



UNMIK



PISG

STRATEGY FOR REINTEGRATION OF REPATRIATED PERSONS

Approved by the **Government of Kosovo** on 10 October 2007
Prishtinë/Priština

List of Acronyms:

CEO- Chief Executive Officer
CPC- Central Processing Center
CSW- Center of Social Work
DBAM- Department of Borders, Asylum and Migration
DCA – Department of Civil Administration
DHC – Department for Housing and Construction
DRC – Danish Refugee Council
EC- European Commission
EU- European Union
EUPT – European Union Planning Team
ICO – International Civilian Office
IOM – International Organization for Migration
KCB – Kosovo Consolidated Budget
KFOR – International Military Forces of Kosovo
KPA- Kosovo Property Agency
KTA – Kosovo Trust Agency
KVoT – Kosovo Victims of Trafficking
MCO- Municipal Community Officer
MCRC- Municipal Civil Registration Centre
MCSO- Municipal Civil Status Office
MESP- Ministry of Environment and Spatial Planning
MEST – Ministry of Education, Science and Technology
MFE – Ministry of Finance and Economy
MH- Ministry of Health
MoIA –Ministry of Internal Affairs
MJ – Ministry of Justice
MLGA- Ministry of Local Government Administration
MLSW- Ministry of Labor and Social Welfare
MCR – Ministry of Communities and Returns
MRO- Municipal Returns Officer
NGO – Non-governmental Organization
OCRM – Office for Communities, Returns and Minorities
OPM – Office of Prime Minister
OSCE – Organization for Security and Cooperation in Europe
PISG- Provisional Institutions of Self-Government in Kosovo
PHC- Primary Health Care
RAE – Roma, Ashkali, Egyptian communities
SA- Social Aid
SAS – Social Assistance Scheme
SHC- Secondary Health Care
SOP – Standard Operating Procedures
TCC – Temporary Collective Center
THC- Tertiary Health Care
UNDP- United Nations Development Programme
UNHCR – United Nations High Commissioner for Refugees
UNMIK- United Nations Interim Administration Mission in Kosovo

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1. INTRODUCTION

In light of progressive transfer of competencies from UNMIK to PISG, Kosovo's central and local government institutions will be in charge of managing the process of repatriation and reintegration¹ of persons originating from Kosovo, who were denied refugee or permanent resident status in third countries. In order to overcome the challenge related to the management of a big influx of people, who will undergo the process of repatriation, the government of Kosovo (hereinafter: PISG) on 25th October 2006 established a Steering Board for Reintegration of Repatriated Persons. It was tasked to reach consensus on roles and responsibilities of line Ministries in the field of reintegration of repatriated through consultative and inclusive process. The Steering Board was composed of representatives of Ministry for Labor and Social Welfare (MLSW), Ministry of Environment and Spatial Planning (MESP), Ministry of Local Government and Administration (MLGA), Ministry of Internal Affairs (MoIA), Ministry of Health (MH), Ministry of Education, Science and Technology (MEST), Municipality Community Officers, international organizations (UNMIK, UNHCR, IOM, OSCE, EUPT) and other international and local experts.

The Steering Board called for the establishment of an experts group to draft a strategy for reintegration of repatriated persons. This strategy is a result of an all-embracing drafting process, which involved a clear work assignment and coordination and cooperation of relevant local institutions and international organizations.

The Strategy for Reintegration of Repatriated Persons is based on the principle of equality and covers all aspect of reintegration: initial reception assistance, legal reintegration, access to health care, employment, education, social welfare, humanitarian minority transportation, vulnerable groups and social housing and property. All sections pay special attention to the reintegration of minority communities.

Each Section is structured in the same manner. Following an introduction on the current situation, the sections include responsible authorities, possible outsourcing for certain services and recommendations. The Strategy also envisages monitoring and implementation mechanisms – periodical review; and budget projections for an estimated number of 5,000 repatriated persons per annum.

The strategy is based on the assessment of the current situation, namely the progressive transfer of competencies from UNMIK to PISG, in transitional period. It is also based on critical analysis and assessment of problems from different points of view, with special emphasis on the socio-economic impacts in order to have the situation of non-voluntary returns and the process of reintegration of repatriated persons under control.

The strategy will be implemented through an action plan and subsequent programs with the aim to integrate repatriated persons in all spheres of public life based on the principle equality.

¹ Reintegration can be defined as: *Re-inclusion or re-incorporation of a person into a group or a process, e.g. of a migrant into the society of his/her country of origin. The achievement of a sustainable return i.e. the ability of repatriated to secure the political, economic and social conditions to maintain their life, livelihood and dignity. A process which enables returnees to regain their physical, social, legal and material security needed to maintain life, livelihood and dignity, and which eventually leads to the disappearance of any observable distinctions vis-à-vis their compatriots.*(IOM)

1.1. Migration from Kosovo

Migration has been and remains a large scale phenomenon which keeps Kosovo, amongst the first places of origin of asylum seekers in European Union countries. Nevertheless, there are very few reports and studies conducted and published on this topic. The lack of exact numbers of persons from Kosovo living abroad is partly due to the fact that they are registered as citizens of Serbia (Serbia and Montenegro; Yugoslavia). Persons who entered the respective country illegally and remained illegal or persons who left their legal status are difficult to identify.

Trends and causes of migrations from Kosovo have undergone several changes. In the decades until the outbreak of the conflict in 1998/1999, Kosovans, primarily Kosovo Albanians, but also considerable numbers of members of other ethnic communities have been leaving Kosovo mainly for two reasons: on the one hand for political reasons, in particular in the 1990's; on the other hand for economic reasons. With the outbreak of the conflict in 1998 and until the end of the conflict in June 1999 hundreds of thousands of people were forced to leave Kosovo, however found primarily refuge in neighbouring Albania and FYRoM; most of them have returned in the meantime. However a large number found refuge in Western European countries; including members of the Roma, Ashkali, Egyptian, Bosniak and Gorani communities.

Many of those persons who have left Kosovo since beginning of the 1990s either received refugee status or received protection under the non-refoulement clause and were granted the right to remain in their host countries. Those who did not receive refugee status or whose legal status (temporary protection) has expired/been cancelled, are in the situation that they have to leave their host countries. They therefore either return voluntarily (with special return assistance packages provided by some European countries) or are forcibly returned. As for illegal migrants, in recent years as a result of changes in Western European countries migration policies restricting entry to labour markets for foreigners, the number of forcibly returned persons has increased.

The United Nations Mission in Kosovo (UNMIK) is gradually transferring its competencies to the Provisional Institutions of Self-Government of Kosovo (PISG). Some PISG Ministries were only recently established and are still in the process of developing their internal structures, which must be conducted well before they can address the scope of duties that will fall within the ultimate competency. Due to budgetary constraints, not all issues related to migration can be adequately addressed at this time, since there are insufficient funds to establish new departments, employ staff and obtain the necessary technology and other resources that are needed within the Ministries to make them fully functional.

1.2. Legal Framework

International conventions, EU standards and the existing local legislation are the basis for this strategy and should be observed during its implementation. Annex A contains all relevant legal instruments in all areas related to the reintegration of repatriated persons.

1.3. Involuntary Repatriation

Persons without legal status abroad are those who do not or no longer fulfil the conditions of residence in the territories of other countries because they either:

- Entered illegally, or
- Overstayed visa or residence permit, or
- Asylum claim has been rejected, or
- Residence permit has been cancelled – because of criminal activities or other reasons (*persona non grata*)

The estimated number of Kosovans without legal status abroad is up to 100,000. They have been denied refugee or other legal status in a third country². All have been through administrative or judicial process that has resulted in official orders/court decisions to leave the country. Repatriation – as part of ‘foreign affairs and border control’ - has been under the reserved powers of UNMIK³. This means that the full transfer of this competency to the PISG can be effective on determination of final status of Kosovo. During the past three years, UNMIK has worked with more than 20 countries to manage repatriations and has entered into Memorandum of Understandings with three countries (Germany, Switzerland and Sweden) in order to prevent the “forced returns” of persons who remain in need of international protection according to UNHCR. Since 1999, UNMIK’s policies on repatriation or forced returns have been based on UNHCR Position Papers on the Continued International Protection Needs of Individuals from Kosovo⁴. UNMIK will, however, always accept the voluntary return of any person originating from Kosovo so long as their choice is informed and freely made.

Reception countries have worked with UNMIK to manage repatriations and in that regard, some of them have created and offered “voluntary return packages” for Kosovans who have received final negative decision and are to be expelled/deported. This is in line with European Commission (EC) *Green Paper on a Community Return Policy on Illegal Residents*,⁵ which suggests that voluntary return of those without legal residence abroad, is a preferred option. In this regard, host countries could design supportive programs in the countries of origin to help migrants who wish to return (assistance in creation of small development projects, business, training ventures in countries of origin, financial support, etc). , Authorities in the country of origin should be prepared to carry out a proper follow-up of the program to minimize the possibility of re-emigration. EC also emphasizes that large scale forcible return could have a considerable impact on the development of a country and on the willingness of the authorities to cooperate in controlling migrations.

2. INITIAL RECEPTION ASSISTANCE

2.1 Assistance Upon Arrival

² Germany alone has some 53.000 Kosovans presently living in Germany without a legal status, of which some 38.000 are claimed to belong to the Roma, Ashkali and Egyptian minorities.

³ Article 8.1, UNMIK Regulation 2001/9 (15 May 2001). *The Constitutional Framework for Provisional Self-Government in Kosovo*.

⁴ The most recent *UNHCR Position on the Continued International Protection Needs of Individuals from Kosovo* is dated June 2006. and according to which forced return of Kosovo Serbs or Roma; Kosovo Albanians originating from areas where they constitute a minority; persons in ethnically mixed-marriages and persons of mixed ethnicity; persons perceived to have been associated with the Serbian authorities after 1990; Victims of trafficking; unaccompanied elderly persons who have no relatives or any other form of societal support in Kosovo; separated children without relatives or caregivers in Kosovo, and for whom it is found not to be in their best interest to return to Kosovo, is not recommended to reception countries.

⁵ Brussels, 10 April 2002, COM (2002) 175 final.

Once passed immigration procedures, all returnees are provided with initial reception and information assistance at Pristina airport by the staff of the MLSW.

The MLSW will be informed by the MoIA (or UNMIK/OCRM RU until the transfer of competences) about the needs of repatriated persons with an advance notice. This enables the MLSW staff to be present at the arrival of these returnees and provide them with reception and information assistance once they have passed the immigration procedures.

The returnees will be provided with updated information and brochures, which contain overview of essential services available in Kosovo and in their municipality of destination.

The MLSW reception team will keep track of general statistical data on the destinations of returnees, as well as medical or/and other vulnerable conditions or special needs as indicated by the returnees upon their arrival.

The MLSW will inform the medical team in order to provide medical assistance to returnees in immediate need at the airport and arrange appropriate follow-up provisions and referrals. A mobile team of doctors and nurses will also be present at the airport or at other Kosovo borders in order to assist those returnees in need of health assistance. In specific cases of returnees with serious illnesses/diseases, the MH can be informed in advance in order to ensure that the assistance is provided to these persons.

MLSW staff will meet returnees and identify if they need transportation or temporary accommodation. They will use the personal data of returnees provided by MoIA and will collect additional relevant information on specific assistance needs at the municipality of destination to facilitate their reintegration.

2.2 Onward Transportation to the Municipality of Destination

In order to allow returnees to reach their communities on the same day of arrival, the MLSW will organize the transportation to their municipality of destination for those returnees who do not have other means of transport. Onward transportation might consist of a system of vans and buses on standby at no cost (charges only will be made when the service is actually used). Other solutions can be found and further discussed with the Ministry of Transport and Communications

2.3 Temporary Accommodation (transit centre)

For returnees with vulnerable conditions and those persons who could not go to their final destination on the same day of their arrival, temporary accommodation will be provided by the MLSW. The provision of temporary accommodations to returnees will not exceed seven days. One transit centre will be created and administered by the MLSW with possibility of outsourcing to an NGO.

The MH medical team will be on-call in order to assist returnees in need of health care within the transit centre. In cases of returnees with special health-care needs, particular arrangements can be made with the medical team and the municipality of destination in order to have them ready to provide assistance in these cases.

MLSW will duly inform the municipalities of destination through MLGA focal point, on the arrival of returnees in the temporary accommodation, in order to enable the municipalities to arrange a solution (social accommodation or reparation of their houses) for them during the period in which the returnees will be accommodated in the transit centre. Responsible authorities should provide other options for housing for persons who do not want to return to their places of origin because of security and safety considerations. This is especially relevant to minority communities. The housing solution for this group of people should be sought in other areas that are considered safe.

Coordination and referral mechanisms between MLSW and MLGA (Municipalities).

The MLSW will inform the MLGA focal point for return on the number of returnees arrived every week and their needs in order to enable the smooth and sustainable reintegration process of the returnees

In particular MLSW will inform the MLGA focal point on the following:

- 1) Number of returnees arrived and their municipalities of destination
- 2) Number of families and composition (how many children age, elder people, persons with disabilities, or other vulnerabilities, etc.)
- 3) Number and type of special needs already identified upon arrival (or later if these returnees are accommodated in the transit centre)
- 4) Number of returnees who already reached their municipality of destination
- 5) Number of returnees who need house reparation (i.e. reparation of water pipes, electricity connection, bathroom, roof etc.), specifying if they already reached their municipality of destination or are accommodated in the transit centre. In some cases MLSW will not be able to provide this information, as returnees will know the kind of house reparation they need only after reaching their accommodation. In these cases appropriate referral services will be put in place in municipalities of destination.
- 6) Number of returnees accommodated in the transit centre (who therefore need social accommodation assistance from the municipalities, or if known house reparation) specifying their municipality of destination.

2.4. Health Services upon the arrival

MH in cooperation with local authorities will ensure the presence of the following persons in all entry points of returned persons:

1. Contact Officer (recommended to be a Coordinating Officer for several Ministries) who will make distribution of personal information of all returnees);
2. Mobile Teams, who will provide services at the places of arrival, but at the same time they will treat persons with health problems, as well as transport persons with serious health conditions and those with special needs to the relevant health institutions
3. Sanitary Inspectors, who will take care of hygienic and sanitary conditions, and other issues related to their competencies.

Recommendations

MH, local authorities, MLSW shall do the following:

- Identify contact persons and coordinate their activities.

- Identify and prepare a list of Health Institutions that will ensure emergency service provision.
- Take adequate epidemiologic and counter-epidemiologic measures.
- The MLSW and MLGA will work together on referral mechanisms through Municipal Return Officers and Municipal Community Officers and Centers for Social Welfare.

3. REINTEGRATION IN GENERAL

3.1. Legal Reintegration of Repatriated Persons – Access to Civil Documents

The legal integration (registration and documentation⁶) is an essential requirement for access to basic services and to all civil, political, social, economic and cultural rights. It has to be taken into account that some of the repatriated persons have never been registered with the responsible authorities⁷ in Kosovo before and therefore will not possess any documents required for an immediate access to basic rights upon return.

In order to address the issue of non-registration and lack of personal documents at the earliest stage, the Ministry of Internal Affairs (MoIA), as the authority responsible for the registration of Kosovo residents, has the obligation to assess the need for registration/documentation already within the readmission process, as part of the verification procedure when the host country provides documented evidence to prove the repatriated person's origin from Kosovo. The verification procedure is outlined in detail in the enclosed draft Readmission policy (Annex B).

To assist non-documented persons subject to repatriation, the responsible authority will develop a multi-lingual information brochure or leaflet with relevant and user-friendly information (step-by-step approach) on institutions, venues (where) and procedures (how) through which repatriated persons can register their civil status and habitual residence prior or upon return to Kosovo. This information has to be printed in all official languages of Kosovo, and if possible in other languages, as appropriate. The information brochure should be distributed in the host country already before the repatriation takes place.

In addition, the responsible authorities need to ensure that repatriated persons receive written and verbal information in all official languages regarding the importance of civil registration/documentation and the procedures that will enable access to registration. This can also be done at the border check immediately upon return to Kosovo. This is of special importance to groups particularly vulnerable to social exclusion and marginalization such as Roma, Ashkali and Egyptians, even more so when they return after several years of residence abroad.

⁶ Civil status registration and habitual resident registration.

⁷ Municipal Civil Status Offices (civil status registration and certificates) and Municipal Civil Registration Centres (habitual resident registration, personal documents).

A challenging aspect of legal integration will be the registration of civil status and habitual residency of returnees, who have not previously been registered in Kosovo.

The responsible authority shall pay special attention to children who were born abroad, but have not yet been registered with the authorities in Kosovo. They should be provided with adequate civil status certificates and personal documentation. In such cases, the responsible authority has to ensure within bilateral negotiations with a host country that the necessary documentation, mainly a birth certificate from the host country, is provided already within the readmission process.

Procedures and Documentation

The following documents are provided to persons from Kosovo:

a. Civil Status Certificates⁸

The lack of personal documents is of great concern in Kosovo given that a large number of persons were forcibly displaced during the conflict in 1999 leaving behind their personal belongings including their identification documents. Moreover, many municipal civil status registry books and archives disappeared/moved or were destroyed during the conflict thus hindering the operation of civil status operations.

Many repatriated have been living for ten or more years in a foreign country before their asylum application was rejected. Births and marriages have taken place and were registered⁹ in other countries. If repatriated persons fail to bring with them foreign documents to verify these occurrences they are unable to register their children or marriages upon arriving in Kosovo. The readmission agreements should ensure that the host countries provide the documents for the repatriated persons if available.

The lack of personal documents is even more critical for the members of minority groups, who lived in informal shelters and were not registered at all in any municipal civil status office operating under the ex- Socialist Federal Republic of Yugoslavia before their displacement. Lack of any old document or a permanent address in Kosovo will result in the failure to qualify for social benefits.. It may prevent access to education and employment and become a real obstacle in the reintegration of minority groups.

Municipal Civil Status Offices (MCSOs) have the obligation to register each repatriated person through the current system, as foreseen by the Assembly of Kosovo Law No. 2004/46 on Civil Status Registers as promulgated by UNMIK Regulation No. 2005/21, of 7 May 2005, and by the Assembly of Kosovo Law No. 2004/32 on Family promulgated by UNMIK Regulation No. 2006/7 of 16 February 2006. Through their MCSOs, Municipalities shall ensure civil status registration and issue civil status certificates such as birth certificates, marriage certificates, certificates for joint households and families, certificates that a person is alive, marital status certificates and death certificates. On the other hand, through their Municipal Civil Registration Centres (MCRCs) Municipalities are

⁸ Based on a memo received by the Director of Civil Status Department of MPS.

⁹ However there are also instances in which, for different reasons, the involved families have failed to register their children while out of Kosovo.

also responsible to ensure the registration of habitual residents and issue identity and travel documents. Possession of the mentioned identity documents and civil status certificates is a precondition for access to other municipal and central services. Thus the central government must approve new procedures in order to bring more flexibility in civil status registration of repatriated persons.

In order to implement the existing legislation MoIA in cooperation with MLGA will give instructions to responsible local authorities to facilitate the access to civil status documents for repatriated persons

The Civil Status Certificates issued by MCSOs include, but not limited to certificates confirming the facts of birth, marriage, death, marital status, that one is alive, joint household and family support and others. The procedures to obtain these documents are provided in above mentioned regulations.

Access to Civil Status Documents by Repatriated Persons

In 2003, Civil Status Department issued a memorandum instructing municipalities to establish appeals boards in order to enable returnees without documents to apply for civil status documents. Municipalities created boards composed of three (3) board members in each municipality, who decide on applications for late registration and voluntary returnees without documents. To date, only one application for such case has been processed. These boards could also be used for repatriated persons who do not possess civil status documents. It must be noted that the board has no terms of reference outlining their competencies, duties and responsibilities. It is a high time to draft such terms of reference.

b. Identity Card and Travel Documents

At the moment Kosovo residents and repatriated persons can apply only for UNMIK ID cards and travel documents. Information relating to procedures of application for ID cards and travel documents are provided in regulation N 2000/18. It can also be obtained in the Municipality Civil Registration Centers.

The similar administrative instruction as for the civil status documents should be issued by MoIA in cooperation with MLGA to facilitate the access to civil registration specifically for repatriated persons.

c. Official Recognition of Documents / Certificates issued in Third Countries

Official recognition of important documents issued by another State is a critical element of a sustainable reintegration of repatriated persons. The most important are:

- Health certificates;
- Documents related to employment and pensions entitlements (i.e. work booklets) and
- Educational and other academic diplomas /certificates.

Coordination with other ministries

DBAM will be responsible to separate the approved repatriation cases according to municipality of origin and inform the border police and the ministries involved in the

reintegration process about the number of individual cases per municipality, including basic data, date and place of arrival as well as the special needs of returnees. DBAM together with the MLGA will develop a special form containing this information. MLGA will then forward the form to the receiving municipality.

Reception at the point of arrival

The DBAM staff will be present at the border checks once the repatriated person has arrived. They will confirm the arrival of expected returnees with earlier announcements. The cases of un-announced returnees will be rejected by the border police.

The border police in coordination with the relevant MoIA Department will provide the repatriated persons with information related to civil documentation at the border..

Recommendations:

- MoIA should provide repatriated persons with brochures in all official languages containing all necessary information on how to obtain civil documents.
- MoIA should facilitate the access to civil documents for persons who do not possess any documents, especially minority groups.
- MoIA as a readmission authority after Kosovo's status determination should make sure that necessary documentation should be provided within readmission procedure
- TORs for appeal boards for the cases of persons without documentation should be drafted and adopted.

3.2. Access to Health Care

Since the armed conflict 8 years ago, the health care system of Kosovo has changed significantly. The structures and institutions throughout the health care system have undergone significant rehabilitation and reconstruction process.

Following the armed conflict of 1999, the Ministry of Health (MH) drafted basic documents related to the organizational structure of the health system in Kosovo in accordance with the European Standards. The legislation, policies and strategies of the MH are based on the principles of equality, efficiency and sustainability.

Despite the scarce resources, the MH has developed a wide network of health institutions enabling easy access to all residents of Kosovo with the support of the international community. Equal access to health services by all residents, especially by vulnerable groups are stipulated in respective by-laws. The MH has provided its active support to governmental and non-governmental programs addressing the specific problems of these groups (victims of trafficking, people with disabilities, etc).

Capacity building in specialized areas and development of additional health care services remain amongst the challenges that have to be addressed in the future. Besides, financial resources should be allocated in order to address the needs of repatriated persons. This provision should be included in annual budgets of both MH and Municipal Assemblies.

The repatriated persons should be given special attention, especially in cases of serious illnesses. This becomes a problem when there are no adequate health care services available in Kosovo. Due to the circumstances (lack of equipment, adequate framework) a number of tertiary health care services (cardio chirurgic, oncology, poli traumas, transplantations (kidneys), mental disorders, etc) cannot be provided in Kosovo. Therefore in 2003 the MH has launched a program for medical treatment abroad. To the moment 1000 Kosovans have benefited from this program, although the number of requests was much higher. Since the budget of MH is very low, the assistance provided by GOs/NGOs/KFOR has proved to be very beneficial.

The sufficient capacities for medical treatment will be provided for all persons who will be treated in Kosovo. Persons with mental problems will be treated in special institutions established for this purpose.

The minority groups should also be given special attention by the MH. Examples of Gjakova / ica where the RAE communities are using the medical services without any barriers, as well as construction of facilities e.g. Mitrovica-Roma Mahalla should serve as models to enable minority communities to have better access to health services.

All Repatriated Persons will receive brochures, while additional information on health issues will be provided by responsible people at both local and central level through public awareness campaigns and Health Institutions.

During the period of re-integration the repatriated persons shall be registered in health institutions and obtain health cards, thus entering the Health Information System. With the establishment of health insurance they, as all other residents, will enter these schemes and will obtain necessary documentation.

Repatriated persons will be exempted from charges for medical services until their full reintegration.

Recommendations

- The Ministry of Health should prepare an evaluation form related to the state of health of repatriated persons through Health Institutions, by paying a special attention to persons with special needs (dialysis, mental disorders, disabled persons, etc.).
- The persons who have specific needs should be identified as soon as possible, if possible while they are in the transit center.
- Free hospital capacities should be identified in advance (especially for the patients with special needs).
- Certain number of capacities in hospitals should be booked for repatriated persons.

3.3. Employment

In the area of employment the Ministry of Labor and Social Welfare (MLSW), namely the Labour and Employment Department provides services for persons who are unemployed, employed and those seeking training opportunities. The employment strategy, plans and programs of MLSW cover policies regarding employment and vocational training. In addition, despite the scarce human and material resources MLSW institutions provide the following services:

- Registration
- Support in finding employment
- Providing information on the labor market
- Counseling
- Developing Professional skills
- Application for social assistance etc.

The rate of unemployment in Kosovo is very high. Thus the repatriation will overburden the situation even further. However, this matter should be addressed in policies, especially in employment strategy of Kosovo, which is in compliance with the European Strategy for Support and Employment.

Employment policies

Active policies of the labor market

The MLSW has developed policies and measures to enable the provision of services for repatriated persons through employment and vocational trainings. Currently, the Ministry of Labor and Social Welfare promotes six main active employment measures: counseling on employment and carrier orientation, providing information on the labor market, developing skills for the labor market, establishing employment subsidies, organizing public works and self-employment programs. For the time being, the basic legal framework is lacking these and passive measures for the labour market as well as procedures on administration, monitoring and evaluation of these measures. Due to the lack of financial resources for implementation, the *Law on Promotion of Employment* has not yet been approved. However the main active measures are being carried out by the employment offices, programs for promotion of employment and other special programs. These programs should focus on repatriated persons with difficult economic conditions and difficulties in the labor market.

In addition, the vocational training centers should create conditions for repatriated persons by organizing trainings for different profiles and assisting in their employment.

However the MLSW considers the favorable, sustainable and equal conditions for economic development as the best solution for reintegration of repatriated persons.

Passive policies of the labor market

The current system of social protection is comprised of social assistance and network of social work centers. The latter offers counseling and referral services for vulnerable individuals and families (minor delinquents, orphans, victims of domestic violence etc.).

The pension system consists of three pillars: the basic pension with the fixed sum, mandatory and voluntary schemes based in enterprises. In addition the system is supplemented by special schemes for war invalids, early pensioning for workers of the mining sector, and disabled persons. Such protection programs are supported by direct and indirect subsidies for the most vulnerable groups.

Recommendations

- Reintegration of repatriated persons should be part of MLSW's employment strategy
- MLSW should provide equal access and services within its active and passive employment policies
- Programs should be established to support reintegration. They could be subsidized by donors or the Kosovo Consolidated Budget
- The repatriated persons should initiate requests for employment and professional qualification services
- Repatriated persons should be included in programs encouraging employment and other programs according to specifics and criteria with the special support measures for minority groups. UNDP employment generation project or the BRIDGE reintegration projects could serve as models.
- Repatriated persons should be included in all programs for professional qualifications in order to get prepared for the employment market
- Equality should be the main principle in employment practices throughout the country

3.5. Education

Return of considerable number of Kosovans from other countries is expected with settlement of Kosovo's political status. Education has a special importance in the process of reintegration of repatriated persons. There will be large number of children and youth who should continue education upon return.

Ministry of Education, Science and Technology (MEST) should be ready to accept and determine the levels of all children from all communities to all levels of education in order to implement the provisions of Law on Primary and Secondary Education. MEST will pay particular attention to the obligatory education.

Initially, children will be registered through informal procedures. After the registration, children and parents will be obliged to complete all the necessary documentation, which have to undergo all verification and notarization procedures. As mentioned, MEST will determine the levels of children and offer opportunities for their education in accordance with their levels. Initially an officer will be authorized by MEST to follow the education of returnees on a permanent basis

The education system of Kosovo consists of three levels: pre-primary, obligatory and higher education. Besides there are non-formal education for adults and education for children with special needs.

At the level of pre primary education (for children of the age of 5), the MEST will offer opportunities in cooperation with municipal education departments. Due to the lack of

spaces in the existing premises, it will take into consideration building annexes, if necessary.

Children at the level of obligatory education will be placed in mixed classes, not in separate ones, to allow children to get adopted, familiarized and integrated into the environment easily. Repatriated primary school children should be provided with books and school materials free of charge.

At the level of secondary high schools, gymnasiums and professional schools, the repatriated children will be registered and guided in accordance with the curriculums they had accomplished during their previous education or in similar profiles. There should be a system established to compare and certify certificates from host countries.

As for higher education all interested persons should be included in the existing universities according to the areas of study. Private higher education should be offered to returnees.

MEST also offers opportunities to continue a non-formal education to persons of different ages.. The interested people can choose the professional schools based on curriculums accomplished and their age.

Children with special needs will be paid special attention by MEST and included in specials schools or standard schools with specialized classes. If necessary, MEST will increase the number of these classes. In addition MEST will cooperate closely with local and international partners that deal with this type of education.

Municipalities are obliged to offer a special education according to the law and within the budget disposal. They are responsible for monitoring the education for special needs in pre-university school system and assessing the needs. The Law of Education foresees the administrative procedures for evaluation, definition and claims. The relevant directorates in municipalities should develop new policies for integration of repatriated persons with the special education needs in the pre-university school system. Directorate of Education should adopt policies and plans and in cooperation with the school directors include additional hours and special skills for the repatriated persons that who were born or grown up outside the country.

There will be a considerable number of children who have stayed and been educated for many years in foreign countries. They will have difficulties in communication and understanding in their native language or the chosen language for education. For this category of children MEST will organize language courses. Courses will take place in schools where children are registered or in centres nearby the schools. Based on the preliminary test, children will be divided in two groups: basic and advanced levels. Teachers engaged for these language courses will initially attend a training from experts appointed by the MEST The duration of courses and a number of classes should be determined.

A special attention should be paid to children from minority communities. Special courses should be created to allow them to catch up with children of the same age at the regular schools. MEST should closely monitor their attendance and organize programs to encourage their education.

In Kosovo classes are held in four languages: Albanian, Serbian, Bosnian and Turkish, with the aim to provide comprehensive and qualitative classes for all. Higher education in Bosnian and Turkish languages is limited only to the educational faculty.

The MEST strategy for re-professionalism and reintegration includes all levels of education for minority communities, beginning with preschool level, primary, secondary and higher levels. MEST is ready to support, assist and provide education to all communities, by creating good environment for their education. Serbs, Bosniaks, Turks, Romas and Egyptians are all well involved in Kosovo multiethnic mosaic, with no regard to differences in language, history, culture and traditions. There has to be equal opportunities for quality education in mother tongue of all of these communities.

The MEST should carry out its policies and activities in accordance with the Law on Anti-Discrimination.

School infrastructure

In order to accept and determine the education level of all repatriated children the MEST should establish the necessary infrastructure and:

1. allow the increase of number of children in classes
2. use the space in existing school buildings rationally
3. furnish the new and renovated premises with cabinets and necessary equipment
4. offer transportation especially in rural areas

Recommendations

MEST should ensure that:

- Each municipality should have the working plan on education
- MEST Officer and municipal community officers should monitor the implementation of this strategy
- MEST should foresee and secure financial means for language course, teachers, trainings, additional teachers for repatriated children, assisting personnel, school premises, school supplies and children's transport.
- MEST should establish classes in minority languages in the areas where these groups are concentrated most and provide them with school books, materials and pedagogical documents in their native languages
- MEST should foresee and secure financial means for catch up classes for minority communities
- MEST should monitor the attendance of schools by children from minority communities and organize encouragement programs for their education
- MEST will issue an Administrative Direction to determine conditions, criteria and procedures for implementation of this strategy.
- Repatriated persons should be informed about the education opportunities, all available services, relevant legal provisions and institutions in charge, in advance. This information should be included in the leaflets that will be provided at the points of arrival.

3.6. Social Welfare

After the arrival of repatriated persons to their accommodation, they should be informed about their rights in existing social schemes in Kosovo by respective municipalities

The schemes are dedicated to the residents in need and are not connected to previous contributions. It is important to mention that previous schemes of social-pension-invalid insurances are not valid since the year 1999 and residents cannot benefit from those schemes. At the moment there are several types of pension schemes, including basic pension scheme, pension scheme for disabled persons, families of martyrs and civil victims of war, poor families and early pension scheme for Trepca complex employees.

Basic pension scheme

In 2002 the Assembly of Kosovo approved the Law on Basic Pensions. This law recognizes the right to pension of all persons over the age 65. It is required that in order to qualify for this scheme persons should prove that they are permanent inhabitants of Kosovo. It is not important whether the person already has benefits from another type of pension. The basic pension amounts to 40 Euros and is administered by MLSW through offices of pension administration of Kosovo in municipalities and regions. This scheme is part of the strategy of MLSW and will remain so in the future.

The pension scheme for disabled persons

This scheme is dedicated to all persons incapable for work, including invalid pensions. The scheme is regulated by Law 2003/23 and Regulation on promulgation of Law no. 2003/40.

The level of disability is determined by the medical committee at pension administration of Kosovo. All residents, who prove to be permanent inhabitants of Kosovo and who are permanently or completely incapable for work have a right to apply for this scheme. It applies for adults from the age 18 to 65. There are other benefits for these persons such as travel payment up to 50%, cultural-sport events, and physical access (ramps in all public institutions). They are exempted from custom payments for means helping their integration into life etc. MLSW together with MFE will continue working to increase the amount of this scheme (40 euros) to comply with the increase of the cost of life.

The pension scheme for families of martyrs and civil victims of war

The beneficiaries of this pension scheme are all persons or families who received physical injury as a direct result or died as a result of the war in Kosovo in 1998/1999. This scheme was regulated with UNMIK Regulation 2000/66, whereby 8000 families have benefited so far. Recently the Assembly of Kosovo has approved the Law on Families of Martyrs and Civil Victims of War. This scheme is managed by MLSW through the Department for Families of Martyrs and War Invalids. The central office is located in Pristina, while regional offices are located throughout Kosovo.

It is planned that a number of citizens will benefit from this scheme not only material compensation, but also other beneficiary treatments as assistance means to facilitate better integration for disabled, through provision of climatic baths free of charge, facilitations in traveling, education and health services.

Social Assistance Scheme (for poor families)

This scheme is regulated by Law no. 2003/15 in order to protect and take care of families under the risk. The Social Assistance Scheme should provide financial support to eligible families in accordance with the criteria set forth in the above mentioned Law and within the resources allocated for this purpose in the Kosovo Consolidated Budget. The Ministry of Labor and Social Welfare has designated the Centers for Social Work to administer the Social Assistance Scheme. CSW are located throughout Kosovo, in 31 municipalities, including 14 sub offices to provide an easier access for communities, if they are minorities in that municipality. Apart from other criteria, the applicants should have ID card issued by UNMIK for themselves and for other family members that are older than 16 years of age. The birth certificates are required for members who are less than 16 years of age.

An applicant should be an inhabitant of Kosovo. In case if he/she leaves Kosovo the social assistance will be interrupted.

The family of the first category according to the Law on SAS is a family where all family members are dependants, as defined in this Law, and where such dependants are not capable to work (in cases where the self-feeding parent is obstructed to work).

The family of second category is a family where there is a family member incapable to work *and* where there is

- at least one child under the age of 5,
- an orphan under the age of fifteen 15, in its full-time care

Disabled and permanently disabled up to 80% incapable to be employed can benefit from this scheme. This includes persons aged over 16 years and less than 65 years old.

Disability is determined by a medical commission in each region, established for this purpose.

The social assistance scheme is meant to be permanent until needed and shall be managed by MLSW through appointed Agencies.

The early pension schemes of Trepca complex employees

The beneficiaries of this early pension scheme are all employees of Trepca under UNMIK administration and miners working underground, who are 50- 65 years of age, employees announced incapable because of the work in mining with 10 or more years of experience. The person should be permanent inhabitant of Kosovo. This scheme is not foreseen to be sustainable because it will end with inclusion of these persons in the basic pension scheme.

Recommendations

- MLSW should facilitate inclusion of repatriated persons to the above mentioned schemes without delays

- Repatriated persons who belong to the criteria set for each scheme should be informed about their rights and procedures on how to enroll into the schemes
- Centers for social work should take proactive measures to identify families that might require social assistance
- The responsible authorities should consider increasing the amount of basic pension scheme to meet the minimum living conditions

4.1. Humanitarian Minority Transportation

4.1.1 Background, legal framework and relevance of humanitarian transportation to repatriated persons

Presently humanitarian transportation in Kosovo is being used by members of the Kosovo Serb community and by Roma living in Kosovo Serb enclaves. Up to date, the UNMIK readmission policy regarding the involuntary repatriation of persons who originate from Kosovo and do not or no longer fulfil the conditions of residence in their current host countries has prevented the repatriation of these three groups. Such policy is based on the UNHCR “Position paper on the continued international protection needs of individuals from Kosovo” issued in June 2006.¹⁰ Once the mandate of the UNMIK has expired, the situation may change and host countries may not anymore follow the UNHCR recommendations as closely as they are at present.

In the immediate aftermath of the conflict, the humanitarian transportation project (HTP) was established in October 1999 by the UNHCR to guarantee essential transportation service in areas where population of minority communities and other vulnerable groups with limited freedom of movement is concentrated. It was transferred to UNMIK Department of Civil Administration on 1 July 2001. Since 1 January 2007 Kosovo PISG, namely the MTC and MCR have taken full responsibility for this service. Transferred responsibilities are regulated by an Operational Arrangement regarding the Transfer of Responsibility for Humanitarian and Special Transportation Services for Minority Communities in Kosovo (Arrangement).

4.1.2 Stakeholders, responsibilities and actions

The HTP is subdivided into **three components**:

1. Humanitarian Bus Transport to minority areas
2. The Freedom of Movement Train operated by Kosovo Railways (previously UNMIK Railways)
3. The Civil Service Bus

The MOTC ensures the operation of the components 1 and 3 through long term agreements and service agreements with the respective service providers.

¹⁰ In particular, UNHCR considers that “Kosovo Serbs, Roma and Albanians in a minority situation” are “groups that continue to be at risk of persecution...” and recommends that “return of individuals belonging to these groups should only take place on a strictly voluntary basis” (Groups at risk, paragraph 24). The UNHCR position paper also states that “in the current complex situation of Kosovo.....persons ethnically mixed marriages, and persons of mixed ethnicity, persons perceived to have been associated with the SCG authorities after 1990, and victims of trafficking... also have well-founded fears of persecution.” (paragraph 26).

4.1.3 Minority communities' protection and monitoring

Pursuant to the Arrangement the OSCE shall **monitor** and follow up on any reporting incidents, assess freedom of movement, and access to safe, secure and quality transportation by members of minority communities. It shall prepare reports to the PISG, the Special Representative of the Secretary General (SRSG) and other members of the International Community, as appropriate, on the fulfilment of the terms of the Arrangement. The MOTC and the MCR are responsible to report to OSCE on implementation of the Arrangement and provide to OSCE staff to minority transportation services and beneficiaries for the purposes of monitoring.

To ensure continued monitoring of the terms of the Arrangement, UNMIK and PISG shall make successor arrangement with appropriate entities.

In the area of **minority communities protection** (art. 3), to ensure freedom of movement the MoTC shall

- work closely with the Kosovo Police Service and KFOR to ensure that minority transportation is conducted in a safe and secure environment, including by ensuring that reports vandalism, theft or other criminal acts are promptly reported to KPS and KFOR;
- take steps in co-operation with its contactors/service providers to ensure that transport staff, bus crews and passengers enjoy adequate security at all times, including by liaising with police and security authorities;
- ensure that transport services are performed by employees that speak the language of their passengers, that recruited staff is representative of the diversity of Kosovo population in terms of gender and ethnic background, and that staff professionally adequate and trained;
- ensure that information regarding transportation services is available in Albanian, Serbian and English with particular reference to information on transportation routes, fees, and times; signage; administrative instructions and regulations;
- work with the OSCE to ensure monitoring of minority bus and train routes;
- co-operate with OSCE, Ombudsperson Institution and the Anti-Discrimination Commissioner in protection related activities;
- ensure the adequate provision of humanitarian and minority transportation services sufficient capacity, resources and funds from the Kosovo Consolidated Budget (KCB).

The MOTC and the MCR shall jointly:

- collect information and evaluate the impact of minority transportation projects to better understand whether needs of minority communities are met and
- the social and economic effects of transportation policies on minority communities.

Finally, all PISG shall

- address human rights/discrimination complaints in accordance with the applicable law; b) collect statistical data on minority communities;
- conduct annual reviews of the HTP;
- provide training to Ministry staff on anti-discrimination and human rights.

4.1.4 Recommendations

- MOTC & service providers to ensure adequate technical conditions for all means of transport in use and for the radio communication system in order to provide for safety and security of all passengers
- MoTC & service provider to create an easily accessible and user friendly complaint system and provide passengers with written information in their language(s) regarding the procedure for presenting written complaints, requests or suggestions; Municipal Community Offices (MCOs) and Municipal Returns Officers (MROs) to assist in submitting such requests and complaints to the appropriate institutions
- Specification of clear application criteria and procedures to allow for a transparent and demand-driven selection process for new humanitarian transportation routes responding to potential requests by communities, returnees and remainees, whose locations are not currently covered by existing routes or who have identified an increased need for transportation capacities
- The MoTC, the MCR, Municipal Authorities, KPS and other relevant institutions to discourage, prevent and respond in a prompt and effective manner to security incidents originating within their respective communities
- Finalize to Code of Conduct for bus drivers

5. VULNERABLE GROUPS

5.1. Victims of trafficking

The expression “human trafficking” means recruitment, transportation, transfer, sheltering or receipt of a person by one or more of the following means: threat, use of force or other forms of coercion; abduction; fraud; deception; abuse of power or of a position of vulnerability; or the giving payments or benefits to achieve the consent of a person having control over another person –(prostitution, sexual exploitation, including sexual servitude, forced labor or services, slavery or practices similar to slavery and servitude, or removal of organs).

Economic and financial vulnerability of survivors of trafficking is a serious and persistent challenge for creation of a successful social inclusion programme. Kosovo currently has two levels of anti-trafficking work. The first one is on the strategy level and the second one on the operational level. The strategic level was established in May 2005, under the Kosovo Plan of Action to Combat Trafficking in Human Beings (KAP). The Inter-Institutional Working Group to Combat Trafficking in Human Beings in Kosovo (the Inter-Institutional Working Group) consists of PISG representatives¹¹ and the Advisory board from the intra-governmental, international and local non-governmental organizations. The Inter-Institutional Group, under the lead of the KAP Co-ordinator appointed by the Prime-Minister, has been mandated to instruct and guide the PISG

¹¹ Ministry of Education, Science and Technology, Ministry of Culture, Youth and Sports, Ministry of Labour and Social Welfare, Ministry of Health, Ministry of Public Services, Ministry of Local Government, Ministry of Finance and Economy, Ministry of Trade and Industry, Ministry of Returns and Communities, Ministry of Justice, Ministry of Interior.

authorities on the establishment of effective prevention, protection and prosecution activities in the area of anti-trafficking as foreseen under the KAP. The OSCE is the member of the advisory board. Within the Inter-Institutional Working Group, four sub-working groups are in the process of being established focusing on prevention, protection, prosecution and children.

The operational anti-trafficking activities - Direct Assistance Service Group group, mandated to provide and/or establish direct assistance to the persons presumed to be victims of trafficking in human beings, was established in the 2000). The Standard Operating Procedure (SOP) for Assisting Child and Adult Foreign Victims of Trafficking in Human Beings first established and signed in 2000, was revised and updated in 2002 and 2004. The latter is currently being reviewed by the SOP working group¹². The operational policy to identify and assist Child and Adult Kosovo Victims of Trafficking (KVoTs) was established in February 2006, by signing SOP for assisting KVoTs. Under the SOP for Assisting KVoTs, the key agency to co-ordinate re-integration activities to protect the rights of trafficked persons is the MLSW. The Ministry of Justice (MJ) - Victims Advocacy and Assistance Division is mandated to ensure that the victims' rights are protected and legal aid, representation and services are available to them. As this mechanism has only been recently established it is not ascertained whether the existing re-integration mechanism is successful in preventing re-trafficking in human beings for the victims who have already been a subject to exploitation. The KVoTs are all assigned a Social Worker from the Centers for Social Welfare as their case manager

The repatriated persons who have survived trafficking in human beings should be under the lead of KAP Co-ordinator and the MLSW, which should engage the Inter-Ministerial Working group to develop strategy for successful reintegration of persons who have survived trafficking in human beings and have returned to Kosovo.

Recommendations

- MLSW together with the Institute for Social Policy should conduct comprehensive research to examine the effectiveness of the existing social inclusion programmes for KVoTs.¹³
- MLSW, supported by the donor community, should develop a plan and strategy for the rehabilitation of children survivors of trafficking in human beings, whose return to the family is not possible. This may include foster care programmes, housing opportunities, education and rehabilitation of child survivors of trafficking.¹⁴

¹² Currently the SOP working Group is also known as the Direct Assistance and Support (DAS) working group and includes members the Ministry of Justice (MJ Victim Advocacy and Assistance Division), Ministry of Labour and Social Welfare, Ministry of Interior (Trafficking in Human Beings Section, THBS), International Organization for Migration (IOM), Interim-Security Facility, shelter for victims operated by MJ, OSCE, UNICEF shelter provider for children and non-governmental shelter provider assisting victim of trafficking who are in medium safety risks. To ensure safety of the clients, the names and location of the non-governmental organizations running shelter services is confidential.

¹³ The MLSW should examine available services under the social inclusion programmes available for survivors of trafficking in human beings which are currently very limited, fragmented and pilot-project based. The MLSW should ascertain that the social inclusion programs based on the concept of empowerment and long term reintegration.

¹⁴ For a detailed list of emergency and other grants in long-term intervention also see the PVPT 'Report on recommendations for policy actions for withdrawal and long-term rehabilitation of

- The Kosovo Anti-Trafficking Co-ordinator and the Inter-Ministerial Working Group should draft a strategy aimed at receiving funds for social inclusion programmes. The strategy should include and prioritise the established the Victim's Compensation Fund as foreseen by UNMIK AD 2005/03¹⁵ to include funds for economic and financial support of survivors of trafficking who have been trafficked in Kosovo. MLGA should lead and oversee the implementation of this strategy on the local level.
- The strategy should include protection, support to victims, social protection and standard measures for identification of victims. The cooperation between actors should be established to provide victims with assistance in the areas of health, education, housing, psychological and financial assistance etc.

5.2. Female Single Headed Household

Recent report of the Kosovo Statistical Office 'Women and Men in Kosovo' (2007) has shown that the unemployment rate for women in general is approximately 60 percent and 33 percent for men. The unemployment rate in Kosovo is high for self-supporting mothers. Thus, they continue to fall under the category of vulnerable groups as they have lower employment opportunities essential for ensuring independent living possibilities and economic and social care available to their children.

Recommendations

- The MLSW should ensure available employment opportunities for self-supporting mothers through the Employment Office of the MLSW.
- The Department of Social Welfare - Social for Assistance Division - should re-assess the eligibility criteria of the social assistance scheme to ensure better protection of the Female Single Headed Households¹⁶, as they fall under the category of vulnerable groups.
- The Agency for Gender Equality within the Kosovo government (the AGE is currently in the process of developing the Kosovo Programme for Gender Equality) should participate in the experts working group to draft the strategy as well as incorporate Female Single Headed Households and the position of women in the labour force in the economic empowerment projects of the draft programme.

5.3. Children without family care. Abandoned children

The protection of such children is carried out through additional activities to unify families, providing adoption or shelter in another family. Family shelters are funded by the MLSW and paid on a monthly basis to cover the expenses of children in such shelters; currently

children victims of worst forms of child labour.' There are good practices and lessons in this report on socio-economic reintegration of children including survivors of trafficking that the MLSW can find useful.

¹⁵ Implementing UNMIK Regulation 2001/04 on the Prohibition of Trafficking in Persons in Kosovo.

¹⁶ Kosovo Assembly Law on social assistance scheme (UNMIK Regulation 2003/28) makes eligible for social assistance only single headed households with children below the age of 15 with very strict financial criteria of eligibility.

718 children are sheltered at the houses of their relatives, whom the MLSW pays 50 euros to each monthly, and for 45 other children, who are accommodated outside family circle, the MLSW pays 100 euros monthly for one child.

The repatriated children without family care, although such cases might be very rare, will be immediately included in the existing programs for protection of such children. MLSW should pay particular attention to these children if such cases arise in the future.

Custody

Based on the abovementioned Law, social services in Kosovo are mandatory for children with no parental care, which means determination of custody as a protection measure. Currently, the MLSW has placed 1180 children under custody.

Abused and maltreated children

The manual on protection of a child was prepared by UNICEF. The Co-operation Agreement between the MH, MEST, and Police was signed, where all parties had undertaken their role for the protection of abused and maltreated children.

MLSW has contracted the purchasing of services to accommodate such children by one NGO with an annual capacity up to 50 children. The children stay here for the shortest possible period and are returned to their families when necessary conditions have been met, or are sent to another family for family shelter.

Protection of children with special needs

By acknowledging the special needs of children with limited ability, it is aimed to enable children to receive education, health services, preparation for employment and recreational activities, so that they get socially integrated and properly developed.

MLSW has two houses available with a capacity of one room for children with limited ability and no parental care, until a more suitable solution for protection is found.

Recommendations:

- The best interest of a child should be in the core of all activities by MLSW to protect children, who belong to the above mentioned categories
- The readmission agreements/arrangements should specify that children without family care should not be returned to Kosovo.
- MLSW should pay particular attention to children without family care who are repatriated from other countries, if such cases arise.
- Children repatriated from other countries should be provided with psychological support to adjust to new environment as well as assistance in the areas of health, education, housing and others

5.4. Old persons without family care

Kosovo provides for institutional care for old persons without family care. The person is accommodated, fed, provided with health, physical and dental services free of charge. There is also an occupational therapy for such persons. The MLSW covers the expenses for every individual in such institutions. The repatriated persons of this category should be admitted to such houses without delays.

The institutions that initiate procedures for the accommodation of persons in such houses are the CSWs. The accommodation conditions in these houses are specified in Administrative Instruction No. 11/2004.

Recommendations

- MLSW should admit repatriated old persons without family care without delays
- The procedures to admit persons to such houses should be simplified

5.5. Persons with mental imparities and no family care

The MLSW has approved the de-institutionalization policy, which aims to categorize the cases and deal with the serious retardation cases of a social character. The MLSW has referred the less serious cases to smaller houses located in the communities,

The special institute in Shtime is a public institution with a social character within the MLSW. The most serious cases have remained in such institute. The accommodation conditions are specified in Administrative Instruction No. 12/2004.

Recommendations:

- The government of Kosovo should negotiate with host countries not to return persons with mental imparities. The special provision should be included in this regard in all readmission agreements/arrangements.
- The capacity and institutions to take care of persons with mental imparities should be improved and expanded.

6. SOCIAL HOUSING AND PROPERTY ISSUES

Place of residence presents a social right of citizens as it is essential for the health and development of people. It is a place where people like to invest and thus improve communication opportunities.

The right to housing is ever more present within the global policies and in efforts for the improvement of human rights in accordance with international treaties.

Housing sector is a wide and complex segment, which is linked to other social sectors. In most countries the issue of housing, due to its importance, has not been left to the mercy of market. Instead, there are different mechanisms and interventions by the states established to develop this sector.

During the war 1998-1999, 27%, of the all households (some 120.000 houses,) in Kosovo had been totally or partially destroyed. By the end of 2002, around 60.000 houses were rebuilt by the international donors; while the rest was built by the people themselves.

According to the report by DHR (2006) there are at least 41 Temporary Collective Centers (TCC) in Kosovo with 1215 families and 5814 inhabitants. The housing conditions in these TCCs are below any living standards – lack of space, lack of

maintenance and as a result damaged buildings. Besides the hygienic conditions are low and there is a big scarce of water and heating, etc.

Families in TCCs are mainly on social assistance; most of them do not have any immovable property and are not in a position to solve their housing with their own financial capacities even in decades.

After the war in 1999, the housing sector of Kosovo has been mainly driven by the private sector (individual houses and residential apartments) and partially by the public sector (residential apartments), which is financed by the Government, municipalities and donors. Construction of social housing buildings by the municipalities, Government and donors primarily focus on families without any housing and that are currently living in Temporary Collective Centers (TCC), whereas advantage is given mainly to female single headed families, orphans and other vulnerable groups. This process is implemented according to the Social Housing Program and the Manual drafted in 2003 by DHR. The program defines the financial sources, selection procedures for families-beneficiaries, housing standards, rights and obligations of beneficiaries and others. Under this program Ministry of Environment and Spatial Planning (MESP), municipal authorities and donors have constructed (8) eight housing buildings with 183 flats for social purposes in following municipalities: Skenderaj, Deçan, Mitrovica, Klina, Malisheva, Kastriot (Obiliq) and Lipjan, whereas this year in 2007, the construction of two housing buildings for social purposes are going to be completed in Gjilan and Gjakova.

Institutional framework

- ***The Ministry of Environment and Spatial Planning***

The Department for Housing and Construction within the Ministry of Environment and Spatial Planning is established to create necessary legal, institutional and financial framework, which will enable equal access of citizens to suitable housing, based on their financial possibilities and their social and medical situation.

- ***Municipal Authorities***

Municipalities do not have a separate sector for housing. The functions at the central and local level for the sector of housing are not regulated with a legal framework.

- ***Public Housing Enterprise***

It is under the administration of KTA and is responsible for administration of public housing stock which is not yet privatized through the “Law on housing” from year 1992 and of the law on business premises.

Financial problems and the Budget

Budgetary funds of the Government are limited and thus it is impossible to provide housing for all groups of people who are not in the position to overcome this problem by themselves. Continuation for the implementation of the Program on Social Housing depends on the budget at the central and local levels as well as donors. Besides, there are no other sources for long-term loans that could be used for social housing.

Private banks are not involved in housing investments due to lack of guarantees or they may be involved with small loans for maintenance or renovation of flats but with a high percent of interest (The loans system is limited and the interest is high 11-12%).

The Rent and renting policies in the field of housing

An important segment of housing policies is the rent and renting systems. Determination of renting policies by law is very important for providing and subsidizing the rent for groups and citizens of different social category. Housing rental policies are regulated in every state. They regulate and protect rights and obligations for types of housing rents with a low price/market price, non-profitable and subsidized rent.

Definition of non-profitable and subsidized rents is important in setting the criteria for the right to move in, duration of use of the flat, calculation and payment of non-profitable rent, control of the price of the rent, etc. Currently, central and local authorities have a limited number or do not have flats to rent with a non-profitable and subsidized price.

In order to determine the administrative rules and procedures with regards to planning, administration and implementation of programs for social housing and to create opportunities for suitable housing based on the financial capacities of families, it is necessary to have a new legal framework and new social schemes to respond to the increasing demands.

Cooperation between MESP and the line ministries

- Cooperation between MoIA, MESP, MLSW and KPA for exchange of information for persons that have to be repatriated.

As it was mentioned earlier in the strategy the MoIA will be responsible to inform MLSW on accepted repatriation cases and share information on their needs upon return. Besides MESP and KPA should be informed about the accepted cases for repatriation of persons with no housing in Kosovo. This will allow them to start necessary preparations to accommodate those persons upon arrival. Based on the information housing needs for repatriated persons with the confirmation from municipalities, the MESP will draft budgetary project proposals for the current year according to the criteria set in the Social Housing Program and the Manual.

Municipality, where the repatriated person originates, has to take obligations to identify immovable properties of these persons. It is necessary to check whether the person has a housing building but also check if the person owns any land. This is important because such persons will not be identified as persons without any immovable property.

Municipality in cooperation with MoIA should be careful while verifying the immovable property under the person's name that is going to be repatriated. Necessary investigations should be conducted also in relation to the immovable property of his/her close family members, such as: parents and brothers because it may be that the person to be repatriated has no immovable property under his name, i.e., the property is under the name of the parents. This tradition is not only present in Kosovo but in all Balkans.

Kosovo Property Agency

Close cooperation with KPA for persons who have submitted requests for restitution of property and who are included in the list for return to Kosovo is important, since KPA does have a data base of more than 50.000 properties. The requests for property restitution were submitted to HPD and KPA. This will enable identification of all those who are in the list for repatriation. This way HPD/KPA can accelerate the procedures, in order to vacate the property from the current resident, so that the real owner can have the property at his/her disposal at the moment of his/her arrival in Kosovo. All obligations for acceleration of procedures regarding requests in KPA shall be taken by KPA. This kind of approach shall prevent problems in transit center.

For persons who still do not feel safe to return to their place of origin, MoIA should try and ask the host countries to arrange an organized return and also consider the geographic location of such persons.

There are three durable solutions suggested to solve the housing problem of repatriated persons:

- Construction of centers of social housing
- Construction of small houses on the lands owned by repatriated person (DRC Program in Mitrovica for Roma Ashkali and Egyptians)
- Inclusion of these persons in the renting scheme for the properties that are administrated by municipal bodies or for the properties administrated by the KPA.

Construction of centers of social housing

If the decision for construction of centers for social housing will be approved, these centers will have their positive and negative effects. The positive one is that these apartments may be used by a great number of people only for temporary sheltering period without having any rights for owning them. Their negative effect is that the repatriated persons, who would always have to seek for other permanent sheltering alternative, will not be motivated for leaving such collective centers for social housing since re-integration for them commence in the first days of their return and that they, after six months of their living at the social housing center, will send their children to the nearest school and leaving this center would have negative effects for their children, who would have to change their housing again, their friends and education personnel. These social housing centers should be constructed by funds collected for this purpose by the Kosovo Government and the donors.

Construction of small houses on the land that is the property of repatriated person

Depending on the cost implications, estimated by experts, the option of constructing houses for repatriated persons should be considered.

These houses should meet basic living conditions. Construction of these houses would help the reintegration of repatriated persons and prevent from becoming a burden for the Government.

Subsidized renting scheme

Repatriated persons may be provided with accommodation in properties administered by the KPA under the renting scheme. But these properties should be requested by municipal assemblies. In this case the KPA clients would be municipalities, not the repatriated persons themselves. There are indications showing that various governments would like to participate in the renting scheme by paying the rent for six months for families returned against their will.

Recommendations

- Funding should be sought to accommodate increasing number of repatriated persons
- The new legal framework should be adopted with regard to planning, administration and implementation of programs for social housing and to create opportunities for suitable housing based on the financial capacities of families

Property issues

Unlawful occupation and use of residential, commercial and agricultural immovable property is widespread in Kosovo. The Kosovo Property Agency has accepted more than 26,000 claims since its establishment in March 2006. Moreover, more than 20,000 property related cases are pending in the regular courts. It is likely that a portion of the potential forced repatriated persons may claim their property with the KPA.

The responsibility for resolving conflict related claims over privately owned immovable property is in the KPA. Other property cases are within the competence of the regular courts.

Regularisation of informal property tenure

A considerable number of the potential forced repatriated persons belong to minority groups and are likely to have lived in conditions of informal property tenure (i.e., lacking registered title over the residences they occupied) before they left Kosovo. Therefore, upon their return they may face difficulties in finding accommodation, reconstructing their property and/or experience negative consequences due to their property status (sanctions for unlawful construction, lack of access to basic infrastructure, lack of addresses, etc).

The regularisation of informal settlements concerns both central level ministries (a joint initiative of the MESP, OSCE and UN HABITAT is taking the lead on this issue) and the municipalities. The responsibility for immovable property rights registration is in the Kosovo Cadastral Agency, which implements the Immoveable Property Rights Register through Municipal Cadastral Offices (MCOs) in each Municipality.¹⁷ While the administration of public, state and socially owned land is currently a reserved power of UNMIK, Municipalities can allocate the use of socially owned land for public purposes under certain conditions.¹⁸

¹⁷ See, for example, UNMIK Regulation 2002/22 On the Promulgation of the Law Adopted by the Assembly of Kosovo on an Immoveable Property Rights Register.

¹⁸ See UNMIK Regulation 2005/13 On the Long-Term Allocation of Socially Owned Immoveable Property Managed by the Municipalities of Kosovo and UNMIK Regulation 2006/5 On the



Institutional framework- Kosovo Property Agency

Established with UNMIK/REG/2006/10 and amended with UNMIK/REG/2006/50, it started its work in March 2006. One of the responsibilities of the Agency is the resolving of specific requests on housing property. Currently it administers 5,000 housing units as a result of its mandate to administer abandoned properties and at the request of successful claimants. Currently, a rental scheme is being implemented to ensure a regular income to the displaced property right holder. The number of properties under administration is likely to increase due to new residential claims

Recommendations

- A number of properties under KPA administration could be used to house forced repatriated persons if the host country agrees to finance the rent for an initial period of time.
- Former informal settlements' inhabitants should be provided with the possibility of regularising their property status through the registration of previous informal transfers, the allocation of property title and/or other existing measures to confer legal security of tenure to persons lacking it, in line with international human rights standards.

8. Partnership and responsibilities in horizontal and vertical lines

Central Institutions of the government will be responsible for the review of readmission agreements and return practices from host countries; review practices and policies on mechanisms of return and reintegration; evaluate implementation of the existing agreements on reintegration by the responsible authorities; and monitor the process. The Central Government should develop joint programs for all central and local institutions and supervise the implementation and the success of reintegration programs. It will be done through an operational action plan.

On the central level, the main ministries, that should play an important role in the process of reintegration are as follows:

Ministry of Internal Affairs (MoIA);
Ministry of Labor and Social Welfare (MLSW);
Ministry of Health (MH);
Ministry of Local Governance Administration (MLGA);
Ministry of Environment and Spatial Planning (MESP);
Ministry of Education (MEST);
Ministry of Justice (MJ);
Kosovo property Agency (KPA)

Financial Implications:

Protection of human rights and prohibition of discriminating practices

International human rights standards will be observed throughout the reintegration of repatriated persons. It implies that no discriminating practices based on ethnicity, race, religion etc. will be allowed during the process of reintegration. The objective of the Government is to improve the life of citizens and accomplish it through prohibition of discriminating behaviours by punishing the unlawful actions.

Objectives, Coordination and Priorities

Coordination Role in relation with municipalities:

The reintegration process of repatriated persons will start and end in Municipalities. Implementation of the process and coordination of activities in horizontal line will be done by MLGA. In the following years the budget plan of municipalities shall foresee the special or planned categories of budget for reintegration of repatriated persons. The reintegration process is complicated, but municipalities do not need to establish new structures outside municipal assemblies for handling these matters. For these purposes the coordination role between local and central institutions will be given to the offices of return and communities that have been established in all municipalities of Kosovo.

MLGA will coordinate activities between MLSW and MESP and municipalities regarding the short term management of temporary accommodation centers and social housing centers.

Services: All municipal departments offer services in one or more areas. For example, Department of Health deals with emergencies and general health services, since it is municipalities that offer urgent services and primary health care. Department of Housing and the center for social welfare, that are going to be transferred to local level, should be engaged in providing the accommodation for all repatriated persons that are in need. Department of Education deals with education matters until university level and works with all schools on a daily basis. Other directorates also, will be engaged in offering services in the fields they cover.

Municipalities will not be able to play their role without having enough resources to accomplish their duties. Based on the experience, it has been proved that MROs and MCOs cannot accomplish their duties with the small budget. Financial resources are the main issue in this sensitive and long term process. Every municipal/local office should be provided with the appropriate equipment in order to accomplish the work in the field.

Conclusions and recommendations within the coordination of activities between the central and local authority

Some ministries within the Kosovo Government (MLGA and MoIA) shall have a coordination role between institutions in horizontal and vertical lines. Thus they will be responsible for the following:

- Ensure the implementation of Government strategies and programs for reintegration of repatriated persons;
- Support local authorities in identifying possible donors, by exchanging good practices for reintegration of countries of the region and the EU practices;
- Carry out joint projects with municipalities for the benefit of repatriated persons;
- Coordinate activities of local and central institutions and donors, by defining future assistance programs in the reintegration process;
- Oversee progress related to implementation of reintegration strategy by municipalities and draft periodical reports for the Government, with the purpose of providing information related to the implementation of reintegration process at the municipal level.
- Recommend sustainable solutions and adopts good practices related to reintegration, in order for municipalities to implement the strategy.

9. Coordination Mechanisms for Implementation of the Strategy for Reintegration of Repatriated Persons

Inter-ministerial coordination board

The inter-ministerial coordination board will be established to provide an efficient implementation of the strategy for reintegration of repatriated persons. The board will be composed of the following ministries: MLGA, MoIA, MLSW, MESP, MEST, MH and MFE. International organizations such as OSCE, UNHCR, IOM, UNDP and other relevant actors will have an advisory role and will have an active participation in the process.

The inter-ministerial board shall:

1. prepare an action plan to implement the strategy
2. design and propose the budget for implementation of the strategy
3. assign areas of responsibility for each relevant ministry on the central level and directorate and municipal administrations on municipal level
4. oversee and monitor the implementation of the strategy
5. coordinate the work of responsible ministries
6. establish efficient mechanisms for sharing information among involved ministries and municipalities
7. coordinate with relevant municipality assemblies the implementation of the strategy on the level of municipalities

Municipal board of directors will be responsible for implementation of the strategy on the level of municipalities in coordination with MLGA and Inter ministerial working group.

Board of Directors shall:

1. Make policy recommendations to PFC and CC
2. be involved in the work of Communities Committees
3. coordinate the work of MROs in handling individual cases
4. prepare and present reports on developments and important policies made with regard to reintegration
5. propose the budget for each component of reintegration prepared by the Municipal Communities Officers

Policy and Finance Committee shall:

1. ensure that the policies and actions are being taken by competent municipality authorities for each component of reintegration

Municipal Returns Officers shall

1. work as a first point of contact for repatriated persons

2. report the needs of repatriated persons to the Executive Board of Municipality
3. provide consultations on available support
4. provide them with leaflets containing information about their rights and available support

ANNEX A

International Instruments

- Universal Declaration of Human Rights, 1949
- International Covenant on Civil and Political Rights, 1966
- European Convention for Protection of Human Rights and Fundamental Freedom, 1950 (protocol 4)
- International Covenant on Economic, Social and Cultural Rights, 1966
- International Conventions on Elimination of Racial Discrimination, 1965
- European Convention on Protection of Human Rights and Fundamental Freedom, 1950 (protocol 12)
- Convention Against the Discrimination in Education, 1960
- UN Convention on the Status of Persons Without Citizenship, 1954
- UN Convention on Reduction of Persons Without Citizenship, 1961
- Convention on Political Rights of Women, 1952
- Convention on Elimination of All Types of Discrimination Against Women, 1979
- Convention on the Rights of the Child, 1989
- Council of Europe: Framework Convention on Protection of National Minorities, 1995
- UN Convention Against Transnational Organized Crime, 2000
- Protocol for Preventing, Prohibiting and Punishing the Trafficking in Persons, in particular Women and Children to the UN Convention Against Transnational Organised Crime, 2000
- “Housing and property restitution in the context of the return of refugees and internally displaced persons” - Final report of the Special Rapporteur, Paulo Sérgio Pinheiro. UNITED NATIONS Council GENERAL E/CN.4/Sub.2/2005/17 28 June 2005
- Council of Europe recommendations (all bodies of CoE) regarding Roma and return of refugees

Legal Framework for Legal Reintegration

- The Law on Civil Status Registers 2004/46 adopted by the Assembly of Kosovo promulgated with UNMIK Regulation No. 2005/21 of 7 May 2005

- The Family Law adopted by the Assembly of Kosovo 2004/32 promulgated by with UNMIK Regulation No. 2006/7 of 16 February 2006.
- Regulation Nr. 2000/13 on 17 March 2000 for Central Civil Registry.
- Regulation Nr. 2000/18 on 29 March 2000 for Travel Document.
- Administrative Direction Nr. 2000/5 on 6 April 2000 for implementing of Regulation 2000/13.
- Administrative Direction Nr. 2001/12 on 31 July 2001 for implementing the Regulation 2000/13.
- Administrative Direction Nr. 2001/18 on 31 July 2001 for implementing the Regulation 2000/13.
- Administrative Direction Nr. 2002/6 on 26 March 2002 for implementing the Regulation 2000/18.
- Administrative Direction Nr. 2003/20 on 7 August 2003 for implementing the Regulation 2000/18.

Legal Framework for Health

- Law on Health No. 2004/4 promulgated with UNMIK Regulation 2004/31 of 20 August 2004
- Law on Sanitary Inspection No.2003/22 promulgated with UNMIK Regulation Nr. 2003/39 of 17 December 2003
- Law on Medicinal Products and Medical Devices No.2003/26 promulgated with UNMIK Regulation 2004/23 of 07 July 2004
- Law on Rights and Responsibilities of Kosovo Residents in the Health Care System No. 2004/38 promulgated with UNMIK Regulation 2004/47 of 19 November 2004.
- Law on Private Practices in Health No. 2004/50 promulgated with UNMIK Regulation 2005/1 of 13 January 2005
- Law on Health Inspectorate No. 2006/02-L38 promulgated with UNMIK Regulation 2006/13 of 23 March 2006.
- Law on Medical Emergency Services No. 2006/02-L50 promulgated with UNMIK Regulation 2006/21 of 22 April 2006
- Tobacco Law No.02/L-36 promulgated with UNMIK Regulation 2007/01 of 09 January 2007
- Law on Encouragement and Protection of Infants' Breastfeeding No.02/L-81 promulgated with UNMIK Regulation 2007/7 of 31 January 2007.
- Law on Reproductive Health No.02/L-76 promulgated with UNMIK Regulation 2007/11

- Law on Service for Blood Transfusion, control of blood and its products adopted by the Assembly and is now at UNMIK Legal Office
- Law on Health Insurance (Adopted by the Assembly this year – has not been signed by the SRSG due to its financial implications)
- Law on Public Health, adopted by the Assembly and is in UNMIK Legal Office
- Law on Prevention and Combating Contagious Diseases, adopted by the Assembly and is in UNMIK Legal Office
- Law on Termination of pregnancy is adopted by the Assembly and is in UNMIK Legal Office (Panel is expected to be established in order to decide about the abort)
- Law on Narcotic Herbs, Psychotropic and Precursory was adopted by the Assembly of Kosovo

Legal Framework for Employment

- Regulation 2001/27 on Basic Labour Law, approved by UNMIK regulation 2001/27 on 8 October 2001, some parts are in the process of incorporation of modifications and suggestions and pending to be approved by Kosovo's Assembly
- Law on Labor Inspectorate 2002/9 promulgated with UNMIK regulation 2003/4 of 21 February 2003
- Law on Occupation Health, Safety and Working Environment 2003/19 promulgated with UNMIK regulation 2003/33 of 06 November 2003
- Draft Law on Stimulation of Employment and Assistance to Jobseekers (it is in the process for approval)
- Draft Law on Professional Rehabilitation of impaired persons (it is in the process of approval)
- Collective Contract was signed in 2004 (even though it was signed, it is being implemented only partly)

Legal Framework for Education

- Law on Primary and Secondary Education in Kosovo 2002/2 promulgated with UNMIK Regulation 2002/19 of 31 October 2002
- Law on High Education in Kosovo 2002/3 with UNMIK Regulation 2003/14 of 12 May 2003
- Law on Inspection of Education 2004/37 promulgated with UNMIK Regulation 2004/55 of 17 December 2004
- Law on Scientific Research Activity 2004/42 promulgated with UNMIK Regulation 2005/8 of 23 February 2005
- Law on Preschool Education 02/L-52 promulgated with UNMIK Regulation 2006/11 of 6 March 2006
- Law on Adult Education and Training 02/L-24 promulgated with UNMIK Regulation 2005/43 of 7 September 2005
- Law on Vocational Education and Training 02/L-42 promulgated with UNMIK Regulation 2006/24 of 25 April 2006

- Law on Publishing School Textbooks, Educational Teaching Resources, Reading Materials and Pedagogical Documentation 02/L-67 promulgated with UNMIK Regulation 2006/45 of 18 August 2006
- Law on the Use of Languages 02/L-37 promulgated with UNMIK regulation 2006/51 of 20 October 2006

Legal Framework for Housing Issues

- Law on Housing Relations (Official Gazette of SAP Kosovo 11/83, 29/86 and 42/86) of 5 April 1983
- Law on Co-ownership of Flats (Official Gazette of SAP Kosovo 43/80 and 22/87) Of 5 December 1980
- Law on Construction and Converting the Common Premises into Flats (Official Gazette of SAP Kosovo 14/88) of 7 June 1988
- UNMIK Regulation 1999/23 on the Establishment of Housing and Property Directorate and Housing and Property Claims Commission of 15 November 1999

Draft laws prepared by the Department of Housing and Construction on housing issues:

- Draft law on the Sale of flats for which there is a right of accommodation”
Draft Law was adopted by the Kosovo Government on 30.05.07
- Draft Law on “Social Housing Programmes”
Draft Law was submitted to the Government on 07.06.2007 and Minister withdrew it in a meeting of the Government for an unlimited period of time
- Draft Law on “Use, maintenance and administration of common parts and facilities in buildings”
First Draft of this Law is being translated and a decision/proposal was made to submit it to the Government Working Group
- Administrative Direction on the “Setting the Criteria and Procedures for ensuring funds to support the resolution of housing needs for families of martyrs and KLA war invalids”.
It was submitted to MFE on 06.07.2007, in order to receive their Statement on Financial Implications

Legal Framework regarding social matters

- UNMIK Regulation no. 2001/4 and provisional penal code of Kosovo of 6 April 2004
- Administrative Instruction 2003/03 of MLSW
- Law for Social and Family Services 02/L-17 promulgated with UNMIK regulation 2005/46 of 14 October 2005.