



Organization for Security and Co-operation in Europe
OSCE Mission in Kosovo

Background Report

Human Rights, Ethnic Relations and Democracy in Kosovo

(Summer 2007 – Summer 2008)

Contents

Introduction and Summary	1
1. Rule of Law	3
2. Police	6
3. Communities	9
4. Protection of Property Rights	13
5. The Assembly of Kosovo	16
6. Local Government and Decentralization	18
7. Elections	20
8. Public Administration	22
9. Human Rights Institutions and Instruments	23
10. Anti-Corruption	26
11. Anti-Trafficking in Human Beings	277
12. Media	28
Annex 1: Map of Kosovo	32

Introduction and Summary

Kosovo is part of Europe. Europe is a community of shared values and principles based on human rights, the rule of law, democracy, the rights of minorities and respectful interethnic relations. In a post-conflict situation such as Kosovo, the respect of these principles is essential for economic and social development. They define the standards that allow for measuring progress and they are laid down in a series of international documents agreed upon by international organizations. The OSCE has made a substantial contribution to their further development and implementation.

Since 2000, the international community has likely invested more non-military resources per capita in Kosovo for stabilizing and developing Kosovo than in any other post-conflict area in the world. The international commitment continues and presumably will do so for years to come.¹ However, in the first half of 2008, the political framework has substantially changed. On 17 February, the Assembly of Kosovo declared independence; on 15 June the constitution entered into force.² The European Union has started to deploy the EULEX Mission. An International Civilian Office has been established.

¹ According to the European Union, “The EU is already the largest donor to Kosovo, and it will allocate more resources to Kosovo on a per capita basis than to any other place in the world over the next three years” (see European Union, *Preparing for a future international and EU presence in Kosovo*, available at http://www.eupt-kosovo.eu/new/home/docs/EU_booklet%20ENG_Jan%202008.pdf, page 6).

² All references to Kosovo institutions/leaders refer to the Provisional Institutions of Self-Government.

UNMIK is reducing its presence in Kosovo. The OSCE Mission in Kosovo (“the Mission”) continues as the only civilian international presence throughout Kosovo and remains UNMIK’s main pillar. With its almost 800 staff it continues to implement its mandate, adopted in 1999.³ UNMIK and the Mission are status neutral and thus do not take a stance on the issue of Kosovo independence.

In light of the dynamic political situation and the changing international environment in Kosovo, the Mission considers it important to present this report. It provides a general assessment of the situation in Kosovo regarding the above-mentioned standards. In doing so the Mission has chosen the following approach. The assessment covers the period from summer 2007 until summer 2008 (referred to as the reporting period) and outlines the achievements, trends and main deficiencies in areas relevant to the implementation of the Mission’s mandate.

The mandate, approved by the OSCE Permanent Council through Decision No. 305 on 1 July 1999, establishes the Mission and tasks it with “[h]uman resources capacity-building, including the training of a new Kosovo police service [...], the training of judicial personnel and the training of civil administrators [...] in co-operation, *inter alia*, with the Council of Europe.” The Mission is furthermore mandated to work in areas of “democratization and governance, including the development of a civil society, non-governmental organizations, political parties and local [Kosovo] media; [the] organization and supervision of elections; [and foremost with the] monitoring, protection and promotion of human rights, including, *inter alia*, the establishment of an Ombudsman institution, in co-operation, *inter alia*, with the UNHCHR.”⁴

The Mission identified 12 areas deriving from its mandate (which also constitute the 12 chapters of the report): Rule of Law, Police, Communities, Protection of Property Rights, Assembly of Kosovo, Local Government and Decentralization, Elections, Public Administration, Human Rights Institutions and Instruments, Anti-Corruption, Anti-Trafficking in Human Beings; and Media.

In each of these chapters the following points are addressed: the development of the normative framework during the reporting period, the development on the ground and the implementation of the normative framework, main shortcomings and finally the Mission’s activities regarding these areas over the reporting period and in the future.

As an overall assessment, the main achievements and shortcomings can be summed up as follows.

Achievements:

- Despite fundamental political changes in Kosovo during the first half of 2008, the political and security situation remained remarkably stable. During the reporting period, two important events involving politically motivated violence occurred on 19 February and 17 March in northern Kosovo: one related to the burning of customs posts, and the other to regaining control of the Mitrovicë/Mitrovica courthouse. However, these incidents did not escalate. At the same time, the fear that insecurity among the Kosovo Serb community would lead to a new wave of departures did not materialize.
- There has been further progress in the development of democratic institutions and administrative structures, at the central level and particularly at the municipal level. Elections were successfully held for new political representatives at three different levels (the Assembly, municipal assemblies and municipal mayors); these elections met international standards. As for general policing, the Kosovo Police Service enjoys a high degree of trust among the Kosovo Albanian community.
- The legislative framework has progressed and generally meets high international standards with regard to human rights and the protection of the rights of the different communities. However, the constitution and most other legislation have been drafted with significant international assistance.

³ OSCE Permanent Council Decision no. 305, 1 July 1999, available at http://www.osce.org/documents/html/pdf/html/2577_en.pdf.html.

⁴ Id.

Shortcomings:

- The continued stalemate between Prishtinë/Priština and Belgrade on the status issue makes progress in the integration of the Kosovo Serb community into Kosovo's public life and society difficult. In northern Kosovo, with its majority Kosovo Serb population, separation has actually advanced through the extension of parallel administrative institutions into the political field. In the rest of Kosovo, the outcome of efforts to integrate the Kosovo Serb community remains unclear. Here, despite some efforts by the Kosovo government to encourage the Kosovo Serbs to participate in the administrative and political structures, there is a widespread perception among the Kosovo Serb community of insecurity and mistrust which prevents interaction outside enclaves. A large number of unresolved property claims affect above all the Kosovo Serbs. The two separated educational systems – the Kosovo schools and the parallel Kosovo Serb schools - do not offer instruction in the other community's language and thus drive the two communities further apart.
- The judiciary remains the weakest of the public institutions. There are widespread violations of fair trial standards. There is no indication that a further increase in the high number of backlogged court cases can be prevented, let alone that the number can be reduced. There has been very limited progress in the fight against corruption, organized crime and human trafficking.
- While the laws meet international standards, their implementation is often hampered by, the lack of financial and human resources, administrative shortcomings and adequate political initiative or will.
- There are indications of increasing political interference in key institutions, which under international human rights standards should remain independent: the civil service, the judiciary, the police and the media.

1. Rule of Law

1.1. Rule of Law: Normative Framework

1. During the reporting period, the Assembly significantly developed the legislative framework by adopting a constitution and enacting 41 laws related to the Comprehensive Status Proposal.⁵ The constitution includes detailed human rights guarantees. In the justice field, there are new laws related to the Special Prosecution Office and the jurisdiction and powers of EULEX judges and prosecutors (part of the European Union-funded justice program).

2. However, arguably due to capacity constraints, there are still major legislative deficiencies. Most of the laws related to the Comprehensive Status Proposal do not directly relate to the reform of the Kosovo justice system. For example, new laws on the court structure and prosecutors have still not been adopted by the Assembly. In addition, the law on minor offences⁶ does not comply with international human rights standards as it permits the imposition of criminal penalties but does not afford defendants procedural rights required under the European Convention on Human Rights. In addition, the existing laws for resolving civil disputes, civil transactions and the execution of judgments are outdated. They were enacted during the Yugoslav period, do not meet fair trial standards, and do not contain adequate deadlines to maximize case management efficiency.

3. There is no witness protection law that establishes procedures and allocated resources for witness relocation outside of Kosovo in the most serious criminal cases. The only legal basis for witness relocation is a two-page UNMIK Department of Justice Circular on the Witness Protection

⁵ The Comprehensive Status Proposal was drafted by the Special Envoy of the UN Secretary-General, Martti Ahtisaari, based on the status negotiations between Belgrade and Prishtinë/Priština from February 2006 to early 2007. Since the parties did not agree on Kosovo's future status, the proposal was not endorsed by the UN Security Council. Nevertheless, the constitution, which entered into force on 15 June 2008, foresees the full implementation of the proposal.

⁶ Law on Minor Offences, in Official Gazette of the Socialist Autonomous Province of Kosovo no. 23 of 1979.

Programme,⁷ which is insufficient to regulate this vital function. As Kosovo is small geographically, often the only way to protect co-operating defendants or victims in serious criminal, organized crime or human trafficking cases, is to relocate them outside Kosovo.

4. The legal framework governing the privatization process implies that the privatization agency may sell property owned by third parties and only must pay compensation to the owners from the sales proceeds. This may violate international human rights standards⁸ as privatization may result in expropriation without the necessary safeguards and adequate compensation. A recent new law⁹ related to the special chamber of the Supreme Court, the judicial body that reviews decisions by the privatization agency, addresses some legal problems such as the lack of a right of appeal, but leaves others such as the expropriation issue unresolved. A recent law¹⁰ that establishes a new privatization agency in Kosovo does not adequately address this issue.

5. In summary, Kosovo made significant legislative progress in the rule of law during the reporting period in general terms. Nevertheless, several important laws related to the reform of the justice system have not yet been promulgated and some existing laws do not comply with human rights standards.

1.2. Rule of Law: Implementation

6. Court monitoring activities by the Mission¹¹ revealed a failure by some prosecutors and judges to properly apply laws and regular breaches of due process and fair trial standards. Judges and prosecutors at times did not use available methods in the Kosovo criminal procedure code to protect witnesses, such as anonymous testimony, physical separation of the defendant from the witness, or distance testimony. The Mission noted shortcomings in trafficking cases.¹² Despite reminders, some court presidents do not ensure that trial schedules are posted in public view, affecting the right to a public trial. Attorneys failed to represent their clients effectively and breached the domestic code of conduct. This resulted in a violation of the defendant's right to an effective defence. Also, judges often do not properly reason in decisions, which violates the law and negatively affects the right of appeal.

7. In civil proceedings, the largest problems are excessive delays and the increasing case backlog. At the end of 2007, there were almost 50,000 unsolved civil cases pending before the municipal courts of Kosovo, compared to approximately 47,000 cases at the beginning of the year.¹³ Some of these cases have been pending for longer than an acceptable period between initiation of the lawsuit and a final decision in the dispute. There are many factors contributing to delays in civil cases. These include poor case management by judges and judicial support staff, poor working conditions and infrastructure, the failure of parties and witnesses to attend trial sessions, gaps in the applicable law, and problems in summoning parties. The lack or uneven distribution of judges also contributes to delays.

⁷ UNMIK Department of Justice Circular no. 2003/5, on the Witness Protection Program.

⁸ Such as Article 1 of Protocol 1 to the European Convention on Human Rights. See OSCE Report, *Privatization in Kosovo: Judicial Review of Kosovo Trust Agency Matters by the Special Chamber of the Supreme Court of Kosovo* (May 2008), pages 23-28.

⁹ UNMIK Regulation 2008/29, amending UNMIK Regulation 2008/4, amending UNMIK Regulation 2002/13 on the Establishment of a Special Chamber of the Supreme Court of Kosovo on Kosovo Trust Agency Related Matters, 31 May 2008.

¹⁰ Law on the Privatization Agency of Kosovo (no. 03/L-067, 21 May 2008).

¹¹ Recent trial reports by the Mission include: OSCE Reports, *Four Years Later: Follow up of March 2004 Riots Cases before the Kosovo Criminal Justice System* (July 2008); *Privatization in Kosovo: Judicial Review of Kosovo Trust Agency Matters by the Special Chamber of the Supreme Court of Kosovo* (May 2008); and *A Legal Analysis of Trafficking in Persons Cases in Kosovo* (October 2007).

¹² See Chapter 11, Anti-trafficking in Human Beings.

¹³ In January 2008, there were 49,145 unresolved civil cases in all municipal courts in Kosovo. At the end of June 2008, this number increased by 1,495 (three percent) to 50,640 (source: Kosovo Judicial Council, *Statistical Report on the Work of Municipal Courts for the First Six Months of 2008*). As these statistics do not include the municipal courts in the Kosovo northern municipalities, the overall civil case backlog is even higher in Kosovo.

8. In addition, there are more than 18,000 cases involving civil claims filed by Kosovo Serbs for compensation relating to property that was allegedly damaged after the entry of NATO forces into Kosovo in 1999 that the UNMIK Department of Justice ordered should not be processed; however this measure was revised in 2005.¹⁴ While these cases are part of the backlog, they cannot be considered as delayed by the courts since judges were not allowed to process them. However, these cases involve unresolved disputes in which the plaintiff has a right to a final decision by the appropriate judicial body.

9. Moreover, the district and municipal courts in Mitrovicë/Mitrovica and the municipal courts in Leposavić/Leposaviq and Zubin Potok have not functioned since shortly after the declaration of independence, which increased the judicial backlog in civil cases. The minor offence courts in Mitrovicë/Mitrovica, Leposavić/Leposaviq and Zubin Potok have also ceased working. The situation severely impacts the region's courts, resulting in serious human rights violations. These include the right to access to justice, the right to a trial within a reasonable time, the right to liberty, and the right to a tribunal established by law.

10. Re-monitoring of March 2004 riots cases by the Mission¹⁵ revealed many shortcomings, which have continued during the reporting period, and implicate all relevant international and local actors: prosecutors, courts, and witnesses. In summary, the justice system failed to send a swift, strong and clear message that ethnic violence will not be tolerated in Kosovo. In particular, in some March 2004 riots cases, police officers failed to transmit police reports in a timely fashion to prosecutors, and to appear at trial when summoned as witnesses. Prosecutors often failed to charge alleged perpetrators with the appropriate crimes, and submit timely and well reasoned appeals to redress possible shortcomings of first instance verdicts. In several cases witnesses (including police officers) failed to co-operate fully with the judicial authorities, thus impeding prosecutions. Courts and prosecutors often did not use all available means to secure witness statements. Appellate proceedings did not always remedy procedural or substantive errors in first instance verdicts. Thus, in the past year, there has been limited progress in the March 2004 riots cases.

11. In summary, although there have been improvements in the performance of some judges and prosecutors, the Kosovo judiciary continues to suffer from serious shortcomings due to the failure to properly apply the law and international human rights standards.¹⁶ This has resulted in widespread violations of fair trial standards, equally affecting all communities. There is no indication that the increase in backlog will be stopped, let alone that it will be reduced.

1.3. Rule of Law: Main Shortcomings

12. The main shortcomings are the following:

- Some prosecutors and judges do not properly apply the law and consequently fail to meet fair trial standards.
- Judges, prosecutors and police do not effectively protect witnesses as required and provided for by existing law.
- There is an urgent need for a new witness protection law that allows for witness relocation outside of Kosovo in serious criminal cases such as organized crime, war crimes, or

¹⁴ Department of Justice letter, DOJ/JDD/449/lh/04, 26 August 2004. The Department of Justice revised this instruction in part by a circular dated 15 November 2005 and urged the courts to immediately process claims for damage allegedly committed by identified natural persons on or after October 2000 (see Department of Justice letter, DOJ/JDD/04562/ia/05, 15 November 2005). However, to date the courts have only processed a few cases based on this new instruction (interview with the Head of the Court Liaison Office in Gračanica/Graçanicë and municipal and district court presidents in Kosovo in May 2008).

¹⁵ OSCE Report, *Four Years Later: Follow up of March 2004 Riots Cases before the Kosovo Criminal Justice System* (July 2008).

¹⁶ According to UNDP, the ratings for the Kosovo courts remains at a low level (21 percent), which makes it the lowest ranking institution in terms of satisfaction levels (see UNDP, *Early Warning Report Kosovo*, no. 20/21, Special Edition, January-June 2008, page 17).

trafficking in persons. This is particularly important in Kosovo because it is small geographically and internal witness relocation is ineffective.

- The large and increasing civil case backlog decreases confidence in the courts by all communities and violates the right to a trial within a reasonable time.
- The non-functioning of the courts in northern Kosovo violates several fundamental human rights, which include the right to access to justice, the right to a trial within a reasonable time, the right to liberty, and the right to a tribunal established by law.

1.4. OSCE Actions

13. In the past year, the Mission continued to monitor the criminal and civil justice system for compliance with the law and international human rights standards. It issued monthly and thematic reports on topics such as judicial review of privatization decisions, March 2004 riots cases, trafficking in persons, witness protection, the civil case backlog, and the human rights impact of the non-functioning courts in northern Kosovo. Roundtables with judges, prosecutors, and other relevant parties followed each publication of a thematic report. The trial monitoring, reporting and roundtable program will continue to form one of the Mission's key tasks in the future, particularly focusing on ongoing priority areas such as property, war crimes, interethnic violence, and trafficking in persons.

2. Police

2.1. Police: Normative Framework

14. During the reporting period, significant progress has taken place in further developing the legal framework for the police service in Kosovo through the adoption of the Law on the Police, and the Law on the Police Inspectorate of Kosovo.¹⁷ These police laws provide Kosovo with a legal framework that meets international standards. In the same period, the legal framework for the establishment of a center for public safety training¹⁸ was approved. Now, Kosovo has the normative framework for a high quality joint training facility for all security and public safety agencies: police, customs, corrections, and fire and rescue services.

2.2. Police: Implementation

15. The law on the police makes commitments also on issues such as changes in grading, pensions and other benefits that will have a financial impact on the Kosovo Consolidated Budget. These financial implications have not been accounted for in the budget. The legal framework for the establishment of a centre for public safety training has been in place since March 2008. However, difficulties were encountered regarding the staffing of the joint training facility, mainly due to the lack of human resources with the necessary professional and academic background, and the low salaries. Thus, senior management positions could not be filled during the reporting period. Moreover, the Kosovo Police Service was reluctant to fully co-operate in a joint training structure integrating all layers of public safety.

¹⁷ On 20 February 2008, as part of the first tranche of laws deriving from the Comprehensive Status Proposal, the Assembly adopted the Law on Police (no. 03/L-035) and the Law on the Police Inspectorate of Kosovo (no. 03/L-036). Both laws came into effect after 15 June 2008. The Law on Police regulates the rights and responsibilities of the police and its organisational structure in line with international policing standards. The Law on the Police Inspectorate of Kosovo establishes an independent institution responsible for the overseeing the performance of the police service.

¹⁸ The Kosovo Center for Public Safety Education and Development (KCPSED) is located in Vushtrri/Vučitrn. The KCPSED includes the Kosovo Police Service School founded in 1999 by the Mission, and the training services of the Department for Emergency Management, the Customs Service and the Corrections Service.

16. The necessity of a joint and functioning training facility for all public safety institutions became evident when trucks carrying hazardous material entered Kosovo.¹⁹ Neither the border officers nor the customs services have the necessary capacities and equipment to conduct a comprehensive safety assessment of goods entering Kosovo. The fire and rescue services would face serious difficulties in properly reacting to any accident involving such hazardous cargo.

17. A Mission opinion poll carried out in late 2007 confirmed a high degree of general trust of the public in the Kosovo Police Service.²⁰ This is relevant since public perception towards police before 1999 was negative. However, many members of the Kosovo Serb community admitted their lack of confidence in the security and public safety providers in southern Kosovo, where most of the officers belong to the Kosovo Albanian community. Similarly, Kosovo Albanians in northern Kosovo distrust Kosovo Serb police officers.

18. Some cases of misconduct and shortcomings in the performance of individual members of the Kosovo Police Service in the field also have a negative impact on public perception. This confirms some of the key findings of the Police Inspectorate of Kosovo Annual Report for 2007,²¹ which identified organizational shortcomings concerning the procedure for appointment and promotion of police officers, the legal framework for the use of force by the police, the follow-up on complaints against the police, and selection and training policies.

19. The majority of Kosovo Serb police officers south of the river Ibar resigned from work after 17 February 2008, beginning a boycott of local police structures. While this development has affected police operations in ethnically mixed areas, informal channels of communication remained open.²² In all cases, disciplinary proceedings by the Police Inspectorate of Kosovo are underway. As of end of August 2008, 287 Kosovo Serb police officers (out of about 430 Kosovo Serb officers in southern Kosovo) were suspended with pay.²³ Between March and July 2008, only 17 Kosovo Serb police officers returned to work. In northern Kosovo, the situation is different from the south, as this police region remains the only one under direct UNMIK Police command. The over 259 Kosovo Serb police staff there continue to report to work regularly.

20. From a human rights perspective, progress has been achieved concerning police holding cells and detention conditions. In addition, the process of ensuring uniform custody records throughout Kosovo is under way. The Kosovo Police Service increasingly notifies arrested persons of their rights. However, legal assistance during police interviews is not provided consistently. Moreover, the Kosovo Police Service lacks resources for ensuring Albanian–Serbian translation and other interpretation services.²⁴

¹⁹ Police stopped three trucks with Bulgarian license plates on 22 May 2008 in Suharekë/Suva Reka in the Prizren region and directed them to the customs terminal at the Vermicë/Vrbnica border crossing point for cargo examination. The trucks were denied re-entry into the former Yugoslav Republic of Macedonia on 1 June 2008 and remained in the border area for five days. On 6 June 2008, they were moved to the Mitrovicë/Mitrovica region. As of August 2008, the trucks remained in Mitrovicë/Mitrovica and the removal and destruction of toxic cargo was first initiated and then suspended. Residents in the locations where the trucks were located were protesting peacefully against their presence.

²⁰ See OSCE Report, *Measuring the Trust, Security and Public Safety Perceptions in Kosovo* (10 June 2008). This OSCE poll was consistent with the findings of UNDP's *Early Warning Report Kosovo*, 19 January 2008.

²¹ See Police Inspectorate of Kosovo, *Annual Report for 2007*, available at http://www.ks-gov.net/ipk/docs/Raporti_Vjetor_2007.pdf.

²² However, in Štrpce/Shtërpçë the Kosovo Police Service station has not been affected. There, the station has 48 Kosovo Serb and 23 Kosovo Albanian police officers. No Kosovo Serb police officers resigned from work after 17 February 2008. In addition, in Pejë/Peć, a multi-ethnic police station continues to operate.

²³ Kosovo Police employs about 7500 persons, most of them are police officers. Of the 7500 staff 834 (12 percent) are Kosovo Serbs, 259 of them work in the north and 575 in the south. Of these 575, at end of August 2008, 325 were suspended with pay, 287 of them were police officers.

²⁴ A number of situations were noted where a standard operational plan or written orders were written in Albanian, but the officers working with these instruments only understood Serbian. Translation problems affected members of the Kosovo Serb community when they filed complaints against police misconduct.

21. According to UNMIK Administrative Direction 2006/9,²⁵ the Police Inspectorate of Kosovo is the authority in charge of investigating allegations of serious misconduct of police officers, both following residents' complaints and upon the initiation of a police supervisor. The Professional Standards Unit of the police remains the authority in charge of investigating minor police disciplinary cases. The Police Inspectorate of Kosovo started its investigations in October 2007. While the establishment and functioning of an independent oversight mechanism of the police constitutes a major landmark for the entire region, there is still a tangible lack of public awareness of the right to complain against police misconduct and how such a complaint can be initiated. In several cases, the 90-day deadline to finalize disciplinary investigations and to properly inform the claimant about the outcome was not met.²⁶

22. In summary, the performance of the Kosovo Police Service in general policing reaches a high standard under the given circumstances. However, this success did not apply to the fight against organized crime. The political changes during the reporting period had a negative impact on the functioning of a multi-ethnic police force and effective policing in non-Albanian community areas. However, the competent authorities continue to encourage in a flexible and co-operative manner the return of Kosovo Serb police officers who left the service.

2.3. Police: Main Shortcomings

23. The main shortcomings are the following:

- The police institutions in Kosovo are often exposed to political interference. This appears to be a consequence of the general political culture in Kosovo, which often does not respect institutional independence.
- The low salaries of police officers increase the risk of corruption, negatively affect recruitment, and contribute to low morale.
- While the performance of the police regarding minor criminal offenses is good, there are serious shortcomings in combating organized crime and corruption.
- The withdrawal of the majority of Kosovo Serb police officers due to recent political changes jeopardizes the progress achieved in multi-ethnic policing. In particular, this affects the police service in multi-ethnic areas and increases the widespread lack of confidence in the police by Kosovo Serbs in Kosovo Albanian-majority areas.
- All layers of public security show significant shortcomings in professionally conducting safety assessments and addressing emergency situations due to a lack of equipment and relevant training.

2.4. OSCE Actions

24. In 1999, the Mission established the police school that was transferred to the Kosovo authorities during the reporting period. The Mission continued to support efforts to fight organized crime and conducted specialized training courses for police in co-operation with other regional law enforcement agencies. The Mission assists in the development of capabilities of the fire and rescue brigades and the ambulance service to improve their emergency management. It held security awareness campaigns Kosovo-wide, continued to support the development of police internal control mechanisms, and initiated efforts to develop a police criminal intelligence strategy. The Mission's monitoring programme aims to help create effective, accountable and human rights compliant public safety institutions.

²⁵ Administrative Direction 2006/9, Implementing UNMIK Regulation 2005/54, on the Framework and the Guiding Principles of the Kosovo Police Service, 6 June 2006.

²⁶ This is due to the Ministry of Internal Affairs' delay in creating the Senior Police Appointments and Discipline Committee, according to the legal provisions.

3. Communities

3.1. Participation and Representation in Public Life

3.1.1 Participation and Representation in Public Life: Normative Framework

25. The constitution sets aside guaranteed seats for non-majority communities in the Kosovo Assembly and government. Amendments to the constitution require a two-thirds majority vote including a two-thirds majority vote of all deputies who hold seats reserved to non-Albanian communities, whereas adoption of specified “legislation of vital interest”²⁷ requires endorsement by simple majority including from the majority of holders of seats reserved for non-majority communities present and voting. The new Law on Communities²⁸ foresees, within four months of its promulgation, the creation of a communities consultative council under the auspices of the Kosovo president. This council should represent the communities’ interests in relation to legislation and public policy and facilitate a regular dialogue between the communities and the Kosovo institutions. The recent laws on municipal boundaries and on local self-government foresee the establishment of five new Kosovo Serb-majority municipalities with enhanced competencies in the sectors of education, health care, cultural affairs and policing.²⁹ The Fair Share Financing Policy³⁰ obliges municipalities to allocate a centrally specified percentage of their staffing budget to employees belonging to non-majority communities. If municipalities fail to meet these requirements, they face sanctions such as the withholding of allocations from the Kosovo budget or the direct diversion of municipal funds to non-majority communities. Administrative Instructions to implement the Law on Languages³¹ were issued and a Language Commission was established in 2007 by the Office of the Prime Minister. These elements of the normative framework establish the legal basis for a strong protection of non-majority communities and fully comply with international standards.

3.1.2. Participation and Representation in Public Life: Implementation

26. After 17 February 2008, many Kosovo Serbs withdrew from the Kosovo administration. Most of these institutions have applied a tolerant and considerate approach to ensure that these Kosovo Serbs can be reintegrated within their posts. However, the continued boycott may lead to disciplinary measures and dismissal. In southern Kosovo, some Kosovo Serb civil servants have reported back to work.

27. In northern Kosovo and other Kosovo Serb majority areas, the Serbian Ministry for Kosovo and Metohija promotes the establishment of parallel political structures to provide administrative services to the Kosovo Serb community. While the Kosovo government showed some effort to integrate Kosovo Serbs in the civil service, overall there has been no significant progress in socially integrating the Kosovo Serb community. Kosovo Serbs boycotted the elections in November 2007. Instead they participated in the Serbian municipal elections on 11 May 2008. The Special Representative of the Secretary-General of the UN declared that the conduct of these elections in Kosovo was illegal. Based on the results of the May elections, the “Assembly of the Community of Municipalities of the

²⁷ The concept of “legislation of vital interests” refers to those legislative acts, which strongly affect non-majority communities. Since the law does not clearly define what exactly falls under “vital interests”, it may cause political deadlock over the definition. This was demonstrated in Bosnia and Herzegovina, where the same concept was introduced by the Dayton Agreement 1995.

²⁸ Law on the Protection and Promotion of the Rights of Communities and their Members in Kosovo (no. 03/L-047, 13 March 2008, entered into force in June 2008).

²⁹ See map in Annex I.

³⁰ See Ministry of Economy and Finance, Administrative Instruction no. 2006/09, on the Administration of Fair Share Financing by the Municipalities, and UNMIK Regulation 2008/13, on the Approval of the Kosovo Consolidated Budget and Authorizing Expenditures for the Period 1 January to 31 December 2008, 29 February 2008.

³¹ The aim of the Law on the Use of Languages (no. 02/L-37, promulgated by UNMIK Regulation 2006/51, 20 October 2006) is to regulate the use of official languages as well as languages of communities whose mother tongue is not an official language in relation between citizens and Kosovo institutions at the central and municipal level.

Autonomous Province of Kosovo and Metohija” and Kosovo Serb (parallel) municipalities with their respective new mayors were established.³²

28. Approximately a third of the roughly 40,000 Kosovo Roma, Ashkali, and Egyptians residing in Kosovo still lack civil or habitual resident registration. The lack of personal documents prevents them from participating in public life, voting, returning and repossessing occupied property. These communities are systematically underrepresented in the Kosovo civil service and almost totally excluded from senior positions.

29. In municipal institutions, non-Albanian communities are overrepresented in posts dedicated to communities and return, but underrepresented in all other sectors. Women from non-Albanian communities are even more underrepresented, especially in senior posts. Few municipalities have adopted and implemented equal opportunity procedures or appointed equal opportunity officers. Outreach to non-Albanian communities on recruitment opportunities is weak or lacking. The Kosovo government’s 2007 fair share financing reports present a sufficient community participation in the municipalities’ civil service. However, fair share financing statistics on communities’ representation are not always reliable as municipalities, to prevent losing budget allocations from the central budget, often retain non-Albanian community employees on their payroll to comply with prescribed fair share financing targets although they have actually left their posts.

30. The effective implementation of the Law on Languages is impeded by a lack of budget, human resources and capacities, also resulting from a lack of political will. The composition of the language commission created by the law does not reflect the linguistic diversity of Kosovo and lacks adequate budget and office space to exercise its mandate. The obligations of institutions and the rights of users of official and community languages³³ are broadly unknown by the public, partly caused by the failure to publish administrative instructions and undertake a public information campaign.

3.2. Education and Health

3.2.1. Education and Health: Normative Framework

31. The applicable legislation³⁴ guarantees primary and secondary education in the native language. It also provides for higher education accessible to all persons in Kosovo without discrimination. New legislation on municipal education³⁵ creates mechanisms that allow the Kosovo government to integrate education policy from Serbia proper into the Kosovo educational system. The new law on local self-government also foresees enhanced competencies on secondary health care and education for Kosovo Serb majority municipalities.

³² On 28 June 2008, the constitutive session of the “Assembly of the Union of the Municipalities of the Autonomous Province of Kosovo and Metohija” occurred. Its declaration proclaims that Kosovo is part of the indivisible Republic of Serbia. It also declares respect for UN Security Council Resolution 1244 and the UN Charter. This assembly will be the successor of the “Union of Serbian Municipalities and Settlements” and comprises 43 delegates from 26 municipalities. It reserves the right to send draft laws to the Serbian parliament on issues relevant to Kosovo.

³³ The Law on the Use of Languages defines Albanian and Serbian as official languages in Kosovo. However, it also foresees, that “in municipalities inhabited by a community whose mother tongue is not an official language, and which constitutes at least five percent of the total population of the municipality, the language of the community shall have the status of an official language” (Article 2.3.). Moreover, Turkish has the status of an official language in Prizren municipality. Finally, if a community represents over three percent of the total population in a certain municipality, the language shall have the status of a “language in official use” which is also linked to certain particular rights of the community members.

³⁴ Law on the Use of Languages (no. 02/L-37, promulgated by UNMIK Regulation 2006/51, 20 October 2006); Law on the Protection and Promotion of the Rights of Communities and their Members in Kosovo (no. 03/L-047, 13 March 2008); Law on Education in the Municipalities of the Republic of Kosovo (no. 03/L-068).

³⁵ Law on Education in the Municipalities of the Republic of Kosovo (no. 03/L-068); Law on the Protection and Promotion of the Rights of Communities and their Members in Kosovo (no. 03/L-047, 13 March 2008).

32. Overall the education and health legislation meets international standards and guarantees the protection of the interests of non-Albanian communities. However, the failure of the constitution to explicitly recognize and directly apply the International Covenant on Economic, Social and Cultural Rights may negatively affect vulnerable communities. Since this covenant provides for many education and health-related rights, its non-recognition results in fewer education and health rights for communities.

33. The Law on Higher Education³⁶ incorporates the principles guiding higher education reform in Europe and regulates their implementation. It is “Bologna compliant”³⁷ and eliminates the system of independent faculties. There are two public universities in Kosovo: one in Prishtinë/Priština, attended mainly by Kosovo Albanians and the other in Mitrovicë/Mitrovica, attended primarily by Kosovo Serbs. However, neither of them offers instruction in the language of the other.

3.2.2. Education and Health: Implementation

34. The education system in Kosovo is characterized by separate schools for Kosovo Albanian and Kosovo Serb students. Kosovo Albanian students follow a curriculum without any instruction in Serbian language. Similarly, Kosovo Serb students are educated according to Serbian curricula and do not receive instruction in Albanian. Kosovo still has not developed primary and secondary education curricula in Serbian. No curriculum-based textbooks in Turkish and Bosnian are available for secondary education. These are fundamental deficiencies that drive the Kosovo communities apart.

35. Kosovo Roma, Ashkali and Egyptian pupils, and in particular girls of these communities, are in many cases not enrolled in schools or affected by a high drop-out rate. Action to ensure compulsory enrolment and increased access to education is insufficient. Romani language subjects are not available. Gorani³⁸ pupils face great difficulties in receiving education in Serbian, as they desire, due to the lack of a curriculum in Serbian.

36. Since 17 February 2008, it can be assumed that secondary education diplomas from Kosovo educational institutions will not be recognized by a number of countries in the region. This might prevent access to higher education for Bosnian and Serbian-speaking students.

37. There was no progress in unifying the Kosovo health and social welfare systems, as the Kosovo Serb community relies fully on its parallel system. There is no comprehensive health insurance system in Kosovo. As a result, various treatments and drugs are unaffordable for a significant part of Kosovo’s population. This particularly affects the Kosovo Roma, Ashkali and Egyptian communities. The limited access to health care is a significant problem for those members of the Kosovo Roma community who are still displaced in camps in northern Kosovo and exposed to lead contamination.³⁹ Kosovo Serbs lack confidence in the Kosovo health facilities and opt for the free parallel health services of better quality which are provided by the Serbian government.

³⁶ Law on the Higher Education in Kosovo (no. 2002/3, 26 September 2002, promulgated by UNMIK Regulation 2003/14, 12 May 2003). The law was drafted with the support of the Council of Europe.

³⁷ The “Bologna Declaration on the European Space for Higher Education” was adopted in 1999 by 29 European states. Kosovo benefits from the reform efforts even though the degrees of its university and secondary school graduates are not widely recognized. The issue of recognition is particularly important for the Serbian-language university in northern Mitrovicë/Mitrovica, as its graduates rely on Belgrade for accreditation of degrees and qualifications.

³⁸ Gorani are a Muslim non-Albanian community mainly living in the Gora region of the Dragash/Dragaš and Prizren municipalities. Small Gorani communities also live in other municipalities throughout Kosovo.

³⁹ Approximately 8,000 Roma fled in 1999 from southern Mitrovicë/Mitrovica when the Roma Mahalla settlement was destroyed. Some were sheltered in “temporary” camps for internally displaced persons in northern Kosovo. In 2005, the World Health Organization reported that these camps posed health hazards because this area was exposed to lead contamination. In 2006, the camps Žitkovac/Zitkovc, Kablar barracks and Cesmin Lug were closed and the displaced were relocated to the former KFOR base Osterode. While this base offers improved camp conditions, exposure to lead contamination continues. No sustainable solutions were found for the remaining displaced nearly 700 Roma. In particular, the exposed children are particularly at high risk of irreparable health damage.

3.3. Return

3.3.1. Return: Normative Framework

38. The applicable legal and policy framework⁴⁰ for voluntary return meets international standards. In October 2007, the Kosovo government endorsed the Strategy for Reintegration of Repatriated Persons to address forced returns. This policy framework also complies with international standards.

3.3.2. Return: Implementation

39. Despite the political developments in the first half of 2008, there were no significant departures by Kosovo Serbs or other non-Albanian communities. However, there were also no significant returns, although Kosovo authorities officially encouraged returns. Many municipalities adopted municipal return strategies while encouraging the participation of internally displaced persons during the drafting of these strategies. At the central level, the new minister of communities and returns reached out to communities and supported contacts with displaced persons and their organizations. However, the ministry did not invite the Association of Internally Displaced Persons to participate in the revision of return policies.

40. The Kosovo government adopted an action plan including a budget for the implementation of the strategy for reintegration of repatriated persons, but took no steps to inform the relevant municipal institutions about their responsibilities. Resources are currently still not available for the integration of repatriated persons.

3.4. Communities: Overall Assessment

41. No major interethnic incident⁴¹ occurred during the first half of 2008. However, the declaration of independence and subsequent reactions by the Serbian government discouraged the Kosovo Serb community from actively participating in the Kosovo society, although the legal framework provides for this.

3.5. Communities: Main Shortcomings

42. The main shortcomings are the following:

- The Kosovo education curriculum does not promote common values and an understanding of cultural diversity. The lack of education in all official languages also contributes to a significant drop-out rate among members of small communities, and fosters parallel education in the Serbian language.
- Since 17 February 2008, the separation of the Kosovo Serb community increased through the establishment of parallel political institutions and the strengthening of parallel social institutions such as education, health care, social welfare and pensions.
- The law on languages is not sufficiently implemented. This results in the violation of the communities' rights to equal access to services, documents, and other relevant information in their respective languages.
- The lack of civil registration impedes the return of displaced Kosovo Roma, Ashkali and Egyptians and prevents them from registering property. These communities have difficulty accessing essential services such as health care.

⁴⁰ The policy framework endorsed by the Kosovo government in 2006 is based on the UN Guiding Principles on Internal Displacement (UN Document no. E/CN.4/1998/53/Add.2, 17 April 1998). The right to return is also endorsed by UN Security Council Resolution 1244 (1999) and local, regional and international law.

⁴¹ While no major interethnic incidents occurred, individual interethnic incidents continued and persons belonging to non-Albanian communities had security concerns. Intimidation, fear, and mistrust of the effectiveness of police investigations led to non-reporting of incidents.

- The return process is mainly hampered by a general feeling of insecurity among displaced persons, their difficult access to property, and blocked or delayed property restitution proceedings.

3.6. OSCE Actions

43. During the reporting period, the Mission closely monitored the drafting process of Kosovo's policies and legislation in the field of communities' protection at the central and municipal levels. The Mission raised awareness of European and international standards during these processes. It will now monitor their implementation. For the last two years, the Mission supported the development of the Kosovo Strategy for the Integration of Roma, Ashkali and Egyptians and served as a co-ordinator among the three communities, and other international organizations and local institutions. It continues to monitor the access of non-Albanian communities to education in the language of their choice and health services and to raise shortcomings at the central level institutions. The Mission facilitates dialogue between the communities and representatives of institutions, both at the local and central levels.

4. Protection of Property Rights

4.1. Protection of Property Rights: Normative Framework

44. The legal and institutional framework regulating and protecting property rights in Kosovo remains weak. All communities, particularly the Kosovo Serb community, are affected by these weaknesses since many remain displaced from their homes or await restitution of residential, agricultural or commercial property.

45. During 2007, legislation governing the work of the Kosovo Property Agency⁴² was further defined through an Administrative Direction⁴³ that established the agency's rules of procedure. In addition, UNMIK issued an Administrative Direction in May 2008, exempting property right claimants from paying utility bills (such as electricity and water bills) accrued over periods when their properties were under Kosovo Property Agency administration⁴⁴ or where a tenant under the rental scheme failed to pay these bills.⁴⁵ However, there are no measures to ensure the same exemptions for holders of properties not claimed through the Kosovo Property Agency. This means that displaced persons who have not had the opportunity to claim their property through the Kosovo Property Agency are burdened with the payment of bills charged to their properties while those properties were or are still illegally occupied.

⁴² The Kosovo Property Agency was established in March 2006 as a mass claim mechanism to deal with claims for the restitution of *agricultural and commercial* property, and also to implement the decisions on *residential* property which had made by its predecessor the Housing and Property Directorate/Housing and Property Claims Commission. The claims body under the auspices of the Kosovo Property Agency is called the Property Claims Commission (see UNMIK Regulation 2006/10, on the Resolution of Claims Relating to Private Immovable Property, Including Agricultural and Commercial Property, 4 March 2006, as amended).

⁴³ Administrative Direction 2007/5, implementing UNMIK Regulation 2006/50, on the Resolution of Claims Relating to Private Immovable Property, Including Agricultural and Commercial Property, 1 June 2007.

⁴⁴ UNMIK Regulation 2000/60 gave the Housing and Property Directorate (the predecessor to the Kosovo Property Agency) authority to administer abandoned residential properties either on request of the property right holder or as a result of an inventory of abandoned properties. To facilitate administration of these properties, the Kosovo Property Agency developed a rental scheme whereby each property under its administration can be rented upon the property right holders' consent. Renters pay a monthly rent to the property right holder through the Kosovo Property Agency.

⁴⁵ Administrative Direction 2008/5, Implementing UNMIK Regulation 2006/50, on the Resolution of Claims Relating to Private Immovable Property, Including Agricultural and Commercial Property, 5 May 2008.

46. On 13 June 2008, the Assembly adopted a law⁴⁶ which reassigned UNMIK's authority concerning the work of the Kosovo Property Agency to the International Civilian Representative. The adoption of this law raises concerns about the future co-operation of the Serbian government with the Kosovo Property Agency, since Serbian authorities do not recognize the International Civilian Representative. On 19 June 2008, the Serbian government suspended the operations of Kosovo Property Agency offices in Serbian cities, claiming the agency has not dealt with the issue of protecting the rights of Serbian citizens whose properties were confiscated in Kosovo.⁴⁷ The effect of this lack of co-operation is that the Kosovo Property Agency does not have access to displaced cadastral records. During the conflict of 1999, 20 percent of textual data and 30 percent of cadastral maps pertaining to different municipalities were displaced to Serbia proper. In addition, the Kosovo Property Agency will face obstacles in delivering decisions to displaced persons concerning their property claims, due to the closure of the agency's offices in Serbian cities.

47. The privatization process managed by the Kosovo Trust Agency⁴⁸ has been temporarily suspended because UNMIK Pillar IV, under which the Kosovo Trust Agency belonged, ceased operations in June 2008. The new legislation governing the work of the future privatization agency of Kosovo was promulgated in June 2008.⁴⁹ The new law establishes a privatization agency of Kosovo as the successor of the Kosovo Trust Agency, with the mandate to continue the administration, privatization and liquidation process of socially-owned enterprises in Kosovo.⁵⁰ However, according to the Kosovo Trust Agency, the new privatization agency is not its legal successor. Consequently, privatization is stalled as the Kosovo Trust Agency has not transferred files to the new agency. An additional obstacle is the lack of Serbian co-operation with this new agency, which is now a Kosovo institution.

48. In summary, property-related legislation is weak. The current period raises major continuity problems concerning the way bodies responsible for property issues will execute their mandates in the future. In addition, the restitution process is hampered by the lack of legislation, which is necessary to apply a uniform restitution procedure.

4.2. Protection of Property Rights: Implementation

49. Almost nine years after the conflict, a large number of properties remain illegally occupied, despite the resolution of almost 30,000 residential property cases as of summer 2008. Initially, mass claim mechanisms addressed only residential property. Commercial and agricultural property was included only in May 2006. Previously, disputes involving commercial and agricultural land could only be adjudicated through the normal backlogged civil court system

50. The relevant local and central level authorities still inappropriately apply or avoid expropriation procedures. As a result, unlawful interference with individual property rights occurred regularly. Often, individuals did not have access to an effective remedy. Moreover, in cases involving non-Albanian community members, expropriations can have discriminatory consequences. If the lawful owners are displaced, they will likely not be aware of the expropriation of their property.⁵¹

⁴⁶ Law No. 03/L-079, amending UNMIK Regulation 2006/50 On the Resolution of Claims Relating to Private Immovable Property, Including Agricultural and Commercial Property, 13 June 2008.

⁴⁷ Press release announcing decision of the Serbian Government on the Kosovo Property Agency work, 19 June 2008 (available at <http://www.srbija.sr.gov.yu/vesti/vest.php?id=89827>).

⁴⁸ The Kosovo Trust Agency was established in 2002 to prepare and carry out the privatisation of socially owned enterprises and to administer of publicly owned enterprises (UNMIK Regulation 2002/12, on the Establishment of the Kosovo Trust Agency, 13 June 2002, as amended). See OSCE Report, *Privatization in Kosovo: Judicial Review of Kosovo Trust Agency Matters by the Special Chamber of the Supreme Court of Kosovo* (May 2008).

⁴⁹ Law on the Privatization Agency of Kosovo (no. 03/L-067), 21 May 2008.

⁵⁰ See Section 1, Rule of Law, paragraph 5.

⁵¹ See OSCE Report, *Expropriations in Kosovo* (December 2006).

51. Between the establishment of the Kosovo Property Agency in 2006 and the deadline for the submission of claims in December 2007, almost 40,000 claims were submitted to this agency.⁵² The majority of these claims concern agricultural land belonging to Kosovo Serbs. The Property Claims Commission within the agency is mandated to decide on these claims. Approximately 11,000⁵³ of these claims have been decided by the commission. However, these decisions have still not been implemented because the panel⁵⁴ to receive appeals related to the commission's decision is still not established. This paralyzes the property restitution process. The victims of this delay are successful claimants who cannot register property titles, as determined by the Property Claims Commission, and consequently cannot repossess their properties. The predecessor of the agency, the Housing and Property Directorate, faced problems in implementing repossession claims through evictions. Similarly, the agency will likely face problems when it attempts to implement its decisions, since the agency's mandate foresees identical remedies, including demolition of unlawful structures, seizure and auction and evictions

52. In summary, approximately 29,000 claims remain to be decided by the Property Claims Commission. Together with the approximately 11,000 "decided but non-implemented claims", close to 40,000 claims still remain to be fully dealt with by the Kosovo Property Agency.

53. In addition, the legacy of destruction of property resulting from the 1999 conflict was not addressed by either the international community or the local government. Moreover, as mentioned above in paragraph 9, Kosovo courts have not been able to adequately address approximately 18,000 claims for damages related to the conflict to property which belongs primarily to Kosovo Serbs since the UNMIK Department of Justice suspended consideration of these cases in August 2004.

54. In addition, there are more than 1,200 claims by Kosovo Albanians against the Republic of Serbia and/or Federal Republic of Yugoslavia for damages during the 1999 conflict which have not been resolved. Of these cases, over 700 have still not been processed by the judiciary, whereas 540 have been suspended by a court in Pejë/Pec⁵⁵

55. In total, these property claims and cases amount to approximately 59,000 (40,000 plus 18,000 plus 1,200), the vast majority of which involve Kosovo Serbs, whose properties were damaged, destroyed or illegally occupied as a result of the conflict and have not yet been addressed or settled.

4.3. Protection of Property Rights: Main Shortcomings

56. The main shortcomings are the following:

- The Kosovo Property Agency's enforcement of remaining Housing and Property Claims Commission decisions is hampered by a lack of co-operation of police authorities. The agency's resources are insufficient to decide and implement the approximately 40,000 received claims. Moreover, the political environment hinders the process.
- Kosovo Serb and Serbian non-co-operation with the Kosovo Property Agency likely will affect the ability of the agency to handle claims of displaced persons living outside Kosovo. Moreover, cadastral and judicial records relevant to Kosovo remain displaced.
- In Kosovo, there is no adequate public notice and review procedure to protect displaced persons when expropriations and other acts affecting registered property titles occur.
- The lack of legal continuity between the Kosovo Trust Agency and the privatization agency of Kosovo and the expected lack of co-operation by the Kosovo Serb community will jeopardize the ability of the new privatization agency to execute its mandate.

⁵² The Kosovo Property Agency received 39,687 claims (source: <http://www.kpaonline.org>).

⁵³ The Kosovo Property Agency decided 11,168 claims as of 30 June 2007 (source: <http://www.kpaonline.org>).

⁵⁴ A special panel of the Supreme Court has been designated as the responsible body to receive appeals to Property Claims Commission decisions. However, the panel itself has not yet been established.

⁵⁵ See OSCE Monthly Report, *The backlog of civil cases in the Kosovo courts affects the right to a trial within a reasonable time* (May 2008).

4.4. OSCE Actions

57. During the reporting period, the Mission monitored the protection of property rights in Kosovo. In September 2007, the Mission brought together central and local officials, international organizations and civil society representatives to recommend future action. The Mission raised with all relevant actors the issue of displaced cadastral records. It advised local authorities on how to regularize informal settlements and address expropriations. The Mission continues to monitor property cases in the courts. It will also follow the drafting and implementation of property legislation on compliance with international human rights standards.

5. The Assembly of Kosovo

5.1. The Assembly of Kosovo: Normative Framework

58. The constitutional framework and constitution reserve ten seats in the Assembly for members of the Kosovo Serb community and ten seats for other non-Albanian communities. These seats were not always effectively utilized by the Kosovo Serb community due to their political boycott against central institutions. After the November 2007 elections, a number of new Kosovo Serb political actors sought a more engaged approach.⁵⁶ However, in light of the low turnout of less than one percent among the Kosovo Serb community in these elections, the elected Kosovo Serb representatives in the Assembly of Kosovo, the Kosovo government and the municipal assemblies do not reflect a wide range of opinions in that community.

5.2. The Assembly of Kosovo: Implementation

59. The Assembly and the government have not agreed on harmonizing their drafting guidelines, which creates difficulties in the process of drafting and reviewing new legislation. Therefore, the expertise of lawyers and other responsible civil servants is not used efficiently. The process of reviewing draft legislation has been hampered by an insufficient quantity and quality of recommendations provided by most Assembly committees, during the prescribed review period.⁵⁷ However, during the reporting period, the president of the Assembly encouraged the committees to start analyzing draft laws prior to their first readings to streamline the legislative process.

60. There is little to no interaction between the government and the Assembly once a law leaves the government. Political advisors and ministers do not sufficiently use the opportunity to attend committee meetings to explain the importance of laws and discuss with the Assembly the proper implementation of these laws.

⁵⁶ The Serb Autonomous Liberal Party (SLS), which was established in 2006, advocates that, regardless of the political status of Kosovo, the Kosovo Serb community should remain in Kosovo and should participate in the Kosovo institutions. Following its participation in the November 2007 elections, SLS joined the work of the third mandate of the Assembly of Kosovo and has two ministers and one deputy-minister in the current government of Kosovo. A member of the SLS also chairs the Committee on Rights and Interests of Communities and Returns.

⁵⁷ According to Rule 35.6 of the Assembly Rules of Procedure, a committee must submit its recommendations to the Assembly no later than two months after the first reading, unless an extension is approved by the Assembly. Assembly committees have difficulties in scrutinizing draft laws within the prescribed timeframe due to insufficient expertise coinciding with a significant workload and short deadlines. As the constitution foresees the full implementation of the Comprehensive Status Proposal, more than 40 new acts of legislation had to be adopted. The entire range of laws deriving from the Proposal was adopted during the first half of 2008.

61. The Assembly committees are required to report to the Assembly at least once a year on the implementation of adopted laws in their area of responsibility.⁵⁸ During the previous legislature most of the committees failed to meet this requirement. Since early 2008, Assembly committees include monitoring of the implementation of laws in their regular work plans. However, only few laws are subject to a thorough review of their implementation. The committees blame this shortcoming on their large workload.

62. Adopting the budget and monitoring its spending is a key responsibility of the Assembly in terms of oversight of the government. The Law on Management of Public Finances and Accountability⁵⁹ establishes deadlines for compiling the draft Kosovo Consolidated Budget and submitting it to the Assembly.⁶⁰ During the reporting period, the Ministry of Finance and Economy failed to adhere to these timelines making it impossible for the Assembly to prepare amendments or recommendations and hampering effective consultation with independent institutions.⁶¹ During spring 2008, the Assembly adopted several packages of key legislation without financial impact statements, although this is required by applicable law.

63. Since early 2008, the Assembly has started to improve its oversight role regarding the security sector. Since the Kosovo government now assumes competencies in the fields of police and rule of law, previously held by UNMIK, the Assembly established a new Assembly Committee on Internal Affairs and Security to oversee legislative policies and their implementation in the field of security.⁶²

64. Despite individual outreach efforts of Assembly members to their electorate during the reporting period, outreach to constituents is not institutionalized. The only exception occurred in May 2007 when the Assembly organized a “Week of the Assembly.” The Assembly president and most Assembly members made full day visits throughout Kosovo. However, most of the members of the Assembly continue to have weak links with their constituencies. Also, there is a lack of effective civil society participation in the legislative process. Generally, communication with constituencies has been insufficient and is restricted to campaigning prior to the elections.

65. In summary, the functioning of the Assembly of Kosovo has improved. Despite little experience with monitoring the implementation of laws, committees are making this competency a priority of their work. The Assembly has slowly begun to exercise oversight of the government in the budget and security sector. The elections of November 2007 offered an opportunity to members of all Kosovo communities to participate. However, the low turnout among the Kosovo Serb community and the establishment of Kosovo Serb parallel municipal assemblies after the Serbian municipal elections in May 2008 offset the recent engagement of some Kosovo Serb representatives in the Assembly.

5.3. The Assembly of Kosovo: Main Shortcomings

66. The main shortcomings are the following:

- There is a lack of harmonized guidelines for drafting legislation. Professional legal expertise in the Kosovo government and the Assembly is limited. Capacities in the Assembly committees for reviewing draft legislation are insufficient to meet the current workload.
- Weak interaction between the government and the Assembly obstructs a streamlined, efficient legal drafting procedure and does not allow for a sufficient involvement of legal experts.

⁵⁸ Rule 53 of the Assembly Rules of Procedure.

⁵⁹ Law on Public Financial Management and Accountability, no. 2003/2, promulgated by UNMIK Regulation 2003/17, 12 May 2003, as amended).

⁶⁰ See also Section 6.3 on Local Government and Decentralization.

⁶¹ The independent institutions in Kosovo are independent bodies that perform functions of oversight and regulation. In December 2007, the Mission published a report on the issue, OSCE Report, *Independent Agencies and Institutions in Kosovo Democracy* (available at http://www.osce.org/documents/mik/2007/12/28703_en.pdf).

⁶² The committee is responsible for overseeing the Kosovo Police Service, budgetary policies of the police and other security actors, international cooperation in the field of security, and cooperation with security institutions under the auspices of international institutions.

- During the first half of 2008, government ministers and the prime minister increasingly failed to answer parliamentary questions.⁶³
- The outreach to constituents is not institutionalized, impeding effective civil society participation and transparency in the legislative process.

5.4. OSCE Actions

67. The Mission monitored and advised the Assembly on the legislative drafting processes to support the effective implementation of European and international standards particularly with respect to human rights and the rights of the members of communities. The Mission will monitor the Assembly's oversight measures regarding the implementation of legislation. It will continue to encourage measures to enhance transparency and accessibility of the Assembly.

6. Local Government and Decentralization

6.1. Local Government and Decentralization: Normative Framework

68. The normative framework for decentralization has substantially developed during the reporting period. This constitutes positive progress. The legal framework covering 30 municipalities was amended in October 2007,⁶⁴ and, for the first time, mayors were directly elected as heads of municipalities in November 2007.

69. Despite the promulgation of the new UNMIK Regulation in October 2007, Pilot Municipal Units⁶⁵ continued to function under the old legal framework. They could not be included in the municipal elections in November 2007.⁶⁶ This has created legal ambiguity.

70. The Assembly of Kosovo amended the applicable legislation on decentralization and adopted a number of new laws⁶⁷ in early 2008 (as envisaged under the Comprehensive Status Proposal). This new legal framework provides for a large degree of local governance, and for more and clearer municipal competences. It also envisages increasing the number of municipalities from currently 30 to 38.⁶⁸ The new laws were drafted with significant international support, while local ownership was

⁶³ See OSCE Report, Assembly monitoring report no. 3/2008, covering the period 1 April-14 June 2008, available at http://www.osce.org/documents/mik/2008/08/32485_en.pdf.

⁶⁴ UNMIK Regulation 2007/30 Amending UNMIK Regulation 2000/45 on Self-Government of Municipalities in Kosovo, 16 October 2007.

⁶⁵ Three Pilot Municipal Units were established in 2005 to gain experience on how to set up new municipalities. UNMIK Administrative Direction 2005/11 on Pilot Projects implementing UNMIK Regulation 2000/45 on Self-Government of Municipalities in Kosovo envisaged the establishment of five Pilot Municipal Units: two in Kosovo Albanian majority areas, two in Kosovo Serb majority areas and one in a Kosovo Turk majority area. However, the Pilot Municipal Units in the Kosovo Serb majority areas (Gračanica/Graçanicë and Parteš/Partesh) never became functional due to a lack of agreement with the Kosovo Serb political leadership. Eventually, only the Pilot Municipal Units in Junik, Hani i Elezit/Đeneral Janković and Mamuša/Mamushë/Mamuša became operational.

⁶⁶ The Special Representative of the Secretary General decided not to include the Pilot Municipal Units in the 2007 municipal elections. Consequently, the new legislation, introducing a directly elected mayor and a politically appointed board of directors, could not be applied to them. UNMIK therefore extended the application of UNMIK Regulation 2000/45 for the Pilot Municipal Units.

⁶⁷ Law on Local Self-Government (no. 03/L-040, 20 February 2008); Law on Administrative Municipal Boundaries (no. 03/L-041, 20 February 2008); Law on Local Elections (no. 03/L-072, 5 June 2008); Law on Local Government Finance (no. 03/L-049, 13 March 2008).

⁶⁸ The foreseen eight new municipalities are: the current three Pilot Municipal Units of Junik, Hani i Elezit/Đeneral Janković and Mamuša/Mamushë/Mamuša; the five new Kosovo Serb majority municipalities of Gračanica/Graçanicë, Parteš/Partesh, Klokot/Kllokot, Vërboc/Vrbovac and Ranilug/Ranillug. Additionally, the municipality of Mitrovicë/Mitrovica is foreseen to be split in two municipalities with a joint board: the

ensured through government working groups. However, the municipal representatives complained that they were not sufficiently consulted during the drafting process regarding areas of their competence.

71. Municipal statutes should determine the organization of the municipality while taking into consideration the characteristics of its communities, culture, economic interests, linguistic and social composition and specific priorities and resources. After the November 2007 elections, municipal assemblies established working groups to draft their respective statutes in accordance with the applicable UNMIK regulation. In February 2008, the Assembly adopted a new law on local self-government which would not become effective until the entry into force of the constitution. Consequently, most municipalities delayed the approval of their municipal statutes.

6.2. Local Government and Decentralization: Implementation

72. The Government has a broad approach to develop decentralization in the next two years. In April 2008, an inter-ministerial working group was established and an action plan for the implementation of decentralization in 2008-2010 was approved. This working group, co-chaired by the International Civilian Representative,⁶⁹ includes ten ministries and the Association of Kosovo Municipalities.

73. 26 mayors took their oaths, began their duties and started to chair the municipal assemblies, the policy and finance committees, and the board of directors. In all municipalities, new boards of directors have been established. The new law on local self government promulgated in June 2008 introduces some changes in the functioning of municipalities. It provides a clearer division between the legislative and executive branches, providing that the matters of the legislative organs (assembly and policy and finance committee) are run by the assembly chairperson. Amendment of municipal statutes has started in some municipalities and some already have elected an assembly chairperson as foreseen by the law.

74. Public involvement in consultation processes at the local level is modest. Civil society continues to struggle with poor organization, resulting in an *ad hoc* approach to advocacy. However, most municipalities have organized public consultations with regard to passing municipal statutes.

75. The municipal budgeting process continues to cause significant difficulties due to changes to legislation on local self-government and municipal financing. Since the establishment of the new Kosovo Serb municipalities is not progressing, implementation of the new laws is stalled and the budgeting process has been negatively affected. The Ministry of Finance and Economy could not provide the municipalities with the expenditure ceilings and the budget circular for 2009 on time.⁷⁰ Since the Pilot Municipal Units were not included in the 2007 municipal elections, the legitimacy of their provisional assemblies was repeatedly questioned because their composition no longer reflected the political reality.

76. The new laws on decentralization assume that the three existing Pilot Municipal Units would be transformed into full-fledged municipalities and that five new Kosovo Serb-majority municipalities would be established. On 14 August 2008, the authorities of the three pilot municipal units (Hani i Elezit/Genral Janković, Mamuša/Mamushë/Mamuša and Junik) received letters from the Ministry of Local Government Administration informing that they have been transformed into fully-fledged municipalities, and are expected to exercise their function and responsibilities in accordance with the

Kosovo Serb majority municipality of Mitrovicë/Mitrovica North and the Kosovo Albanian majority municipality of Mitrovicë/Mitrovica South. Novobërdë/Novo Brdo should be extended and would thereby also become a Kosovo Serb majority municipality. This would result in 11 current municipalities across Kosovo being affected by the implementation of the new Law on Municipal Boundaries. See map in Annex I.

⁶⁹ The function of an International Civilian Representative was introduced by the Comprehensive Status Proposal to oversee the proposal's effective implementation. The constitution assigns these responsibilities to him or her for a transitional period of time.

⁷⁰ The Law on Public Financial Management and Accountability foresees that the Ministry of Finance and Economy is responsible for establishing the expenditure ceilings for municipalities and issuing a budget circular providing municipalities with information and instructions on how to prepare their budgets by May 15 of each calendar year (see paragraph 17.5 of the Law on Public Financial Management and Accountability, no. 2003/2, promulgated by UNMIK Regulation 2003/17, 12 May 2003, as amended).

Law on Administrative Boundaries. However, to make these municipalities fully functional, new municipal elections are necessary. The Kosovo Serb community has not indicated any readiness to participate the decentralization process, as was shown by its low turnout in the November 2007 Kosovo elections. The non-participation of the Kosovo Serb community paralyzes not only the creation of new Kosovo Serb majority municipalities, but also the progress of decentralization throughout Kosovo.

77. Originally, the municipalities were responsible for water supply, sewage treatment and waste management. These tasks had been shifted from municipalities to publicly owned enterprises (regional water companies) to ensure more efficient provision of these services. In June 2008, the Kosovo Trust Agency, which had administered these regional water companies ceased operations. According to the new law on publicly owned enterprises, these tasks are no longer under international supervision. It is expected that additional legislation will grant municipalities ownership in the form of shareholder responsibilities for the joint stock water companies.⁷¹ The new law ensures that existing mechanisms and infrastructure will remain in place. In addition, it minimizes political interference in the sensitive area of water supply in Kosovo as the existing supply structures will not be exposed to struggles over their control by individual municipalities.

6.3. Local Government and Decentralization: Main Shortcomings

78. The main achievements and shortcomings are the following:

- The establishment of new municipal legislative and executive structures was delayed due to changes to the legal framework during the reporting period. This delay negatively affected the municipal budgeting process.
- As a result of the delayed budgeting process, municipalities will likely have insufficient human and financial resources to properly function.
- The lack of political participation of the Kosovo Serb community hinders the full implementation of local government reform.

6.4. OSCE Actions

79. The Mission closely monitored progress in the establishment of the new municipal structures through its extensive field presence. The Mission raised awareness among officials in the central and municipal levels about the effects of delays in the budgeting process on the functioning of the municipalities. In addition, the Mission assisted the local authorities in improving public consultation to promote transparency and accountability. The Mission is focusing on monitoring the central and local level institutions' compliance with European and international standards regarding decentralization and the protection of human and minority rights.

7. Elections

7.1. Elections: Normative Framework

80. In the elections of November 2007, for the first time three elections were held simultaneously⁷² and an open list system was re-introduced.⁷³ The election system of open lists aims at enhancing transparency and accountability by facilitating direct linkages between elected officials and their constituents.

⁷¹ See OSCE Report, *Water Supply System in Kosovo* (July 2008).

⁷² On 17 November 2007, elections for the Assembly of Kosovo, municipal assemblies and for the newly introduced position of mayors were held.

⁷³ For the first time this was applied in 2000. An open list system is one whereby the voter votes for candidates (in addition to the political entity of their choice). In 2000 there was an open list whereby voters could vote for only one candidate. In 2007, voters could vote for up to 10 candidates. In 2001, 2002 and 2004 a closed list system operated whereby the voter could only vote for the political entity of their choice and seats were allocated based on a pre-determined list of candidates.

81. With the adoption of the new laws⁷⁴ and the entry into force of the constitution in June 2008, the executive responsibility for election organization and implementation was assumed by the Kosovo Central Election Commission and its Secretariat, *de facto* bringing to an end the executive function of the Mission in this area.⁷⁵

82. For the first time since 2000 there is an election legal framework in place well in advance of the date of subsequent elections, which gives the Central Election Commission time to ensure the necessary preparations to allow for whatever scheduling of elections is decided. In addition, the new election laws encompass the previous best practices and international standards as reflected in the UNMIK regulations on elections. While the early promulgation of election laws provides stability, revisions and harmonization with other legislation is required.

7.2. Elections: Implementation

83. The central assembly, municipal, and mayoral elections in November 2007, with an additional mayoral runoff in December 2007, were successful and met international standards, though the Council of Europe did note in its preliminary statement a number of shortcomings, including some administrative problems and the extremely low turnout among the Kosovo Serb community.⁷⁶ These elections were organized and implemented within a very short three month period.⁷⁷ Given the complexity of the process, the Mission provided substantial planning support to the Central Election Commission and UNMIK provided further resources to facilitate voting.

7.3. Elections: Main Shortcomings

84. The main shortcomings are the following:

- The Central Election Commission and its Secretariat still require capacity building assistance to meet their responsibilities.
- There are many technical problems to be addressed such as the accuracy of voter lists and the continuance of conditional voting.⁷⁸
- The planned formation of new municipalities and the new legal requirement that voters are assigned to polling centres within three kilometres of their residences will require a modification of the voters list, which is expected to cause confusion among the electorate.
- The implementation of the new decentralization laws would require new municipal elections. However, the responsible institution still lacks the technical capacity and human resources to deliver such elections in the near future.

7.4. OSCE Actions

85. The Mission substantially contributed to the success of the 2007 elections. With the entry into force of the constitution in June 2008, the Mission's executive functions in the electoral process ceased. The Mission will focus on capacity building for the responsible institutions.

⁷⁴ Law on Local Elections (no. 03/L-072, 5 June 2008); Law on General Elections in the Republic of Kosovo (no. 03/L-073, 5 June 2008).

⁷⁵ The Political Parties Registration Office was part of the Mission's Election Division and is responsible for the registering new political parties, monitoring of political parties regarding their internal structures and ensuring financial transparency. Furthermore, the Head of Mission chaired the Central Election Commission.

⁷⁶ See Council of Europe, Election Observation Mission V in Kosovo, *Final Report*, available at [http://www.reliefweb.int/rw/RWFiles2008.nsf/FilesByRWDocUnidFilename/ASIN-7DYNMB-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2008.nsf/FilesByRWDocUnidFilename/ASIN-7DYNMB-full_report.pdf/$File/full_report.pdf)

⁷⁷ On 31 August 2007, the SRSG announced that three elections would be held on 17 November 2007. In addition, the legal framework for elections was only promulgated between 29 August and 16 October 2007.

⁷⁸ When a person does not find himself or herself on a voter list in a polling station, he or she may cast a ballot conditionally. This vote will only be counted if that person is found to be eligible and did not previously vote in another polling station. While this provides flexibility in a situation with an inaccurate voters list, counting is complex and delays results.

8. Public Administration

8.1. Public Administration: Normative Framework

86. Regarding the civil service at the central and local levels, the normative framework has undergone only limited changes. The civil service legal framework only allows for fixed-term contracts and does not foresee permanent employment. Employment is terminated automatically when the contracting period has expired. Under the legal framework as established by UNMIK⁷⁹ the directly elected mayors appoint the directors of the municipal departments. This created a political layer (composed of the mayor and of the directors) with higher authority than the apolitical civil service in the municipalities. The new law on local self-government⁸⁰ has taken a similar approach. All these measures have contributed to the politicization of the civil service and overruled its political independence.

87. The Independent Oversight Board is a quasi-judicial body responsible for the oversight of implementation of the Civil Service legal framework at the central and at the local levels. That includes hearing appeals from civil servants, reviewing certain government appointments and assessing public authorities' compliance with civil service principles. Despite structural changes during the reporting period,⁸¹ the Board continues to have no full financial independence.⁸² Its continued dependence upon ministry and assembly authorities leaves it exposed to political interference.

8.2. Public Administration: Implementation

88. The Senior Public Appointments Committee in the Office of the Prime Minister is responsible for appointing civil servants at the highest level. As of 1 July 2008, it does no longer include international members.⁸³ This change is likely to increase the politicization of the civil service at the highest levels of the ministries. For example, as ministers will dominate the committee, they can agree to a plan to enable all ministers to have the unhindered authority to appoint their own permanent secretaries from the membership of their political parties. Moreover, it is common for each new permanent secretary to change the senior staff under his/her command at the department, division and unit head levels.

89. The directors of municipal departments, who were previously employed as senior civil servants, are now political appointees selected by the mayor after consultation with the municipal assembly. This has caused some confusion about the role of directors and created an incorrect perception that the boards of directors are part of the civil service.

90. In summary, the civil service has become increasingly politicized. This impedes the professional operation of public institutions. Ministers have excessive control over the permanent secretary appointments. Given that permanent secretaries and the senior staff constitute the government's institutional memory, a major shift of civil servant staff after every election reduces the administration's capacity to develop beyond the length of one election term.

⁷⁹ UNMIK Regulation 2007/30, Amending UNMIK Regulation 2000/45, on Self-Government of Municipalities in Kosovo, 16 October 2007.

⁸⁰ Law on Local Self-Government (no. 03/L-040, 20 February 2008).

⁸¹ Until February 2008, the Independent Oversight Board was an autonomous unit within the Ministry of Public Services (and funded from the resources of this ministry). In February, through an UNMIK regulation, the Independent Oversight Board was transformed into an autonomous body appointed by and directly reporting to the Assembly of Kosovo and having a dedicated budget line under the Assembly's budget (UNMIK Regulation 2008/12, amending UNMIK Regulation 2001/36, on the Kosovo Civil Service, 27 February 2008).

⁸² For 2008, the Board is still dependent upon the Ministry of Public Services for its financial administration, although it has a budget line item assigned to it in the Assembly budget, and has already commenced reporting to the Assembly under the provisions of the new law."

⁸³ UNMIK Regulation 2008/20, amending UNMIK Regulation 2001/19, as amended, on the Executive Branch of the Provisional Institutions of Self-Government in Kosovo, 21 April 2008, entered into force on 1 July 2008.

8.3. Public Administration: Main Shortcomings

91. The main shortcomings are the following:

- The normative framework makes the civil service vulnerable to politicization. One of the major problems is that the legal framework does not foresee permanent employment, but only allows fixed-term contracts, which easily leads to termination and replacement at the will of new political officials.
- The Independent Oversight Board still lacks administrative and financial independence and could therefore be subject to political interference.
- The new procedure for appointing high ranking civil servants directly by the Office of the Prime Minister is also likely to increase the politicization of the civil service.

8.4. OSCE Actions

92. The Mission supported the reform and relocation of the Independent Oversight Board from the Ministry of Public Services to the Central Assembly and helped build its capacity during the reporting period. During the reform of this board in 2008, the Mission advocated for the board's full administrative and financial independence. The Mission will therefore closely monitor the functioning of this board, whose political independence is crucial to ensure its compliance with the principle of impartiality in public administration. Moreover, the capacity of the institutions to offer better services to the people in Kosovo will continue to be a main focus of the Mission. It will facilitate improving the dialogue between the central and local level administration. Furthermore, the Mission will continue to support the exchange of expertise among professionals of the civil service in the region.

9. Human Rights Institutions and Instruments

9.1. Human Rights Institutions and Instruments: Normative Framework

93. As of the beginning of the reporting period, many of the major international and European human rights instruments were already directly applicable in Kosovo through the Constitutional Framework and other UNMIK regulations.⁸⁴ During the reporting period, there were no significant changes in this respect. When the constitution entered into force, all the main human rights obligations remained applicable in Kosovo. However, the constitution corrected some human rights deficiencies in the previous legal framework.

94. The Ombudsperson Institution⁸⁵ has the mandate to address alleged human rights violations or abuses of authority by public institutions in Kosovo. It investigates human rights complaints and

⁸⁴ Human rights instruments referenced in the Constitutional Framework for Provisional Self-Government include: (1) The European Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto, (2) The Universal Declaration on Human Rights, (3) The International Covenant on Civil and Political Rights and the Protocols thereto, (4) The Convention on the Elimination of all Forms of Racial Discrimination, (5) The Convention on the Elimination of all Forms of Discrimination against Women, (6) The Convention on the Rights of the Child, (7) The European Charter for Regional or Non-majority Languages, (8) The Council of Europe's Framework Convention for the Protection of National Minorities. UNMIK Regulation 2000/45 on Self Government of Municipalities in Kosovo of 11 August 2000 refers to (9) The European Charter on Local Self-Government (cf. Article 3), and also to the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Council of Europe's Framework Convention for the Protection of National Minorities, the Convention on the Elimination of all Forms of Discrimination against Women, and European Charter for Regional or Non-majority Languages. Further, UNMIK Regulation 2006/12 on the Establishment of the Human Rights Advisory Panel of 23 March 2006 refers to (10) The International Covenant on Economic, Social and Cultural Rights, and (11) The Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (see Section 3.2 of UNMIK Regulation 2001/9, on a Constitutional Framework for Provisional Self-Government in Kosovo, 15 May 2001).

⁸⁵ UNMIK Regulation 2000/38 on the Establishment of the Ombudsperson Institution in Kosovo of 30 June 2000, later replaced by UNMIK Regulation 2006/06 on the Ombudsperson Institution. UNMIK Regulation

monitors Kosovo authorities from a human rights perspective. Another institution, the Human Rights Advisory Panel is also mandated to examine complaints from any person or group of persons claiming to be victims of human rights violations by UNMIK.⁸⁶

95. Three previously established institutions for the protection and promotion of human rights continued to function: (1) the Ombudsperson Institution in Kosovo,⁸⁷ (2) the Advisory Office on Good Governance, Human Rights, Equal Opportunity and Gender in the Prime Minister's Office⁸⁸ and (3) the ministry-based Human Rights Units.⁸⁹ Additional regulations also addressed discrimination⁹⁰ and gender equality⁹¹ separately from the larger human rights agenda. Before the entry into force of the constitution, UNMIK held the responsibility for submitting reports to human rights treaty bodies. After June 2008, it is unclear whether the Kosovo government will seek to take over the reporting to human rights treaty bodies previously performed by UNMIK.⁹²

9.2. Human Rights Institutions and Instruments: Implementation

96. The Ombudsperson Institution⁹³ has been under temporary leadership following the expiration of the International Ombudsperson's mandate in December 2005, despite three attempts by the Assembly to appoint a new Ombudsperson. In March 2008, the new Assembly president issued another call for nominations and three candidates were short-listed by May 2008. However, in June 2008, the Assembly president decided not to bring the issue to vote. While these delays in appointing new leadership have not damaged the work of the Institution, they have created uncertainty about its future.

97. During the reporting period, the Prime Minister's Advisory Office continued to establish human rights units at the ministry level according to its mandate, while supporting the Ministry of Local Government Administration's efforts to establish human rights units also at the local level.⁹⁴ The Advisory Office worked on gradually improving the co-operation with the Ombudsperson Institution in Kosovo, since the human rights units are mandated to implement the Ombudsperson's recommendations to the ministries.

98. Although every ministry had established a human rights unit by mid 2007, about half of these units still lack staff with appropriate education and experience and the necessary budgetary means. However, nearly all ministries increased their co-operation with the Council of Europe and the Office of the UN High Commissioner for Human Rights.

2007/15 also amended UNMIK Regulation 2006/06 and simplified the procedure for appointing a new Ombudsperson.

⁸⁶ UNMIK Regulation 2006/12 on the Establishment of the Human Rights Advisory Panel; UNMIK Regulation 2007/3 Amending UNMIK Regulation 2006/12 on the Establishment of the Human Rights Advisory Panel.

⁸⁷ UNMIK Regulation 2000/38 on the Establishment of the Ombudsperson Institution in Kosovo of 30 June 2000.

⁸⁸ UNMIK Regulation 2001/19 on the Executive Branch of the Provisional Institutions of Self Government of 13 September 2001 and its amendments.

⁸⁹ Prime Minister's Administrative Instruction 2005/8, on the Terms of Reference for the Human Rights Unit, and Prime Minister's Administrative Instruction 2007/4, for the Human Rights Units in the Kosovo Government.

⁹⁰ Law [on Anti-Discrimination \(no. 2004/3, promulgated by](#) UNMIK Regulation 2004/32, 20 August 2004).

⁹¹ Law on Gender Equality in Kosovo (no. 2004/2, promulgated by UNMIK Regulation 2004/18, 7 June 2004).

⁹² UNMIK submitted in 2005 and 2006 reports on the Framework Convention for the Protection of National Minorities and the International Covenant on Civil and Political Rights, respectively. In mid-2007, UNMIK submitted a report on the Covenant for Economic, Social and Cultural Rights. Also in 2007, UNMIK entrusted the compilation of the official report addressing the Convention on the Elimination of All Forms of Discrimination Against Women to the Agency for Gender Equality, which is temporarily administered by the Prime Minister's Office.

⁹³ UNMIK Regulation 2006/6, on the Ombudsperson Institution in Kosovo, 16 February 2006, as amended.

⁹⁴ UNMIK Regulation 2001/19, on the Executive Branch of the Provisional Institutions of Self Government, 13 September 2001, as amended. Prime Minister's Administrative Instruction 2005/8 on the terms of reference for the Human Rights Unit: Prime Minister's Administrative Instruction 2007/4 for the Human Rights Units in the Kosovo Government and the Ministry of Local Government Administration's Administrative Instruction 2008/2 on the establishment of Human rights in Municipalities.

99. The new law on local self-government grants the municipalities the exclusive competence to protect and promote human rights at the local level. To prepare municipalities for their future obligations, the Ministry of Local Government Administration developed specific guidelines and a capacity building programme to assist all municipalities in improving their capacities for human rights compliance. According to the ministry, 24 of the municipalities have already institutionalized their municipal human rights units in their municipal statutes.

100. As for international human rights instruments, the ministries developed and began implementing an action plan in response to the recommendations received from the Council of Europe on the Framework Convention on the Protection of National Minorities. However, little has been done to date by the ministries to implement recommendations contained in the treaty-body observations on the International Covenant for the Civil and Political Rights. The Prime Minister's Advisory Office drafted a human rights strategy and action plan to define the government's priorities until 2011. However, the plan fails to fully address the government's legal obligations in the field of human rights. During the reporting period this office launched a public information campaign on this law.

101. The Prime Minister's Office and the ministry-based human rights units and the Central Assembly have the mandates to conduct human rights compliance review of draft legislation. None of these institutions have completely fulfilled this task, as demonstrated by limitations in the circulation of draft laws to relevant officials and the omission of the International Covenant for Economic, Social and Cultural Rights from the constitution.

102. The Ombudsperson's mandate also includes commenting on Assembly laws. The Assembly has on occasion consulted the Institution during the planning and drafting of legislation. In addition, other authorities have requested that it examine whether the implementation of specific laws meets human rights standards.

103. In summary, progress has been made in the development of government structures for improving human rights compliance at the central level. The government's human rights unit structure has been extended from the central to the municipal level. Detailed human rights obligations and anti-discrimination aims were introduced in the constitution. The government's commitment to comply with international human rights standards has increased. However, the government failed to conduct thorough compliance review of legislation and its implementation according to its human rights obligations.

9.3. Human Rights Institutions and Instruments: Main Shortcomings

104. The main shortcomings are the following:

- The establishment of human rights units at the local level is a major achievement although both at the central and local levels these units still lack sufficient human and financial resources and authority. Human rights advisers often do not have the necessary professional and educational background.
- The Prime Minister's Office, and the ministry-based human rights units and the Central Assembly do not comply with their legislated mandates to conduct human rights compliance reviews of legislation.
- The Assembly has still not appointed the Ombudsperson, who has to be impartial and independent.

9.4. OSCE Actions

105. The Mission built capacity and advised on human rights compliance both at the central and local levels, and addressed human rights issues with relevant authorities and vulnerable groups. The Mission supported the advancement of all human rights mechanisms in Kosovo. At the ministry level, the Mission supported and coached ministry human rights units to improve their functioning and to help them to raise their profile within the ministry administration. The Mission will continue to monitor the implementation of the Kosovo human rights institutions' mandates and to provide on-site technical advice. It will also continue to support the work of the Ombudsperson.

10. Anti-Corruption

10.1. Anti-Corruption: Normative Framework

106. The Kosovo Anti-Corruption Agency is an independent body established as the main mechanism for preventing and fighting corruption, and for co-ordinating anti-corruption policies in Kosovo. The agency exercises its responsibilities according to the Suppression of Corruption Law,⁹⁵ which also provides for the agency's financial independence through a dedicated budget line in the Kosovo Consolidated Budget. It was established in July 2006 and became operational on 12 February 2007. The work of the agency is monitored by the agency's council.⁹⁶ The legal framework establishing the Anti-Corruption Agency builds an adequate basis for the agency to fulfill its tasks.

10.2. Anti-Corruption: Implementation

107. The agency lacks sufficient financial and human resources. More than two years after the UNMIK regulation was promulgated, the agency currently has only 15 out of 35 officials foreseen on the staffing table. Low salaries of its officials leave them vulnerable to corruption and political interference. Insufficient personal security measures expose them to intimidation. Some of the members of the supervisory council are employed by the same institutions that the Anti-Corruption Agency assesses for corruption, raising a potential conflict of interest.

108. In late 2007, the United Nations Development Programme, the Mission and others launched a public information campaign and conducted trainings. The agency developed a web page,⁹⁷ public corruption reporting telephone line, and held public meetings.

109. As a result, public reports of corruption to the agency increased significantly. The agency's interventions at last count led to the recovery of more than 6 million euros. In addition, in 2007 the agency launched a successful campaign for public officials to declare their assets. Corruption had become a key concern in the 2007 election campaigns. Nevertheless, obstacles to the success of anti-corruption efforts persist as evidenced by the significant gap between the number of investigations and the number of prosecutions. General shortcomings in the judicial system and regarding witness protection further impede effective prosecution of corruption.

110. In summary, the cumulative political attention to the issue of anti-corruption has led to increased political commitment to address the problem of corruption, and raised public awareness of the issue. However, effective anti-corruption policy has not been implemented, also due to a lack of resources. The implementation of the normative framework will not be adequate until the agency receives sufficient resources and political commitment at every level. Corruption remains a wide-spread problem across Kosovo. Increases in public awareness, reports, and investigations are inconsequential if only few investigations lead to prosecution and/or conviction. In conclusion, despite higher public awareness, the fight against corruption during the reporting period has not made substantial progress.

10.3. Anti-Corruption: Main Shortcomings

111. The main shortcomings are the following:

- The Anti-corruption Agency, as with other independent institutions, lacks adequate human and financial resources.

⁹⁵ Suppression of Corruption Law (no. 2004/34, promulgated by UNMIK Regulation 2005/26, 12 May 2005).

⁹⁶ The agency's council is composed of nine members, out of which three representatives are appointed from the Assembly, one representative from the Office of the President, one representative from the government, one representative from the Supreme Court, one representative from the Public Prosecutor's Office, one representative from local authorities and one representative from civil society.

⁹⁷ The Anti-Corruption Agency's first annual report is available on the agency's web page, <http://www.akk-ks.org>.

- The lack of public confidence in the government's capacity to combat corruption effectively remains a severe disincentive to reporting cases.⁹⁸
- Weaknesses in the justice system impede successful prosecution and related deterrence.

10.4. OSCE Actions

112. Over the last years, the Mission assisted the establishment of the Anti-Corruption Agency, the Independent Oversight Board, the development of a civil service code of conduct, and advocated for increased public access to official documents to enhance transparency. The Mission financed and provided technical assistance to legislative reforms in all of these areas that form the legal foundation for prosecuting corruption cases. One of the focuses of the Mission in the future will be to raise awareness among the public about corruption as a crime through public information campaigns. These activities are crucial to stimulate public participation in anti-corruption efforts and to raise the issue of corruption in the political debate. In addition, the Mission trial monitoring section monitors corruption cases for compliance with domestic law and international human rights standards.

11. Anti-Trafficking in Human Beings

11.1. Anti-Trafficking in Human Beings: Normative Framework

113. The normative framework addressing the problem of human trafficking, if fully implemented, would be sufficient. The Provisional Criminal Code of Kosovo prohibits trafficking in human beings.⁹⁹ Additionally, a separate, trafficking-specific regulation¹⁰⁰ addresses issues such as investigation and court proceedings and victim protection and assistance. In 2005, the Kosovo government approved a first action plan to combat trafficking in human beings, a framework guiding all anti-trafficking efforts in Kosovo. The plan was a joint effort by the Kosovo government, international organizations and non-governmental organizations to reduce human trafficking and mitigate its consequences. It covered the period from May 2005 to December 2007. The Kosovo government recently approved a second plan covering the period 2008 to 2011.¹⁰¹

11.2. Anti-Trafficking in Human Beings: Implementation

114. The first action plan has only partially been implemented. The part which was not implemented concerns activities under the responsibility of the Kosovo government. For instance, the government did not allocate the necessary funds for the implementation of the action plan. Nor did it establish a witness protection programme for victims/witnesses of trafficking.¹⁰² Otherwise, the normative framework provides adequate means for local authorities to address human trafficking.

115. During the reporting period, the Kosovo justice system has failed to appropriately investigate and bring charges against persons who were involved in trafficking activities or other related crimes (for example rape and unlawful deprivation of liberty) committed against victims of human trafficking.¹⁰³

⁹⁸ See UNDP, *Early Warning Report*, no. 20/21 Special Edition, January-June 2008, page 25.

⁹⁹ Articles 138 and 139, UNMIK Regulation 2003/25, On the Provisional Criminal Code of Kosovo, 6 July 2003. See also First Additional Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, Palermo, 15 November 2000 (Palermo Protocol).

¹⁰⁰ UNMIK Regulation 2001/4, on the Prohibition of Trafficking in Persons in Kosovo, 12 January 2001.

¹⁰¹ The Kosovo Action Plan to Combat Trafficking in Human Beings 2008-2011 was adopted by the Kosovo Council of Ministers on 31 July 2008.

¹⁰² See Section 1, Rule of Law, paragraph 4.

¹⁰³ See OSCE reports, *A Legal Analysis of Trafficking in Persons Cases in Kosovo* (October 2007) and *Assessment for Establishing a Referral Mechanism for Victims of Trafficking in Human Beings in Kosovo* (October 2007).

The number of reported cases of trafficking remained roughly the same throughout the reporting period. However, statistics of the Kosovo Police Service indicate that the number of victims from Kosovo has increased. Recently, traffickers apparently have shifted the commercial sex trade from public places such as restaurants and coffee bars into private homes and escort services to avoid detection.

11.3. Anti-Trafficking in Human Beings: Main Shortcomings

116. The main shortcomings are the following:

- Victim advocates, social workers and police officers often do not recognize victims of trafficking. Female victims are sometimes arrested for prostitution.
- Kosovo has insufficient shelters for different categories of victims of trafficking.
- Labour, trade and sanitary inspectors and members of the Kosovo Police Service do not systematically identify “suspicious activities” in private premises and flag possible trafficking cases or illegal activities for public prosecution. In addition, there is a lack of effective co-operation between the inspectorates and the Kosovo Police Service.
- Some judges and prosecutors do not understand the essential elements of the offence of trafficking. Thus, there is a failure to properly prosecute such crimes.

11.4. OSCE Actions

117. The Mission monitors, advises and supports the anti-trafficking structures in Kosovo for compliance with legislation and international human rights standards. The Mission developed and implemented projects in the areas of prevention, protection and prosecution. For example, the Mission has engaged in awareness raising projects and provided funding to shelters for trafficking victims. In October 2007, the Mission issued a report to examine the strengths and weaknesses of the anti-trafficking identification and referral mechanism in Kosovo from the operational and strategic point of view.¹⁰⁴ It also proposed the creation of the referral mechanism in Kosovo to improve assistance to victims. The Mission will continue to monitor and advise in this area. Finally, the Mission also monitors trafficking cases in the Kosovo justice system for compliance with domestic law and international human rights standards.

12. Media

12.1. Media: Normative Framework

118. Freedom of expression and freedom of the media are well protected by applicable legislation.¹⁰⁵ In fact, in this respect Kosovo has a very advanced legislative framework.¹⁰⁶ No significant changes of the normative framework occurred or were expected over the reporting period. In line with the Council of Europe’s Recommendations, a press-friendly Law on Defamation and Insult, was promulgated in February 2007.¹⁰⁷ However, and contrary to the

¹⁰⁴ See OSCE Report, *Assessment Report for Establishing a Referral Mechanism for Victims of Trafficking in Human Beings in Kosovo* (October 2007).

¹⁰⁵ The Law on Radio Television of Kosovo (no.02/L-47, promulgated by UNMIK Regulation 2006/14 11 April 2006) provides for an editorially and financially independent public broadcaster, RTK. The independence of the broadcast regulatory agency, the Independent Media Commission, is set forth in the Law on the Independent Media Commission and Broadcasting (no. 02/L-15, promulgated by UNMIK Regulation 2005/34, 8 July 2005).

¹⁰⁶ All laws indispensable for free and independent media were drafted in close co-operation with the Council of Europe and meet high standards. Kosovo’s legislative framework in the field of media is very advanced above all with respect to the issue of defamation: The Civil Law against Defamation and Insult, as the only one in the region, makes reference to the self-regulatory Press Council of Kosovo as a mitigating factor. Complainants are encouraged to first approach the Press Council of Kosovo before filing law suits for defamation or insult.

¹⁰⁷ Civil Law against Defamation and Insult (no. 02/L-65, promulgated by UNMIK Regulation 2007/13, 28 February 2007).

Council of Europe's recommendations, defamation remains a criminal offence under the still valid Provisional Criminal Code rather than being dealt with as a mere civil offence. This opens the door for political abuse as politicians, criticized by the media, could file criminal complaints against media professionals.

119. There are two independent regulatory institutions: the Independent Media Commission (IMC) and the Press Council of Kosovo. The Independent Media Commission is the independent broadcast regulator in Kosovo. It distributes and administers the broadcast frequency spectrum, promotes ethical and technical standards among broadcast media, and applies a body of regulations that hold local broadcasters to European standards of professionalism and fairness in their news coverage. The Press Council of Kosovo is a self-regulatory body for and by the print media tasked with advocating for freedom of speech and ensuring compliance with the print code of conduct, to which 90 percent of the print media have committed themselves.

120. There are no formal restrictions on the use of non-majority language media in Kosovo, and Kosovo's legislation guarantees communities and their members the rights to receive and provide information in their respective languages, to create media in their own languages and to special representation in public broadcast media.¹⁰⁸ The Law on Radio Television of Kosovo (RTK), promulgated in April 2006, provides for an editorially and financially independent Public Broadcaster and promotes broadcasting in non-Albanian languages.¹⁰⁹

121. In 2006, a fund for the support of minority, multi-ethnic, and disadvantaged media was established within the Office of the Prime Minister. The fund, part of UNMIK's standards requirements, is mainly financed by five percent of the public broadcasting fee. Grants should be distributed regularly to minority media providing qualitative programming.

12.2. Media: Implementation

122. Reporting standards have improved since the March 2004 riots¹¹⁰ and no cases of hate speech have been reported over the reporting period, although inflammatory reporting by one newspaper has occurred in summer 2007¹¹¹. These positive developments, in contrast to the interethnic tension promoted by the media in 2004, can also be attributed to the efforts made to improve the respect of professional and ethical standards in the media, mainly financed by the international community.

123. However, the high number of media outlets in Kosovo, a small advertising market, many young and inexperienced journalists and the absence of a formally recognized vocational training contribute to financially and editorially weak media, which are vulnerable to political interference. These factors hamper the proliferation of diverse opinions.¹¹² The well designed institutional framework does not

¹⁰⁸ See Section 4.4 of UNMIK Regulation 2001/9, on a Constitutional Framework for Provisional Self-Government in Kosovo, 15 May 2001, and Article 59 of the constitution.

¹⁰⁹ Art. 6.6 of the Law on Radio Television of Kosovo obliges RTK to "serve and give voice to all ethnic communities in Kosovo by dedicating not less than 10 percent of its programming budget and not less than 15 percent of its program time – including prime-time news coverage – to non-majority communities in their respective languages on a proportionate basis."

¹¹⁰ An OSCE report on the role of Kosovo media in the March 2004 events states that without the "reckless and sensationalist reporting", the ethnic riots might not have occurred at all. The Kosovo Albanian TV channels are especially criticized for "unacceptable levels of emotion, bias, carelessness, and falsely applied 'patriotic' zeal" in their reporting. 19 people died in the riots. See OSCE Report, *The Role of the Media in the March 2004 Events in Kosovo*, available at http://www.osce.org/documents/rfm/2004/04/2695_en.pdf. See also the Temporary Media Commissioner report on the conduct of broadcast media during the March 2004 unrests, *An Inquiry into the Performance of Kosovo-Wide Television, 16-17 March 2004*, 23 April 2004 available at <http://www.imc-ko.org/arkiva.php?id=7&l=e>.

¹¹¹ See the Mission's press release of 7 August 2007: "OSCE Mission in Kosovo condemns unprofessional, irresponsible journalism by local daily" (http://www.osce.org/kosovo/item_1_25872.html)

¹¹² Currently eight daily newspapers, all in Albanian language, appear in Kosovo. Out of 114 licensed broadcasters in Kosovo, 44 broadcast in non-majority languages (34 in Serbian, four in Bosnian, three Turkish, two Gorani and one Roma station). Two stations broadcast equally in Albanian and Serbian (with

prevent the political manipulation of the media. Politicians and political parties continue to regard media as a mouthpiece. For example, the print and broadcast media were ordered by the Office of the Prime Minister, to publish free-of-charge the speech of the prime minister and the government's 145 page report on the first 100 days in office.¹¹³

124. Since January 2008, the new Assembly increasingly misperceived their oversight role over independent institutions, particularly the broadcast regulator and the public broadcaster. It infringed the independence of these institutions by interfering in internal decision making procedures and by overriding the internal decisions of these independent bodies.¹¹⁴

125. The law establishing Radio Television of Kosovo (RTK), Kosovo's public broadcaster, is still not fully implemented. Two and a half years after its entry into force, the RTK board has not yet been appointed. Furthermore, the public broadcaster is struggling to secure its operations due to the absence of sustainable financing mechanisms.¹¹⁵ A provisional financing mechanism is still to be replaced by legal provisions for assuring stable and sustainable funding of RTK, which is crucial to the security situation and to achieve the objectives of a public broadcasting service. A financially unstable public broadcaster will negatively impact on the access to information, especially for minority communities.

126. Exemption from value added tax for newspapers and educational publications had been foreseen by a draft Law on Value Added Tax,¹¹⁶ based on European standards. However, this law was not adopted by the Assembly. Unlike most European countries, Kosovo applies the full value added tax rate to newspapers and periodicals, thereby hampering the economic conditions for print media. Kosovo has one of the lowest newspaper circulation rates¹¹⁷ in Europe. Exemption from the value added tax would reduce the price of newspapers, which in turn would lead to increased demand, circulation, and access to information.

additional Roma programming). 35 broadcasters carry further programming in languages additional to their primary language, including 19 which also broadcast in the Roma language.

¹¹³ In April 2008, on the occasion of the first 100 days in office, the Prime Minister's office ordered all daily newspapers and the main broadcasters to publish and broadcast in full, free-of-charge and in a coordinated manner the Prime Minister's speech. The press was ordered to publish on a certain day for free and as a supplement the government's 145 page report on the first 100 days in government. Due to a very politicised media environment only one paper reported critically on this infringement of media freedom. The broadcast regulator and the Press Council both reacted with a delay of two weeks.

¹¹⁴ In early 2008, two Assembly committees were under the impression that they had the authority to approve or reject annual reports of independent institutions and formally "rejected" the annual reports of Radio Television on Kosovo and the IMC Council asking both institutions to include corrections provided by the committees in final versions rather than asking them to provide explanations or clarifications. In March 2008, the Assembly Committee on Public Services, Local Administration and Media declared "unlawful" the decision of the Independent Media Commission regarding the closing down of an illegal broadcaster.

¹¹⁵ RTK found itself in a dire situation after the collection agent, the Kosovo Energy Corporation (KEK), responsible for collecting the public broadcasting fee, terminated the contract with RTK. After lengthy negotiations, KEK agreed to continue collection until November 2008, which gives the Assembly time to legislate a long-term solution.

¹¹⁶ In April 2005, the Office of the Prime Minister adopted the Policy on Encouragement and Protection of Media Serving Non-Majority and Disadvantaged Communities in Kosovo, which speaks of encouraging the diversity of print media by reducing Value Added Tax on the sale of print media and books to conform with general European practice (between zero and 25 percent of the generally-applicable Value Added Tax). In July 2006, the OSCE Representative on Freedom of the Media, in his latest report on Kosovo even recommended a total exemption of the print media from VAT. In October 2006 the Press Council of Kosovo and numerous representatives of the print media also suggested to exempt the print media from VAT as it is the practice in many countries in Europe. In fact, most European countries either apply a zero per cent or a reduced rate to newspapers, periodicals and books. The reduced rate is usually not higher than 25 percent of the standard rate.

¹¹⁷ Eight daily papers have an estimated combined daily circulation of 25,000-30,000 copies.

127. Non-majority communities residing in remote areas complain of difficulties accessing broadcast media in their own language. Instruments established to increase access to information for non-majority communities are ineffective.¹¹⁸

12.3. Media: Main shortcomings

128. The main shortcomings are the following:

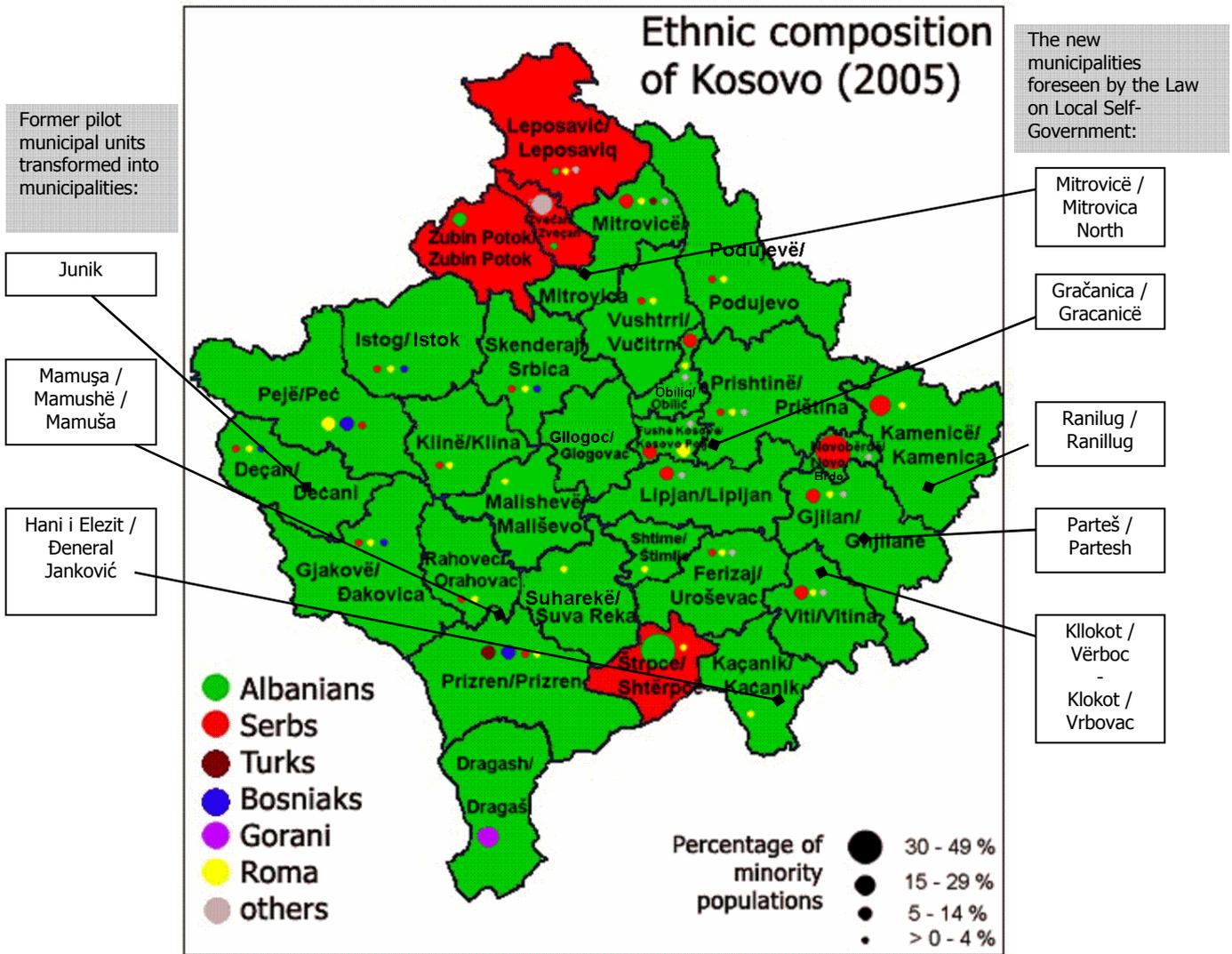
- The government and Assembly have shown little understanding of the role of free media and the importance of media independence from political interference for the development of a sustainable democracy.
- There is a lack of respect by politicians for the work of independent media institutions like the broadcast regulator and the public broadcaster. These institutions are subject to political pressure and interference and have insufficient financial resources. They cannot adequately defend against attempted political interference.
- The media outlets of non-majority communities in southern Kosovo lack financial resources for their operations and thus many are not sustainable.

12.4. OSCE Action

129. The Mission supported the Independent Media Commission and the Press Council of Kosovo in defending against attempted interference by the Kosovo government. The Mission also supported the creation of a working group on RTK, which paved the way for the extension of the service contract between RTK and KEK on the collection of the public broadcasting fee until 30 November 2008. The Mission will advocate for a legislated long-term solution before the expiration of this contract. The Mission continues to monitor and advise the Assembly on proper oversight of independent media institutions and encourages media to resist attempted political interference.

¹¹⁸ The Fund for the Support of Non-majority, Multi-ethnic, and Disadvantaged Media, part of UNMIK's Standards instruments, is not operational. At present, only one round of grants from the fund has been distributed. No grants were distributed in 2007 and the procedures for awarding grants to non-majority media in 2008 still have not been finalised. Due to uncertainty about the future of RTK and its ability to collect a public broadcasting fee, RTK has only transferred 60 percent of the total amount to be paid for 2007.

Annex 1: Map of Kosovo



This map is not an official document and is provided for reference only.