



KOSOVO

The process of returning, the situation of the returned migrants

Fact finding mission

2012.

National Office for the Judiciary

EURÓPAI VISSZATÉRÉSI ALAP



Készült az Európai Unió Európai
Visszatérési Alapjának támogatásával.



Contents

I. Introduction.....	4
1. The aim.....	4
2. The methodology.....	4
3. The general situation in Kosovo.....	7
4. The situation after the the proclamation of independence.....	8
5. Connections of Hungary and Kosovo.....	10
6. Emigration from Kosovo.....	11
II. Economic situation of Kosovo.....	12
1. The corruption.....	12
2. Fight against corruption.....	12
3. Fight against organized crime.....	13
III. The rule of law.....	14
1. The reform of the judiciary.....	16
2. The EULEX police.....	17
3. The situation and role of the civil organizations.....	18
IV. The situation of minorities in Kosovo.....	19
1. The situation of RAE minorites.....	19
2. The education and right for use of mother tounge.....	19
V. Return in the mirror of the statistical data – data from the IOM and UNHCR.....	21
VI. Return from third countries return of internally displaced persons - definitions, cathogories.....	25
1. Internally displaced persons	25
1.1 Internally displaced persons staying within the country	25
2. Refugees.....	25
3. Ministry of Home Affaires – Return Divison.....	26
4. The reintegration	27
5. The Ministries playing a key role in the course of reintegration.....	28
6. Ministry of Community and Return – the readmission of internally displaced persons....	29
7. The institutions at the local level	31
7.1 Mitrovice/Mitrovica.....	31
7.2 Prishtine/Pristina.....	31
7.3 Gjilan/Gnjilane.....	33
8. The Executive Body and the Secretary	35
9. The Reintegration Office (Pristina/Pristine).....	37
10. Co-operation between the competent ministires and the Office	39
11. The legal integration of the returned persons	39
12. The access into health care	40
12.1 The illnesses, which cannot be treated in the territory of Kosovo.....	40
13. The occupation	40
14. The social benefits	41
VII. Summary.....	42



I. Introduction

1. Aims

The aim of the Kosovo Fact Finding Mission is to map the economic, political, legal and human rights situation in Kosovo, and to obtain information about the actual situation of minorities in Kosovo, in particular the members of the RAE (Roma, Ashkali and Egyptian) group. The collection of information covered the security and the human rights situation, as well as the access to public services. In the area of return, the aim was to get informed about the process of return, to explore and analyse the situation of returned migrants, to map the national integration and reintegration system and the sustainability of return, and the collection of relevant statistical data.

2. Methodology

To reach the above aims, in the course of the study trips, we prepared interviews with professionals on the basis of the areas to be examined.

The planned topics of the interviews during the first trip were the following:

1. Mapping the institutional system and the operation of return and reintegration. The institutional system and the operation of the central and local state agencies participating in the project. The categories of returnees, their situation and the practice of the Kosovo authorities towards the returning citizens.
2. Conditions and institutions of inclusion.

3. The sustainability of return, accessibility of integration for the returned citizens.
4. Mapping the process of reintegration.
5. The situation of vulnerable groups in the field of reintegration – in particular the members of the RAE community, women, children, handicapped persons, old people living alone in need of care.
6. Mapping the main areas of reintegration.
7. Legal integration and registration of the returned persons, access to personal documents and official documents.
8. Labour market situation of the returned persons.
9. Social benefits and housing for repatriated persons, their property situation.

The planned topics of the interviews in the second trip in October 2012:

1. Interviews on the general economic, political, legal and human rights situation of the country.
2. Exploring incidents with ethnic background, crime against minorities (criminal statistics, trends)
3. Combating incidents with ethnic motivation, efficiency of the protection by the state, dialogue between ethnic groups.
4. Access to and efficiency of legal remedies available against injuries of rights
5. The role of international and local security agencies
6. Enforcement of rights at state authorities and courts
7. Representation of minorities in local and state agencies
10. Healthcare service, access to services, illnesses without treatment available in Kosovo
11. Education system, interoperability of the Serbian and the Albanian education systems, education situation of the RAE minority members



Mitrovica – northern and southern side of the Ibar river

3. General situation in Kosovo

Kosovo and Metohija, the western part of Kosovo, is called the cradle of Serbia as the independent Serbian Orthodox Church was born here, and its centre can be found here even today. One of the premodern theories about the present Serbian State links also the birth of the Serbian nationalism to Kosovo. It was the last place of the medieval Serbian State terminated due to the expansion of the Turkish Empire. Between the battle of Kosovopolje (1389) and 1912 there was no such state as Kosovo and Serbia, and the Serbs survived the time of Turkish occupation in their church. It was the birthplace of the ideology of the legendary „Nemanja”, the so called Great-Serbia, and according to the legend this state would be relocated into Heaven for 500 years.

The members of the Parliament of Kosovo and the President of Kosovo adopted the declaration of independence on 17 February 2008. By now Kosovo is acknowledged by 91 countries, and according to the opinion of the International Tribunal of the Hague, the unilateral declaration of the independence of Kosovo is not a violation of the international law. Serbia has not accepted the independence of Kosovo until now.

The ethnic composition rate of Serbs and Albanians has changed during the centuries: today there are only 80-100 thousand Serbs out of the 2.8 million inhabitants. Kosovo has become almost ethnically one-coloured territory with Albanian population. The ethnic composition of Kosovo: Albanian 90- 92%, Serb 5-6%, Other 3-4% (Bosnian, Gorani, Turkish, and three kinds of Roma groups: Roma, Egyptian, Ashkali).

Due to the immigration of Albanians, the emigration of other nationalities and the high birth-rate the Albanian population of the province grew steadily. Large part of the population has become a refugee during the war, but most of the Albanians quickly returned to their homes. Due to the conflict as much as 200 non-Albanians (mainly Serbs and Roma) were forced to leave the province to escape from the returning wave of violence.

Resolution No. 1244 of the UN's Security Council (June 1999) defined the principles of the operation of the protectorate. Albanians of course claim independence, which cannot be accepted by Serbia. According to the official documents, Kosovo is a multinational territory controlled by the soldiers of the KFOR.

The resolution contains two important tasks: combating organised crime, and the establishment and securing the rule of law. As mentioned above, the Albania majority would only accept independence, which cannot be accepted by the Serbs. Several solutions were discussed during the past six years, but – as well known – no proposal has been accepted. Some European states could accept the proposed independence, or at least a solution of “less than independence, but more than autonomy”, however, this possibility is hindered by the constant violent events. The KFOR endeavours to open up the Serbian enclave located in the area, where used to live as much as 40 thousand Serbs before, but today their share is only 1%. The Serbs form a homogeneous unit

north of Kosovo, but in the south they form several smaller enclaves. In the year 2005 there were a total of 120 thousands Serbs living in Kosovo, 140 thousand of them in the north and 80 thousand dispersed in the south.

In the Serbian enclave the currency is the Dinar and not the Euro. In some areas (e.g. Lipljan) the Albanian extremists perform violent ethnic cleansings, while in other areas the situation is relatively calmer. Serbia—Albanian clashes and the related actions of the Serbian authorities do not show a single picture. The Serbian Orthodox Church plays a very important role in the life of the territory as they declare themselves as the “leaders of the people”, at the same time accusing the western nations because of not accepting the justification of the operation of the institutions of the Kosovo Orthodox Church.



The government is responsible towards the UN's peacekeeping mission in Kosovo (UNMIK). According to the treaty of Kumanovo and the resolution No. 1244 of the UN's Security Council ending the Kosovo war, the peace is maintained by KFOR (Kosovo Force) lead by NATO. The has already established and it supervises the legislative and executive bodies, the provisional government and the provisional office of the president of the republic. Maintaining public safety, justice and foreign affairs are also supervised by UNMIK. The Parliament of Kosovo was set up in the year 2001, then in 2004.

In March 2002 Ibrahim Rugova was elected as the president of the Parliament and the government, and the mayor of Prishtina.

With the consent of UNMIK, the legislation introduced a constitutional system, a customs code, and two criminal codes. UNMIK issued travel documents that can be used instead of passports in the accepting countries. They also introduced ID cards and car vignettes that are only valid where they are accepted. The constitutional system

adopted by the Kosovo Parliament reinforced the principle of all minorities having a representation in the Parliament. Out of the 120 mandates, 10 are reserved for the Serbian minority, the other 10 for the non-Albanian minorities and the members for the remaining 100 seats are elected directly.

4. The situation after the declaration of independence

The balance of the period after the declaration of independence is controversial. Concerning the institutional sphere of state-building, the operation of the constitutional system, the development of public administration, the judiciary, etc. are in general satisfactory. The main problems are the poor condition of the economy, corruption and the treatment of minorities. In the areas where Serbs live, there are still parallel structures that leave their mark on every aspect of life and development.

In fragile relation between Serbia and Kosovo, a significant achievement was the **direct dialogue started on 8 March 2011**, as there was no such dialogue since the **declaration of independence**. The European Union acted as a mediator in this process. Despite of the developments, the situation of the northern territories has not been settled. The Serbs living in Northern Kosovo do not accept the Albanian authorities of Prishtina and they protest against expanding their authority to Northern Kosovo.

On 25 July 2011 a crisis broke out in Northern Kosovo when the special forces of the Kosovo Police attempted to take over two border crossing points to Serbia controlled before by the peacekeeping forces of NATO.

However, Serbian gunmen opened shooting on the convoys heading towards the border crossing points, killing one policeman and injuring six. Two days later Serbian youngsters attacked a border crossing point and set it on fire.

Because of the conflict, Serbia had requested convening the UN's Security Council, but it was actually not convened as the United States and the UK opposed it. The crisis only calmed down on 12 August when control over the border crossing points was returned to the Serbs. The crisis was higher again when on 16 September the Kosovo authorities declared their intention to introduce customs control at the debated territory. At the end of 2011 they built road blocks hindering the movement of KFOR and the Albanian police. Boris Tadic, the Serbian head of state called upon the Serbs in Northern Kosovo to remove the road block as they jeopardise the possibility of a peaceful solution, but at the same time he also called upon the KFOR headquarters not to attempt any more to remove the road blocks, and start a consultation instead with the heads of the Serbian villages.

In January 2012, there were new fights in Northern Kosovo, this time between an Albanian nationalist organisation and the special forces of the Kosovo Police.



The group called the “Movement of Self-determination” called for a demonstration at the Merdare border crossing point, to prevent the crossing of lorries filled with goods from Serbia. The police had surrounded the border crossing point against the demonstrators, who then attacked the policemen with sticks and stones.

The tension was increased by the fact that **there were presidential, parliamentary and local government elections in Serbia on 6 May 2012, and the status of Kosovo was one of the campaign issues.** Serbia wanted to hold the elections also in Kosovo as it does not acknowledge of the territory. Also the Serbs in Kosovo wanted to vote in the elections, exercising the right to vote as Serbian citizens. However, by no surprise, Pristhina considered the Serbian intentions as a violation of the sovereignty of Kosovo and protested against it sharply.

Ban Ki Mun filed a document on 14 May to the Security Council reporting about the increased number of crimes committed against minorities in Kosovo, as compared to the previous year. The secretary general warns about the slowdown of the process of returning people to their homes: only 136 persons returned and it is by 48% less than in the same period of the previous year. The Pristhina government is still very much against the protection of the Serbian cultural and religious heritage in Kosovo, and it does not fulfil its obligations undertaken in this respect. Indeed, according to a military official who returned recently from the international forces in Kosovo, the situation is even worse that described by the UN secretary general. There is a high tension in Kosovo, where the Serbs prepared for the elections held on 6 May, and the Albanians were ready to use weapons to prevent it.

The Serbs living in the area are afraid of the alleged raids by a mysterious group of Albanian fighters, who held demonstrations near the Serbs’ districts in the weeks before the elections. Unfortunately raids by armed civilians are not uncommon in the

area and there have been violent attacks on both sides. Serbian irregular forces lead by Captain Arkan committed several ethnic based murders in the past decade throughout Kosovo, while on the Albanian side, the UCK is still an uncontrollable irregular guerrilla army based on criminal background, and its members are determined to hate and to persecute Serbs.

For the moment, there are verbal clashes between Kosovo and Serbia. Belgrade complains about provocations and injuries of rights, and the two countries are even ready to use violence. Finally OSCE undertook to implement the Serbian elections in Kosovo, resulting in the victory of the nationalists. Finally, due to the international pressure, the Serbs decided not to hold local government elections. Although KFOR speaks always about peace, it is about to strengthen its forces in the area, expecting the deterioration of the situation. Within the NATO forces Germany sent 550 soldiers, while Austria sent 130 soldiers to Kosovo, where the number of international troops is 5800 .

5. Connections of Hungary and Kosovo

Hungary was one of the first countries that acknowledged the independence of Kosovo, then it established diplomatic links with Kosovo. In the summer of 2008 we opened an embassy in Pristina and by October 2009 Kosovo will also open an embassy in Budapest. The Hungarian consul's office started its operation in March 2009.

This office also deals with issuing visas. It is a pioneering role, as most of the European countries are reluctant to issue visas. 1500-2000 visa applications are expected annually. However, due to the limited acknowledgement of Kosovo and the European economic crisis, this operation is not the normal one. Unemployment in Kosovo is around 50 %, inducing people to start looking for a job abroad. Most of them does not want to say in Hungary, because the linguistic challenges deter them from settling down here. 85% of the touristic visa applications are rejected, filtering out those who have no financial means to stay within the Schengen borders. Most of the Kosovo people who want to live and settle down in Hungary are bakers. They have opened and are still opening several bakeries all over Hungary, and they can justify the reason of their stay. 60% of such applicants received visa and the residence permit.

However, the inviting company sometimes only exists on paper. These cases can be discovered easily. There are a lot of fake documents in circulation. They used wash out from the document the stamp of other countries rejecting the visa application. As it is easy to find the manipulation, people started to lose their passports. Some Kosovo citizens have a passport.

In addition to the Kosovo passport, they can have a new type of Serbian passport as well, issued in Belgrade. The travelling documents issued by UNMIK are valid until June 2010 and the old passports are being changed to the new Kosovo-type. A lot of birth certificates were lost in the war. Therefore, and because of the Serbian-Albanian transcription variations of the names, one can get a new identity easily. Some persons thus have double or triple identities and in a given case they use the

most favourable document. Unfortunately the consular information system only contains data of the persons on the SIS prohibition list.

There is no identification system in operation that could show the person's criminal record on scanning the passport. However, fortunately, very few people ask for asylum from those who arrive to Hungary with a visa. Most of the asylum seekers arrive illegally. Some travel agencies guarantee a Hungarian visa for 1200 Euros. Some families even take out mortgage loans to get a visa this way. But then they will have their visa application rejected, as the consulate does not cooperate with fraudulent "travelling agencies".

Some of the migrants return to Kosovo. In the local family system, the two oldest sons have to go abroad to earn money for the whole family. The other family members do not leave the country permanently. Data of the visa applicants are recorded in the visa registry allowing the detection of misuses on the long run. Rejection of the visa application does not need a reasoning. Rejection can be based on the lack of filing the necessary certificates, or the lack of financial cover. If the real cause of the travel is not known by the consul, he may reject the application due to the lack of financial cover although in other cases he may consider the same amount appropriate. The cause of rejection is communicated to the applicant and it is recorded in the registry. After rejection a new application can only be filed after one year.

In February the local population held a referendum in four Serbian villages in Northern Kosovo on accepting or not the Republic of Kosovo. Although the referendum was not supported either by Kosovo, the UN, or Belgrade, thus it had no mandatory force, 99% of the voters said no. In May the KFOR started again removing the Serbs' road blocks. It induced a clash with local Serbs on 1 June by the village Rudare. Two German soldiers and 4-5 Serbs were injured in the conflict.

6. Emigration from Kosovo

The rate of emigration from Kosovo is high, and its causes are diverse.

In the decade before the war of 1998/99 mainly Albanians and other ethnic minority members emigrated from Kosovo due to political reasons (mainly in the 90's), and for economic or social reasons. At the time of the last war hundreds of thousands were forced to leave Kosovo, they first fled to Albania and Macedonia.

Most of them returned after a while. Many found refuge in Western Europe, including members of the Bosnian, RAE and Gorani minority members. Most of the people who left Kosovo in the 90's received refugee status and additional protection. Those who did not receive refugee status or whose provisional protection was ended or withdrawn, had to leave the receiving country. Their return can be either voluntary or forced.

Most of the Kosovans living abroad do not have a fixed legal status, some of them are rejected asylum seekers.

There were returns to Kosovo prior to the war of 1999, too, but the numbers of repatriations increased after the war and this trend continues.

II. The economic situation of Kosovo

According to official statistics, unemployment in Kosovo is higher than 40%. It is higher than in any other country of the region and also much higher than the EU's average. These data have to be taken into account with due care: the informal economy is very significant in Kosovo and therefore the statistic figures are lower than the real ones. Unemployment is higher for women, and a lot of young people are affected. As much as 30000 young people enter the labour market in each year. The present growth of the economy cannot absorb this amount of workforce. Poverty is a serious threat: 20% of the population lives on less than one euro a day. The economy is very much dependent on money transfers from abroad and on aids. The economy of Kosovo suffers from uncertainties after the war, the broken commercial links, and the deficiencies of the infrastructure investments.

After the year 2000 the growth of the economy was a two digits figure due to the need for urgent investments, and the reconstruction works with international support.

However, this rate was not sustainable due to the high commercial deficit and the lack of direct foreign investments. Since 2007 the rate of foreign direct investments fell from 19% of the GDP to 7.1%. The informal sector is strong and the collection of taxes is weak.

Due to the limited international integration of Kosovo, the global financial and economic crisis had a limited impact on the Kosovan economy, with the main negative effects in the reduction of transfers, exports and direct foreign investments.

The economy of Kosovo is based on the service sector (68 %), the share of industry is 20 % and the share of agriculture is 12 %. Most of the Kosovans live in the countryside. Agricultural activities are dispersed, most of the farms are inefficient and only produce for own consumption. There is no active and representative, strong civil society engaged in agricultural and rural developments.

1. Corruption

Corruption is still widespread, having a significant effect on the growth prospects of the country. In the corruption index of Transparency International (Corruption Perceptions Index) Kosovo is on the 110th place as one of the most corrupt countries in Europe.

The government has no national strategy of economic development; it should be elaborated in a consultation with the social partners and other stakeholders of the civil society.

2. Fight against corruption

Though the legal framework has been largely completed during 2011, a number of key pieces of legislation is in the preparation phase and expected to be adopted soon. Nevertheless, as primary legislation is being finalised focus should now shift towards adopting implementing legislation and the effective implementation of anti-corruption policies. On the basis of the evaluation of the past strategy, new strategy and action plan 2012 - 2016 on fight against corruption was adopted on 11 January 2012. Anti

Corruption Agency (ACA) has continued to implement basic legislation in the area of fight against corruption.

Customs, police and Ministry of Justice have continued to advance their internal structures and procedures in area of fight against corruption. New Law on Public Procurement entered into the force on 5 October, after which the majority of secondary legislation has been adopted. The public procurement regulatory commission (PPRC) has further strengthened its institutional capacities. Notably horizontal institutional coordination remains a challenge between key the actors in particular between ACA, police, prosecution and judiciary. A number of MoUs have been signed; however practical benefits and results remain to be seen. Institutions need to make the best use of the existing anti-corruption mechanism before embarking on the establishment of new structures.

Follow-up actions prescribed by the Dialouge concerning the Justice, Freedom and Security Stabilization Accession Procedure

- a) Adopt the Law on Confiscation of Illegally Obtained Assets in line with the EU acquis (June 2012);
- b) Adopt the Law on the amendment of Law No. 03/L-191 on Execution of Criminal Sanctions (September 2012);
- c) Amendment of the Criminal Procedure Code No. 2003/26 (September 2012);
- d) Take measures to implement the anti-corruption strategy and action plan 2012 – 2016 envisaging a first review after two years;
- e) Fully implement the amended law on financing of political parties;
- f) Take measures to improve institutional – notably horizontal - cooperation and exchange of information;
- g) Anti-corruption Agency to analyse and publish data on anti-corruption cases in order to foster public awareness and tackle the origins of the phenomenon;
- h) Correctional Service of Kosovo to adopt AI in the area of fight against corruption;
- i) PPRC to adopt 14 remaining secondary legislation (March 2012);
- j) Organise specialized trainings for prosecutors dealing with anti-corruption.

3. Fight against organised crime

Kosovo is one of the main routes of drug trafficking in Europe. In this activity -- surprsingly – Albanian maffias cooperate with the Serbs. The Albanian maffia is based on family ties and clans, in order to guarantee the cohesion of the groups.

In regard to fight against organized crime the legal and strategic framework remains to be completed; for some laws need to be amended such as the Law on Management of Confiscated or Sequestered Assets and the Law on Prevention of Money Laundering and Financing of Terrorism in line with the EU acquis; whereas most strategies are under revision and remain to be adopted within 2012. Capacities of law enforcement agencies have increased substantially, a Task Force against Organized Crime is planned to be established within the Special Prosecution Office which will be merged with the existing Task Force against Corruption Challenges remain in further strengthening and further advancing the coordination and cooperation of law enforcement agencies in order to improve the track record on fight against organized

crime; including confiscation of illegally obtained assets. In this regard Special Prosecution Office lacks counterparts in courts in dealing with cases on organized crime. Remaining challenge is combating of money laundering which must also be addressed in the Criminal Code.

III. Rule of Law

Dr. Hajnalka Kárpáti EULEX judge and dr. Judit Tátrai prosecutor informed us about the EULEX mission of the EU established in the field of policing and justice, for the purpose of strengthening the rule of law. All Member States, with the exception of Cyprus, take part in the mission, plus Croatia, Turkey, Switzerland, Norway, Canada and the USA. The organisation employs almost 3000 persons (1700 international, 1250 local), as the largest “institution” of the EU outside Brussels.

It provides consultation and support for the local policing and justice units and it also supervises their activities („mentor, monitor, advise”), on the other hand, in some priority issues EULEX is in charge of acting, for example in war crimes and corruption cases. EULEX started its operation in February 2008, it is a neutral status party focusing on technical issues.

Although the mission has a separate agreement on cooperation with the Serbian authorities, and Serbia accepts its operation, the neutral status renders the daily work difficult.

Despite of the agreement with Serbia, EULEX presence in the north is rather symbolic, while in the south the operation of the organisation is often seem to reach the limits of neutrality. The procedures against ethnic Albanian war criminals deteriorate the image and the authenticity of EULEX, and the organisation works in hard conditions.

There are 58 Hungarians in the EULEX mission (judges, prosecutors, public administration experts, policemen, customs officials, penitentiary experts).

EULEX is also in charge of providing prosecution and jurisdiction directly, i.e. trialing cases. It is the principle of the mission that the majority of the workload should be performed by the local bodies with the support of the mission and not by the mission itself. Therefore, it is clearly defined, what the tasks are to be performed directly by the mission and what should be done by local judges and prosecutors.

EULEX judges work on five different local courts. They apply the national law of Kosovo adopted by the Kosovan Parliament. Only the cases related to war crimes, organised crime and money laundering are trialed by EULEX prosecutors and judges. In civil cases an EULEX judge trials the case if issues related to minorities are affected. The EULEX prosecutors office started operation in December 2009 with a competency covering investigation and prosecution.

In addition to providing and supporting judicial activities, the judicial unit also supports the operation of the local legislation. There is a specific EULEX department helping the legislation process. There are EULEX experts in charge of the functioning of relations under international law and there is also a special unit dealing with the identification of war victims' corps.

The third duty of the judicial unit is to support the setting up of local public administration and supervising its functioning.

The EULEX judges apply the local law and not the international law, and it is a challenge for the judges coming from different countries.

The aim is to establish the “rule of law”, in close cooperation with local colleagues. The most sensitive issue is to find the applicable law and to reach an agreement with the local judges in matters of interpreting the law.

The first international judge was posted in Mitrovica, in a local judicial panel where he had been usually voted against by the local judges. Then, in a new system, two international judges are delegated to the courts where they trial the cases in panels of three judges. The trialing of serious international crimes has been started in such panels. In the year 2001, a lot of judges, including Hungarians, were sent to Kosovo. In 2003 the elaboration of the Kosovan criminal and criminal procedure codes has begun, with the participation of the international judges. The new procedural code is a mix of the Anglo-Saxon and the continental systems. Another disadvantage is that the accused persons are only heard after taking all the evidence. Trials run with bilingual interpretation, which makes it a little bit slow.

In North Kosovo people fear of the EULEX judiciary because they hold that it favours the Albanians, while in the parts of Kosovo with Albanian majority they accuse it with favouring Serbs. This makes the acceptance of EULEX judges difficult. Another problem is that in Mitrovica the local Serbian judges are paid by the Serbian state and they earn three times as much as the Albanians.

Serbs do not accept the stamp “Republic of Kosovo” and they do not implement judgements under such a stamp. People feel that there is no administration of justice. Although it is not in force any more, in the judgements they still refer to the criminal laws of the province of Kosovo, as the Serbs only accept the laws adopted under the UN regime.

Trials are held in English and all relevant documents are to be translated to English.



To become a local judge, one should be able to fill out appropriately a test of professional eligibility. Judges are appointed by the local ministry, but with respect to judges in Mitrovca there are negotiations under way with the Serbian government to appoint judges by the EULEX mission.

International judges have to fill out an application form and if they are eligible, they have to pass an interview. First they become rapporteur judges, but they are soon appointed as panel presidents. The structure of the judgements is similar to the Hungarian ones, but in the EULEX judgements the facts of the case form part of the holdings of the decision.

1. The reform of the judiciary

In the area of judicial reform, considerable progress has been achieved in regard to adoption of key legislation, whilst onwards focus will be on adopting implementing legislation and on effective implementation/enforcement of the legislation. The new Law on Courts will substantially reform the judicial system; in this direction the Kosovo Judicial Council has formed a working group that has drafted the detailed Action Plan for the implementation of this law.

Judges are appointed by the President of the Republic of Kosovo on the proposal of the Kosovo Judicial Council (KJC) (Article 84 para. (16) of the Constitution of the Republic of Kosovo).

The President of the Republic appoints the candidate to the judicial post without reasoning, but if he rejects the candidate then he has to provide a written reasoning within 60 days (Article 18 para. (2) of the Act on the Kosovo Judicial Council). KJC

has to provide a reasoning with all the proposed candidates. The President of the Republic and the KJC are independent from the government: KJC has 13 members, 5 of them are judges elected by the Judicial Council and 8 are appointed by the Parliament.

Transfer of judges is regulated by the Act on KJC as follows: in exceptional cases a judge may be transferred – for a maximum of 30 days – on the basis of the decision of the president of KJC. Posting (relocation) is possible for 6 months on the basis of the KJC's decision, on the recommendation of the court's president. Relocation with final force requires the joint agreement and request of the judge and KJC.

The Kosovo Association of Judges is a non-governmental authority for active judges. The real aim of this organisation is to support and reinforce the legal bases of the courts' structure, in order to guarantee the independence of the courts and to stand for the rights of judges.

In the Republic of Kosovo, according to the present structure - Supreme Court of Kosovo, District Courts, Town Courts and smaller units - the court executives are the court presidents.

The president of the Supreme Court of Kosovo is appointed by the President of the Republic. The leaders of other courts are appointed by the KJC. (Article 103 para. (4) of the Constitution of the Republic of Kosovo, and Section 22 para. 1.7 of the Act on KJC).

In 2011, judges of the Metropolitan Court of Kosovo had on average 115 cases. On other courts the workload of judges is lower: in 2011 it was on average 21 cases, which is by 5 cases less than in the previous year.

Decreasing the backlog of cases is still a challenge for local courts. Another problem is financing the proper operation of the courts, the reform of misdemeanour courts and the reorganisation of prosecutors' offices.

In this regard, furthermore, special task is the transfer of cases from the basic prosecutor offices into the district prosecutor offices. The examination procedure shall be finalised before the occupation, in particular, in the course of the filling in the available empty places for the nationalities. Additional training programs shall be initiated for the judges and prosecutors, additionally for the supportive personnel.

Special attention shall be paid to the training of judges in the field of fiscus. The independence of courts shall be ensured, in this regards, the initiative is welcomed, which concerns the process, that the nomination of judges shall be pursued by the judiciary.

2. EULEX police

The headcounts of the EULEX police are 1.400 subjects.

The aim is to make the Kosovan police, prosecution and judiciary independently pick up the fight against organised crime. In the course of EULEX operating to date the

Kosovan police has been developed a lot. They are the most accepted authority in the country. The residents trust more the police, than the prosecutors.

The aims of the E.U. are, in connection with the police, the sustainability (financially, Professionally and structurally), the accountability (transparency regarding assets), the multi-nationality (300 Serbian policemen returned, their reintegration is under way into the commanding chain), the application of the best international standards, furthermore, the dispose of the incorrect political interference into the work of the police. The Brussel leadership controls it every six months, what kind of results could have been achieved. The directorate controls the non-individual cases, on the contrary, it continues to answer general control questions in the electronic control system regarding the situation in Kosovo. This control system is rather suitable for institution building. The defence of public order, the criminal matters, the services provided in criminal matters, the administration, the border guards and the internal division belongs to the directorate.

3. The present situation and role of the civil organisations

According to the estimations the number of members of the trade unions 60.000 in total. In the public sector the trade unions are rather popular: around 90 % of the public servants belong to any trade union. At present, since the law permits that trade unions can be established in the private sector as well, its formation at the corporate level is the most important task of the trade unions in the subsequent period of time. Based on surveys the 5.09 % of the population makes the declaration to be the member of any trade union. The Labour Law, entered into force in December 2010, was considered in Kosovo as one of the most significant law of all times. The draft of the law has been discussed many occasions mainly with the organisations of employers and trade unions, and the proper committee of the Parliament and the civil social organisations were involved as well. The Law has been accepted on the last plenary session of the last day of the third legislature period unanimously, on the contrary, that the Government opposed it many occasions due to the involving high budget burdens. The trade unions threatened with the boycott of the elections in the case of not accepting the Law.

In December 2011 the European Commission – without prejudice of the Member States' standpoints in connection with the status of the country – made endeavours to settle a conclusion regarding the participation of Kosovo in the programmes of the European Union. In this regard, the European Commission and as well as the Kosovan Government shall ensure that the civil society takes part in the drafting and implementation of the particular projects.

The problems in connection with the international recognition of Kosovo have direct impact on the international affairs of the Kosovan civil society. Several international and European networks do not accept Kosovan members. In spite of the obstacles, the Kosovan civil society has representation in various regional and European platforms and forums, and it is present at the international arena more visible, than any other sector of the country.

The participation of the Kosovan civil organisations should be supported in the regional programmes.

The 2008 Constitution protects freedoms of expression and the press, with exceptions for speech that provokes ethnic hostility. Civil society considers itself generally free to engage in criticism of the government, with few CSOs reporting illegitimate restrictions or attack by local or central government. Nevertheless, there are reports of media close to the government being used against civil society initiatives and individuals who criticise the government. Although a wide variety of print and electronic media operate in Kosovo, investigative journalism is rare due to fear of retribution. The media's financial dependence on government advertisement calls into question its editorial independence.

IV. The situation of minorities in Kosovo

1. The situation of RAE minorities

The members of the Roma, Ashkali and Egyptian community subsequently its return to Kosovo can face exclusion and discrimination in the field of education, social defence, healthy care and residence. Furthermore, the security of these minorities is not ensured and the acts of ethnic nature committed against them are continued without any echoes.

The members of the Roma, Ashkali and Egyptian community can continuously face discrimination.

2. The education, the right for the use of a person's main language

In the case of the returning families the education is significant.

Although the Serbian and Albanian languages are 'equal' in Kosovo, due to the simultaneously functioning education systems, the decreasing Serbian minority is mainly out of the Kosovan political and social life, it can practice its linguistic rights mainly there, where it constitutes a majority, since neither the Albanian majority nor the Serbians are not obliged to learn eachothers' languages.

In Kosovo nine minorities are recognised officially: Serbian, Turkish, Bosnian, Roma, Ashkali, Egyptian, Gorani, Montenegrin and Croatian. According to the outcome of the census in 2011 the 92% of the Kosovan inhabitants are Albanians, the 5.4% are Serbians, the rest compounds of the other eight minorities. The mother tongue of the Ashkali and the Egyptian ethnic minorities is Albanian as well.

As long as the county belonged to Yugoslavia, in the meaning of the 1974 Constitution the education from the preschool till the academia used to be ensured in three languages for those, who lived there: in Serbian, Albanian and Turkish languages. (In the areas of Turkish inhabitants the also Turkish used to be an official language.)

Though, from 1990 in the era of Milosevich the state forced the dominance of the Serbian language on the county with Albanian majority, the academic education went on exclusively in Serbian language.

From 1999 the Albanian and Serbian languages have become equal, both of them are state languages. Besides, several minority languages are regionally acknowledged as well, for instance the Turkish. The generous minority rights, which are safeguarded by the Act on Language of 2006 and as well as the Constitution of 2008, prevail less in practice. Despite of the special status of the minority languages the Albanian language is the obviously dominant language. The education of the Serbian and Albanian languages is ensured by two totally different institutional systems. The Serbian schools are under the surveillance of the Serbian Ministry of Education, the education in the languages of the Albanian and other minorities belongs to the Kosovan ministry. Theoretically, all others, in practice, the schools of its own are ensured only for the members of the Turkish and Bosnian minorities from the preschool till the general examination (in sum 50-60 Turkish and Bosnian school operating in Kosovo).

The education of Roman language and history is functioning within a pilot programme in the official schedule of subjects so far. Despite the attempts, the Serbian schools could not be successfully integrated into the Kosovan education institutional system so far. However, the most striking is, that the Serbian and Albanian children are obliged to learn – and this applies to the other minorities as well – only one official language in the school. Two societies are created completely in parallel this way, which are unable to communicate; the double language occurs less often.

However, those students, who do not belong to the Serbian minorities, suffer drawback compared to their Albanian fellows, since they must learn for the Kosovan general examination either from course books of low quality translations or books imported from their mother country, differing from the subject schedule. If they learn in the Kosovan system, though in mother tongue class, are not entitled to choose the Serbian language, in order to learn it, as the official language, two hours weekly. They are entitled only to choose the Albanian language, however, also this has disadvantages: there are not any trained teachers and language books in order to acquire the language of the majority properly. Therefore, when they enter into the labour market, are unable to find employment, and are forced to immigrate. It is supposed through the existence of the two official languages, among others, – in theory –, that official documents can be requested in Serbian, just as well in Albanian languages, any official case management is functioning in both languages, even at the courts. At request interpretation can be asked for theoretically into the other language in the Kosovan institutions. Though, generally, the application of this faces practical difficulties. In the everyday life, on public property, in the street anybody theoretically can freely speak on his mother tongue. This prevails, when the person concerned stands in such an area, where he/she is among 'his/her own', where the majority is compound of his/her ethnicity. The Kosovan minority communities live in general geographically separated areas, and they rarely enter into interaction with persons belonging to other groups during their everyday life. The picture illustrates well the Serbian and Albanian separation in Mitrovica at the two side of the Ibar river.

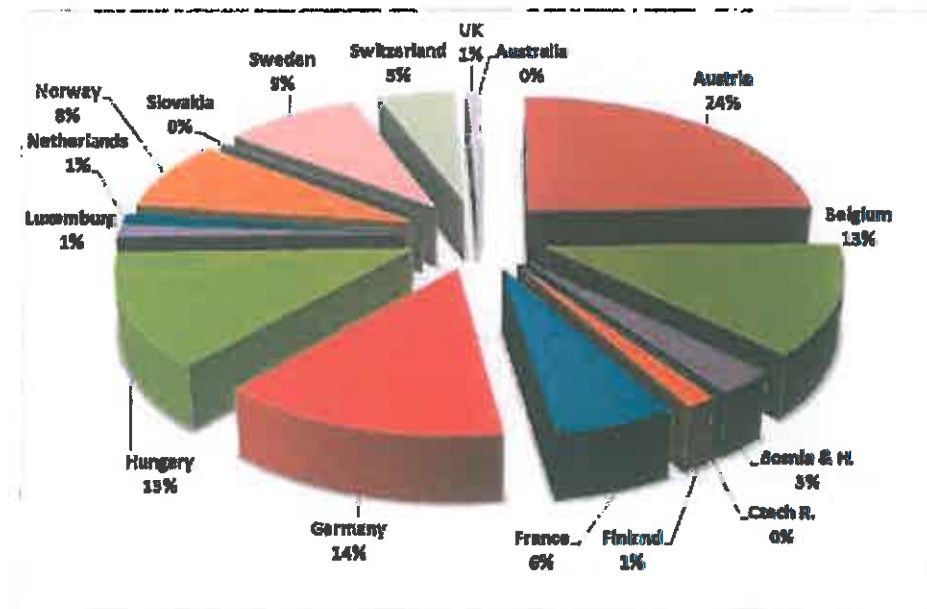


V. Return in the mirror of the statistical data – data from the IOM and UNHCR

According to statistics every year 5 thousand human beings in general are subject to measurments to expel them to Kosovo. Previously, the reintegration of the returned persons used to be subject to the task of the UNMIK, the UNHCR and the IOM.

We pursued discussions with Mr. Jorge Baca Vaughan, the Head of Mission of the International Organization for Migration (IOM) Kosovan Office and his working fellows, who reported for the International Organization for Migration (IOM) about the method of voluntary return.

126 countries have joined this organisation in order to realize the supported equitable return. The service of peace and the prevention of conflicts as well are among its aims in Kosovo. In this area the IOM has started its activity in 1999, and rans 4 centres at present. 210.400 pesrons were subject to support in the course of return till the end of the year 2011. In the recent years there are in general yearly 1200-1500 returning persons, mainly from Western countries. According to the date published by the International Organization for Migration the megoszlás per country of the voluntary returns supported by the IOM in 2010 the returns were broken down as follows:



Austria 444 persons, Germany 315 persons, Hungary 309 persons, Belgium 237 persons, Sweden 236 persons, Norway 197 persons, Switzerland 140 persons, France 111 persons, Bosnia-Herzegovina 81 persons, Luxembourg 51 persons, Finland 23 persons, United Kingdom 22 persons, The Netherlands 19 persons, Czech Republic 10 persons, Slovakia 8 persons, Australia 1 persons, in total 2204 persons.

The majority is rejected asylum seeker, the others receive temporary defence, or are citizens, who possess expired residence permit. Every country concerned has a rapporteur, who processes the needs of the country concerned, send it to the IOM centre, from where the case lands in the Kosovan centre in order to manage the travelling.

The IOM co-operates with the delegations and the Kosovan authorities (including the Employment Office in the course of the travelling. The returnees receive a return document for one occasion, additionally guidance on the employment possibilities at the departure airport. When they return, they might receive financial support to cover their travelling costs to the extent that they reach their home. They receive financial support for participation of courses and for the participation of occupation as well. They receive counselling concerning the possibilities of employment and the methods to get employment. They are sent into such centres, where the job seekers are directed further, and trainings are offered for them. There are also supports for the rebuilding of homes, the schooling of children and setting up private undertakings. Important programme of the IOM is to ensure the services supporting the migrants.

It supports the legal emigration, in the interest of this, it studies the health system of the returning countries, additionally, it grants social and travel support for the emigration. Primary countries aiming the employment, study or family reunification are Germany, USA, Switzerland and Canada. The outflow of migrants into the host country is determined by the demand of employment of the developed countries, the level of the expected income, the social benefits for family reunification and other facilitations in relations to migration. At present, in Kosovo the migration policy has shortcomings, because the rate of unemployment is nearly 50 %, and the level of

migration is too high. The support is granted for the returnees from the donation granted for the IOM.



Already at the airport the returnees receive all the information in the way of useful information bulletin and the working fellows of the Office providing help there.

Data concerning the return – from the statistical survey of the UNHCR -
[http://www.internaldisplacement.org/8025708F004CE90B/%28httpDocuments%29/BB679BDE71F17429C125785C005FEC76/\\$file/Statistical+overview+February+11.pdf](http://www.internaldisplacement.org/8025708F004CE90B/%28httpDocuments%29/BB679BDE71F17429C125785C005FEC76/$file/Statistical+overview+February+11.pdf)

The ethnic distribution of the returned persons in the years of 2010-2011:

Ethnic distribution of the returnees (%)		
	2010	2011
Albanian	67.5	59
RAE	18	12
Serbian	12	13
Bosnian	2.3	16
Turkish	0.2	0

Distribution of the returnees based on local authorities (persons)		
	2010	2011
Pristina	551	60
Gjilan	257	24
Prizren	89	17

Pec	151	9
Mitrovica	155	12

The return data of minorities regionally, January 2000 – January 2001

B.2	Voluntary minority return regionally January 2000 – January 2001							
	Return district	Serbia	Montenegro	Macedonia	Bosnia-Hercegovina	Within Kosovo	Third country	Total
	Mitrovicë/a	923	83	6	10	1393	23	2438
	Prizren	2131	241	88	88	92	462	3102
	Gjilan/Gnjila	2871	11	409	4	549	20	3864
	Pejë/Pec	2642	2423	18	173	135	258	5649
	Pristinë/a	4618	310	458	8	1688	12	7094
	Total	13185	3068	979	283	3857	775	22147

The return of minorities by ethnics, Data in January 2000 – January 2001

B.3	Voluntary minority return by ethnics January 2000 – January 2001							
	Ethnic	Serbia	Montenegro	Macedonia	Bosnia-Hercegovina	Within Kosovo	Third country	Total
	Serbian	8600	142	19	7	524	22	9314
	Albanian	1	0	0	0	918	0	919
	Roma	1382	569	273	33	809	75	3141
	Askhalian and Egyptian	1772	1596	656	86	1562	239	5911
	Bosnian	453	719	17	130	22	300	1641
	Goran	975	41	14	27	21	139	1217
	Turkish	0	0	0	0	1	0	1
	Croatian	1	0	0	0	0	0	1
	Montenegro	1	1	0	0	0	0	2
	Total	13185	3068	979	283	3857	775	22147

B.4	Voluntary minority repatriation by regions January 2011							
	Return district	Serbia	Montenegro	Macedonia	Bosnia-Hercegovina	Within Kosovo	Third country	Total
	Mitrovicë/a	2	5	0	2	7	0	16
	Prizren	0	0	0	0	0	0	0
	Gjilan/Gnjila	2	0	9	0	0	0	11
	Pejë/Pec	5	4	0	0	12	0	21
	Pristinë/a	0	0	5	0	14	0	19
	Total	9	9	14	2	33	0	67

VI. Return from the third country and return of the internally displaced persons – concepts and categories

1. Internally displaced persons

Who are forced to leave their residence due to arm conflict or avoidance of it, the indiscriminate violence, the infringement of human rights, natural disasters, or the borders have been changed artificially, and this has been recognized in the international level. These persons and families stayed within the borders of Serbia and Montenegro until Kosovo has been declared its independence.

1.1 Internally displaced persons stayed within the country

Those persons or groups, who have left their residence, but they have been living in the territory of Kosovo at present.

2. Refugees

Those persons, who got out of the border of their national states or their temporary residence within the country and have fear of act of prosecution due to their race, regional belief, nationality, political opinion, and who are not willing to request for defence from the state or are not willing to return due to fear, violence or threat in the course of act of prosecution by the state and non-governmental actors.

On the basis of the this, the returnees into Kosovo are categorized according to the followings:

Arrived from the territory of former Yugoslavia, they are internally displaced persons and internally displaced persons from Kosovo, or from a third country, the most often from Western-Europe.

The Ministry of Community and Return deals with the return and reintegration of the internally displaced persons.

The procedure in relation to the returnees from the third country has been transferred to the authority of the Ministry of Home Affairs, the reintegration became a task belonging to the ministries.

The Kosovan Government elaborated an action plan and strategies in the interest of the smooth execution of reintegration.

The most significant documents concerning the returnees from the third country: The examined reintegration strategy of the repatriated persons, Action plan concerning the implementation of the strategy for repatriated persons and the Criteria on the participation in the programme for the repatriated persons.

A Ministry of Community and Return has elaborated its own strategy in relation to the internally displaced persons.

Four groups of the returnees into Kosovo are distinguished:

1. Not organised individual return

Persons, families, who return without prior agreement, and did not received support before the return.

2. Supported return

those persons, families, who receive support before, during and as well as after the return from the competent authority or in the framework of a programme established by the NGOs.

3. Organised return

this is the form of the planned return, the returnees receive all the support on the basis of their essential needs.

4. Forced return, deportation

In the course of the study visit discussions have been pursued with **Mr. Sasa Rasic, Deputy Minister of Home Affaires, Mr. Shkodran Manaj, Director on Citizenship, Asylum and Migration cases, furthermore with Mr. Albert Zeqa, Director, voluntary return cases.** Information has been given on the legislation of the return process according to the followings:

3. Ministry of Home Affaires – Return Division

The Return Division is operating within the Citizenship, Asylum and Migration Department of the Ministry of Home Affaires, which cooperates closely with the representatives of other countries placed in Kosovo and the Liaison Office of the E.U. Commission.

The task of the Division is to examine the information in connection with the return applications. Before the return of the concerned person it is examined, whether the person is a citizen of Kosovo or not. The control consists of three parts:

Firstly, it is looked after in the database of the Division responsible for Issuance of Passports, whether the data of the returnee are registered; the persons registered after 2000 are examined. If it is found, then this is reported towards the sending country. If no data available, then the searching is continued in the Civil Registration Office. If the data of the person have been found here, then the notification is sent to the sending country.

If there is no outcome of the search, then it is followed by the on the spot examination of the Community Police. After the on the spot examination the sending country is informed about the outcome of the examination.

If the sending country shall be informed about the negative outcome, then there is a possibility for auxiliary examination. Until the application is cleared up, the person will remain in the country concerned. If somebody is returned in the way that he/she has not been identified previously, then the person is returned at the border.

The returning country sends the application for readmission, however, no data are notified regarding the health condition of the person. This information appears just later, which is forwarded first and foremost to Ministry of Health.

If further treatment is necessary, then the Ministry enters into contact with the hospital concerned and they make endeavours to place the person concerned there.

The co-operation with those countries, which do not recognise Kosovo, goes without obstacles in the field of readmission. It can be stated that if it is comes to return cases, then all the countries recognise Kosovo, since they have an interest in the ability sending people back to Kosovo.

In the application arriving from those countries, which do not recognise Kosovo it is still written, that the person concerned comes from the Republic of Serbia, however, in the answer sent the name of 'Republic of Kosovo' is stated, i.e. in this case the fact is accepted by the sending country without any problem.

4. Reintegration

In the beginning of the year 2008 the readmission competence of the United Nations Mission in Kosovo (UNMIK) has been transferred to Kosovan institutions with limitations.

Afterwards the institutions have gradually taken over the duties of the readmission, repatriation.

The Kosovan Government pursued direct dialogue on the readmission and other repatriation issues with the sending countries.

On 12 of July, 2010 the Act on readmission entered into force.

In 2010 the Kosovan Government started the analyses of the process in connection with the reintegration of the repatriated persons, and as a result of this recommendations has been defined: financial fund shall be set up for the reintegration of repatriated persons, the capacities of the institutions shall be widened in the interest of the efficient reintegration process, the co-operation between the institutions shall be improved, the communication with the sending countries shall be developed.

The Kosovan Government has approved during the spring of 2010 the examined reintegration strategy of the repatriated persons, the aim is ensuring the sustainable solutions for the repatriated person in the field of health care, education, employment, social benefits, residence. Furthermore, the institutional framework concerning the receipt and reintegration of persons has been defined.

The role and responsibilities of the central and local institutions have been defined in the course of the reintegration process. The support of the repatriated persons and the coordination mechanism have been stated. The persons belonging to the vulnerable groups have received highlighted role, including the victims of trafficking on human beings, single-parent households, children without guardian, children requiring special treatment, elderly persons, disabled people and minority communities as well. The duties and responsibility of the efficient reintegration of the repatriated persons are shared among the the central ministries and the local authorities.

The implementation of the policies in connection with the reintegration of the returnees defines the procedure of the officials working in the central and local level in the ranges of issues related to the registration, the health care, the education, the employment, the social benefits, the residence and the property.

5. Ministries as key players in the course of reintegration

In the course of reintegration the **Ministry of Home Affairs, Health Care, Education, Science and Technology, furthermore the Environment and Urban Planning**, each of which has a duty and authority in the field of sustainable return and reintegration.

The Ministry of Home Affairs has the authority in the field of security and home affairs, the jurisdiction and monitoring the policies and improving them. It has a significant co-ordination role among the institutions dealing with the central and local reintegration.

The **Citizenship, Asylum and Migration Division and Civil Registration Office** acquire the highlighted role.

The main duty of the Ministry of Home Affairs in connection with the international and human rights conventions and norms is to get back the Kosovan citizens from abroad, furthermore the creation of the documents and laws in relation to the readmission. The management of statistical databases is also an important task, because they provide essential information for the other institutions taking part in reintegration. Furthermore, they ensure for the illegal immigrants access to the civil registration and documents. In this interest it co-operates closely with the local authorities.

The **Ministry of Employment and Social Benefits** provides social package after the return of migrants. This includes the social benefits, pensions, support of children, elderly persons and disabled people. Support were allocated in the budget for human beings increased its numbers with 5.000 every year.

In the field of services there is no difference made among the returnees, every Kosovan citizen to be supported receives support. The condition of support is the acquire the identification documents.

According to the law everybody shall receive an answer on his/her application within 21 days.

The colleagues of the Ministry were present from the beginning at the airport and at the border crossing points.

To date the **Ministry of Employment and Social Benefits** has an office in the territory of every local authority.

According to estimated data in 2011 there were around five thousand voluntary and around two and half thousand forced returnees. Also the people participating in the

supported voluntary returning programmes take into consideration the services of the Ministry.

The task of the **Ministry of Health Care** is the integration of repatriated persons into the health care system in relation to the reintegration of returnees, to provide health care.

In the case of necessity it shall be ensured for the returnees following the return the immediate care. The Ministry of Local Government ensures for the returnees the placement, residence following the return into Kosovo, is responsible for the solution of residence.

In relation to residence there are 3 possibilities on the basis of the Law on 'special residence programme':

1. The local authorities are obliged to elaborate a residence programme for 3 years financed by the Ministry
2. In the land owned by the returnees the construction, re construction of new buildings
3. In order to ensure the residence through lease system handled by the Kosovan Property Agency.

The **Ministry of Education, Science and Technology** ensures in relation to the reintegration, that every repatriated child shall have access to proper information on the available education possibilities and services and integrated into the educational system. For that purpose, special programmes are developed in the field of training in mother tongue, cohesion, etc.

More attention shall be paid to the visiting the school of the children belonging to minority communities.

6. The Ministry of Community and Return – readmission of internally displaced persons

The Ministry of Community and Return is a central state actor, responsible exclusively for the internally displaced persons.

It is important the observance of human rights and the maintainance of human dignity. Kosovo grants readmission to all internally displaced persons, who used to live in the territory of Kosovo and left during the war of 1998/99. They deal with organised and individual returnees as well. It has been established in January of 2005 on the basis of a regulation of the UNMIK.

A strategy has been developed for the period of 2009 -2013, in which the aims have been set.

These are the well-founded community, sustainable return and the reintegration of those, who left their residence, left their mother country by force, the economic reintegration of communities. Every Kosovan citizen has the right for return and they receive every support, however there are groups, which have priority.

The two types of category of the internally displaced persons, which have been set up during the war, belong to the first two groups:

1. in the territory of Yugoslavia (IDP)
2. within Kosovo (IIDP)
3. those who need basic humanitarian aid (e.g. their house has been completely ruined during the war), the spontaneous returnees, who need financial support.

In 2011 they received 1500 applications for support and 2200 persons returned, most of them from Serbia, Montenegro and Macedonia.

The procedure: the families submitting applications for support shall fill in a form of return, on the basis of which they are registered as applicants for support. They are obliged to present their identification card, by which they certify that they are internally displaced persons (the UNHCR granted green cards for those, who were in Macedonia, Serbia, Montenegro).

They shall present certificates on their own property, copies of certificates from the tax authority and the identification card are necessary as well, or the birth certificate.

The returnees are registered and the necessary information is filed in a central database. The working fellows of the Ministry and local authorities, who deal with returnees, have access to this database. The returnees are informed within two months about the form of support, possibility or the rejection.

If they receive support, then the return process will start up, which is about 3-4 months, depending on the individual circumstances. With respect to the return the following fields are emphasized: economic situation, access to any public services, social-economic conditions, health care, educational system.

In relation to the residence the original residence is stated, but they can move somewhere else, if the conditions can be ensured and the returnee accepts it. There are people, who do not need any help, but in spite of that they could receive smaller auxiliary support.

In the course of accomplishment of their task they co-operate with the assemblies of the local authorities and the Community and Return Offices. There is a list of criteria in order to assess the needs of the returnees, the incoming applications are examined on this basis. The local authority of the actual residence examines the circumstances and support possibilities on the spot.

The budget from the last year is estimated 7.5 million Euros. From this amount from 1.1 million Euros they participated in the reconstruction of 50-60 buildings and they granted direct support for the building of 53 apartments, in Gracanica for the building of 40 apartments, furthermore, they carried out infrastructural investments.

7. Institutions at the national level

7.1. Summary provided by the Mayor of Mitrovica/Mitrovica city:

In the territory of the local authority 140 thousand people live, the local authority has a diverse ethnic composition the majority ethnic group is the Albanian – 85%, furthermore the Serbs, RAE, Bosnian, Turkish minority communities live in its territory. Serbia claimed for the economics here, there has been discrimination against the Albanians, therefore a great many left the country.

In the city of Mitrovica/Mitrovica the ethnic relations have been rearranged, the Serbians moved to the north of the city, over the Ibar river and the scale of inner migration has been increased as well. The local authority does not acquire special budget in the field of reintegration. The financial sources are available and depend on the everyday decisions.

In the course of the operation of the **Local Authority Community and Return Office** they focused on the internally displaced persons, mostly the internally displaced persons returned from Serbia and Montenegro. In the end of 2010 the supported voluntary return and the non-voluntary return from the third countries have been started, i.e. this is a new task for them. As far as the return is concerned they have exact data only on the Roma community. In the case of return from third country they receive the information on the returnees from the office of the Ministry of Home Affairs. To date they have had eight cases in total, which arrived from the Ministry of Home Affairs. The returned family is visited by a committee, they look at what the returnee needs, whether he/she has a place to live, whether he/she has property or assets for living. As it follows they prepare a report, if they decide, then they advise him/her for support. The security situation of RAE community, as the most important element of the reintegration, is considered to be good. The returning members of the RAE community are mostly hit by the unemployment, which concerns generally everybody.

The members of the RAE community returned to the Roma premises use to exist informally previously. They used to live in these premises and they did not possess any property certifications and they neither had any certification proving that they had been registered at their residence. The local authority ensured for them to legalize their residence.

54 new houses has been built with co-operation of the NGOs, the European Commission has built 38 new houses. The local authority does not have a return strategy of its own, however they accepted the strategy approved by the Ministry of Community and Return and at present they are working on the return strategy to be established for the RAE community.

7.2. Pristina/Pristina

The Mayor informed us, that the inhabitants of Prishtina/Pristina are around 500 thousand people, 90% of them lives in the cities.

It has been emphasized by the ethnic composition, that the integration of children belonging to minority community into the educational system is settled.



As the national minority legal part of the Ahtisaari plan a new local authority came into existence in 2010, a Serbian enclave, the Mayor of the city is Mr. Bojan Stojanovic – Gracanice/Gracanica – in the territory of Prishtine/Pristina.

The central part of the Ahtisaari plan was ‘the defence and support of the rights of the communities’. It deals with those fields of key importance, which shall be defended, including the culture, the language, the education and the symbols. The arrangement plan consists of a comprehensive ‘decentralised suggestion’, with the intention to foster the ‘good authority, the transparency and the efficiency of the public services’. The suggestion focused on the particular needs and fears of the Kosovan Serbian community, which will gain high level of control in its own cases. The elements of decentralization comprises inter alia new municipal competent persons, for those municipalities, in which the Serbians has majority (for example the secondary health care insurance and the academic training); wide municipal autonomy in financial matters, including, that the Kosovan Serbian communities are granted financial support on the condition that this support is transparent and it aims towards the wide activity of the communities, furthermore foster its aims; furthermore the provisions on the inter-municipal partnership and the co-operation with the Serbian institutions, as well as the establishment of the six new, or significantly widened municipalities, in which the Serbians possess majority (Gracanica, Novo Brdo, Klokot, Ranilug, Partes and Serverna Mitrovica).

The Local Authority Community and Return Office operating in Prishtine/Pristina is working under difficult circumstances, they do not acquire sufficient financial resources for the integration of returnees.

The most significant concern is the creation of working places.

They are able to assure the access to the basic health care and the access to the education. The local authority of Pristine/Pristina acquires a return and reintegration strategy approved by the Return and Community Committee, which is based on the central strategy, however it is shaped according to the local tasks. Despite of developments, the lack of employment possibilities continue to cause concerns. This does not only concern the returnees, but whole Kosovo as well. The difficult economic

situation of the country has not improved and this is a range of problems full with challenges.

The Local Authority of Community and Return Office has a special budget, this covers its functioning. Financial support is allocated for the public services, education, health care and infrastructure. Furthermore, there are programmes for the minority communities, there is a special budgetary resource for the basic infrastructural investments.

In the case of returnees from third country temporary accommodation is ensured in a hotel. Following the necessary surveys, if the returnees do have no documents, then they procure it. The majority of the applications have been supported to date, however in that case, when the applicant left for abroad following the announcement of the independence of Kosovo, then the application is rejected.



7.3. Gjilan/Gnjilane

We met the representatives of the Municipality Office of Gjilan/Gnjilane as well, we received the following information:

Thanked for the decentralisation process two new local authorities have been established:

Novoberde/Novo Brdo and Partesh/Partes, which consists of 3 villages.

Thus, the territory of local authority used to be earlier 515 km², became 392 km² to date. The local authority is characterised with ethnic tolerance the connection is good with the representatives of the Serbian, Turkish and Roma communities. The majority of the inhabitants is Albanian.

It was emphasized, that they participated in a return and reintegration programme covering four local authorities – Gjilan/Gnjilane, Peje/Pec, Istog/Istok, Fushe Kosove/Kosovo Polje –, the Kosovan Government allocated for this budget 3.3 million

Euros, and the Összeköt_ Irodája of the European Commission granted the same amount of money.

There is a separated financial fund for the returnees from the third country, which is received from the central budget, its utilization is happening at present, thus concrete experience has not been gained so far. Financial, technical, logistic help are granted for the returnees. A working group is operating at the local authorities, who deal with the implementation and management of returns. The local authority has its own approved local return and reintegration strategy for the period of 2011-2014. The returnees have permanently settled.

The Local Authority and Community and Return Office of Gjilan has seven employees at present, among whom there are one return officer and one community officer as well. They deal with the return of those, who left the local authority in 1999. They continue to observe, monitor the realization of the programme.

The Community and Return Office tracks the fate of the returnees and continuously makes endeavours to solve, that they find employment in the labour market for the returnees.

The applicant shall fill in a form at the submission of the application for return, with the help of which they survey, what support is necessary for the returnees. On the basis of the applications the identification of the person is clarified and the fact, whether the applicant arrives from a third country.

In the local authority of Gjilan the process of return and reintegration programme is the following:

- 1. support of return and the renocation, building of residence buildings, houses**
- 2. financial support, this is a financial allowance in the amount of 2500-3000 Euros**
- 3. Furthermore, the support of economic activities agricultural and infrastructural developments**

In the course of granting the supports the balanced support of ethnic groups is taken into consideration. Special programmes have been created for the development of Roma inhabitants as well.

At present around 20.000 people from the local authority of Gjilan are outside of Kosovo, from which there are 14.000 Serbians, and 6000 Romas. These data are only of indicative nature.

The office grants for internally displaced persons exclusively logistic support.

The local institutions in co-operation with the international organisations have elaborated those criteria, which support in the course of decision making, that who, when receives support. These are the followings: auxiliary linguistic courses, residence and temporary placement, foodstuffs and supply (not food by its nature) and support of economic possibilities.

The Kosovan Government grants support on the basis of the following principles:

- Those are supported, who left the country before 17 of February, 2008,**
- every citizen of Kosovo is supported, who are repatriated from another country and do not receive any other national or international support, or who do not receive support according to their needs.**
- Emphasised attention is paid to persons belonging to a vulnerable group.**

The procedure in relation to the application for support and the granting of it is published.

In the interest of the implementation of the national strategy and action plan on the reintegration of repatriated persons, the Executive Body in co-operation with the Secretary evaluates the programmes and approves the submitted applications.

The submitted applications are reviewed every three months, which are to be taken into consideration and a follow-up of one year is to be determined. Report shall be drafted on every visit. The programmes shall be implemented by the assistance of the return officer of the local authority.

Every programme and the procured asset or instrument shall be reported for the Secretary of the Body and the Return Community Office. The amount of money available can be 1500 Euros at the most, if applicable, higher than this, however the surplus in total cannot exceed the 2500 Euros.

8. The Executive Body and the Secretary

The Kosovan Government has allocated a resource of half million Euros for the support of reintegration in 2011. On the basis of the decision of the Government an Executive Body has been established, which manages the procedure and the resources as well. This body is chaired by the Ministry of Home Affairs in the level of state secretary. Also a secretary came into existence beside the body, which consists of the representatives of the different ministries. The criteria has been created for the beneficiaries.

The officials working in the local authorities deal with the applications for support. Every application for support lands directly at the general secretary within the ministry, where the decision is made to accept or reject it. The mechanism makes the decision making process fundamentally easier. The citizen, who cannot solve his/her residence, is accommodated in the first week in a hotel. In the meanwhile the competent authority is informed about this, which is obliged to find accommodation for the returning person.

If the local authority cannot find accommodation of any reason, then other possibility is searched. The rent is paid for six months period of time instead of the returnees. If the returning person or family lives under very poor circumstances, which is justified, then they are supported with food packages as well. The Executive Body makes its decision very fast and is able to assemble within 24 hours.



This time the Secretary sends the request to the members of the Body for immediate assembly. Every time the decision is made on an individual basis. The maximum duration of the support can be six months, following this, the case lands at the Social Benefit Centre, where every person shall register. Subsequently, the support is less, than it used to during the six months period of time.

It has to be noted that the returnees shall put emphasis on the job seeking and find the possible solution. To date the returnees have submitted requests for accommodation and food supply only.

The returnee can receive information on the possible support at every cross border point of Kosovo, in the airport office or the offices of the local authorities.

When the returnee enters into the territory of Kosovo, he/she meets a policeman, before his/her return the information already arrives on the fact, that the person or family concerned is going to arrive. The policeman directs the person or family concerned into the Reintegration Office, where the returnee shall be advised about the next procedure. If it is necessary, then the returnees are to be delivered to the destination. The important informations on the returnees are gathered, thus particularly those, which concerning their health conditions.

In the field of support the voluntary and non-voluntary returnees are distinguished. The Ministry of Home Affairs primarily deals with the forced returnees. The International Organization for Migration (IOM) deals with the voluntary returnees.

In the field of reintegration the main obstacles are the residence and the economic circumstances.



9. The Reintegration Office (Pristina)

The Reintegration Office has been operating since 1 of November, 2010, and the airport office since 7 of December, 2010.

As the returning person arrives, he/she shall fill in a form. All of his/her personal data are requested, which are sent to the Local Authority Community and Return Office, where the facts are verified, i.e., whether he/she lives there or not, etc. In the office mainly they deal with forced returnees, however the Office shall register everybody, the supported voluntary returnees as well.

The returnees are informed about the process with publications, what they shall do in order to receive the support. Who do not have a place to live anywhere, those are accommodated in a hotel for seven days at the most. The returnees are obliged to visit the competent local authority and submit their request for support within this seven days. Subsequently, either the returnee or the local authority finds another accommodation, which might be a residence financed by the ministry. If the returnee cannot find accommodation, he/she can stay in the hotel as long as the Executive Body makes the decision, whether his/her rent is paid or not. This cost is financed from the budget of the Ministry of Home Affairs. The official of the local authority dealing with the returnees sends the submitted request of the returnees to the Reintegration Office of Pristina. This office acquires all the information about the case and forwards the request to the Executive Body. This decision combines the final decision, that who receives what kind of support. The body consists of 11 members, every concerned ministry has a representation, the representative of the IOM and the UNHCR is present as well.

The returnees, having accommodation, fill in the form, the data are registered in the database, the information is sent to the local authority. The official dealing with return and reintegration visit the person concerned at his/her residence and puts questions about his/her immediate necessities, which is also recorded in writing, and sent to the Ministry of Home Affairs.

It has occurred many times, that also medical treatment was necessary at the airport. It happens also that there is a person, who is not willing to reveal his/her identity. And it happens also, that they are not willing to appear at the office and disappear after the police interview. And such a case occurs as well, when the returnee does not need any help.



The start-up begins with the tasks at the airport, where the officials request for every information from the returning persons, from the voluntary and the forced returnees as well. The information is forwarded to the officials of the local authority. The clients are informed about the further process. The Office receives information from the Readmission Office of the Ministry of Home Affairs before the returns, which informs the Office about the number of returnees, the time of arrival and where they come from. If the returnee has a health problem, then the form, filled in by him/her, is sent to the Ministry of Health Care, and in the case, that he/she has children, then to the Ministry of Education.

The activity of the Reintegration Office covers the whole area of Kosovo. The Reintegration Office submits the requests to the Executive Body, however previously it checks the requests arriving from the local authorities. If the case does not fulfil the criteria, then it is not submitted to the Secretary of the Executive Body. This office functions quasi as second instance. In the submission it is detailed, that what kind of help or support the returnees need. When the case is submitted to the Executive Body, then beside that a recommendation is submitted as well. The Executive Body might put questions about certain circumstances, which can serve as clarification for the situation. After the decision the Secretary of the Executive Body has the leading role in the course of execution, since they have the financial resource at their disposal.

Those, who left the country after the announcement of the independence of Kosovo, are not entitled to support.

10. Co-operation between the competent ministries and the Office

Until 15 of January, 2011 the Ministry of Social Benefits and Labour used to have the duty to accommodate the indigent persons following the arrival. Following this date the task has got into the competence of the Ministry of Home.

The Ministry of Health Care ensures the supply for the returnees combating with medical problems. If the internally displaced person receives support from the Ministry of Community and Return, then he/she is not entitled to receive support from the new system. The Executive Body makes the resolution about the supports, it acquires all the data of the returnees. The IOM informs the competent officer dealing with the returnees in every case, in order to the returnees do not receive duplicate support.

11. The legal integration of the returned persons (registration, documents)

With respect to the fact that the some part of the returned persons has never been registered, therefore it has to be highlighted, that the returnees shall have access to the personal documents, furthermore to the basic services. In the interest of the support of the returnees not possessing personal documents, the authorities have drafted leaflets about the process-flow, which are delivered to the persons concerned before the return.

The absence of the personal documents is a serious concern in Kosovo, since the people left their personal documents behind due to the escape in crowds in the course of the war of 1999.

Many birth certificate and other registration have vanished, been demolished. The returnees used to live abroad many years, where got married, gave birth to children, and if they cannot present these documents belonging to them, then their child or marital partner cannot be registered.

The absence of the personal documents is even more severe in the case of those belonging to the ethnic community, thus at the members of RAE community, who used to live in informal premises and have not been registered at any registration office.

The offices of the local authority register every returnees and issue the official documents, certifications.

The official recognition of a document issued by another country constitutes a highly significant element for the sustainable return of the returning person.

Highly important documents are the medical certifications, the documents regarding the employment and pension, the school certifications and diplomas certifying qualifications. The certification of civil status is highly important.

12. Access to health care

It is a serious challenge in Kosovo to ensure the quality standard of the health care, which is due to the lack of money and the lack of trained employees.

Under the present conditions certain supplies cannot be delivered due to the absence of equipment, and it creates concerns in the field of certain professional fields, that there are a few professionally trained medical doctors available.

Such fields are the cardiology, oncology, transplantation. Therefore, the Ministry of Health Care has started a programme in relation to the medical services available outside of Kosovo in 2003.

The shortcoming of the health care system hits the inhabitants as the the whole.

12.1. The illnesses, which are not medically treated within the territory of Kosovo

The most serious problem is the absence of treatment in oncology. There are endeavours to change this, the Institute of Oncology has been established, where there are state-of-art instruments available, however there are no medical doctor in sufficient number available in oncology.

The other field of such is the cardiology, where they are struggling with the absence of professional medical doctors, and causes also concern the absence of medial assistants.

Also in the field of transplantation it has to be faced a complex problem.

Also certain mental illnesses cannot be medicated.

Only the basic treatment is functioning, although not at high standard.

13. Occupation

The returnees receive support on the basis of resolving the individual requests; many of them have need for support for many years.

The Ministry of Labour and Social Benefits provides services in the field of employment.

However, the rate of unemployment is rather high and this hits the returnees seriously.

The Ministry of Labour and Social Benefits have worked out measures for the returned persons, through which the returnees can participate in professional trainings and be hired.

The supports are granted in six fields, which are: counselling in occupation, carrier building guideline, preparation training for employment, financial support of employees, communal work, self-employment, guidance on the labour market.

The employment of RAE community is highly supported in Gjilanban and in Mitrovica as well, however these efforts creates tensions among the others.

The IOM grants support for the self-employment. The candidates shall prepare a business plan, which is examined by the working fellows of the IOM and support is granted for the suitable projects. E.g. this might be a start-up capital or buy of assets, etc.

14. Social benefits

Every support, which can be granted by the ministries, is regulated by law. The law on pensions, according to which every Kosovan citizen exceeding the age limit of 65 years, is entitled for pension. It does not matter, whether he/she receives pension from abroad or not, because this benefit shall be granted for everybody due to his/her age. The amount of pension is 45 Euros per person.

There is a law on the pension of the disabled people as well. The number of such pensioners is rather low, because those persons receive it, who are unable to work completely.

There is a law, which governs the support system of the poor families, according to which there are two categories. The first category is the family and those family members, who are disabled by 100%. There are many children in the family and they cannot make a living. Also the poor belong to the second category, but there is a family member with the ability to work, at least.

Since all the Kosovan unemployed person cannot have been taken into the system, such a category has been created, which defines that at least one child under 5 years shall be in the family.

The minimum amount of support is 40, and the maximum amount is – in the case of a family with 7 or more members – 80 Euros.

There is a special system for the disabled children by 100%, there is around 3000 children, who receive such a support. The family of such children receive 100 Euros per person.

The ministry also deals with the family care supply. There is more than 750 parentless children in Kosovo. They do have a place, because they have been placed at families with better circumstances, they do live there and receive the support of 75 Euros. For the care of those children, who were left behind, many families have been involved Kosovo wide, who receive 150 Euros per child. There are 15-100 cases like that, because these children come into adoption process in the later phase, thus the placement at the family is a temporary state.

Another system deals with the families of the martyrs and the former UCK veterans (Ushtria Çlirimtare e Kosovës/Kosovan Liberation Army). The type of such support concerns those citizens, who have been involved in the war in any form. The extent of

support is depending on the scale of disability is from 65 Euros till 350 Euros, 12.000 human beings are covered by the system. This is very costly, but its politically significant and it is important from other aspects as well.

The number of the disappeared persons is very high. Since their family requests for declaration as 'disappeared' regarding certain persons, there are number of process, which shall be followed in order to receive the support of the ministry. These are the so called substantive laws, which appear in the budget. 156 million Euros are spent on these systems in 2010, which means around the 12-15% of the whole Kosovan budget of 2010.

Other social benefits are offered as well, which are not that costly financially, these are psychosocial trainings and supports, recommendations and counselling. These services are offered by the Ministry, its employees are paid.

When such an elderly person comes into the scope of the Social Benefit Centers, who would need support, or mentally ill person, who does not receive any family support, then residence support and defence are organised.

There is a defence-house with capacity of 100 subjects in Prishtinë/Pristina, and there are two other small, so called community house with maximum capacity of 20 subjects in Skenderaj/Srbica and in Istog/Istok. In Shtime/Stimlje there is an around security house with capacity of 60 subjects and there are 8 small houses in the communities, which have the capacity of 10-12 subjects. These have been established for those persons, whose do not have family members with the ability to take care of them. This form of support is not encouraged, rather the confirmation of families would like to be got, because these persons should receive support within the family.

The RAE community is treated in the same way like the other Kosovan community. On the basis of the Constitution the nationality of the people cannot be addressed, however the citizens can make statement about the ethnic origin. This community is less integrated, underqualifies, the rate of unemployment is high. The majority is living from unemployment loan.

VII. Summary

In the framework of the EU – Kosovo Stabilisation Association Process Dialogue (SAPD), the Sectorial Committee on Justice, Freedom and Security held a meeting at Pristina on 7 – 9 February 2012, where – among others – the issues of readmission, reintegration, border management, policing were discussed.

In the area of readmission, the legal and policy framework has continued to be implemented at a satisfactory level. On top of six readmission agreements signed in 2011, three more are being negotiated (Bulgaria, Hungary and Croatia). Institutional capacities have been strengthened at both central and local level. As a result, handling of readmission services have been made more efficient. In order to simplify reintegration procedures and increase effectiveness, a Regulation on Reintegration is being drafted. One of the goals of the Regulation is to decentralise decision making concerning basic services to the local level. In the area of employment, three projects have been approved in cooperation with international organisations. €3,170,150

million have been allocated at the reintegration fund for 2012. MOCRs have been established in all but three municipalities whereas all municipalities have an appointed officer in charge of communities and returns. The access of, in particular, minority communities, to the labour market, education and training should be further enhanced. In this regard, challenges remain in the delivery of language courses for repatriated children as well as in the implementation of decisions of the Executive Board on business start-ups and housing. Trainings of officials at both central and local level need to continue. Furthermore, building upon the positive experience during 2011, the dialogue with international organisations, civil society and local level needs to be maintained throughout 2012. The law on Asylum might need to be further aligned with EU standards

Follow-up actions required by the Sectorial Committee on Justice, Freedom and Security:

- a) Continue with the signing of bilateral readmission agreements (December 2012) and the implementation of the law on readmission;
- b) Continue to increase the disbursement rate and decentralisation of the Reintegration fund;
- c) Continue training on readmission procedures for both central and local level, including on new tasks outlined in the Regulation on Reintegration;
- d) Adopt and implement the Regulation on Reintegration and ensure its endorsement by the OPM;
- e) MEST to ensure that the delivery of language courses for repatriated children begins rapidly and to continue to guarantee their prompt enrolment into school in line with AI Nov 2010;
- f) Start to implement decisions of the Executive Board on Reintegration on business startups and house construction/renovation;
- g) Organise regular meetings with international organisations, civil society and municipal level (April 2012);
- h) Functionalise the new centre for asylum-seekers in Lipjan/Lipljan (April 2012);
- i) Adopt secondary legislation on asylum (June 2012);
- j) Continue to collect and analyse asylum statistics, including reasons for potential disappearances of asylum seekers during the asylum procedure.

