003/5 On Seeds, promulgated by UNMIK Regulation No. 2003/10 of 15 April 2003
- Law No. 2003/9 On Farmers Cooperatives, promulgated by UNMIK Regulation No. 2003/21 of 23 June 2003

- Law No. 2003/10 On Artificial Fertilizers, promulgated by UNMIK Regulation No. 2003/22 of 23 June 2003
- Law No. 2003/20 On Pesticides, promulgated by UNMIK Regulation No. 2003/35 of 8 December 2003
- Law No. 2004/16 On Planting Material, promulgated by UNMIK Regulation No. 2004/16 of 28 May 2004
- Law No. 2004/21 On Veterinary, promulgated by UNMIK Regulation No. 2004/28 of 30 July 2004
- Law No. 2004/33 On Livestock, promulgated by UNMIK Regulation No. 2004/39 of 14 October 2004
- Law No. 02/L-10 On Animal Welfare, promulgated by UNMIK Regulation No. 2005/24 of 9 May 2005
- Law No. 02/L-1 On Market Inspection, promulgated by UNMIK Regulation No. 2005/29 of 31 May 2005
- Law No. 02/L-8 On Wine, promulgated by UNMIK Regulation No. 2005/47 of 14 October 2005
- Law No. 02/L-9 On Irrigation of Agricultural Lands, promulgated by UNMIK Regulation No. 2005/49 of 25 November 2005
- Law No. 02/L-26 On Agricultural Land, promulgated by UNMIK Regulation No. 2006/37 of 23 June 2006
- Law No. 02/L-85 On Fishery and Aquaculture, promulgated by UNMIK Regulation No. 2006/58 of 20 December 2006

#### **6. Previously existing applicable laws**

- The Law on Property and Legal Relations 1980
- The Law on procedure of dispute FSRJ no. 21/78
- The Law on external -dispute procedure SAPK 42/86
- The Law on executive procedure FSRJ 20/78
- The Law on compulsory relations 1978

#### **B. Standard of living and poverty rates**

464. Economic decline in Kosovo started at the beginning of the 1980's and further deteriorated during the 1990's. At the end of the decade, production had decreased by more than one half,

income had collapsed, less than a half of the population was employed, and half of the population was living in poverty.<sup>227</sup> Following the end of the conflict there was a fast economic recovery which resulted from donor funded activities and the inflow of remittances from the Diaspora.<sup>228</sup> However, this performance was mainly due to post-conflict external aid flows<sup>229</sup> which did not lead to the creation of jobs and economic sustainability. Although there was a reduction in poverty between 2000 and 2003, 37% of the population was estimated to live in poverty in 2002/03, according to the Household Budget Survey (HBS) conducted by the Statistical Office of Kosovo (SOK).

465. Since 2003, it is estimated the economy has grown between 2-3 percent with the services sector accounting for around 60% of GDP, the agricultural sector around 25%, and industry about 15%. The private sector represents about 60% of GDP, with Small and Medium Enterprises (SME) as the major contributors.<sup>230</sup>

466. The weight of external inflows<sup>231</sup> resulted in a vulnerable economy that is also affected by a fragile social cohesion, poor environmental conditions, and deficient industrial and basic infrastructure which further undermine the sustainability of economic growth and its impact on poverty reduction. In addition, the pro-poor potential of public social service delivery could be jeopardized by weak governance, a low level of administrative capacity and inadequate resources. The lack of a comprehensive and integrated social statistics system could also limit the ability of the Government to formulate pro-poor policies and plan future investments.

467. In 2000, the GDP per capita was estimated at 759 USD, and had increased to 950 USD in 2003 on the IMF estimation, compared to 1,640 USD in Albania. Absolute income poverty is widespread, and Human Development Indicators and living standards are very low compared to neighbouring countries. This includes health indicators, illiteracy rates, and education attainment levels. The level of unemployment has been estimated at 55% by the IMF. Women unemployment reaches 68.9% and is highly prevalent among young people belonging to the 15-24 age group.

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<sup>227</sup> World Bank, Report No. 32378-XK, Kosovo Poverty Assessment, Promoting Opportunity, Security, and Participation for All, June 2005.

<sup>228</sup> GDP growth reached 21% in 2001. Since then, the average increase is 4.3%. GDP per capita increased from about USD 400 in 1995 to USD 790 in 2003. Gross National Disposable Income (GNI) per capita was about USD 975 in 2002, and USD 1170 in 2003, WB, *Op. cit.*, page 15.

<sup>229</sup> According to the IMF, between 2000 and 2003 the foreign assistance totalled €4.1 billion, more than twice Kosovo 2003 GDP. Private inflows amounted to 2.4 billion of Euro.

<sup>230</sup> Commerce, construction, food processing, wood-based industry, and design services are the main sectors.

<sup>231</sup> The IMF has estimated that economic activity in 2004 was dependant on foreign assistance and external private inflows up to 50% of GDP.



468. Overall, according to the World Bank (WB), the poverty situation has almost not changed since 2000.<sup>232</sup> However, not all available data related to poverty are strictly comparable<sup>233</sup> which make it difficult to assess whether the economic growth has produced a reduction in poverty. According to the WB estimates, poverty amounted to 50% in 2000 based on the Living Standards Monitoring Survey (LSMS), and 37% in 2002 based on the HBS. The poverty gap, the severity of poverty and the level of extreme poverty were estimated respectively at 15.7%, 6.8%, and 12% in the LSMS, and 11.4%, 4.9%, and 15.2% in the HBS. It is possible, however, to conclude that general poverty has declined but it is not possible to establish any trend on extreme poverty.

469. The LSMS conducted in 2000 shows that Kosovo Serbs have a higher headcount ratio (57%) than the Kosovo Albanians (46%). However, differences regarding the depth of poverty are smaller and both groups have comparable levels of inequality with a Gini coefficient of 0,28. The incidence of poverty is higher in urban areas, among non-Serb ethnic minorities, families with numerous children, and unemployed people. However, the majority of extreme poor live in rural areas (70%). Poverty indices present huge differences among regions, with the highest being those of Ferizaj/Uroševac (28.9%), Mitrovicë/Mitrovica (24.2%), and Pejë/Pec (22.6%). About half of the extreme poor are located in these municipalities.

470. The provision of basic services is not satisfactory, especially in rural areas, with only 68% of the population having access to safe water and only 28%, mostly urban population, connected to a sewage system. The environment faces severe problems with regard to water quality, waste management, and air and soil pollution.

### 1. Poverty lines

471. The SOK employs two poverty lines based on the composition of the minimum consumer basket.<sup>234</sup> The poverty lines have been established using the real food consumption and calculated in accordance with the third, fourth, and fifth deciles of population, by average food price according to the 2002-2003 HBS. These poverty lines were updated for the 2003-2004 HBS according to the average difference of Consumer Price Index (CPI).<sup>235</sup> The consumption aggregate includes food, non-food, health, education, recreation and sport, restaurants and hotels expenses and other expenditures. Food expenses includes cost of food items bought and food

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<sup>232</sup> WB, *Op. cit.*, page 21.

<sup>233</sup> The two surveys differ in consumption modules and the use of survey-specific poverty lines.

<sup>234</sup> The minimum consumer basket was compiled as a result of the analysis of household budgets in the year 2002, Living Standard Statistics, Pristina, 2005, page 8.

<sup>235</sup> Average difference of CPI was estimated as:  $101.45/100.88 = 1.0056$ , Living Standard Statistics, Pristina, 2005, page 8.

items home produced. Non-food expenses include hygienic products, clothes, furniture and transport among others. The household consumption has been adjusted in order to achieve an adequate comparison of households with different demographic background.<sup>236</sup>

472. Overall, the average of household income and consumption decreased between the two surveys conducted by the SOK as the table below shows:

**Table 67**

**Monthly average of household consumption in Kosovo (in Euro)**

	June 2002 - May 2003			June 2003 - May 2004		
	Sort of location			Sort of location		
	Total	Urban	Rural	Total	Urban	Rural
Households incomes	321.85	317.04	324.12	273.95	319.06	253.33
Households consumptions	374.78	310.53	405.10	331.95	326.51	334.43
Households expenditures	321.36	307.21	328.04	281.00	322.93	261.84
Food consumption from self production	53.42	3.32	77.06	51.41	3.57	73.27

*Source:* Statistical Office of Kosovo, 2005.

473. Poverty lines in Kosovo are calculated for a model household composed of four adults and two children, using the adjusted per adult equivalent consumption as the main welfare indicator. The food or extreme poverty line is estimated at 0.94 Euro or 2,100 calories a day per person. The complete or final poverty line is estimated at 1.42 Euro per day.

474. The HBS 2002-2003 data shows that around 37% of the population was living below the complete poverty line, and approximately 15% was below the food poverty line. According to the HBS conducted in 2003-2004, 44% of the population was living in complete poverty, and 14% was below the food poverty line.

475. Using the adjusted adult equivalent consumption as the main poverty indicator, it is remarkable that the average consumption of adult equivalent decreased between the

<sup>236</sup> The formula used to determine the size of the households is the following:  $AE_i = (A_i + \alpha C_i)^\theta$  wherein  $A_i$  is the number of adults,  $C_i$  is the number of children, and  $\alpha=0.75$  and  $\theta=0.75$  are the basic parameters reflecting the households' economies according to the LSMS (2000), and the HBS (2002-2003) surveys. This has been further defined by using the adjusted adult equivalent size of the household  $i$  ( $AE\_ADJ_i$ ), is defined as:  $AE\_ADJ_i = A0 + C0 / (A0 + \alpha C0)^\theta AE_i$ , where  $A0$  and  $C0$ , are the number of adults and children in the typical "modal" household respectively, and  $A_i$  and  $C_i$ , are the number of adults and children in the  $i^{th}$  household. The modal household in Kosovo is a six-member household, with four adults ( $A0$ ), and two children ( $C0$ ).

two survey periods. However, it increased for the richest half of the population. The reduction of expenditures on food was the main element of this average decrease. The table below show the households' average adult equivalent consumption:

**Table 68**  
**Households average adult equivalent consumption, in Euro**

	HBS 2002 2003			HBS 2003 2004		
	Deciles 1-5	Deciles 6-10	Average	Deciles 1-5	Deciles 6-10	Average
Consumption of household	34.4	80.6	57.5	33.2	71.7	52.5
Expenditures on food	21.2	37.5	29.3	18.9	33.3	26.1
Expenditures on non-food products	4.1	18.1	11.1	4.3	14.7	9.5
Expenditures on health services	0.8	1.4	1.1	0.7	1.7	1.2
Expenditures on communications	1.8	7.6	4.7	1.5	6.2	3.8
Expenditures on recreation and culture	0.2	1.2	0.7	0.2	0.9	0.6
Expenditures on education	0.2	0.7	0.4	0.4	2.1	1.2
Expenditures on restaurants and hotels	0.1	0.7	0.4	0.1	1.0	0.5
Expenditures on other products and services	0.6	1.9	1.2	0.5	1.3	0.9
Consumption of self produced or self prepared food	5.6	11.4	8.5	6.6	10.4	8.5

*Source:* SOK.

476. The decrease in the consumption has resulted in an increase of the complete poverty incidence possibly due to the change of the poverty status of a number of households from extreme poverty to complete poverty.

**Table 69**  
**Poverty Headcount Index based on complete poverty line**

Poverty Headcount Index (%)				
	Adult equivalent measures		Per capita measures	
	Poverty headcount index according to members of households	Poverty headcount index according to individuals	Poverty headcount index according to members of households	Poverty headcount index according to individuals
HBS 2002 2003	36.3	37.0	40.5	42.0
HBS 2003 2004	41.1	43.9	40.7	48.7

*Source:* Statistical Office of Kosovo, 2005.

**Table 70**  
**Poverty Headcount Index based on extreme poverty line**

Poverty Headcount Index (%)				
	Adult equivalent measures		Per capita measures	
	Poverty headcount index according to members of households	Poverty headcount index according to individuals	Poverty headcount index according to members of households	Poverty headcount index according to individuals
HBS 2002 2003	14.9	15.3	17.9	19.5
HBS 2003 2004	12.3	13.8	13.7	18.1

*Source:* Statistical Office of Kosovo, 2005.

477. Both HBS also indicate that the size of the poverty gap and the severity of poverty was not excessively deep. According to SOK data, it is estimated that to escape from poverty the necessary average increment of consumption is 11% of the poverty line. In addition, consumption is distributed in a relatively flat way, with an estimated Gini coefficient of 30%.

478. The poverty gap and severity indicators are based on individual level statistics. The poverty gap index trends are similar to those of the poverty individual index. There is a small decrease in extreme poverty, and some increase in complete poverty. The tables below are show the trends in the poverty gap and severity indicators, based on adult equivalent measures.

**Table 71**  
**Poverty gap index (%)**

	Extreme poverty gap index	Complete poverty gap index
HBS 2002 2003	3.7	11.4
HBS 2003 2004	3.0	11.9

*Source:* Statistical Office of Kosovo, 2005.

**Table 72**  
**Poverty severity index (%)**

	Extreme poverty severity index	Complete poverty severity index
HBS 2002 2003	1.3	4.9
HBS 2003 2004	1.0	4.5

*Source:* Statistical Office of Kosovo, 2005.

## **2. Extreme poverty**

479. Extreme poverty remains an important problem since about 14% of the population live below the food poverty line of 0.94 Euro per adult equivalent per day.

480. According to the HBS 2002 - 2003, the incidence of extreme poverty is higher among children (17.3%), and the elderly (17.1%). It represents 16.9% among children between 6-14 years old. In addition, given the young average age of the population, children between 0-14 years of age represent 34.5% of the extreme poor. The presence of disabled persons also has an incidence in household poverty levels and poverty risk. In such cases, the extreme poverty headcount increases by 3.6%. Female-headed households, which represent 4.7% of the total, have a risk of extreme poverty of 28.2%. The percentage is 14.6% in the case of male-headed households.

481. The incidence of extreme poverty ranges between 15.6% and 20.4% when the household head has only completed primary school or less. They constitute 79.8% of households. For those who have completed secondary school the percentage varies between 7.2% and 9.6%.

482. Unemployment and precarious jobs increase the extreme poverty indices. Housekeepers and unemployed heads present the highest extreme poverty indices (28.2% and 22.9% each). Overall, in these cases income poverty and the risk of poverty is much higher than the average.

483. Extreme poverty is also much higher among some groups of IDPs, both Kosovo Albanians and ethnic minorities, which are originally from rural areas and used to live on agriculture and cattle. Lack of education and professional training make their employability difficult and oblige them to depend on social assistance.

484. Kosovo Serbs present extreme poverty indices slightly below that of Kosovo Albanians. Other ethnic groups, namely members of the RAE communities, suffer a significantly higher index of extreme poverty (31%). Although because of the structure of the population Kosovo Albanians constitute the largest group within the extreme poor (86.1%), the risk of being poor among the RAE communities is more than two times higher than among Kosovo Albanians or Kosovo Serbs. Their possibility of being extreme poor is 14.6% higher.

### **3. Physical Quality of Life Index**

485. The illiteracy rate is about 5.9% according to the HBS 2002-2003. The infant mortality rate is estimated at 35 out of 1000 births,<sup>237</sup> and life expectancy is estimated at 70.59 years.<sup>238</sup> Therefore, the Physical Quality of Life Index of the population of Kosovo is approximately 84.38.

### **4. Poverty reduction**

486. Poverty has been one of the main issues addressed by the Government while drafting the Kosovo Development Strategy Plan (KDSP). One out of five National Policies' Workshops organised in co-operation with civil society was dedicated to poverty. The eradication of poverty and social exclusion by tackling their roots is one of the major objectives of the KDSP and has been taken into account in the development of economic growth policies.

487. The characteristics of social exclusion and poverty reflect the main development challenges that Kosovo is facing, including governance, growth, employment, and the unequal access of the population to public services.

488. In order to achieve the economic growth that can improve the standard of living of the entire population, the government will ensure that policies focusing on sustainable and pro-poor economic growth, enhancement of human capital, improvement of living conditions, regional cohesion, protection of the extreme poor, and monitoring poverty, be put in place.

489. The creation of a viable and solid private sector, in particular SMEs, will generate employment and economic growth. The development of the agricultural and rural sector, increasing the productivity through technical and financial support, will also tackle unemployment. The estimation, based on the reform-driven macro-economic scenario, is that the economy should grow at an average rate of 4.5% per annum, and the rate of unemployment is predicted to fall 1.5% annually.

490. Good outcomes in education and health will contribute to the increase of productivity and, in turn, will have a positive impact on economic growth and modern development. The Government will prioritize and increase spending policies in both sectors in line with the Millennium Declaration and to achieve a higher economic growth and welfare of the society as a whole.

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<sup>237</sup> Infant mortality was estimated at 35 per 1,000 live births in 2002, Situation Analysis of Children and Women in Kosovo, UNICEF, 2003.

<sup>238</sup> Health And Health Care Of Kosovo, MoH, Prishtinë/Priština, February 2004.

491. In order to improve the living conditions, access to safe water supplies and sewage, as well as better management of the environment and natural resources, have also been targeted by the Government.

492. Government policies will look into finding mechanisms to achieve an equal distribution of wealth and enhance social and regional cohesion. Through sustainable regional policies, the backward regions will be helped to keep the per capita income not below minus 25% compared to the national average. In addition, the sustainability and the effectiveness of the social protection programmes will have to be increased in order to benefit those that are actually excluded, such as elderly, disabled persons, and the extreme poor.

493. The Government objective is to eradicate extreme poverty between 2007 and 2013.

494. Data related to poverty, social and regional cohesion need to be improved through adequate and systematic monitoring activities, in order to measure the poverty-reduction progress and evaluate the appropriateness and impact of policies in place.

### **C. Housing and property**

495. The housing situation in Kosovo in June of 1999 was complicated by three main factors. Firstly, there is the destruction and damage to the housing stock caused during the 1998-1999 conflict. Secondly, there is the collapse of the socially owned enterprise system of subsidized housing for workers. Thirdly, there is the wholesale destruction, loss and organized removal of property registration, urban planning and other records related to housing from municipalities of Kosovo.

496. According to an assessment commissioned by the European Commission in July 1999,<sup>239</sup> more than 120,000 houses were damaged overall in the 29 municipalities<sup>240</sup> of Kosovo. The cost of reconstruction was estimated based on a scale of damage divided into four categories. Category One concerned damage of between 5-20% and was estimated at 23,062 dwellings. Category Two concerned damage levels between 20-40% and estimated at 18,003 dwellings. Category Three houses had damage levels between 40-60% and came to 31,855 dwellings, while Category Four with 60-100% damage concerned 455,598 dwellings.

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<sup>239</sup> Emergency Assessment of Damaged Housing and Local/Village Infrastructure in Kosovo, International Management Group, July 1999. The assessment was conducted during the first three weeks of July 1999 covering the whole of Kosovo and constituted a first rapid evaluation.

<sup>240</sup> At the time this study was undertaken there were 29 officially recognized municipalities in Kosovo.

497. The assessment report recommended a set of rehabilitation standards that were aimed at providing owners and/or rightful occupants of the residence with “a closed habitable unit within the building frame fully protected against the weather”.<sup>241</sup> The proposed standard was not for the complete reconstruction of the dwelling to its original state. The assessment estimated the total cost of housing rehabilitation to the standards suggested at 1.1 billion Euro.

498. The total housing stock in Kosovo was estimated in 2000 to be approximately 330,080 housing units.<sup>242</sup> In 2003, the Statistical Office of Kosovo (SOK) estimated the total number of households in Kosovo to be approximately 300,000. However, during the past six years large numbers of new houses and apartments have been built in Kosovo in and around major urban centres. There are no estimates of the numbers of newly constructed dwellings in Kosovo.

499. The majority of damaged housing was in the rural areas of Kosovo. Following the forced evacuation of some six to eight hundred thousand predominantly Kosovo-Albanians during the first half of 1999, upon their return, many found their homes to be partially or completely destroyed. Immediately following the end of the conflict, large numbers of predominantly Kosovo-Serbs fled the province along with the departing Yugoslav military and Serbian police forces. Returning Kosovo-Albanians began to take up residence in the now vacant accommodation in the cities. In addition, many other population groups were internally displaced within Kosovo and took up residence in dwellings vacated by others.<sup>243</sup>

500. The system of Socially Owned Enterprises (SOE) in the former Yugoslavia created a system whereby the workers of an SOE were entitled to receive a subsidized apartment or house owned by the SOE. As a result of the policies of the government of Serbia in the early 1990's, the majority of Kosovo Albanians lost their positions with SOEs and consequently lost their entitlements to reside in SOE apartments. SOE apartments were reallocated to Kosovo Serbs or to Croatian Serb refugees. During the 1990s, many SOE apartments were offered for sale to their then Serb occupants at subsidized prices. Following the end of hostilities in June 1999, many Kosovo-Albanians took up residence in SOE accommodation now vacated by departed Serbs. The SOE system of enterprise management had collapsed, and numerous disputes arose about enterprise management, and consequently allocation and management of SOE accommodations.

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<sup>241</sup> EU/IMG Emergency Assessment page 11 and following contained the reconstruction standards recommended.

<sup>242</sup> UNHCR Humanitarian Co-ordination and Information Centre, Kosovo Atlas first edition 2000.

<sup>243</sup> For example, the OSCE/Pillar III noted in its report Property Rights in Kosovo 2002-2003, page 65, that in the town of Gračanica/Gračanicë, Kosovo-Serbs were illegally occupying 70 houses over which Kosovo-Roma had property rights.



501. Further compounding this issue, “[w]ith the lack of official municipal authorities in Kosovo following the departure of the FRY authorities in 1999, the emergence of parallel governments’ further complicated the situation. These self-styled authorities, which were largely tolerated by the international community until the creation of the JIAS structure in January 2000,<sup>244</sup> often set up their own ‘Property Commissions’ which in instances carried out further (illegal) evictions and installed illegal occupiers with the support of illegal ‘police’ forces.”<sup>245</sup>

502. Both as a consequence of the conflict, and to a lesser or greater degree in an organized effort, the personal and property registration records, as well as cadastre and urban planning documents held in Kosovo municipalities had become severely damaged, had simply gone missing, or had been taken to Serbia proper for storage and use by so-called municipalities in exile. Subsequent property transactions have been registered in these municipalities without any record in Kosovo. This is compounded by the practice of circumventing registration of property transactions during the 1990s, either to avoid the cost of registration, or to avoid falling foul of legislation prohibiting certain types of property transactions.<sup>246</sup> Furthermore, many property rights holders, and particularly the Roma/Ashkali/Egyptian (RAE) population, did not register property transactions because they did not fully understand the value of doing so.<sup>247</sup> In sum, property rights records were either non-existent or defective in the information they contained.

503. As a consequence, the entire land registration, measurement and land use mechanisms have needed to be recreated. In addition, the lack of official records has made housing and property rights adjudication in Kosovo somewhat challenging, due to question-marks over the validity of evidentiary documentation. The lack of clarity about property rights documentation contributed to large numbers of disputes over housing and property rights, predominantly between Kosovo-Albanians and Kosovo-Serbs, but also among other population groups.

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<sup>244</sup> The Joint Interim Administrative Structure (JIAS) was established by UNMIK Regulation No. 2000/1 On the Kosovo Joint Interim Administrative Structure of 14 January 2000.

<sup>245</sup> Quotation from the OSCE/Pillar III report on Property Rights in Kosovo (January 2002), Annex: Property in Kosovo - Historical Overview, page 51.

<sup>246</sup> Examples include the Law on Changes and Supplements on the Limitation of Real Estate Transactions, Official Gazette of the Republic of Serbia, 22/91 of 8 April 1991, which was explicitly repealed by UNMIK Regulation No. 1999/10 On the Repeal of Discriminatory Legislation Affecting Housing and Rights in Property of 13 October 1999.

<sup>247</sup> See OSCE/UNHCR Ninth Assessment of the Situation of Ethnic Minorities in Kosovo (September 2001-April 2002), 22 May 2002, paragraphs 105-106.

504. Following the establishment of the UN Interim Administration Mission it became clear that numerous dwellings and properties of Kosovo-Serb residents of Kosovo were being vandalized, demolished and/or Kosovo-Serbs were being pressured into questionable contracts of sale of their properties and forced to depart Kosovo. There are no reliable figures available of the numbers of properties involved. Nor is there information available on the presumed perpetrators of these acts.

505. In order to address the institutional and administrative vacuum, new laws have been adopted on, inter alia, the regulation of construction permits,<sup>248</sup> the establishment of an immovable property rights register,<sup>249</sup> on establishment of mechanisms for spatial planning,<sup>250</sup> and the establishment of cadastral agencies.<sup>251</sup> The operation of all of these new mechanisms is not yet without concerns. In particular, the spatial planning processes have not yet resulted in complete and coherent municipal urban plans and the required Urban Development Plans, which hampers the municipal construction permit system.

### **1. Housing quality and affordability**

506. The Assembly of Kosovo Law No. 2004/15 on Construction,<sup>252</sup> establishes the main requirements for the design, construction, use of construction materials, and professional supervision of construction. It also regulates procedures for construction permits, use permits and building inspection as well as the design and building conditions with regard to public safety and environmental protection. The Ministry of Environment and Spatial Planning (MESP) and

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<sup>248</sup> UNMIK Regulation No.2000/53 On Construction in Kosovo, also known as “the Rexhep Luci Regulation on Construction” of 25 September 2000. The regulation is known by the name of the Director of Urbanism of the municipality of Prishtinë/Priština who was assassinated soon after having made a decision to demolish an illegally constructed restaurant in the Grmijë/Grmija park on the outskirts of the city.

<sup>249</sup> Law No. 2002/5 On the Establishment of an Immovable Property Rights Register promulgated by UNMIK Regulation No. 2002/22 of 20 December 2002, amended by UNMIK Regulation No. 2003/27 On the Promulgation of the Law adopted by the Assembly of Kosovo on Amendments and Additions to the Law No. 2002/5 on the Establishment of an Immovable Property Rights Register of 18 August 2003.

<sup>250</sup> Law No. 2003/14 On Spatial Planning promulgated by UNMIK Regulation No. 2003/30 of 10 September 2003.

<sup>251</sup> Law No 2003/25 On Cadastre promulgated by UNMIK Regulation No.2004/4 of 18 February 2004.

<sup>252</sup> Law No. 2004/15 On Construction promulgated by UNMIK Regulation No. 2004/37 of 14 October 2004.

the Ministry of Trade and Industry (MTI) have developed the provisions of the law by issuing a number of subsidiary acts related to technical specifications, professional requirements for designers and engineers, terms and conditions for licensing, and technical inspection.<sup>253</sup> A manual on Construction has been prepared by the MESP for use in ensuring the effective application of the Law on Construction.

507. The Law No. 02/L-14 on Construction Products,<sup>254</sup> determines terms and conditions for usage and trade of construction products, the acceptance of technical approvals for such products, evaluation and conformity verification of basic requirements, fulfilment of market supervision, and the application of special procedures in order to recognise their conformity. The MTI has issued several administrative instructions further regulating the conformity verification for construction products, determining conformity evaluation bodies and their responsibilities, and defining technical rules.<sup>255</sup> Specifically, technical rules cover mechanical resistance and stability, security against fire, hygiene, health and environment, protection against noise, and energy saving and heat retention. An Inspectorate of Construction Products has been established, but it is still severely under-resourced.

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<sup>253</sup> For instance, AI No. 5/2005 On the Criteria and Procedures for Issuing Licenses for Exercising the Activities in the Field of Projecting, Construction and Professional Supervision and Reviewing; AI No. 6/2005 On Technical Professional Exams for Engineering, Electro-Technician and Machinery in the Field of Construction; AI No. 18/2005 On Qualification Conditions for Construction Inspectors of the MESP and for Municipal Construction Inspectors; AI No. 20/2005 On the Manner of Inspective Supervision of Construction Inspectors; AI No. 21/2005 On Closing of Building Sites and the Manner of its Enclosure by Construction Inspector; AI No. 21/2005 On Closing of Building Sites and the Manner of its Enclosure by Construction Inspector; AI No. 25/05 On the Approval of Projects; AI No. 26/05 On Technical Inspection of Building Construction; AI No. 27/05 On Conditions and Measures of Giving the Authorisation for Controlling of Projects; AI No. 01/06 On Other Specific Administrative Violations and Appropriate Fines; AI No. 02/06 On Project Control; and AI No. 03/06 On the List of Buildings for which Construction Licence is not needed.

<sup>254</sup> Law No. 02/L-14 on Construction Products promulgated by UNMIK Regulation No 2005/28 of 17 May 2005.

<sup>255</sup> AI No. 2006/01 On Evaluation of Conformity, Conformity Documents and Making Construction Product, and AI No. 2005/04 On Determination of the Conditions and Special Technical Rules on Licensing of Construction Enterprises, Enterprises for Production of Construction Material, Projecting Enterprises and Laboratories for the Control of Construction Material.

508. Expenses for housing and related services represent the second biggest share of the household budget after food expenses. According to Statistical Office of Kosovo (SOK) estimates, the budget share has been fairly stable over the last three years for Kosovo as a whole and for the different communities. It represents 31% of the total household consumption. The share varies from 27% in rural areas to 37 % for urban households. However, households with higher education levels have the highest expenses, followed by urban households. The biggest part of housing expenses is the imputed rent, i.e. the welfare value of the house.

509. According to the Household Budget Survey (HBS) 2002-2003, housing and related services represent 13.8% of the average household monthly expenses. It amounts to 15% in urban areas, while in rural areas it represents 13.1%. In relation to the poverty status, the average expenditure is as the table below shows:

**Table 73**

**Housing monthly expenses per poverty status (in Euro)**

	Kosovo	Extreme poverty		Complete poverty	
		Non poor	Poor	Non poor	Poor
Total expenditure	281.00	302.47	128.48	359.13	168.61
Housing	38.84 (13.8%)	42.55 (14%)	12.48 (0.9%)	53.55 (14.9%)	17.67 (10.4%)

*Source:* Statistical Office of Kosovo, 2005.

510. The UNDP estimates that 130,000 houses were damaged during the conflict and that approximately 60,000 had been reconstructed by 2002. There was still a large share of households reporting either major damaged houses (9%) or minor damages (18%). Since 2003, about one out of ten houses is considered to have major damages.

511. More than 98% of households own their dwelling. However, tenure security is a problem for many families, as the legal status of ownership is not clearly defined. Many of them have been built without the relevant authorisation and are also illegally connected to public services, such as electricity and water.

512. The overwhelming majority of housing in Kosovo is built of durable materials. According to the estimates compiled through the Household Budget Surveys (HBS) of the Statistical Office of Kosovo (SOK) the house wall material in 93% of households in urban areas are constructed of bricks or cement blocks, while only 7% are constructed of mud and stones. In rural areas, the percentage of houses built with mud and stones represents 12%.

513. In 2005, about 4% of the households made investments in their houses (5% in 2003), with an average investment of 72 Euro (315 Euro in 2003). About 69% of the expenditure is dedicated to the purchase of construction materials, while the household work is valued at 10% and contracted work represents 21%. Financing of housing improvements in 2005 was derived from government subsidies (2%), bank loans (14%), remittances from abroad (46%) and savings or own resources (37%).

514. Housing standards are overall higher in urban areas, where the majority of houses are connected to water supply networks and sewage system. Flush toilets have increased in rural areas since 2003, from 48% to 69%. Most dwellings are electrified (99%) but woodstoves are used for heating, with a small percentage of urban households connected to the central heating system. Disposal of garbage is mostly done through street containers in urban areas while more than 75% of rural households dump it.

515. In 2003 it was estimated that 25% of the households were overcrowded. However, the number of rooms per household has increased in the last years, especially in rural areas.

**Table 74**  
**Households by number of rooms (%)**

Number of rooms	2005		2002/2003	
	Urban	Rural	Urban	Rural
1	2	4	11	9
2	5	2	41	32
3	26	19	26	25
4	27	27	16	22
5	23	27	3	5
6	11	14	2	3
7+	6	7	1	2

*Source:* Statistical Office of Kosovo, 2005.

516. Among the extreme poor, the overlap with housing poverty is in the range from 12% (houses with major damages) to 35% (overcrowded house). This is also higher than the overall incidence of poor housing conditions in the whole population.

**Table 75**  
**Exposure to poor housing and living conditions**

House conditions	% of non-income poor households		Ratio of extreme poor to all
	All population	Extreme poor	
House has major damages	8.6	12.0	1.4
House has minor damages	18.5	26.7	1.4
Walls made of mud or stones	9.9	15.2	1.5
More than 3 persons per room	24.8	35.3	1.4
Dwelling not electrified	0.7	1.4	2.0
No central pipeline as main source of water	45.9	50.8	1.1
Main source of water is wells	31.0	35.9	1.2
Households does not use district heating	98.1	100.0	1.0
Use of wood stow for heating	94.8	97.3	1.0
Does not own in-house flush toilet	38.6	57.1	1.5
Own latrine outside the house	38.3	55.8	1.5
Lacking waste disposal	62.5	61.4	1.0

*Source:* HBS, 2002, WB World Bank, Report No. 32378-XK.

## 2. Housing and property claims dispute resolution

517. Problems with security of tenure to housing and property in Kosovo have a long history. According to an OSCE/Pillar III report of 2002, “[t]he lack of clarity regarding the ownership of property in Kosovo is compounded by the numerous incidents of mass confiscation of property that has taken place [during the twentieth] century, whether for ethnic reasons, or for political and social reasons.”<sup>256</sup>

### (a) Residential property claims mechanisms

518. Within five months of entering Kosovo, the United Nations Interim Administration Mission in Kosovo (UNMIK), in placing a high priority on the return of refugees and IDPs, established an independent mechanism to ensure the effective and expeditious resolution of residential property disputes and to deal with other property rights issues in the housing sector. Under UNMIK Regulation No. 1999/23<sup>257</sup> the Housing and Property Directorate (HPD) and its independent quasi-judicial body the Housing and Property Claims Commission (HPCC) were established and mandated to “achieve an efficient and effective resolution of claims concerning residential property”.<sup>258</sup> In 2006, the HPD/HPCC was succeeded by the Kosovo Property Agency (KPA) by UNMIK Regulation No. 2006/10 as amended by UNMIK Regulation No. 2006/50.<sup>259</sup>

519. Collecting and processing residential property claims for referral to the HPCC was the core work of the HPD. The HPCC was a quasi-judicial body and its sole function was to adjudicate on disputes referred to it by the HPD. The HPCC adjudicated on the remaining 133 claims at first instance at its October 2006 Session, thus completing the adjudication of some 29,160 claims. It also adjudicated on some 4,000 requests for reconsideration of decisions during 2006. This initiative has proved to be a resounding success, with decisions in all 29,160 cases have been issued and delivered to the parties to the claim. The HPCC will adjudicate on some hundreds pending reconsideration requests at its forthcoming January and February 2007 sessions.

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<sup>256</sup> Quotation from the OSCE/Pillar III report on Property Rights in Kosovo (January 2002), Annex: Property in Kosovo - Historical Overview, page 51.

<sup>257</sup> UNMIK Regulation No. 1999/23 On the Establishment of the Housing and Property Directorate and the Housing and Property Claims Commission of 15 November 1999.

<sup>258</sup> See the Preamble to UNMIK Regulation No. 1999/23.

<sup>259</sup> UNMIK Regulation No. 2006/10 On the Resolution of Claims Relating to Private Immovable Property, Including Agricultural and Commercial Property of 4 March 2006, as amended by UNMIK Regulation No. 2006/50 of 16 October 2006.

520. Residential property claims were classified under one of three categories. Category A claims concerned property rights lost due to discriminatory policies during the period 1989-1999. Category B claims concerned informal property transactions from the period 1989-1999. Category C claims concerned involuntary loss of possession of property during or after 1999. Category A claims, amounting to 1,212, were predominately introduced by Kosovo-Albanians, as were most category B claims (amounting to 766). Of the 27,182 category C claims, over 80% were introduced by Kosovo-Serbs while the remainder originated with Kosovo-Albanians and others. In most category C claims the claimant was successful.

521. Of the reconsideration requests, the majority of category A requests (651) originated from the original claimant, as was the case with category B requests for reconsideration (93 requests). Of the 3,503 requests for reconsideration of category C claims, the majority were introduced by the failed respondent.

522. As regards the implementation of decisions, all but 2.5% (672) of HPCC decisions have been fully implemented by 31 January 2007, and the remainder will be implemented in the first quarter of 2007 in line with the claimant's choice for implementation of the decision (i.e. repossession, placing property under temporary administration or closure of the claim file) thus completing the HPCC's claims resolution process.

523. The goal of the institution was the restitution of property rights, however throughout the implementation period HPD made every possible effort to offer illegal occupants in need an alternative accommodation from amongst the list of all vacant properties under HPD administration. Special care was taken in those cases where the illegal occupants were not able to return to their place of origin because of security concerns. A re-allocation programme was established under the leadership of HPD in cooperation with all Kosovo municipalities.

524. Special attention will also be given in early 2007 to the implementation of some 258 HPCC decisions in which awards of monetary compensation were made in favour of claimants pursuant to Section 4 of UNMIK Regulation 2000/60.<sup>260</sup> This concerns category A claims where the unsuccessful party to the claim should be paid compensation for their loss of a residual property right following the award of possession to the other party. Further legislation is needed to arrange for the necessary determination of the precise amounts in compensation to be paid, and discussions are taking place between UNMIK and the PISG to establish an appropriate mechanism. In principle, the successful party to the claim will be required to pay the compensation, although alternative arrangements are also under consideration.

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<sup>260</sup> UNMIK Regulation No. 2000/60 On Residential Property Claims and the Rules of Procedure and Evidence of the Housing and Property Directorate and the Housing and Property Claims Commission of 31 October 2000.

525. The implementation of the administrative properties aspect of the HPD/KPA mandate has continued throughout 2006 with a total of 5,257 properties currently under administration. The purpose of HPD/KPA administration is to make all reasonable efforts to minimize the risk of damage of abandoned properties by allocating occupants on a temporary basis under certain criteria. Some 1,845 of these properties were taken by the HPD ex officio under its administration, while 3,412 were on the basis of a request of successful claimants who did not wish to return to their homes. All of the properties under administration concern properties which are habitable and occupied by a person(-s) holding a temporary occupancy permit issued by the HPD.

526. Special attention was given throughout 2006 to designing and implementing a rental scheme for properties under administration following approval for such a scheme by the SRSG and the PISG earlier the same year. The rental scheme which is up and running since October 2006 enables successful claimants who place property under administration to have it leased out, thus ensuring an income source from the property and providing an alternative to sales.

527. By 31 January 2007, following an initial pilot project in the Prishtinë/Priština region, the Kosovo Property Agency has extended the rental scheme to all of the 5,247 residential properties currently under its administration. By 31 January 2007 around 1,402 property right holders had included their property into the scheme. At that date 40 occupants were paying rent and 23,490 Euros had been collected. All other current occupants of properties included in the scheme were being contacted to arrange for them to begin paying rent. The rate of monthly rent is based on the valuation determined by the municipal tax authorities for local tax purposes.<sup>261</sup> The mean rental rate for those properties involved to date is approximately 100 Euro, although rates vary per property between a low of around 25 Euro to a high of about 750 Euro. The first 12 evictions of occupiers who have declined to pay rent were also carried out in January 2007, and the KPA initiated an outreach campaign to identify tenants for those properties.

528. Legislative developments in 2006 to permit the HPD to deal with claims over private immovable property, including agricultural and commercial property disputes, resulted in far reaching changes for the institution. A lengthy series of discussions and debate during the preceding years about the manner in which the resolution of such claims should be achieved culminated in March 2006 with the promulgation of UNMIK Regulation 2006/10 as amended

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<sup>261</sup> Municipal taxation based on immovable property is regulated by UNMIK Regulation No. 2003/29 On Taxes on Immovable Property in Kosovo of 5 September 2003, as amended by UNMIK Regulation No. 2006/59. The valuation system, based on market values, was established by Administrative Instruction No. 1/2004 regarding standards of assessing immovable properties, which is based on the comparative method of building costs and the revenue method.



by UNMIK Regulation 2006/50.<sup>262</sup> This transformed the HPD into a new agency, the Kosovo Property Agency (KPA). The HPD's personnel, assets and entire organization were carried over into the new agency. The KPA assumed responsibility for the workload of the HPD, to include the implementation of pending HPCC decisions and the management of property under HPD administration. However, the core work of the new Agency is to ensure the effective and efficient resolution of property disputes concerning private immovable property, including agricultural and commercial property. The KPA's policy is to provide an accessible, inexpensive, speedy, fair and informal forum for the expeditious resolution of immovable property disputes. The KPA is composed of three main offices, namely an Executive Secretariat, an autonomous Property Claims Commission and a Supervisory Board. The Executive Secretariat will provide secretariat functions to the Property Claims Commission which will adjudicate claims. The KPA functions independently of the Provisional Institutions of Self Government as an independent body pursuant to Chapter 11.2 of the Constitutional Framework,<sup>263</sup> under the auspices of a Supervisory Board. The Supervisory board is composed of one representative of UNMIK (the Principle D/SRSG), two representatives of international donors, and one representative each of the Kosovo-Albanian and the Kosovo-Serbian communities.

529. Throughout 2006, in addition to completing the residential properties mandate, a substantial amount of work has been undertaken in order to commence the implementation of the agricultural and commercial properties mandate. Claim intake commenced in Kosovo in April 2006, in Serbia proper in July 2006 and in fYROM and Montenegro commenced in September 2006. No deadline has been set for the close of claim intake to date. By 31 January 2007, the KPA had received over 9,000 claims, of which some 300 relate to residential properties.

530. The KPA also created its own corporate image/logo. Its website was launched in April 2006 together with a public information campaign in Serbia proper, Montenegro and fYROM in the autumn of 2006. Further meetings were held with representatives of the minority community, the PISG, NGOs and other key players in the property rights field. During the spring of 2006, the KPA launched its recruitment drive and procured additional vehicles, IT equipment and resources.

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<sup>262</sup> UNMIK Regulation No. 2006/10 On the Resolution of Claims Relating to Private Immovable Property, Including Agricultural and Commercial Property of 4 March 2006, as amended by UNMIK Regulation No. 2006/50 of 16 October 2006.

<sup>263</sup> UNMIK Regulation No. 2001/9 On a Constitutional Framework for Provisional Self-Government in Kosovo of 15 May 2001, as amended.

531. In June 2007, UNMIK Administrative Direction No. 2007/5 was promulgated to establish rules of procedure for the processing, adjudication and implementation of claims within the competence of the KPA.

532. Financially, 2006 was a demanding year as considerable efforts have had to be invested in sourcing the necessary funding for the KPA process. This has involved KPA management in meeting with all the diplomatic stations in Kosovo and hosting a Donor Conference, which was chaired by the Chairperson of the Supervisory Board, the PDSRSG, in November of this year in order to highlight the mandate of the new agency and its importance for peace building and economic revitalization in Kosovo. To date approximately 7 million Euro has been pledged for the process. The estimated cost of the entire operation lies somewhere in the region of 14.7 million Euro.

**(b) Property related claims in the courts**

533. As of August 2006, municipal courts of first instance were dealing with some 46,120 civil cases, of which close to 28,000 are related to housing and property disputes. The types of housing and property claims break down into the following categories:

- 870 claims, or 9.2% of all claims, were disputes on obstruction of the right of possession, and of these claims 41, or 4.7%, the claimants were non-Albanians, and the respondents were Albanians
- 5,210 claims, or 55.4%, concerned disputes on property and possession of real estate, out of which in 319 claims, or 6.1%, the claimants were non-Albanians and the respondents were Albanians
- 618 claims, or 6.6% of all claims, were disputes concerning eviction from a house or flat, and in 89 cases, or 14.4%, the claimants are non-Albanians and the respondents are Albanians
- 364 claims, or 3.9% of the total, concerned disputes on eviction from a place of work, out of which in 12 cases, or 3.3%, the claimants were non-Albanians and the respondents were the Albanians and
- 2,349 claims, or 25.0% of the total, concerned disputes related to buying and selling of properties, as well as changes of real estate ownership, out of which in 93 claims, or 4.0%, the claimants were non-Albanians and the respondents were Albanians

The status per court of pending civil housing and property related claims in August 2006 breaks down as follows:

**Table 76**  
**Status of pending housing and property claims, August 2006**

Municipal Courts	Pending Cases	Percentage (%)
Gjilan/Gnjilane	470	5.08
Kamenicë/Kamenica	32	0.35
Viti/Vitina	149	1.61
Prizren	2 440	26.40
Dragash/Dragaš	35	0.38
Malishevë/Mališevo	268	2.90
Rahovec/Orahovac	423	4.47
Suharekë/Suva Reka	235	2.54
Pejë/Peć	578	6.25
Deçan/Dečane	55	0.60
Gjakovë/Đakovica	684	7.40
Istog/Istok	47	0.51
Klinë/Klina	267	2.89
Prishtinë/Priština	2 247	24.31
Ferizaj/Uroševac	461	4.99
Štrpce/Shtërpce	23	0.25
Glogoc/Glogovac	89	0.96
Lipjan/Lipljan	157	1.70
Podujevë/Podujevo	132	1.43
Mitrovicë/Mitrovica	234	2.53
Skenderaj/Srbica	16	0.17
Vushtrri/Vučitrn	119	1.29
Leposavić/Leposaviq	15	0.16
Zubin Potok	16	0.17
Total	9 243	100

*Source:* Office of Judicial Administration, Ministry of Justice.

**(c) Claims for compensation for property damage**

534. Of the total civil claims of 46,120 listed above and pending before the municipal courts, a significant number concern claims for compensation of property damage. Following the violence of March 2004, large numbers of Kosovo-Serbs and members of other affected minority groups lodged civil claims in the courts of Kosovo for compensation for damages caused following the entry of KFOR into Kosovo in June 1999. The bulk of these claims concern property related damages. These claims are based on general tort obligations and special tort obligations on

public authorities to compensate damage caused under Article 180 of the SFRY Law on Contract and Torts.<sup>264</sup> By letter of 26 August 2004 addressed to the President of the Supreme Court of Kosovo, the UNMIK Department of Justice (DoJ) requested that such cases not be scheduled for consideration by the courts pending an analysis of how to provide adequate support to the courts and claimants for the processing of these cases. The letter cites logistical problems with the large number of such cases and the need to assist claimants in gaining physical access to the courts.

535. The claims cite various and multiple respondents. The total number of claims as of December 2006 was 18,132 lodged against variously UNMIK, KFOR, the PISG and/or a Municipality. The total amount of the claims comes to nearly 8.9 billion Euro.<sup>265</sup> In addition, some 2,939 claims of a similar nature have been filed in the Kosovo courts by Kosovo-Albanians against the Republic of Serbia and Kosovo Serb individuals. By letter of 15 November 2005 addressed to the President of the Supreme Court, the DoJ found that the previously cited obstacles to processing of claims did not apply to a limited number of such cases. The DoJ urged the immediate processing of claims against identified natural persons<sup>266</sup> and those concerning damage committed after October 2000.<sup>267</sup>

536. In October 2006, a working group was established to identify a strategy and an action plan for the resolution of the property related judicial backlog, which includes these claims for compensation. The working group is composed of representatives of UNMIK DoJ, the European Union Planning Team, the Kosovo Property Agency, the Office of the Prime Minister, the Kosovo Judicial Council, the Ministry of Environment and Spatial Planning, and is chaired by the OSCE/Pillar III. Proposals under discussion include the establishment of a specialized judicial body, of a mechanism of extra-judicial settlements, or of an independent compensation claims agency, as well as options surrounding the authoritative interpretation of special tort obligations under the Law on Obligations and Torts, or the adoption of a *lex specialis* to cover these claims.

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<sup>264</sup> Law of Contract and Torts, Official Gazette of SFRY No. 29/1978, as amended. Special liability under Subsection 6 of the Law under Article 180 is defined as:

“(1) A State whose agencies, in conformity to existing regulations, were bound to prevent injury or loss, shall be liable for loss due to death, bodily injury or damage or destroying property of an individual due to acts of violence or terror, as well as in the course of street demonstrations and public events.”

<sup>265</sup> The exact sum of all Kosovo Serb and other claims amounts to 8,882,539,074.00 Euro.

<sup>266</sup> An amount of 209 cases.

<sup>267</sup> An amount of 183 cases.

### 3. Social housing

537. Prior to the conflict, the allocation of apartments to workers of Socially Owned Enterprises (SOE) was a form of social or subsidized housing. After the conflict, many households are still occupying what is technically still SOE housing without paying any form of rent. According to UNMIK Regulation No. 2000/45 On Local Self Government,<sup>268</sup> responsibility for implementation of social housing lies with municipalities. This would allow for the allocation of vacant or abandoned properties to persons most in need. While this function is also implemented to some extent through the administration of properties by the Kosovo Property Agency (KPA), the responsibility as such remains with municipalities. Co-operation between the KPA and municipalities on allocation of properties under administration to persons most in need varies from very good to non-existent, depending on the relevant municipal authorities.

538. The Ministry of Environment and Spatial Planning (MESP) initiated the Social Housing Program in October 2002, with support from municipalities and other partners, in order to assist homeless families and with the aim of solving their housing needs. The main purpose of the Social Housing Program is the establishment of interim housing conditions, based on enduring and long-lasting solutions, for all citizens of Kosovo, in an equal and non-discriminatory manner. This program intends to provide housing needs for the families currently living in inadequate housing conditions, especially in temporary collective centres, lodgings, tents and other buildings, or otherwise in onerous living conditions.<sup>269</sup>

539. Initial social housing projects were developed as pilot projects back in 2002, in two municipalities: Skenderaj/Srbica (21 apartments) and Deçan/Dečani (16 apartments), and their implementation has been completed in 2004. The implementation process was initially completed with the signature of a Memorandum of Understanding between the Ministry, Municipalities and donors. Subsequently, the program was extended to three other municipalities: Mitrovicë/Mitrovica (21 apartments), Malishevë/Mališevo (21 apartments) and Klinë/Klina (23 apartments).

540. The total budget allocation for the five projects, split between MESP and the respective municipalities, was estimated at 2,368,000 Euro. Subsequently, a certain amount in donor contributions was made available for two of the projects at 100,000 Euro per project.<sup>270</sup>

541. Further development of the program is intended to be mainly focused on moving from temporary housing solutions toward creating an enduring and long-term strategy, by ensuring adequate housing conditions, for needy and poor families.

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<sup>268</sup> UNMIK Regulation No. 2000/45 On Self-Government of Municipalities in Kosovo of 11 August 2000, as amended, Section 3.1(k).

<sup>269</sup> MESP Social Housing Programme and Manual, 2005.

<sup>270</sup> Financial table on the social housing programme as provided by MESP.

542. This central level initiative selects municipalities for participation based on the current state of housing of prospective beneficiaries, the numbers of requests for housing allocation, the availability of construction land and infrastructure works. In addition, each participating municipality must pledge at least 30% in co-financing of the project. The municipal authorities will be responsible for the management, administration and use of the completed housing object based on the Programme and Guidelines for Social Housing. The use or destination of the housing object cannot be altered, nor can it be privatized, without an agreement with the MESP.

543. In 2005, MESP prepared a draft Social Housing Programme and Manual, to assist in the implementation of the social housing programmes. The Manual also sets out criteria for the selection of families and persons for allocation of social housing, which are based on principles of non-discrimination and gender equality. These criteria include general criteria in regard to the status of the potential beneficiary, and specific criteria regarding the current housing situation of the potential beneficiary. There are four priority categories: (a) female head of household with children and husband killed during the conflict; (b) children without parents; (c) vulnerable women (e.g. victims of trafficking or domestic violence); and (d) families evicted from usurped property. A points system determines the eligibility, which includes points for family status, current housing conditions, property and ownership, dependency rate, and health status. The MESP has created a complaints procedure for aggrieved persons.

544. The Social Housing Programme and Manual also sets out norms on the design and technical standards to be respected by the social housing construction project.

545. A draft law on Financing of Programmes for Social Housing is currently in preparation, as well as a draft law on the Sale of Houses Where a Housing Right Exists.

#### **4. Informal settlements**

546. Following the end of the conflict in 1999, a housing construction boom commenced which has still not abated. Both within city limits, and around the outskirts of all major urban centres in Kosovo large numbers of houses and apartment buildings have been constructed. The vast majority of these new constructions are built of solid materials such as brick and cement blocks. In the absence of valid urban plans, and given the developing legal framework and limited resources in Municipal Departments of Urbanism, many if not most of these new constructions have been built without planning permission or construction permits, and many have not been registered. Furthermore, many constructions have been built on land that has been illegally occupied, or otherwise suffers from legal irregularities.

547. Prior to the conflict, a number of other settlements had come into existence without formal recognition, especially inhabited by members of the Roma, Ashkali and Egyptian (RAE) communities. Frequently, the construction of these settlements is of poor quality.

548. Collectively, these older and new developments suffer from problems of lack of recognition, insecure tenure, and lack of access to basic services such as roads, water and sewage, or connection to the electrical power grid. While these constructions may be taken as a sign of economic growth, their uncontrolled development also has negative consequences on cities' economies as all financial burdens they cause (infrastructure development) are placed on the municipal budgets.

549. Over the past few years, these “informal settlements” have received particular attention from the OSCE/Pillar III and UN Habitat, which have advocated for the regularisation of informal settlements in Kosovo. A first conference on the subject was held in 2003, the “Working Regional Roundtable on Formalising Informal Settlements of Roma and other vulnerable groups”.

550. Over the past few years there have been various initiatives and programmes seeking to support urban upgrading and the regularisation of informal settlements. In 2004, Kosovo signed the “Stability Pact Vienna Declaration on Informal Settlements”, which calls for the prevention of further illegal construction and the regularisation of existing informal settlements. The regularisation of informal settlements was included in the “Kosovo Standards Implementation Plan” (KSIP) and in its successor, the “European Partnership Action Plan” (EPAP).

551. The Ministry of Environment and Spatial Planning (MESP) conducted a situation analysis of informal settlements in four pilot municipalities (Prishtinë/Priština, Gjilan/Gnjilane, Gjakovë/Đakovica, and Mitrovicë/Mitrovica) and three neighbourhoods. Furthermore, in an effort to facilitate the incorporation of informal settlements into municipal spatial and urban plans MESP developed Guidelines on Spatial Planning. Training was provided on the basis of those Guidelines and delivered by the NGO “Community Development Fund” (CDF).

552. In November 2006, jointly organised and sponsored by MESP, UN Habitat and the OSCE/Pillar III, a “Workshop on Urban Upgrading and the Regularisation of Informal Settlements in Kosovo” was held, to which were invited municipalities, relevant ministries, civil society actors, the private sector and international community representatives. This workshop marked the start of a Kosovo-wide public awareness campaign on urban upgrading and the regularisation of informal settlements.

553. This workshop led to the definition of general goals towards: (a) the prevention of the development of future informal settlements, and the regularisation and upgrading of existing settlements; (b) ensuring a sustainable urbanisation process; and (c) the development of sustainable spatial planning, land and housing policy through improvements in the legal framework, improved institutional co-operation, higher technical capacity-development, and involvement of the private sector and residents of informal settlements.

554. To this end, concrete recommendations were addressed to Central Government, Municipalities and residents of informal settlements. In particular these recommendations call on the Government of Kosovo to continue implementation of the “Stability Pact Vienna Declaration on Informal Settlements”, to formulate an Action Plan on informal settlements, to reform the legislative framework, and to build capacities of relevant MESP and municipal officials within the framework of regional programmes.

555. Municipalities are called upon to inventory and profile existing informal settlements, to include informal settlements in their urban and spatial plans, to prevent illegal construction and new informal settlements, to develop affordable housing programmes with a special focus on minority protection (especially in RAE community neighbourhoods), to seek public-private

partnerships, and to develop community-based projects while seeking to find balanced solutions to informal constructions on public, state or socially owned land. Residents are asked to engage in the planning processes, to respect property laws and property rights of others, and to pay taxes and fees for municipal services.

556. As a result of these recommendations, the Ministry of Environment and Spatial Planning is currently developing a Kosovo-wide “Action Plan on Informal Settlements Prevention and Regularisation”, with assistance from UN Habitat and the OSCE/Pillar III. In addition, a draft law on illegal constructions is in preparation and the Spatial Planning Law is under review. In general, enforcement capacities need to be strengthened regarding existing and future land use and construction legislation, as is also the case with the capacities necessary to the development of appropriate urban plans and the supervision of licencing procedures and codes.

## **5. Vulnerable groups**

557. The identification of significant levels of lead contamination in the blood of residents at an Internally Displaced Persons (IDP) camp in Northern Mitrovicë/Mitrovica region in late 2005 led to an extensive analysis to determine the source of the lead pollution and provide short-term measures and a clear strategy on how to deal with the case. The analysis showed that the pollution was caused by illegal smelting of car batteries in the houses of some families, and not the entire population of 550 persons was equally affected.

558. To immediately ameliorate the health damage resulting from the lead pollution, the WHO and UNICEF responded with a list of nutrients to be provided to all members of those communities. This included higher intake of calcium foodstuffs, fruits and vegetables. Delivery of the food basket continues with a changing seasonal menu, and in response to changed needs. Additionally, all members of the community were advised to improve personal hygiene for which a supply programme was established. The WHO also arranged for affected children to receive chelation therapy. The therapy itself lasts for 28 days but post treatment follow up may take six months.

559. UNMIK took over the former KFOR camp Osterode and began an extensive reconstruction programme to transform the facility into the temporary relocation site for the Roma, Ashkali and Egyptian (RAE) community living in the three lead-polluted camps. The facilities were fully refurbished with the provision of additional sanitation units of acceptable standards. As the facility itself was inadequate to accommodate the entire community, prefabricated buildings were ordered and delivered.

560. In this context, measures to protect the health of affected RAE families included progress in the reconstruction process of the neighbourhood to which these IDPs would return. The Municipality issued construction permits for two apartment blocks that will host some of the inhabitants. Some of the potential beneficiaries, 61 RAE IDP families, moved out of the lead-contaminated camps in Northern Mitrovicë/Mitrovica and Zvečan/Zveçan into safer facilities in the northern part of Mitrovicë/Mitrovica, while 272 individuals remained by their own choice in the contaminated camps, despite the offer of safer alternatives.



561. At the IDP settlement of Plemetina/Plemetinë, inhabited by members of the RAE community, the Kosovo government developed a project for closure of this camp. This project is currently underway and includes four distinct elements, of which three have been completed in 2006, and one is to be completed in 2007:

- The construction of an apartment building (1st phase) in Plemetina/Plemetinë, municipality of Obiliq/Obilić, in 2006 with 36 apartments
- The construction of an apartment building in Magurë/Magura, municipality of Lipjan/Lipljan, in 2006, with 22 apartments
- The construction of 9 houses for 12 families from Plemetina/Plemetinë camp, at Plemetina/Plemetinë, completed at the end of 2006 and
- The construction of an apartment building (2<sup>nd</sup> phase) in Plemetina/Plemetinë, municipality of Obiliq/Obilić, in process of construction, funded by donors, and to be completed in April 2007, with 22 apartments

562. It appears from informal reports that many RAE families are not satisfied with being asked to reside in apartments, rather than houses, and consequently resist taking up residence in the new buildings.

#### **D. Returns and housing reconstruction strategies and results**

##### **1. Return strategies**

563. Inasmuch as the issue of displacement and returns in Kosovo between 1999 and 2005 as well as the issue of forced returns is concerned, please refer to the discussion thereof in the UNMIK Report to the Human Rights Committee on the Human Rights Situation in Kosovo since June 1999 dated 13 March 2006<sup>271</sup> under Article 12, paragraphs 56 and following.

564. Inasmuch as the UNMIK policy on returns is concerned, please refer at first to the discussion thereof at the UNMIK Report to the Human Rights Committee on the Human Rights Situation in Kosovo since June 1999 under Article 12, paragraphs 95 and the following and below for an update.

##### **(a) Government Assistance to Returns and Rapid Response Return Facility**

565. In 2003, two programmes, Government Assistance to Returns (GAR) and Rapid Response Return Facility (RRRF), were developed in agreement between UNMIK and UNDP. Whereas GAR served as a mechanism for organized returns, RRRF was a programme for providing housing to specific categories of individual returnees. The Sustainable Partnership for Assistance to Minority Returns to Kosovo (SPARK) was introduced in 2005, bringing a full spectrum of available assistance for returns (both organized and individual) under one umbrella.

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<sup>271</sup> UNMIK Report to the Human Rights Committee on the Human Rights Situation in Kosovo since June 1999, CCPR/C/UNK/1, 13 March 2006.

566. To ensure the sustainability of returns, all three programmes have jointly provided housing reconstruction assistance to 306 displaced families and income generation grants (agriculture and small businesses) to 164 households. To improve skills related to economic sustainability, 25 training programmes were arranged for RRRF beneficiaries belonging to minority communities. The Ministry of Communities and Returns (MCR) allocated 2.3 million Euros for the individual returns component of SPARK, allowing for assistance to 120 families.

567. In 2005, eighty-two families were selected, leaving assistance available for another 38 families. It is important to note that with 128 families pre-approved since October 2005, an important funding shortfall emerged. As of mid-March 2006, the estimated gap in the provision of returns assistance affected 27 identified families (110 individuals). Given the increased referral rate at that time it was estimated that 1,950,000 Euro would be needed to facilitate the return of an additional 115 families before the end of 2006.

**(b) Strategy on returns and revised manual for sustainable return**

568. During 2005 and early 2006, the UNMIK Office of Communities, Returns, and Minority Affairs (OCRM) organized a series of consultations with the PISG, international organizations, NGOs - including displaced persons associations - and other relevant actors to retool the 2003 strategy on returns, as contained in the Manual for Sustainable Return. These resulted in a set of policy recommendations, adopted by the PISG on 24 May 2006, and a Revised Manual for Sustainable Return.

569. The new policy seeks to increase IDP access to assistance to return to Kosovo as well as to simplify the procedure for the provision and delivery of social services for returnees. It also strengthens the protection mechanisms for minority returnees against discrimination. The policy reflects greater PISG engagement and responsibility, greater participation by IDPs and civil society in decision-making, as well as the integration of Municipal Returns Strategies (MRS) into municipal and central budget development planning.

570. Significant numbers of municipalities adopted an MRS for 2006 and beyond. The lack of funds represents the main obstacle in the implementation of the MRS. Almost all municipalities have taken over the chairmanship or co-chairmanship of the Municipal Working Groups (MWG). Municipal Return Offices (MROs) have been established in most municipalities. Increasingly, municipalities are developing return Concept Papers themselves.

571. The Revised Manual for Sustainable Return includes a Recommendation for amending the existing Housing Reconstruction Guidelines/Standards in its Annex 8. Those recommendations are the result of working group meetings on revising the housing reconstruction standards, attended by representatives of the Ministry of Communities and Returns (MCR), NGOs, IOM and UNDP. The recommendations are included in standardised Bills of Quantities, including estimated prices for 4 size-categories of houses attached to the recommendations. According to the Revised Manual these recommendations should be taken into consideration by all stakeholders involved in housing reconstruction in order to provide a standardised/unified type of housing assistance.

572. The Housing Reconstruction Guidelines 2002 standardise two types of houses: the standard house and the special design house. To both of these, the recommendations contain amendments. The guidelines contain, inter alia, specifics as to connections to water, sewage and electricity infrastructures, including the provision and installation of meters for water and electricity, as well as covering fees for taxes and installation. Special design and additional works are recommended for reconstruction in rural areas as needed to provide for septic tanks, connection to the electricity grid at a longer distance, etc. The recommended size of houses ranges from 45 to 75 m<sup>2</sup> while for larger families with more than 10 members and of two or more generations, the construction of houses of 95 m<sup>2</sup> is recommended. The guideline unit prices range from 13,105 Euro (for a 45 m<sup>2</sup> house) to 16,080 Euro (for a 75m<sup>2</sup> house).

**(c) Factors impeding return**

573. Despite these efforts, the rate of return of persons belonging to Serb or other minorities who were forced to leave Kosovo, as well as those who were displaced inside Kosovo remains low. A combination of socio-economic, security and political factors accounts for this. A developing economy with high unemployment still dominates in Kosovo. Although overall security and freedom of movement has improved there are still strong perceptions to the contrary. Surveys conclude there is a lack of confidence by the public in the rule of law and the enforcement of rights in private agricultural and commercial property. Mistrust continues to permeate inter-ethnic relations. Inadequate information to IDPs on return related activities and policies regarding access to services further hinder IDPs and refugees from making informed decisions. In addition, many IDPs have chosen integration in their place of displacement and are unlikely to return to their place of origin. Reports suggest that significant numbers of Serb former residents of Kosovo have sold their property holdings in Kosovo, but no estimates are available of the numbers involved, nor of the reasonableness of sale prices, or of the extent to which any pressure or threat has been exerted to secure the sale.

574. Other factors adding to the impediment of returns were the ramifications of the March 2004 riots: incomplete reconstruction of damaged residential property; non-conclusion of residential property restitution, as well as no reconstruction and/or compensation of commercial property for more than two years; and, the delays in the payment of 'start-up assistance' and compensation for damaged secondary buildings. The uncertainty surrounding the final status of Kosovo further compounds the problem.

575. In mid-2006, after the Contact Group countries mapped out addressing the March 2004 property destruction as one of its '13 points' (priorities in the Kosovo Standards Implementation Plan KSIP), it visibly became a priority for the Government. In June 2006, at the request of the Prime Minister of Kosovo, the SRSG decided that the Kosovo Protection Corps (KPC) would finalise outstanding reconstruction works in Svinjarë/Svinjare and in supporting the government in the resolution of pending complaints (Kosovo-wide) related to the March 2004 riots physical reconstruction. The KPC undertook the works in Svinjarë/Svinjare while the Government established an ad hoc body in charge of reviewing all claims.

576. As of January 2007, altogether 897 of the residential properties (out of the 993 targeted) had been reconstructed and 289 (out of 338) of the cases involving secondary buildings had been addressed (either reconstructed or compensated).

577. The remaining 96 non-reconstructed residential properties include 19 properties for which beneficiaries have refused reconstruction assistance, 20 properties in North Mitrovica which are not accessible due to security reasons, as well as the 57 properties destroyed in the 'Podkalaja' neighbourhood of Prizren town for which a special programme has been developed but is still awaiting funding three years later.

578. Regarding secondary buildings, there were still 49 pending cases (out of 338 eligible beneficiaries), the majority of which involved a disagreement as to the estimation of the compensation rate set by the ad hoc governmental commission, the Central Inter-Ministerial Commission for Reconstruction (CIMC), which led the reconstruction process during the initial period.

579. As for the provision of 'start up assistance', 92 cases out of 635 are still pending. Finally, there remained a gap of 24 commercial properties which have not been addressed. A PISG-run panel for resolving the compensation and reconstruction claims (apart from claims concerning Svinjarë/Svinjare) was established in October 2006 to resolve all outstanding complaints. The panel's task was to revise individual claims from beneficiaries as well as from contractors. To date, the panel has limited its review to contractor's claims and none of the other claims have been reviewed due to budgetary constraints.

580. In January 2006, UNHCR estimated that 1,231 persons displaced during the March riots remained in displacement. However, no up-to date statistics on March 2004 riots displacement are available.

581. The Fund for Reconstruction earmarked funds for the reconstruction of the March 2004 deconstruction. The funds were allocated as follows:

**Table 77**

**Funds earmarked for reconstruction**

	2004	2005	2006	2007
Housing premises	12 000 000	6 604 495	1 500 000 <sup>a</sup>	-
Religious premises	4 200 000	-	-	332 574
Debts of reconstruction	-	-	400 000	-
Compensation	-	-	-	3 116 414
Total	16 200 000	6 604 495	2 900 000	3 448 988

*Source:* Ministry of Economy and Finance (in Euro).

<sup>a</sup> Payment through KPC office.

**(d) Protocol on Voluntary and Sustainable Return**

582. In June 2006, the SRSG, representatives of the Kosovo Government and the Government of Serbia, following regular meetings in the Direct Dialogue Working Group on Returns signed a Protocol on Voluntary and Sustainable Return. In this Protocol the parties agreed to ensure certain basic preconditions for the voluntary and sustainable return of IDPs including: security and freedom of movement; vacation of occupied real estate and protection of such property;

reconstruction of damaged buildings; access to public services; equal employment opportunities and positive discrimination wherever possible; humanitarian assistance; a better overall climate for returns and decrease of distrust and negative propaganda; and up to date and correct information about the conditions of return, to allow for informed decisions on the part of IDPs.

583. In the Protocol the parties respect the right of IDPs to return to their homes as well as their right to freely choose their place of residence. While the parties commit therein to undertake all efforts to remove existing obstacles with regard to the voluntary return to places of origin, the parties also commit to enable IDPs to settle or locally integrate in freely chosen alternative locations within Kosovo. The Protocol outlines these alternative solutions to return stressing that any support to such alternative durable solutions shall not impact negatively on the efforts to create conditions for allowing those who wish to return voluntarily to their homes.

584. The parties furthermore agreed to pursue several complementary procedures and activities such as: a registration to return procedure whereby returnees can register in the municipality to which they intend to return. Following registration of IDPs, municipalities shall set up all conditions for return within 60 days including providing temporary accommodation and necessary administrative technical and other conditions and permits for the reconstruction of damaged buildings etc. Furthermore, the Protocol provides for full tax-exemption for IDPs crossing the administrative boundary-line to Kosovo.

**(e) Activities on return and integration of communities**

585. The Ministry for Communities and Returns (MCR) reports that its Department for Returns is engaged in delivering various organized return project services for all communities, in accordance with the Manual for Sustainable Return. The MCR works together with Municipal Returns Officers (MROs) and the Heads of the Municipal Local Community Offices in order to support individual returns. The MCR works in close co-operation with UNDP to ensure the success of organized return and integration projects. MCR experts are involved in UNDP activities with direct screening, assessment, control and allocation of financial resources and through participation in the implementation of various socio-economic projects being submitted to MCR and UNDP. The following returns projects have been undertaken in 2006.

586. The project “Srpski Babuš/Babushi Serb” in the Ferizaj/Uroševac municipality was successfully completed in December 2006. This project has been realized together with UNDP and been implemented by the NGO “European Perspective”. The project included 74 rebuilt individual houses for Serb returnees. These project works have been further complemented by the building of a new health clinic and a new four-classroom school. All complementary infrastructural works have been rebuilt, including a new water and sanitation network, new electrification and new roads, i.e. 1.5 km of asphalted village road and 2.5 km of access roads. The water well was drilled and a reservoir for potable water was constructed for a better water supply in the village.

587. The project “Svrčina/Surqine”, in Ferizaj/Uroševac municipality was successfully completed in cooperation with UNDP in December 2006. The project complemented rebuilding of a new water and sewage network as well as rehabilitated a school with a new functioning annex.

588. The project “Talinovac/Talinoc”, in Ferizaj/Uroševac municipality is being implemented together with UNDP by CARE as the implementing NGO. A new sewage network has been built and the building of a new water network is planned for spring 2007.

589. A total of 2.7 million euros has been allocated to the three projects in Ferizaj/Uroševac municipality. Displaced persons have not returned yet due to the winter period. According to the agreement with municipal officials the return for these families is planned and scheduled for early April 2007.

590. The project “KBC villages” in Leposavić/Leposaviq municipality was successfully completed in November 2006. This project was realised with UNDP assistance and the LWF as implementing partner. In the first project phase 25 houses have been completely rebuilt for the Albanian families in the villages of Košutovo, Bistrica and Cerenja. In the village of Borčane three houses for Serbian families have been completely rebuilt. Works also included the building of 5.6 km of main road to the KFOR base and 4.5 km of road from Košutovo to Bistrica. In the village of Cerenja small and big water tanks have been constructed for potable water as well as the pump station and power supply for the station. The 4 km long water-line network to the village has been completed. IDPs have already returned to their new built houses.

591. The “Zočište/Zoçishte” project in Rahovec/Orahovac municipality was realised in cooperation with the UNDP. 38 houses were built, out of which 34 are for the Serb community and four for the Albanian community. The village health centre has been built for both communities. Further, new water supply and sewage systems have been built. In addition, the electric power network and street lighting have been installed. Because of the winter period, no returnees have returned yet.

592. The „Klinavac/Klinovc” project in Klinë/Klina municipality was completed in December 2006 in cooperation with the UNDP. 17 houses were built for Serb families, five for Ashkali families and five for Albanian families. Keys have been handed over to the beneficiaries and they have moved in. New water supply, sewage and electricity networks have been set up. As part of this project a new milk collecting station with new technology has been built. It is planned to employ residents from all communities. The village road has been levelled, although not asphalted. Within the socio-economic assistance provided, the village co-operative received two fully equipped tractors with connecting machines, while individual households received cultivators (mini-tractors).

593. Also for 2007, several returns related projects have already been planned in several municipalities.

## **2. Housing reconstruction strategies and results**

594. In 1999, immediately after the establishment of UNMIK, the European Commission (EC) financed a damage assessment,<sup>272</sup> focusing on housing and local infrastructure such as water, electricity, schools and clinics and presented it to a donor conference on 28 July 1999. It found some 120,000 damaged houses in the nearly 1,400 villages surveyed (from a total housing stock of over 250,000).

595. The assessment indicated that 32,000 (27%) of the affected homes were seriously damaged, classed as IMG category III (typically a house with 41-60% damage). An estimated number of 47,000 (39%) houses were completely destroyed, classed as IMG category IV (61-100% damage level). The houses that fell into these two most serious damage categories were home to more than 600,000 people (based survey data of the European Agency for Reconstruction (EAR) of 2000 - average occupancy level is 8 persons per house). While the vast majority of destroyed houses were those of Kosovo Albanians, the homes of many of Kosovo's Serb and Roma communities have also been damaged or destroyed after June 1999.

596. The assessment identified less damaged houses which could be restored before the winter 1999/2000. For these houses EAR designed a programme of procurement of basic materials to enable people to rebuild on a permanent basis. This programme complemented the emergency shelter kits which had been provided by the humanitarian community.

597. The initial approach of the EC funded housing reconstruction programme was two-fold: on the one hand EAR funds would go to a procurement agent which had to identify suppliers and deliver materials to distribution centres in Kosovo for further distribution by NGOs. On the other hand, a pilot programme was developed, involving KFOR, UNHCR and UNMIK, for the identification of- and procurement from local suppliers, for delivery within Kosovo by NGOs. The idea was to inject cash into the local economy.

598. Besides this first housing rehabilitation programme (worth 14 million Euros), the EAR launched a village employment and rehabilitation programme (4.5 million Euros), a public utilities programme (9 million Euros) focussing on the provision of electricity as an extremely high priority before the winter, and other related programmes such as de-mining, reconstruction of hospitals etc.

599. In 2000 and 2001, the EAR managed further Housing Reconstruction Programmes which included some elements of the 1999 programme. The programmes slightly shifted focus and were now targeted at the most vulnerable families. Furthermore, they applied different delivery mechanisms such as self-help, assisted self-help and co-operative forms. The 2000 programme

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<sup>272</sup> Implemented by the International Management Group (IMG).

supported the reconstruction of some 8,000 houses, the 2001 programme generated the reconstruction of a further 4,000 houses. In addition, a significant numbers of houses have been reconstructed from 1999 to 2001 with other international assistance, complemented by private resources and 'self-help' inputs of the people of Kosovo.

600. Nevertheless, when EAR assessed the situation in 2002, it estimated that approximately 10,000 - 12,000 vulnerable households, who remained in temporary accommodation, needed help with reconstruction after the completion of the overall 2001 donor funded programme. Thus, EAR managed another Housing Reconstruction Programme in 2002 focussing on economic reconstruction, regeneration and reform (16 million Euros).

601. The 2002 project (approx. 11.5 million Euros) assisted with the repair and reconstruction of 900 to 1,000 damaged houses, with a continued focus on poverty and social vulnerability in the selection of beneficiaries, while also considering the particular needs of ethnic minority returnees and those in existing enclaves.

602. In 2002, the EAR also established a housing loan project (approx. 4.5 million Euros) allowing people to re-construct, extend and renovate their housing units. It was assessed that it was important to get housing on a more stable loan-based financial footing since many families who had had their homes damaged or destroyed were not in the most vulnerable category, but lacked the resources to pre-finance their speedy reconstruction.

603. From 1999-2001 the EC funded assistance amounted to 112 million Euro for the reconstruction of some 15,500 homes. Bilateral and other donors have also funded reconstruction and regeneration projects.

## **E. Electricity**

### **1. The Kosovo Energy Corporation (KEK)**

604. The Kosovo Energy Corporation (KEK) is Kosovo's electrical utility. Prior to its unbundling, KEK was a vertically integrated enterprise generating electricity to consumers through its transmission and distribution network, undertaking electricity metering, billing, and revenue collection activities, and operating the lignite mines that supply fuel for its power plants. The financial and operational status of KEK, more than six years after the end of conflict, remains problematic. KEK is a financially insolvent company unable to cover the cost of its operations due to an extremely low level of revenue collection, as well as a high level of commercial losses (theft). Only 36% of total supplied electricity is actually paid for by customers (January to June 2006). Furthermore, years of under-investment and inadequate maintenance have resulted in a profound degradation of the electricity supply system. This problem was compounded by rapid growth in electricity demand as Kosovo progressed through the period of post-conflict reconstruction. The period since 1999 has been characterized by daily load shedding.



605. Increasing revenue collection is crucial if KEK is to be able to undertake essential maintenance and investment. In July 2004, a new turnaround management (TAM) from the Irish company ESBI Consultants took over the management of KEK. Their aim was to improve KEK's performance in two key areas: revenue billing and collection, and operating expenditures. KEK has since put in place a number of policies and procedures designed to restore payment discipline for electricity customers, such as implementing a policy of repairing local network failures only after a critical mass of affected consumers has committed to paying for electricity consumption, as well as by launching a special revenue collection-based load shedding scheme throughout Kosovo.

606. The latter, dubbed the "ABC Policy", divided the territory of Kosovo into three service categories - A, B, and C - based on their electricity bill payment levels. The ABC policy, which is still in place, ensured that customers residing in areas with a very good payment record, i.e. the A category, would receive a 24 hour electricity supply (or the best that KEK could provide given its generation capacities), while customers residing in less compliant areas (B category, which has a reasonably good payment record, and C category, which has a poor payment record) would experience reductions. In particular, those residing in the C category would receive only such an amount of electricity as would remain available after customers in the A and B categories had been supplied. The system is widely held to have been successful in improving both collection rates as well as the perception that customers need to pay for their electricity.

607. On 16 October 2006, and in accordance with the Transition Plan of ESBI, the ESBI Managing Director of KEK stepped down from his position and assumed an advisory role to the new incumbent, a Kosovo professional. EBSI fully disengaged from KEK in December 2006.

608. KEK was unbundled and incorporated in early January 2006 and now consists of a Kosovo Energy Corporation Holding, J.S.C., a Kosovo Energy Corporation J.S.C., and a Transmission System and Market Operator J.S.C. KEK JSC, which now bears responsibility for generation, distribution, and supply, and continues to face the problem of low revenue collection. This, coupled with an inadequate level of generation capacity, tends to create a significant shortfall of electricity supply during the peak heating season, necessitating increased load shedding and the financing of expensive electricity imports. During the period 1999 - 2002, the international donor community supported Kosovo's energy sector with some 488 million Euro, of which some 16% was for electricity imports and 55% for the repair and refurbishment of power plants. Current estimates for total international donor support for Kosovo's energy sector (not only KEK) from 1999 to date suggest a figure of around 850 million Euro, including funds channelled through the Kosovo Consolidated Budget (KCB).

609. Despite sustained under-investment and an inadequate maintenance of the supply system due to lack of funds, KEK has endeavoured to provide an optimal power supply to customers throughout Kosovo. In the winter period when the load demand increases some 300% above the summer levels, frequent power outages are caused by transformer burn-outs resulting from demand exceeding the system's capacity. The fact that most electricity customers do not pay for their supplies means that they have little incentive to conserve their consumption.

610. KEK allocates an A+ status to all feeders supplying hospitals, schools and other vulnerable customers. This means that such customers are prioritised even when there are severe difficulties in generation that require increased load shedding for other customers. However, the categorisation of such feeders is not an absolute guarantee that prioritised customers will not be affected by technical faults.

611. KEK has a procedure for processing new customers (i.e. customers not previously connected to the system), which involves the inspection of their premises and the condition of their temporary connection (where this exists). KEK subsequently requires the new customers to register and sign a supply contract. Where a new physical connection is required, the customer is charged for the new cable and any other materials and the installation.

612. Water pumping stations are usually, but not exclusive the property of water companies. Historically, a number of water companies have had large debts for electricity. However, negotiations have been on-going and arrangements have been made to reduce these debts and to establish regular payment regimes. Whenever technically possible, i.e. when there is a direct line to the pumps or few other consumers connected to the feeder, KEK tries to avoid load shedding of the water pumps.

613. Despite all measures, one of the most important challenges to the energy sector of Kosovo remains the chronically low level of revenue collection, despite signs of a recent improvement and fresh initiatives on the part of stakeholders to seek solutions to the problem (a Joint UNMIK-PISG Task Force established in November 2005 seeks ways to support KEK in its revenue collection efforts).

614. On 19 August 2006, the Ministry of Energy and Mining (MEM) issued a request for Expressions of Interest (EOI) for the development of a new lignite mining facility, its associated new electricity generating and transmission capacity, as well as the rehabilitation of some of Kosovo's existing electricity generating capacities. The EOI was issued as a part of the World Bank Lignite Power Technical Assistance Project, which aims to assist Kosovo in developing an effective framework for private sector participation in the energy sector, by ensuring, amongst other things, environmentally friendly and socially sustainable sector development. The EOI reflects the PISG's energy policy, which recognizes that the growth and development of the economy of Kosovo largely depends upon the proper functioning of its energy sector. A World Bank study of the regional energy production potential has confirmed that Kosovo could be one of the region's lowest-cost producers of electricity due to its high-quality and low-cost lignite reserves. On 31 August, the MEM, the UNMIK/EU Pillar, and the World Bank successfully concluded negotiations on the World Bank Lignite Power Technical Assistance grant, which amounts to USD 8.5 million and will assist the PISG in developing the aforementioned framework for private sector participation in the energy sector, as well as the preparation of an appropriate tender procedure for the same.

## F. Water

615. Kosovo is a country in transition under UNMIK administration and the passing and implementation of national legislation related to water and sanitation services is ongoing. The Water Law<sup>273</sup> was approved by the Assembly of Kosovo only in 2004 and this stipulates the competent authorities for Water Management. However this law focuses mainly on the protection of water resources and pays little attention to access to water and sanitation as a human right.

616. Only 44% of the overall population in Kosovo is connected to the public water distribution system, which is the only water resource that is controlled and maintained by proper institutions, and this number drops to 7% for the rural population. People in rural areas rely on independent village water supply systems, which are not managed by any institutions because of the gaps in the legislation. About 60% of villagers are providing water from their own wells, which are frequently contaminated.

617. Only 28% of Kosovo's population is connected to the sewage system and this figure drops to 3% in rural areas. There isn't any waste water treatment plant in Kosovo. In fact, in 2005, a pilot project was developed for building the first waste water treatment plant, with capacity for 25,000 - 30,000 inhabitants.

618. There is no general policy or process for ensuring that the needs of the poor are taken into account during the design of new water and sanitation infrastructure. However, often the needs of the poor are considered during the implementation of water infrastructure projects at the local level or by the communities. It is also important to be mention that in Kosovo those villages inhabited by minorities, mainly Serbian and Roma, are given priority for implementation of the projects for the rehabilitation of infrastructure.<sup>274</sup>

619. There are several Municipalities which have suffered considerably due to lack of water supply. For example, the Municipality of Vushtrri/Vucitrn receives water only 4 hours per day, because the Municipality doesn't have an adequate infrastructure to receive more water. In the municipalities of Fushë Kosovë/Kosovo Polje, Zvečan/Zveçan and Novo Brdo/Novobërdë this issue is also a considerable problem.

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<sup>273</sup> Law No. 2004/24 On Water, promulgated by UNMIK Regulation No. 2004/41 of 14 October 2004.

<sup>274</sup> Case study on the right to water and sanitation in Kosovo, Korca Bardha, In: Hoffmann Sabine, The Implementation of the Right to Water and Sanitation in Central and Eastern Europe, Solidarite EAU Europe, 2006, see at: <http://www.worldwatercouncil.org/index.php?id=1538&L=1%20title%3D>.

620. In contrast with other municipalities, Ferizaj/Uroševac faces problems with the sewage and drainage system. According to the data from the annual statistical reports which are gathered in the Municipalities it results that 90% of houses are located in the urban zones of water supply and use the towns' water supply, while approximately 80% of the households are connected to the sewage network.

621. As for the villages that are connected to the urban water supply, nobody knows the exact data because the majority of Municipalities haven't given any answer to this question. From the information provided it results that 494 villages are connected to the water supply, while 113 villages are connected to the sewage system.

### **1. Water planning**

622. According to the Kosovo Water Law<sup>275</sup> all persons regardless origin or background have the right to the use of water. In order to protect waters and the general use of water and other Water Resources, in the public interest, rights to the use of these by the owner or occupier of the land and of the water resource may be limited in accordance with the Law (Article 12.1).

623. The basic documents for Planning and Development of Water Management in Kosovo which have been developed are:

- Strategic Plan for Waters
- Water Management Plan
- River Basin Management Plans
- Flood Management Plan

624. According to Article 22, point 1(e), of the Kosovo Water Law, The Strategic Plan For Waters determines the policies for ensuring:

- Sustainable water development in regard to providing all users with water of sufficient quality and quantity
- Protection of waters from pollution
- Protection and improvement of ecosystems
- Protection from water damage effect (i.e. flooding)

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<sup>275</sup> Law No. 2004/24 on Water in Kosovo promulgated by UNMIK Regulation No. 2004/41 of 14 October 2004.

625. The Strategic Plan for Waters is issued in order to have an integrated planning for the implementation of programmes and measures for water development in accordance with the overall economic and social development of Kosovo.

## **2. Water regulatory bodies**

626. The water sector in Kosovo has two regulatory bodies:

- The Water & Waste Regulatory Office (WWRO) provides economic regulation, such as tariffs and customer service standards. The WWRO also licences water and wastewater utilities
- The Ministry of Environment and Spatial Planning (MESP) regulates the use of water from the natural environment. The MESP, through a system of water permits started in late 2006, intends to regulate physical access to water by both public and private sector water users

627. Following the conflict in 1999, the Kosovo water sector consisted of around 30 small municipality based water operations, with the exception of a few larger towns where these were combined with a solid waste company. Most of the companies required subsidies to maintain operations. Problems faced by the water and waste companies in 1999 included the following:

- Loss of movable assets and damaged office premises
- War damage to infrastructure
- 10 years of under-investment in infrastructure
- Absence of a billing and tariff system
- Poor financial management and lack of financial accounting procedures
- Staffing problems (many Kosovo Albanian staff members, including managers, had returned to work for the first time since 1991)

628. Most cities and towns faced extensive water restrictions.

629. Upon the establishment of the Kosovo Trust Agency (KTA) in 2002,<sup>276</sup> its Water, Waste, and Irrigation Sector made a decision - approved by the KTA Board of Directors - to consolidate

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<sup>276</sup> UNMIK Regulation No. 2002/17 On the Establishment of the Kosovo Trust Agency of 13 June 2002, as amended.

the 30 water operations into seven regional water and wastewater companies. Numerous donor-funded programmes were also implemented to address problems faced by the water companies. These programmes have included:

- Management training and capacity building
- Provision of computerised billing and accounting systems to all water companies
- Emergency projects to repair and replace damaged essential infrastructure (these projects were largely complete by the end 2000)
- Investments in existing infrastructure with a view to reducing water losses
- Repair of office facilities and replacement of vehicles

630. Consequently, significant improvements occurred in the sector between 1999 and 2006:

- New managers were appointed where necessary
- Company staff and management are better trained
- The average daily interruption in the water supply has dropped from 3.9 hours per day in 2004 to only 1.1 hour per day in 2006
- Levels of water losses from the supply networks have been reduced
- The level of billing has increased - all registered customers now receive a water bill
- Company revenues continue to increase year to year

631. Between 2003 and 2006, the KTA Water Sector completed one of the most extensive Publicly Owned Enterprise (POE) restructuring exercises in Kosovo: the consolidation of all water supply companies, with the exception of four small municipal level operations in Kosovo Serb majority municipalities, into seven regional water companies (also including wastewater collection).

632. The next step is to carry out the incorporation of water, waste, and irrigation companies - a process that started in December 2006 and is expected to be completed by August 2007.

633. In 1999, many areas of Kosovo were still not included in the service networks of water companies. These areas generally have individual household wells or rural village spring supplies operated and maintained by the villagers themselves. These water sources are not within the POE mandate of the KTA. Given the problems faced by the water companies in 1999, it was not - and in many areas still isn't - possible to expand the water and wastewater collection systems into previously unserved rural areas. There has, however, been an expansion of water supply networks where funding was made available. KTA data for all regional companies since January 2004 indicates that the number of registered customers on the water companies' networks has increased from 146,000 to 189,000. Nonetheless, in order to have long-term sustainability in the expansion of water and wastewater services throughout Kosovo, it is still

necessary to create financially sustainable water companies that are able to invest and subsequently operate and maintain an expanded water infrastructure. This has been the ultimate aim of the KTA Water Sector consolidation programme.

634. Where water services are available and are operated and maintained by a regional water company, distribution is equitable and fair. No disconnection procedures are applied to schools and other social institutions. In 2006, only 68% of water supplied to Kosovo's institutions, including schools, hospitals, and other social institutions was actually paid for.

635. Prior to the start of 2004, reliable and detailed data for the water sector was not available in Kosovo. The table below shows data on household water supply costs for 2004 to 2006.

**Table 78**  
**Cost of water supply 2004-2006**

	2004	2005	2006
Average tariff per meter cubic (Euro/m <sup>3</sup> )	0.28	0.29	0.34
Average monthly water consumption per household (m <sup>3</sup> /month)	32	29	24
Implicit average cost per household per month (Euro)	8.96	8.41	8.16

*Source:* UNMIK (EU Pillar).

636. Regional water companies do not maintain data on customers' economic situation and therefore do not take special measures with regard to economically vulnerable groups.

**Table 79**  
**Statistics per year on numbers of connections to public water and sanitation supply broken down by region**

Region	Name of Regional Company	Number of connections operated by regional water companies as of November 2006
Prishtinë/Priština	RWC Prishtinë	65 541
Prizren	Hidroregjioni Jugor	27 737
Pejë/Peć	Hidrodrini	24 484
Mitrovicë/Mitrovica	Ujesjellesi Regjioni	19 073
Gjakovë/Đakovica	Hidrosistemi Radoniqi	24 698
Ferizaj/Uroševac	Bifurkacion	13 291
Gjilan/Gnjilane	Hidromorava	15 017

*Source:* UNMIK (EU Pillar).

637. It is not possible to provide data on the number of connections by ethnic community, or urban and rural areas. Regional water company customer databases do not carry such information.

### **3. Drinking water quality control**

638. According to the Ministry of Health, drinking water quality standards and the waste water sanitation standards are set by the Institute of Public Health, an independent institution located on the grounds of the Prishtinë/Priština University Hospital. Drinking water quality standards are monitored by six regional Departments of Public Health. The Regional Departments of Public Health monitor both public drinking water supplies and private wells and sources. In the case of private wells and sources the Regional Departments of Public Health provide the owners/users with means of purification (chlorine tablets). Water supplies by Public Water Companies is monitored through periodic laboratory analyses by the Regional Departments of Public Health. These laboratory analyses are paid by the Public Water companies.

### **4. Improving the supply of safe drinking water projects of EAR**

639. The European Agency for Reconstruction (EAR) implemented the Water Supply & Waste Management Programme for Kosovo 1999-2003. One of the objectives of the project was to ensure the supply of reliable quantities of potable water in the short to medium term to inhabitants connected to the Public Water Supply System in the Central and Northern part of Kosovo.

640. The EAR support programme (1999-2003) developed a commendable and logical sequence of projects for improving water supply and waste management. The programme started during 1999-2000 with emergency repairs and spare parts. In 2001 and 2002, the programme turned to rehabilitating existing technical systems, providing public officials with training and developing feasibility studies. By 2002-2003, the programme was supporting institutional development and management. The continuing support in the Agency's Action Programme for 2004 underlined even further this development by strengthening the institutional capacity of the Ministry of Environment and Spatial Planning (MESP), established in 2002. It is up to the MESP to develop, monitor and enforce environmental protection and resource management policies that encompass water resource, sanitation, solid waste and pollution, in line with European Union standards and the environmental acquis.

641. The main challenges for the programme were in relation to illegal connections and non-metered and non-paid services which raise concerns for future financial sustainability. An apparent lack of public awareness indicates a lack of ownership by the local community that needs to be addressed by officials both in UNMIK and the Kosovo Government.

642. The effectiveness of the water supply component of the EAR programme was satisfactory. The water supply has increased by 20-25% and the availability has also increased, resulting in less rationing. However, there is still an under-supply of water varying from winter season (75% of demand) to summer season (50-55% of demand).



643. The greatest concern is about the sustainability of the water sector. This is largely attributed to inefficient revenue collection. For example, in 2003, only 35% of supplied water was paid for. Without adequate financial means, the increased efficiency in management of the services will be jeopardised.<sup>277</sup>

## **G. Heating**

644. The District Heating (DH) Sector in Kosovo presently supplies about 5% of overall heating demand. It consists of three DH companies outlined below:

### **1. DH-Company “Termokos” in Prishtinë/Priština**

645. Termokos, the district heating company, is a local public utility company that operates the district heating system in Prishtinë/Priština. The heating system serves about 12,000 apartments (622,900 m<sup>2</sup>), the hospital (79,000 m<sup>2</sup>), official buildings (155,300 m<sup>2</sup>), and commercial premises (122,300 m<sup>2</sup>). Production is provided by two 58 MW heavy fuel oil-fired boilers, and two new (1999-2000) 7 MW light fuel oil-fired boilers in the hospital area. The distribution system consists of 58 km of pipes and about 240 substations in the primary network.

### **2. DH Company in Gjakovë/Đakovica**

646. Gjakova DHC, also a local public utility, operates the District Heating system in Gjakovë/Đakovica. The heating system serves about 1,100 household consumers (70,000 m<sup>2</sup>), as well as public buildings and commercial offices (80,000 m<sup>2</sup>). The heating plant consist of two heavy fuel oil-fired boilers of 18 and 20 MW. The distribution system consists of some 10 km of pipes and about 100 sub-stations. DH companies Termokos and Gjakova were incorporated in January 2006.

### **3. DH Company “TERMOMIT” in Mitrovicë/Mitrovica**

647. Termomit Toplana is a district heating company operating in Mitrovicë/Mitrovica. It has been the main provider of heating for the city, covering education and health institutions and private homes, among others. After 1999, the company had in function a heating boiler of 9,3 MW. Termomit is currently operating under Serbia’s “Standard” public waste company. Termomit has denied access to its operational and financial reports to the KTA DH sector.

## **4. Heating company situation**

648. Immediately after the conflict in 1999, all DH enterprises suffered from the previous decade of neglect and the prolonged lack of investment in their production facilities, distribution networks, heat-exchanger substations, and secondary systems. With the assistance of

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<sup>277</sup> Water supply and waste management in Kosovo - Evaluation Report, European Agency for Reconstruction, 2004.

international donors such as SIDA, the EAR, GTZ, and DFID, most of the problems were addressed and DH enterprises have supplied heat to their customers regularly over the past seven years. Some of the results achieved with the help of donor funding include the following:

- Rehabilitation of almost 25% of the distribution network in Prishtinë/Priština
- Rehabilitation of production facilities in Prishtinë/Priština and Gjakovë/Đakovica
- Construction of two diesel-fired boilers for the Hospital in Prishtinë/Priština
- Upgrading of all heat-exchanger substations in Prishtinë/Priština and Gjakovë/Đakovica
- Extension of distribution network and connection of new consumers in Gjakovë/Đakovica
- Rehabilitation and extension of production facilities, the distribution network, the heat-exchanger substation, as well as the connection of new customers in Mitrovicë/Mitrovica
- Regular supply of heavy fuel oil and diesel fuel during the heating season
- Restructuring and management support to the DH enterprises in Prishtinë/Priština and Gjakovë/Đakovica
- Incorporation of the DH enterprises in Prishtinë/Priština and Gjakovë/Đakovica

649. Meanwhile, revenue collection has risen from 18% in 1999 to almost 60% in 2006 against billed supply (DH enterprises Prishtinë/Priština and Gjakovë/Đakovica presently have an almost 95% billing rate).

650. It is still necessary to carry out the further rehabilitation of the distribution network in Prishtinë/Priština, as well as to further extend the distribution network and establish new connections in Gjakovë/Đakovica and Mitrovicë/Mitrovica.

## **H. Food and nutrition**

### **1. Draft law and statistics**

651. There is currently a draft law on food that went through its first reading in the Assembly on 21 November 2005 and a second reading on 21 June 2007. The draft law covers all food related sectors in Kosovo to the same level as in the EU member states. There are provisions that clearly define the food related inspection services and their competencies. Secondary legislation is also taken into account in the draft law, so that there is full coverage of all food related issues, such as production, trading, preservation and distribution. The benefit of this law's adoption

would be manifold, including: (a) there would be a definition of the Competent Authority on Food, which is an EU requirement; (b) there would be human and technical capacity building; and (c) the responsibilities and competencies of different institutions would be specified. Another benefit would be the reorganization of the inspection system. Another notable improvement would be in the area of public and animal health and also regarding prevention of an outbreak of food originated diseases.

652. Statistics show that the largest budget share of private consumption in Kosovo goes to food, as it makes up 40% of the total consumption. The food share has decreased over the years, which can be seen as a sign of a higher economic standard. According to “Engel’s Law”,<sup>278</sup> when the standard increases, people spend more money on food but the budget share decreases.<sup>279</sup> The two tables below can be compared in order to observe the difference between the distribution of consumption in Kosovo during the year 2003 - 2005 and for EU countries in 1999.

**Table 80**

**Distribution of consumption in Kosovo 2003-2005 (%)**

Consumption	2003	2004	2005
Food	48	43	40
Alcohol and tobacco	3	3	4
Clothing	5	5	6
Housing	29	31	31
Furnishing	4	3	4
Health	1	2	2
Transport	4	5	6
Communication	1	2	2
Recreation	1	1	1
Education	1	1	1
Hotels and restaurants	1	1	1
Miscellaneous	2	2	3
Total	100	100	100

*Source:* Statistical Office of Kosovo (SOK).

<sup>278</sup> Engel’s law was formulated by a German-born statistician (1821-1896) and is accepted as a basic economic principle of income and consumption.

<sup>279</sup> See the Statistical Office of Kosovo’s (SOK) website under “Private consumption in Kosovo 2003-2005”.

**Table 81**  
**Distribution of consumption in EU in 1999 (%)**

Consumption	Minimum	Maximum
Food	10	19
Alcohol and tobacco	2	7
Clothing	5	9
Housing	20	31
Furnishing	5	8
Health	1	6
Transport	10	17
Communication	2	3
Recreation	5	15
Education	0	2
Hotels and restaurants	4	10
Miscellaneous	5	15

*Source:* SOK.

## 2. Food at work

653. There is no provision relating to food in either the Essential Labour Law<sup>280</sup> or the Civil Service Law<sup>281</sup>. However, in the Occupational Safety Law<sup>282</sup> there is a provision stating that the employer should provide eating places equipped with suitable furniture and that eating places should be “dry, clean, sufficiently warm, ventilated and free of harmful atmosphere”.<sup>283</sup> Furthermore, those to which the General Collective Agreement applies,<sup>284</sup> will be reimbursed for

<sup>280</sup> UNMIK Regulation No. 2001/27 On Essential Labour Law in Kosovo of 8 October 2001.

<sup>281</sup> UNMIK Regulation No. 2001/36 On the Kosovo Civil Service of 22 December 2001, as amended by UNMIK Regulation No. 2006/20.

<sup>282</sup> Law No. 2003/19 On Occupational Safety, Health and the Working Environment, promulgated by UNMIK Regulation No. 2003/33 of 6 November 2003.

<sup>283</sup> Ibid., Article 5.3.

<sup>284</sup> As implemented by the Decision of the Kosovo Government, No. 02/201 of 31.05.2006. Signatories to the agreement are for the employees - the United Independent Trade Unions of Kosovo, for the government of Kosovo - the Ministry of Labour and Social Welfare and for the employers - the Chamber of Economy of Kosovo. Provisions in the agreement is stated to apply to “all employers, which are doing [...] any kind of [...] economical, non-economical operation and civil services. Unions’ branches of non-economical operations (civil and public services and public enterprises), make a particular contract with their employer (respective ministries, of public services, education, health etc..., in accordance with their specifics)”.

food during working hours for all days spent at work. This includes workers only doing half-time work, students, young professionals and students doing their practice at work. The value of the reimbursed cost for food is to be calculated on a daily basis and adjusted according to the increase in daily living expenses.<sup>285</sup>

654. According to the Ministry of Energy and Mining the miners working in the underground Trepça mines are provided with free food in terms of one meal to the value of 1 Euro, whereby the workers are free to choose whatever they like to eat. In the open-pit mine of KEK, the employees are provided with one (1) Euro for food, whereby one meal of food in their kitchen costs 1,85 Euro, so the workers are obliged to pay 0.85 Euro from their own pockets.

### **3. Food in school**

655. According to the Ministry of Education, Science and Technology there is school curricula from which children can learn about nutrition and healthy eating. The subject of food is currently spread throughout the curricula in the subjects of civic education, biology and “learning through life”. The civic education course includes food in the following two categories: Individual Development and Identity - primary school grades of 2, 4 and 6, and Groups and Institutions - school grades of 1, 3 and 9. Within the subject biology the issues of the digestive system and the fauna is being dealt with. In the Learning Through Life-course, which is taught in grade 9, there is a separate chapter in the school book on how to take care of one’s health with the topical units of: (a) defining factors that influence human health; (b) understanding the individual’s responsibility on health; (c) the difference between eating and feeding; (d) understanding how to feed oneself in a healthy manner; and (e) risks of health such as alcohol, smoking and drugs.

656. Children in schools are not provided with food from public funds, but have their own financing. Lunches are prepared either in school kitchens if available or outside. In some cases the school administration organizes meals, which they offer to the children. In these cases the food and the organization is based on monthly payments made by the children’s families. In “special schools” however, MEST provides for food, from a separate budget line. In 2006, for example, 420,929 Euro were allocated for goods and services, which includes food.

### **I. Agricultural development**

657. The current status of land use for agriculture and other purposes as of 2005 is illustrated in the following estimated statistical tables compiled by the Statistical Office of Kosovo (SOK) from its Agricultural Household Survey.

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<sup>285</sup> General Collective Agreement, Article 46.

**Table 82**  
**Total land use**

Land use	Area (ha)	%
Utilised arable land and kitchen gardens	138 861	38.42
Orchards	4 016	1.11
Vineyards	907	0.25
Greenhouse	162	0.04
Meadows	89 844	24.86
Subtotal cultivated land	233 789	64.68
Pastures	8 425	2.33
Left fallow	23 052	6.38
Subtotal agricultural land	26 265	73.39
Forestry	76 700	21.22
House yard	16 082	4.45
Other	3 391	0.94
Total	361 439	100.00

*Source:* SOK, Agricultural Household Survey, 2005.

**Table 83**  
**Agricultural land by farm size and structure**

Farm size	Small			Large and specialised farms			Total		
	No. of farms	Area (ha)	% of farms	No. of farms	Area (ha)	% of farms	No. of farms	Area (ha)	% of farms
0-0.5 ha	33 657	10 474	19.6	5	2	2.0	33 662	10 476	19.6
0.51-1 ha	46 154	34 895	26.9	9	6	3.5	46 154	34 901	26.9
1.01-1.5 ha	39 129	49 039	22.8	4	5	1.6	39 133	49 044	22.8
1.51-2 ha	14 512	25 935	8.5	12	24	4.7	14 524	25 958	8.5
2.01-3 ha	21 610	53 484	12.6	31	78	12.1	21 641	53 561	12.6
3.01-4 ha	6 756	23 120	3.9	32	110	12.5	6 788	23 231	4.0
4.01-5 ha	3 875	17 478	2.3	21	95	8.2	3 896	17 573	2.3
5.01-6 ha	2 412	13 240	1.4	12	65	4.7	2 424	13 305	1.4
6.01-8 ha	1 712	11 764	1.0	31	217	12.1	1 743	11 981	1.0
8.01-10 ha	702	6 182	0.4	24	219	9.4	726	6 401	0.4
Over 10 ha	973	14 728	0.6	75	4 105	29.3	1 048	18 833	0.6
Total	171 483	260 337	100	256	4 928	100	171 739	265 265	100

*Source:* SOK, Agricultural Household Survey, 2005.

**Table 84**

**Agricultural land area by ownership and farm structure**

Ownership	Small farms		Large and specialised		Total	
	Area (ha)	%	Area (ha)	%	Area (ha)	%
Owned	339 392	95.27	1 575	30.24	340 966	94.34
Rent from private individual	7 379	2.07	759	14.58	8 138	2.25
Use private land for free	4 633	1.30	63	1.21	4 696	1.30
Rent from state	3 665	1.03	2 806	53.87	6 471	1.79
Use state land for free	999	0.28	6	0.12	1 005	0.28
Other	163	0.05	0	0.00	163	0.04
Total	356 230	100.00	5 209	100.00	361 439	100.00

*Source:* SOK, Agricultural Household Survey, 2005.

**Table 85**

**Reasons stated by farmers for land left fallow**

Reasons	%
Low economic profitability	30.6
Lack of equipment	25.3
Lack of manpower	14.7
Lack of security	12.1
Other reasons	8.4
Lack of inputs	5.1
Crop rotation	2.6
Mines	1.1

*Source:* SOK, Agricultural Household Survey, 2005.

658. The Law on Agricultural Land determines the use, protection, regulation and lease of agricultural land for the purpose of permanent preservation and protection of agricultural potential, based on the principles for a sustainable development.<sup>286</sup> The law, inter alia, sets out that the owner or user of agricultural land is obliged to use it in a manner suiting the natural characteristics of the land, while not lowering its value and through the use of appropriate agro-technical measures.

<sup>286</sup> Law No. 02/L-26 On Agricultural Land, promulgated by UNMIK Regulation No. 2006/37 of 23 June 2006.

## **1. Forestry**

659. Forestry is an important sector in Kosovo for economic, environmental and social reasons. Approximately 45% of all agricultural households in Kosovo have forests. The wood utilisation falls into two categories, firewood and technical/industrial wood. Most wood is used as firewood, while only 2% is used for technical and industrial purposes (e.g. electrical poles, railway pontoon/connectors, furniture, and tannin and cork from wood bark).

660. In 2003, the Law on Forests in Kosovo<sup>287</sup> was promulgated. It provides for forest management based on annex III of the United Nations Session Report on Environment and Development.<sup>288</sup> The law foresees protection and promotion of Kosovo forests whilst allowing for the co-ordinated and regulated sustainable development of the forest resources. For better implementation of the public policies regarding forests in Kosovo the establishment of several institutions has been envisaged: Kosovo Forest Agency, Forest Restoration Fund and Forest Advisory Board. While the Forest Restoration Fund and the Forest Advisory Board were established directly by the Law on Forests, the Ministry of Agriculture, Forests and Rural Development (MAFRD) has set up the Kosovo Forest Agency.<sup>289</sup> Furthermore, the Ministry issued AI No. 02/2005 on Responsibilities and Obligations of Forest Guards; AI No. 06/2005 on Registration, Licensing of Forests Young Plant Material Producers and Producers of Decorative Woods; AI No. 12/2005 on Determination of the Prices/Taxes for Usage of Wood/Forestry Products, Non-Wood Products and for Technical Professional Services; and AI No. 25/2005 on the Rules of Sale of the Wood Material and Wood Assortments.

## **2. Farmers cooperatives**

661. A law was adopted in 2003 in order to regulate the work of farmers' co-operatives for the benefit of agricultural development and to increase the productivity of the work of the farmers.<sup>290</sup> The Law envisages that MAFRD regulate the statutes of such co-operatives. In view of that MAFRD issued AI No. 6/2004 on the Format and Content of the Statutes and Registration Requirements for Farmers' Cooperatives. Additionally MAFRD issued AI No. 9/2004 on the Management and Voting Procedures in the Farmers Cooperatives as well as AI No. 10/2004 on the Federation of the Farmers Cooperatives of Kosovo.

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<sup>287</sup> Law No. 2003/03 On Forests in Kosovo, promulgated by UNMIK Regulation No. 2003/6 of 20 March 2003, as amended.

<sup>288</sup> Rio De Janeiro, 3-14 June 1992.

<sup>289</sup> MAFRD issued AI No. 7/2003 On the Establishment, Responsibilities, Duties and Organization of the Kosovo Forest Agency.

<sup>290</sup> Law No. 2003/9 On Farmers Cooperatives, promulgated by UNMIK Regulation No. 2003/21 of 23 June 2003.



### 3. Crops

662. The main areas of arable land are concentrated in valleys and flat areas in the north and east of Kosovo. Traditionally, vegetable and fruit production has been concentrated mainly in the west. Recently, fruit production has started increasing in other parts as well. Grazing pastures and forests are located in the mountain areas.

**Table 86**

**Average use of harvested crops by farm structure in percent**

	Small farms (%)	Large and specialised farms (%)
Household needs	70.0	54.1
Sold	5.3	16.7
Processed and sold	0.4	0.2
Animal feed	21.1	25.4
Lost	3.2	3.6

*Source:* SOK, Agricultural Household Survey, 2005.

663. Kosovo agriculture still overwhelmingly has a character of subsistence farming. Although the larger and specialised farms, which are not necessarily commercial farms, sell a larger share of their production than the small farms, they still sell less than one-fifth of the output.<sup>291</sup>

664. Various laws have been promulgated to regulate this agricultural sector:

665. The Law on Artificial Fertilizers aims at assuring the maintenance of the quality of the artificial fertilizers in Kosovo by establishing rules for the protection of producers and consumers of artificial fertilizers and regulating the system of artificial fertilizers in Kosovo.<sup>292</sup> In view of that, the MAFRD issued AI No. 2/2004 on the Conditions for Licensing the Importers for Selling and Storage of Artificial Fertilizers; and AI No. 13/2005 on the Conditions of Licensing of Subject for Repackaging of Artificial Fertilizers.

666. The main purpose of the Law on Pesticides<sup>293</sup> is to regulate the production, import, export, distribution, sale and use of pesticides in Kosovo. In order to implement the law, the MAFRD issued AI No. 2004/1 on the Establishment of Terms for Licensing Pesticide Importers to Trade and Store Pesticides.

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<sup>291</sup> SOK, Agricultural Household Survey, 2005.

<sup>292</sup> Law No. 2003/10 On Artificial Fertilizers, promulgated by UNMIK Regulation No. 2003/22 of 23 June 2003.

<sup>293</sup> Law No. 2003/20 On Pesticides, promulgated by UNMIK Regulation No. 2003/35 of 8 December 2003.

667. The Law on Planting Material<sup>294</sup> regulates matters related to: the production, trade, import and export of planting material, the control as well as the registration of producers and traders of planting material. For the implementation of the law the MAFRD has issued various Administrative Instructions: on the Registration of the Producers of Seedling Material (AI No. 12/2004); regulating the registration, licensing and assignment of tax for importers, exporters and traders of seedling material (AI No. 14/2004); setting the standards of nursery-seedling material for fruits, vine and vegetables (AI No. 05/2005); regulating the registration of producers and traders of planting material, the control of planting material production, the issuance of registration and registration fees; the licensing of producers of planting forestry material and decorative woods (AI No. 06/2005); and regulating the packaging and labelling of planting material (AI No. 27/2005).

668. The aim of the Law on wine<sup>295</sup> is to regulate the production and distribution of grapes used for wine production, as well as the production and distribution of wine and other products resulting from processing grapes and wine. MAFRD has issued AI No. 05/2006 for the Designation of the Authorised Institution for Conducting Analyses and Evaluation of Wines of Kosovo and AI No. 06/2006 for the Registration and Licensing of Grape Cultivators, Producers and Processors of Wine.

#### **4. Irrigation**

669. The irrigation infrastructure of Kosovo is extensive and was once designed to take water to around 50,000 hectares of land. In 1999, the irrigation sector consisted of six irrigation companies which suffered from much the same problems as those indicated for the water sector (i.e. lack of maintenance and investment; lack of effective management). Most of the system did not function. In addition, agriculture itself was in a very poor state (and still is as much agricultural land has not been put back into use). Since the irrigation system did not function, those farms that did plant crops moved away from crops requiring irrigation water. This situation was compounded by the Kosovo farmers' lack of access to traditional markets of the former Yugoslavia. The situation led to a collapse of the irrigated crop sector and irrigated water demand throughout most of Kosovo, with the exception of the Dukagjini region.

670. The extensive irrigation system in the east of Kosovo, known as the Iber Lepenc system, which consists of 100 kilometres of canal, 11 pumping stations and several tunnels and siphons would require subsidy even with full usage and payment.

671. As a part of the consolidation of water, irrigation and waste Publicly Owned Enterprises in 2003, the Kosovo Trust Agency (KTA) also consolidated the six irrigation companies into three regional ones:

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<sup>294</sup> Law No. 2004/13 On Planting Material, promulgated by UNMIK Regulation No. 2004/16 of 28 May 2004.

<sup>295</sup> Law No. 02/L-8 On Wine, promulgated by UNMIK Regulation No. 2005/47 of 14 October 2005.

**Table 87**  
**Water companies**

Region	Company
Prishtinë/Priština Mitrovicë/Mitrovica	Iber Lepenc
Pejë/Peć Deçan/Dečani Istog/Istok	Drini i Bardhe
Gjakovë/Đakovica Prizren	Radoniqi-Dukagjini

672. The aim of this consolidation has been to allow more effective management of the irrigation companies.

673. In addition, since the year 2000, the European Agency for Reconstruction (EAR) funded an almost continuous programme of support and investment in Kosovo's irrigation systems. This included:

- Training and capacity building
- Provision of new equipment and facilities
- Creation and training of Water User Associations (WUA) formed from farmer groups so as to allow for the collective maintenance and payment for irrigation systems
- Over 12 million Euro of investment in the rehabilitation of irrigation infrastructure with the aim of increasing the area of irrigable land
- Programmes to encourage farmers to return to irrigable crop production
- Introduction of GIS network mapping to improve irrigation management

674. By 2003, there were about 9,300 hectares of land in irrigation, with a further 23,000 hectares that could be irrigated if farmers would switch to irrigable crops.

675. In 2005 the Law for the Irrigation of Agricultural Lands<sup>296</sup> was promulgated to create optimal conditions for the irrigation of agricultural land in Kosovo and its protection against

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<sup>296</sup> Law No. 02/L-9 On Irrigation of Agricultural Lands, promulgated by UNMIK Regulation No. 2005/49 of 25 November 2005.

excessive waters, aiming at increased yields of agricultural products. The Law regulates a series of issues related to irrigation and drainage such as the organisation and administration of irrigation and drainage of agricultural land, competences and responsibilities of irrigation and drainage entities, and the registration and organisation of irrigation companies, federations and water irrigation fees. The MAFRD, in implementing this Law, has issued AI No. 09/2006 on the Procedures for the Establishment and Registration of Irrigation Associations.

## 5. Livestock

**Table 88**

### **Livestock numbers as of October-November 2005**

Type	Small farms	Large specialised farms	Total
Cattle	349 196	2 631	351 827
Pigs	47 348	116	47 464
Sheep and Goats	135 789	16 091	151 880
Equines	6 718	85	6 803
Poultry	2 160 466	470 549	2 631 015
Beehives	69 378	194	69 572

*Source:* SOK, Agricultural Household Survey, 2005.

**Table 89**

### **Livestock products sold 2005**

Livestock products	No. of Households	Average value/HH (in Euro)	Total value (in Euro)
Meat	2 623	1 034	2 713 294
Milk	14 343	502	7 194 335
Cheese	13 871	246	3 414 864
Fat (grease)	1 486	188	279 378
Other dairy products	4 384	202	885 955
Eggs	1 934	2 461	4 760 272
Honey	1 343	571	767 513
Other products	841	299	251 356
Total	40 826	496	20 266 967

*Source:* SOK, Agricultural Household Survey, 2005.

676. Various laws have been promulgated to regulate this agricultural sector.

677. The purpose of the Law on Veterinary<sup>297</sup> is to regulate the combating and prevention of infectious animal diseases. It aims at establishing rules on the control of the import, export, transit and circulation of live animals and products of animal origin. Moreover, it determines the rights and obligations of public and local government institutions as well as of individual persons in this field.

678. The MAFRD has issued 13 AIs implementing various provisions of the Law. Section 5 oversees the creation of an Executive Agency and has been implemented by AI No. 11/2004 on the Establishment and Responsibilities, Functions and Organization of the Kosovo Veterinary and Food Service. The issues concerning mandatory treatment and vaccination have been regulated by AI No. 10/2005 against Zoonotic Disease Rabies and AI No. 14/2005 against Disease of Poultry. For the establishment of the livestock system for registration and identification, the MAFRD issued AI No. 3/2005 on Animal Registration and Identification, while animal transport is regulated in AI No. 17/2005 on Movement of Live Animals within the Territory of Kosovo.

679. Specific rules under which live animals and products may be imported from abroad are covered by AI No. 13/2004 regarding the import of poultry. In respect of other animals, MAFRD has issued AI No. 18/2005 on Veterinary Control of Import, Transit of Food and Non-food Products of Animal Origin, Live Animals and Animal Breeding Material. The MAFRD has also issued a variety of other AIs such as: on Bio-Security Points; on Production, Processing and Marketing of Animals and Products of Animal Origin; on Prohibition of Illegal Slaughtering and Marketing of Unstamped Meat; on Medical Products and Medical Devices; on License of the Ambulances, Stations and Veterinary Clinics; on Conditions for Licensing the Facilities of Milk Processing and Packaging; and just recently on the Combating of the Bird Disease-“Avian Influenza”.

680. The aim of the Law on Livestock<sup>298</sup> is to ensure quality standards regarding livestock breeding. It covers issues concerning livestock breeding and livestock feed materials; quality standards concerning classification and grading of farm produced livestock products sold to processing industries; and zoological standards for livestock-keeping. The MAFRD is tasked to establish two institutions: the Standing Commission on Livestock Breeding (to advise the Ministry on issues related to livestock breeding) and the Centre for Livestock Breeding. The Ministry has, inter alia, issued AI No. 04/2005 to regulate Livestock Breeding and established the Centre of Livestock Breeding in order to collect and analyse data concerning breeding matters. Further, the Ministry has issued AI No. 20/2005 on Quality Standards, Labelling and Classification of Eggs.

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<sup>297</sup> Law No. 2004/21 On Veterinary, promulgated by UNMIK Regulation No. 2004/28 of 30 July 2004.

<sup>298</sup> Law No. 2004/33 On Livestock, promulgated by UNMIK Regulation No. 2004/39 of 14 October 2004.

681. The purpose of the Law on Animal Welfare<sup>299</sup> is to establish a legal basis for animal welfare in order to ensure the physiological and social needs of animals. The Law regulates the maintenance, caring, housing, breeding and transportation of animals, as well as other issues of animal welfare.

682. Just recently the Law on Fishery and Aquaculture has been promulgated, regulating the management of fishing resources and activities of fishery and aquaculture exercised in the waters of the territory of Kosovo.<sup>300</sup>

## **6. Market supervision**

683. The Market Inspection Law<sup>301</sup> establishes a market supervisory mechanism by determining the functions, operations and authorisations for market inspectors. The Law envisages the establishment of the Market Inspectorate by the Ministry of Trade and Industry (MTI) and provides for obligations, authorisations and tasks of the market inspectors. The Ministry of Trade and Industry has established the Market Inspectorate in March 2006 and issued AI No. 2006/13 on Providing the Special Identification Card and its Use by the Inspector.

### **Article 12**

#### **A. Legislative issues**

684. The right to health is guaranteed by the Constitutional Framework<sup>302</sup>, which makes the PISG responsible for ensuring its exercise. The Law on Health<sup>303</sup> defines the health care system, healthcare activities and the financing of the health care system in Kosovo. It also establishes the provision of health care in public, private and mixed health care institutions, accessible to all residents and all communities in a non-discriminatory manner.

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<sup>299</sup> Law No. 2/L-10 On Animal Welfare, promulgated by UNMIK Regulation No. 2005/24 of 9 May 2005.

<sup>300</sup> Law No. 02/L-85 On Fishery and Aquaculture, promulgated by UNMIK Regulation No. 2006/58 of 20 December 2006.

<sup>301</sup> Law No. 02/L-1 On Market Inspection, promulgated by UNMIK Regulation No. 2005/29 of 31 May 2005.

<sup>302</sup> UNMIK Regulation No. 2001/9 On a Constitutional Framework for Provisional Self-Government in Kosovo of 15 May 2001.

<sup>303</sup> Law No. 2004/ 4 On Kosovo Health, promulgated by UNMIK Regulation No. 2004/31 of 20 August 2004.

685. While the Ministry of Health (MoH)<sup>304</sup> is responsible for developing the health care system and health care policies and the secondary and tertiary level of care, the municipalities have the responsibility for the implementation of health care at the primary level, consumer protection and public health.<sup>305</sup>

686. The PISG have passed a number of laws and issued subsidiary legislation regulating activities in the field of health and creating health institutions and agencies. Examples of these laws are the following:

- Law No. 2002/8 On Environmental Protection,<sup>306</sup> establishing the basic legal framework to ensure a healthy environment
- Law No. 2002/09 On the Labour Inspectorate of Kosovo,<sup>307</sup> establishing the obligation to issue further normative acts on health and safety in the workplace
- Law No. 2003/3 On Forests in Kosovo<sup>308</sup> to protect Kosovo forests, in the light of which the use and distribution of pesticides<sup>309</sup> and the circulation and commerce of live poultry<sup>310</sup> were later regulated

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<sup>304</sup> The “Ministry of Health” or the “Ministry” refers to the current Ministry of Health of the PISG (UNMIK Regulation No. 2002/5 Amending UNMIK Regulation No. 2001/19 On the Executive Branch of the PISG in Kosovo of 4 March 2002), and its predecessors. They include the UNMIK Department of Health, the JIAS Department of Health and Social Welfare (UNMIK Regulation No. 2000/10 On the Establishment of the Administrative Department of Health and Social Welfare of 3 March 2000), and the Ministry of Health, Environment and Spatial Planning (UNMIK Regulation No. 2001/19 On the Executive Branch of the PISG in Kosovo of 13 September 2001).

<sup>305</sup> UNMIK Regulation No. 2000/45 On Self-Government of Municipalities in Kosovo, Section 3.1(j), 11 August 2000, and Kosovo Health Law, Section 18.1. UNMIK Regulation No. 2000/45, also establishes the responsibility in consumer protection and public health in Section 3.1(l).

<sup>306</sup> Promulgated by UNMIK Regulation No. 2003/9 of 15 April 2003.

<sup>307</sup> Promulgated by UNMIK Regulation No. 2003/4 of 21 February 2003.

<sup>308</sup> Promulgated by UNMIK Regulation No. 2003/6 of 20 March 2003.

<sup>309</sup> MAFRD, AI No. 3/2002 on Banning the Use and Distribution of Pesticides Harmful for Human Health and Environment.

<sup>310</sup> MAFRD, AI No. 9/2003 on Banning the Free Circulation and Marketing of Live Poultry.

- Law No. 2003/19 On Occupational Safety, Health and the Working Environment,<sup>311</sup> directed to prevent occupational injuries and diseases at the workplace and to protect the working environment<sup>312</sup>
- Law No. 2003/20 On Pesticides<sup>313</sup> to regulate the manufacture, import, export, distribution, sale and use of pesticides in Kosovo<sup>314</sup>
- Law No. 2003/22 On the Sanitary Inspectorate of Kosovo,<sup>315</sup> regulating food quality control and measures to combat contagious diseases<sup>316</sup>
- Law No. 2003/26 On Medicinal Products and Medicinal Devices,<sup>317</sup> which defines medical products and medical devices for use in human and veterinary medicine as well as conditions for their production and placement on the market
- Law No. 2004/17 On Consumer Protection,<sup>318</sup> determining and protecting consumers' rights including in the health sector
- Law No. 2004/24 On Kosovo Water,<sup>319</sup> regulating the allocation of water, its protection and management

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<sup>311</sup> Promulgated by UNMIK Regulation No. 2003/33 of 6 November 2003.

<sup>312</sup> The MLSW further adopted Regulation 1/2004 on Sanitary and Technical Security Measures at Work, and Regulation 2/2004 on the Evaluation of the Dangers in the Working Environment.

<sup>313</sup> Promulgated by UNMIK Regulation No. 2003/35 of 8 December 2003.

<sup>314</sup> The MAFRD has issued AI No. 2004/1 on the Establishment of Terms for Licensing Pesticide Importers to Trade and Store Pesticides.

<sup>315</sup> Promulgated by UNMIK Regulation No. 2003/39 of 17 December 2003.

<sup>316</sup> The MoH has created the Kosovo Sanitary Inspectorate through AI 20/2004.

<sup>317</sup> Promulgated by UNMIK Regulation No. 2004/23 of 7 July 2004.

<sup>318</sup> Promulgated by UNMIK Regulation No. 2004/42 of 19 October 2004.

<sup>319</sup> Promulgated by UNMIK Regulation No. 2004/41 of 14 October 2004.



- Law No. 2004/30 On Air Protection,<sup>320</sup> meant to ensure a healthy and clean air environment for residents and protect fauna and flora, and the natural and cultural values of the environment
- Law No. 2004/38 On the Rights and Responsibilities of the Citizen in Health Care,<sup>321</sup> defining and guaranteeing rights and responsibilities of the citizens
- Law No. 2004/50 On Private Practices in Health,<sup>322</sup> regulating the provision of health care services in the private sector
- Law No. 02/L-36 On Tobacco,<sup>323</sup> establishing measures for limitation and prohibition of tobacco smoking in public areas
- Law No. 02/L-76 On Reproductive Health,<sup>324</sup> which regulates activities in the field of reproductive health

## **B. General overview**

### **1. Health of the Kosovo population**

687. Although numerous surveys have been conducted in the health care sector in Kosovo, the MoH has established a Health Information System,<sup>325</sup> and data collection takes place through the Statistical Office of Kosovo (SOK) and the Institute of Public Health,<sup>326</sup> health data are neither complete nor totally reliable due to unsystematic reporting and improper use of classification codes.<sup>327</sup>

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<sup>320</sup> Promulgated by UNMIK Regulation No. 2004/48 of 25 November 2004.

<sup>321</sup> Promulgated by UNMIK Regulation No. 2004/47 of 19 November 2004.

<sup>322</sup> Promulgated by UNMIK Regulation No. 2005/1 of 13 January 2005.

<sup>323</sup> Promulgated by UNMIK Regulation No. 2007/1 of 9 January 2007.

<sup>324</sup> Promulgated by UNMIK Regulation No. 2007/11 of 7 February 2007.

<sup>325</sup> The HIS registers traditional diseases related information, operational and managerial information. The technical structure of the system was ready and installed in all hospitals and main family health centres in 2004.

<sup>326</sup> The SOK and the Institute of Public Health restarted the collection of data on vital events and epidemiological data in 2001.

<sup>327</sup> Health And Health Care Of Kosovo, MoH, Prishtinë/Priština, February 2004.

688. The available health indicators are amid the worst in Europe, as well as in relation to Kosovo's neighbouring countries. In 1999, the annual crude mortality rate from natural causes was estimated at 5.4 per 1000 inhabitants,<sup>328</sup> while in 2000 it was estimated at 5.8 per 1,000.<sup>329</sup> The leading cause of death (53%) among the majority Kosovo Albanian population were non-communicable diseases, followed by neo-natal deaths (28%) and deaths from communicable diseases (12%). Approximately 29.5% of deceases registered during 2005<sup>330</sup> in the regional hospitals occurred in internal diseases units, while those having occurred in the neurology and coronary units represent 22.9% and 16.9% respectively. In the Central University Clinics, 25.15% of the deaths occurred in the neurology unit, 24.9% in the internal diseases unit, 15.73% were due to anaesthesia, and a further 13.49% occurred in the gynaecology unit.

689. In 2005 there were 3,840,474 visits in the primary health care structures. More than 30% of them were due to respiratory diseases, followed by cases due to external factors influencing health conditions (14.5%), digestive system problems (11.4%), and cardiovascular diseases (8.4%). Most of the patients treated (31.8%) were between 15-49 years old, followed by patients between 1-5 years (22.35%), and 6-14 years (18.45%).

690. At the secondary health care level, 14.4% of the patients treated were affected by respiratory diseases, while cardiovascular diseases represented 10.67% of cases, followed by 6.63% of digestive system diseases. At the tertiary level, the percentages are similar regarding respiratory, cardiovascular and digestive system diseases. They are followed by infectious and verminous diseases, which represent about 8%, and cancer with 4.3% of the cases.

691. In 2005, female patients represented 56.3% of the total at the primary level, being almost twice the number of male patients treated in the 15-49 years age group (13.2% male v. 24.2% female). At the secondary level the percentage increases to 59.6%, being almost three times the number of males treated in the group 15-49 years old (11.12% male v. 32.32% female). At the tertiary level, 61.5% of the patients treated were women, making up 37.7% of patients in the group 15-49 years old (12.8% male). Children and maternal health data are particularly worrisome. The infant mortality rate was estimated at 35 per 1,000 in 2003.<sup>331</sup> The maternal mortality ratio was estimated at 23 and 12 per 100,000 in the years 2000 and 2001 respectively.

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<sup>328</sup> Ibid., page 60.

<sup>329</sup> Human Resources Development Report, UNDP, 2000, in Reflections on Kosovo's Health Policy Implementation through Analyses of its Eight Benchmarks set in Post-conflict Situation, Dr Fatime Arenliu Qosaj, Prishtinë/Priština, 2003.

<sup>330</sup> All data for the year 2005 come from the Statistical Office of Kosovo, Series 5: Social Statistics, Health Statistics 2005, Ministry of Public Services, Prishtinë/Priština, June 2006.

<sup>331</sup> Situation Analysis of Children and Women in Kosovo, UNICEF, 2004.

692. Cancer seems to be an increasing problem, while some communicable diseases, such as tularaemia and brucellosis are endemic in the region. Water and food borne diseases, such as Hepatitis A, are also endemic. Furthermore, there is a high prevalence of tuberculosis (2,976 cases reported in 2005), and a high prevalence of disability, representing a serious problem for the health status of the population. Dental problems are also very common. More than three quarters of all children have dental caries. Gingivitis occurred in 20%, and orthodontic disorders in 60% of the population.

693. There are regular outbreaks of water-borne diseases. Drinking water is often contaminated by waste water leaking into the supply networks due to their poor maintenance. As a consequence of this, there is a high incidence of gastro-intestinal tract infectious diseases with high peaks of acute diarrhoea (over 17,000 cases in 2001), especially in summer. Most cases occurred in children under five. Poor sanitation conditions also contribute to a high incidence of intestinal parasitic diseases and acute jaundice.

694. The prevalence of HIV/AIDS remains at a low level (less than 0.1%), but a significant increase could occur in the near future due to the particular characteristics of Kosovo society such as its large young population, high unemployment, rapid social changes, growing drugs consumption, prostitution, high mobility of the population, and a large fluctuating international community. Registration of HIV/AIDS cases started in 1986, with a total of 47 cases reported since. The majority of cases were males between 30 and 39 years of age. By the end of 2002, twenty-two patients had died. Four cases were registered in 2005. Although resources are limited, anti-retroviral treatment is provided at the Central University Clinics.

695. The exposure to cruel events during the conflict has resulted in an increase in mental health cases and post-traumatic stress disorder. The establishment of community-based mental health centres reduced hospitalisation by 40% for the period 2002-2003 in relation to previous years.

## **2. National programme of health care**

696. The MoH (then Department of Health) issued the first Interim Health Policy Guidelines and Six Month Action Plan in October 1999. It was followed by a Health Policy for Kosovo in February 2001. The current Kosovo Health Strategy 2005 - 2015 was published in June 2004. Its main target is the achievement of effective and efficient health services for the entire population of Kosovo, regardless of ethnic origin, religion or sex, and to improve the overall health status through policy development, professional advice, and strategic and operational management.

697. While the first strategy aimed to reconstruct, repair and equip health structures that had been neglected in the past and those damaged during the conflict, the Ministry later focused on primary health care and the reform of the health system,<sup>332</sup> targeting human resources, neo-natal, infant and maternal mortality, the health of young people, mental health, and communicable diseases. The current strategy also establishes a detailed implementing framework as well as timelines and responsible bodies within the administration for every objective to be achieved.

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<sup>332</sup> Before the conflict, the health system in Kosovo had the same structure as that in the rest of the former Yugoslavia: centralized, based on specialist care and vertical public health services.

698. Primary health care is considered to be the basis of the health system. Municipal family health centres are now able to provide preventive, clinical and dental services as well as emergency care. Smaller family health centres and small outreach units serve people in the villages. The Ministry has defined guidelines on the services, structure, equipment and staffing of the health centres. Primary health care priorities are maternal, child, adolescent and reproductive health. In addition to doctors and nurses, the primary health care teams have midwives, physiotherapists, occupational therapists, social workers and psychologists.

699. Vertical programmes have been dismantled and their elements are integrated either in primary care (e.g., vaccination and control of sexually transmitted diseases (STDs)) or in hospitals (e.g., out-patient treatment of tuberculosis). The primary level is also now responsible for the preventive aspects of occupational health while hospitals deal with specialized diagnosis and treatment.

700. There is a new community-based approach to mental health,<sup>333</sup> which aims at treating mental patients in their homes, family health centres, community mental health centres or protected apartments. Child psychiatry and caring for those psychologically traumatized during the conflict have been a priority for the MoH.

701. Only two big rehabilitation centres have been covering all rehabilitation needs of the population. Not even all hospitals have facilities or personnel for rehabilitation. The Ministry is working to establish rehabilitation departments in all hospitals as well as basic rehabilitation units in primary care facilities. The Ministry is also promoting a handicapped friendly society with buildings, schools, and means of transport accessible for disabled persons.

702. The Kosovo Medicines Agency,<sup>334</sup> is in charge of all activities related to medicinal products and medical devices, such as manufacturing, import, export, marketing, classification for dispensation, clinical trials, quality assurance, pharmaco-vigilance, and disposal. Essential drugs are free of charge in the public sector as well as in those private health care institutions which have contractual relations with the Health Insurance Fund.<sup>335</sup> They are distributed through pharmacies located in primary health centres and hospitals throughout Kosovo. However, essential drugs are not always available in such pharmacies, but rather in the private sector due to a poor distribution system and/or due to abuse.

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<sup>333</sup> The first Strategic Plan on Mental Health was established in January 2001 and was amended by Administrative Directives No. 06/2002 and No. 1/2005.

<sup>334</sup> The Kosovo Medicines Agency was created under the Law No. 2003/26 On Medicinal Products and Medicinal Devices, promulgated by UNMIK Regulation No. 2004/23 of 7 July 2004, and replaces the Kosovo Authority for Regulation of Medicaments, which had been established according to UNMIK Regulation No. 2001/19 On the Executive Branch of Provisional Institutions of Self-Government in Kosovo of 13 September 2001, as amended.

<sup>335</sup> Law No. 2003/26 On Medicinal Products and Medicinal Devices, promulgated by UNMIK Regulation No. 2004/23 of 7 July 2004, Section 24.1.

703. To bring the services of the Ministry closer to the municipalities<sup>336</sup> and assist them in the management of primary health care services, the MoH set up District Health Offices, defined the rights and duties of the municipalities and the Ministry,<sup>337</sup> and created the Health Care Commissioning Agency (HCCA) to negotiate future service agreements and monitor their implementation. The Ministry has also developed model organizational charts for the Municipal Health Directorates and model job descriptions for primary health care personnel.

704. These reforms have already reinforced the health care system in Kosovo. Most health facilities have been renovated, refurbished and re-equipped. Users and health professionals are slowly accepting the primary health care level. Managerial capacities have been upgraded. Family medicine training for physicians and nurses has been intensive. The restructuring of regional hospitals and health institutions is being undertaken. A modern Health Information System (HIS) has been established.

705. However, the level of implementation of the MoH Strategy is controversial, especially at the primary health care level. Municipalities face a number of problems that hamper the provision of health services, such as budgetary constraints, due to the heavy dependence on central government grants; lack of human resources, because qualified staff refuse to work in rural areas; and sporadic lack of essential drugs and vaccines. In addition, the quality of other public services having an impact on health remains at a low level, namely the maintenance of drinking water supply networks, hygiene and sanitation conditions in rural and urban areas, and wastewater and solid waste disposal. On the other hand, in the opinion of the Ministry, not all municipalities seem to have properly assumed their responsibilities in primary health care, municipal primary health positions are often political prizes, and the services provided are far from the standards established by the Ministry.

### **3. Financing**

706. The Ministry, respectively the Department of Health, did not have its first budget until December 1999. In 2000 and 2001, the health budget amounted to more than 40 million Euro and 47 million Euro respectively, which were allocated through a single grant from the Kosovo Consolidated Budget (KCB). Since 2002, the health budget was composed of two different grants. One was allocated to the MoH in order to cover secondary, tertiary and other health care expenses, while the second was allocated to municipalities to cover the primary health care level. Both grants together amounted to 66 million Euro in 2006. The Ministry foresees an average yearly increase in the overall health budget by 10% until 2015.

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<sup>336</sup> UNMIK Regulation No. 2000/45 On Self-Government of Municipalities in Kosovo of 11 August 2000.

<sup>337</sup> The MoH negotiated a Service Agreement with the MFE and the MPS. The agreement establishes the basic service package that a municipality must provide and the amount of money that the Ministry will allocate to it.

707. With respect to the KCB, and taking into consideration the central and municipal health grants, the share of the health care budget has followed a diminishing trend from 2000 until 2003, falling from about 18% to 12%. Since then, the share has fluctuated between 10 and 12% approximately.

708. In relation to the estimates of Kosovo GDP of the Ministry of Finance and Economy (MFE), the share of the public health budget has fluctuated between two and three percent from 2000 to 2006. The total expenditure on health, including estimations on private expenditures and international assistance, has remained constant at approximately 4%. The estimation of health care expenditure per capita is about USD 64, almost half that of the neighbouring FYROM (USD 113).<sup>338</sup>

709. The health grant from the KCB allocated to municipalities for primary health care should be distributed on a per capita basis and reflect factors that affect the per capita cost of service delivery, such as demographic and poverty-related factors. However, the lack of detailed official demographic statistics disaggregated by municipality does not allow for the necessary adjustments in the actual health grant distribution. Therefore, the percentage of the health budget allocated to primary health was about one quarter from 2000 to 2004, and about one third since then. There was a significant drop of the share in 2003 (23%) due to the allocation of funds to other health care services such as public health, mental health and occupational health. The MoH budget estimation for primary health care up to 2015 remains at the same level as that of the past few years. Capital investments remain at a very low percentage and are mostly covered by external donors.

710. In April 2000,<sup>339</sup> the MoH introduced the system of co-payment by health care users to increase the funds available for health care. However, the co-payments have contributed only to 1-2% of the budget. Nevertheless, it appears that public health care users pay more than would be expected if the only charges were the officially sanctioned co-payments. The MoH considers that the disparity could be due to unofficial under-the-table payments.<sup>340</sup>

711. The Health Insurance Fund provided by the Law on Health,<sup>341</sup> in order to guarantee basic health care for all Kosovo residents and contribute to financing of the healthcare system, has not

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<sup>338</sup> Institute for Health System Development, Kosovo Education and Health Project, Health component. Final report, London, 2003, in Health And Health Care Of Kosovo, MoH, Prishtinë/Priština, February 2004.

<sup>339</sup> MoH Administrative Instruction No. 9/2000.

<sup>340</sup> UNDP Early Warning Report No. 1, 2002, and Early Warning Report No. 3, 2003.

<sup>341</sup> Law No. 2004/ 4 On Kosovo Health, promulgated by UNMIK Regulation No. 2004/31 of 20 August 2004, Section 7.2.

yet been established. Although the Law on Health provides that the Fund should have been operational in January 2005,<sup>342</sup> the relevant draft law is still being discussed by the Kosovo Assembly.

#### **4. Indicators according to WHO definitions**

##### **(a) Infant mortality rate**

712. Infant mortality was estimated at 35 per 1,000 live births in 2002.<sup>343</sup> This was a reversal of a diminishing trend and the rate went back to the same level of 1991. This rate was not only one of the highest in Europe but is also high compared to the neighbouring countries.<sup>344</sup>

713. Perinatal mortality has decreased from 29.1 in 2000, to 28.7 in 2001, and 27.1 in 2002. In the neighbouring countries the rates reported in 2000 were 12 in Albania, 11 in Bosnia and Herzegovina, 5 in Croatia, and 9 in FYROM. In these same years, the stillbirth rate in Kosovo was 15, 14 and 15 respectively.

714. The principal causes of infant mortality include perinatal conditions (pre-maturity, birth asphyxia, and congenital anomalies), respiratory diseases and diarrhoea. This reflects poor maternal health, poor quality of care in maternity hospitals, and limited diagnostic and clinical facilities for early diagnosis and treatment. The poor reporting of vital events by the health institutions renders it difficult to estimate the perinatal mortality reliably. The reporting system does not cover deliveries at home or in private clinics.

715. The development of perinatal mortality is characterized by a stable stillbirth rate and a slightly decreasing perinatal and neonatal mortality. This suggests that the educational and clinical efforts to improve the antenatal and obstetric care have so far had little impact.

##### **(b) Access to safe drinking water**

716. Almost all urban inhabitants have piped water. However, 68% of rural inhabitants use well water. Although the water is often contaminated by wastewater, only 2.5% of the households chlorinate it. Chlorination tablets are available from regional Institutes (or Departments-) of Public Health for households using wells.

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<sup>342</sup> Ibid., Section 124.2.

<sup>343</sup> Situation Analysis of Children and Women in Kosovo, UNICEF, 2003. 2.2, Infant mortality.

<sup>344</sup> In 2004 Albania rate was 16, Bosnia 13, Croatia 6, and FYROM 13, Latest Core Health Indicators from different WHO sources, including World Health Statistics 2006 and The World Health Report, 2006 Edition.

**(c) Access to suitable sanitation**

717. Kosovo has no wastewater treatment system. Only 28% of the population, mainly in urban areas, has access to a sewage system. Up to 90% of urban households have flush toilets attached to the sewage system while the large majority of rural households use latrines.

718. Solid waste disposal is based on landfills. Many of them do not fulfil basic sanitary criteria concerning location and protection of ground water and their capacity is insufficient.

**(d) Infants immunization**

719. Kosovo had one of the lowest immunization levels in Europe, especially during the 1990s. In the ten years prior to the conflict, there were 3,919 recorded cases of whooping cough, with 50 deaths. Between 1989-1998 there were 16,756 cases of measles, with 43 deaths registered. There are no reported cases of diphtheria since 1981, polio since 1996, and neonatal tetanus since 1998.<sup>345</sup>

720. In 2000 there were 375 cases of whooping cough, and 63 cases in 2003. There are sporadic outbreaks of measles, with nine cases registered in 2000 and twelve in 2001. In the period 1999-2002, there were 585 reported cases of rubella. In 1999, Kosovo registered mumps epidemics with 620 cases, which continued in 2000 with 8,786 cases. In 2001 there were 2,469 reported cases of vaccine preventable diseases: 1,403 cases of parotitis, followed by 532 cases of exanthematous diseases (measles-rubella), 469 cases of TBC, and 63 cases of pertussis. It is estimated that between 2-7% of the population has serological evidence for the Hepatitis B Virus.

721. There has been noticeable progress in the elimination of certain vaccine-preventable diseases. Immediately after the conflict, the Ministry re-started and reinforced the Expanded Programme of Immunization (EPI) by introducing new vaccines, training primary health care workers and cold chain managers, preparing programmes for the control and eradication of vaccine controllable diseases, and monitoring and supervising the vaccination teams. From September 1999 it carried out extensive immunization rounds targeting all children regardless of their age and previous immunization status.

722. Immunization programmes have been integrated into the horizontal programmes of the health care system and the epidemiological situation of vaccine-preventable diseases is satisfactory. The current immunization schedule was adopted in 2000 and the coverage of children vaccinated according to the schedule has been high.<sup>346</sup> Children between 0-11 months receive tuberculosis, diphtheria, polio, and hepatitis B vaccines. The respective percentages of

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<sup>345</sup> Situation Analysis of Children and Women in Kosovo, UNICEF, 2003.

<sup>346</sup> Statistical Office of Kosovo, Series 5: Social Statistics, Health Statistics 2005, Ministry of Public Services, Prishtinë/Priština, June 2006.



vaccination are 98, 95, 95, and 91%. Between 12-23 months, the percentage of children vaccinated are 95% for diphtheria, 95% for polio and 93% for measles, mumps and rubella. For the remaining age groups (6-7, 12-13 and 18) the vaccination rate amounts to 98%.

723. Despite the high vaccination rates, there were 41 reported cases of TBC in 2005, of which 39% were children up to 19 years of age. The total number of TBC patients treated during 2005 was 2,976. Most of them (55%) are between 15 and 49 years of age. Female patients compose the majority of patients in this age group.

724. Immunization in Serb minority enclaves is partly carried out by parallel health structures reporting to the Ministry of Health of Serbia although cooperation with the Kosovo Institute of Public Health (IPH) has improved. Information regarding the immunization coverage of non-Serbian minorities, in particular for Roma, Ashkali and Egyptian (RAE) children, is insufficient.

#### **(e) Life expectancy**

725. Since the mid 1990's, the average life expectancy decreased by approximately five years, likely due to the impact of the conflict in 1998-1999. Because of the improvement of living and economic conditions in the post-conflict period, life expectancy has increased during the past few years.

726. At present, life expectancy is estimated at 71.5 years for men, and 76.5 years for women.<sup>347</sup> However, besides having the lowest rate in the region,<sup>348</sup> there are differences between municipalities<sup>349</sup> that range up to ten years disparity (71.1 in Gjiilan/Gnjilane compared to 61.5 in Skenderaj/Srbica). The Life Expectancy Index (LEI) is the highest in Gjiilan/Gnjilane, Gjakovë/Đakovica, Podujevë/Podujevo, Istog/Istok and Lipjan/Lipljan, and the lowest in Skenderaj/Srbica, Novobërdë/Novo Brdo, Shtime/Štimlje, Malishevë/Mališevo and Dragash/Dragaš.

727. Life expectancy slightly varies by ethnicity. On average, females live almost two years longer than men in every ethnic community. The most vulnerable group is the RAE community, while members of other communities<sup>350</sup> enjoy the highest life expectancy, followed by Kosovo Serbs and then Kosovo Albanians.

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<sup>347</sup> Health And Health Care Of Kosovo, MoH, Prishtinë/Priština, February 2004.

<sup>348</sup> Residents of Kosovo can on average expect to live three to four years less than people in Albania, Bosnia and Herzegovina, Macedonia and Croatia, Human Development Report Kosovo 2004, The Rise of the Citizen: Challenges and Choices, UNDP, Prishtinë/Priština, page 25.

<sup>349</sup> Municipalities and ethnicities data from UNDP, HDR 2004.

<sup>350</sup> Other communities include Bosniak, Turk, Croat, Gorani.

**Table 90**  
**Life expectancy**

	Male	Female	Total
Kosovo Albanian	69.81	71.44	70.59
Kosovo Serb	70.16	71.75	70.92
RAE	69.05	70.42	69.74
Other	70.12	71.88	70.97

*Source: UNDP Kosovo, HDS 2004.*

**(f) Access to qualified medical personnel**

728. The majority of the population has access to qualified medical personnel for common illnesses and injuries. There is at least one Family Health Centre per municipality and smaller health centres and outreach units serve the population living in villages. The objective of the Ministry was to replace all clinical specialists working in family health centres by family doctors to provide care to 2,000 persons per doctor.

729. The number of health workers in primary health care facilities has been increasing since 1999. The total number of health care workers amounted to 5,985 in 2005. Nurses composed 57.3% while doctors were 16.5%. Other staff are stomatologists (4.3%), pharmacists (0.05%), medical assistants (1.27%), and non-medical staff (20.6%). Kosovo Albanians make up 91.9% of the primary health care workers, Kosovo Serbs are 3.67%, Kosovo Turks 1.37% and the remaining percentage is distributed among other minority communities. More than 62% of the primary health care workers are female.

730. Private health care services are regulated by law since 2004 and practitioners are authorised to provide health care services if meeting the conditions defined by law and having obtained the relevant licence.

**(g) Access to qualified medical personnel during pregnancy**

731. Antenatal care is provided and accessible in primary health care centres. However, the maternal health status of Kosovo's women remains very poor compared to the rest of Europe and the neighbouring countries.

732. Family doctors, nurses and midwives at the primary level provide basic health care for women during pregnancy. In the first years after the conflict, the municipal primary health care services did not provide proper antenatal care. Almost three-fourths of the women did not receive basic advice about normal pregnancy, nutrition, and possible complications during

pregnancy, delivery and breastfeeding. In 2001 it was estimated that around 15% of pregnant women did not have any medical visit during the pregnancy.<sup>351</sup> The situation improved in 2002 with 30% of women having one antenatal care visit, and 25% having at least three.<sup>352</sup> In 2003 it was estimated that almost all pregnant women have visited a gynaecologist during the pregnancy.<sup>353</sup>

733. Medical visits related to pregnancy registered during 2005 in primary health facilities represented 0.26% of the total. The percentage is 11.91% in the secondary level and 16.21% in the Central University Clinics (CUC). The same year, the number of gynaecologists employed in the public health care system was 154 out of a total of 1,605 specialized doctors.

734. A survey conducted in 1999 reported 4.8 abortions per 100 live births.<sup>354</sup> Hospital data from 2002<sup>355</sup> showed that there was one abortion per five live births. However, both rates are likely to be an underestimation because of clandestine abortions and a lack of figures for abortions performed in private clinics. In 2005, the number of abortions registered in primary health facilities were 2,002. The majority of them correspond to women between 20 and 29 years of age. In the five regional hospitals there were 369 cases, and 32 more were performed in the Central University Clinics. Cases registered in hospitals and the CUC corresponded to women between 15 and 49 years of age.

735. The maternal mortality ratio in 2000 was estimated at 23 per 100,000, and at 12 per 100,000 in the following year. Although these figures are very high in comparison with the EU and the neighbouring countries' average, they are likely to be underestimates since maternal deaths are reported only from maternities and birthing centres. Even in this case, poor record keeping remains a serious problem. For instance, the death of women suffering from complications during delivery and moved to the emergency ward for treatment is not included in maternal mortality figures. In addition, there is no follow-up after a woman has been discharged from hospital, which makes it difficult to accurately record post-partum mortality. The percentage of home deliveries was 5% in 2002, and a more recent study on child abandonment claimed that up to 17% of all births take place without trained healthcare personnel present.

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<sup>351</sup> UNFPA, 2001.

<sup>352</sup> UNICEF Micronutrient Status Survey, 2002.

<sup>353</sup> UNICEF KAP Survey, 2003.

<sup>354</sup> UNFPA, 2000.

<sup>355</sup> UNFPA, 2002.

**(h) Access of children to qualified medical personnel**

736. Access to adequate medical care provided by qualified personnel (family doctors or paediatricians) is available in the public health sector free of charge to children and adolescents up to 15 years of age and pupils and students until the end of regular school terms.<sup>356</sup> In 2005 the number of paediatricians in the public health care system was 166. The Ministry has also introduced the Integrated Management Of Childhood Illness to make Kosovo's maternal and child health services more effective and reduce morbidity and mortality rates.

737. The most common reasons for child out-patient consultation are respiratory problems, sore throat, fever, diarrhoeal diseases and other problems such as related to skin, eyes and nutrition. The consultations are primarily curative, with no systematic advice about treatment, prevention, vaccination or nutrition. The family medicine approach of the MoH Strategy aims at changing this by stressing health promotion and prevention.

**5. State of health among social groups**

738. Available data do not allow for a proper evaluation of health status differences among social and ethnic groups in Kosovo. Health data of the Kosovo Serb community are scarce, which is mainly due to the existence of health structures within the Serb community areas which do not report to the MoH.

739. Most Serb enclaves have an aging population as many younger people and children have moved to Serbia. Consequently, the diseases associated with old age are common, such as rheumatoid diseases. Stunting among Kosovo Serb children living in rural areas was twice as high (22%) as the Kosovo average (10%). Moderate anaemia was also slightly higher than among Kosovo Albanian children.<sup>357</sup>

740. Most minority areas and enclaves have their own primary health care facilities. There are also some hospitals located there, with MoH approval and external donor support, which provide the main sources of secondary health services for the Kosovo Serb community. For tertiary care, Kosovo Serbs generally go to Serbia proper because of their limited freedom of movement, their lack of trust in the quality of the services provided, and their fear of retaliation, which has increased after the March 2004 events.

741. The duplication of some health services within the Kosovo Serb areas produces big gaps in others, such as the public health services. This parallel system also involves the implementation of a completely different health policy (large multi-specialty out-patient clinics vs. family medicine), unnecessary waste of economic and human resources, and overloading of some

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<sup>356</sup> Law No. 2004/4 On Kosovo Health, Section 22.

<sup>357</sup> UNICEF Micronutrient Status Survey, 2002.

health structures. In addition, this leads to a lack of appropriate care close to the patient, limited access to secondary diagnostic, laboratory and treatment facilities, delays in referrals to higher levels of care, poor emergency services, lack of reporting, and poor supervision leading to worse performance.

742. To ensure medical attention to all, the Ministry has created the Division of Equity of Communities and Rights of Patients and designed an action plan to assess the health status and the available health care to different socio-economic and ethnic groups. New legislation is in force to ensure equity in planning and implementation of health programmes and health care provision. Health promotion programmes and support to inter-sectoral measures, socio-economic measures and educational measures are ongoing. In addition, the Ministry is carrying out different programmes in order to integrate the health care services provided in minority areas into a single Kosovo-wide health care system.

743. The health of smaller minority communities appears to be worse than that of the Kosovo Albanian majority population. Many RAE families live in dwellings with non-existent or very basic sanitation facilities and lack running water, all of which significantly increase the risk of disease and infections. They have higher perinatal and maternal morbidity and mortality and a higher incidence of preventable diseases.<sup>358</sup>

## **6. Measures in the area of health care for the elderly**

744. There was no specific information available on this topic.

## **7. Measures to maximize community participation**

745. The Law on Health places under the responsibility of the MoH the promotion of the participation of the community and the development of residents' initiatives and activities related to health.<sup>359</sup> Furthermore, the law provides Kosovo residents with the possibility to participate in creating better conditions for the implementation of health care, especially in the field of patient's rights, through organizations or appointed representatives.<sup>360</sup> For example, since 2005 there is an Association of HIV/AIDS Infected Persons, which was created with the support of the MoH and is also involved in public awareness, education and counselling activities.

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<sup>358</sup> Situation Analysis of Children and Women in Kosovo, UNICEF, 2003.

<sup>359</sup> Law No. 2004/ 4 on Kosovo Health, Section 17 (g).

<sup>360</sup> Ibid., Section 20.

## **8. Health education, monitoring and controlling of prevailing health problems**

746. The Ministry is responsible for the development and implementation of public information campaigns to increase public awareness and compliance with health standards as well as for encouraging the development of health education activities in order to raise knowledge and competencies in the health field.<sup>361</sup>

747. The MoH in co-operation with the MEST and external actors have prepared a Draft Strategy to Promote Health in Schools (2007-2017). The Strategy's main objective is the creation of a safe and healthy educational environment with the participation of families and communities.

748. The MCYS is actively organising health education campaigns among the youth in co-operation with the MoH. There is a Policy for Health Education<sup>362</sup> which comprises a wide range of health issues and measures to prevent negative incidences such as those related to smoking and the use of illicit drugs and alcohol; preventing the spread of HIV/AIDS; promoting healthy food and healthy living; and information on reproductive health.

749. Since 2005, the MEST is providing a course entitled "Life skills" in 130 primary schools, including those following the Serbian curriculum. Health care, sexuality and sexually transmitted diseases are the core components of the course, which also involves the active participation of families and communities. A two-year project called "Support of the youth through education and information about reproductive health" has also been implemented in some youth centres.<sup>363</sup> Sexual and reproductive health education is also part of the activities carried out by the youth centres managed by the MCYS, which runs a programme called "Listen to the Youth", which operate in several municipalities and offers consultations, orientation and information about common youth problems including health issues.

750. UNFPA, UNICEF, the Government of Germany, the American Association for Health Education, and other international institutions which are usual partners and donors of the involved ministries have assisted in the design and implementation of the health education projects and health awareness-raising campaigns carried out by the PISG.

751. Regarding behavioural attitudes having an effect in the population's health, the MoH Strategy includes a number of legislative, educational, and structural measures to reduce the incidence of prevailing health problems. Particular emphasis is placed in those especially affecting the youth (smoking and consumption of illicit drugs), those related to mental health, HIV/AIDS, cardiovascular diseases and cancer. Diabetes, oral health, nutrition, physical activities, environmental health and accidents are also given special attention.

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<sup>361</sup> Ibid., Section 17 (h) and (i).

<sup>362</sup> Policy No. 6 of the Department of Youth.

<sup>363</sup> Kosovo Polje/Fushë Kosova and Lipjan/Lipljan.

752. Overall, the necessary legal framework has been broadly developed and structural reforms, training of health care workers as well as education and awareness-raising activities are ongoing.

**(a) Activities to prevent smoking and illegal drugs consumption**

753. Legislation in line with EU standards regulating smoking-related issues such as advertising is in place as well as a National Committee for tobacco control. Information on the consequences of smoking is included in education programmes in the schools. It is envisaged to begin the implementation of information programmes for the wider population as well as the establishment of centres to support people wishing to quit smoking. Similar legislation and programmes are in place regarding consumption of illicit drugs.

**(b) Reduce the incidence and impact of mental illnesses**

754. Immediately after the conflict, the mental health services were centralized and provided in neuro-psychiatric wards with an exclusively medical orientation. The establishment of community-based Mental Health Centres reduced the hospitalization rate to 40% for the period 2002-2003 in relation to previous years. The MoH community-based approach to mental health aims at treating patients in their homes, family health centres, community mental health centres or protected apartments. Child psychiatry and caring for those psychologically traumatized during the conflict have been a priority for the MoH during the past years. Particular emphasis is placed in the detection and treatment of suicide cases, which have considerably increased since the end of the conflict.

755. There is a central Mental Health Service with seven sub-regional units. Six Community Mental Health Centres have been created so far.<sup>364</sup> Their total staffing is composed of 11 psychiatrists, three psychologists, 68 nurses, eight social workers, and 12 psycho-social advisers, and each centre provides services for adults in their respective regions. Four Integration Homes are in operation,<sup>365</sup> providing 24 hour health care to chronic psychiatric patients (10 beds). Four additional Integration Houses remain closed<sup>366</sup> because of lack of health workers, and the Ministry foresees the construction of 14 other. At the secondary level, there is a Psychiatric Department in each hospital consisting of a Psychiatric Unit and a Unit for Intensive Psychiatric Care. These units provide care to persons with acute and chronic problems and offer consultation services to other hospital departments and units.

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<sup>364</sup> Prizren, Prishtinë/Priština, Pejë/Peć, Ferizaj/Uroševac, Gjiilan/Gnjilane, and Mitrovicë/Mitrovica. Note that the degree to which each centre is fully functional reportedly varies.

<sup>365</sup> Gjakovë/Đakovica, Gjiilan/Gnjilane, Prizren, and Mitrovicë/Mitrovica.

<sup>366</sup> Glllogovc/Glogovac, Fushë Kosovë/Kosovo Polje, Pejë/Peć, and Ferizaj/Uroševac.

756. A law on mental health is in process of being drafted to regulate mental health issues in a comprehensive manner and to complete previous draft-proposals that were not finalized, in part due to the inexistence of adequate institutional capacities.

**(c) Prevention of HIV/AIDS**

757. In 2000, the MoH established the Kosovo HIV/AIDS Committee, and the Kosovo AIDS Office in 2002. They produced a 5-year action plan (2004-2008), which is focused on increasing the knowledge and awareness about reproductive health and HIV/AIDS transmission and prevention, promoting safe sexual behaviours. The plan also foresees increasing involvement and empowerment of youth in HIV/AIDS prevention, increasing the understanding of youth and high-risk groups, improving the quality and dissemination of information, education and communication materials, creating and improving access to youth oriented services, and conducting advocacy activities with key stakeholders for the implementation of youth-oriented and reproductive health and HIV prevention strategies.

**(d) Reduce the incidence and impact of cardiovascular diseases**

758. Cardiovascular diseases accounted for around 40% of total mortality in 2003.<sup>367</sup> In addition to the efficient detection of those at high risk through the improvement of management of health services, the provision of new diagnostic technologies, the improvements in clinical skills and the standardization of diagnostic practices, the MoH is also trying to reduce the risk factor profile in the general population through health promotion and education activities. These activities target the reduction of high blood pressure and hypertension, hypercholesterolemia, calorie intake from animal fat, obesity, as well as stress management, and smoking and alcohol abuse.

**(e) Stabilize and reduce the incidence and impact of cancer**

759. Cancer represents the second cause of death after cardiovascular diseases.<sup>368</sup> Lung cancer mortality in men and breast cancer mortality in women are increasing. At present, there are no radiotherapy services and there is no separate referral centre for diagnosis and cancer treatment. Thus, there is a need for infrastructural support and for support for the development of human resources in the field of oncology. Specific information campaigns and training programmes for health care personnel need to be established as well as palliative treatments.

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<sup>367</sup> HIS, Prishtinë/Priština, 2003.

<sup>368</sup> Ibid.



**(f) Healthy and balanced diet**

760. In 2001, approximately one third (35%) of women were overweight or obese (BMI>25 kg/m<sup>2</sup>)<sup>369</sup> while mild or moderate anaemia was observed in 14% of women. Moderate Vitamin A deficiency was observed in 21% of women.

761. Kosovo children as a whole do not have a worrying prevalence of chronic malnutrition. The prevalence of stunting in children aged 6-59 months was 10%. However, some subgroups of the population, particularly people living in rural areas and minority communities, have a higher prevalence (28%) that requires attention. Wasting with 4% and underweight with 5% are well below levels that would require public health attention. While Kosovo's children have the lowest rate of anaemia in the Balkans, the rate is higher than in Western Europe. One third of the children under 5 showed Vitamin A deficiency. While breastfeeding is traditionally common in Kosovo, the level of exclusive breastfeeding up to six months is too low (12%).

762. Establishing an information system ensuring the collection of scientifically sound and representative data concerning the nutrition of the Kosovo population is one of the objectives of the MoH. Legislation has been enacted to ensure the supply of safe food, assess standards of food quality according to international regulations, establish inter-sectoral co-operation on healthy nutrition; to create inter-sectoral structures at local level; design and implement programmes to promote breast-feeding; design and implement health promotion and education programmes about the main principles of healthy nutrition; design and distribute nutritional guidelines for different groups of the population at risk.

**(g) Physical and sport activities**

763. There are no reliable data about physical activity of the population. However, it is believed that there are substantial percentages of physically inactive people including children. Therefore, the Ministry has defined and began the implementation of programmes to promote sports and physical activity as well as an active leisure time. The Ministry also supports inter-sectoral collaboration in planning and creating recreational zones and sports facilities within cities and separate regions in order to increase the accessibility of the population to these facilities. Legislation and educational programmes have been put in place to increase the physical activities of the population.

**Article 13**

**A. Education system**

764. Perhaps the most indelible image of the Kosovo conflict was the widespread and systematic destruction of schools and education facilities in 1999. The decade prior to the conflict saw marginal investments in the maintenance of the education sector, resulting in

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<sup>369</sup> UNICEF Micronutrient Status Survey, 2001.

extensive dilapidation and abandonment. However, it was the deliberate targeting and demolition of school facilities in 1999 that crippled the already frail Kosovo education system: over two-thirds of the education infrastructure (800 schools) was destroyed or severely damaged and most furnishings, equipment and supplies were looted or destroyed.

765. Due to lack of facilities since 1999, students have been compelled to attend school in two or three shifts a day. Many primary school age children must walk kilometres along dangerous highways in extreme winter weather to attend class. Other, nominally functional facilities also pose serious public health and sanitation threats to the students.

766. In 2000 the UNMIK Administrative Department of Education and Science was established.<sup>370</sup> It was responsible for the overall management as well as implementation of policy guidelines regarding matters relating to education and science in Kosovo. On 30 August 2000 compulsory school attendance was established stating that a child who has reached the age of six must be enrolled in a school and shall remain in the approved school until the age of 15.<sup>371</sup> The Regulation furthermore states that it is the parent's or guardian's responsibility to ensure that the child is enrolled unless given dispensation. The Regulation also introduced penalties for non-compliance.

767. The Department as part of the UNMIK was transformed into the PISG Ministry of Education, Science and Technology (MEST) post-November 2001 elections.<sup>372</sup> The Ministry elaborated the Designing and Education System for Kosovo (DESK) as a strategic plan of the education sector in Kosovo. Its objectives were (1) to ensure rapid resumption and continued learning during the ongoing period of transition to a democratically elected and accountable government, and (2) to support the longer-term reconstruction and transformation of the education system to reflect the needs of a modern European society in the twenty-first century.

768. In consultation with UNESCO, UNICEF, national educationalists, architects and engineers, the MEST developed the school rehabilitation guidelines. The guidelines give NGOs and other agencies advice in the area of school design, including the development of norms, standards and specifications that are utilised by UNMIK in the monitoring process. All construction works done to school facilities, including repairs, extension/ modification and new buildings, therefore, required formal approval from UNMIK.

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<sup>370</sup> UNMIK Regulation No. 2000/11 On the Establishment of the Administrative Department of Education and Science of 3 March 2000.

<sup>371</sup> UNMIK Regulation No. 2000/51 On the Age of Compulsory School Attendance in Kosovo of 30 August 2000.

<sup>372</sup> Based on UNMIK Regulation No. 2001/19 On the Executive Branch of the Provisional Institutions of Self-Government in Kosovo of 13 September 2001.

769. Since the end of the conflict in June 1999, efforts have been concentrated on the creation of an enabling environment for students to return to school. The immediate needs have included infrastructure, teachers and training, textbooks and curriculum, minorities' issues, psychosocial matters, and youth. As of May 2002, more than 80% of the school facilities in need of emergency repairs and rehabilitation have been fully repaired and are now functioning normally, notwithstanding that school space in general still is an immediate problem in Kosovo. Up until now schools have to run up to 4 shifts during the day and within one classroom there are 35-40 pupils. This results of course in problems for teachers to apply new methodologies of teaching and to appropriately evaluate pupils. Moreover, the electricity situation in the schools is still a major problem since the categorisation (A, B, C) by the Kosovo Energy Corporation (KEK) also applies to schools. The option to give schools the status of privileged consumers is not yet possible.

770. A number of UNMIK competences have been transferred to the MEST in 2001.<sup>373</sup> Taking over the responsibility for the development of a new education system in order to provide better education for all - an equal approach for all regardless of ethnic, religious, political, social or gender background, etc, was and remains a big challenge.

771. In October 2002, the Law on Primary and Secondary Education in Kosovo was promulgated.<sup>374</sup> The scope of the law covers all public and private primary, lower secondary and upper secondary education in schools and training establishments in Kosovo unless otherwise specifically stated. Further it makes ancillary provisions for pre-primary education. Section 3 introduces the right to education and confers on the MEST an obligation to make available an adequate and efficient programme of primary and secondary education accessible to all.

772. In Kosovo, where 60 percent of the population is living in rural areas, basic education and skills training for rural people are seen as key elements in enabling the rural population to diversify its activities and find a basis for sustainable development in remote and rural areas. One of the priorities of the Government is to support rural development, and through modernisation and diversification of agriculture and the rural economy, to provide employment and sustainable livelihoods for the rural population.

773. In order to address those issues, MEST and the Ministry of Agriculture, Forests and Regional Development (MAFRD) in close co-operation with the FAO in 2004 drafted a Strategy for Education for Rural People (ERP) in Kosovo (2004-2009). The Strategy for ERP highlights the priorities and problems to be addressed (as identified by stakeholders and the assessment study) and the actions to be taken to improve the quality of education for rural people and expand access to education for all as a means to improve life chances. As such, the strategy provides guidance for policy decisions and the allocation of resources to priority areas.

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<sup>373</sup> UNMIK Regulation No. 2001/19.

<sup>374</sup> Law No. 2002/2 On Primary and Secondary Education in Kosovo, promulgated by UNMIK Regulation No. 2002/19 of 31 October 2002.

This rigorous diagnosis of what needs to be accomplished, also provides robust arguments for negotiating future international aid. Some of the objectives and proposed lines of action in the strategy are already included, to a greater or lesser extent, in the education policies and reforms (e.g. Curriculum Reform, and Education Strategy of MEST) already underway in Kosovo, and may also be found among the objectives of donor funded projects, such as those supported by Gesellschaft fuer Technische Zusammenarbeit (GTZ), UNICEF, and World Bank, as well as in programmes of MAFRD (e.g. SASS) and the Ministry of Labour and Social Welfare (MLSW).

774. In autumn 2006 a law was promulgated aiming at establishing the legal infrastructure for the development of activities related to publishing school textbooks, educational teaching resources, reading material and pedagogical documentation.<sup>375</sup>

**Table 91**  
**Educational budget**

Year	Education budget	Kosovo budget	%	Education budget used on salaries
2003	59 864 574	619 300 000	9.7	50 725 535
2004	61 864 575	632 325 922	9.8	
2005	74 884 019	736 834 635	10.2	65 647 850
2006	77 083 812	700 000 000	11.0	68 126 491
2007	76 656 531	717 473 940	10.7	

*Source:* Ministry of Finance and Economy.

### **1. Organization of teaching process in Kosovo**

775. Preschool, primary and secondary education in Kosovo is organized in accordance with the following levels of ISCED-97 (International Standard Classification of Education):

- Level 0: Preschool education (generally children at age 3 to 6 years)
- Level 1: Primary education (first stage of basic education) for 5 years (generally children at age 6 to 12 years)
- Level 2: Secondary low education (second stage of basic education) for 4 years (generally students at age 12 to 15 years)
- Level 3: High education for 4 years, depending on curricula set by the MEST (generally students at age 15 to 18 years)

<sup>375</sup> Law No. 02/L-67 On Publishing School Textbooks, Educational Teaching Resources, Reading Materials and Pedagogical Documentation, promulgated by UNMIK Regulation No. 2006/45 of 18 August 2006.

**Table 92**  
**Structure of educational process**

STRUCTURE OF EDUCATION PROCESS IN KOSOVO							
	University (Bachelor, Master, Doctor Degree)			Applicative Sciences University (Colleges, at least 3 years)			
	Secondary High Education			Secondary Vocational Education			
18	General Gymnasium Vocational orientation 3 to 4 years (15-18 years)	Gymnasium 3 to 4 years (15-18 years)		Technical 4 years			13
17				Qualified Staff 3 years			12
16				Craftsman/Mechanic 2 years			11
15							10
14	Class 9 orientated ( - 15 years)						9
13	Secondary Low Education - 4 years					(11 - 15 years)	8
12							7
11							6
10	Primary - Education - 5 years					(6 - 11 years )	5
9							4
8							3
7							2
6							1
5	Preschool Education					(3 - 6 years)	
4							
3							

## 2. Preschool education

776. Before the 1998/99 conflict, kindergartens were provided by the state and in some cases built next to factories where parents went to work. The majority of Kosovo Albanian children had no access to these institutions during the parallel system (1989 -1999) and many of them were damaged during the war. Early Childhood Education (ECE) programmes were started again in 1999, funded by international agencies and NGOs working in cooperation with local NGOs, but still the majority of children in Kosovo do not have access to formal early childhood programmes. Recently, an increasing number of primary schools offer one-year pre-school education for 5 year olds. According to MEST, in 2003 in Kosovo there were 273 primary schools offering ECE in which approximately 15,000 children participate. Although there are no up-to-date population figures, it means about one third of five year olds participate in ECE.

777. The Faculty of Education, at the University of Prishtinë/Priština has recently started training programmes for ECE teachers to increase their skills based on child centred interactive principles of teaching and learning. Kindergartens (Play-Schools) for younger children are found more widely in urban areas than in rural areas. Private Kindergartens, mainly in the larger urban centres, are becoming a more common alternative to the public ones.

**Table 93**

### **Kindergarten and preschool 2002/04**

	No. of Kindergartens	No. of classes in preschool institutions	No. of children in Kindergarten and preschool institutions
2002/03	43	422	20 365
2003/04	47	479	22 229

*Source:* Statistical Office of Kosovo.

778. Since last year, the Law On Preschool Education<sup>376</sup> provides a legal basis for the regulation, progress and improvement of educational measures until the enrolment of children in primary school. It creates a right for all children including those with special needs to pre-school education, the exercise of which is voluntary.

779. According to this Law, the institutions are funded by:

- Kosovo Consolidated Budget
- Founders
- Fees from parents
- Donations and other sources (Article 18)

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<sup>376</sup> Law No. 02/L-52 On Preschool Education, promulgated by UNMIK Regulation No. 2006/11 of 6 March 2006.

780. The categories of children who are special beneficiaries of the Kosovo Consolidated Budget are (a) Pre-school groups hospitalised in hospitals operating at Kosovo levels; (b) Pre-school groups of children with special needs; and (c) Children of war invalids.<sup>377</sup>

### **3. Primary education**

781. The primary education is regulated in the Law on Primary and Secondary Education according to which all the children in Kosovo are entitled to the right to education:<sup>378</sup>

- Education in educational institutions with public funds of level 1, 2 and 3 is free of charge.
- Text books for schools of the first level are free of charge, while concerning the second level and third level the Government shall allocate means if there is budget.
- Each child has right to learn in his/her mother tongue in primary and secondary school, if conditions foreseen by the Ministry are met (Article 3.2).

782. According to Article 4 of the Law, public educational institutions shall refrain from religious teachings or other activities that propagate any certain religion. Political and religious propaganda activities is also prohibited by Article 5 of the Law on Adult Education and Learning.<sup>379</sup>

783. Access to and progression through all Levels of primary and secondary education in Kosovo shall be without direct or indirect discrimination on any real or presumed ground such as sex, race, sexual orientation, physical, intellectual or other impairment, marital status, colour, language, religion, political or other opinion, national, ethnic or social origin, association with a national community, property, birth or other status of the pupil or the pupil's family (Section 5).

784. Mandatory education starts with the beginning of a school year and after a child is six (6) years of age (minimum age for mandatory education). Non-enrolment by parents constitutes a violation of the Law. Higher secondary education is offered on a voluntary basis.

785. From the school year 2003/2004 onwards, compulsory basic education has been extended to nine years with 5 years primary and 4 years lower secondary education. The introduction of

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<sup>377</sup> Ibid, Article 21.3.

<sup>378</sup> Law No. 2002/2 On Primary and Secondary Education in Kosovo, promulgated by UNMIK Regulation No. 2002/19 of 31 October 2002, Article 3.

<sup>379</sup> Law No. 02/L-24 On Adult Education and Training, promulgated by UNMIK Regulation No. 2005/43 of 7 September 2005.

the new 9th grade into basic education has included the development of a new curriculum and teacher orientation. The extra year is 'an orientation year' providing students with information and counselling to enable them to make choices for their future education and profession.

786. The inclusion of grade 9 into basic education has caused considerable pressure on the availability of adequate classrooms, as many schools are already overcrowded and running two or more shifts per day. As a result grade 9 is often located in the premises of secondary schools, most of which are found in urban centres. This adds to the difficulties of transport for students from rural areas. It is estimated that two thirds of primary schools are located in rural areas.

**Table 94**

**Number of schools, pupils and pupil/school ratio in  
basic education (grades 1-9) 2003/04**

Number of schools	Number of pupils	Pupils/school ratio
908 (508+400 satellite)	394 203	434

*Source:* MEST (2004).

**Table 95**

**Primary and lower secondary level (grades 1-8(9))<sup>a</sup>**

	Primary schools	Classes	Students	Teachers
2002/03	992	12 249	299 934	15 733
2003/04 <sup>b</sup>	1 071	13 625	336 088	18 171

*Source:* Statistical Office of Kosovo.

<sup>a</sup> Note that the figures provided by the Statistical Office of Kosovo differ from those provided by MEST.

<sup>b</sup> In 2003/04 the 9th grade was added to the compulsory basic education.

**Table 96**

**Education staff by position, in basic education (grades 1-9) 2003/04**

Teachers		Administrative staff		Support staff		Total educ. staff	
Number	%	Number	%	Number	%	Number	%
16 563	81	1 047	5	2 742	14	20 352	100

*Source:* MEST (2004).



787. Since 2005, schools have started to provide a course on “life skills” containing three modules dealing with health care, sexuality and sexually transmitted diseases. Until now this course has been provided in 130 primary schools. Teachers have been trained and students as well as teachers have been provided with books. UNICEF assisted in implementing this project successfully.

#### 4. Secondary education

788. Upper Secondary Education consists of three (or four) years of study for students aged 15 to 18 years. According to figures supplied by MEST, the number of students completing grade 9 (conclusion of lower secondary/compulsory education) in 2002/3 was 30,802 and the number going on to grade 10 (upper secondary) in 2003/4 was 25,126. These figures show that, for the whole of Kosovo, approximately 80% of students completing compulsory basic education are continuing on to upper secondary school. Unfortunately, without population figures we do not know what percentage this is of the 14-15 year old age group. Estimates suggest around 70 percent participation in secondary education.

789. Secondary education consists of two types, General Education (Gymnasium) and Vocational Education (Technical and Vocational Schools). The most up to date figures available on student participation in secondary education (2003/4) are shown below.

**Table 97**

##### **Number of upper secondary schools, pupils and pupil/school ratio in 2003/04**

Number of schools	Number of pupils	Pupils/school ratio
78	68 096	873

*Source:* MEST (2004).

790. There is a difference between male and female participation in secondary education. Out of 68,098 pupils, 37,976 (56%) are males and 30,120 (44%) are females. The 78 schools comprise 50 Vocational Secondary Schools, 23 General Secondary Schools (Gymnasiums) and 5 mixed General/Technical.

**Table 98**

##### **Education staff by position in upper secondary schools in 2003/04**

Teachers		Administrative staff		Support staff		Total educ. staff	
Number	%	Number	%	Number	%	Number	%
5 813	84	316	4	819	12	6 948	100

*Source:* MEST (2004).

**Table 99**  
**Higher secondary education<sup>a</sup>**

	Schools	Students	Teachers
2002/03	128	89 387	5 349
2003/04 <sup>b</sup>	143	71 207	5 042

*Source:* Statistical Office of Kosovo.

<sup>a</sup> Note that the figures provided by the Statistical Office of Kosovo differ from those provided by MEST.

<sup>b</sup> In 2003/2004 the 9th grade was added to the compulsory basic education.

791. The “Lisbon Process” (for the educational reforms in Europe until year 2010) and the “Copenhagen Declaration” (for the educational development and professional qualification) jointly with the regional and European integration process have become much more important for the Kosovo educational system (compared to the emergency phase of reconstruction and consolidation of the education in the years 2002-2004).

792. All of these resulted in the initiation and development of the Pre-University Education Strategy (2007-2017) aiming at the development of a holistic educational system that ensures conditions for quality development of all individuals by cultivating the life-long learning skills and democratic citizenship values.

793. The strategy focuses on seven problematic domains:

- System Managerial Capacities
- Quality and efficiency
- Inclusion and equality in education
- Teacher preparation and professional development
- Infrastructure
- Education and society and
- Education financial foundation

794. As a result expert groups have identified seven strategic objectives that need to be achieved in the period 2007-2017:

- Quality and efficient governance, leadership and management in the educational system
- Functional system for ensuring the quality of learning based in standards comparable to developed countries

- All-inclusiveness, equality and respect of diversity in education
- Efficient system for professional preparation and development of the educational personnel
- Appropriate and healthy physical environment for teaching and learning
- A solid relationship between education with global economic and social developments and
- Enhancement of the financial situation in education

795. This strategy also has its implementation plan where one can see the time frame for the accomplishment of the planned activities and measures according to the strategy.

### **B. Violence in schools**

796. In the year 2004 the Secretary General of the UN nominated an Independent Expert to lead an general research project on violence against children. In this framework the MEST and UNICEF started the campaign on research about violence in schools. The research was organised over the time period of May to September 2005 as a joint effort of MEST, UNICEF, Care International and other interlocutors.

797. Six hundred and fifty pupils were tested (taken from primary and secondary education in 10 municipalities of different ethnic background) and 40 interviews with the children aged 6-10 and 11-18 were conducted. The objective of this project was to research the nature and scope of violence towards children in the schools of Kosovo and to find out about the reasons behind the problem in order to prevent the violence.

798. Based on the results of the interviews it is to be seen that also in Kosovo, as in any country of the world, the violence in the school is perpetrated by the teachers as well as by students among themselves. Various factors have an impact on violent behaviour: individual factors (victims of violence, drugs and alcohol, attitude towards weapons), family factors (violence at home, mistreatment, family members related to crime) and social factors (social and economic inequality, unemployment, social norms, possession of weapons). These factors are interrupting the social and health welfare and are obstacles for the education process.

799. After the research on violence in the schools, a campaign against violence started from 1 September 2006 and will last until February 2007 in order to inform staff, students and parents about the violence in the schools as well as types and level of violence. A lot of educative and informative materials with the motto "For schools without violence" have been distributed.

800. In line with that, a concept of Friendly Schools for Children has been developed aiming to ease the development of the specific domestic attitudes and the processes of improving the education system. A Friendly School for Children is defined as a healthy, effective school in which the family and the community is actively involved. This concept of Friendly Schools is being expanded and it covers almost 15% of the schools in the territory of Kosovo. In the beginning, 43 schools were covered and now 150 schools are involved, including the schools in Serbian language.

801. The main objectives of the program are:

- To improve the social services and to empower families with knowledge and skills in order to provide for the possibility to raise healthy children in the given environment
- To contribute to the general attitude towards the quality of education, formal and non-formal education and to reduce the drop-out rate, especially regarding young girls and children of minorities
- To contribute to improvement of the policies and legislation for children that require special care and presentation of the alternatives in families

### C. School abandonment and transport

**Table 100**

#### **Number of students from the primary and lower secondary level who abandoned school**

School year	Number of students	Number of students that abandoned school		
		Male	Female	Total
2002/03	340 257	3 075 (54%)	2 607 (46%)	5 682 (1.67%)
2003/04	354 918	2 654 (47%)	3 049 (53%)	5 703 (1.61%)
2004/05	355 339	1 932 (47%)	2 209 (53%)	4 141 (1.17%)

*Source:* MEST.

802. Among the main reasons for abandonment of school are the following: difficult economic conditions, transportation issues, family mentality, lack of perspective, early employment of children, while the main factors are: individual factor, family factor and society factor.

**Table 101**

#### **Number of students from the higher secondary level who abandoned school**

School year	Number of students	Number of students that abandoned school		
		Male	Female	Total
2002/03	66 968	992 (64%)	562 (36%)	1 554 (2.32%)
2003/04	68 361	1 570 (65%)	863 (35%)	2 433 (3.56%)
2004/05	68 976	982 (67%)	446 (33%)	1 428 (2.07%)

*Source:* MEST.

803. School abandonment increases towards the higher classes in the education system. More students are leaving classes at the higher secondary level than at the primary and lower secondary level. But also at the lower levels the abandonment rate is higher towards the end of the eighth grade, especially after the extension of the primary education for one more year, since in some locations especially in rural areas, due to the lack of the school facilities, teaching is organized in the facilities of secondary schools. This often forces students to travel for kilometres to attend the ninth grade resulting in many females leaving the school due to the difficult economical and social conditions, lack of transportation, and lack of safety.

804. Male school abandonment is often linked with child labour, since they choose to work in order to contribute to their family budget due to economic reasons.

805. MEST, in cooperation with the Parent-Teacher Associations and other partners, has developed the manual called “Strategic set for the prevention and response to student school abandonment”. It has been offered to all schools as a guide for training in view of the present circumstances in Kosovo.

806. Pursuant to the Law on Primary and Secondary Education in Kosovo, the municipalities shall arrange safe and efficient transport for pupils in compulsory education to attend school.<sup>380</sup> The municipality may charge, and may at its discretion waive, fees at full economic cost for school transport for:

- Pupils living within the covered area, but within the distance of four (4) kilometres from the school, except the disabled children
- Pupils living out of the covered area and
- Pupils of the Secondary High Schools

807. Moreover, the Municipality shall organise safe and efficient transportation for teachers who commute from towns to villages and vice-versa.

808. All Municipalities do cover the pupils transport depending on budget availability. The Municipalities took into consideration to cover the transport based on the distance where they travel from. However, there are some Municipalities that have lower budgets and they only partially manage to cover the pupils transport. MEST provides transport to disabled pupils on a regular basis.

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<sup>380</sup> Section 22 of the Law No. 2002/2 On Primary and Secondary Education in Kosovo, promulgated by UNMIK Regulation No. 2002/19 of 31 October 2002.

#### **D. Higher Education**

809. Higher education in Kosovo is offered by the University of Prishtinë/Priština (4 years) in 15 faculties, including the new “Faculty of Education”, and by seven Higher Schools located in the regions. The Higher Schools offer 2 or 3 years education to Diploma level. Two Higher Schools are specialised in Economics, one in Higher Technical studies and four, in Prishtinë/Priština, Prizren, Gjakovë/Đakovica and Gjiilan/Gnjilane, offer Higher Pedagogical studies for training teachers. Currently around 3,500 students are studying to become teachers in the future. In total, approximately 20,000 students are enrolled in higher education. This means in an estimated population of 2 million, around 1% of the population is in higher education. In addition, a few students are undertaking higher education studies abroad.

810. MEST has particularly paid attention to minority higher education. For the Serbian minority the University of Mitrovica as well as the Institute of Slavic Studies have been legalised and are operating in Zvečan/Zveçan. Fifty Turkish minority students and fifty Bosniak minority students study at the Faculty of Education in Prizren/Prizren. Forty Bosniak students, twenty four Turkish, and twenty five RAE<sup>381</sup> students have been registered at the University of Prishtinë/Priština.

811. In 2003 a law on higher education was introduced in Kosovo.<sup>382</sup> Higher education referring to education that regularly leads to the degree of a bachelor after the equivalent of at least three years of full-time study after obtaining the secondary school leaving certificate; the degree of Master or Doctor after obtaining the degree of bachelor; education of equivalent level and content; or any other post-secondary education at ISCED levels 4 and 5 (International Standard Classification of Education).

812. After the Ministry of Education, Science and Technology (MEST) was established in 2002, the government of the time formed a mixed working group with local and international experts in order to start the process of compiling a strategic short-term plan for the development of the Kosovo education system 2002-2007. This group finished its work in May 2003, producing the first strategic plan for Kosovo education to get out of the emergency phase and to start consolidation, but at the same time preserving the unity of the educational system and foreseeing the integration in the respective European processes.

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<sup>381</sup> RAE stands for Roma, Ashkali and Egyptian.

<sup>382</sup> Law No. 2002/3 On Higher Education in Kosovo, promulgated by UNMIK Regulation No. 2003/14 of 12 May 2003.

813. Towards the end of 2004 it became rather evident that the first strategy was not sufficient to ensure a coherent development of the educational system, especially in its most important part - the development of the human capacities in both teaching and administration. After the evaluation of the curriculum process done by the London Educational Institute and after most of the international support programs for education in Kosovo had finished their work or had progressed to their second phase, the Strategy for the Development of Higher Education in Kosovo (2005-2015) was released.

814. Regardless of the huge problems and in spite of the strong will for changes, it has been clear by now that there are no easy and quick solutions for the development of higher education in Kosovo. Consequently, the MEST has chosen to consider changes in a systemic manner, including all relevant stakeholders in this process. Taking into consideration this particular approach we will look for solutions which will enable Kosovo to become an inseparable entity of the European Area of Higher Education determined by the objectives of the Bologna Process. According to this perspective, by building a distinctive and adaptable system of higher education which is harmonious with the demands of the society, the higher education will satisfy the requirements necessary to carry out to the sustainable development of Kosovo society.

815. The Strategy for the Development of Higher Education in Kosovo (2005-2015) has the following objectives:

- Elaborating and implementing a contemporary and all-inclusive education policy and finalising the higher education legislation
- Improving of management and coordination in higher education
- Developing of the management system of the higher education quality
- Improving capacities for research and scientific work
- Establishing mechanisms for the provision and efficient managing of financial resources for the higher education development
- Development of a complete and functional infrastructure of the higher education

816. In the academic year 2004/05 28.935 students were enrolled at University of which 54% were male; 87% of the students on a full time basis. Regarding ethnicity Albanians (99%), Bosniaks (0.7%), Turks (0.1%) and others were represented. A few students joined also from neighbouring countries (Albania 50, Macedonia 263, Serbia 362, Turkey 23 and others 4).

**Table 102**  
**Teaching staff**

Total		Teachers		Pers. Admin, support	
2 102		1 638		464	
Male	Female	Male	Female	Male	Female
1 576	526	1 289	349	287	177

*Source:* MEST.

### **E. Special needs education**

817. The overall objective of the establishment of a Special Education Unit is to contribute to the educational reform in Kosovo by developing an inclusive educational system. The aim is to make the inclusive philosophy of education a central issue for all the programs of teachers' professional development by ensuring that young teachers in Kosovo as well as the ones already working get better trained in order to be able to teach students with special needs and in this way to improve all-inclusiveness in schools of Kosovo.

818. The Special Educational Unit has developed the main components and activities for the year 2006 and has already started offering programmes in the following areas:

- Increase of the institutional and the school capacity
- Develop teachers' skills in inclusive education/education with special needs
- Training of trainers and regional experts of evaluation teams
- Small projects for the development of schools in the region and
- Establishment of special schools and satellite classrooms in Kosovo (more than 1,000 students with special needs go to special schools or satellite classrooms)

### **F. Fundamental education**

819. In spring 2006, the Law On Vocational Education and Training was promulgated.<sup>383</sup> It is aimed at regulating the system of formal vocational education and training in compliance with the needs of the economic and social development of Kosovo, including economic and

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<sup>383</sup> Law No. 02/L-42 On Vocational Education and Training, promulgated by UNMIK Regulation No. 2006/24 of 25 April 2006.



technological change, labour market demands and the needs of individuals, optimising the use of financial, human and infrastructure resources during the transition to a market economy.

820. The Law is also influenced by the idea of lifelong learning and directed at students who have completed compulsory education as well as persons in general that are older than 15 and would like to improve their employability.

821. Article 13 of the Law envisages the establishment of the Council for Vocational Education and Training (CVET) in order to steer the course of development and advise the Government on matters concerning the quality and promotion of vocational education and training in Kosovo.

**Table 103**

**Vocational education**

	Teachers	Students
2002/03	2 943	47 024
2003/04	3 109	43 162

*Source:* Statistical Office of Kosovo.

**G. Teaching staff**

822. The situation in the cities and the villages differs to a large extent. While the qualifications of teachers in the cities does not create any problems, the professionalism in the villages is lower than required. Often also professionals are teaching in subjects that they have not been educated in. To overcome this problem salaries should be raised in the future to attract suitable personnel and to allow teaching in either the city or in the rural areas.

823. The issue of professional training of professors in order to deliver quality education is not satisfactory taking into consideration developments in the curriculum and changes to the methodology of teaching. Teachers' trainings were coordinated by MEST, respectively, the Teacher Qualification Sector, in cooperation with local and international NGOs according to the programs they have offered for a contemporary teaching and learning methodology. The trainings were adapted to the teachers' needs and requests.

824. The Teacher Qualification Sector has trained teachers according to the new curriculum for grades 1 to 12 on the following issues: Child Centred Teaching (CCT), Reading and Writing for Critical Thinking (RWCT), Human Rights, Human Trafficking, Life Skills, etc. Approximately 70% of teachers have been trained, but this is an ongoing process of teacher professional growth.

**Table 104****Data according to the years of trainings for the teachers of professional education**

Year 2002			
Organisation	Subject	No. of participants	Year
GTZ	Methodical-didactic training	207	2002
ABS-Advisory center	Mec. Inf. English language	752	2002
Total:		959	2002
Year 2003			
Organisation	Subject	No. of participants	Year
GTZ - CIMIC	Professional didactics	60	2003
GTZ	Training for multipliers-trainer	50	2003
GTZ & ISPT	Curricula development	45	2003
KOSVET	Alternative Strategies in teaching and learning	300	2003
ABS-këshillimorja	Mec. Inf. English language	450	2003
Atlas-Logistique	Auto mechanics	22	2003
Total:		927	2003
Year 2004			
Organisation	Subject	No. of participants	Year
KOSVET	Job description	61	2004
MEST/IEME	Curricula, grade, 10/11	1 332	2004
GTZ	Methodics-didactics	1 704	2004
Swisscontact	Different modules	140	2004
Kosvet	Alternative Strategies in teaching and learning	157	2004
Atlas Logistique	Auto mechanics	22	2004
Total:		3 416	2004
Year 2005			
Organisation	Subject	No. of participants	Year
Swisscontact	Different modules	109	2005
KOSVET	Methods of alternative teaching	128	2005
KOSVET	Educational leadership	58	2005
Rea-Prishtinë/Priština	Junior Achievement	42	2005
GTZ + MEST	Methodics-didactics	1 114	2005
GTZ + MEST	Educational leadership	133	2005
MEST/IEME	Curricula, grade, 12	1 300	2005
Total:		2 884	2005
Year 2006			
Organisation	Subject	No. of participants	Year
MEST+GTZ	Methodics-didactics	255	2006
MEST+GTZ	Educational leadership	120	2006
MEST+GTZ	Autocad	100	2006
MEST+GTZ+Smart-bits	EBCL (Enterprise)	87	2006
MEST+GTZ+Smart-bits	ECDL (Informative Technology)	65	2006
MEST+GTZ+Smart-bits	Ex-teachers of BTE (IT)	276	2006
MEST+Kulturcontact	Practice firms	30	2006
MEST+ Kosvet	Teaching and evaluation	50	2006
MEST+Swisscontact	Auto mechanics	34	2006
MEST+Swisscontact	Heating and ventilation	42	2006
MEST+Swisscontact	Water supply and sewage	16	2006
MEST+Swisscontact	Practice firms	10	2006
MEST+Swisscontact	Electric installation	33	2006
Total:		1 118	2006

Source: MEST.

825. A strategy has been drafted for schools to promote health in Kosovo (2007-2017) by MEST, the Ministry of Health, the National Institute of Public Health, the Ministry of the Environment, UNICEF, IOM, and others in order to create optimal conditions for efficient education of citizens. The strategy's main objectives are:

- Awareness raising of teachers, students and parents towards a safe and healthy environment
- Ensuring proper infrastructure and school facilities
- Creation of sufficient human and material capacities
- Continuous qualitative health care for students
- Satisfactory level of health and environmental structure
- Dropping the rate of violence

#### **H. Non-public schools**

826. The Law On Primary and Secondary Education in Kosovo<sup>384</sup> in chapter VIII foresees the option to provide private educational services at the primary and secondary level. To that end, the law obliges MEST to formulate a licensing standard taking into account the variety of teaching and learning methods as well as standards for the infrastructure and basic curriculum. Every institution which meets the criteria shall be awarded a licence.

827. In 2003 MEST issued an Administrative Instruction (AI) on the conditions to be fulfilled by private educational institutions in order to be licensed.<sup>385</sup> In addition to some general requirements, the AI also focuses on space (2 m<sup>2</sup>/student), sufficient school equipment, staffing, legal and financial requirements as well as programmes. A range of private schools have been licensed and are operating in Kosovo.

828. MEST is also responsible to issue subsidiary legislation necessary to facilitate licensing of private providers of higher education, according to the Law on higher education.<sup>386</sup> Chapter VI of the Law provides for some principled provisions guiding implementation in regards to the establishment, licensing and accreditation of private providers of higher education.

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<sup>384</sup> Law No. 2002/2 On Primary and Secondary Education in Kosovo, promulgated by UNMIK Regulation No. 2002/19 of 31 October 2002.

<sup>385</sup> MEST AI 03/2003 on Licence and Registration of Private Educational Institutions for Primary and Secondary Level in Kosovo of 10 March 2003.

<sup>386</sup> Law No. 2002/3 On Higher Education in Kosovo, promulgated by UNMIK Regulation 2003/14 of 12 May 2003.

829. In 2003 MEST issued an AI determining the conditions and criteria to be fulfilled by private providers of higher education in order to be licensed, taking into account the Bologna Declaration from 1999.<sup>387</sup> The AI establishes the Accreditation Agency of Kosovo in order to review, evaluate and accredit the programs of the appointed private providers. Besides some general organisation conditions that need to be fulfilled to obtain a licence the AI also focuses on sufficient size, number of students, qualified personnel as well as the necessary budget.

830. Around 20 private higher education institutions have been licensed in Kosovo ranging from nearly full private universities to very specialised educational institutions. As a brief overview one could mention:

- The American University of Kosovo
- University for Business and Technology
- University of Medical Science
- Dardania University
- Journalist Faculty *Faik Konica*
- Academy for Movie, Theatre, Television and Radio in Prizren and
- Institute of Fashion “Evolution”

### **I. Inspection of Education in Kosovo**

831. In 2004, the Inspectorate of Education was established as an executive body in the framework of the MEST.<sup>388</sup> The Law regulates the supervision of the implementation of laws and sub-legal acts in the area of public and private education including education in the Diaspora and in correctional houses and prisons. The Chief Inspector of Education is responsible to the Permanent Secretary of MEST.

### **Article 14**

832. With UNMIK Regulation No. 2000/51 On the Age of Compulsory School Attendance in Kosovo of 30 August 2000, the age of compulsory school attendance was established as being from six to fifteen years of age. Compulsory primary education is to take place in an approved school. In certain cases, children younger than six years of age may be admitted to primary

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<sup>387</sup> MEST AI 14/2003 on Licensing of Private Providers for High Education in Kosovo of 17 July 2003.

<sup>388</sup> Law No. 2004/37 On Inspection of Education in Kosovo, promulgated by UNMIK Regulation No. 2004/55 of 17 December 2004.

education, while dispensations may be made in reasonable cases of medical condition of the child or if the child is receiving “efficient and regular instruction in a range of subjects appropriate to the child’s needs in a place other than an approved school”.<sup>389</sup>

833. The responsibility to ensure attendance at school of children in this age bracket is placed on parents or guardians. Parents or guardians who fail to enroll a child in an approved school with a dispensation may be fined. If following a conviction and fine, the parent or guardian persists in failing to enroll the same child, the may, upon conviction, be fined an additional penalty per teaching week of the official school calendar.<sup>390</sup>

834. Primary school attendance has been free of charge since the beginning of the 1999-2000 school year. By the Law No. 2002/2 On Primary and Secondary Education, at Section 3, education at publicly maintained schools of levels 1, 2 and 3 was made free of charge by law. Furthermore, under Section 7.2, compulsory education was defined as beginning from age six and continuing until the end of the ninth year of school attendance or the day the pupil reaches the age of fifteen.

835. For further discussion of compulsory primary education free of charge see under Article 13 of this report.

## **Article 15**

### **A. Institutional framework**

836. The development of the institutional framework for the development of the right to culture following June 1999 and the UNSCR 1244 went through several phases.

#### **1. Phase 1 - UNMIK Administrative Department of Culture**

##### **Period July 1999-January 2000**

837. The greatest challenge facing authorities during this period was the establishment institutions and laws to govern and regulate issues related to culture. Prior to June 1999, all governmental bodies and institutions were staffed by Serbs who left the province.

838. As there was no functioning governmental or institutional structure in place UNMIK established a Department of Culture administered by an international representative appointed by the SRSG. The first priority for this department was to establish an office in the post-war chaos: identifying office space, hiring staff and procuring necessary equipment. In addition, local officials were not experienced in Civil Service administration and governance and thus were

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<sup>389</sup> UNMIK Regulation No. 2000/51 On the Age of Compulsory School Attendance in Kosovo of 30 August 2000, Section 3.2 (a).

<sup>390</sup> Ibid., Section 4.

involved in long-term decision-making with regard to cultural policy. Subsequently, a Joint Interim Administrative Structure (JIAS) was developed to share responsibility and to allow for a period of local institutional capacity building with International oversight.

## **2. Phase 2 - UNMIK/JIAS Department of Culture**

### **Period January 2000-September 2001**

839. In January 2000, UNMIK Regulation No. 2000/1<sup>391</sup> established the Joint Interim Administrative Structure. Under this structure, an Interim Administrative Council, composed of four Kosovo and four UNMIK representatives, could make recommendations to the SRSG on the applicable law and new regulations and could propose policy guidelines for Administrative Departments in applying the applicable law. Administrative Departments, of which one was Culture, were created and run by an UNMIK and a Kosovo Co-Head. The focus with regards to the right to culture during this period was capacity building and setting up the institutions necessary to meet the needs of governance. This process continued through to the beginning of 2007.

## **3. Phase 3 - Ministry of Culture, Youth, Sports and Non-Resident Affairs**

### **Period September 2001-to the present**

840. In May 2001, UNMIK Regulation No. 2001/9<sup>392</sup> established the Executive Branch of the Provisional Institutions of Self-Government (PISG), and, in September 2001, UNMIK Regulation No. 2001/19<sup>393</sup> established specific Ministries and their responsibilities, including the Ministry of Culture, Youth and Sports (MCYS).<sup>394</sup> To this Ministry were assigned the following responsibilities:<sup>395</sup>

- Develop policies and implement legislation for the promotion of the culture sector, including programs for the protection of cultural heritage, the promotion of cultural links and the formation of cultural clubs, groups and associations

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<sup>391</sup> UNMIK Regulation No. 2000/1 On the Kosovo Joint Interim Administrative Structure of 14 January 2000.

<sup>392</sup> UNMIK Regulation No. 2001/9 On a Constitutional Framework for Provisional Self-Government in Kosovo of 15 May 2001.

<sup>393</sup> UNMIK Regulation No. 2001/19 On the Executive Branch of the Provisional Institutions of Self-Government in Kosovo of 13 September 2001.

<sup>394</sup> Note that the Department of Non-Resident Affairs was added to the responsibilities of the Ministry of Culture, Youth and Sports at a later date.

<sup>395</sup> Ibid., Annex V.

- Develop policies and strategies for the youth sector, including the identification of specific at-risk youth groups, the development of programs to address their needs and the promotion of youth clubs, groups and associations
- Foster and facilitate communication and contacts between persons and cultural organizations through activities such as development, dissemination, and exchange of informational, cultural, educational and other material
- Promote cultural, sports and youth activities and links with members of all ethnic, religious or linguistic communities, including those temporarily or permanently living outside of Kosovo (“non-residents”) and
- Liaise with established networks of non-residents, which address the cultural needs of Kosovo migrants and returnees

841. In the course of this period UNMIK gradually transferred competencies and responsibilities to PISG/MCYS including policy development and budget management, retaining control over international relations and agreements and maintaining intervention powers on issues related to Minorities.

842. Roadmaps were developed to identify priorities and goals. In 2001/2002 an Enhanced Comprehensive Development Framework (ECDF) was drafted laying out the then current situation, policy objectives, priority actions and performance indicators. In 2004, the Kosovo Standards Implementation Plan (KSIP) was established to track progress on the actions necessary to achieve “a truly multi-ethnic, stable and democratic Kosovo which is approaching European standards”.<sup>396</sup> For MCYS, the priority actions were identified as follows:

- Restoration and reconstruction: The restoration and reconstruction of the damaged sites must be undertaken earnestly with the involvement of the affected communities and the owners of the properties.
- Education and policy: In order to address the problems of indifference and lack of respect, the Implementation Plan provides that the PISG shall develop an integrated conservation approach, which shall then be disseminated to the general public, government officials, and heritage possessors via education and awareness campaigns.
- Drafting and implementing legislation: The Implementation Plan stipulates that the PISG shall, with the assistance of the Council of Europe and in consultation with all communities in Kosovo, draft and implement legislation on cultural heritage that meets European standards.

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<sup>396</sup> Kosovo Standards Implementation Plan, March 2004.

- Preparation of an inventory and restoration of sites: The Implementation Plan calls for the preparation of an official inventory of all cultural heritage sites in Kosovo, which shall be endorsed by a multi-ethnic commission and made available to the public.
- Enforcement: Immediate and continuous non-discriminatory enforcement of the laws, regulations and decisions, preventing or prosecuting unauthorised interference or destruction of built cultural heritage.

843. The period was marked and bifurcated by the March 2004 violence in which 34 Orthodox Churches of widely varying heritage value were damaged. Prior to these events, UNMIK/MCYS Cultural policy was aimed at institutional capacity building, the development of cultural institutions and activities and the start of dialogue (by UNMIK without PISG involvement) on outstanding questions including the return of Artefacts and Documentation taken from Kosovo to Serbia during or prior to the conflict. The focus on the post-2004 period has been on the active demonstration of PISG responsibility for the restoration of these sites and the growing development of relations and direct dialogue between the Ministry of Culture in Serbia and the PISG/MCYS in Pristinë/Priština. This dialogue related specifically to the following issues.

844. In June 1999 a great deal of the documentation of the Provincial Institute for the Protection of Monuments of Culture in Priština was moved to the Museum of Kruševac, in Serbia, and later to the Republic Institute for the Protection of Monuments of Culture in Belgrade. This documentation, along with other archival materials, necessary for the identification, protection and restoration of heritage remains in Serbia to date.

845. Prior to 1999, the archaeological and ethnographic treasure of the Museums of Kosovo were to be exhibited in various Balkan countries in a touring exhibition and returned shortly after such exhibitions. In early 1999, just before the conflict began, 676 archaeological and 571 ethnological exhibits from Kosovo were taken on loan for temporary exhibitions in Belgrade under the title “Kosovo Archaeological Treasure”. They have not been returned and their absence continues to create tension between the Kosovo and Serbian authorities.

846. As a gesture of cooperation and under pressure from the then-SRSG, Mr. Michael Steiner, Belgrade returned a famous 4000 B.C. terracotta figurine “Goddess on the Throne” on 31 May 2002. Dialogue on the return of Artefacts was also conducted under the auspices of the Working Group on Cultural Issues, however it did not produce any further returns of objects.

847. A Working Group on Cultural Issues (WGCI) was established in 2002 between UNMIK and the Serbian Coordination Centre for Kosovo (CCK) and effectively worked between December 2002 and March 2004. The last meeting of this group was held soon after the March 2004 riots, on 31 March 2004.

848. New technical Working Groups were established in 2006 under Cultural Coordinators appointed by the Ministers of Culture of Serbia and the PISG/MCYS as a result of their face-to-



face meeting in September 2005. One of these groups focuses on the return of documentation and expects to have at least copies of relevant documentation related to cultural monuments returned to Kosovo in early 2007.

849. UNMIK together with the PISG/MCYS worked on the need to establish and/or build up, re-staff and train staff in a wide range of institutions and locate adequate and safe premises for their activities. These Institutions include:

- Institutes for the Protection of Monuments - one at the central level and six at the regional level
- Archives at central and (six-) regional levels
- The National and two Regional Theaters; Two new Regional Theaters were under development during 2006
- National Philharmonic Orchestra/Opera and the Folkloric Dance Troupe - "Shota"
- Library Authority (established in 2001) and eight regional/municipal libraries including one in the Kosovo Serb-dominated northern municipality of Leposavić/Leposaviq
- Kosovo Art Gallery (established in 2001-3); Kosovo Museum (established in 1949), Archaeological Institute (established in 2003); Ethnographic Museum (established in 2006); and three Regional Museums
- Kosovo Film (operational between 1969-2006), and the Centre for Cinematography of Kosovo (established as of 2006)

850. Since 1999, a number of laws concerning cultural matters have been adopted, including the Law on Libraries,<sup>397</sup> the Law on Archives,<sup>398</sup> the Law on Cinematography,<sup>399</sup> the Law on Theatre,<sup>400</sup> the Law on Publishing Activities and Books,<sup>401</sup> the Law on Philharmonic, Opera and Ballet of Kosovo,<sup>402</sup> and the Law on Institutions of Culture.<sup>403</sup>

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<sup>397</sup> Law No. 2003/6 On Libraries, promulgated by UNMIK Regulation No. 2003/19 of 23 June 2003.

<sup>398</sup> Law No. 2003/7 On Archive Material and Archives, promulgated by UNMIK Regulation No. 2003/20 of 23 June 2003.

<sup>399</sup> Law No. 2004/22 On Cinematography, promulgated by UNMIK Regulation No. 2004/38 of 14 October 2004.

<sup>400</sup> Law No. 02/L-12 On Theatre, promulgated by UNMIK Regulation No. 2005/31 of 8 June 2005.

## B. Culture budget

851. The budget of the MCYS Department of Culture is divided between Institutional Support for Culture, Cultural Heritage and General Support for Culture. The total budget for the Department of Culture between 2002 and 2006 was a little over 16.3 million Euro. It developed from a low of slightly over 2.9 million Euro in 2002 to a little over 3.9 million Euro for 2007. This represents a fluctuation between a low of 0.09% of GDP in 2003 to a high of 0.2% of GDP in 2004. As a percentage of the overall budget of Kosovo it has been relatively stable at 0.5% on average. The projected percentages for 2007 are 0.18% of GDP and 0.5% of the overall budget.

852. A key policy development in 2005 was the policy for Diversity and Integration, intended to promote both projects within minority communities and to encourage inter-community projects in the areas of Culture and Sports. 15% of the Culture Department budget (approx. 250,000 Euro) was earmarked for use under this policy.

853. As an illustration, the breakdown of spending from the 2006 approved budget for the Department of Culture of the MCYS:

**Table 105**  
**2006 approved budget MCYS (in Euros)**

Department	Programme	Wages and salaries	Goods and services	Municipal expenditures	Subsidies and transfers	Capital expenditures	Total
Culture		879 545	273 090	116 810	2 000 000	535 394	3 804 839
	Institutional Support for Culture	879 545	273 090	116 810	1 200 000	295 394	2 764 839
	Cultural Heritage				500 000	240 000	740 000
	Support for Culture				300 000		300 000
in % GDP							0.17%
in % Budget							0.6%

*Source:* Ministry of Economy and Finance and Ministry of Culture, Youth and Sports.

<sup>401</sup> Law No. 02/L-51 On Publishing Activities and Books, promulgated by UNMIK Regulation No. 2006/16 of 21 April 2006.

<sup>402</sup> Law No. 02/L-59 On Philharmonic, Opera and Ballet of Kosovo, promulgated by UNMIK Regulation No. 2006/42 of 12 August 2006.

<sup>403</sup> Law No. 02/L-57 On Institutions of Culture, promulgated by UNMIK Regulation No. 2006/44 of 18 August 2006.

### **C. Protection of moral and material interests**

854. Law No. 2004/45 On Copyright and Related Rights was promulgated by UNMIK Regulation No. 2006/46 on 24 August 2006. The purpose of the Law is to protect and develop the rights to intellectual property in general and the right of authors in particular. Within eighteen months of the promulgation of the Law, the Kosovo Government is required to establish an Office for Intellectual Property Rights.<sup>404</sup> The Office has the authority to grant certifications to legal entities, which are applying for administering copyrights. The Office furthermore has the authority to conduct other activities in relation to certifications, such as revoking certifications for collective management in certain circumstances, supervising the compliance to the provision of the Law of the activities of certain organisations and demanding reports on business matters and inspection into their books and other business papers. Pending the establishment of the Office, the administrative roles assigned to the Office, shall be carried out by the Ministry of Culture. This Ministry is obliged to pass regulations to carry out these provisions within six months of the promulgation of the Law.

855. A person who has had his/her rights infringed, may demand the protection of those rights and make the corresponding claims. The right holder may, inter alia, claim the following: (a) the statement of the infringement of rights; (b) that the infringer is prohibited from taking certain preparatory acts, the infringement itself, and the repeating of infringements; and (c) that the infringer rectifies the situation caused by the infringement. The right holder may also claim recovery of damages and monetary satisfaction for non-material damage. After the receipt of a claim, the Court shall open the first hearing at the latest in three months' time. The venue of the summary proceedings is the District Court of Prishtinë/Priština. Punishment for criminal offences within this Law is a fine or imprisonment of up to eight years.

856. While this Law is primarily intended to ensure protection of the intellectual property rights of domestic rights holders, the protection and securing of intellectual property rights of foreign copyright holders has received little attention. Few if any measures have been taken to tackle the unauthorised copying, manufacture and sale of foreign copyright goods. Problems also remain with the protection of intellectual property rights for foreign scientific and literary publications.

### **D. Promotion and education on culture**

857. Education on culture is conducted through core curricula and school textbooks in compulsory education and upper secondary education. Specific education on cultural aspects is provided in higher education through faculties on social sciences and languages. Social sciences courses in general treat the cultural aspects of Kosovo as well as regional and world cultural subjects. Within primary and secondary education all cultural topics are broadly treated within classes on civic education, history, geography and mother tongue.

858. Within compulsory education, as conducted through 541 schools, 278 of these, or 50 percent, possess or are equipped with a library. Within upper secondary education of

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<sup>404</sup> Law No. 2004/45 On Copyright and Related Rights, promulgated by UNMIK Regulation No. 2006/46 of 24 August 2006, Article 169.

the 80 functioning schools 40 possess a library. All primary and secondary school libraries are operational and accessible to pupils and students of the respective schools. For higher education, within the various faculties of the University of Prishtinë/Priština there are 35 libraries with a total collection of 149,595 volumes.<sup>405</sup>

859. The public library system includes over 350 libraries of various types. In addition to municipal libraries, the Ministry of Culture, Youth and Sports manages 8 inter-municipal libraries, and one specialised library for the blind. In accordance with the Law on Libraries<sup>406</sup> the National Library of Kosovo also contains the University Library and is meant to be managed partly by the Ministry of Culture Youth and Sports (MCYS) and partly by the Ministry of Education, Sciences and Technology (MEST). However, it is currently managed only by the MEST.

860. All public libraries are freely accessible and library services and information are provided on equal terms to all users of the library.<sup>407</sup> All public libraries hold collections in several languages including Albanian, Serbian, Turkish, English and other. A variety of newspapers and periodicals are also available in public libraries. Until September 2006, the MCYS also managed the inter-municipal library in the Kosovo-Serbian majority area of Leposavić/Leposaviq. However, by an official communication this library informed the MCYS that by order to the Municipal Assembly of Leposavić/Leposaviq they would cease all contacts and co-operation with the MCYS. This library based in Leposavić/Leposaviq also supervises other libraries in Kosovo-Serb majority villages located in Zubin Potok, Mitrovica, Štrpce/Shtërpce, Gračanica/Graçanica, Lijan/Lipljan, Gjilan/Gnjilane, Viti/Vitina and several other municipalities.

861. Only the building housing the National Library of Kosovo has been designed and constructed specifically for use as a library and meets criteria of UNESCO and the IFLA World Library Association. In the inter-municipal libraries managed by MCYS the conditions are reasonable, while in municipal and village libraries conditions are extremely difficult.

862. The staffing levels of the nine libraries managed by MCYS reach 90 persons. Of these, 78 are Kosovo-Albanian, 6 are Kosovo-Serb, 3 are Kosovo-Bosniak, 2 are Kosovo-Turkish and one staff member belongs to the Roma community. The educational level of these staff members include 45 persons with a university degree, 40 with secondary education and 5 with primary education.

863. The budgetary provision for libraries is low. For 2006, for those libraries managed by the MCYS, the provision for services and goods to libraries amounted to 54,602 Euro. The figures for utilities (48,400 Euro) and for programmes and projects (21,000 Euro) were also very limited. Nevertheless, during 2006 it was possible to increase the holdings of public libraries by over 5,000 new titles and 150,000 volumes. Over 21,000 new users registered as members.

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<sup>405</sup> Information obtained from SIMA-MEST and the Higher Education Strategy 2004-05.

<sup>406</sup> Law No. 2003/6 On Libraries of 4 April 2003, promulgated by UNMIK Regulation No. 2003/19 of 23 June 2003.

<sup>407</sup> Ibid., Articles 7.1.1 and 8.1.

## **E. Preservation of cultural heritage**

864. Large numbers of Cultural Heritage sites were damaged as a result of conflict and/or neglect. Specifically, between 1999 and 2004, very significant damage was caused to religious and cultural sites in Kosovo. During this period, approximately 100 Serbian Orthodox sites and 217 mosques were damaged or destroyed. Although this subject is a priority for the MCYS, limited budget capacity has hampered wide-scale restoration of these objects. International assistance, both bi-lateral and through NGOs, has enabled many sites to be restored, including: a hammam and the Red Mosque in Pejë/Peć; the Hadum Mosque in Gjakovë/Đakovica; kullas in Zvečan/Zvečan, Dečan/Dečani, Istinic/Isnić; and various vernacular buildings in Hoca i Madhe/Velika Hoča, Prishtinë/Priština and Prizren.

865. In May 2005, UNESCO in coordination with UNMIK and the Council of Europe organized a donor conference which raised USD 10 million for the protection and conservation of cultural heritage in Kosovo. Projects are envisioned to begin in 2007 on approximately twelve to fifteen sites.

866. The riots in March 2004 damaged an additional 34 cultural heritage sites belonging to the Serbian Orthodox Church (SOC). In the immediate aftermath, the PISG pledged 3.7 million Euro and UNMIK pledged 500,000 Euro towards the restoration of the damaged monuments. In 2006 the PISG approved an additional 1.7 million Euro to increase the total budget for works through fiscal year 2007 to 5.9 million Euro.

867. The total amounts spent on reconstruction of churches from the Kosovo budget amounted to nearly 0.7 million Euro in 2005, rose to 1.8 million Euro in 2006, and is set at nearly 3.5 million Euro for 2007.

868. A Memorandum of Understanding was signed between the SOC and MCYS establishing the Reconstruction Implementation Commission (RIC) led by the Council of Europe and involving all stakeholders. In place since 2005, this Commission has overseen urgent protection works on 30 sites (2005) and extensive restoration on 7 priority sites (2006). A unique cooperative body, the RIC not only brings SOC and PISG representatives to the table but also sees daily cooperation between technical experts supervising works on the ground.

869. The violence of March 2004 also highlighted the need for building tolerance and respect for objects of cultural heritage, for increasing education and awareness of the value and the need to protect such sites and for developing a sense of community ownership and pride with regard to all heritage in Kosovo.

870. In 2006 MCYS ran an awareness campaign in March-May and again during Cultural Heritage month (September), which included television spots, Kosovo-wide billboards and debate held in all Municipalities of Kosovo with local youth and heritage experts, to introduce the slogan and the concept of 'Protect it, it's yours', to answer questions and to highlight cultural heritage in the municipality.

871. Without a law on Cultural Heritage in place, there had been no means of adequately protecting or managing Cultural Heritage. After five years of work, a Law on Cultural Heritage was passed by the Kosovo Assembly and promulgated by UNMIK in November 2006.<sup>408</sup> However, the Law is only a framework document. It attempts to set out the broad concepts of heritage protection. All the details as to how this protection system will work in practice have been left to subordinate legislation, which is yet to be drafted and according to the Law must be drafted within 6 months of promulgation. In short, heritage protection requires the creation and operation of an entire administrative system. The Cultural Heritage Law neither fully establishes this system nor makes it operational. Until the subordinate legislation is drafted and enacted, very little will be achieved in terms of real protection. The Council of Europe has agreed to provide international experts along with local experts to draft these subsidiary legislations within the deadline.

872. Inventorization of Cultural Heritage objects, particularly in view of the removal of all documentation and archival materials to Serbia in 1999, was and is a primary requirement for the adequate protection and conservation of cultural heritage. Identified as a priority under the Kosovo Standards Implementation Plan (KSIP), an inventory of architectural, archaeological and movable heritage has been ongoing at varying levels of success since 2003. As of November 2006, a temporary database storing a total of 2,847 objects has been put into place and MCYS staff trained in its use by Swedish NGO Cultural Heritage without Borders. Of these objects, 426 have been listed under protection by Law on Cultural Heritage. Development of a future project to create a permanent database, using an internationally recognized programme, with an expanded list of objects is under discussion with the United Kingdom Government.

873. Cultural Heritage, particularly those Serbian Orthodox Churches located in Kosovo which are sources and symbols of national identity, played a seminal role in conflict between Serbia and Kosovo during the 1990's. Resolving the status, role and protection of these monuments has been and continues to be one of the most volatile issues facing the UNMIK/PISG administration. Direct dialogue between Prishtinë/Priština and Belgrade has been developing rapidly since September 2005. The various steps taken include:

### **1. Minister-to-Minister**

874. In September 2005, Minister Kojadinovic (Serbia) and Minister Haraqija (PISG) met in direct talks in Belgrade. This was the first, and thus far the only, Ministerial level meeting to be held in either Serbia or Kosovo. The Ministers agreed to appoint Coordinators who would communicate on a more informal level and would establish working groups on subjects of mutual interest. Four Working Groups were envisioned: Return of Documentation; Return of Artefacts; Archaeology; and Artist-to-Artist Exchange.

875. The Ministers met again in December 2005 at the invitation of the Bulgarian Minister of Culture in Arbanassi, Bulgaria. The so-called 'Arbanassi Process' began as a means of

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<sup>408</sup> Law No. 02/L-88 On Cultural Heritage, promulgated by UNMIK Regulation No. 2006/52 of 6 November 2006.

developing regional ties and promoting regional cultural development. The process was later extended to include the Minister of Culture of Albania, who invited the Kosovo and Serbian Ministers to Tirana to launch the technical Working Groups in December 2006.

876. Under the auspices of various organizations, the Ministers have met in International Forums in Varna, Bulgaria (June 2006); Paris (November 2006); and Venice (December 2006).

## **2. Cultural coordinators**

877. Established by the Ministers in September 2005, the Coordinators have held 4 meetings in 2006 in Prishtinë/Priština and Belgrade during which they drafted Terms of Reference for Working Groups, identified WG members and launched the first three groups.

## **3. Working groups**

878. Groups on Return of Documentation, Archaeology and Arts Exchanges have all begun work. Copies of documentation related to cultural monuments are expected to be given to the Kosovo Institute for the Protection of Monuments by the end February 2007; An art/video project with a Kosovo Serb and Kosovo Albanian artist is expected to be finalized in February 2007. Intentions are to restart jointly various archaeological projects interrupted by the conflict of the 1990s.

## **4. Special Protection Zones**

879. In 2005, the SRSG issued an Executive Decision (ED) creating a “Special Zoning Area” around Deçan/Dečani Monastery. This ED prohibits unauthorized construction, industrial or commercial activity and limits the expansion of roads in the area. This model has been taken up by the negotiating teams discussing the status settlement for Kosovo in Vienna and is expected to be recreated in other sensitive and highly valued heritage sites.

880. In 2004, the Serbian Orthodox Deçan/Dečani Monastery was included in the UNESCO World Heritage List and in 2006, three additional sites were added to the list: Pejë/Peć Monastery; Graçanicë/Gračanica Monastery; and the Holy Virgin Ljeviska Church in Prizren. While the prestige of being on this list will be of great benefit to Kosovo in its development of cultural tourism, the absence of recognition for monuments of any other category besides Serbian Orthodox religious sites has left Kosovo Albanians unsatisfied. The MYCS would like to open a dialogue with UNESCO to propose additional sites for inclusion to the list of World Heritage.

881. A survey of cultural institutions in Kosovo conducted in 2004-2005 compared the situation in Kosovo during the 1980s and the present situation. The survey revealed that out of the 240 different cultural institutions dating back to 1988, wherein more than 1,200 multi-ethnic experts and support staff were employed, there remain some 79 cultural institutions today, as well as a number of other organizational forms of culture dispersed through the regions of Kosovo.

882. Those institutions involved in the preservation of cultural heritage in Kosovo include:

- Kosovo Archives
- Historic Regional Archives in Prizren, Prishtinë/Priština, Mitrovica and Pejë/Peć
- Municipal Archives in Gjilan/Gnjilane, Gjakovë/Đakovica, Deçan/Dečani, Vushtrri/Vučitrn, Viti/Vitina, etc.
- Kosovo Museum
- Mitrovica Museum
- Archeological Museum of Prizren
- Ethnological Museums of Pejë/Peć, Gjakovë/Đakovica, Skenderaj/Srbica, etc.
- Museum of Electro Economy Prizren
- Museum of Crystals Mitrovica
- Kosovo Institute for Preserving Cultural Monuments
- Regional Institutes for Preserving Monuments in Pejë/Peć, Gjakovë/Đakovica, Prizren, Prishtinë/Priština
- Regional Centres for Preserving Cultural Inheritance of Mitrovica and Gjilan/Gnjilane
- Archeological Institute

#### **F. Scientific research**

883. The Law on Scientific Research Activity<sup>409</sup> regulates the establishment, activities, organisation, governance and termination of public and private entities in the field of scientific research. Specifically, the Law determines the establishment of scientific-research institutions, the rights and liabilities of scientific workers and researchers, the establishment of the Kosovo Council of Science and scientific councils in specific fields, the development of the Kosovo Scientific-Research Programme and the manner of financing scientific research activities in Kosovo.

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<sup>409</sup> Law No. 2004/42 On Scientific Research Activity, promulgated by UNMIK Regulation No. 2005/6 of 3 February 2005.



884. The Law specifies that scientific-research activity shall be founded on principles of:

- Freedom of scientific research and creativity<sup>410</sup>
- Publicity of work
- Protection of intellectual property rights of ownership
- Program and science project competition
- Inviolability and security of human capacity and dignity
- Ethical and scientific responsibility of researchers for consequences of their work
- Human environmental protection
- Correlation between scientific research and higher education
- Inclusion in international scientific activity<sup>411</sup>

885. “For the purpose of fulfilling the necessary conditions and providing the means, up to 0.7% shall be allocated from the Budget of Kosovo. These means are used to finance:

- Regular scientific-research activity
- Development and extension of scientific results
- Increase the capacity and quality of scientific-research activity
- Publishing science achievements
- Implementing the results of scientific research
- Support and encourage workers to deal with scientific work

886. The Law provides that the scientific research institutes having legal public personality are the Kosovo Academy of Science and Arts, the Scientific Research Institutes, the Albanological Institute, the History Institute and Universities. At present, the Albanological Institute and the

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<sup>410</sup> Note that Law No. 2002/3 On the Higher Education in Kosovo, promulgated by UNMIK Regulation No. 2003/14 of 12 May 2003, also guarantees freedom of scientific research and teaching in Section 7 on autonomy of providers.

<sup>411</sup> Article 6 of the Law No. 2004/42 On Scientific Research Activity, promulgated by UNMIK Regulation No. 2005/6 of 3 February 2005.

Historical Institute are functioning as research institutes within the University of Prishtinë/Priština. The total number of research staff is reported to be 80, of which 11 are women and 69 are men.

887. The MEST has adopted an Administrative Instruction on the Kosovo Council of Science<sup>412</sup> which regulates the procedure for the establishment, mandate, organisation and activities of this Council. The Council is foreseen to be composed of 15 members and chaired by the President of the Kosovo Academy of Science and Arts. Proposals for members of the Council have been sought from the Academy of Science and Arts, the Albanological Institute and the Institute of History, and their appointment by the Assembly of Kosovo is foreseen for the beginning of 2007. The scientific councils for specific fields have not yet been established.

888. The MEST has also issued an Administrative Instruction on Determination of Standards in Science.<sup>413</sup> The purpose of this administrative instruction is to determine standards for the evaluation of scientific research activity in the scientific research institutions of Kosovo, based on scientific projects prepared according to international standards. No information is available on the practical implementation of these standards.

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<sup>412</sup> AI No. 19/2006. Note that the AI refers to the Kosovo Council of Science as the 'Central' Council of Science.

<sup>413</sup> AI No. 20/2006.