

**Guide to the Enhancement of Minority-Majority Relations in
Kosovo**

**ECMI Civil Society Project in Kosovo
2001-2005**

ECMI Report #59

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Guide to Good Governance in Kosovo

Preface

Enhancing Minority Governance in Kosovo

ECMI has been active in Kosovo since 2001, working with civil society and, since 2004, the Prime Minister's Office and other relevant ministries. There are a number of major international and local organizations in Kosovo that include minority issues within their mandates. ECMI, however, is the only on-site organization devoted exclusively to minorities and minority-related topics.

Given the recent emphasis of the international community on the current status of minority-majority relations and furthermore on the returns process in Kosovo, organizations such as the UN (Office for Returns, High Commissioner for Refugees and the Housing and Property Directorate), CARE and the European Agency for Reconstruction have turned much of their work to assisting with the physical and logistical aspects of return, with some work on integrating returning communities. The American Refugee Council has been active in developing projects to generate jobs for both local and returning communities to Kosovo.

Within the broader framework of human and minority rights in Kosovo, the OSCE Department for Human Rights and the local Council for Protection of Human Rights and Freedoms have been the leading institutions reporting and monitoring human and minority rights in the entity.

Thus, there is a gap between the monitoring process and the physical aspects of the returns process. Much needs to be done to support the capacity of government institutions (both central and municipal) to facilitate good governance and integration, as well as to ensure that conditions are created to establish a tolerant society that will promote a sustainable returns process through continued consultative involvement with stakeholders, i.e. minority communities, IDPs and returnees.

ECMI's capacity to fill this role has been recognized by key institutions in Kosovo. To date, the Prime Minister's Office, the Ministry for Returns and Community Affairs and the Kosovo Association of Municipalities (in particular the Municipalities of Gjilan and Viti) have invited ECMI to support them on issues pertaining to minorities. ECMI has been actively involved in the drafting of a number of laws of interest to all communities in Kosovo, namely the Law on the Use of Language. The Centre has also assisted with reporting on the Framework Convention for the Protection of National Minorities, and developing dialogue processes between civil society and government (the Standing Technical Working Group looked at education, economy, health, human rights, and rule of law, while the Community Consultative Council brings together underrepresented minority communities to work with central authorities so that their voices may be heard during the impending status discussions on Kosovo and beyond).

ECMI's capacity to provide leading international and local experts, as well as to draw upon its large network of research associates, has allowed it to become a well-respected organization in Kosovo. ECMI will continue to promote projects within its thematic areas of assistance to government, and dialogue processes to compliment the work of other leading local and international organizations in the country.

ECMI Expertise

Due to ECMI's long-standing involvement in Kosovo, it maintains good relations with all segments of Kosovo society and with all political leaders, as well as having a close working relationship with the principal international actors.

Through the *High Level Initiative*, ECMI has contributed significantly to increasing the understanding of the Prime Minister's Office, and other target ministries, of action that needs to be taken in order to enhance performance in human and minority rights. ECMI has established working groups in key ministries, which have advanced the drafting of relevant legislation; it has built a relationship with the Kosovo Assembly in order to have this legislation adopted; and it has helped the Prime Minister's office coordinate implementation in this field. ECMI has further coordinated the government process of reporting under the Framework Convention on the Protection of National Minorities (FCNM) of the Council of Europe (CoE).

ECMI keeps regular contact with all international agencies in Kosovo, in particular the UNMIK Pillars (UN Civil Administration, OSCE and EU). However, due to their mandates, the relationship between the PISG and UNMIK is often marked by tensions and controversy. Many policies are perceived to be internationally imposed, resulting in limited effects on the ground, as there is little sense of real local ownership.

In light of this, ECMI is uniquely placed to influence government policies on minorities, as it is an independent specialised international NGO on minority rights and issues. The approach of combining local and international experts in the production of legislative and policy documents has increased the sense of ownership and has put sustainable structures in place.

There exists a formal *Memorandum of Cooperation* with the Government Permanent Secretary, appointing ECMI as the lead supporting agency in this particular field. ECMI further maintains very good relations with all political parties in Kosovo. Hence, it has remained in a position of trust and influence, even after the post-election change of government and subsequent changes in personnel.

Equally, ECMI's relationship with community representatives is unique and trustful. ECMI's work through the *Standing Technical Working Group* in Kosovo (the only on-going civil society network in Kosovo that is fully interethnic and addresses minority concerns) has resulted in ongoing development of this position. Since its introduction in 2001, STWG has, for the first time, brought together community representatives, politicians and decision makers to discuss issues of government policy towards minorities. Both as a constructive medium of interaction of leaders from different communities, and as a professional body producing recommendations for the government in a wide range of issues related to minorities, it has increased ECMI's profile as an independent agency that has the confidence of all players in Kosovo. The STWG boasts participation of over 40% of women from different ethnic groups. Being minority conscious, equal opportunities in education and the economy, as well as access to health and social services are of relevance to men and women, ethnic background notwithstanding. The incorporation of equal opportunities for men and women

in all community policies and activities is therefore a crucial component of the inclusive approach of ECMI. Gender mainstreaming is thus a process that is part of the results that ECMI seeks to produce.

Objectives of the Guide and Recommendations

This guide aims to assist civil society leaders, central and local authorities as well as community representatives in translating policies and recommendations into good practices. The first step of this project was to analyze the recommendations made by the expert committees of ECMI's Standing Technical Working Group. From there, the ECMI team researched instances of good governance in Kosovo over the past two years. These cases were supplemented with comparative studies from other countries in the region particularly on issues of returns, human rights and decentralization. Our team also included tools for the implementation of good governance as well as instances of poor governance to show comparison within Kosovo and how these areas can be improved.

This guide is divided into sections within the thematic areas of the ECMI Standing Technical Working Group. Each example of best practice is followed by comments, which may include tools or recommendations for future work in that field. The guide also includes the list of recommendations produced by the STWG which were disseminated to relevant government actors. It is anticipated that this guide will serve as a tool for the implementation of these recommendations in the future, in line with Kosovo's road to European integration.

The European Centre for Minority Issues (ECMI) conducts practice-oriented research, provides information and documentation, and offers advisory services concerning minority-majority relations in Europe. It serves European governments and regional intergovernmental organizations as well as non-dominant groups in the European arena. The Centre also supports the academic community, the media and the general public through the timely provision of information and analysis. The early monitoring, study and resolution of ethnic tension and potential conflict in all regions of Europe - East and West - provides one of the major focal points for the activities of the Centre.

The Centre organizes its activities around three principal themes. It is concerned with the evaluation and further development of universal, regional, bilateral and national standards that may assist in consolidating democratic governance on the basis of ethnic diversity and human rights. In this context, ECMI is also particularly interested in the emerging convergence of standards between EU member states and applicant states.

A second area of interest relates to implementation procedures and mechanisms for such standards and the study of their effectiveness. At times, ECMI may also be invited to consider implementation issues and majority-minority relations in particular states in cooperation with the government of that state and local groups.

The third strand of ECMI's activities concerns constructive conflict-management. ECMI is at present developing its capacity to assist international peace-support efforts in addressing conflicts with an ethnopolitical dimension in the wider European arena. ECMI also

maintains links to several regions of tension in Europe and engages local protagonists in dialogue, either in the region or in a neutral environment. In so doing, the Centre can draw upon the successful history of managing minority issues in the German-Danish border area, as it is based in Flensburg, Germany, at the very heart of that region.

Introduction

Historically, the political culture of the entire South Eastern European region, including Kosovo/a, has not been one, which encouraged inclusive, dialogue-oriented, transparent and accountable debate between elected representatives and their electorate. The absence of any tradition of governmental accountability has done little to assist the general performance of the current Provisional Institutions of Self-governance in Kosovo as it remains clear that the legislation generated by this same body remains unaccountable to genuine stakeholder interests. ECMI's civil society project 'Standing Technical Working Group' seeks to enable civil society actors to gain influence in policy-making and the deliverance of good governance, and to demonstrate that inter-ethnic cooperation can result in concrete benefits that can be experienced by all communities. At present, political actors and the emerging governmental institutions in Kosovo continue to underestimate the valuable contribution that Civil Society Actors can offer. In addition, the Kosovo Provisional Instruments of Self Government (PISG) appear also to undervalue the necessity of focusing on meeting public needs, as a method to achieving international recommended standards of good governance. However the International Community have clearly stated that the PISG must deliver evidence of their enhanced ability to govern according to these agreed standards before any discussion on the future status of the Kosovo region can be initiated.

1. The ECMI Kosovo Civil Society Initiative

The overall aim of the Kosovo Civil Society Initiative is to promote progress in good governance, transparency and accountability in the politics of Kosovo. Encouraging the greater participation and long-term involvement of civil society actors in the political process in Kosovo will pave the way for genuine progress to be made by the Provisional Institutions of Self Government in Kosovo towards a more ethnically inclusive policy as defined by democratic debate about genuine cross-cutting issues of practical concern to all local stakeholders away from ethnically divisive factions.

As a primary instrument for promoting the realisation of good governance, the Kosovo Civil Society Initiative established the Standing Technical Working Group (STWG). The STWG is further complemented by the presence of valuable instruments at a grass roots level, known as Expert Committees. These Expert Committees are thematically organized working groups consisting of individual experts, local politicians, representatives of local NGOs and other grassroots organisations, which are established by the STWG on a needs basis. Each expert committee is open to change or merger. The function of these expert committees is to identify and address key areas of practical policies on minority related issues where improvements are required in order to bring the current levels of legislation in Kosovo into harmony with international standards, and to formulate draft recommendations for legislative and policy action. An inter-ethnic public forum was convened at several occasions, at which policy was debated and evaluated, and STWG experts discuss and debate relevant issues with an interested audience consisting primarily of local politicians, NGOs and the media. Alternative policy recommendations are formulated at these civic forums, all in aid of the overall aim to enhance good governance in Kosovo. The recommendations of the Expert Committees were then debated and the results of these fruitful inter-ethnic discussions were then additionally considered in the recommendations produced by each expert committee.

The network created by the institution enjoys high respect among local and international actors alike. While other organisations in Kosovo are focusing on capacity building of NGOs at the grassroots level, often based on a single group (youth, women, etc.) or on monitoring the work of government institutions. It has developed a threefold approach:

- *Inter-ethnic dialogue.* The participants of the expert committees/working groups have different ethnic backgrounds. While this remains an issue and the project seeks to foster the dialogue between ethnic groups, discussions in the individual groups have developed towards exchange of contents-based views on issues of mutual interest rather than being based on declarative statements of various ethnic groups.
- *Dialogue between civil society and government institutions.* The discussions in the working groups have a transmitter function. Ideas and recommendations from civil society participants are picked up by the political representatives and brought to the knowledge of their institutions. At the same time, civil society representatives receive direct information about developments in the political sector. Cross-fertilisation happens even prior to the drafting of formal recommendations.
- *Capacity building.* Through the dialogue between the members of the working groups themselves, the capacity of civil society representatives to formulate and address issues at a high political level is being enhanced.

This project resulted in the enhanced confidence and capacity of civil society actors in taking a role in policy-development that responds to stakeholder needs. A number of concrete legislative projects and governmental action plans are to be adopted in response to their recommendations, enhancing the climate of governance in Kosovo. Politicians and governmental officials will have realized the value of responding to genuine stakeholder interests in concrete policy measures that are of relevance to all minority and majority communities.

[The recommendations of each of the six expert committees of the STWG are attached in Annex 1 of this Guide.]

2. Advancing Kosovo's European Integration Objectives

In October 2005, Kai Eide submitted his report on the implementation of the Standards for Kosovo to United Nations Secretary General Kofi Annan. The report analyzed the current situation of human rights and other standards in Kosovo, and resulted in the recommendation to begin negotiations on the future status of Kosovo.

Human Rights

According to the Comprehensive Review of the Situation in Kosovo, the current implementation plan to establish a Human Rights Advisory Panel to the Special Representative of the Secretary-General could contribute to a greater protection of human rights. The creation of a The Ombudsperson's Institution is one of the main human rights instruments in Kosovo today. In the current human rights climate, it will

be important to avoid a weakening of this Institution when it is transferred to local ownership. The international community must ensure that its current powers and competencies are not diluted and that the credibility of the office is ensured. Another recommendation put forth by Mr. Eide focuses on the creation of a Special Panel on Human Rights of the Supreme Court.

Municipalities and Decentralisation

The report underlines the importance that decentralisation be seriously addressed in a wider framework, resulting in a meaningful devolution of powers and enhanced competencies at the local level. Arrangements could also be considered for special ties to Belgrade, without giving Belgrade any authority in such communities.

The international community must stand ready to assist in the establishment of arrangements for wider decentralisation. Lessons should be drawn from similar processes in the former Yugoslav Republic of Macedonia and in southern Serbia. The international community should now be prepared to act with the same determination to protect the interests of Kosovo Serbs and other minority communities.

Health

The report concludes that there are serious shortcomings in the quality of the services provided. The level of medical services is low and in some cases close to the standards of developing countries. However, the fact that services are now provided across most of Kosovo represents a significant achievement.

Economic Development

The results of Kai Eide's assessment demonstrate that in spite of some progress, many live in poverty and the unemployment rate is still high. The situation is felt by most of Kosovo's population. Minority communities and especially vulnerable groups are affected in a disproportionate way.

According to current estimates, public income for 2006 would be far from adequate in order to cover recurrent costs and the need for investments. A serious budget deficit can be expected. Today economic structures have been established and modern legislation exists in many essential areas. The establishment of regulators and the continuing development of the banking sector are among the achievements contributing to potential economic development. A well functioning Ministry of Finance and Economy has developed a framework for the management of a modern economy. The Kosovo Development Plan will also give the province a valuable instrument to guide its economic future. Altogether the economic situation is characterised by serious short-term problems, however it holds positive longer-term prospects.

Education

In the education sector modernisation and de-politisation is an urgent requirement. However, the fact that services are now provided across most of Kosovo represents a significant achievement.

Returns

While reliable overall statistics are hard to find, it is a widespread view that currently as many or more Kosovo Serbs are leaving Kosovo than returning. There are reports that an increasing number of returnees sell their property and leave again. The return process is also hampered by the fact that assistance is only provided to those who return to their home of origin. A more flexible policy of assistance to enable returnees to resettle in the area of their choice should be considered.

To achieve sustainable return and viable minority communities, a process of decentralisation will be required. It will improve the ability of non-Albanian communities in Kosovo to protect their identity and livelihood, build confidence in the future and encourage them to take a more active part in Kosovo's governing institutions.

3. Acknowledgements

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Flensburg, Germany and Pristina, Kosovo, November 2005

Acronyms

ARC	American Relief Council
BAC	Business Advisory Council
BiH	Bosnia and Herzegovina
CC	Community Committee
CCK	Coordination Centre of Kosovo
CIVPOL	Civilian Police
CHEE	Council of Higher Education Experts
DRC	Danish Refugee Council
EBRD	European Bank for Reconstruction and Development
EFC	Economic and Fiscal Council
EIB	European Investment Bank
FCNM	Framework Convention for the Protection of National Minorities
FO	Field Office
FTA	Free Trade Agreement
FYR	Federal Yugoslav Republic
GIV	Go and Inform Visit
GSV	Go and See Visit
HPCC	Housing and Property Claims Commission
HDP	Housing and Property Directorate
IDP	Internally Displaced Person
ISCED	International Standard Classification of Education
KAA	Kosovo Accreditation Agency
KEK	Kosovo Energy Korporation
KFOR	Kosovo Force (NATO)
KPC	Kosovo Protection Corps
KPS	Kosovo Police Service
MC	Mediation Committee
MCI	Mercy Corps International
MCO	Municipal Communities Offices
MEST	Ministry of Education, Science and Technology
MoU	Memorandum of Understanding
MWG	Municipal Working Groups
OMIK	OSCE Mission in Kosovo
OSCE	Organisation for Security and Cooperation in Europe
PDSRSG	Principal Deputy Special Representative of the Secretary-General
PISG	Provisional Institutions of Self-Government
RAE	Roma, Ashkali and Egyptian
RRRF	Rapid Response Returns Facility
SFRY	Socialist Federal Republic of Yugoslavia
SRSG	Special Representative of the Secretary-General
TPIU	Trafficking and Prostitution Investigation Unit
UCC	University Clinic Centre
UMCOR	United Methodist Committee on Relief
UNDP	United Nations Development Programme
UNHCR	United Nations High Commission for Refugees
UNMIK	United Nations Mission in Kosovo

Good Governance in Kosovo and the Region

1. Human Rights

It must be mentioned that in respect of criminal law; in order to simplify and consolidate the provisions of the medley of criminal laws, UNMIK undertook to compile new Provisional Criminal Code and Provisional Criminal Procedure Code for Kosovo. These provisional codes were promulgated in 2003 and came into force on 6 April 2004. Protection of human rights in line with international and European standards has been one of the core underlying principles in the framing of the new codes. The codes incorporate provisions from the UN human rights conventions, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 as well as other international instruments for protection of human rights.

The first UNMIK Regulation made domestic law applicable only in so far as it was compatible with human rights standards and required all persons undertaking public duties or holding public office to observe internationally recognized human rights standards in the course of their functions. Moreover, it mandated non-discrimination in the implementation of public duties and official functions.

(UNMIK/REG/1999/1 (On the Authority of the Interim Administration in Kosovo), 25 July 1999, amended by UNMIK/REG/2000/54, 27 September 2000.)

a. Lack of Security (of non-Albanian communities)

In July 2004, the Kosovo Security Advisory Group was created as a confidence building exercise, whose main purpose is to establish dialogue between communities on issues related to security and freedom of movement, and thus to improve security for all communities.

Local Crime Prevention Councils are also in the process of being established in every municipality; they are already functioning in the Southwest region. They are intended as consultative bodies which meet once a month bringing together representatives of each community in the municipality, religious leaders, representatives of the board of education as well as representatives of KFOR, KPS and OSCE, in order to address security concerns of all stakeholders at the grass-root level and identify concrete steps which can enhance community security. This is aimed to help build confidence between communities and increase the ability of KPS and KFOR to be responsive to their preoccupations.

Rule of Law: Welcome progress has been made in bringing to justice those responsible for the violence in March 2004. The Contact Group calls for a policy of 'zero tolerance' towards those who propagate hatred and violence against ethnic minorities. It is imperative to protect witnesses and to instill tolerance and mutual respect. The Contact Group welcomes the growing professional conduct of the Kosovo Police Service and looks forward to constructive engagement by the Kosovo Protection Corps in line with its mandate as a civilian emergency organization.

[http://www.auswaertiges-
amt.de/www/de/aussenpolitik/regionalkonzepte/westlicher_balkan/kosovo/kontaktgruppe0409.html](http://www.auswaertiges-
amt.de/www/de/aussenpolitik/regionalkonzepte/westlicher_balkan/kosovo/kontaktgruppe0409.html)

TOOL FOR IMPROVING SECURITY: Creation of inclusive consultative Crime Prevention Councils, creation of the Kosovo Security Advisory Group and implementation of a policy of ‘zero tolerance’ for propagating hatred and violence against minorities. It is also imperative that average citizens have unobstructed access to such bodies as described above.

b. Violations to Freedom of Expression and Association

Police uses violence against journalists and protesters

Koha Ditore reports that police have used “brutal violence” against activists of Self-Determination movement who protested in Pristina yesterday by spraying the logo on UN vehicles to make it say FUND (Alb for The End).

Police started arresting protesters and the reporters were threatened and prevented from doing their jobs, *Koha* writes. *Zëri* reports that the police detained 37 activists yesterday but that they were later released. The number includes two journalists.

Kosovo-based Council for Defence of Human Rights and Freedoms has also condemned the actions of the Kosovo Police Service while dealing with the protest of Self-Determination Movement. The Council considers that the “freedom of expression and of association is seriously being infringed in Kosovo”.

The Movement has issued a communiqué after the protest where it says that their action was peaceful. UNMIK Police Commissioner Kai Vittrup, meanwhile, has met with media representatives saying that damage done to UNMIK cars was an “illegal action”.

UNMIK Media Report, 20 October 2005

INSTANCE OF GOOD GOVERNANCE: Recognition by the Council for Defense of Human Rights and Freedoms of violations by the police force of the rights and freedoms of peaceful protesters and media.

c. Insufficient Protection of Property Rights

The 1999 conflict forced thousands of people to leave their homes and land. Many houses, apartments, and business premises have been illegally occupied, unauthorized people have cultivated farmland and buildings have been constructed illegally on other people’s land.

In November 1999, UNMIK created the Housing and Property Directorate (HPD) and the Housing and Property Claims Commission (HPCC), with the task of regularizing housing and property rights in Kosovo and of resolving disputes over residential property. Claims raised by persons who were the owners, possessors or occupancy right holders of residential property prior to 24 March 1999 and who do not now enjoy possession of the property, and where the property has not voluntarily been transferred (“informal” property transactions, loss of possession through illegal occupation of houses of displaced families after the 1999 conflict), CDL-AD(2004)033 - 10 - have been placed under the sole jurisdiction of the HPD. Ordinary courts remain competent over the remainder of the property cases.

By 1 July 2003 (deadline for submitting repossession claims), a total of 28,899 claims had been received (of these, 93,5% are repossession claims), and by 1 July 2004, a decision was issued in respect of 54% of these claims.

The enforcement of these decisions (which is normally an eviction) is also entrusted in the HPD. This process has proved to be rather slow, due to the limited capacities of HPD (insufficient staff to deal with cases, due to insufficient financial means). The execution of the decisions of the HPD is often delayed for security reasons. Indeed, only some 6,200 of the decisions issued by the HPD have been implemented. In addition, once the premises are vacated, the HPD does not have a mechanism to secure them against re-squatting. According to OMIK Report “Property Rights in Kosovo 2002-2003” 11.5% of the vacated premises were subsequently re-squatted, and 30% thereof were severely damaged as a result of the eviction.

The decisions by HPD are final and not subject to review by any judicial or other authority in Kosovo, besides the Ombudsperson, whose office recorded 54 complaints against the HPD (in the 2003-2004 reporting period), most of them involving the length of proceedings before the HPD, and the slow or ineffective enforcement of the HPD’s decisions.

The main problem affecting property rights in Kosovo is the illegal occupation of residential and non-residential property. With proceedings before the HPD lasting up to four years, and without any effective remedy against the length of these proceedings and/or decisions on the merits by the HPD, there is a climate of impunity for property rights violations.

There are an increasing number of property disputes before the competent courts concerning disputes over the application of property laws. These proceedings, however, are extremely lengthy. In addition, there is confusion about what property laws and concepts to apply.

European Commission for Democracy Through Law (Venice Commission)

Opinion on Human Rights in Kosovo: Possible Establishment of Review Mechanisms (Venice, 8-9 October 2004)

INSTANCE OF GOOD GOVERNANCE: Creation of the Housing and Property Directorate and the Housing and Property Claims Commission to adjudicate property restitution claims.

TOOL FOR IMPROVING PROPERTY RESTITUTION PROCESS: Improving the speed and enforcement of HPD decisions, and redefining the decision-making process to allow for oversight and judicial review.

d. Lack of Fairness and Excessive Length of Judicial Proceedings; Difficult Access to Courts

At present, Kosovo has 24 municipal courts and five district courts. The Kosovo Supreme Court is the last instance court, with jurisdiction over the courts of the PISG in the entire territory of Kosovo.

The judiciary is experiencing severe shortcomings and problems, including excessive length of proceedings, non-execution of decisions, inefficient criminal justice, coupled with frequent allegations of corruption, apparent undue interferences by the international and local executive and security risks in physical access to courts.

Municipal courts have witnessed a steady growth in their caseload and have proved incapable of processing cases within a reasonable time. Enforcement of the decisions is difficult and not prompt, mainly due to, in civil cases, the insufficient number of court bailiffs and the refusal by banks to allow seizures or freezing of bank accounts. Executions in respect of any former socially owned property require the previous approval of the Kosovo Trust Agency, an administrative body. In criminal cases, non-execution is due to time constraints and insufficient capacity of prisons.

Several problems are reported as concerns criminal justice, varying from negligence and incompetence of individual judges to technical incapacity of supporting services, to suspected links with organized crime circles. Within the UNMIK Department of Justice, the Judicial Inspection Unit is entrusted with investigations into alleged misconduct of judges and prosecutors. If misconduct is found, the case is referred to the Kosovo Judicial and Prosecutorial Council for disciplinary proceedings. There have been more than 20 disciplinary proceedings completed so far, with imposed sanctions ranging from reprimand to dismissal. There seem to be some 70 investigations pending.

In addition, there existed and still exists in Kosovo a parallel court system, operating outside the UNMIK administrative structure and controlled by Serbia proper. Some of these parallel courts are located in Kosovo and others are located in Serbia proper but claim jurisdiction over Kosovo. These parallel courts are more active in the northern part of Kosovo. They currently hear civil cases and Minor Offences Court cases, but their main activity is to verify civil documentation and handle inheritance procedures (until 2001, these courts would hear criminal cases too, but KFOR ordered them to stop). These courts lack adequate enforcement mechanisms and cannot adjudicate cases involving Kosovo Albanians.

European Commission for Democracy Through Law (Venice Commission)

Opinion on Human Rights in Kosovo: Possible Establishment of Review Mechanisms (Venice, 8-9 October 2004)

TOOL FOR IMPROVING CAPACITY AND EFFICIENCY OF MUNICIPAL JUDICIAL SYSTEMS: Needs assessment of workload of the municipal courts to determine the appropriate number of staff (including staff with necessary linguistic abilities), and a targeted recruitment campaign within the municipality.

e. Human Trafficking

A special unit of the Police (the Trafficking and Prostitution Investigation Unit – TPIU) was formed within UNMIK CIVPOL to fight forced prostitution. In the first three years of its counter-trafficking police operations, assisted by local KPS officers, it rescued 300 trafficked victims and brought 140 charges against traffickers and other involved criminals. However, despite the efforts by UNMIK, trafficking for forced prostitution remains widespread.

European Commission for Democracy Through Law (Venice Commission)

Opinion on Human Rights in Kosovo: Possible Establishment of Review Mechanisms (Venice, 8-9 October 2004)

“Human traffickers condemned:

In a verdict rendered in the Prizren District Court on July 20, 2005, a court panel composed of two international judges and one from Kosovo, issued the highest-ever prison sentences for human traffickers. The Court sentenced, Vladimir Ukaj and Robert Sylaj to 12 years in prison and the third defendant Sabri Islami to ten years. The investigation, which began in 2003, involved two Albanian female victims, one just 16 years of age, who were lured to Kosovo with promises of legitimate work. All the defendants are citizens of Albania.”

<http://www.unmikonline.org/pub/focuskos/sept05/focuskchron.htm>

INSTANCE OF GOOD GOVERNANCE: Creation of the Anti Trafficking and Prostitution Investigation Unit.

TOOL FOR COMBATTING HUMAN TRAFFICKING: Implementation of severe penalties for perpetrators to deter future crimes of this nature. Increased ability of the Investigation Unit to perform its mandate can be facilitated by inter-regional cooperation with other such units.

f. Legal Certainty, Judicial Review and Right to an Effective Remedy for Human Rights Violations

The legal system of Kosovo is a complex mixture of SFRY legislation, UNMIK Regulations, and Administrative Directions and Laws passed by the Kosovo Assembly. All laws passed by the Assembly or UNMIK regulations, as a rule, supersede all previous laws concerning the same matter, but does not always result in a clear indication of which laws are superseded and which remain in force. In addition, there is still no official legal procedure regarding the publication of laws in Kosovo and there are often significant delays in providing the Albanian and Serbian translations of UNMIK regulations. As a result, there is a general confusion as to the legislation in force, described by the Ombudsperson as “legal chaos”. In addition, there is very little general knowledge, on the part of both the PISG authorities and the public, of human rights standards.

There is no Constitutional Court in Kosovo, which could *inter alia* resolve conflicting decisions by lower courts. A Special Chamber of the Supreme Court for Constitutional Framework Matters is provided for in Chapter 9.4.11 of the Constitutional Framework. It would have competence to determine, *inter alia*, the “compatibility of laws adopted by the Assembly with the Constitutional Framework, including the international legal instruments specified in Chapter 3 on Human Rights, at the request of the President of Kosovo, any member of the Presidency of the Assembly, any Assembly Committee, no fewer than five members of the Assembly, or the Government”. However, such special Chamber has so far not been established.

In respect of human rights specifically, there is no effective mechanism enabling individuals whose rights have been breached to initiate proceedings against the respondent authorities and to obtain just compensation. In respect of PISG, the prospected Special Chamber of the Supreme Court is not competent to review human rights cases. In respect of UNMIK and KFOR, on account of their immunity from legal process (see point V below), independent review of their acts is not possible.

According to the Ombudsperson, “UNMIK and KFOR have at least nominally recognized that individuals to whom they have caused injuries, damage to or loss of property should receive compensation, although neither has recognized the possibility of awarding damages. Both actors have established internal “claims offices”. However, the nature of the proceedings of the UNMIK and KFOR bodies differs greatly. UNMIK provides no opportunity for individuals to be heard or represented by legal counsel in their proceedings and a panel of UNMIK staff members takes all decisions. The only appeal possible against this internal first instance decision is the sending of a “memorandum” to the UNMIK Director of Administration. In contrast, although first instance proceedings before KFOR call for a single KFOR officer to take a decision, the appeals process incorporates many elements of proper judicial proceedings, including an opportunity for individuals to be heard or legally represented. It remains impossible to obtain information from UNMIK about the status of pending claims or any statistical information about the number or type of claims resolved. It appears that even claims regarding which UNMIK has been found liable remain pending indefinitely, as the UN has apparently allocated no portion of its budget for the payment of such claims. KFOR, on the other hand, provides such information and has provided financial compensation in a number of cases.

European Commission for Democracy Through Law (Venice Commission)

Opinion on Human Rights in Kosovo: Possible Establishment of Review Mechanisms (Venice, 8-9 October 2004)

INSTANCE OF POOR GOVERNANCE: Delay in the creation and implementation of the Constitutional Court, and of implementing a public relations campaign on general human rights standards and access to justice in defence of those rights.

2. Decentralization and Municipalities

a. PISG Office of the Prime Minister - Current General statements on Policy Defending Ethnic Minorities

IV. Decentralization – Reforms on Local Government

In order to improve the quality of life for all the communities in Kosovo, a process of decentralization was introduced. To discuss this process at the academic level, a meeting was organized in Vienna on 28 September 2004 during which a plan prepared by the Government of Serbia was presented, as well as the Kosovar plan, prepared by the joint group of Kosovo Government, UNMIK and other experts from the international community. As a result of the talks, the American Government, who organized the meeting, outlined conclusions including estimations from representatives from the Serbian and Kosovar sides. Both sides agreed that the purpose of this process is to facilitate for all communities, at the local level, mechanisms that ensure that cultural and language interests be fully respected.

Serb Government representatives said that the plan prepared in Kosovo had to be completed by elements which address concrete needs of the Serb community in Kosovo. On the other side, representatives of the Kosovar Government insist that the plan prepared in Prishtina presents the way for local government reforms in Kosovo and remains open for future enrichments. Facilitators of this meeting stressed the importance of *institutional mechanisms for securing the safety of minority communities*.

Conclusion: The decentralization of Kosovo has become an issue of discussion within international, regional and local politicians. From the Kosovar Government side, many appeals were sent to the Serbian community to participate in the working group for decentralization. Kosovo Serbs indeed became members of the working groups; but after destructive messages from Belgrade, some of them withdrew again. The Kosovar Government allowed Serbs to engage advisors from Belgrade, but they will not be allowed to sit at the negotiation table.

INSTANCE OF GOOD GOVERNANCE: Engaging the Kosovo Serb community in the decentralization process from its inception.

TOOL FOR INCLUSIVE DECISION-MAKING PROCESSES: Creation of working groups, panels and discussion forums representative of all communities on major issues.

b. UNMIK Regulation No. 2004/50

ON THE ESTABLISHMENT OF NEW MINISTRIES AND INTRODUCTION OF THE POSTS OF DEPUTY PRIME MINISTER AND DEPUTY MINISTERS IN THE EXECUTIVE BRANCH (UNMIK/REG/2004/50)

INSTANCE OF GOOD GOVERNANCE:

2 December 2004

Ministry of Local Government Administration. The Ministry shall be responsible for matters related to the promotion of effective local self-government. In the exercise of its competencies for effective local governance the Ministry shall be responsible for ensuring provision of centrally controlled public services to meet the needs of all communities and ensuring equitable access to such services.

c. OSCE Mission in Kosovo - Feature (17 January 2005)

'Kosovo citizens need action, not words'

Charged with institution-building and promoting human rights and the rule of law, the OSCE Mission in Kosovo is helping build more effective municipal administration. In December 2004, the Mission organized its first public relations training course for some 25 municipal information officers. The course aimed to improve communication between the public and the authorities, breaking the existing apathy and getting people involved in the decisions that affect them. It also aimed to develop a better sense of accountability of the authorities.

The problem Kosovo municipalities and other institutions face is the public's lack of trust in the authorities. A low rate of tax collection and utilities payments clearly illustrates their unwillingness to buy into governmental initiatives.

The course equipped information officers with basic knowledge and skills to reach out to the public, to present municipal plans and to collect feedback and initiatives that citizens may propose. They also learned how to exploit media outlets and how to help develop the image of their municipalities.

The role of the information officer is to bring both sides together: to ensure citizens' participation in decision-making, bringing their concerns to the municipal management, and to ensure the responsiveness of the authorities.

The Mission has supported a number of training courses for municipal officials in urban planning, economic development and financial management sectors. With these people properly equipped, municipalities and authorities at large are in a better position to engage the public.

Promoting the successes of municipalities is necessary to gain public support but owning up to mistakes and finding solutions for them is equally important. This is why analysing the work of municipalities is essential.

At the end of the course, participants agreed to develop communication strategies based on a realistic analysis of the work of municipalities, as well as the available resources and know-how. While the OSCE Mission can provide advice and training courses, officials have to take institutions into their own hands and do their jobs. If Kosovo is to move forward "action, not words" is the slogan to follow.

In co-operation with the Kosovo Institute for Public Administration, the Mission plans to deliver follow-up training courses in 2005 to continue improving communication between municipal authorities and residents.

INSTANCE OF GOOD GOVERNANCE: Promoting dialogue between authorities and the public, including minorities.

TOOL FOR IMPROVING PUBLIC AWARENESS: Implementation of public relations campaigns at the local level and follow-on training for Information Officers within the Municipalities to engage with the public on issues of importance to all communities.

d. Ensuring equality in the community

Working at the local level, both UNMIK and OSCE have been assisting municipalities, with the establishment of Community Committees (CC) and Mediation Committees (MC). The CC and MC are two of the three mandatory Committees designed to ensure equal treatment by the municipal authorities to all members in the community.

Municipal Communities Offices (MCO) have been established only in those municipalities where there is a significant minority population. The MCO is responsible for enhancing the protection of minority rights and ensuring equal access for communities to public services within the municipality.

The CC forms part of the Municipal legislative structures, and is designed to act as a protection mechanism that not only focuses on minorities, but communities at large. The CC monitors compliance with municipal legislation, policies, practices and activities and guards communities' rights and interests, including constant review of the use of languages in conducting municipal affairs. The CC may also make recommendations related to the communities' needs and the protection of their rights.

The MC, on the other hand, should only act when the CC has determined that a case or proposed municipal regulation does indeed violate the rights of a community or a community member, or may be prejudicial to the interests of a community. The MC must then carry out the necessary investigations, and attempt to resolve the case through direct mediation.

An assessment of MCs prepared by the OSCE/UNMIK/PISG issued in March 2004 revealed that in most municipalities, the CCs were dysfunctional. The most significant impediment found was that the CC's and MC's members did not adequately understand their role and, therefore, were not working according to Applicable Law. Moreover, the communities they had been designed to serve and protect did not know much about these committees. Consequently, few complaints had been received by the CCs. And, finally, the CCs and MCs suffered due to a lack of commitment from their Municipal Assemblies that had not systematically submitted draft Municipal Regulations to the CC for review, as required by Applicable Law.

Some CCs which were not previously established by March 2004, or which had been dormant, are now active; such is the case in Kaçanik/Kacanik, Suharekë/Suva Reka and Skenderaj/Srbica. As a positive indicator of good operations, cases already have been forwarded to the MC by the CC in some municipalities. Freedom of movement, employment problems, and native language usage remain the key issues referred to CCs, although the range of concerns is beginning to broaden, encompassing the full CC mandate. The mono-ethnic municipality of Kaçanik/Kacanik, where a CC has recently been established and is dealing with grievances is another encouraging indication that CCs and MCs are evolving into fully functioning municipal organs.

Virginie Wiyart and Alexandra Simpson, OSCE

<http://www.unmikonline.org/pub/focuskos/sept05/focusksocaffair1.htm>

INSTANCE OF GOOD GOVERNANCE: Creation of the Community Committees to monitor compliance of municipal activities with communities' rights and interests, and the creation of the Mediation Committees to investigate and mediate instances of rights violations.

TOOL FOR IMPROVING THE CAPACITY OF THE MUNICIPAL COMMITTEES: Provide training on human rights legislation, standards and anti-discrimination. This should be followed by training on investigation of human rights violations and mediation between victims and the municipal authorities. Provision of information to the public on the mandate and functions of the two committees to encourage public participation in these processes.

e. Case Study Macedonia:

Framework Agreement (3 August 2001) - Development of Decentralized Government

A revised Law on Local Self-Government will be adopted that reinforces the powers of elected local officials and enlarges substantially their competencies in conformity with the Constitution (as amended in accordance with Annex A) and the European Charter on Local Self-Government, and reflecting the principle of subsidiarity in effect in the European Union. Enhanced competencies will relate principally to the areas of public services, urban and rural planning, environmental protection, local economic development, culture, local finances, education, social welfare, and health care. A law on financing of local self-government will be adopted to ensure an adequate system of financing to enable local governments to fulfill all of their responsibilities.

Boundaries of municipalities will be revised within one year of the completion of a new census, which will be conducted under international supervision by the end of 2001. The local and national authorities with international participation will effectuate the revision of the municipal boundaries.

In order to ensure that police are aware of and responsive to the needs and interests of the local population, local heads of police will be selected by municipal councils from lists of candidates proposed by the Ministry of Interior, and will communicate regularly with the councils. The Ministry of Interior will retain the authority to remove local heads of police in accordance with the law.

<http://www.adi.org.mk/frameworkagreement.html>

3. Health

INSTANCE OF GOOD GOVERNANCE: Creation of mechanisms for identifying community needs, and for dealing with violations of rights in relation to health care.

The structure of the Ministry of Health involves mechanisms protecting the rights and interests of ethnic communities. These mechanisms include:

- At the central level: Division for the Rights of Ethnic Communities
- At the local level: Board of Complaints (present in each municipality)

TOOLS FOR THE INCLUSION OF COMMUNITY INTERESTS:

The ministry has also implemented the following initiatives in relation to the rights of communities in the area of health care:

- Research on ethnic breakdown and qualifications of people employed in health institutions
- Participation in interviewing panels (with the purpose of eliminating any kind of discrimination in the course of recruitment and interviewing procedures within central health institutions)
- Participation in disciplinary commission
- Monitoring activities with regard to equality and health services (oversight and interviews with employees and patients on the field).

a. Albanian Doctors should encourage Serbian colleagues to return at their working place

'If doctors who have a close connection with KPC and KFOR could obtain the return of Serbian medical personnel and Serbian patients, this would be a very big step.'

KFOR and KPC have implemented a common project to facilitate the return and integration of Serbian health personnel. Security troops in Kosovo visited the largest medical centre to obtain more information about the personnel situation there. Together with the executive of this centre, they looked at the possibilities for Serbian personnel to return to their work places.

KFOR Commander Kermabon explained to the centre that his visit had three reasons: interest for all life in Kosovo, interest for cooperation with official of this centre, and his conviction that this medical centre be accessible to all citizens and maintain a multiethnic staff. KPC has created a joint operation with KFOR to research the problems of recruitment and keeping staff from minority communities, especially Serbs.

4. Economic Development

a. Assessment of Security of Foreign Investment in Kosovo

Representatives of the Stability Pact for Southeastern Europe Business Advisory Council were quoted as saying that Kosovo is a small market, but has great influence on regional economic development and that political stability and general security are key preconditions for Kosovo to attract foreign investment.

“There is political stability in Kosovo. Regardless of the process of status settlement, the situation in Kosovo is stable and foreign capital would be as safe as the local one,” said Prime Minister Bajram Kosumi after his meeting with Chair of the BAC delegation Nikos Efimiadis. He urged businesses to invest now and not wait until June 2006.

Efimiadis, on the other hand, said that regardless of status, Kosovo should offer security for investment and business development, and welcomed the fledging legislation on business and economy. He said the acceleration of privatization was a positive sign. Meanwhile, he pointed out the problems of the energy situation.

UNMIK Pillar IV Chief Joachim Rucker, following a meeting with the delegation, encouraged the development of economic strategies that would determine Kosovo’s path to prosperity and European integration.

The Business Advisory Council had an overall positive assessment for foreign investment in Kosovo and expressed hope that the settlement of Kosovo’s status would foster Kosovo’s integration into the regional market.

Zeri Daily 20 Oct 2005

TOOL FOR IMPROVED FOREIGN INVESTMENT: Accelerated implementation of legislation for the privatization of the economy and the pursuit of liberal economic policies, and the creation of a mechanism to ensure transparent investment practices.

b. Adoption of Free Trade Agreement with FYR Macedonia

UNMIK and the PISG announced the conclusion of an Interim Free Trade Agreement with the FYR Macedonia, which clearly marks a success for Kosovo’s economy. Under the Agreement, Kosovo will collect customs on oil and a number of agricultural products, in a transitional period that will end on 1 January 2008.

Negotiations for the Free Trade Agreement started in December 2004. They were successfully brought to a conclusion on 28 June 2005 in Pristina by a joint UNMIK/PISG delegation and a delegation led by the Deputy Prime Minister of the FYR Macedonia. From 3 August 2005, UNMIK provisionally implemented the Agreement. Since then, almost €1,000,000 was collected by UNMIK Customs for oil products, thus providing additional revenue for the budget.

This is the second Free Trade Agreement for Kosovo: In 2003, UNMIK Kosovo and Albania signed the first FTA. (UNMIK/PR/1408) 1 September 2005

INSTANCE OF GOOD GOVERNANCE: Adoption of interregional economic cooperation agreements that promote economic prosperity and regional cooperation.

c. Amendments to Regulation on Economic and Fiscal Council

SRSG Soren Jessen-Petersen promulgated Regulation No. 2005/035. The new regulation amends UNMIK Regulation No. 2002/10 on the establishment of the Economic and Fiscal Council (EFC). The amendments to the EFC Regulation formalize the transfer of competencies related to the Economic and Fiscal Council to the PISG. The Prime Minister will henceforth serve as the Chairperson in the meetings of the Council. The Secretariat supports services for the Government will now provide the Council, which up to now has been a responsibility of UNMIK. These amendments, which were prepared in cooperation between the Government and UNMIK, reflect the increased capacity of the Provisional Institutions of Self-Government to manage competencies in the economic and fiscal areas. (UNMIK/PR/1390) 15 July 2005

d. Signing of Framework Agreement with European Investment Bank

SRSG Soren Jessen-Petersen signed an agreement with the European Investment Bank (EIB) establishing a framework for the EIB to provide loans for investment projects in Kosovo. Prime Minister Bajram Kosumi initiated the document on behalf of the Provisional Institutions of Self-Government (PISG). Addressing the press, SRSG Soren Jessen-Petersen termed the signing of the Framework Agreement a “historical moment”, saying that: “This Framework Agreement is a significant step forward for Kosovo’s economy. In fact, we see today that there is nothing that Kosovo cannot do. Status is still the goal that we are striving for, but we have to move forward, particularly on the economy.

Prime Minister Bajram Kosumi welcomed the engagement of the EIB: “This agreement will end the years of stagnation in Kosovo and enable other institutions to see the possibilities for capital investments.” Mr. Kosumi announced the creation of a special task force within the PISG to prepare plans and projects for cooperation with the EIB. The Framework agreement follows the promulgation of the Law on International Financial Agreements. UNMIK and the PISG will now join efforts to identify priority areas for immediate and medium-term investment. EIB provides loans for bankable projects. Projects shall ideally be identified according to a medium-term economic strategy that should follow the mode of a Kosovo Development Plan. (UNMIK/PR/1355) 3 May 2005

INSTANCE OF GOOD GOVERNANCE: Provision of loans from the EIB signifies the stability of the PISG as well as of Kosovo’s economic capacity for the future. The agreement will allow for investment opportunities targeting priority areas, which will benefit all communities.

e. Memorandum of Understanding with the European Bank for Reconstruction and Development

Kosovo’s economy has gained a new, important partner: the European Bank for Reconstruction and Development (EBRD). From now on, the EBRD is ready to support the private and public sector with loans after UNMIK successfully negotiated a Memorandum of Understanding (MoU) with the EBRD, opening their operations in Kosovo and establishing EBRD’s status as an international inter-governmental financial

institution under the applicable law in Kosovo. SRSJ Soren Jessen-Petersen and Jean Lemierre, President of the EBRD signed the MoU.

EBRD activities will focus in particular on private sector development. It will provide loans to or invest in small and medium sized enterprises, as well as publicly and socially owned enterprises. According to EBRD, projects must be low risk, highly profitable, and with strong cash flow in order to be eligible for funding. Furthermore, EBRD will offer technical assistance for the reconstruction and development of infrastructure, including environmental programs necessary for private sector development and the transition to a market oriented economy. (UNMIK/PR/1332) 4 March 2005

INSTANCE OF GOOD GOVERNANCE: The further provision of loans by the EBRD will enhance private sector development, and assist the reconstruction of infrastructure that will promote the further development of economic stability and growth in all communities.

f. Adoption of Regulation on Mines and Minerals

The PDSRSJ Larry Rossin signed and promulgated UNMIK Regulation No. 2005/2 on the Establishment of the Independent Commission for Mines and Minerals and Regulation No. 2005/3 on Mines and Minerals in Kosovo.

A draft mining law, which had been prepared jointly by the Government and UNMIK, could not be completed by the Assembly due to time constraints prior to the Kosovo elections in October 2004. The Government therefore approached UNMIK and requested that the necessary legislation for the mining sector be prepared and promulgated by UNMIK, pending adoption of legislation by the Assembly for the mining sector, which will constitute the definitive legislative framework for the mining sector in Kosovo. Together, the two Regulations establish a complete legislative framework for mining in Kosovo, consisting of a comprehensive new and complete mining law that conforms to industry standards – the Regulation on Mines and Minerals and Kosovo – and a Regulation which establishes the Independent Commission on Mines and Minerals to act as the regulatory body for application of the mining law and regulating exploration and exploitation of minerals in Kosovo.

The new legislative framework is necessary inter alia to address concerns voiced by international investors regarding the urgent need to enhance the inadequate existing legal framework for Kosovo's mines and minerals sector. It establishes a new system of licenses, permits and authorizations that makes it possible to issue new mining licenses and permits. This will not only greatly facilitate privatizations of socially owned mining enterprises but also attract new investments into the mining sector of Kosovo. (UNMIK/PR/1307) 21 January 2005

INSTANCE OF GOOD GOVERNANCE: Adoption of a law on regulating the mining industry will promote foreign investment and ensure that environmental standards are met, particularly in rural areas, typically inhabited by minority communities.

5. Education

a. Ministry of Education, Science and Technology (MEST) published the Strategy for the Development of Higher Education in Kosovo (2005-2015) in June 2004.

This ten-year strategy for higher education in Kosovo established the Council of Higher Education Experts (CHEE), as well as four working groups and convened an international conference on 'new realities and challenges for higher education', in which forty international and 150 local experts participated. With the strategy, MEST aimed to incorporate all relevant stakeholders and also proposed the establishment of a supervising body for strategy management and a commission for monitoring the strategy. In order to realize its objectives, the strategy was divided into two phases. The first phase (2005-2009) is dedicated to completing the legislative documentation and implementation of development policies, while the second phase (2010-2015) will focus on the development of institutional and intellectual capacities, as well as piloting innovation. The strategy established its objectives as elaborating and implementing a contemporary and all-inclusive education policy and finalizing the higher education legislation, as well as developing the management system of higher education quality and developing a complete and functional infrastructure of higher education. MEST also established a system of quality assurance and evaluation for higher education in Kosovo.

Ministry of Education, Science and Technology (MEST), Strategy for the Development of Higher Education in Kosovo (2005-2015), June 2004, http://www.sec-educoop.net/education_in/pdf/str-develop-high-educ-kos-enl-t02.pdf

INSTANCE OF GOOD GOVERNANCE: The adoption of a strategy for the development of higher education includes a monitoring and evaluation mechanism that can provide the necessary oversight to ensure equal access to higher education for all communities.

b. MEST outlines progress with respect to the Council of Europe's Framework Convention for the Protection of National Minorities (FCNM) guidelines.

The report outlined that MEST has established the Unit of Communities and Gender Equation with the aim of creating a unified education system. Bosnians and Turks are currently integrated into this unified system and there are regular budgetary allocations for minority education, including Serbs.

Ministry of Education, Science and Technology, Report on implementation of Framework Convention for the Protection of National Minorities in Kosovo, 24 January 2005.

TOOL FOR INCLUSIVE EDUCATION: Segregation within the education system can be avoided and eventually eliminated by the creation of a body that promotes inclusive education structures and public awareness of these initiatives.

c. The Employment and Skills Observatory of Kosovo published Mainstreaming with Europe: An Adult Learning Strategy for Kosovo (2005-2015) in April 2004.

The strategy was the result of collaboration between key stakeholders in human resources development in Kosovo (education, labor, trade and industry, employers, and trade unions)

in order to determine how adult learning could be better adapted to the market transition with specific reference to economic development and social cohesion. The strategy is described as ‘a strategy for adult learning’ and outlined increase knowledge and competences for a market economy, a systemic approach to develop adult learning, and an increased value of learning, and promotion of a learning culture among its objectives. It acknowledged the mismatching of skills to jobs as a problem in Kosovo and identified increased knowledge and competencies for the market economy as a solution.

As part of the measures proposed to address this need, programs to increase basic skills and to upgrade skills were outlined to operate in accordance with UNESCO’s International Standard Classification of Education (ISCED) system. In terms of developing adult learning measures, the strategy proposed the development and implementation of an information, counselling and career guidance system, an occupational classification system, an integrated national qualification system, modular course provision and a system to recognize and validate competences acquired by adults through non-formal and informal learning, as well as the development of flexible formal and non-formal adult learning opportunities and the development and implementation of a quality assurance system. The strategy also illuminated the need for the promotion of a learning culture and the concept of life-long learning and proposed the organization of promotional activities to raise awareness of the value of adult learning.

The OSCE reported in August 2004 on the handover of authority for a Roma kindergarten from the OSCE to the municipality of Gjilan/Gnjilane in a show of municipal support for minority education. The OSCE continues to support MEST in fulfilling its obligations concerning the educational rights of minorities, with current initiatives including sponsoring catch-up classes in several municipalities, assisting the Ministry in preparing primary and secondary school curriculum in the Romany language and a summer course for the re-qualification of Kosovo Roma teachers.¹ Such initiatives, and continued pressure from internationally supported NGOs have facilitated gradual changes in the position of Roma women so that more are gaining access to education. Emsal Merhaxholli, who runs the Roma Women’s Centre in Prizren is helping Roma women become more active and asserts that ‘Roma women are as capable as other women, one of them [in Prizren] runs her own internet cafe. Another runs a factory and employs 16 other women’.²

The Employment and Skills Observatory of Kosovo, Mainstreaming with Europe: An Adult Learning Strategy for Kosovo (2005-2015) April 2004

<http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN018213.pdf>.

INSTANCE OF GOOD GOVERNANCE: Recognition of the need for re-qualification of technical skills particularly amongst minority communities, followed by implementation of programs to address the need for lifelong education to ensure continual employment opportunities.

¹ Office for Democratic Institutions and Human Rights Feature, 1 August 2004, http://www.osce.org/odihr/item_2_200.html?print=1

² Institute for War and Peace Reporting, Balkan Report, No. 570 Part II, August 10, 2005

6. Returns

a. The PISG Manual for Sustainable Returns

The manual was published in January 2003 with the aim of clarifying procedures and activities related to returns. The manual outlined institutional roles and responsibilities as well as returns projects and the guiding principles and operational guidelines for the returns process. It outlined the key components of the returns process as being interethnic dialogue and community relations, interaction between Municipal Working Groups (MWGs) and UNMIK, and interaction between Internally Displaced Persons (IDPs) and Municipal Officials. In order to facilitate the returns process the manual also recommended “go and inform” visits and “go and see” visits for potential returnees to be actively involved in the process.

The PISG has continued to provide a generous level of funding for returns, with a 50% increase in returns funding from 2003 to 2004. While the returns funding remains stable for 2005, Kosovo has now assumed the position of the leading funder of returns. Efforts have continued to ensure that returns funding is distributed according to need and involving all communities. Some municipal leaders have participated helpfully in Municipal Working Groups, and in ‘Go and Inform Visits’ and ‘Go and See Visits’. Central authorities, in particular the Prime Minister, have visibly supported the reconstruction process through frequent visits to the inauguration and completion of building activities. Municipal authorities have become more constructively engaged in returns activities, and have directly supported returns projects.³ Such examples indicate a greater commitment by the PISG to take responsibilities and a leading role in the returns process.

PISG Manual for Sustainable Returns, January 2003,

http://www.unmikonline.org/srsg/orc/documents/Manual_ENG.pdf

INSTANCE OF GOOD GOVERNANCE: The creation of municipal working groups and active involvement at returns sites by municipal actors allows greater recognition of returns issues in municipal work.

³ UNMIK, Technical Assessment of Progress Against the Standards for Kosovo, September 2004.

b. The OSCE Tenth Assessment of the Situation of Ethnic Minorities in Kosovo

The assessment, published in March 2003, included all aspects of minority affairs, including recommendations for how the returns process could be facilitated. These recommendations included that the UNMIK Community Police Unit should be further involved in confidence building initiatives in minority communities, that the PISG and the international community should work together to develop solutions to the returns problem, such as the promotion of interethnic dialogue, and that the PISG should increase its engagement in the returns process, including ensuring that MWGs received sufficient funding.

OSCE, Tenth Assessment of the Situation of Ethnic Minorities in Kosovo, March 2003, <http://www.unmikonline.org/press/reports/MinorityAssessmentReport10ENG.pdf>

TOOL FOR AN IMPROVED RETURNS PROCESS: By creating a comprehensive strategy on sustainable returns and the operations of the Ministry of Returns and Community Affairs in cooperation with major international actors and community representatives, a proper assessment of the challenges faced by the ministry and by returnees can be addressed through training and expert assistance and further implemented.

c. The Ombudsperson Institution in Kosovo published its Fifth Annual Report (2004-2005) on 11 July 2005.

The report outlined a number of positive steps that have been taken with respect to minority returns. In August 2004 the situation of a number of Ashkali community members from Vushtrri/Vucitrn improved thanks to the coordinated efforts of the Ombudsperson Institution, UNMIK, French KFOR and the Serbian Co-ordination Centre for Kosovo and Metohija. Some Ashkali who were formerly living in a French KFOR base in Novo Selo were returned to Vushtrri/Vucitrn. In April 2005 an Agreement on Return to the Roma Mahalla was signed by the UNMIK Regional Representative and the President of the Mitrovica Municipal Assembly and co-signed by international stakeholders. The Ombudsperson noted that there appears to be strong commitment to involving representatives of the Roma community in efforts to rebuild the Roma Mahalla. This is the largest returns project hitherto undertaken in Kosovo. The Ombudsperson also asserted that UNMIK had changed its attitude in recent months regarding repatriation of returnees and noted that there was now more focus on the wishes of returnees as to where they wanted to be repatriated to, rather than just returning them to their original communities.

Ombudsperson Institution in Kosovo, Fifth Annual Report (2004-2005), 11 July 2005, <http://www.ombudspersonkosovo.org>

TOOL FOR AN INTEGRATED RETURNS PROCESS: By appointing a lead institution (such as the Ombudsman institution) to facilitate the activities of organizations involved in the returns process, overlap and gaps in implementation can be avoided and thus promote efficiency and community involvement.

According to the paper Zëri, the Government in May 2005 allocated 200,000 euros for the reconstruction of the Roma Mahalla, while UNMIK has also promised an amount that will reportedly be higher than the government's to help resolve this matter. 'This will be one of the largest returns so far. It will be a return to an urban community, and as such it will also send a signal that return to urban areas is possible,' SRSB Søren Jessen-Petersen said.

Kosovo Prime Minister Bajram Kosumi said that the problem Roma face in Mitrovica is a humanitarian issue and 'is no longer related to politics'. 'We will do everything we can so that they return to where they lived prior to the war', said Kosumi.⁴ Such rhetoric by the Prime Minister addresses the ECMI's recommendation that the returns process should be depoliticized.

d. The UNMIK Standards before Status document and the subsequent Kosovo Standards Implementation Plan outline in some detail recommendations for improving returns in Kosovo. The standards document demonstrates the importance of the returns issue by making returns one of the main issues to be targeted before negotiations on final status can commence. The KSIP maintains that 'all refugees and displaced persons who wish to return to Kosovo must be able to do so in safety and dignity', and outlines its priority action in this area as being to develop PISG structures to promote rights protection, including the right to return, the development of effective central institutions to develop and co-ordinate the Government's strategy for promoting rights protection. It also asserts that through the Office of the Prime Minister, the PISG is currently engaging in identifying structures that would most effectively strengthen its capacity in this regard. In terms of progress on these standards, one positive development is the establishment of the Ministry of Returns and Migration.

<http://www.unmikonline.org/standards/>

http://www.unmikonline.org/pub/misc/ksip_eng.pdf

TOOL FOR FACILITATING RETURNS PROCESS: Develop PISG structures to ensure the protection of the right to return and develop effective institutions to develop and coordinate these rights.

e. Strategic Framework on Communities and Returns of 2005.

On 19 July 2005, Prime Minister Kosumi expressed the Government's readiness to take responsibility for all citizens of Kosovo. The framework outlines 'the road ahead' with three main priority areas: the promotion of safety and freedom of movement; the creation of sustainable conditions for returns; and the enhancement of institutional support for returns. The framework outlined the formulation and implementation of specific activities to be included in a 'Program of Action on Communities and Returns'. The process will be based on inputs and consultations with all stakeholders such as political parties, minority leaders, IDP representatives, donors, NGOs, UNMIK and the PISG.

<http://www.google.co.uk/search?hl=en&q=2005+Strategic+Framework+on+Communities+and+Returns&btnG=Google+Search&meta=>

TOOL FOR DEVELOPING A RETURNS FRAMEWORK: Developing a program that prioritizes and supports sustainable initiatives in the returns process involving all stakeholder communities as well as government.

⁴ UNMIK Media Monitoring, 6 May 2005.

f. On 6 May 2005 the OSCE reported positive developments in Gjilan/Gnjilane, where the local authorities supported the Civic Education Centre, which supports Roma, Ashkali and Egyptians and promotes cultural events. Such an initiative shows the willingness of municipal leaders to promote integration of minority communities.

OSCE Feature, 6 May 2005, <http://www.osce.org/item/14147.html>

g. NGOs welcomed the 'Kosovo Initiative' as an idea to establish a regional cooperative network that concentrated on the facilitation of the return process to Kosovo. The initiative is a cooperative of NGOs from Serbia and Montenegro, Kosovo and Macedonia aiming to provide assistance to the process of return of IDPs to Kosovo and to the establishment of interethnic dialogue between different communities.

<http://www.ian.org.yu/kosovo-info/english/inicijativa/contents.htm>

TOOL FOR ACHIEVING INTERREGIONAL COOPERATION IN THE RETURNS PROCESS: Establishing a network of interregional cooperation in order to increase dialogue between communities.

h. The Rapid Response Returns Facility (RRRF) is a joint initiative of UNMIK ORC and UNDP in cooperation with UNHCR with a key objective to provide a rapid, flexible and coordinated response to priorities related to spontaneous/small scale unassisted returns of minority displaced persons. To date it has assisted more than 1,000 individual cases with housing and income-generating grants.

<http://www.ks.undp.org/Projects/RRRF/RRRF-eng.htm>

Examples of Returns

Region	Municipality	Location	Ethnicity of returnees	No. of returnees (families)	Implementing Organization	Details of current status	Donor
Gnjilane/Gijlan	Gnjilane/Gijlan	Abdullah Presheva, Gnjilane/Gijlan Town	Roma	25	ARC	After a series of GSVs and endorsement of the CP on 25 March 03, ARC assessed 20 interested families in May. Housing reconstruction for all beneficiaries started; total of 61 houses reconstructed, 13 income generation projects implemented, 29 families/ 114 persons returned as of 10/12/04. Albanian language 'catch-up classes' under discussion with municipality.	Dutch Govt
Gnjilane/Gijlan	Gnjilane/Gijlan	Gornji Makres/Makresh i Epernm & Donji Makres/Makresh i Poshtem	Serb	60	Various	22 families returned. Reconstruction and repairs completed. Health and education infrastructure repaired/created/equipped. IG provided. Completed 02.	Variou s
Gnjilane/Gijlan	Gnjilane/Gijlan	Mozgova/Muzgove	Serb	11	Various	Housing reconstruction completed. 11 families/16 persons returned. All houses occupied. Additional components (electricity, humanitarian, agricultural and IG) completed by December 03. Infrastructure component ongoing. Community vehicle purchased with diaspora and municipality promised 400 Euros, still outstanding. Also outstanding issue – housing quality. Road project under implementation. Water project under preparation.	BPRM and RRRF
Gnjilane/Gijlan	Kamenice/Kamenica	Ljestar/Leshtar	Serb/ Albanian	48	Various	Housing reconstruction completed July 02. Agricultural projects provided. Infrastructure projects completed (road repair and water supply). Completed Summer 02.	Variou s
Gnjilane/Gijlan	Novo Berdo/ Novo Brdo	Klobukar/ Kllobukar	Serb	To be determined		The increased interethnic dialogue is ongoing to revive relationships in multiethnic village of Klobokar/Kllobukar. The return process is on hold at present. The IDPs intend to be relocated in mahalla Barinska due to security concerns, though internal land agreements.	
Gnjilane/Gijlan	Ferizaj/ Urosevac	Babijak	Serb	50	UMCOR	Reconstruction of all 48 houses completed. The work on water, electricity, sewage and health clinic projects completed. Municipality will be responsible for the maintenance of the public utility services. The water and road quality tests were done successfully. The road connecting Bablak/Bablijak	KCB/ GAR 001

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						village to Lipjan has commenced and will take a month for completion. 44 individuals/ 33 families returned with 31 individuals regularly residing in the village. Three heads of families refused to take the key of the houses, which remained vacant.	
Gnjilane/Gjilan	Ferizaj/ Urosevac	Talinovac	Serb	80 Serb houses before the conflict	CARE	UMCOR organized GSV with 7 IDPs from Serbia and 3 from Shtpce. They visited properties and cemetery. Following day meeting was held with Municipal authorities and two Albanian village leaders. A positive dialogue was held with Albanian community proceeded by another multiethnic dialogue at Brezovice/a.	
Gnjilane/Gjilan	Ferizaj/ Urosevac	Nerodime/ Nerodimije	Serb	Pre-conflict 22 Serb families	ARC	Before the conflict the village was inhabited by two ethnicities – Albanians and Serbs. In January 05 DRC in cooperation with FO Gjilan/Gnjilane organized first visit to the village. ARC is the lead agency. GIV and GIS visits were organized in May. Multiethnic dialogue was held in May.	
Gnjilane/Gjilan	Viti/ Vitina	Podgorce/Podgorc	Serb	38	ARC	74 housing repair/reconstruction interventions completed. Infrastructure completed. Health, IG and community inputs completed. Only one of 34 K-S properties and 4 of 6 K-A returnee properties occupied full time, while several are coming during weekends to undertake farming activities. Village council established to upgrade interethnic relations and encourage Kosovo Serbs to return to village.	Germany, UK and KCB
Gnjilane/Gjilan	Viti/ Vitina	Grmovo/ Germove	Serb	To be determined	UMCOR	First GSV held July 02. Dialogue with receiving community and IED ongoing. August 04 IDP and resident representatives decide to establish a multiethnic council. Multiethnic village council formed November and first taskforce meeting held in November to discuss overall needs for return. GIV held November. The village council listed priorities for further action including village profile, supply of final list of potential returnees and damages and community infrastructure assessments.	

i. Examples of good governance on returns in other parts of the region

Croatia

While far from perfect, Croatia's record on securing the return of refugees, primarily to the Danube region, has improved. UNHCR credits the Croatian government's political will and "actions taken to create and support a receptive and positive environment for free and unhindered return." The Croatian government's Office of Displaced Persons and Refugees reports that since 1991 approximately 27,000 Serb refugees have returned to other parts of Croatia from the Danube region, while nearly 40,000 displaced persons have returned to the Danube region. In addition, some 33,000 Croatian Serb refugees have returned from Bosnia and Herzegovina and the Federal Republic of Yugoslavia (FRY). Government estimates focus on the success of reintegrating minorities in the Danube region and put the number of Croatian Serbs who have returned at 25 per cent of the pre-war population. Beyond the Danube region, the situation is normalizing and, according to UNHCR, Croatian Serbs have been returning from the FRY both in an organized manner and without the assistance of the international community. The fact that refugees have been returning in both an organized and spontaneous manner suggests that not only are the Croatian government and international community creating positive conditions for return, but refugees also feel that conditions are sufficiently safe for them to arrive on their own.

<http://www.usip.org/pubs/specialreports/sr991221.html>

Bosnia

SFOR has tried to increase contacts with village heads and cantonal leaders to encourage a more positive atmosphere conducive to returns within Bosnia and has channeled foreign aid through commanders on the ground. The military's efforts have been linked to the "Open Cities" initiatives, where funds are used to repair schools, build health clinics, and rehabilitate community structures.

<http://www.usip.org/pubs/specialreports/sr991221.html>

On 21 September 2004 the one-millionth person returned home to Bosnia and Herzegovina. Substantial progress in eliminating obstacles to reclaiming property fuelled the acceleration of the BiH returns process.

UNMIK, Opening the Door: A Joint Strategy to Achieve Progress on Returns, 22 November 2004.

Montenegro

A delegation of ORC and PISG Ministers visited Montenegro in May 2005 to meet with IDP representatives and members of the Montenegrin Government to discuss the potential for return of IDPs to Kosovo. Montenegro has recently created a strategy for resolving the issues of refugees and IDPs in Montenegro, who currently make up around 6% of the total population there. They are interested in assisting voluntary returns to Kosovo from Montenegro.

ORC, Monthly Assessment on Returns, May 2005.

Glossary

Appeals Process: The process of appeal in the judicial system.

Applicable Law: Law that is currently in use in Kosovo.

Communities: Refers to the different ethnic communities in Kosovo.

Competencies: The powers of governance that have been gradually transferred from the international administration to the PISG.

Confidence Building Measure (CBM): Changes made to reduce the feeling of insecurity in a region of potential or actual conflict in order to help both parties have trust in the peace process. "to reduce the "dangers of armed conflict and of misunderstanding or miscalculation of military activities which could give rise to apprehension...."⁵

Constitutional Framework: The document governing the PISG that created the basis for democratic self-government under continuing United Nations oversight. It was promulgated in May 2001.

Contact Group: The six-nation Contact Group established by the 1992 London Conference on the Former Yugoslavia. Comprises Britain, France, Germany, Italy, Russia and the United States.

Convention Against Torture: UN Convention aiming to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world.

Council for Defence of Human Rights and Freedoms: A non-governmental, non-profit and non-political organisation with the goal to defend and promote human rights and freedoms, foreseen in UN Universal Declaration on Human Rights and other international documents on human rights.

Decentralisation: The process of transferring powers from the central government to the municipal governments. It is hoped that decentralisation will lead to a greater ability of the municipal governments to provide services that are specific to the ethnic makeup of particular municipalities.

Delegation: A group of representatives or *delegates* sent on behalf of an organization.

Discrimination: one person, or a group of persons, being treated less favourably than another on the grounds of racial or ethnic origin, religion or belief, disability, age or sexual orientation (direct discrimination), or where an apparently neutral provision is liable to disadvantage a group of persons on the same grounds of discrimination, unless objectively justified (indirect discrimination).

⁵ CSCE, now OSCE, <http://www.state.gov/t/ac/trt/4725.htm>

- **Direct:** occurs “where one person is treated less favourably than another is, has been, or would be treated in a comparable situation on grounds of racial or ethnic origin”. (Article 2 (2)(a) of the Race Directive)

- **Indirect:** occurs, "where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary". (Article 2 (2)(b) of the Race Directive)

- **Reasons for:** European anti-discrimination policy covers the following grounds: sex, racial and ethnic origin, religion and belief, disability, age and sexual orientation, both within and beyond the labour market.

Diversity: The acceptance that people from different backgrounds, languages, ethnicities and religious orientation have the right to exist in a mixed community with equal right to security, dignity and opportunity.

Early Warning: Systems designed to provide early warning of outbreaks of violence, through diplomatic, signals or intelligence based monitoring.

Employment Framework Directive: Prevents people in the European Union from being discriminated against on grounds of race and ethnic origin on grounds of religion or belief, disability, age or sexual orientation

Ethnic Cleansing: The systematic elimination of an ethnic group or groups from a region or society, as by deportation, forced emigration, or genocide.

Ethnic Group: Group that regards itself or is regarded by others as a distinct community by virtue of certain characteristics that will help to distinguish the group from the surrounding community. Characteristics: A long shared history, or which the group is conscious as distinguishing it from other groups, and the memory of which it keeps alive; A cultural tradition of its own, including family and social customs and manners; A common geographical origin or descent from a small number of ancestors; A common language, not necessarily peculiar to the group; A common literature, peculiar to the group; A common religion different from that of neighbouring groups or from the majority population; A minority or being oppressed by a dominant group within a larger community

Ethnic Tensions: A state of increased risk of violence or dispute between ethnic groups, not necessarily involving the dominant regional group.

European Convention for the Protection of Human Rights and Fundamental Freedoms: Also known as the European Convention on Human Rights, was adopted under the auspices of the Council of Europe in 1950 to protect human rights and fundamental freedoms.

European Charter on Local Self-Government: Entered into force on 1 September 1988. The Charter commits the Parties to applying basic rules guaranteeing the political, administrative and financial independence of local authorities. It provides that the principle

of local self-government shall be recognised in domestic legislation and, where practicable, in the constitution. Local authorities are to be elected in universal suffrage.

Framework Convention for the Protection of National Minorities: The first ever legally binding multilateral instrument devoted to the protection of national minorities in general, developed By the Council of Europe in 1998 with 36 states currently party to it.

Freedom of Movement: The ability of members of all ethnic groups (particularly ethnic minorities such as Serbs) to move throughout Kosovo without fear of security violations.

Fundamental Rights: The Charter of Fundamental Rights of the European Union is a document signed on December 7th 2000 in which the fundamental rights of all citizens of the European Union are outlined. The document is drawn from the universal values found in European tradition as well as the universal values of democracy and multiculturalism.

Good Governance: Government practices that result in the effective achievement of objectives through such means as inclusiveness, transparency, responsiveness, accountability, equity and strategic planning.

Harassment: Harassment is any unwanted physical or verbal conduct that offends or humiliates others. Such conduct can interfere with your ability to do a job or obtain a service. Harassment is a type of discrimination. Harassment shall be deemed to be a form of discrimination when unwanted conduct related to any of the grounds takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. Harassment can consist of a single incident or several incidents over a period of time. It can take many forms, such as: threats, intimidation, or verbal abuse; unwelcome remarks or jokes about subjects like your ethnicity, religion, disability or age; displaying racist or other offensive pictures or posters. (European Commission).

Housing Property Claims Commission: Established by UNMIK in November 1999 to provide overall direction on property rights in Kosovo.

Housing Property Directorate: Established by UNMIK in November 1999 to regularise housing and property rights in Kosovo and to resolve disputes over residential property

Human Rights Commissions: A human rights commission is an independent body, mandated to ensure that human rights laws are applied effectively and to protect people from discrimination and abuses of human rights. A commission may also monitor or review the government's human rights policies and implementation of international standards, and raise awareness of issues. A commission may hear complaints about human rights abuses and have investigative powers.

Human Rights Violations: Transgressions by states against the human rights of individuals or groups. Transgressions by non-state actors are usually known as *human right abuses*. Violations may be *gross human rights violations*, which are very serious violations, which severely reduce the subject's ability to survive, such as murder, abduction, slavery, ethnic cleansing or torture.

Illegal occupation: Refers to property. Since 1999 many previously multi-ethnic towns and villages have become segregated into Albanian and Serb sections. As a result, many people who used to live in a part of the town or village that is now largely inhabited by the other ethnic group have had to move into the other part. This has resulted in large numbers of properties being inhabited by people other than their rightful owners.

Immunity: Exemption or protection from a penalty to which others are subject. This refers to UNMIK employees, who are immune from prosecution in Kosovo

Implementation: The act of putting a plan into action.

Impunity: Exemption from punishment, harm, or retribution. This refers both to UNMIK employees, who are immune from prosecution in Kosovo, and also the problem of the weak judicial system in Kosovo, where many people do not respect the rule of law because it fails to adequately bring to justice perpetrators, especially of crimes against ethnic minorities.

Institutional Racism: Those forces, social arrangements, institutions, structures, policies, precedents and systems of social relations that operate to deprive certain racially identified categories of equality.

Internally Displaced Persons (IDP): Internally displaced persons are persons or groups of persons who have been forced or obliged to flee or leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border".⁶

Integration: An inter-dependent combination of equality, interaction and participation.

Koha Ditore: Independent Prishtina daily newspaper in Albanian language.

Kosovo Institution for Public Administration: OSCE initiative charged with civil servants' training and education.

Kosovo Judicial Prosecutorial Council: Established in July 2001 by UNMIK to define the standard of ethics and professional conduct that should be observed by judges in order to protect judicial independence.

Kosovo Police Service: Police force in Kosovo that is under the control of the local institutions.

Kosovo Protection Corps: After the end of the NATO/Yugoslavia war in June 1999, the former Kosovo Liberation Army was transformed into the Kosovo Protection Corps (KPC), a civilian agency charged with providing emergency response and reconstruction services. The KPC's mission is to protect the Kosovo population against natural or man-made

⁶ Reliefweb, <http://www.reliefweb.int/idp/docs/references/DefinitionIDPs.pdf>

disasters and to assist in the rebuilding of Kosovo through work on public utilities and social projects.

Kosovo Security Advisory Group: Established in July 2004, this group comprises representatives from all communities in Kosovo with the aim of providing for enhanced exchange of information on current security issues.

Kosovo Trust Agency: The agency established to preserve or enhance the value, viability, and corporate governance of socially owned and public enterprises in Kosovo.

Legislative Framework: A series of laws that relate to one general theme or area.

Local Crime Prevention Council: Established in all municipalities with the aim of bringing together all ethnic communities and international representatives in order to tackle security issues at the grassroots level.

Local Government: Government of the different municipalities.

Mandate: A document giving an official instruction or command, or also legitimation to hold a position of authority or command through appointment or election.

Marginalization: The process whereby a group or a sub-group of a society which exhibits characteristics considered undesirable by the mainstream are pushed out to the margins of society where they are denied equal opportunity to, for example, prosper, claim rights, be heard or expect equality before the law.

Monitoring: A process that involves collecting, storing, analysing and evaluating information, to measure performance, progress or change. Monitoring racial equality involves collecting, storing, analysing and evaluating information about the racial groups to which people say they belong.

Minorities: A relatively small group of people differing from others in the society of which they are a part in race, religion, language, political persuasion etc. (Oxford Dictionary)

– **External:** Minorities that, while living on the territory of one state (host-state) are the ethnic kin of the titular nation of another, often neighbouring, state (kin-state).

– **Indigenous:** Ethnic groups living in their ancestral homeland that is on the territory of just one state of which they are not the titular people.

– **Linguistic:** The world has chosen to protect the mosaic of human diversity by placing priority upon the preservation of the constituent aspects of culture by allowing minorities to speak their languages and practice their religion.

– **National v. Ethnic:** European instruments tend to mention ‘national minorities’ (FCNM), where international documents refer to ‘ethnic minorities’.

– **Racial v. Ethnic:** Initially, the League of Nations minority protection system used the criteria of ‘race’, ‘language’ and ‘religion’. This was further abandoned by the UN Sub-Commission who decided in 1950 to systematically replace the term ‘racial’ by ‘ethnic’ when mentioning minority groups. This replacement was justified by the fact that the criteria

‘racial’ referred to physical features and could not be scientifically justified. On the contrary, the term ‘ethnic’ was broader and comprised biological, cultural and historical characteristics.

– **Religious:** Freedom of religion—or the right to freedom of expression and belief—has been embedded in human rights law since it was first enshrined in the 1948 Universal Declaration of Human Rights and then in the 1966 International Covenant on Civil and Political Rights. The European Convention for the Protection of Human Rights and Fundamental Freedoms also protects religion as developed through the case law of the European Court of Human Rights.

– **Transnational:** Ethnic groups whose homeland stretches across several different states without their forming the titular nation in any one of them.

Municipal Communities Offices: Located in all municipalities to ensure continuous and equal access to public services at the municipal level and protection of community rights.

Municipal Working Groups: Consists of UNMIK, UNHCR, local municipal authorities, KFOR, UNMIK Police, OSCE, NGOs and representatives of the displaced communities. MWGs provide a forum for dialogue to all parties involved in the returns process. They are also the principal coordination body for returns projects.

Nationality: An aspect of a person's identity conveying rights and duties, and defined by a specific legal relationship between an individual and a state, through birth or naturalisation, which is recognised by that state. Nationality ‘is the legal bond between a person and a state’ which ‘does not indicate the person’s ethnic origin’. (Article 2 of the European Convention on Nationality).

Non-Discrimination: Fairness in treating people without prejudice.

Ombudsman Institutions: An Ombudsperson is an alternative dispute resolution mechanism, offering free, confidential, non-judicial and flexible complaint-handling services. The ‘classical’ form of an Ombudsman institution is a public office established and funded by the legislature, hearing citizens’ complaints and ensuring that the public administration is held accountable for its actions. The Ombudsman institution can provide a quick and effective remedy for members of the public against alleged occurrences of maladministration by government entities. Even without specialization, the general nature of the Ombudsperson’s task of protecting citizens’ rights means that Ombudspersons with a general jurisdiction covering administrative matters are often involved in minority issues. It may thus offer a remedy for members of minorities.

Organization for Security and Co-operation in Europe (OSCE): The world’s largest security organization, with 55 member states in Europe, North America and the CIS. It “is a primary instrument for early warning, conflict prevention, crisis management and post-conflict rehabilitation⁷” in the European area.

Parallel Structures: In parts of Kosovo with large Serb populations there exist parallel structures such as courts, schools and hospitals that work outside UNMIK’s administrative structures. Such institutions are mostly funded and run by Serbian authorities and exist both

⁷ OSCE website, http://www.osce.org/publications/sg/2004/11/13554_53_en.pdf

because of Serbia's refusal to accept UNMIK's legitimacy and also for more practical reasons, such as the inability of some Serbs to have safe access to existing structures, both due to freedom of movement issues as well as inadequate provisions for Serbs (eg. Inadequate access to education in the Serbian language).

Property Rights: Rights of the population to property restitution.

Property Restitution: The return of or compensation for property that was unlawfully taken. This refers both to property that was taken from Kosovar Albanians during the oppression of the Milosevic era, as well as property that has been usurped since the war.

Returns: Refers to the return of former Kosovar residents who fled Kosovo either during or soon after the war in 1999, as well as those who fled after the violence in March 2004. This term mainly refers to ethnic minorities as most Kosovar Albanians returned to Kosovo soon after the war was over.

Rule of Law: A state of order in which events conform to the law.

Self-Determination: The right of the majority population to determine their political status. In the case of Kosovo the most prominent supporter of self-determination comes from the Kosova Alive Network, led by Albin Kurti. KAN dismisses the legitimacy of negotiations on Kosovo's political status and demands that Kosovo become independent, as is the wish of the majority Kosovar Albanian population.

Self-Government: The Provisional Institutions of Self-Government (PISG) are institutions that are elected by the people of Kosovo. At this stage UNMIK has transferred many governing powers to the PISG, so Kosovo is being increasingly self-governed, although UNMIK still has ultimate administrative control over Kosovo and has the power to overturn any decisions made by the PISG.

'Squatting': Illegal occupation of a property. Since 1999 many previously multi-ethnic towns and villages have become segregated into Albanian and Serb sections. As a result, many people who used to live in a part of the town or village that is now largely inhabited by the other ethnic group have had to move into the other part. This has resulted in large numbers of properties being inhabited by people other than their rightful owners.

Stakeholder: One who has a share or an interest.

Standards: In December 2003 the UN produced a document outlining the standards that need to be met before it would address the issue of Kosovo's political status. The standards are divided into eight areas: functioning democratic institutions; rule of law; freedom of movement; sustainable returns and the rights of communities and their members; economy; property rights; dialogue; the Kosovo Protection Corps. In March 2004 the Kosovo Standards Implementation Plan (KSIP) was published in order to give Kosovo's institutions guidelines as to how the standards were to be implemented.

Tolerance: The acceptance of different ethnic groups, especially ethnic minorities and their right to live peacefully in Kosovo.

UNMIK Department of Justice Judicial Inspection Unit: Established in May 2001 with the responsibility of conducting inspections, audits, and investigations within the judicial system in Kosovo.

Zëri: Independent Prishtina daily newspaper in Albanian language.

Annex 1: STWG Recommendations

1. Human Rights

- 1.1 The expert committee recommended a need for development or review of the existing human rights strategy through transfer of competencies to the locals because the existing complex legal structure fails to assist in establishing a genuine functional order for citizens. The PISG is the institution with the mandate to implement this recommendation, with indicators of success being the approval of a strategy with mid-term and long-term plans, norms and standards so that local institutions cannot escape international criticism for human rights issues.
- 1.2 The need for a clear catalogue of basic human rights and a procedure for their implementation according to the internationally accepted standards on human rights were identified. The development of a strategy on the human rights basics, identification and adoption of modern standards based on Kosovo's circumstances, as well as enactment of local law to reflect these new strategies and standards was recommended. The PISG is the institution with the mandate to implement this recommendation, with indicators of success being the approval of a strategy with mid-term and long-term plans, norms and standards that makes operational the 'Standards before Status' recommendations.
- 1.3 A lack of proper screening process in the legislative process was identified as a problem, and it was recommended that the existing screening in the legislative process be changed to voice more local interests of the wider public, despite indispensable expertise by both locals and internationals. Civil society, alongside the PISG via public discussions and debates were identified as being the key institutions to implement this recommendation. Indicators of success for this recommendation include the alignment of the civil society sector with a clear strategy on this matter targeting PISG and UNMIK structures dealing with the legislative matters. Different staffing of the Legal Office of the Prime Minister, as well as the Kosovo Assembly, was especially mentioned as primary indicators of progress on this recommendation.
- 1.4 It was recommended that the lack of a non-judicial or judicial body dealing with individual human rights and the compatibility of the draft-legislation of Kosovo with the internationally accepted human rights standards be remedied by the creation of a standing body – the Human Rights Commission of Kosovo. Civil society, alongside the PISG, was identified as the institutions with the mandate to implement this recommendation, and the approval of the Kosovo Human Rights Charter in order to specify clearly the human rights standards, rules and procedures in Kosovo was identified as the key indicator of progress for this recommendation.
- 1.5 The lack of an adequate judicial body for the protection of human rights was identified as a problem, and the creation of a department/chamber within the Supreme Court of Kosovo was recommended. It was also recommended that the proposed department/chamber have the competencies of cassation courts in the field of human rights, with rulings that would contribute to the unification of practice and theory of human rights. UNMIK, in cooperation with the PISG, was

identified as the institution with the mandate to implement this recommendation. Indicators of successful implementation of this recommendation include the approval of changes in the existing Constitutional Framework of the Provisional Self-Government in Kosovo, leading to the establishment of the new Supreme Court of Kosovo having the cassation competencies the field of human rights.

- 1.6 Non-availability for Kosovars of the international mechanisms and procedure for the protection of human rights was the final problem identified by the expert committee. It was proposed that this problem be remedied by work by UNMIK, in cooperation with the PISG, on the signing of a Memorandum of Understanding between UNMIK and the PISG and the Council of Europe that would enable Kosovars to exercise their rights and use internationally accepted judicial methods and procedures to their full extent for the implementation of their rights. Key indicators for this recommendation include filing and the approval of filing of the first application for human rights protection from a Kosovar citizen.

2. Municipalities and Decentralisation

- 2.1 UNMIK Regulation 2000/45 “On the Self-Government of Municipalities in Kosovo is in many ways vague and an obstacle to the further development and performance of local self-government in Kosovo. The Regulation does not contain the follow-up mechanisms for the protection of local self-government autonomy. Many functions of the municipalities are not well defined and the relationship between the central and the local government is not clarified. There is a contradiction between the solutions foreseen by Regulation 2000/45 and other UNMIK regulations, for instance, between Regulation 2000/45 and 200/49 which deal with the allocation of responsibilities of public services at the municipal level. Furthermore, there are internal contradictions in Regulation 2000/45 regarding the management of municipal property. In section three of the Regulation it is stated that the competencies lie with the local municipal authorities whereas in other provisions it lies within the responsibilities of the international municipal administrator.

Apart from a weak legal base in reference to the performance of the local self-government, the administrative separation of the municipal structures is incoherent and it was inherited from the previous system. The seven largest municipalities in Kosovo have more than 100.000 inhabitants and as a result the public service sector cannot offer services at an efficient and proper level. A concrete example of this inefficiency is the municipality of Prishtina. It has more than 500.000 inhabitants and it is clearly unable to provide efficient services to the public.

- 2.2 The decentralization process should be a component of the municipal self-government reform in Kosovo. It should be based on a detailed analysis given the current situation regarding the function of the local self-government in Kosovo and also taking into account the aspects of future sustainability and performance of the municipal structure. The Constitutional framework is an obstacle to the reform of local self-government and the European Charter for Local Autonomy should therefore be used in the reforms process.

- 2.3 Consolidation of the central government is necessary at the current stage. UNMIK should transfer powers to the Kosovar authorities. After this transfer there can be a proper evaluation as to what can be transferred from the central government to the local level taking into consideration the nature and specifics of the responsibilities.
- 2.4 The idea that the future territorial and administrative organization in Kosovo is to be conducted on an ethnic basis, without studying and analyzing other essential criteria, such as, geography and financial sustainability is unacceptable. This will lead to the separation of territory on an ethnic basis and it does not guarantee a sustainable and operative structure.
- 2.5 The goal of reforming the local self-government should be the offer of improved services to the inhabitants in order to create institutional mechanisms and a proper environment for active involvement of citizens in the decision making process at all levels, especially at the municipal level. New models and variants that are applied in developed, democratic countries should be considered with regards to the circumstances in Kosovo.
- 2.6 In the reform of local self-government, the European Charter for Local Autonomy should be taken into consideration and all the solutions and standards of this Charter should be included in the future law on local self-government.
- 2.7 The Provisional Institutions of Self-Government, the respective ministries, the government and the assembly of Kosovo should be responsible for all the activities during the identification of the platform for local self-government. The finalization of the text of the law will be done by establishing a joint committee with participation of both local and European Commission experts.
- 2.8 As the European Commission experts are engaged in the identification of the local self-government platform, further activities should take place to insure that the final text of the law is prepared by a joint committee of local and European Commission experts.
- 2.9 The up-to-date evaluation of the work of the European Commission members is not transparent which forces the local institutions to begin a process of reformation since the organization and performance of the local self-government has been fully transferred to the local authorities based on the Constitutional framework.
- 2.10 The law is of great importance and the whole process starting from the formulation of the platform to the dissemination of the law, should be transparent and based on the concerns of the inhabitants.

3. Health

- 3.1 Regional meetings related to problems that are a priority in the field of health have been held and on different subjects, such as:
- Lack of adequate coverage for immunization in some regions and lack of immunization with some vaccines
 - Information, communication and education as a basis for the successful prevention of diseases.
- 3.2 Problems related to hemorrhagic fever in Kosovo;
- 3.3 Professional protection in cases of infections with contagious diseases, such as hemorrhagic fever.
- 3.4 In the field of legislation:
- Participation in preparing the draft Law on Health Inspection;
 - Organization of a professional meeting with the intention of defining the position of family health care centers in the spectrum of health institutions.
- 3.5 In the field of public health:
- Absence of adequate coverage with immunization programs as well as absence of immunization with certain vaccines;
 - Health protection for consumers (taking note of the quality of food used).
- 3.6 Professional meetings with policy-makers or institutions that affect health policies, such as:
- Ministry of Health
 - World Health Organization
 - National Public Health Institute of Kosovo
 - Kosovo University Clinic Center
 - Medical Faculty.
- 3.7 Professional meeting regarding the implementation of private practices in Kosovo
- 3.8 Analysis of field coverage with medical staff
- 3.9 Analysis of funding for health (experiences from contracting)
- 3.10 Monitoring and analysis of the laws drafted and those in force
- 3.11 Analysis of immunization in Kosovo
- 3.12 Analysis of epidemic diseases registered in Kosovo
- 3.13 Meeting regarding the public discussion on the draft Law on Public Health

3.14 Analysis of the quality of water and food used by consumers.

4. Economy

- 4.1 Setting med-term and long-term priorities for economic development and development of economic policies was recommended to address the issue of a lack of vision and strategy for the long-term economic development of Kosovo. The PISG, as well as UNMIK Pillar IV/EU, and the Academy of Arts and Sciences of Kosova (ASAK), were identified as being the pertinent institutions for this recommendation. Indicators of successful implementation of this recommendation include drafting a strategy for the economic development of Kosovo, drafting development policies and developing incentives for economic development, the elimination of development disproportions, and economic growth, including new employment opportunities, etc.
- 4.2 The unfavourable position and lack of incentives for local production was identified as an economic problem. It was recommended that economic policies be drafted with the intent of encouraging and supporting local producers and the completion of the necessary legal infrastructure. Key institutions responsible for this recommendation include the Ministry of Trade and Industry (MTI); the Ministry of Economy and Finance (MEF), the Ministry of Agriculture, Forestry and Rural Development (MAFRED); and the Association of Municipalities of Kosova (AMK). Key indicators of the successful implementation of this recommendation include access to favourable financial resources for development; budgetary surplus and other public funds are used for infrastructure improvement efforts; marginalisation of informal economy and the establishment of conditions for market equality; establishment of the necessary infrastructure for licensing in compliance with ISO standards; a breakthrough of domestic products into the regional and world markets; and the prohibition of non-agricultural use of agricultural lands.
- 4.3 Capacity building and modernisation at the Statistical Office of Kosova was recommended to address the issue of the lack of consolidated and systematic data on macroeconomic trends. The key institutions responsible for the implementation of this recommendation are the Ministry of Public Services (MSP); the Ministry of Economy and Finance (MEF); and the Assembly of Kosovo. Indicators of the successful implementation of this recommendation include macroeconomic indicators that are publicised regularly, and a census and general registration of property.
- 4.4 The suspension of the privatisation process was identified as an obstacle to economic development in Kosovo. The expert committee recommended that the PISG; the Assembly of Kosovo; the SRSG; the UN OLA in New York; UNMIK OLA; UNMIK Pillar IV/EU; and the KTA board work together to provide arguments on the discriminatory nature of the transformation of social and public property that took place after March 22, 1989 and proclaim illegitimate the transformations and laws that provided for them, in order to endure an unhindered continuation of the privatisation process. It was also recommended that there be an increase in participation of local staff in key positions at the Kosovo Trust Agency and equalisation of their influence in the decision-making process to the influence of

- the international staff in order to eliminate situation where they are over-represented in the decision-making process (i.e. the suspension of the privatisation process by the director of the KTA Board). Key indicators of progress for this recommendation include the PISG preparing factual arguments on the discriminatory nature of the transformations of social and public property that took place after March 22, 1989; and discriminatory circumstances under which these transformations took place; the PISG asking the SRSG to proclaim illegitimate the transformations and laws that provided for them; the SRSG making the decision to proclaim illegitimate the transformations and laws as of March 22, 1989; the KTA board making the decision to ratify the contracts with the contestants that won tenders in Group 1 and Group 2 and re-announcing the tenders for Group 3 enterprises; and the KTA Board making the pertinent decision on having the funds raised from the sale of assets of socially owned enterprises kept in Kosovo's banks and used for the purposes of Kosovo's economic development.
- 4.5 It was also recommended that a formal request be made to the Government of Serbia to return cadastre documents taken during 1999, as well as the completion and digitalisation of data in Municipal Cadastre Offices and the Kosovo Cadastre Agency. Key institutions responsible for this recommendation include the SRSG; the Assembly of Kosovo, the Ministry of Public Services (MPS); and the Association of Municipalities in Kosovo (AMK).
- 4.6 The delay in the start of the property denationalisation process was also identified as an obstacle to Kosovo's economic development. The establishment of the necessary legal infrastructure to enable the start of the property denationalisation process was recommended to overcome this obstacle. The Government of Kosovo; the Assembly of Kosovo; the SRSG, and the Association of Municipalities of Kosovo (AMK), were identified as the key institutions with the mandate to undertake this recommendation. Indicators of success include repealing the laws and other sub-legal acts that provided for the nationalisation of property in Kosovo and the drafting and promulgation of a law on denationalisation of property in Kosovo.
- 4.7 It was also recommended that the applicable law be amended to establish a legal infrastructure that encourages economic development, to address the issue of the existence of a customs policy that is unfavourable for economic development. The Assembly of Kosovo; the Ministry of Trade and Industry (MTI); the Ministry of Economy and Finance (MEF) and the Fiscal Economic Council (FEC) were identified as being the key institutions with the mandate to address this recommendation. Indicators of success were identified as being the drafting and promulgation of necessary laws; the lowering of customs dues for reproduction equipment and materials; the application of the custom tax norm at multiple levels; a decreased fiscal evasion through a more efficient control at boarder-crossing points; and the implementation of customs reciprocity with neighbouring countries.
- 4.8 The delay in the integration of Kosovo's economy into international economic trends was the last problem to be identified by the expert committee. It was recommended that the PISG and UNMIK Pillar IV/EU prepare adequate infrastructure for the meeting of necessary standards for integration into

international economic processes, as well as to transfer competencies in the field of economy to local institutions. Indicators of successful implementation of this recommendation include bilateral and multilateral agreements with the countries in the region and other countries, as well as the membership of Kosovar institutions in international institutions.

5. Education

Licensing of Private Schools

- 5.1 The lack of experience in organising private education in Kosovo was identified as a problem and it was recommended that the Ministry of Education, Science and Technology (MEST) utilise the achievements of developed countries in the development of private education in Kosovo. An indicator of the successful implementation of this recommendation would be new experiences from foreign countries being applied in the private education institutions of Kosovo.
- 5.2 It was recommended that MEST amend the existing Administrative Guideline and pass a law on private education to address the incomplete legal administrative guideline regarding private education.
- 5.3 Insufficient compliance with education laws by the founders of Private Education Institutions (PEI) and Private Stakeholders of High Education (PSOHE) was identified as a problem and the indicator of greater compliance would be that PEI/PSOHE would only be operational after being licensed.
- 5.4 It was recommended that permanent support be given to PEI/PSOHE in legal, professional and financial aspects in the form of one legal clerk at MEST or one representative as a contact point for each school.
- 5.5 A lack of material stimulus for the best institutions was identified as a problem, with the recommendation of creating opportunities for material attenuations and other stimulus. Key institutions were identified as being MEST, as well as donors and associations. Indicators of successful implementation were identified as being if the best PEI/PSOHE were granted attenuations and are stimulated in different ways.
- 5.6 It was recommended that the lack of schools with new professional profiles necessary for Kosovo's society be addressed by treating with priority new profiles of PEI/PSOHE, provided that these new profiles are in compliance with the requirements and needs of the market. This recommendation was to be addressed by the MEST and the Kosovar Agency for Accreditation (KAA).
- 5.7 It was recommended that the media should have a more objective approach regarding private education given that it was identified that some media didn't show enough objectivity while addressing issues related to private education.
- 5.8 The lack of transparency during PEI licensing, it was recommended, should be addressed with the creation of a Temporary National Council for Licensing. This recommendation should be addressed by the MEST, SBASHK and the Legal Office of the Prime Minister.

Life-Long Learning

- 5.9 The lack of a national life-long learning strategy was identified as a problem and it was recommended that a common national strategy for life-long learning be designed by consensus of all relevant stakeholders. These relevant stakeholders were identified as being the MEST, Ministry of Labour and Public Welfare (MLPW), Ministry of Culture, Youth, Sports and Non-Residential Issues (MCYSRE), the Economic Chamber of Kosovo, BSPK and KEC.
- 5.10 The lack of complementing between formal, non-formal and informal learning was identified as a problem and equal access to formal, non-formal and informal learning was recommended, with the indicator of success being better employability.
- 5.11 It was recommended that conditions for quality infrastructure be created as a support mechanism for the creation of a 'learning society' as it was noted that there was an inexistence of the supportive infrastructure for development of permanent education. Indicators of success include the creation of education corporations; the creation of institutions for career advising/counselling; the elaboration of skill-standardisation and the creation of a national skills board; and the creation of a qualification authority. The institutions that were identified to have the mandate to enact such recommendations are MEST; MLPW; MCYSNRI; and MTI.
- 5.12 A lack of media support on rising awareness regarding the importance of permanent education was identified as a problem, with the recommendation that a media campaign should be organised to promote permanent education.
- 5.13 It was also recommended that competencies and responsibilities be assigned by the relevant ministries to key stakeholders in the adult learning field to address the lack of clear competencies.
- 5.14 The final issue identified by the expert committee was the inexistence of the common approach for education on democracy and human rights, and it was recommended that projects be initiated by the relevant ministries on democratisation and human rights on the government level. The key indicator of successful implementation of this recommendation would be the creation of an intra-sector body on a government level that would design the strategy regarding learning about democracy and human rights.

6. Returns

- 6.1 It was recommended that PISG show stronger commitment to take responsibilities and a leading role on the returns process by:
- Showing operational efficiency for constitution of Ministry for Minorities and Human Rights, an important factor for stabilisation of the current situation in Kosovo enabling the overall improvement of the position of minority communities, and their perception toward PISG and all related Inter-Ethnic and Human Right Issues in the future.

- Drafting the Strategy for return and integration of displaced persons within and outside Kosovo, operational plan of implementation.
To implement this recommendation it was proposed that the ECMI's role would be to:
- Lobby and raise awareness within PISG officials regarding the importance of having a government long term strategy and operational plan for return and integration of displaced persons within and outside Kosovo.
- Provide support to PISG on the drafting of the Strategy and operational plan through: facilitation, expertise, assist the PISG in the coordination of activities and other ways of support based on the identified needs.

6.2 It was recommended that with respect to promoting sustainable returns, UNMIK/Office of Returns and Communities should provide:

- Stronger support to PISG on constitution of new Ministry for Minorities and Human Rights under the existing PISG structure as well as playing more proactive role in the process of transfer of competences in the issues related to return, inter-ethnic relations and human rights in Kosovo.
- Support and assist PISG structures through building capacity in order to create an efficient and functional structure which would take the leading role in creation of conditions for return and integration of displaced persons within and outside Kosovo.

To implement this recommendation it was proposed that the ECMI's role would be to advocate, lobby and raise awareness on the importance of transfer the competencies to local authorities for the return process, on creation of suitable environment for return and integration of displaced persons within and outside Kosovo.

6.3 It was also recommended that effort should be made to depoliticise the return process by bringing the issue back to the level of human rights rather than being a political issue. To this end it was proposed that the ECMI should, in cooperation with all relevant actors of Kosovo civil society advocate to:

- UNMIK:
 - Depoliticise the return process treating the return as issue a humanitarian issue based on international humanitarian law and human rights standards.
 - Dismantle the parallel structures and use its official channels to prevent the misuse of issues of return for political purposes of Serbian Government.
- PISG:
 - Recognise and respect the right for return and integration of displaced persons to their place of origin as a fundamental right and treat it in accordance with international human rights standards.
 - Prevent politicisation of the returns process by providing equal treatment to all displaced persons regardless of their ethnic background or religion.

