

# DETAILS

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## Towards a functioning Property Rights System

Property rights must be protected as they are the cornerstone upon which a healthy market economy and an effective democratic government are built. A functioning property rights protection system is essential to ensure the rule of law, sustainable returns, economic development – including foreign direct investment – and the protection of minorities' interests.

**Jose Arraiza and Isabel De Blas Marin, OSCE**

In Kosovo, the property rights system is still being reformed. Judicial and cadastral property-related records are incomplete or missing, a high number of property-related claims at the courts are stalled and the property-related legislation is in some cases unclear and incomplete.

In addition, due to added institutional weaknesses, illegal constructions are not being regulated and continue to flourish, individual's homes are being illegally occupied, agricultural land is illegally cultivated or used and there is a relative sense of impunity in relation to property rights.

### The Property Standard

The Property Rights Standard was drafted in order to strategically build up a functioning property rights system that would take into account and move towards resolving all deficiencies. To do so, the Standard requires that there is effective legislation in place; that



*Property is an issue all over Kosovo. Prishtinë/Priština is not an exception.*

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there are effective property-rights dispute resolution mechanisms; that rightful owners of residential, commercial and agricultural lands are able to take effective possession of their property; and that there is an accurate system for transfer, encumbrance and registration of property, as well as effective mechanisms for the prevention of coerced and/or unlawful property sales.

The OSCE was involved in the drafting process of the Property Rights Standard Implementation Plan, to later on take the role of co-chairing the implementation group that oversees the progress that is being made in this area.

### Legal reform

One of the requirements of the Property Rights Standard is the completion of an assessment and of an action plan for the leg-

islative reform that is required to safeguard property rights. Support to this taskforce will be provided by the OSCE in the form of an external consultant with expertise on 'lessons learned' and analysis from similar transitional economies in the Balkan region.

### Displaced records

A significant portion of cadastral and judicial property related records were removed from Kosovo and taken to Serbia proper in 1999. In order to rebuild the integrity of the cadastral and judicial systems, the returns of these records is of essential importance. The OSCE has been coordinating a 'common approach' between the four Pillars to request from the authorities of Serbia and Montenegro to return these records.

*Continues on pg. 2*



**Sven Lindholm**  
Spokesperson, OSCE Mission in Kosovo

*Editorial with a focus of the overall OSCE's role in Human Rights and Rule of Law highlighting Mission's contribution to greater protection of human right and rule of law.*

A main task of the OSCE in Kosovo is to "take the lead role in matters relating to institution- and democracy-building and human rights and rule of law." Human rights are a part of the applicable law, leading to hearing about efforts to make legislation and acts of local

authorities human rights compliant. But what exactly does that mean and how does it realistically impact on people?

The concept of rule of law is easier to grasp as its impact is seemingly more direct when, for example, police are seen on the street or when one visit the court. Yet human rights and rule of law are intricately intertwined and cannot be separated.

Human rights are those basic standards that are considered to belong to every person and individual. These include the rights to justice, freedom, and equality, the right to health, education, shelter, employment, property, food, freedom of expression and movement. To violate someone's human rights is to not allow that person to live in dignity. To advocate human rights is to demand that the human dignity of all people be respected.

The OSCE is an advocate for human rights. Our tasks include monitoring, capacity building, and raising awareness of human rights. While our work may not always seem visible, on a daily basis we are working with municipal administrations and legal professionals to develop their understanding and capacities to better serve people, to make the system more efficient.

A good example are the efforts we take in helping the judicial system. The OSCE Mission monitors the judicial system while bringing a human rights perspective into its efforts. Issue highlighted have been the right to a fair trial and how higher courts can guide lower courts with sound legal decisions. This affect individual rights, and if they are respected then the justice system will function better, human rights will be respected and rule of law will be strengthened.

OSCE's reporting has also been to provide the responsible central or municipal authorities with the tools to improve the situation and promote the development of institution that serve all people without discrimination.

Human rights are also protected through effective and functioning rule of law institutions. In the areas of police and justice the OSCE has hand through the Kosovo Judicial Institute by training judges and prosecutors, and the Police School which has churned out the basis for a democratically-oriented police force.

But in the end it is not the institutions that protect human rights or provide the basic framework for the rule of law. It is each and every individual.

*Continued from pg. 1*

## Unsolved property claims

The resolution of conflict related property disputes not under the mandate of the Housing Property Directorate and Housing and Property Claims Commission – which have exclusive jurisdiction over conflict related residential property claims - is one of the priorities for the OSCE.

It is estimated that a number of disputes over agricultural and commercial property need to be addressed through a specific mechanism. The OSCE has been involved in the search for a solution that would address disputes over agricultural and commercial property. Currently there is a large backlog of property-related cases in the regular courts. Approximately 20,000 of these cases are related to the conflict. A strategic solution for the effective resolution of these cases, a number of which relate to agricultural and commercial property, is needed.

## Protection of cultural heritage

Cultural heritage needs a special level of protection. In Kosovo, such protection requires special measures directed to prevent damage and illegal construction in cultural heritages sites.

The OSCE has been involved in developing concrete proposals for the sustainable protection of cultural sites. For instance, an Executive Decision was recently issued by

the Special Representative of the UN Secretary General regulating construction in Deçan/Deçani canyon area. This decision may serve as a model for the future protection of other cultural sites.

Overall, the OSCE is aware of the importance of the protection of property rights for the future of Kosovo and is working to ensure that adequate support is provided to the local institutions.

### Illegal occupation – It's not a solution

When a society perceives illegal occupation as an acceptable means of solving one's housing or economic needs, property legislation implementation becomes that much harder.

The property standard implementation plan includes, among others, an action point that addresses this concern. It calls for a public information campaign that would change public opinion and indicate that illegal occupation is not a viable solution and that legal options need to be explored.

At the request of the Ministry of Environment and Spatial Planning and UN's Standards Co-coordinator Office, the OSCE Mission is currently assisting development of such a campaign under the slogan:

*Illegal occupation – It's not a solution.*

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# Urban upgrading and protection of vulnerable groups – Informal Settlements in Kosovo

All citizens of Kosovo have equal rights and obligations towards the local government, and the municipalities have clear obligations to ensure that all their inhabitants are treated equally and included in their development plans. In this regard, the OSCE has been involved in drawing the government's attention to the rights of vulnerable communities, and especially to the rights of people living in informal settlements.

Jose Arraiza and Isabel De Blas Marin, OSCE

The development of informal housing areas is a frequent phenomenon in the Balkan region. Inhabitants of informal settlements – especially those belonging to the most vulnerable groups, including Roma, Ashkali and Egyptians – are often marginalized by the larger community. They are more prone to suffer violations of their human rights and sometimes they are not given the opportunity to fully participate in the work of government. They do not enjoy the general benefits of living in the cities as most others do.

As such, informal settlements may possess the following characteristics: informal or insecure tenure, inadequate access or deprivation of access to basic services, inadequate or deprivation of participation in governance and vulnerability to discrimination.

Some informal settlements are the result of a post-socialist, post-war transitional economy characterized by uncontrolled city growth – these are highly visible informal construction developed in the outskirts of the cities of Kosovo. Other settlements can be the result of the different cultural habits of the vulnerable communities. The nomadic habits of the Roma/Askhali and Egyptian community and the discriminatory practices have in many occasions led to the establishment of informal housing areas, some of which were destroyed during or immediately after the conflict, like the Roma Mahalla settlement in Mitrovicë/Mitrovoica.

## Urban upgrading

Urban and spatial plans are used by the central and the local governments to promote economic development within its territory. These plans also help governments to ensure that all individuals, regardless of property status and including vulnerable groups, are provided with the appropriate level of services, like access to education, sewage, street cleaning, electricity, and health facilities.

When drafting municipal spatial plans and undertaking expropriation procedures, informal settlements must be protected unless there is an objective justification to remove them. Regularization, not eradication or relocation, should be the norm. At all times, municipal spatial plans also need to ensure that the rights of inhabitants are protected, including access to essential services such as education, sanitation and other municipal services.



*Children living in informal settlements are those who suffer most*

## The OSCE promotes housing rights

In October 2003, the OSCE Mission in Kosovo and the OSCE Mission to Bosnia and Herzegovina sponsored a “Regional Roundtable on Formalising Informal Settlements of Roma and other vulnerable groups”. This Roundtable brought policymakers, activists and donors together to learn about this complex, yet critical issue and provide recommendations to promote housing rights.

The conclusions of this Roundtable were launched by the Prime Minister of Kosovo and the Head of the OSCE Mission in Kosovo.

These conclusions have served to create awareness amongst government officials and to provide guidelines on how to regularise informal settlements. More than one year after the launch of these conclusions, the government included informal settlements on its agenda and is aware that a solution needs to be found to resolve this complex issue.

## Standards for Kosovo

Informal settlements were included as part of the “Property Rights Standard”. Standard Goals 8 and 9 require that central and municipal authorities protect and upgrade informal settlements. With its role of co-chair of the property rights standard implementation group, the OSCE has been closely following the developments in this area.

At the central level, the OSCE has supported with its expertise the ‘Stakeholders Group on Informal Settlements’. This group was created to act as a steering committee for all activities related to informal settlements in Kosovo, not only within the standards process but also with a long-term perspective.

Thanks to the awareness raising activities of the PISG institutions at the central level about the need to regularize informal settlements, municipalities are now becoming more familiar with the process of regularization.

For instance, in Istog/Istok, the Municipality has taken the initiative to regularize the informal settlement of Rudesh, where in 1999, 60 families of Egyptian origin had to be evacuated to Montenegro by UNHCR and KFOR. The OSCE, through its Human Rights Expert deployed in Istog/Istok municipality, encourages this initiative and it is providing advice to ensure that the process does not conflict with the international human rights standards and that the rights of those displaced are respected.

The regularization of informal settlements is, however, by all means not reduced exclusively to a minority community issue, but is rather linked to the overall concern of municipal urban management in Kosovo and to municipal efforts to incorporate all informally constructed housing areas into their plans and regularize them.

# The European Convention on Human Rights: A Convention for Kosovo

'Human' and 'rights' are two words undeniably married to one another in the contemporary political discourse of post-war Kosovo. Few statements, it seems, are made by politicians, international administrators or foreign diplomats without some mention of 'human rights', that ubiquitous coupling of words. But their significance owes more to mere fashion. The popularity of talking about human rights in Kosovo and, more importantly, acting on human rights, is in large part due to a little known document signed fifty-five years ago in Rome, Italy.

William Henley & Ronald Hooghiemstra

## The Right to Life

In that capital, on 4 November 1950, the member states of the newly-established Council of Europe - Belgium, France, Sweden and the United Kingdom included - gathered to proclaim a new era of respect for human rights in Europe. The signing of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which was brought into existence at this meeting, was no mean feat considering the recent history of enmity, rivalry and war between Europe's nations. But this sometimes obscure document has had a great effect on the continent and, crucially, impacts significantly upon the future of Kosovo.

The Convention, also known as the European Convention on Human Rights, requires signatories to uphold certain rights, such as the right to life, liberty, security of person, freedom of movement and free-

dom of expression, and prohibits wrongs such as torture, slavery, and discrimination. Although often not differing markedly from the United Nations' 1948 Universal Declaration of Human Rights, it was important in that it specifically sought to secure the effective recognition and observance of human rights in law.

## European Court of Human Rights

Into international law, it introduced the concept of a collective judicial body able to make decisions on human rights which are enforceable in each of the member states of the Council of Europe. This judicial body, known as the European Court of Human Rights, has the authority to decide on claims made by individuals and groups that a member state has violated their human rights and freedoms as protected in the Convention.

The Court is authorized to make decisions about a state's actions, laws and policies which are binding on all of the members of the Council of Europe - now numbering forty-six countries in total. Its authority over national laws and policies has been accepted and maintained by all European countries and makes up the most sophisticated and effective system of human rights protection available anywhere in the world.

## Safeguarding rights

During the 1970s and 1980s, this system of collective protection led to hundreds of decisions by the European Court that obligated states to change their policies and laws, as well as to compensate individuals and groups for violations of the human rights contained in the Convention. All member states respected the decisions of the Court and, in many cases, states which had not been involved in a case before the Court also changed their laws and policies following a condemnation of another state.

The European Court has always insisted that member states are obligated to ensure that human rights are "practical and effective, not theoretical and illusory." Today, most countries have incorporated the rules of the Convention into their national legal systems and the human rights provisions of the Convention can be used before national courts in order to put into practice the effective enjoyment of human rights by all.

## Applicable in Kosovo

But the European Convention and the European Court should not appear as irrelevant abstractions to life in Kosovo. People here have endured, and sometimes still endure, unacceptable violations of human rights. Recognising this, the Constitutional Framework of 2001 was drawn up to place a clear burden on Kosovo's authorities to respect and address the human rights of all residents.

As such, the Provisional Institutions of Self-Government, although not an actual signatory to the European Convention on Human Rights, are nonetheless bound to abide by



*The European Court of Human Rights located in Strasbourg, France*

it. Under Article 3.2(b) of the Framework, they are obliged to respect the rights contained in the Convention, such as the right to liberty and security of person, the right to freedom of expression, and the right to a fair public trial and ensure citizens' participation in public life. In short, the Convention is directly applicable in Kosovo law.

The Convention has consequently had an important influence on a growing culture of respect for human rights in policy-making in Kosovo. The Convention and the decisions of the European Court are used to ensure that new laws in Kosovo are made in compliance with human rights. There are also notable similarities between the rights enshrined in the Convention and its Protocols with the Standards for Kosovo – for instance on freedom of movement and rights for members of ethnic communities.

## Monitoring human rights

Today, the decisions of the European Court number in the thousands, and the text of the Convention and its interpretation of the rules of the Convention form the basis of numerous programmes organized in Kosovo; influencing intensive training programmes organized for judges, prosecutors and lawyers, as well as for public officials, and the education of children and the general public.

The OSCE Mission in Kosovo as one pillar of the United Nations Administration, in cooperation with the Council of Europe and the Office of the UN High Commissioner for Human Rights, uses the European Convention to monitor and analyse the workings of Kosovo's Provisional Institutions of Self-Government and to make recommendations for changes and to discuss the development of new rules and institutions.

## The doors of Europe

As for Kosovo's future, adherence to the Convention has an important effect on acceptance into the wider family of Europe. One need only look to the newly emerging states of Central and Eastern Europe after the end of the Cold War to observe just how important the Convention has been for aspirations to be accepted into Europe.

During the 1990s, these countries were eager to demonstrate that they were civilized European nations intent on engaging politically and economically with the democracies of Western Europe and North America. By joining the Council of Europe and ratifying the Convention, they signalled their commitment to democratic values and a common European heritage of political traditions, ideals, freedom and the rule of law.

In doing so, they also demonstrated their commitment to meeting many of the criteria for entry to the European Union, which require that a state demonstrate its compliance with human rights. Consequently, the countries of Central Europe and the former Soviet Union joined the Council of Europe and the human rights protection system of the Convention, paving the way for the 2004 accession of ten new member states to the European Union, including Poland, the Czech Republic, Hungary, Slovakia, and Slovenia.

## Good of all people

Similarly, by accepting an obligation to the Convention in the Constitutional Framework, Kosovo's leaders signal their commitment to human rights principles. This has important ramifications for its residents' future aspirations.

Acceptance of human rights values, however, is not enough alone to secure Kosovo's future as a part of Europe. Looking at future candidate countries for the Europe Union, a large proportion of the difficulties which Turkey has experienced relates precisely to its difficulties in demonstrating compliance with the European Convention. It has endured repeated condemnations by the European Court for serious violations of human rights.

Talking about 'human rights' is deserved and correct, but, as the example of Turkey illustrates, demonstrable, genuine and effective action is also required. To truly benefit from the positive image afforded to signatories of the European Convention on Human Rights, the leaders and public authorities of Kosovo should ensure that human rights are fully upheld and enforced, for the good of all the people. This is the only way that the aspirations of Kosovo's residents can possibly be met.

### Guaranteed by the European Convention on Human Rights:

- ✓ Everyone's right to life shall be protected by law.
- ✓ No one shall be subjected to torture or inhuman or degrading treatment or punishment.
- ✓ No one shall be held in slavery and servitude.
- ✓ Everyone has the right to liberty and security of person.
- ✓ Everyone has the right to liberty of movement and freedom to choose his residence.
- ✓ Everyone is entitled to a fair and public hearing by an independent and impartial tribunal established by law.
- ✓ Everyone has the right to freedom of thought, conscience and religion.
- ✓ Everyone has the right to freedom of expression.
- ✓ The enjoyment of rights shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth of other status.

### Web Links:

- Library of the European Court of Human Rights – <http://www.echr.coe.int/Library/COLENCedh.html>
- English Version of European Convention on Human Rights – <http://www.humanrights.coe.int/aware/GB/publi/materials/13.pdf>
- Albanian Translation of European Convention on Human Rights – <http://www.echr.coe.int/Convention/webConvenALB.pdf>
- Serbian Translation of European Convention on Human Rights – <http://www.humanrights.coe.int/aware/GB/publi/materials/13.pdf>

Interview with the Kosovo Ombudsperson Marek Antoni Nowicki

# “Kosovo needs an ombudsperson who can stand alone, who can be a haven and a catalyst of daily human problems in the future,”

The first and likely the last International Ombudsperson in Kosovo, Marek Antoni Nowicki speaks about the challenges in his work. He stresses the challenge for the new ombudsperson who according to him should be a person that enjoys confidence of the entire population and is able to cope with all of the issues firmly and objectively.

Edita Buçaj, OSCE

*The Institution of Ombudsperson has just issued its Annual report. Very briefly, what is the situation of human rights compared to last year?*

My general statement is that the situation has improved to some extent. Very generally, from the point of view of minimum human rights standards, Kosovo is still quite below the level that is considered as this minimum. There are still a lot of issues which

at least, from our point of view, are of crucial importance, like problems present in the legal system. This rather chaotic situation was stressed many times by us in the past. It is little bit better now but not to the extent that we can change our general position.

From the point of basic protection of human rights we still have judiciary which is still quite weak in many respects; there is big problem with law enforcement and police and

prosecutors offices; there are too many complaints about ineffectiveness of work of the police. We cannot even speak of protection of basic rights when we have situations in which for example I am going to certain villages and people are talking to me about plenty of different cases - I do not speak about violence - we're speaking about things which are more trivial but at the same time very important for people, like massive stealing. You have certain places in which everything was stolen and there is nothing to steal anymore. And when we ask the question if there was a single case that registered progress concerning finding perpetrators, we get answers like: no, nothing, zero.

***The police complain that they do not have competencies over security.***

Which competencies? Competency to go and search somebody's house?

***You mentioned problems in the legal system. Is it because we have many sources of legislation?***

There are multiple sources indeed: Former Yugoslav laws, Milosevic's system, UNMIK regulations, Kosovo laws promulgated by UNMIK, international standards and current Serbian laws. To certain extent, you have a sort of double state here. The parallel system is strong enough to say that the current Serbian legal system is also present here somehow.

***How much does this multiple legislation overlap? Which laws should be applied in certain cases?***

The question is why there are such problems because in many situations you have a question which laws to apply? We have certain cases that are very concrete, for example persons who are the Second World War Inva-



lids. They are coming to me and saying, "we do not receive any pensions." Before, of course, they were receiving pensions from Serbia, now nobody is paying those pensions, apart from this general 40 euros. Before, they were in a special system. But this special system according to us is still in force, because no other law or UNMIK regulation really changed the situation in this respect. The rule is that the laws from the period before 1989 stay in power unless there is a new UNMIK regulation or Kosovo law which is changing this. But nothing has been changed. It means this people still have right to claim pensions but sometimes you have impression that government authorities simply do not remember or they do not want to remember that they are certain laws which are in force. But when you have such a discussion, which law to apply, it is hard to find someone who could address this question. You do not have a system in which you can raise a question of applicability of certain laws and in this complicated legal situation it is extremely important to have, in one instance, authoritative organ who could answer such a question.

### ***Is a Human Rights Court answer to this question?***

It must be a human rights judicial body who could deal with such questions, questions of conformity of law with international standards and also questions related whether in concrete cases there was a violation or not. I express my opinion, I raise this opinion with UNMIK, with SRSG and SRSG has a different opinion. And what happens after?

We stay on these opinions and we do not have any other procedures or organ which could finally solve this issue. This is a situation which is different in comparison to that in Bosnia and Herzegovina. There was a Human Right Chamber and the Ombudsperson could send a case simply to the Chamber as the judicial body. And they decided finally. So you had a final judicial position concerning human rights issues.

This is part of the discussion about a lack of proper mechanism of protection. You must have a system. If you have only certain part of the system, certain pieces but you do not have a complete system, it will not work.

### ***Another problem present in Kosovo is the non-implementation of laws.***

Many laws get signed. Laws are in the paper very much.

### ***One of them is Anti-Discrimination Law. Why it is not being implemented?***

Anti-Discrimination, Gender Equality...



*Ombudsperson's main building in Prishtinë/Priština, Kosovo*

When we speak about this new laws which are very close to our institutions, also Access to Official Documents we can say that they are very sophisticated. But what happens with their implementation? I have an impression that almost nobody knows how to do it – some persons are quite irritated or upset that there are no governmental plans of actions... The problem is that sometimes we make a mistake. Societies in certain areas are on level A or level B, but most certainly on different levels. And when you introduce certain laws which are very far from the level on which society is, you do not have any communication between the message which you try to send through this law and the level of understanding of such thing by the society.

### ***Speaking at the Parliamentary Assembly of the Council of Europe in Strasbourg earlier this year you said that the Ombudsperson should continue to be an international. Why is that?***

In January, this year, when I was in Strasbourg, there was a debate about human right protection in Kosovo. More recently on 21 and 22 of June current political situation was discussed as well. You have two resolutions that say the same – the international Ombudsperson in Kosovo must continue until the end of the international mission.

It is important because Kosovo is still in transition in many respects. Hashim Thaci in the letter to Kofi Annan stressed, "...we still

need an international but of course friendly, professional, independent oversight institution, in order to help us in this respect." And this is exactly our position. It is needed. It is needed in this context, but at the same time it is needed because one should remember, whatever status will be of Kosovo, you will still have certain international structures, you will have also certain reserved powers and my suspicion is that these reserved powers will very much be in this context - the area of minorities. In my view, international community should not resign so easily from the only independent institution which exists in this field. More importantly this is an institution which enjoys trust of all communities, which is important.

### ***What is your relationship with local institutions?***

Until recently we have been dealing mainly with UN and of course they liked this. People do not like to be criticised but they are happy if you criticise others. Senior Kosovo officials told me in the past "we are very happy because somebody is doing the job we should do". But I responded that the time will come when you get involved. But I would like to see greater co-operation from their side.

Those interested can visit the Ombudsperson's webpage to access the full text of the annual report in three languages

<http://www.ombudspersonkosovo.org/>

# Human Right Clubs

Hasan Sopa, OSCE

Back in 2002, the OSCE Mission began establishing Human Rights Youth Clubs in various cities in Kosovo. Their purpose is to teach secondary school children, ages 14 to 18, about basic human rights and what they mean. Currently there are nine active Clubs.

The Human Rights Clubs programme foresees supporting the Club members in a variety of activities intended to raise awareness of the general public about human rights issues while also building a better understanding of these rights by the members of the clubs. In other words, the objective of the programme is to open young peoples' minds to the principles of human rights and to demonstrate to them that it is possible to take responsibility for oneself in a manner that it is fair and respectful of the human dignity of others.

Ronald Hooghiemstra, Chief of the Capacity Building Section within the Mission's Department of Human Rights and Rule of Law, explains: "The primary purpose of the program is to increase the capacity of youth in understanding human rights and to develop themselves through informed debates, as well as to encourage and assist youth in reaching out to their community with a human rights message."

Once a group of interested teenagers is identified, regular meetings are set up for 16 weeks. "They basically get lessons on human rights concepts and how these rights relate to them," said Hooghiemstra. A field officer also facilitates discussions among the group and teaches them to write project proposals.

The Human Rights Club from Prizren is very active and has conducted a series of activities, which include a photo exhibition, a human rights concert, school debates on human rights issues and many other activities, which intend to further increase general public knowledge about human rights issues.

According to Diana Renda, Human Rights Assistant with the Capacity Building Section, OSCE Office in Prizren, one of the main activities of the Prizren club has been the project dedicated to illustrating the situation of persons with special needs.

Members of the Prizren club, in close cooperation with 'Handikos' Prizren, spent several months visiting families and persons with special needs. "They visited families in the most distant villages and took photographs of them illustrating their situation," says Renda. Later on, the best pictures, were exhibited in the main public institutions and in town centers in the region. "The main idea of the project was to raise the awareness of the institutions and the public about

the position of people with special needs," she said.

Elvin Huduti, from the "Gjon Buzuku" Gymnasium in Prizren, is a relatively new member of the club. He joined the club seven months ago and has already participated in some of the activities. What he likes most with the club is the interactive group work and especially the respect for others' points of view.

"One of the activities that I liked most was the documentary 'Stand up now for human rights.' Our club showed it at the city cinema on 10 December last year, on International Human Rights Day. The documentary highlighted the adoption process of the Universal Declaration of Human Rights as well as different Human Rights Campaigns conducted around the world," says Huduti.

These kinds of activities have a positive impact on club members, according to Renda. When new members join the club they are usually very shy because they find themselves in the company of new people. "Once we start with the activities and they get connected to the concept of human rights, they become very active and express their thoughts freely. I'm personally surprised when one of the members stands up and freely says that he does not agree with his colleagues' point of view. This shows that they are not only actively participating in the sessions but also learning things," she said.

Based on positive feedback about the programme the Mission received from youth, parents, teachers and public officials, it was encouraged to carry on. "However, in order to reach a larger cross-section of the youth population, our Section will develop this activity into a standardized package of train-

ing and methodology," said Hooghiemstra.

Youth capacity building needs to be linked into a local institution in order to become a sustainable part of Kosovo culture, according to him. "What we will be looking into is those institutions that deal with youth such as the Ministry of Education, the Ministry of Culture, Youth and Sports or any other appropriate body or institution," he added.

## Human Rights education

Furthermore, the Mission is co-operating closely with the Ministry of Education, Science and Technology (MEST), in order to anchor human rights education into the overall school curriculum.

Through a pilot project carried out in 2003 and 2004, aiming to introduce Human Rights Education in sixth grade civic education classes, the Mission has been able to finalize a Student's Workbook and Teacher's Guidebook. "Initially we started with 70 schools where we trained civic education teachers in teaching methodology. We monitored their use of the methodology with their pupils and, based on positive feedback from the evaluation we did, we proposed it to the Minister of Education. Following a few changes proposed by the Ministry, this project will be implemented in all sixth grade classes in Kosovo schools," said Hooghiemstra.

The OSCE has financially supported the printing and distribution of 2,000 Teacher's Guidebooks and 10,000 Student's Workbooks, which is considered to be sufficient for two years. At the beginning of the 2005-2006 school-year the civic education teachers will receive training and their teaching will be monitored in order to help teachers in providing effective human rights education.



*Pictures of people with special needs exhibited in the Gymnasium 'Gjon Buzuku' Prizren*

# Will Zoçishtë/Zočişte be multiethnic again?

Situated in the region of Rahovec/Orahovac, a region well known for wine growing, Zoçishtë/Zočişte village used to be multiethnic. It had approximately 70 Albanian and 50 Serbian families living there.

Vasilija Stanić, OSCE

However, after the 1999 conflict, Serbian inhabitants fled the village leaving their houses and property behind. During the past six years no one had returned, the main reason for it being that they had nothing to return to – houses were burnt and vineyards and lands could not be accessed due to security concerns. As a result their once fertile soil is either neglected or somebody else is cultivating it.

While most of former villagers of Zoçishtë/Zočişte had left to Serbia proper and now live in some of collective centers or with relatives and friends, Đorđe Krstić had never left Kosovo. He lives in Velika Hoča/Hoçë e Madhë which is only few kilometers away from his home. He said it would take him only fifteen minutes to walk to Zoçishtë/Zočişte.

“I would love it if I could go there. The last time I was there was in September last year. I went with KFOR”, said Đorđe. “I went there for a meeting with village representatives, Albanians, to discuss if they would accept us to return. They said they object to return of three families. They did not oppose other neighbors coming back but they said that they were not sure what people from other neighboring villages would have to say about that – they could not give any guarantees for them.”

In Velika Hoča/Hoçë e Madhë Đorđe lives

with his wife. His son with wife and two children lives in Kraljevo, in Serbia proper. Đorđe said that if his house was to be rebuilt they would all come back.

Đorđe Krstić is one of those villagers from Zoçishtë/Zočişte whose house should be rebuilt by the Ministry for Communities and Return. The project valued at 1.8 million euros should provide for construction of 44 houses, medical emergency facility, and other necessary infrastructure. Size of houses will vary from 44 to 70 square meters, depending of the size of the returnee family.

Implementation of this project has already started; a contractor chosen through a tender has cleaned up the ground preparing it for construction works. Mihailo Šćepanović, permanent secretary in the Ministry for Communities and Return said that the deadline for houses to be ready for returnees to move in is 1 September 2005. “The Ministry first conducted a research to establish were the largest interested for return was, so that we could talk to the president of the respective municipality”, he said. “Then we organize go-and-see visits. There were people who, for the first time after six years, came and saw how their property looks like now, they spoke with their neighbors... All inhabitants of Zoçishtë/Zočişte who will get new house have signed statements that they will return if the Ministry builds houses for them. We believe that with this approach

we are making a strong base for sustainable return.”

However, houses are not enough for returns to become sustainable. Returnees cannot count on making living of irregular and insufficient humanitarian aid or public welfare. They need regular monthly incomes - they need employment. “We do not wish to return people if they will only be a statistics and if that would mean that we are only creating new social problems,” says Šćepanović. “The idea of the Ministry is to support not only returns, but also further existence of those people. So with our economy program the Ministry intends to help to returnees in implementation of small business projects; we also plan to build factories. We are going to insist on implementation of regulation on employment which says that within municipal structures and other parts of provisional institutions 20 percent of employees should be from non-Albanian communities.”

However, this is a complex process, says Šćepanović and adds: “There are projects in plan to be implemented when people return. There are a lot of details that should be taken care of, for example what kind of project to implement in which area and how old the people that will work on the project are. This is going to be a slow and a complex process, but those people will get the jobs for sure.”

The job is something that worries Đorđe Krstić too. Before the conflict he worked as a driver and a superintendent in school in Zoçishtë/Zočişte. Now he is doing the same job in school in Velika Hoča/Hoçë e Madhë: “I don’t know what to do when the houses are ready. If I was pensioned there would be no problem. But I can not leave my job. The best solution would be if it was safe and I would have a car to travel. It is not far and I would not mind traveling every day.”

Of course, everything starts and ends with security problem. As most of possible returnees, Đorđe wants to return and says he would return right away “if there was freedom, law and order, and if he knew that there would not be some situation when you have to run away as it was on 17 March”.

And implementation of law and order in a democratic society should not be taken by groups or individuals, who then decide on who should be allowed or forbidden to return. Investigation on somebody’s eventual responsibility and guilt should be carried out by institutions in charge.



Some of the former villagers of Zoçishtë/Zočişte still live in neighboring village Velika Hoča/Hoçë e Madhë as IDPs, Rahovec/Orahovac Municipality

# The Status of National Minorities

## Minority Ethnic Communities in Kosovo and the involvement of the OSCE Mission in minority rights protection

Oliver Schmidt-Gutzat, Senior Advisor on Minority Rights

The protection of national minority rights does not exist apart from, but is rather an integral part of the human rights protection system. In Europe, this principle finds its expression in the Article 1 of the 1994 Council of Europe's Framework Convention for the Protection of National Minorities.

The European human rights protection system, however, does distinct between specific rights of persons belonging to national minorities, on one hand, and generally binding human rights and the principle of non-discrimination on the other hand.

The principle of non-discrimination often, but not always, simply requires a mere abstention by public authorities from adopting and/or applying discriminatory measures and treatment towards individuals or groups. In contrast, specific minority rights (not to be confused with special or additional rights) have been developed with the aim to enable persons belonging to national minorities to enjoy equal chances and opportunities.

Minority rights are therefore a necessary complement to the right to equal treatment and generally applicable human rights, such as freedom of expression, freedom of movement, freedom of assembly and association, or the right to property.

### Specific Minority Rights and Freedom from Discrimination

Specific minority rights mainly encompass linguistic rights, including the right to use minority languages in the broadcast media, educational rights, and the right to participate in public life, including decision-making.

From the content of these rights it is obvious that the abstention from discriminatory behaviour is not sufficient. In addition to the right to equal treatment, the adoption and implementation of regulations or measures for positive discrimination or affirmative action are required. Their implementation will guarantee that persons belonging to national minorities enjoy equal chances and opportunities.

The aim of specific minority rights is twofold: to specify the right of every person to preserve and develop one's identity, and to facilitate the integration, not assimilation,



*Ambassador Werner Wnendt and his team listen to the concerns of National Minorities during his visit to Bellopojë/Bello Polje, Pejë/Peć*

of persons belonging to national minorities into society. The former derives from the principle that "[a]ll human beings are born free and equal in dignity and rights", as laid down in Article 1 of the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on 10 December 1948.

### The Situation in Kosovo

In Kosovo, both UNMiK and the Provisional Institutions of Self-Government (PISG) have over the last years adopted a number of laws and regulations in the area of minority rights protection and anti-discrimination. Many of these rights have found their way into the Kosovo Standards Implementation Plan and have thus contributed to an increased awareness within the PISG and among the majority population in Kosovo.

Progress, though very slow, has also been made in the implementation of these rights. The recent establishment of a Ministry of

Communities and Return, the attempt of the PISG to increase the number of minority employees in the ministries, and the first OSCE facilitated Serbian-language training by the Kosovo Institute for Public Administration (KIPA) for civil servants from Rahovec/Orahovac, are only some examples of affirmative action carried out by Kosovo institutions.

Another positive example of affirmative action aims at the integration into mainstream schools of the traditionally most disadvantaged and vulnerable groups in Kosovo, Roma and Ashkali. The Ministry of Education, Science and Technology, in cooperation with the OSCE, has implemented, during the last school-year, catch-up classes for Roma and Ashkali children in eight municipalities in Kosovo. However, a general PISG strategy for improving the situation of the Roma, Ashkali and Egyptians, comprising, among others, illegal settlements and housing, registration, education,

health, and employment, has not yet been developed.

A closer view into a genuine minority rights protection situation discloses a bleak picture. When it comes to linguistic rights, official signs of villages, towns, cities and streets have to be written, apart from Albanian, at least in Serbian language. On many official signs the Serbian version is misspelled or has been painted over. The obligation to establish such signs is useless, if they are not maintained or replaced by the competent authorities, in case they have been destroyed.

Persons belonging to the Serb, Bosniak and Gorani minority ethnic communities have the right to address and receive replies from central and municipal authorities in Serbian (Bosnian and Gorani languages are very close to Serbian), while Turks in some areas have the right to communicate with civil servants in their mother tongue, Turkish. Written information of the central and local levels administration has to be printed in Albanian and Serbian, and in some areas again in Turkish. This legal obligation has not yet been implemented all over Kosovo. When it comes to personal contacts, the providers of public services have to provide for interpretation to Serbian or Turkish if required. In practice, Serbs often do not feel comfortable - for justified reasons or the fear of being discriminated - to address the local authorities directly, but go through the Chief Executive Officer of the municipalities. In some cases, translation is not available. Therefore, in many cases non-Albanians are accompanied by Albanian speakers when they approach the civil servants.

Regarding the right of persons belonging to national minorities to participate in public life, including in the decision-making process, it is questionable whether the system of reserved seats in the Kosovo Assembly, can in itself secure this participatory right. In a post-conflict area such as Kosovo, reserved seats are an adequate tool to guarantee the presentation in the central assembly. But for a substantial participation in decision-making, at least in the form of institutionalised consultations in matters that directly affect minority, such as education and the preservation of culture and tradition, other mechanisms should be considered. Such mechanisms are enumerated in the Lund Recommendations on the Effective Participation of National Minorities in Public Life. Apart from reserved seats these recommendations include establishment of committees that would address issues such as housing, land, education, language and culture with relevant authorities, as well as undertaking of special measures for minority participation in the civil service (affirmative action).

Freedom of movement, the right to return

and the right to property (repossession) are generally applicable, and not specifically minority related rights. It is obvious, however, that persons belonging to national minorities in Kosovo and elsewhere in the region, are particularly restricted in the exercise of these rights. In these areas, there is often not only open opposition among the majority population, varying in different parts of Kosovo, but in many cases there is also a lack of commitment by the competent Kosovo institutions to apply these rights without discrimination. Open opposition and lack of commitment is often accompanied by hidden and indirect discrimination, such as the apparently common practice to charge returnees with the electricity bills for their houses or apartments, which have been accumulated by the illegal occupant, often over several years. As long as such indirect discrimination is not tackled by the institutions in a systematic manner, the implementation of these fundamental rights will be slow for persons belonging to national minorities.

### **The Kosovo Standards Implementation Plan**

It should be noted that minority rights cannot be reduced to the current process of Kosovo's Standards Implementation Plan. The assessment of standards is just a necessary first step for the start of negotiations about Kosovo's final status. In this regard, it could be helpful for Kosovo's institutions to have a closer look into the countries of the former Socialist Federal Republic of Yugoslavia. For example, minority rights protection is still high on the agenda in Croatia, which is getting closer to membership in the European Union. Among others, the OSCE Mission to Croatia and the OSCE High Commissioner on National Minorities are still closely following the situation of national minorities in Croatia and are providing advice regarding the implementation of minority rights.

### **The involvement of the OSCE Mission in Kosovo in Minority Protection**

The respect for and the implementation of the rights of persons belonging to minority ethnic communities in Kosovo has, in the six years of OSCE Mission's existence, always been one of the its main focuses.

In the first two years following 1999, and in view of the local elections in Kosovo in 2000 and the general election in 2001, part of Mission's activities were aiming at supporting the establishment and the capacity building of the political representation of minority communities. Throughout 2002 and 2003, the Mission supported the establishment of and training for minority NGOs.

From 2003 until present, the Mission has supported the Community Committees, one of the standing committees of each Municipal Assembly attending to minority rights protection. The OSCE participated in the drafting of the administrative instructions regarding the procedural rights and the competencies of the Community Committees. Subsequently, the Mission provided training for its members on human and minority rights as well as on the way on how to deal with cases. These capacity building activities are still ongoing.

In addition, the Mission has commented on numerous draft laws dealing with the rights of persons belonging to national minorities. Recent examples are the anti-discrimination law and the draft law on languages – implementation of both laws is closely followed by the Mission.

In the area of media, the Mission *inter alia* has facilitated Kosma network of 28 Serbian language radio stations in Kosovo. In Strpce/Shterpece the Mission supported the establishment of a bilingual (Albanian and Serbian) TV Herc. The Mission also financed trainings for journalists from minority communities, including Roma, enabling them to run their own radio stations or to provide minority language programs in public or private broadcast media.

This enumeration of the OSCE's activities in the area of minority rights protection is not exhaustive. It should be noted, however, that the Mission's programmes and activities promote an institutionalised protection of the rights of persons belonging to national minorities, facilitate – directly or indirectly – inter-ethnic dialogue, and help create the conditions for sustainable return of minority refugees and internally displaced persons.

Groups of international experts, tasked by the OSCE High Commissioner on National Minorities (HCNM), have developed "The Hague Recommendations regarding the Education Rights of National Minorities" (1996), "The Oslo Recommendations regarding the linguistic Rights of National Minorities" (1998), "The Lund Recommendations on the Effective Participation of National Minorities in Public Life" (1999), and, together with the office of the OSCE Representative on Freedom of the Media, the "Guidelines on the Use of Minority Languages in Broadcast Media" (2003); The purpose of these recommendations is to provide interpretation of the existing international minority rights standards and guidelines to governments and institutions regarding their implementation.

These documents can be found at:  
[www.osce.org/hcnm](http://www.osce.org/hcnm)

# Domestic violence and trafficking in human beings

– Comprehensive problems that require comprehensive solutions

Hasan Sopa and Nikola Gaon, OSCE



*Training of Trainings session on Domestic Violence, organized by OSCE in Gjilan /Gnjilane region*

Issues of trafficking in human beings and domestic violence are widespread in southeast Europe. While domestic violence was historically present, the issue of trafficking in human beings is of a newer date in Kosovo. Following the 1999 conflict, Kosovo was primarily a destination point for trafficking victims, both adult and underage. More recently, cases of women and children being trafficked from Kosovo are also being recorded.

The OSCE Mission attends to both these problem areas. It monitors work of local and UNMIK institutions and provides advice and technical support as needed. At times it gets involved with specific cases in order to identify gaps in existing services, often aiding in addressing these gaps through institution building and capacity building.

More importantly, the Mission is working to create comprehensive mechanisms that will provide for protection of victims of gender based and sexual violence, victims of trafficking in human being, and child abuse. In developing such mechanisms it brings together key actors: Ministry of Labor and Social Welfare, Office of the Prime Minister, Department of Justice, Department of Social Welfare, UNMIK Police's Domestic Violence Unit, UNMIK Police's Trafficking in Human Beings Investigation Section, International Organization for Migration, municipal social workers, shelter providers, NGOs, and other relevant domestic and international organizations.

The aim is to ease and increase victims' access to justice mechanisms, such as legal remedies and direct forms of assistance for the victims, and to ensure victims' rehabilitation and reintegration in society.

## Advisory role and training activities

The Mission advises central level institutions on policies development to ensure compliance with the applicable law and the international human rights standards. On the other hand it builds the capacity of local institution at all levels, through training and technical support. Ensuring sustainability of governmental structures that support victims of sexual and gender based violence is one of its key priorities in this area.

Working with the Advisory Office on Good Governance (AOGG) of the Office of the Prime Minister the Mission helped develop Kosovo Action Plan to Combat Trafficking (KAPCT), which was approved by the government on 17 May 2005. A national Domestic Violence and Anti-Trafficking Policy Adviser, Ariana Qosaj Mustafa, seconded by the Mission to the AOGG helped this process from the offset.

According to Jennifer Chase, Mission's Senior Human Rights Advisor, KAPCT is a comprehensive plan to address issues related to trafficking in human beings in areas of protection, prevention and prosecution.

"The Mission provided technical expertise and financial support in the drafting process. The OSCE will be part of the Advisory Board as foreseen by the KAPCT, and will continue to provide technical expertise and to monitor its implementation by local executive and legislative bodies," said Chase.

## Standard Operating Procedures

Prior to the completion of the KAPCT, in late 2004, the Mission helped develop Standard Operative Procedures (SOPs) for providing assistance to foreign adult and child victims of trafficking. Similar SOPs for Kosovan victims are currently being developed.

According to Chase the SOPs proved how successful coordination of anti-trafficking services can lead to efficient referral mechanisms that work in the best interest of the victim. "We facilitated an inter-agency 'Direct Assistance' working group in the creation of the SOPs. The SOPs constitute part of the efforts to establish a system which maximizes the transfer of power to the Provisional Institutions of Self-Government and relevant Kosovo civil actors and create sustainable mechanisms for victims' protection," she said.

## Comprehensive trainings

Creating KAPCT and SOPs is not sufficient in itself. People working on domestic violence and trafficking issues needed to be trained on how to use these two comprehensive tools and ensure effective interaction of all bodies involved.

In this respect, most recently, from January to April of 2005, the Mission and its partners held five regional trainings on the SOPs on Direct Assistance and Support to Foreign Victims in Prizren, Pejë/Peć, Gjilan/Gnjilane, Prishtinë/Priština and Mitrovicë/Mitrovica. These three day trainings were attended by approximately 35 participants in each region and have included Victim Advocates from Department of Justice, municipal social workers, and police officers.

Currently, the Mission is following up on these trainings by reviewing the effectiveness of implementation of the SOPs, including coordination and clarity of institutional roles.

*Continues on pg. 15*

# Supporting Kosovo judicial system

Kosovan judges faced a challenge when they resumed work in 1999 – regaining the trust the people had lost in the judicial system. OSCE, offering regular trainings for old and young legal workers, helped get the system up and running again.

**Mevlyde Salihu, OSCE**

“Justice exists; we are the ones that must apply it,” says Judge Fllanza Kadiu, sitting in her small office at the District Court of Pristina, the second instance court of the Kosovo legal system.

Judge Kadiu began her work at the Pristina District Court in January 2000, after previously having worked as a lawyer for 10 years. She chose law because she believes in justice.

The Kosovo judicial system comprises a supreme court, five district courts and 24 municipal courts. The District Court deals with serious penal cases, as well as complaints/appeals that come from Municipal Courts, the lowest instance.

Penal cases are Judge Kadiu’s field of expertise. She presides over cases dealing with adults as well as minors, both different and challenging, yet equally carefully dealt with.

Kosovo courts worked in difficult conditions after the conflict in 1999. Supplementary institutions to support the work of the courts lacked, and there were not enough judges to deal with the increasing number of cases, especially in bigger towns.

## Overloaded Courts

The District Court administrator Feriz Berisha, points out that the courts are even now overloaded with cases, as the number of judges as well and professional cooperators is too small to handle the workload.

“Currently we have 12 judges, and Prishtina District Court, including other towns under its jurisdiction, covers more than 1 million inhabitants,” said Berisha, adding, “before the war, the court covered only 600,000 inhabitants and the smallest number of judges it had was 22.”

“The District Court of Prishtina has jurisdiction over Ferizaj, up to Hani i Elezit, then Kacanik, Gillogoc, Besiana [Podujevo] and Fushe Kosove and Obiliq and so on,” confirms Judge Kadiu.

According to statistics, the District Court started the year 2004 with 3,613 unsolved cases from the previous year. During 2004 it received another 5,468 cases - making a total of 9,081 cases to be solved by 12 judges. At the end of December 2004, the court had solved 4,913 cases, leaving 4,168 do be dealt with in 2005.

“Judges are qualified, dedicated and hard-working, but it’s simply impossible to have

all the cases finished on time with 12 judges,” Berisha said and added, “we need at least 6 more judges to deal with the last year’s cases as well as those we received this year.”

Poor communication with the international police force was another difficulty Kosovo courts had to face.

“The beginning was difficult also because international police force members came from different places and could not adjust; they simply didn’t understand the way we worked,” Judge Kadiu explains difficulties she faced at the beginning.

But, over the course of time, things started changing and slowly improving.

## New laws and skills

Meanwhile the supplementary institutions had started functioning, making the work of the courts easier, in April 2004 judges had something else in their hands effecting their everyday work – two new laws, the Provisional Criminal Procedure Code and Provisional Criminal Code of Kosovo, came into force.

Kadiu says that the new laws are good and functional. “Although we come across a few gaps when implementing it in practice,” she says, “we [judges] are happy for the new laws and are firmly getting used to them.”

Besides these two new laws helping Kosovo judges carry out their tasks successfully, the OSCE established Kosovo Judicial Institute, provided, and still provides, numerous trainings and seminars for them.

“I participated in different trainings and seminars organized by the OSCE since 2000, and then KJI,” the judge said, and added, “of course they had a good impact on my work. Experiences the international experts shared with us were especially helpful.”

## Trusting the courts

Although a big number of cases remain unsolved and pass on to the next year, Judge Kadiu, as well as administrator Berisha, say that judges do their best and exceed requirements and expectations, and this makes them hopeful and positive about regaining the trust of the people.

“I think that people should really trust the legal system,” Judge Kadiu says. “And we can say that we’re slowly making progress on this.”



Judge Fllanza Kadiu

She explains that it takes more than just judges to finish a case successfully. “Not everything depends on our work, she says, “it also depends on the prosecutors, investigators, as well as the nature of the case.”

According to Judge Kadiu, her colleagues and herself are independent, apolitical, and don’t belong or support any political party, because they swore in that they will work according to law, fairly and justly, and they wish and give their best for every case to be finished as soon as possible.

Kosovan judges are up to their tasks <pls explain>, but as Judge Kadiu points out, they could use all the help they can get, and according to her, the best way to help them is to work with the youth in preventing penal cases from happening.

“Society is not paying enough attention to the young people, it pays attention only when they commit crimes,” she says. “We should work in prevention. The society and institutions should create different sports clubs, where children can spend time instead of streets.”

“Otherwise,” she says, “we’ll pay the price later.”

# Human rights experts working for you

## Interview with Asier Santillan Luzuriaga, Senior Human Rights Advisor at the OSCE Mission

The OSCE Mission in Kosovo is mandated with building capacity of local institution at central and local levels as well as with promoting respect and protection of human rights.

Nikola Gaon , OSCE

To ease the contact with local institutions and act on the spot, the Mission launched Human Rights Expert Programme. Under the programme, OSCE's Human Rights Experts (HREs) conduct their work being placed in municipalities and police stations around Kosovo and are assisting local officials in making their practices human rights compliant. HREs are now advisors of municipal Chief Executive Officers and police Commanders offices.

Asier Santillan Luzuriaga, Senior Human Rights Advisor at the OSCE Mission, who used to work as the HRE in Lipjan/Lipljan municipality, is now together with his colleague Nora Benyakoub coordinating the work of 16 HREs deployed to equal number of municipalities in Kosovo. In this interview he shares his experiences and sheds more light on programme's impact and key challenges.

**Q: What were the reasons to launch this programme?**

The Human Rights Expert programme was launched as a result of the OSCE's policy to adapt its activities to the needs of Kosovan society. Between 1999 and 2001 we were monitoring all possible human rights aspects of a post-conflict society under United Nation's administration. All our human rights officers in the field were generalists. After the first elections in 2000, PISG structures were created and gradually local authorities took administrative responsibilities; at that time we changed our working system directing our "watchdog" activities to the newly created structures, forgetting the general approach and focusing on more specific and specialized issues. In 2003, Kosovo started moving towards defining its future status so we decided, now for the second time, to change our approach and focus our activities and efforts to building PISG's capacities. Before Human Rights standards are implemented, they need to be understood by the administration and this is our aim. We want to provide advice in order to ensure that PISG legislation and actions are compliant with international and in particular European human rights standards.

After one year of having pilot projects in several

municipalities Kosovo wide, Terms of Reference of the programme were signed in August 2004 by our former Ambassador Pascal Fieschi with the current Minister of Local Administration, Lufti Haziri, who at that time was the President of the Association of Kosovo Municipalities. In December 2004 we launched a General Strategy basically focused on Non-Discrimination and Property Issues.

**Q: How wide spread is the programme and what is the outlook for its future?**

Currently 16 municipalities are covered with the programme. We have already decided to reduce our activities in five of them – those ones that had benefited from the HREs presence for at least one and a half years - but we are planning to extend the programme to additional municipalities. Our aim is to have covered most of Kosovo's 30 municipalities by the end of this year.

**Q: How do they operate and why can they not share observations with general public?**

Attached to Chief Executive Officers, HREs in municipalities work together with PISG officers and identify systemic problems affecting human rights protection within the municipality. HREs advise and recommend on how to resolve those problems and when needed organize capacity building activities and workshops for civil servants.

HREs do not have executive power and they can not impose their recommendations. The only way to make local authorities implement our proposal is to have them on our side. They should understand that we are a working team. Municipal authorities should feel the ownership over these recommendations. In this regard,

HREs have two different tools. The first is the partnership spirit of the programme reflected in regular working meetings with different actors where issues are openly discussed, and the second is the confidentiality. All deliberations within the municipality should be confidential and in principle may not be the subject of public reporting. Citizens have a lot to win if municipal authorities are compliant with human rights standards. Building a



working partnership with municipal authorities takes time and we do not want to jeopardize such possible results and efforts just for the sake of reporting.

***Q: What are the expected results and how do you measure their implementation – when is the programme implemented?***

Our main mandate is to build a long-term, self-sustainable, and internal human rights capacity in municipal government that would be taken up by all our local counterparts. In my opinion we should lobby for the establishment of a general body in municipalities – Law Review Commissions or most likely Legal Offices attached to CEOs – that would be in charge of advising and reviewing all legislative acts, executive or administrative decisions, or any other actions that have legal consequences from a human rights point of view. Meanwhile, we are also supporting the work of other civil servants with human rights responsibilities, such as Municipal Gender Officer, Equal Opportunities Officer or Heads of Municipal Communities Office who should be employed by municipalities and be fully operational. When we say they should be fully operational, we mean that all the above mentioned civil servants should be fully aware of main human rights tools applicable in Kosovo, how to access them and how to use them.

***Q: What are the main challenges HREs faces in their work and what are the main human rights concerns at municipal level and with the police work?***

Apart from building the necessary partnership and confidence with municipal authorities, we have to help civil servants understand that human rights are not something abstract or just a political tool. Human rights today are directly applicable in Kosovo, and to have rights means also to have obligations – for example the obligation of municipal authorities to be fully compliant with the law.

To explain the concept of discrimination is another challenge. Those who have been discriminated for long time usually have problems to accept that they also can, and from time to time, do discriminate.

The Memorandum of Understanding between the UNMIK Police and the OSCE was signed in January 2005. Taking into account that one of the key points of its Terms of Reference is to provide assistance to the police authorities in the transition of the policing functions from the UNMIK police to the Kosovo Police Service (KPS), from 1 April 2005 the OSCE ceased the traditional monitoring of the police activities and started to perform the advisory functions.

At the moment the main challenge to the HRE programme is again to build relationships of trust with the police at the field level. Some of the police officers still have problems in realizing the role and benefit of the HRE programme. Due to this reason we are still facing some problems at field level regarding access to basic information. Removal of these obstacles would allow both sides to fully gain from the co-operation and benefit mutually.

***Q: How does the work of the HREs relate to central level institutions functioning and policies they set, e.g. on use of languages, property legislation etc.***

Kosovo's system is such that all the decisions taken at central level get implemented at local level, and usually directly by municipal authorities. To have an implementation that is fully compliant with human rights standards you should have a central level institutions functioning, promoting and pushing in the same direction. From time to time you can feel the lack of communication among institutions at these two levels. Improvements in this field are definitely desirable.

***Q: What kind of follow up is planned or needed once HREs leave municipalities and police stations?***

We would like to close down the programme by the end of 2006. Nevertheless, as I commented before, we will start reducing our activities in some municipalities this coming September. After that we will have a period of follow-up where municipal authorities would still enjoy our support but not the full presence; and finally we will go back to monitoring.

Municipal officers are being strengthened and we would like to know the result of our job, meaning how deep they are fully compliant with European human rights standards. To have rights implies to have responsibilities... so let's monitor how responsible PISG municipal structures are towards their citizens.

### ***Continued from pg. 12***

Training, however, could not be limited to municipal level actors. Issue of trafficking in human beings needs to be attended to at all administrative levels. On 13 and 14 June, the Mission delivered a counter-trafficking training to the Anti-Trafficking Inter-Ministerial focal points from nine Ministries in Kosovo. The training was organized in collaboration with the AOGG. "The aim of the training was to educate the participants about the problems of trafficking in human beings in Kosovo and to enable them to understand their roles and responsibilities as focal points, as foreseen in the Kosovo Anti-Trafficking Action Plan, said Qosaj Mustafa.

With regards to domestic violence the Mission is working to assist victims but also to try and prevent such occurrences. In May this year The Mission organized a Training of Trainers on domestic violence in the Gjilan/Gnjilane region. Participants included Municipal Gender Officers, KPS

officers and NGO representatives from both Kosovo Albanian and Kosovo Serb communities. The participants will in turn facilitate workshops on domestic violence for students in secondary schools of the region. The Training of Trainers is designed to contribute to Mission's efforts to raise awareness of domestic violence by helping students both identify abuse and seek legal remedies. "The Dating and Domestic Violence Workshops have been ongoing since 2001 Kosovo-wide but this is the first time that Municipal Gender Officers have taken part in the training," said Chase.

Overall, the Mission seeks to ensure that legal protection is accompanied by the comprehensive assistance and support mechanisms. Through its field offices the Mission works within local structures, including police, Centers for Social Work, Victim Advocates from the Department of Justice, shelter providers and local NGOs in order to best meet the needs of victims of gender-based violence.

### **Regional application of Kosovo strategies**

Experiences and strategies developed in Kosovo are finding their use in a much wider region. Most recently Standard Operating Procedures for providing assistance to foreign adult and child victims of trafficking were presented at the conference entitled "Ensuring Correct Identification and Adequate Assistance to Victims of Trafficking in Human beings" that was organized in Belgrade by the OSCE Mission to Serbia and Montenegro, in partnership with the Alliance Against Trafficking in Human Beings. SOPs developed in Kosovo enjoyed full endorsement by Dr. Helga Konrad, the OSCE Special Representative on Combating Trafficking in Human Beings, based in Vienna.

In an earlier stage a multi-level approach used to combat domestic violence in Kosovo that includes working at both the policy and legislative levels as well as with NGOs, media and civil society was included in the 2004 OSCE Action Plan for the Promotion of Gender Equality.

# Strengthening the role of youth

## - a challenge for the future

One of the main priorities of the OSCE Mission in Kosovo is increasing youth involvement in all aspects of social life. This is simply because the Mission believes that working with youth is a productive and a sustainable effort.

The best example of such efforts is close co-operation between the regional OSCE Office and Youth Network of Pejë/Peć. Results of this co-operation speaks for them itself.

The Youth Network of Pejë/Peć was established in April 2002 at the initiative of the OSCE office. The desire to establish the network was foremost with seven youth NGOs and Youth Centers who wanted to join forces. To date, the Network has conducted number of successful projects.



*Youth Network of Pejë/Peć distributing leaflets in Pejë/Peć town*

### Projects with multiethnic character

Youth Network brings together member of all communities living in Pejë/Peć region, Kosovo Albanians, Kosovo Serbs, Bosnians, Egyptians and Roma, all members of founding NGOs and Youth Centers. Needless to say their activities have multi-ethnic character.

Hysen Pelaj, National Democratization Officer at the OSCE Office, said that special attention is being paid to the multiethnic component and gender equality aspect of all implemented projects.

According to Vlora Latifi, Coordinator of the Youth Network of Pejë/Peć, one of such projects was the Training of Trainers (ToT), which took place in Kotor, Montenegro, at the end of 2004. This training was organized by the OSCE to establish Network's core group of trainers.

"This group now has 17 trainers that represent all communities," she said. The training they received provided them with skills in conflict management, gender equality, human rights, interethnic dialogue, strategic planning, and has enabled them to start taking this knowledge to other young people.

### Experiences gain through the trainings

Zyliha Kuqi has been very enthusiastic about the work of the Youth Network. She provided trainings to three other Youth Networks in Klinë/Klina, Deçan /Deçani and Istog/Istok.

Gazmir Raci, one of the training participants, highly praised these

trainings and the work of the people from the Network. "From my point of view trainings provided by the Network are not only an opportunity to bring closer youth from different communities in our region, but also to help in developing their capacity to better understand their duties and responsibilities," he said.

According to Pelaj, over the last three years, a lot has been achieved in overcoming prejudices and stereotypes that existed among the youth of different communities, as the consequence of the problems from the past. "An important step has been made especially in bringing closer Albanian and Serbian youth from our region, even though this still remains a big challenge for the future."

### Future activities

The Youth Reconciliation Initiative 2005, which began this past april, is a project that is supported by the OSCE and the Youth Network of Pejë/Peć. "This nine-month project and it aims to strengthen youth's role and at the same time reconcile youth of different ethnic communities," says Latifi. The project will be implemented by the Youth Network of Pejë/Peć and will be offered to all youth organizations in the region.

According to Latifi there is a number of activities that will be taking place during the second half of the year under the Youth Reconciliation Initiative. "Main activities will include public information campaigns on Standards for Kosovo, protection of environment and tolerance. These will be carried out in all cities of the region," she said.

In addition, a follow up training - Training of Trainers - will be organized at the end of July for youth networks from Klinë/Klina, Deçan /Deçani and Istog/Istok.

"As part of this project, Youth Network of Pejë/Peć together with the Youth Networks from Klinë/Klina, Deçan/Deçani and Istog/Istok will hold their annual meeting, where they will be discussing their strategy for the coming year. They will also work on the action plan for the year 2006," Latifi said.

To keep the record of their work and build on experiences they accumulated, Pejë/Peć network will produce an annual report for 2005 that will be published as manual to be used by other youth NGOs and networks said Latifi.



*Another group of Pejë/Peć Youth Network during a session*