

**KOSOVO/A CIVIL SOCIETY PROJECT**  
**KOSOVO/A STANDING TECHNICAL**  
**WORKING GROUP**

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**CONSOLIDATED REPORT – PART I**

**ECMI Report # 17**

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## **I. BACKGROUND AND AIM OF THE KOSOVO/A CIVIL SOCIETY PROJECT**

This project was established to strengthen the development of civil society in Kosovo/a. It seeks to generate a dialogue among the different ethnic and political communities in Kosovo/a and to enhance the sense of local ownership and democratic accountability of the emerging political structures in the territory. In addition, the project hopes to assist in improving the performance of the international implementation agencies and of the emerging local structures of authority in Kosovo/a. The project operates at a number of different levels:

- It has been noted that dialogue among the political parties (even the majority ethnic Albanian parties) in Kosovo/a remains problematic. As Kosovo/a approaches the establishment of an Assembly and other democratic institutions, a need to engender an atmosphere of cross-party cooperation emerges. While the parties have found it possible to participate jointly in *ad hoc* events and in the UNMIK consultative mechanisms, relationships between the major parties remain tense. The Kosovo/a civil society project brings together the political parties and engages them in cooperative dialogue. As opposed to other initiatives, this dialogue is conducted on a permanent basis and in Kosovo/a through the Standing Technical Working Group.
- Inter-ethnic cooperation also remains difficult. While such cooperation exists to an extent within the internationally established UNMIK structures, there is no permanent civil society forum serving this aim. *Ad hoc* initiatives to this end have mainly taken place outside Kosovo/a. This project capitalizes on the recent determination by the majority parties and representatives of other communities to engage not only in sporadic dialogue but also in actual constructive work. The Standing Technical Working Group establishes an ongoing process of inter-ethnic cooperation in which all communities participate. That process is conducted in Pristina and is being reported upon by the local press.
- There exists no established culture of cooperation between those exercising political authority and civil society. This project introduces NGOs into the

process of political deliberations, again on a permanent basis and in a structured way.

- There exists a need to empower younger political and civil society leaders through training and democratic experience. This project increases the standing of such leaders within their parties and communities and adds to their competence through a training element, and through their participation in the substantive work of the Group.
- The Standing Technical Working Group reviews the performance of UNMIK and other authorities in Kosovo/a and engages in constructive dialogue with those exercising political authority. In this way, the principle of democratic accountability is strengthened. At the same time, civil society involvement in policy discussion strengthens a sense of ownership of the political processes in the territory. The international implementation agencies are given an opportunity to demonstrate their willingness to engage with local actors and to be attentive to their wishes and advice also outside the top-level engagement through the KTC and similar bodies.

All of these aims are pursued through the work of the Group when it meets in its regular sessions in Pristina, through the preparatory work that precedes the formal sessions of the Group through a Steering Committee process, and through the training sessions that take place at regular intervals between the sessions of the Group. Moreover, after initial hesitations, a cooperative relationship has developed between UNMIK and the STWG. It is hoped that such a relationship can be replicated as local actors obtain more and more authority in all areas of public policy. In particular, it is hoped that the STWG will remain active – in one form or another – after the November elections. The future course of this project and the activities of the STWG are addressed in more detail below.

There is, of course, no overlap between the STWG and other bodies. The STWG addresses only technical issues. No wider political problems are to be imported into the Group—these are already being addressed at other levels and might inhibit consensus.

## **II. THE ESTABLISHMENT OF THE STANDING TECHNICAL WORKING GROUP**

In support of this project, ECMI established a small office in Kosovo/a in October 2000. Through its Regional Representative and previously existing contacts, ECMI built up a relationship with the majority and minority communities in Kosovo/a. It introduced the concept of the Standing Technical Working Group to the parties and communities in November 2000, delaying a formal launching of the project until the completion of the local elections.

In December 2000, formal meetings were held with party representatives, at the level of President or Party Vice President. These leaders formally and publicly endorsed the establishment of the STWG and appointed members—a fact which dominated the front pages of the Kosovo/a press at the time. As was requested by ECMI, the party representatives nominated by the top leadership were generally younger party leaders, often the heads of the respective youth leagues who also hold senior positions in the general party structure.

ECMI also conducted a survey of quality NGOs that exercise a general remit and that might be suitable for inclusion in the STWG and engaged in consultations with the leaders of these organizations. In December 2000, ECMI conducted briefings with UNMIK at the level of DSRSG/DDSRSG, to build support for this initiative. (The then SRSG had been informed of this project in an informal discussion that took place earlier in 2000.)

A preliminary meeting to which the parties representing all communities were invited was held that month. At that meeting, mainly attended by the majority parties, a statement was agreed in which the participants strongly endorsed the principle of inclusiveness, inviting all communities in Kosovo/a to participate in the Group. A similar consensus was built in relation to the participation of NGOs in the participation of the Group.

Based on this consensus, further efforts were undertaken in January/February to assure participation of all communities in the Group. In February, the date for the first constitutive meeting of the Group was fixed for 16 to 18 March. The topic chosen by the group addressed matters of civil registration and the issuing of associated documentation. It was feared that this might not be of equal relevance to all

communities, as well as the international implementation agencies. Nevertheless, it was possible to secure the attendance of a highly representative group of members of the STWG in terms of ethnic appurtenance, gender, geographic representation and age.

In fact, despite these initial misgivings and the dramatic events of March 2001 in relation to Southern Serbia and Macedonia, the constructive involvement of all participants in the first constitutive session demonstrated that the STWG could actually function in Pristina. The practical problems that did emerge, however, came about for reasons other than those connected to the relations between the participants in the STWG. These concerned the issues of ensuring a secure venue for the event, the provision of safe transport for endangered participants and the participation of suitably high-level UNMIK representation.

In order to resolve these issues before the second session of the STWG, the ECMI Director undertook a series of high-level visits to senior staff members of both UNMIK in Pristina and UN Headquarters in New York. This resulted in assurances of constructive support for the venture, which was soon demonstrated through the provision of the UNMIK KTC room and its translation facilities for future meetings. A meeting with the SRSG in May also greatly assisted in securing the necessary cooperation as far as secure transport is concerned.

The number of participants in the sessions of the Standing Technical Working Group totals around 50, including ECMI staff and international experts. Out of these, some 35 individuals are permanent members of the STWG proper. Half of this permanent contingent is made up of younger representatives from the political parties; the other half consists of NGO representatives.

The permanent membership in the Group has been carefully balanced, to ensure adequate representation for all communities in Kosovo/a. A great effort has also been made to ensure that the Group is not only reflective of 'Pristina society', but that all of Kosovo/a is represented through individuals from Prizren, Gjakova, Lipjan, Istog, Peja, Sharr, Rahovec and Leposavic. Over 30 per cent of the STWG is made up of women representatives. At the request of the constitutive meeting, a specialist women's NGO has been invited to join the permanent membership. In addition, an NGO representing the disabled community has now been added.



### **III. THE WORKING METHOD OF THE STANDING TECHNICAL WORKING GROUP**

At its constitutive session, the group generated a list of technical topics to be addressed over time. The constitutive session was held over several days. However, given the difficulties involved in arranging security for an extended period of time, it was decided to continue with one-day sessions, generally held on a Saturday. A work plan for the year, agreed at the second session of the STWG, is appended to this report. While the Group agreed the list of topics by consensus, it is worth noting that the topics chosen coincide to a large degree with the concerns outlined in the OSCE reports examining the situation of minorities in Kosovo/a.

The STWG decided to balance the more condensed format of the meeting with more extensive preparatory work, and a more consistent follow-on format. It was agreed that smaller but representative Steering Committees will be formed, each of which is to concern itself with a specific issue area. At present, three such Steering Committees are in operation (Health, Judicial Services and Human Rights, Economic Reconstruction). The Steering Committees prepare for the individual sessions by identifying a more specific agenda of relevant issues that are to be addressed. ECMI then facilitates preliminary contacts between the Steering Committees and the relevant international implementation agencies. ECMI also commissions a substantial background paper in advance of each session, to assist both the Steering Committee and the plenary in developing well-informed and substantive ideas that can be put to the international implementation agencies.

The meetings are conducted on a regular basis with occasional breaks for training events. They are conducted in Albanian, Serbian and English and tend to follow a similar structure. The sessions are presided over by the Chairperson of the relevant Steering Committee. The STWG will first hear an overview of the issues identified for discussion by the Steering Committee, often through a local expert who may also have drafted the background paper in consultation with the Steering Committee. There will then follow a brief presentation by an UNMIK representative or department head, giving a general overview of the policies of the international implementation agencies, indicating successes and failings and pointing to the constraints of policy.

The plenary of the STWG then addresses the individual issue areas identified by the Steering Committee. The meeting as a whole has the opportunity to add points, to exchange experiences and to start developing suggestions for remedies where appropriate. In this venture, the meeting is supported by local experts and by international experts brought in by the facilitators in support of this process.

During the lunch break, the facilitators prepare short summaries of the plenary discussion on each of the main topics. To facilitate more detailed work, the meeting then splits up into two or three working groups, ensuring appropriate representation in all of them. Each group is charged with addressing a cluster of issues identified by the plenary. The working groups have access to the local and international experts to support them in their drafting work.

The results of the working group sessions are presented at the end of the afternoon, when the STWG welcomes senior representatives of the implementation agencies and/or heads of departments. Spokespeople of each working group lead a discussion on policy initiatives that might be taken and invite responses from the authorities that are represented.

A report on the critical dialogue that ensues is prepared by the facilitators. This report assists the relevant Steering Committee in tracking the issue under discussion over time and in generating a follow-on discussion with the implementation agencies or relevant departments.

In addition, each Steering Committee drafts a list of recommendations arising from the meeting. These recommendations assist the Group in identifying issues requiring further attention, and are refined in the light of further deliberation and training events. The revised list of recommendations is then distributed to the relevant offices of the implementation agencies and to other members of the Group. This list serves as a basis for measuring the degree of follow-up to the meetings and to indicate possible areas for further initiatives.

The meetings of the STWG are supported by training events. These events are conducted abroad, to assist the Group in forming its identity in a neutral environment and to draw on educational opportunities elsewhere. The topics for training sessions are directly linked to the issues discussed at the STWG meetings. For example, the

first two training sessions – managing the judiciary in divided societies (Flensburg) and health policy (WHO-Geneva) – have been constructed expressly to enable the group to base the follow-on of its initial sessions on a broader knowledge-base. Further training will address issues of economic sustainability, and human and minority rights.

## **PROCEEDINGS OF THE MEETINGS**

### **IV. FIRST (CONSTITUTIVE) MEETING**

For the constitutive session, only permanent members were invited. Out of an expected number of 35, there was an attendance of 31. Given the fairly dramatic nature of events occurring during the week of the session, this is an astonishingly high figure. All communities were represented.

The constitutive session was held over three days (Friday to Sunday). A full programme can be found in the appendix at the end of this section (Appendix 1). Before the opening session, the ECMI Director held individual consultations with most permanent members of the Group, to explain once more the aims of the venture, to seek advice on how to conduct the meeting and to receive indications of concern from members. These consultations revealed a very high degree of enthusiasm for this initiative.

At the suggestion of the participants, it was agreed that the ECMI Director would chair the first session. At subsequent meetings, the chair will rotate among members of the STWG, who have now formed a smaller steering committee in preparation of the session in question.

The work programme for the session provided for:

1. An opening session to organize procedure and a work-plan;
2. A first plenary working session to address one substantive issue area;
3. A second plenary working session to address a second substantive issue area;
4. Drafting work in smaller working groups with the assistance of international experts;
5. A session for constructive dialogue with UNMIK and the OSCE;
6. A review session to evaluate the success of the initiative, to plan future work and to assign tasks.

The session was held at the Grand Hotel, Pristina. Security was provided by CIVPOL, although perhaps not sufficiently vigorously.

#### **a. Opening Session**

At the opening session, held among the permanent members only (i.e. in the absence of the international experts), the Group constituted itself. The members introduced themselves around the table and shared their good wishes for the success of this project. The ECMI Director stated once again the aims of the STWG. These were:

- The creation of a standing forum in Kosovo/a for inter-party cooperation below the level of the existing mechanisms;
- The creation of a standing forum in Kosovo/a to facilitate inter-ethnic cooperation;
- The creation of a platform for the exchange among younger political and civil society leaders and for capacity building through the STWG process itself and through training events;
- The participation of NGOs in political dialogue at a technical level;
- The critical but constructive engagement of the international implementation agencies to widen ownership of governmental processes, increase accountability and improve performance of public authorities.

The opening session embraced these aims unanimously and praised the initiative that had been taken in launching the STWG.

**b. Plenary Session 1**

This plenary session addressed itself to two distinct issues. One related to the problem of Kosovo/a-wide registration. The other concerned the problem of the issuing of certificates of births, deaths and marriages and other such documents. The members of the STWG related their experiences in these matters. The international experts were then invited to share with the group the experiences that had been made in other regions in this respect. On the basis of this discussion, the STWG drew up a list of specific problems and proposals that might be addressed in more concrete terms by a smaller working group.

**c. Plenary Session 2**

This plenary session considered ID documents, the issuing of travel documents and their recognition, the licensing of drivers in Kosovo/a and the international acceptance of vehicle registration plates. Again, the participants shared their experiences and drew upon the advice available from the international experts. A list of issues to be pursued in a smaller working group was agreed.

**d. Working Groups 1 & 2 and Plenary Briefing**

The members divided into two roughly even working groups. Each of the two topics addressed in the main Working Sessions was then pursued in a working group. Each working group went through the listing of items for discussion agreed in the plenary, formulating criticisms or suggestions in relation to them.

Rapporteurs then briefed the plenary on the points that would be raised with UNMIK. It was agreed that each working group would appoint three speakers who would reflect the views of the group to UNMIK and conduct the dialogue. After these speakers, there would be an opportunity for individual members to take the floor. Further preparations for the encounter with UNMIK were then made with the involvement of the international experts.

**e. Dialogue with UNMIK and OSCE**

The summary of the debate that follows has not been reviewed by any of the participants and is of an informal and provisional nature. At the concluding review meeting of the Standing Technical Working Group on Sunday, the Group decided that a brief summary should be distributed to add transparency to the proceedings.

At the final session of the day, UNMIK was represented through Gerard Fisher (Deputy to the DSRSG for Civil Administration), Jose Luis Herrero (Political Advisor to the SRSG) and Stephan Mueller (Advisor on Minority Affairs, Democratisation). The Chair welcomed the representatives of UNMIK and invited the three speakers from each of the working groups to take the floor. It was explained that all the speakers represented views reached by consensus in the STWG.

UNMIK opened the debate with a review of consultation procedures that are already part of the international administrative structures.

*Working Group I: Registration Issues*

The first speaker acknowledged the contribution made by the international implementation agencies to the reconstruction of post war Kosovo/a. The debate then turned to individual points considered by the first Sub-group:

Completion of the Kosovo/a-wide registration

It was noted that civil registration is an important issue that also has important human rights implications. The process has remained incomplete thus far, in part inasmuch as some groups had boycotted earlier efforts. Their reluctance has now disappeared in many instances. In addition, registration has not sufficiently extended to the diaspora and to displaced populations. Finally, those under 16 years of age have been excluded thus far.

UNMIK acknowledged that the registration process had not been free of deficiencies. It had been driven by the need to act rapidly to make possible municipal elections at an early stage, as had also been demanded by the population in Kosovo/a. Nevertheless, the registration of some 940,000 individuals did not represent a poor record. Those groups which had initially been reluctant to register were now, in the

light of recent political events in the region, more forthcoming and an additional 42,000 individuals had already been registered in 2001. The registration of those under 16 would commence in June/July. Diaspora registration is under negotiation at present and there had been some successes in this respect already.

The speaker also raised the issue of the competency of staff and the accuracy of the registration process and pointed out the importance of maintaining a sufficient level of offices capable of supporting continuing registration. It was proposed that local staff ought to be more involved, especially those with previous experience in such matters. The need to ensure that registration could be performed in the mother tongue of those seeking registration, and the issuing of documents in such languages, using the Latin alphabet, was raised.

In relation to registration of births, marriages and death, the next speaker emphasized the need to have a uniform process throughout Kosovo/a. This should reflect international standards, to ease recognition of such documents abroad and closer links to the EU and its Member States. Parallel processes should be terminated and a uniform process should also be administered to a common standard in enclaves. Local registration offices that existed before could be reopened.

The UNMIK representative agreed with the need for streamlined Kosovo/a wide-registration processes following a uniform procedure. It was, however, difficult, to inhibit the issuing of parallel documentation in some areas. The issue of international recognition could not at present be addressed, as this raised status issues concerning Kosovo/a.

It was also mentioned that other issues of registration need addressing. This includes the periods of work and residence, especially in relation to those entitled to social services, including the children of foreign workers. It was noted by UNMIK that such documents are also of relevance to property issues.

The speaker and the UNMIK representative agreed that registration books that had been moved to Serbia should be returned expeditiously. It was noted that prospects in this regards have improved. Where such books cannot be returned, work would need to commence to reassemble the information that had been lost from other sources. The need to introduce modern technology to this end was emphasized.

The UNMIK representative indicated that this latter issue could be introduced at the KTC or other appropriate levels. The UNMIK representative confirmed that registration in the mother tongue of communities, including the Turkish community, is now being facilitated. The OSCE representative added that as a result of lessons learnt from last year's exercise, all communities are now being closely involved in registration processes and consulted in relation to them. The problem of IDPs (Internally Displaced Persons) in certain areas, including Southern Serbia, would also need to be addressed in this context.

### *Working Group 2: Documents and their Recognition*

The second working group had concerned itself with two issue areas. These areas were addressed by three speakers nominated by the working group.

#### Identity and Travel Documents and their Recognition

The importance of identity documents to all communities in Kosovo/a was noted, in terms of human rights, practical issues of mobility, the suppression of crimes, and also in view of recent history.

The importance of these issues was fully recognized by UNMIK, as were the failings that had occurred in this respect. An excessive reliance on technology was to blame for some problems. It was noted that low-tech approaches and the involvement of local staff would be more appropriate in future. The need to correct a significant number of documents was recognized. This, UNMIK confirmed, is being facilitated.

It was proposed that registration centres could also be used for the distribution of ID documents and that local volunteers might also be enlisted. UNMIK indicated that 34,000 documents had been distributed thus far, 350,000 had been corrected and were being produced, with another 500,000 to be distributed by June 2001. This would be done through post offices.

There was agreement that this process should be and will be accompanied by a high-profile media campaign to keep the population engaged and informed.



In relation to travel documents, it was emphasized that an expedited process was urgently needed to accommodate medical emergencies, sudden opportunities to study abroad and other events requiring rapid action.

UNMIK responded that a practice of issuing temporary travel documents in such cases already exists. However, the real problem relates to the recognition of these documents by other states—a factor beyond UNMIK's control.

Difficulties in travelling to Macedonia or Albania for visas were raised and it was suggested that UNMIK might encourage others to follow the example of the Swiss office in Pristina, which issues visas locally. This would be especially important in relation to the Schengen states.

UNMIK explained that travel documents are no passports and that even the issuing of such a limited document had raised difficult legal issues, also at UN headquarters. Travel documents could only be issued to those without existing passports, although there was no verification process attached to the issuing process. It was confirmed that 22 states, now also including most Schengen states, accept the travel document. However, this is a matter for governments, not UNMIK. UNMIK noted that out of 2,100 travel documents that had been requested, only 700 had actually been collected. This might be connected with the fact that there had been some 15,000 passports extended by FRY authorities in Pristina.

It was indicated that there is no prospect of adding a further language to the documents that are being issued at this stage.

#### Drivers Licences and Vehicle Registration

The issuing of licence plates was widely commended. 155,000 licences had been issued, and there was third party liability insurance attached to all of them. The need to have these plates applied uniformly throughout Kosovo/a was emphasized. The licence plates had been designed with international standards in mind. However, efforts to achieve recognition for them had not, despite the efforts of UNMIK, yielded much success.

It was noted by UNMIK that it would not be possible to suppress traffic offences if the offenders were not, and could not be, in the possession of driving licences. Donor funds exist to assist in the establishment of approved driving schools, the testing of

candidates and the issuing of new licences. Moreover, a record of old licences exists in Kosovo/a, greatly facilitating the re-issuing of licences. UNMIK confirmed that a draft regulation on the licensing of driving schools was now being prepared, with a view to adoption as early as the end of March. However, the new licences would only be valid within Kosovo/a, although they are now being designed with international standards in mind, should that prove useful in the future.

The meeting closed with an expression of thanks to the representatives of the implementation agencies. It was indicated that it might be useful to revisit these issues after some time, to see whether improvements in some of the issue areas of concern had been made.

**f. Recommendations**

## RECOMMENDATIONS

### *On the Rights associated with Registration and Identity*

- The implementation of a comprehensive and expeditious strategy of registration and documentation is an essential prerequisite for the safeguarding of fundamental rights, such as liberty, mobility and security, for all communities of Kosovo/a.

### *On Establishing a Uniform Process of Civil Registration throughout Kosovo/a*

- UNMIK needs to set a firm and clear programme for the expeditious and comprehensive registration of all citizens of Kosovo/a.
- This programme must extend to the diaspora population as well as those who have been internally displaced.
- To preclude the exclusion of certain demographic groups, efforts to register those under 16 years of age should be intensified.
- A discernible time plan to achieve this strategy should be adopted and implemented.

### *On the Registration of Births, Marriages, Deaths and other Issues of Registration*

- The establishment of a uniform registration process, adhering to common Kosovo/a-wide standards, should embrace the registration of births, marriages and deaths.
- These standards should conform to internationally recognised standards of registration so as to facilitate the recognition and acceptance of documents abroad.
- Adequate attention should also be paid to issues of registration pertaining to periods of work, residence and property ownership.

- Urgent steps need to be taken to expedite the return of registration books removed to Serbia. Should this prove impossible, efforts should be focused on the recreation of these records through the utilisation of modern data processing systems.

*On the Provision of Adequate facilities for Registration*

- To support this process, concrete measures need to be put in place. These include:
  - Improving the competence and professionalism of personnel involved in the registration process;
  - Increasing the involvement of experienced, local staff;
  - Ensuring an adequate number of registration centres to manage the registration process effectively.
  - The reopening of local registration offices should be investigated.
- Provision should also be made for the possibility of individuals to register in their mother tongue and for the documents to be issued in these languages.

*On the Recognition of Identity and Travel Documents*

- Opportunities of merging registration and distribution centres should be explored.
- Voluntary work of the local population should be enlisted to facilitate the distribution process.
- A high-profile media campaign should be instigated as a means of raising public awareness and maintaining the engagement of the population.
- Equal consideration should be given to the expeditious processing and distribution of travel documents, especially with regard to the possibility of the need for transport in cases of urgent medical attention.
- UNMIK should take an active role in encouraging other states, especially Macedonia and Albania, to facilitate the provisioning of visas.

*On Issues of Licensing and Vehicle Registration*

- With regard to the issuing of vehicle registration plates, UNMIK's efforts must be commended.
- Consideration should nevertheless be given to effecting the uniform application of licence plates and their wider international recognition.
- The establishment of driving schools authorised to grant licences according to approved examination should be supported as a means of curbing traffic offences.

## APPENDIX:

### 1. Programme of the Constitutive Meeting

*Friday, 16 March*

TIME	ACTIVITY
16.00 - 16.30	<b>Opening Remarks and Introductory Session</b> <ul style="list-style-type: none"><li>○ The Group constitutes itself and confirms the work programme for the session</li><li>○ Consultation with party leaders</li><li>○ Internal debate</li></ul>
	Coffee Break
17.00 - 19.30	<b>FIRST PLENARY SESSION</b> <i>Civil registration in Kosovo/a, including: issuing of marriage, death and birth certificates</i> <ul style="list-style-type: none"><li>○ General problems connected to registration in the Central Civil Register</li><li>○ Problems connected to defining who is eligible to be an 'Habitual Residents of Kosovo/a'</li><li>○ Problems of displaced persons and refugees</li><li>○ Problems involving proof of civil status</li></ul>
20.00	<b>Official Dinner with representatives of UNMIK, OSCE and International Missions</b>

*Saturday, 17 March*

TIME	ACTIVITY
10.00 - 12.30	<b>SECOND PLENARY SESSION</b> <i>Issuing of UN ID cards, travel documents and driving licences</i> <ul style="list-style-type: none"><li>○ Problems connected to the slow pace of issuing documents</li><li>○ Problems of dual-identity documentation</li><li>○ Uncertain identities and the incidence of crime in Kosovo/a</li></ul>
12.30 - 14.00	Lunch
14.00 - 16.30	<b>Working Groups</b> <i>Working Group 1:</i> Civil registration and the issuance of certificates of births, marriages and deaths  <i>Working Group 2:</i> ID and travel documents, driving licences, licence plates and their recognition

16.30 - 17.00	Coffee Break
17.00 - 17.45	<b>Plenary Briefing</b>
17.45 - 19.30	<b>Dialogue with UNMIK and OSCE</b>
19.30	Dinner

*Sunday, 18 March*

<b>TIME</b>	<b>ACTIVITY</b>
10.00 - 12.30	<b>Review and Evaluation of First Session</b> <ul style="list-style-type: none"> <li>○ The Group reflects on the results of the first session and formulates a follow-on programme in relation to the three items under discussion.</li> <li>○ The Group makes arrangements for the next STWG session.</li> <li>○ Planning for future training events and possible follow-on activities</li> </ul>
12.30	<b>Closing lunch</b>

## **2. Implementation agency representatives**

<b>Name</b>	<b>Agency</b>	<b>Status</b>
Gerard A. Fischer	UNMIK, Deputy to DSRSG, Civil Administration	Attended
Jose Luis Herrero	UNMIK, SRSG Political Advisor	Attended
Stephan Mueller	OSCE, Advisor on Minority Affairs, Office of Democratisation	Attended

After lengthy exchanges with the organizers at working level, UNMIK proposed a list of representatives to participate in the constitutive session, though it was later indicated (apparently unusually) that legal clearance to speak on the topic was first required. Despite remonstrations and the intervention of a senior project consultant, none of the UNMIK representatives who had originally been approached to attend the session showed up. ECMI consequently approached members of UNMIK and OSCE at a different level. The above list of representatives kindly agreed to participate in the final session.

Following the event, steps were taken to ensure a more effective process of assuring UNMIK representation for the following meetings of the STWG. This was initiated

by undertaking a series of high-level meetings with UN representatives in New York and Pristina. A more effective engagement with the two Co-Heads of the Administrative JIAS Department for Democratic Governance and Civil Society was also established.



## **V. SECOND MEETING: HEALTH SECTOR REFORM AND RECONSTRUCTION**

### **a. Introduction**

On 26 May 2001, the second session of the Standing Technical Working Group was held in the KTC room, Government Building, Pristina. The session addressed issues of access to health care and the reconstruction of the health sector in a post-conflict society. The event brought together over forty participants representing all sections of Kosovo/a society, including political party representatives, representatives of minority groups and specialist NGOs as well as local and international experts in the field of health (see Annexes b and c).

In a series of preparatory meetings, the Steering Committee for Health selected several key issues for discussion at the session. These issues had been agreed in preliminary discussions based on a study of the current state of the Kosovo/a health system, which had been especially compiled by Michael Waters of Cambridge University (see ECMI Report # 14). In the concluding meeting of the Steering Committee before the session, an agenda was agreed for the day's deliberations and a number of objectives were identified.

These objectives were:

- To analyse and assess the challenges facing Kosovo/a with regard to obtaining equal access to health care and the reconstruction of a unified system of health
- To encourage the active participation of civil society in the formulation and application of tested health policies and programmes in Kosovo/a
- To offer suggestions and recommendations regarding health policy and strategy as well as the planning needs relevant to Kosovo/a
- To critically engage with the positive and negative developments brought about by the international response to the Kosovo/a health system

The programme for the second session sought to address six broad areas of health sector policy. These included a discussion of how the health care system in Kosovo/a functions as an overall system of health; the provision of primary, secondary and tertiary health care; issues of health education and drug abuse, as well as the

provision of equal access to health care services. The programme for the second session is appended to this document.

The session was chaired by Dr Gynaze Sylja, who had also chaired earlier meetings of the Steering Committee. Brief presentations on each topic were provided by local and international experts and Dr Arben Cami, representing UNMIK, provided an overview of the successes and limitations of the international response.

In the ensuing debate, specific problems concerning the experience of rebuilding a health system in Kosovo/a were identified and discussed. Contributions were also made concerning the individual and collective experience of gaining access to health care provisions in a war-torn society. The session generated lively debate and discussion on each of the issues at hand. Key points from the discussion are outlined below.

## **b. Summary of the Debate**

### i. The Functioning of the Kosovo/a Health System as an Overall System of Health

#### *Parallel structures: cooperation or integration?*

1. The meeting recognised that the reconstruction and rehabilitation of the health system in Kosovo/a faced major challenges. The present fragmented system had resulted from a legacy of centralisation, neglect and the development of parallel structures. In this context, the meeting noted the necessity of establishing an integrated system of health care in Kosovo/a.

2. The meeting drew attention to the continued existence of parallel structures in the provision of basic health care services. It was noted that this hindered the aim of establishing an equitable and comprehensive health care system and posed an added burden by the need to finance duplicative facilities and staff.

3. In this context, the meeting noted the efforts of the international implementation agencies to establish an overall policy framework. However, it was equally noted that the establishment of a policy framework that would lead to a longer-term process of health sector development and reform required wider consultation with the broader

health community of Kosovo/a. It was proposed that a policy framework be established which reflected this.

4. The meeting noted the fundamental need for a policy framework to maximise the efficient use of available resources and to guide the development of the health sector. The need to provide for regulation of the overall, at local and municipal level, was also noted.

5. It was further noted that the full integration of the health system provided an opportunity to improve interethnic relations based on common values.

*The relationship between public and private provision*

6. There was widespread agreement that the public provision of health services should predominate in Kosovo/a. The meeting however recognised that public financing would be limited and could not support as modern or as comprehensive a health service as was desired. In this context, the meeting recognised the need for a mix of public and private health provision.

7. Where private practice was, however, allowed it should be governed by proposals regarding the establishment of clear regulations of conduct, including controls on the private practice of public employees and the establishment of minimum standards.

8. The meeting noted that transparent rules and regulations regarding private practice was one safeguard against under the table payments and discrimination in equitable health care provision.

*Funding the health system and health insurance*

9. The meeting acknowledged that health sector funding needs to remain within the limits of resources available to Kosovo/a for the foreseeable future. In this context, the meeting highlighted the need for reliable and current demographic statistics as a reliable foundation on which to assess the real needs of the health system and formulate policies and priorities.

10. It was further noted that this information would be of importance for estimating budgets, allocating resources and planning necessary training programmes.

11. The need to explore funding options consistent with the level of health provision required was also noted. It was proposed that this include social insurance, general tax revenues and user fees. The establishment of a system of co-payment by users of health services was also proposed, although it was suggested that provisions be made for the exemption of vulnerable groups.

12. There was general concern at the uncertain base for meeting recurrent costs in the future and the continued investment of donors. In this regard, the meeting drew attention to the imbalance of health provisions that would be created once the NGO community had terminated its operations.

13. In this context, the meeting highlighted the need to establish a scheme for the payment of health insurance and invited the cooperation of the World Bank in exploring an implementation programme.

14. The question of ensuring adequate basic salaries for doctors was also raised. It was emphasised that this was an essential measure to safeguard against potential corruption in the medical profession. It was also noted that financial support was needed for upgrading the status of nurses and paramedics as well as relevant administrative and support staff.

## ii. Primary Health Care Provision

### *Better use of qualified nurses as health practitioners*

15. The meeting noted the need for a better allocation of manpower resources in health care provision. It was proposed that the skills of qualified nurses be better utilised and that their role be extended to cover the provision of ante- and postnatal care. It was also proposed that nurses be deployed in an educative role through a programme of outreach to remote areas, this was deemed particularly important with regard to matters of hygiene and reproductive health.

16. To support this, it was further proposed that a structured, long-term plan be developed to assist in the rational utilisation of human resources. This included the rational allocation of posts to facilities, the identification of areas of duplication where care could be more effectively delivered at a lower level of competence and the development of a sustainable training programme incorporating a provision for career development. The meeting encouraged doctors to assist in this process.

#### *Decentralising primary health provisions*

17. In this context, the meeting highlighted the need to develop an adequate programme of incentives to encourage medical personnel to work in peripheral areas.

18. It was felt that a more decentralised approach to primary health care, which varied according to the specific needs of the beneficiary population, would be more efficient and equitable in the short-term and also contribute to the longer-term reform of the health sector.

19. It was proposed that rehabilitation efforts therefore be focused on the decentralisation of the system. It was also noted in this context that decentralisation would serve to correct the tendency to specialist visits.

#### iii. Equal Access to Health Care

##### *Equal access and distribution of resources*

19. The meeting drew attention to the continued separation of health care facilities for all communities in Kosovo/a, this included patients as well as providers. The importance of taking steps to remove this separation as a means of promoting an equitable health system was emphasised.

20. The meeting noted the need for minority communities to be fully integrated into the localised system. It was emphasised that the health system should be non-discriminatory in both provision and employment. The danger of creating an ethnic imbalance in the provision of services and facilities was also noted.

21. In this context, attention was also drawn to the need to improve access for the disabled as well as those in dire poverty. The importance of raising the level of awareness amongst medical personnel of attendant diseases relating to these groups was also noted.

*Emergency transport and access to specialised units*

22. The meeting noted the essential importance of guaranteeing access to health care for minority groups. In almost all cases this was directly related to problems of security and freedom of movement. Attention was also called to the logistical challenges posed to minority groups by the need to access emergency facilities.

23. Reliable access to safe transport and facilities was deemed to be the key to safeguarding minority access to health care provision, especially in emergency cases. There was also a need for reliable and sustainable channels of communication. It was proposed that a system of safe corridors be initiated to ensure unhindered transport of patients to and from medical facilities.

24. The meeting also drew attention to the provision of evacuation programmes. It was noted that the criteria for deciding cases of evacuation appeared arbitrary, concern was also expressed at the capacity to sustain such programmes over the long term.

iv. Secondary and Tertiary Health Care Provision

*Geographic distribution of health care facilities.*

25. The meeting noted the need to prioritise the equitable provision of secondary and tertiary health care, particularly in view of the acute problems of access prevalent in rural areas.

26. The continuing problem of achieving an equitable distribution of personnel among the available facilities was highlighted. Attention was also drawn to the concentration of specialists in Pristina and a shortage of personnel in provincial hospitals and other peripheral structures.

27. In this context, the need for reliable statistics and information to facilitate the organisation of the location and size of facilities and services was proposed. The need to upgrade outpatient facilities to hospital status was also proposed.

*The availability of advanced services and specialist training*

28. The meeting noted the essential importance of high quality and ongoing training for the development of professional medical personnel. In particular, it was proposed that training should be coordinated to widen the skills and abilities of medical practitioners as well as to redress the lack of specialists not presently available in Kosovo/a.

29. The meeting highlighted the need to encourage interethnic cooperation amongst highly qualified specialists, which might later serve as an example throughout the health system. It was proposed that a step-by-step approach be adopted to confidence building, which sought to draw on good relations between certain minority groups as a bridge between groups bearing greater enmity to each other.

30. In this context, it was proposed that the medical community in Kosovo/a also seek to nurture relationships with foreign centres of excellence in neighbouring countries in order to develop exchange programmes and sharing of facilities. It was further proposed that this training should be focused on those who could in turn transfer their knowledge to others through an integrated training programme.

*Training needs for other medical personnel*

31. The meeting further highlighted the need for an integrated training programme which included other health personnel such as technicians, laboratory assistants and specialist personnel. Particular attention was drawn to the lack of personnel skilled in health systems management.

## v. Drug Abuse and Supply

### *Need to formulate an overall policy*

32. The meeting noted the need to establish an essential drugs programme with an emphasis on questions of prevention of drug abuse and supply reduction. It was proposed that a regulatory agency be established to control the supply of drugs based on criteria of need, efficacy and evidence-based prescription.

33. It was further proposed that this programme adopt a community-based approach that built on the existing structures of familial support in Kosovo/a.

### *Provision for rehabilitation*

34. In this context, the meeting noted the lack of formal provisions for the rehabilitation of drug addicts in Kosovo/a. It was proposed that the long-term establishment of a drug rehabilitation centre be explored.

### *Prevention campaign through education and supply reduction*

35. The need to increase public awareness of the direct and derivative effects of drugs, particularly AIDs and hepatitis, was noted. It was proposed that a public information campaign be initiated to this end and that local NGO be invited to participate in such a campaign.

36. Concern was expressed at the mushrooming of private pharmacies. It was proposed that appropriate policies and strategies be developed to regulate these practices, and a policy of licensing be adopted to enforce standards.

## vi. Health Education

37. The development of a comprehensive and long-term programme of health education was also deemed essential to the effective functioning of a health system in Kosovo/a. It was noted in this regard that the adequate provision of health education impacted on many areas of health care provision and services.



38. It was proposed that health education be incorporated into the school curriculum at an early age.

39. It was further proposed that health education be targeted at vulnerable groups. In this context, it was suggested that counselling centres be established to target education of youths on such matters as AIDs awareness, sexual health and all forms of drug addiction. The possibility of subsuming health education under existing immunisation and vaccination programmes was also highlighted.

39. The meeting also noted the importance of mainstreaming health education in civil and other institutions and in occupational health. Include info on basic sanitation and environmental health.

#### **c. Dialogue with UNMIK and JIAS**

The summary of the dialogue which follows has not been reviewed by any of the participants. In line with the Group's wishes at the constitutive session, this brief summary will be distributed to add transparency to the proceedings.

At the final session of the meeting, JIAS was represented by Hannu Vuorri (Co-Head of Health and Welfare Department). UNMIK was represented by Arben Cami (Primary Health Care Officer, Department of Health and Social Welfare) and Peter Schumann (Co-Director, Department of Public Services). Erik Schouten also attended the session in his capacity as Head of Mission of the World Health Organisation in Kosovo/a. The Chair welcomed the representatives of the international implementation agencies.

#### *Working Group 1*

The first speaker acknowledged the contribution the international implementation agencies had so far made to the reconstruction of the health system in Kosovo/a and requested their further input and cooperation. The debate then turned to individual points considered by the first working group:

## Functioning of the Kosovo/a Health System as an Overall System and Provision of Primary Health Care

The speaker raised the issue of the existence of parallel health care structures in Kosovo/a. It was felt that there was a pressing need to address ways of establishing channels of cooperation and integration between the ethnic communities in order for the health care system to function as an overall structure. This situation had been further compounded by the lack of clarity between the responsibilities of the public and private health care systems as well as the regulation of medical personnel employed in these sectors. It was proposed that there should be greater consideration placed on the licensing of medical practitioners and that the existing pool of trained medical staff, especially nurses, should be better utilised. It was also proposed that there should be greater decentralisation of services.

The JIAS representative welcomed the idea of greater integration and acknowledged the need to establish a uniform health care system. He admitted, however, that certain groups were unwilling to accept UNMIK as an authority and that this situation presented UNMIK with operational problems that impeded the development a uniform health care system. This issue would, however, soon be addressed through high-level meetings with government representatives in Belgrade, although it was unclear what the outcome of this dialogue would be.

On the issue of the licensing of medical personnel, UNMIK could nevertheless claim to have made progress. A licensing board had already been established and had been operational since 2000. Steps still needed to be put in place to address the accreditation of certain sectors of the medical profession, such as lab technicians and physiotherapists, but UNMIK was aware of the situation and the considerable amount of work that remained to be done. A greater level of professionalisation also needed to be introduced into the nursing profession, especially through education. At present, the effect utilisation of nurses was unworkable as the existing standard of nursing education was inadequate to deal with many areas of health care provision. In order to address this, a root and branch reorganisation of the present educational provisions would have to take place and this should reflect international standards. This, it was conceded, would cause a lot of unhappiness.

In relation to the regulation of the public and private health sectors, the representative of JIAS responded that legislation was being drafted to address this issue as a matter of priority. In the end, the balance between public and private health provision was an economic as well as ideological question and UNMIK was presently considering the funding report of the World Bank and examining other health care models, such as Slovenia. It would be a mistake, however, to think that private health care was more prone to corruption than public facilities. Studies showed that high levels of corruption existed in both.

On the issue of decentralisation of services, the representative of JIAS pointed out that regulation of health care services was primarily in the hands of the municipalities. To ensure adequate provision of health services, UNMIK was seeking a form of service agreement with the municipal authorities. It was hoped that this process would be concluded by the end of June. The UNMIK representative added that he was very considered at the level of health service provisions at municipal level, and especially at the sizeable turnover of personnel.

#### Equal Access to Health Care across Ethnic Divides

The importance of ensuring equal access to health care provisions was also noted, in terms of practical issues of mobility and safe transport of endangered minorities, especially in the case of emergency health care. The speaker also raised the need to extend this provision to other groups and emphasised improving access to medical care for the handicapped. It was proposed that the distribution of health care be examined. The speaker also requested greater clarification on the development of long-term strategies towards financing the health system, particularly in terms of prioritising infrastructural development.

The JIAS representative responded that any distribution of health system in Kosovo/a was inevitably going to disappoint. The planning of a modern medical health system was based on prioritising economic and qualitative realities. Given the relative geographic size of Kosovo/a, there was a need to look hard at the balance between specialist and general provision of health services. The present system was wasteful in terms of specialisation and would be more effective if concentrated. On the issue of ensuring equal access to medical care, the JIAS representative recognised that

UNMIK had not done enough in this area and that he would take note of this deficiency. This was, however, a contentious area, as much good work that has already been done could not be publicised for fear of endangering the parties involved. The Head of the Department of Health added that this was an issue that the health institutions were not competent to resolve. They did not possess the material or financial resources to deal with this, but that it should be addressed at a higher-level.

In relation to long-term funding of the health system, UNMIK confirmed that some form of health insurance was a definite goal of the World Bank. However, it was recommended that expectations had to be realistic. Health insurance was normally funded through direct taxation but few in Kosovo/a were in a position to sustain this. It was unsure whether the existing funds would ever be recuperated from abroad so the long-term strategy was to accumulate sufficient funds to achieve an adequate level of health care provision. As Kosovo/a was still dependent on outside donors, it was stressed by the UNMIK representative that the key to development in this area was capital investment.

## *Working Group 2*

The second working group had concerned itself with three issue areas. The speaker nominated by the working group addressed each of these areas in turn.

### The Provision of Secondary and Tertiary Health Care

The speaker noted that in relation to the geographic distribution of health facilities in Kosovo/a there was a need for the existing capacities to be used in a more rational manner. This included prioritising the capacities of clinics dealing with serious diseases, such as tuberculosis, and establishing training programmes in health care administration and management to bring them in line with international standards. It was proposed that Kosovo/a seek channels of cooperation with outside countries to provide specialist health care, such as cancer treatment, and that these channels could be further exploited as a means of specialising the skills of existing medical personnel. With respect to the issue of interethnic cooperation, the speaker proposed that interethnic training events be organised amongst highly qualified specialists. This, it was suggested, might serve as an example to other professionals and improve levels of accountability.

The representative of JIAS responded that the question of geographic distribution of services had already been addressed earlier in the discussion but concurred that there was a need for greater rationalisation of resources. Two examples of this were the existence of wards devoted to specific diseases that no longer warranted such resources and the fact that many diseases can be treated more effectively on an outpatient basis.

The JIAS representative welcomed the inclusion of the inter-Balkan cooperation in matters of health provision and indicated that some activity was already taking place in this area. One such example was the twinning of training hospitals and the exchange of personnel. It was noted, however, that this could result in the brain drain of scarce talent, especially in areas where there was already a shortage of personnel. The indication that accountability of medical personnel should be improved was also welcomed.

### Issues of Drug Abuse

The concern about an increase in drug usage in Kosovo/a society was also noted. It was proposed that more needed to be undertaken in terms of prevention. The possibility of building a rehabilitation centre for drug addicts was also raised.

The representative of WHO noted that until the recent WHO report on drug usage in Kosovo/a there had been no clear picture of the extent of the problem. Although drug usage in Kosovo/a was not above the normal European level, it was indicated that the availability of legally prescribed drugs was an area of concern. This was mainly due to the lack of regulatory control of pharmacies. The representative of UNMIK added that a policy of withholding abusable drugs from patients without a prescription was already in place in many health houses, but this needed to be re-implemented. It was also noted that some facilities for rehabilitation of drug abusers were already in place but that the general level of service was widely disliked. Drug abusers in Kosovo/a tended to deal with the issue through the support of their families and the unwillingness to exclude drug abusers was praised. The UNMIK representative conceded, however, that there was a need for better rehabilitation services.

### Health Education

There was agreement on the issue of mainstreaming health education and the need to introduce it at all levels of the school curriculum. It was felt that this area of health care should be strengthened and special emphasis was placed on the provision of education in reproductive health.

The floor was then opened to further questions from members of the Group. One speaker questioned the exclusion of war invalids and rape victims from the discussion another raised the issue of corruption.

The UNMIK representative replied that a war invalids committee had been established six months previously and was currently looking into a large number of cases. For victims of rape, it was noted that guidelines had been established but more needed to be done at all levels. On the issue of corruption, UNMIK noted that this was a key issue in all areas of civil administration and a determined effort needs to be made on all sides to tackle the problem.

The session closed with an expression of thanks to the facilitators and implementation agencies. It was proposed that the STWG reconvene later in the year to assess developments and improvements in the issue areas addressed. These would be tracked by the Steering Committee on Health, who pronounced themselves in favour of continuing their activities outside the formal framework of the sessions.

The participants also proposed a number of follow-on activities to maintain the momentum of the session. It was deemed important to disseminate information on local initiatives in the field of health so as to ensure complementarity between them. One way of doing this would be through the establishment of a dedicated website. It was also proposed that an electronic mailing list, or discussion group, be established as a means of initiating a virtual network of health experts and advisers on post-conflict health policy. The Group further suggested that follow-up meetings take place to explore the issues raised in greater depth and to encourage wider consultation and discussion on matters of health. To facilitate this, ECMI has drafted a preliminary list of recommendations (see below). There was also a request for ECMI to explore links to expertise and technical know-how from other countries.

#### **d. Training Module – WHO, Geneva**

A follow-on training module on health has been scheduled to take place at the John Knox Centre of the World Health Organisation in Geneva, from 26 to 31 August. This event is a collaborative venture that has been designed to marry both the activities of the STWG with those of the WHO's programme 'Health as a Bridge for Peace' that was initiated in 1997.

The training seminars will run over four days and involve a structured process of instruction focusing on imparting essential knowledge and skills pertaining to the formulation and drafting of health policies and strategies in Kosovo/a. As well as imparting knowledge and skills, the programme aims to take account of the following objectives:

- To focus on the conditions of the health system and provision of health care prevalent in Kosovo/a with the aim of developing solutions to these problems;

- To operate in specifically chosen smaller working groups to elaborate concrete proposals intended to address the real problems of all communities in Kosovo/a;
- To integrate the skills and experiences of the STWG and the WHO in order to adapt general policy objectives to local conditions.

Participants will again be made up of a representative cross-section of Kosovar society, including representatives from all political parties, minority groups and local specialist NGOs. On the whole, the group for the training module on health will be more experienced in the issues at hand than has been the case with previous meetings and seminars. As the activities of the STWG have developed, this has filtered back to the political parties who have now requested that they be allowed to nominate a specialist in health policy from amongst their ranks.

At the time of writing, the training programme has not yet been finalised. However, a preliminary agenda has been agreed by ECMI and the Public Health Advisor of WHO, Kosovo/a, which is in line with the working procedure of the STWG and draws on the lessons learnt from ECMI's previous training in Flensburg.

In a preparatory meeting organised by the ECMI Regional Representative, the participants of the training session will discuss background documents relating to the present state of the health system and health care provision in Kosovo/a. The three documents that will form the basis for the workshop have been chosen for their relevance, timeliness and accessibility in a language the participants can understand. The documents are: the WHO's own revised 'Health Policies for Kosovo'; the European Agency for Reconstruction's Strategy 2001/2002; and a document identifying implementation strategies for health policy in Kosovo/a that is in the process of being drafted by DFID.

The purpose of the training workshop will be to generate a policy-oriented discourse, aimed at elaborating the recommendations which the Group had previously drafted as a result of the STWG meeting on health, and to explore practical provisions for their implementation. After an initial debate on the existing health strategies and policies, smaller working groups will be tasked with identifying health priorities in Kosovo/a,



identifying the determinants to ensure access to health care across all communities, and developing a financial strategy to implement this. Specific topics to be addressed include: examining the degree and extent of government involvement in health care provision, and the degree to which public and private health care provision should be mixed.

In the light of these deliberations, the working groups will consolidate their findings and develop the draft recommendations generated through the activities of the STWG. Again, the revised recommendations will be disseminated to the appropriate offices of the implementation agencies and members of the Group. They will also be distributed to a number of specialist NGOs and donors, who are interested in exploring avenues for increasing political and public participation in generating health projects. Moreover, the recommendations will help the members of the Group to track developments in the health sector over time.

A full Report of this training workshop, including the recommendations generated, will be available soon after the conclusion of the event.

#### **e. Recommendations**

These recommendations have evolved through ongoing discussion and consultation with the members of the STWG and the Steering Committee on Health. The recommendations are of a provisional nature and will consequently be revised to take account of the strategies and policies formulated at the forthcoming training workshop on health (see above).

## RECOMMENDATIONS

### *On the Functioning of the Kosovo/a Health system as an Overall System of Health*

- To facilitate the expeditious and effective reconstruction of the health system in Kosovo/a and to establish a fully functioning system based on equity and non-discrimination, the central goal of policy-makers should be a policy of integration.
- For integration to be realised, a long-term overarching policy framework of reconstruction and reform should be developed, which is fully informed by the needs and concerns of all communities of Kosovo/a.
- The efficacy, equity and sustainability of this policy framework depends on the uniform regulation of all levels of health service provision in Kosovo/a.
- The common goal of rebuilding an integrated health system should be based on the principles of equity and non-discrimination and should recognise the existence of common values and common needs across ethnic divides.
- Recognising the limit on public funds to support a comprehensive public health system, provision should be made for private health care services.
- Where such private provision exists, it should be regulated according to transparent, binding and uniform regulations which comply to an acceptable minimum standard and extend to the regulation of public employees in private practice. This should be done by the granting and revocation of licences.
- To ensure the continued provision of adequate and comprehensive health care services in Kosovo/a, including the provision of acceptable levels of payment for medical personnel, a sustainable method of funding must be found. This needs to include provision for social insurance and benefits.
- For the short-term, options for providing alternative payment schemes, such as co-payment and user fees should be explored; in the long term, concrete measures need to be taken to establish and implement a comprehensive and equitable health insurance scheme.
- Effective reform in the health care sector and the development of effective strategies to changes this will remain limited without the existence of reliable demographic statistics and information.

### *On the Provision of Primary Health Care*

- To bring about the rational and efficient utilisation of primary health care resources, a detailed plan should be adopted to assist in identifying existing areas of overlap, duplication and geographical distribution as well as the rational allocation of manpower to facilities.
- To support this process, the role and competences of qualified nurses should be re-evaluated. Their duties should in future be extended to cover:
  - The provision of maternity services: ante- and postnatal care;
  - Their increased deployment of to peripheral regions;
  - The adoption of an educative role in matters of hygiene and reproductive health.
- Effective consultation and cooperation of doctors should be sought to facilitate possible areas for the better allocation of resources and personnel.
- Equal consideration should be given to the training requirements of nurses, not only as a means of improving services by addressing gaps in skills and knowledge but also as a means of creating incentives to remain within the health sector.
- To prevent the potential for imbalances in service provision, measures should also be taken to encourage medical personnel to remain employed in more peripheral structures.
- As a further measure to preclude the inequitable provision of health services and improve resource allocation, efforts should be focused on further decentralising the health care system.

### *On Equal Access to Health Care*

- To guarantee the development of an integrated and equitable health service in Kosovo/a as well as to develop trust in the system amongst all communities of Kosovo/a, the principles of equity and non-discrimination must be strictly adhered to throughout all levels of health services, encompassing consumers, providers and employees.

- Particular attention should be paid to especially vulnerable groups, such as the poor and the disabled, and the level of awareness of their attendant medical problems should be raised.
- Urgent steps should therefore be taken to eliminate the provision and consumption of separate services as well as to ensure the equal distribution of resources between urban and rural areas.
- To guarantee access to health care provisions for endangered groups, efforts must be redoubled to ensure the safe passage of patients to and from medical facilities.
- The provision of reliable access to safe transport and channels of communication, particularly in the case of emergencies, is crucial.
- Concrete measures must be put in place to ensure that safe corridors be created to ensure the unhindered transport of vulnerable patients.
- The provision of emergency treatment in cases of evacuation must also be clarified and clear guidelines should be adopted to govern the entitlement to medical evacuation facilities.

*On the Provision of Secondary and Tertiary Health Care*

- In view of the pressing need to improve access to secondary and tertiary health care, particularly in remote areas, urgent steps should be taken to address the shortage of facilities and specialist personnel outside Pristina.
- Steps should also be taken to improve the provision of outpatient services so as to bring them into line with hospital standards.
- To ensure the adequate provision of qualified medical personnel across all levels of health care provision, a comprehensive programme of targeted and ongoing training should be implemented.
- Attention should also be paid to widening the skills base of existing medical personnel while seeking to fill the gaps in existing knowledge and specialist provision.
- An integrated policy of training should be adopted with built-in mechanisms to optimise the transfer of knowledge.
- This programme should also be extended to cover the training of health services personnel such as laboratory assistants and technicians.

- To address the urgent need for the effective allocation of resources and planning of personnel, there is also a clear need to adopt and implement a training programme to supply skilled personnel in health systems management.
- The nurturing of cooperative practices between ethnic groups should be pursued through the organization of cross-ethnic doctors associations and interest groups.
- In order to increase specialist knowledge of medical personnel within Kosovo/a ‘Twinning programmes’ should be explored with centres of expertise in neighbouring countries. This should also be extended to exploring the rational sharing of specialist facilities across borders.

#### *On the Supply and Abuse of Drugs*

- Clear and effective steps need to be taken to adopt and implement an essential drugs programme that also places emphasis on the issues of supply and prevention of illegal substances.
- The provision of community-based support for drug addicts through existing familial structures should be supported.
- To provide long-term support to drug addicts and facilitate their reintegration into society, consideration should be given to the construction of a drug rehabilitation centre.
- A wide-reaching media campaign should be initiated to increase public awareness of the knock-on effects of drugs and related diseases, such as AIDs and hepatitis.
- The regulation of pharmacies through the granting of licences should be introduced as a means of stemming the expansion of private practices and for setting strict guidelines for the legitimate prescription of essential drugs.

#### *On Health Education*

- The implementation of a comprehensive and overarching policy of health education is an essential element in the establishment of a fully functional and effective health system.
- Education on health matters should be incorporated into all levels of the school curriculum.

- Particular attention should be paid to raising the level of awareness of diseases and ill health amongst the most susceptible sectors of society.

## APPENDIX

### 1. Programme of the Second Meeting

*Saturday, 26 May 2001*

TIME	ACTIVITY
9.00-9.45	<b>Introductory Remarks</b>
	Coffee Break
10.00-11.30	<b>First Plenary Session:</b> <ul style="list-style-type: none"><li>○ The functioning of the Kosovo/a health system as an overall health system</li><li>○ Primary health care provision</li><li>○ Equal access to health care</li></ul>
	Coffee Break
11.45-13.15	<b>Second Plenary Session:</b> <ul style="list-style-type: none"><li>○ Secondary and tertiary health care</li><li>○ Issues of drug abuse</li><li>○ Health education</li></ul>
13.15-14.30	Lunch
14.30-16.00	<b>Working Groups 1 and 2:</b> <ul style="list-style-type: none"><li>○ Working Group 1: First plenary topics</li><li>○ Working Group 2: Second plenary topics</li></ul>
	Coffee Break
16.15-17.30	<b>Plenary Briefing</b>
17.30-19.30	<b>Dialogue with UNMIK and JIAS</b>
19.30-20.30	<b>Closing Dinner</b>

### 2. Implementation Agency Representatives

Name	Agency	Status
Hannu Vuori	Co-Head of Health and Welfare Department, JIAS	Attended
Pleurat Sejdiu	Co-Head of Health and Welfare Department, JIAS	Unable to attend owing to travelling
Erik Schouten	Head of Mission, WHO, Pristina	Attended
Arben Cami	Primary Health Care Officer, Department of Health and Social Welfare	Attended
Peter Schumann	Co-Director, Department of Public Services	Attended

Two further members of UNMIK were invited to participate in the meeting but failed to attend.

## **VI. THIRD MEETING: ADMINISTRATION OF THE JUDICIARY**

### **a. Introduction**

The third consecutive meeting of the Standing Technical Working Group was held on 30 June 2001, in the KTC room, Government Building, Pristina. The meeting reviewed issues of judicial organisation and the administration of justice. Just under thirty participants attended the meeting, representing the main political parties, all minority communities and specialist NGOs. The meeting also drew the attention and active involvement of a broad collection of local and international experts and representatives from the administrative structures. Unlike previous meetings, the agenda of the third meeting was deliberately curtailed allow for members of the Group who are restricted by transport and security arrangements to play a full and active role in the final session of the proceedings.

The meeting was divided into three main issue areas, each constituting one plenary session. These issue areas had been identified by the Steering Committee for the Judiciary in a series of preparatory discussions prior to the meeting. The deliberations of the Steering Committee had been assisted by the provision of a background paper specially compiled by Mr Blerim Reka of Kosova's Institute for Euro-Atlantic Integration and the Kosovo Law Centre (see ECMI Report # 15). These issues were:

- The unity, professionalisation and independence of the judiciary
- Cooperation with the executive
- Human rights in the judiciary

Mr Hysni Bajrami, who had also presided over the preparatory discussions of the Steering Committee, chaired the session. The meeting commenced with a presentation of the main issues followed by a brief review of UNMIK's evolving policy response to the establishment of a judicial system in Kosovo/a. This review was provided by Mr Maurice de Thevenard, Senior Legal Officer, UNMIK, who remained to observe the ensuing discussions. Mr Robert Muharemmi, UNMIK Department of Public Services, also attended all sessions.



## **b. Summary of the debate**

In a series of three consecutive plenary sessions and a concluding working session, the Group considered each issue in detail, and put forward a number of wide-ranging arguments and positions. In all sessions, the multi-faceted and complex nature of the issue under discussion was apparent. In the account that follows, some attempt has therefore been made to categorize and summarize the main findings of the proceedings. This account has not been reviewed by any of the participants and does not claim to reproduce the views of each member of the Group.

### i. Unity, Professionalisation and Independence of the Judiciary

#### *Unity of the judiciary*

1. The meeting noted the necessity of establishing a unified judicial system in the territory of Kosovo/a. It was felt that a unified judicial system was of particular importance in establishing a fully functional legal system based on the rule of law, and for the provision of equal justice for all sectors of Kosovo/a society.

2. Attention was drawn to the existence of parallel structures in the provision of legal services to majority and minority communities. It was noted that this served to reinforce existing divisions. It was also felt that the overall aim of establishing systems equally accessible and fair to all would help heal the wounds of the recent past.

3. In this context, attention was drawn to the framework of UN Resolution 1244 and welcomed the commitment of the SRSG Mr Hans Haekkerrup to the unity of Kosovo/a in all areas of administration – a view he had expressed in Brussels previous to the meeting.

*Professionalisation of the judiciary*

4. The meeting noted the essential importance for high quality training for the development of a professional and independent judiciary. In particular, it was proposed that training should be coordinated across all relevant organisations and implemented according to a perceptible time plan. This would include training for judges who had already qualified and also those who are about to qualify.

5. The importance of continued education and on-the-job training was emphasised. It was proposed that this training should be delivered with appropriate involvement of the Kosovo/a Association of judges and high quality NGO providers of training.

6. It was proposed that training should be focused on those who in turn can deliver training to others, and should be available in all languages that are widely used in Kosovo/a.

7. It was further noted that training in the applicable law of Kosovo/a should also be mandatory for international judges and judicial officials entering service in Kosovo/a.

8. It was further proposed that the meeting invite the international agencies to present a programme in consultation with Kosovo/a professional bodies for the establishment of forensic and other court services.

9. The meeting noted that the selection of judges and admission of lawyers to the Bar should be performed exclusively according to criteria of competence. The process of qualification should be designed with the appropriate involvement of professional and university bodies in Kosovo/a.

10. The meeting highlighted the need to raise the status and profile of judges. It was noted that adequate salaries for all members of the judicial services, and especially judges, was an important measure for strengthening the judicial system. It was proposed that this be reflected in the Consolidated Budget of Kosovo/a.

### *Independence of the judiciary*

11. It was emphasised that a well-paid judiciary is a precondition for an independent and professional judicial service that is impervious to corruption. The issue of security of judges and judicial officials was also raised in this context.

12. The meeting noted the essential importance of the independence of the judicial process for fair trial and human rights standards. Executive intervention in this process was deemed inconsistent with this principle. The meeting deemed it incumbent on the executive to clarify the criteria for intervention. Where such intervention must take place for an interim period it was proposed that this should only be conducted according to restrictive criteria and only in accordance with international standards. These decisions should be transparent and the reasons for the decisions must be stated.

13. In the establishment of a judicial administration, the meeting however recognised the relevance of the overall framework of Resolution 1244 in this context.

### ii. Cooperation with the Executive

#### *Transparency and availability of information*

14. The meeting emphasised the need for an overall electronic network detailing all applicable law, court decisions and orders and international standards and judgements relevant to the application of human rights.

15. The international implementation agencies were invited to launch a public information campaign outlining the structure and function of the judicial system and adding to its accessibility. The use of citizens' advice services through NGOs and establishment of helplines was emphasised in assisting in the provisioning of equal and easy access to the judicial system.

16. It was emphasised that there should be a full written record in court including witness statements. The translation facilities for these services need urgent improvement. It was suggested that they be delivered by independent agencies on the

basis of competitive tender and quality of services. To increase transparency it was proposed that courts should appoint an official a spokesperson who should operate subject to data protection standards and the requirements of security and privacy.

*Improving cooperation and the provision of services*

17. The meeting expressed surprise at the absence of effective cooperation between courts and the enforcement agencies. It was noted that improvement in the services of summons, protection of witnesses and the execution of court orders was urgently required.

iii. Human Rights in the Judiciary

*International human rights standards*

18. The meeting emphasised the need to ensure that human rights as enshrined in the European Convention on Human Rights and other such instruments pervade all aspects of the administration of justice – this includes specialised human rights training not only for judges and prosecutors but also for defence counsel through the Office of the Ombudsman, NGOs and other channels. Information and awareness in relation to human rights issues should be increased.

19. It was noted in particular that, through training, the courts at all levels should be enabled to arrive at decisions that are consistent and fully in compliance with human rights principles.

*Equal access to the judiciary*

20. The development of a broad human rights culture was also deemed to be essential for the purpose of raising confidence in the judicial system on the part of all communities in Kosovo/a.

*Pre-trial, fair trial and post-trial human rights guarantees*

21. The meeting noted that human rights provisions apply not only in the trial phase but also in the pre-trial investigative phase where criminal procedures are concerned. This includes the provision of effective defence counsel, trial conduct and the translation of all relevant documents and proceedings into a language the defendant can understand. This also includes the expedition of communication of grounds for arrest, and where relevant, the possibility of judicial review of a decision to detain within a short period of time.

23. The meeting also noted the need to ensure that the execution of sentences be conducted fully in compliance with human rights standards, including especially for the treatment of prisoners.

24. Alternative modes of sentencing were considered in relation to less serious offences (e.g. community services) also with a view to easing the reintegration of offenders into society. The need to provide for a reliable and objective parole procedure was noted in this context.

**c. Dialogue with UNMIK, JIAS and OSCE**

For the final session, the Group engaged with eight senior representatives of the international implementation agencies and administrative structures (Appendix 2). The Chair provided a brief overview of the issues that the Group had tackled during the meeting and invited the spokespersons for the two working groups to put forward the individual positions and suggestions they had considered.

*Working Group 1: The Administration of the Judiciary*

Professionalising the Judiciary through Training

The first speaker noted that in order to realise an efficient and independent judicial system in Kosovo/a, there was a clear and apparent need for an adequate and comprehensive programme of ongoing training. It was suggested that this be implemented across all levels of the judicial system, consistent with the need to enhance the skills of judges, prosecutors and other court officials, both old and new.

It was further proposed that to meet the need for training, greater involvement be made of local NGOs, and that training be treated as a normal part of the work of judges.

The OSCE and UNMIK representatives agreed that training programmes were extremely important and that there was a need for a streamlined and widespread programme of judicial training. The OSCE representative pointed out that the Kosovo Judicial Institute had been specifically created to fulfil this task. In achieving this, the KJI was supported by local NGOs and cooperated with organisations such as ABA/Ceeli. Such partnerships would ensure that funding was available to continue training. It was, however, important to maintain realistic expectations. Much progress had been made so far but there were plans to increase this commitment further at all levels. In this regard, the OSCE representative pointed to new training programmes that were anticipated, especially with regard to the training of defence counsel. He further pointed to the formulation of the new criminal code as an attempt to address these questions.

#### Status, Pay and Security of Judicial Personnel

The meeting felt that Kosovar judges were not accorded the same standing as international magistrates. Without a level of dignity and authority, Kosovar judges would be unable to win the respect they needed to carry out their duties effectively.

The meeting agreed with UNMIK and the Co-Head of JIAS that a higher status needs to be attributed to judges and judicial officers in Kosovo/a. In this regard the importance of awarding judges a salary commensurate to their standing was noted. The meeting welcomed the increase of salaries for prosecutorial personnel that was announced at the meeting. It was further proposed that adequate provision be made in the Kosovo/a Consolidated Budget for funding the judicial system. The need to address this matter as an essential tool in fighting corruption was also recognized. The Co-Head of JIAS appealed to the participants to work with the executive in finding the material provisions for this in the budget.

UNMIK and the Co-Head of JIAS also agreed with the call for greater guarantees of safety provisions as a means of supporting the effectiveness of judges and judicial

personnel. UNMIK indicated that this would prove more important in future. Provision was now being made to ensure that all courthouses would be guarded by a minimum number of officers from the law enforcement agencies. Further security arrangements would, however, take away from the court budget. Training had also been undertaken to raise security in courthouses but more needed to be done. UNMIK was currently distributing regulations to all judicial institutions.

#### Cooperation with the Executive

The meeting noted the lack of consultation between UNMIK and local legal experts in drafting laws that would be applicable in Kosovo/a. UNMIK acknowledged that local experts had not been sufficiently involved in this process so far. This situation had arisen under the pressure of time. There had been an urgent need to establish a fully functional judicial system in Kosovo/a with sufficient legal safeguards. This had led to inevitable deficiencies and compromises. The UNMIK representative assured the meeting that the international agencies had not established laws for the benefit of the internationals and had every intention of involving Kosovars in future. The Co-Head of JIAS emphasised this point and proposed that the SRSG needed to employ a local advisor to this end.

It was further noted that there was no mechanism for monitoring the implementation agencies. In this regard, it was proposed that the media be given a more prominent role in monitoring the activities of the courts and that the courts themselves appoint a spokesperson. The OSCE representative responded that there was in fact a monitoring mechanism already in place and that this function was fulfilled by the OSCE legal system monitoring section. The Co-Head of JIAS, however, doubted whether such mechanisms would prove sufficient checks against the possibility of misinformation.

#### Enhancing conduct of court proceedings:

The meeting drew attention to the lack of cooperation between the courts and the law enforcement agencies. It was recognised that this was in part due to the low rates of pay. However, while this could be remedied with an injection of funds, serious structural problems existed that hampered the proper functioning of the judiciary, e.g.

the serving of court summons. It was proposed that the courts be invested with more powers vis-à-vis CIVPOL and that CIVPOL be better briefed on local circumstances.

UNMIK acknowledged that cooperation between the courts and the law enforcement agencies had been deficient. Cooperation was inherently difficult to accomplish when the personnel of these bodies are drawn from over fifty countries. Most were unfamiliar with Kosovo/a but a training programme in local affairs was provided by experienced Kosovar judges. Nevertheless, meetings had been especially organised in an attempt to stimulate cooperation between all the judges, police and others involved in the criminal legal system.

#### Adequate Provision of Information and Services

The speaker also raised the issue of adequate translation facilities and the scarcity of ancillary interpretation services. It was noted that the implementation agencies had an affirmative obligation to ensure the accessibility of applicable laws in Kosovo/a. The meeting recognised that so far this had not been the case, and that laws were promulgated before being translated into languages widely used in Kosovo/a.

UNMIK acknowledged that laws were not promulgated in the other official languages of Kosovo/a at the same time as English. This was regretted. The implementation agencies had, however, been driven by the need to act rapidly and prioritise scarce resources. There is a dearth of skilled legal translators in Kosovo/a and UNMIK had to make the best use of the resources it had at its disposal.

It was further noted that public access to applicable laws and UN Regulations concerning Kosovo/a were limited by the lack of adequate documentation centres. This added to the general feeling of opacity in areas of governance. The speaker called attention to the incomplete stock of reference works on current law in the faculty library of Pristina University and bemoaned the lack of an Official Gazette to ensure the effective dissemination of UN Regulations. It was proposed that a comprehensive electronic database be established which would provide access to all judicial announcements and regulations as they occur.



UNMIK and the Co-Head of JIAS welcomed greater transparency in the judiciary. UNMIK noted that an Official Gazette was already in circulation and indicated that the existing volumes would shortly be updated. There was also a policy for ensuring that regulations of special importance to the work of the courts were delivered directly. The Co-Head of JIAS welcomed the proposal of an electronic database and agreed that the law library was incomplete. Given that existing funds were allocated to priority areas such as ongoing training, it was however presently impossible to secure funds for documentation.

*Working Group 2: Human Rights in the Judiciary*

The second working group had considered aspects of human rights in the administration of the judiciary. Two speakers were nominated by the second working group and addressed the following areas.

Ensuring compatibility with international human rights standards.

The implementation agencies and the meeting pronounced themselves in favour of setting the highest standard for human rights provisions in the applicable law of Kosovo/a. Both groups agreed on the necessity of raising awareness amongst judicial personnel in human rights covenants and standards, and reiterated support for further training in this area. On the question of involving NGOs in monitoring judicial proceedings, UNMIK was hesitant whether this would not infringe on the impartiality of the judiciary.

One speaker questioned whether human rights standards had not been violated by the UNMIK itself, particularly in regard to executive interventions into the independence of judiciary. The speaker requested clarification of the circumstances under which the executive could intervene and, questioned whether allegations of CIVPOL's disrespect of the acquittal of some detainees were true.

UNMIK responded that some intervention was inevitable and necessary where there were gaps and weaknesses in the present system, and where the likelihood that the trial was being driven by partiality was evident. It was emphasised that this was undertaken only when absolutely necessary and that the provision of directive 2000/64, which regulated executive intervention, was subject to strict guidelines. The

representative of UNMIK acknowledged that he was aware of such criticisms but was unaware of UNMIK representatives ever disregarding a decision for acquittal. He questioned the veracity of the information. In regard to the Camp Bondsteel prisoners, the Co-Head of JIAS questioned the standards and authority under which the enforcement agencies had been operating. She drew attention to the usual custodial time limit of 72 hours.

The issue of war crimes was also raised in this context and it was felt that sufficient attention had not been paid to this issue. It was proposed that greater attention be paid to this through the generation of wider public debate. The Co-Head of JIAS agreed that more needed to be done to address some issues and flaws that had arisen during the emergency period.

#### Equal access to judicial services and human rights safeguards

The speaker then raised the question of minority access to judicial services. Despite the commitment of the implementation agencies to unity of all administrative services, it was noted the provision of judicial services was still marked by separate service provision for different ethnic groups.

The Co-Head of JIAS responded that the judicial service in Kosovo/a was in danger of establishing two norms, which could effectively yield two different decisions and undermine the validity of the courts. The need to provide opportunities for minority groups was highlighted. It was proposed that Kosovar Albanian judges go to visit Serb enclaves to have meetings with their Kosovar Serbian counterparts, this was of particular importance with regard to clarifying disputes such as those of inheritance. The Co-Head of JIAS noted that progress had been made in the previous two years, especially in regard to the application of human rights foreseen in Resolution 1999/24, but acknowledged that more needed to be done. This was particularly the case with ensuring effective defence counsel through all stages of the criminal proceedings. In this regard, the Co-Head of JIAS drew attention to the provisions foreseen in the Constitutional Framework and the safeguards for the protection of minority groups.

The meeting concluded with an expression of thanks to the representatives of the implementation agencies. It was indicated that the Steering Committee would reconvene the next day to draw conclusions from the meeting, and that these issues would be examined in more detail at a training event scheduled to take place in Flensburg two weeks later. Finally, it was noted that the end of the meeting did not constitute the end of the debate and that these issues would be revisited in cooperation with the implementation agencies in December.

#### **d. Training Module – ECMI, Flensburg**

##### *Introduction*

The training module on human rights and judicial affairs took place in Flensburg, Germany, over three days (12-15 July) with the generous support of the Westminster Foundation for Democracy. The training events are designed to support and mirror the activities of the STWG meetings. They are usually conducted abroad, to assist the Group in forming its identity and fostering relationships in a neutral environment as well as to exploit educational facilities not normally available in Kosovo/a. The topics for the training sessions are directly linked to the issues discussed at the STWG meetings and are constructed expressly to enable the Group to base the follow-on of its initial sessions on a broader knowledge base. They are also designed to emulate the procedure of the meetings by stressing democratic dialogue, consensus decision-making and accountability.

##### *Activities of the training event*

The programme of the training module was constructed explicitly to further enhance the understanding of the Group on matters of human rights and judicial affairs. As such the training seminars formed the culmination of a consolidated process that began in May with the establishment of a Steering Committee on Human Rights and the Judiciary. This smaller sub-group of the STWG was tasked with identifying a number of key issues to be debated at a future meeting of the STWG. With the help of a specially commissioned background study and through an ongoing process of consultation and discussion, the Steering Committee developed an agenda for the meeting around three main issue areas as outlined above.

As outlined above, the third consecutive meeting of the STWG took place in Pristina, Kosovo/a, to debate these issues, and a team of international and local experts were enlisted to help the Group in formulating policy recommendations. These were subsequently put to members of UNMIK and the other implementing bodies, and formed the basis for a list of draft recommendations that were distributed to members of the Group and the appropriate offices of UNMIK.

On the back of this, ECMI set about designing a training workshop to help broaden the competences and understanding of the participants and to provide the Group with a further forum for debate guided by experts in a relevant field of knowledge. The structure of the programme was designed to offer a logical development to the seminars and to avoid unnecessary overlap. They also made provision for constructive debate and an element of flexibility. The trainers were identified and selected to provide information and advice from a variety of perspectives. They included academics who could comment about problems more profitably from a comparative perspective as well as practitioners who could provide more detailed knowledge about the specific problems that presently exist in Kosovo/a. The criteria for selection also aimed to provide a mixture of practical group activity and involvement as well as straightforward presentations.

Prior to the event, the trainers were requested to structure their presentations in a way that allowed for a maximum of interaction within the group and to provide room for further questions and queries. The trainers were also provided with a list of guidelines and materials (e.g. a list of participants and participant profiles) to help them better target their presentations to the audience at hand. This material reiterated the aim of the project as a mechanism for generating policy-oriented inter-ethnic debate and highlighted practical problems that could arise in the seminars e.g. the limits of simultaneous translation. To ease the atmosphere within the group, a seating plan conducive to constructive debate had also been worked out in advance.

Out of a group of approximately 50 members of the STWG, 25 permanent members were chosen so as to provide a representative mixture of political and ethnic affiliation as well as a good balance of gender. Members of civil society groups

(specialist NGOs) were also identified and invited. Provision was then made for transporting a group of around 30 Kosovars, including interpreters and local staff, to Flensburg, Germany.

At the Regional Office in Pristina, the Regional Representative and Local Assistant coordinated the flight arrangements for the entire group and the provision of visas. The regional staff also liaised with members of UNMIK and the OSCE who had agreed to participate in the session, and collated what materials were available on the judicial system and human rights in languages the participants could understand.

Staff at ECMI main office set about arranging transport and accommodation for the participants as well as for the trainers and interpreters. A local hotel on the German-Danish border was identified as an appropriate venue. This proved remote enough for the participants to focus their attention on the seminars and to allow for a continued dialogue in the evenings. The venue also provided adequate conference facilities and a comfortable environment for the participants during the training event. Translation and interpretation equipment was hired and materials assembled into information packs for the trainers and trainees. A programme of social activities was also foreseen.

To coordinate the safe passage of endangered participants, and transport through Germany, a Research Associate of ECMI was deployed to the region and acted as escort to the Group.

#### *Proceedings of the training event*

##### Day One:

The training event proper commenced on 12 July. (A full programme of events is appended to this Report). The ECMI Director welcomed the participants to Flensburg and expressed his appreciation of the continued commitment of the Group. There then followed an introductory comparative overview of the judicial systems adopted by countries in their transition phase from communism.

## Introduction: comparative legal cultures - the post-communist transition in an internationalised environment

This review was provided by Dr Muhalena Hofmann of the Max Planck Institute for International Comparative Law at the University of Heidelberg, in Germany. Starting from a broad viewpoint the overview attempted to provide a perspective against which the participants could objectively assess the developments and problems faced in Kosovo/a. A second aim was to provide useful parallels for weighing the pros and cons of policies that had been adopted in other eastern European countries, paying due regard to the legal culture and historical legacy that prevailed. It was stressed that many of the problems Kosovo/a was confronting, and would encounter in the future, were common to all transitional judicial systems. Lessons could be drawn from this and policies implemented to tackle the problems before they became worse. It was noted, that particular importance should be paid to the provision of adequate salaries for judges and judicial officials as an anti-corruption measure. From comparative studies it could be ascertained that levels of corruption in the judiciary dropped significantly with a corresponding rise in salaries. Constraints on judicial systems in post-communist countries could be traced back to inadequate provision of funding, mechanisms of structured training, and support services. This had often led to a backlog of cases, exacerbating the situation. One effective mechanism for countering this was often found to be the phenomenon of judges organising themselves into effective pressure groups and undertaking lobbying for better conditions. As a final proposal, Dr Hofmann recommended the participants look to the model adopted by Slovenia as a positive example of how the administration of the judiciary could be effectively implemented in a transition country.

## Discussion

This presentation generated lively debate and discussion, which lasted at least as long as the presentation itself. One topic that was addressed was to recur throughout the remaining training event, and this was the question of executive intervention in judicial decisions. There was a general feeling that the desire of many Kosovars to finally achieve a culture of democracy was in danger of being eroded by the use of executive vetoes. Dr Hofmann reminded the participants that although the potential use of intervention could not be regarded as a normal democratic measure, the whole character of the new constitution in Kosovo/a was transitory.

Day Two:

After an overview of the context in which developments of the Kosovo/a judicial system could be judged, the workshop turned its attention to considering the specific conditions that obtain in Kosovo/a. Two presentations were provided by members of the international implementation agencies, Dr Anna Myriam Roccatello of the Department of Judicial Affairs, Joint Interim Advisory Structures, UNMIK and Dr Reinhold Gallmetzer of the OSCE's Kosovo Judicial Institute. Both had agreed to participate in the session in the capacity of trainers.

#### Presentation of the Kosovo/a judicial system

Dr Rocattello described the obstacles that the UN administration had faced in establishing a judicial system in Kosovo/a and how the present system had come about. She pointed to the domestic constraints on policy that UNMIK had faced, such as the limited number of impartial and well-trained judges and prosecutors, as well as the international constraints under which they operated, such as the need for a clear and unambiguous mandate to start working towards a unified judicial system. Against this backdrop, Dr Roccatello outlined the present structure of the judiciary and judicial administration in Kosovo/a and emphasized the importance of creating a climate governed by the rule of law, and not one where impunity ruled.

#### Professionalisation and independence of the judiciary

Dr Reinhold Gallmetzer then concentrated on the specific mechanisms that had been put in place to address key areas where gaps were perceived to exist and improvement in judicial services was deemed to be essential. This included issues of training and selection of judicial personnel as well as provisions for improving the status and payment of judges, especially with regard to the security environment prevalent in Kosovo/a and the potential for corruption and bias. Here he stressed the need for adequate provision of support services and a structured programme of continuous training.

#### Discussion

Participants took advantage of the opportunity to engage in direct dialogue with representatives of the implementation agencies, although it had been stressed beforehand that both Dr Roccatello and Dr Gallmetzer were participating in the

capacity of trainers, not as policy makers. A heated debate ensued and the presenters agreed to provide the opportunity for an extended questions and answers session at the end of the first morning. Very specific questions were posed, including a query about progress in drafting the penal code, as well as more general political questions about the role and powers of the SRSG in taking judicial decisions. On this point, Dr Gallmetzer clarified the criteria and constraints that prevailed with regard to the SRSG's powers and pointed to the inherently political nature of these questions.

The afternoon sessions of the first day dealt with two specific issue areas that are particularly pertinent to the situation in Kosovo/a i.e. the issue of international involvement in a traditionally domestic sphere of influence and the unique role UNMIK plays as the executive and judicial power in Kosovo/a. The first presentation addressed the issue of international involvement from the comparable circumstances of post-war Bosnia and Herzegovina, the second gave an insider's view of the problems and gaps in accountability associated with combining the executive and the judicial arms of UNMIK.

#### International involvement

Professor Josef Marko drew on his experience as a judge in the constitutional court of Bosnia and Herzegovina to give an overview of the legal instruments and institutions that had been employed in a similar post-conflict environment. He addressed the practical problems faced when internationals became involved in the judicial affairs of a third country and sketched the solutions that had been attempted in establishing a judicial system. Of utmost importance, he suggested, was the adequate provision of a countervailing mechanism for challenging executive decisions. This was a glaring omission in the Constitutional Framework adopted in Kosovo/a.



### Cooperation with the executive

Professor Andrew Michels, a former senior member of UNMIK, picked up on some further omissions in the Constitutional Framework and pointed to the practical ramifications of insufficiently separating the executive and the judicial powers of a governing body. Some conspicuous omissions he suggested were the codified provision for an adequate level of funding in the judicial services, and for the provision of defence counsel. Other provisions that were inadequately addressed were the guarantee of safe premises, witness protection programmes and effective channels for executing court orders and serving summons. The ramification of these and other omissions could result in a loss in credibility for the judicial system, if justice remained to be done or seen to be done. One remedy Professor Michels suggested was the need to bolster specialist NGOs in this field and the need for administrative judges to lobby for better services and conditions. The courts needed an advocate of their own to engage their counterparts in the executive on behalf of their institutions.

### Discussion

Question of relations between the executive and the judiciary were of special interest to the participants. Many participants also picked up on the constructive suggestions offered by the presenters. The question of double standards being applied by UNMIK was raised. There were also many questions calling for further practical advice on addressing the issues raised: how could financial independence of the judiciary be ensured? Finally, there was an extended discussion on what form of court structure would be most appropriate for Kosovo/a.

### Day Three:

The move to bring criminal proceedings and the penitentiary system in line with universal human rights standards was one of the main areas of concern originally highlighted by the Steering Committee on the Judiciary and Human Rights. Despite the importance of these safeguards to the establishment of a democratic culture based on the rule of law, relatively little importance is paid to these issues in Kosovo/a. As a consequence, the final day's training was devoted to raising the level of awareness of

human rights issues and illustrating how such provisions pervade all aspects of the judicial system.

#### Ensuring compatibility with international human rights covenants

Professor Marko pointed to the importance of fully incorporating international standards, such as the European Convention on Human Rights, into applicable law. He pointed to gaps in the present provisions in Kosovo/a and the need to challenge them. On the other hand, he emphasized that common standards entailed common responsibilities. Kosovars had the responsibility to think clearly and deeply about what kind of society they envisaged. They needed to ask themselves what constitutes a right and what discrimination. These rights were of particular significance in Kosovo/a, especially with regard to the protection of minority interests and the right to equality before the law.

#### Equal access to justice for all communities

Dr Yannis Alexandros, former adviser on minority issues under the former SRSG Bernard Kouchner, expanded on this issue. He pointed to the fundamental right of equality before the law and how violating this principle had grave ramifications for the domestic and international development of Kosovo/a. International conventions apply equally strongly, regardless of the future status of Kosovo/a. He further highlighted the need for all communities in Kosovo/a to show they were serious about securing this principle, if needs be, by the adoption of affirmative action.

#### Discussion

One participant was interested to know what alleys would be available to him if he had exhausted all the domestic means to protect his own rights against the state. Professor Marko responded that Kosovo/a was not a state and that it therefore had no legal standing in regard to the European Convention on Human Rights. This inevitably initiated a debate about the question of Kosovo/a's final status. Some argued that insecurity would continue in Kosovo/a until this issue was resolved, this in turn would hamper progress towards self-government and the rule of law. Others argued that the establishment of accountable self-government was a necessary first step towards resolving the issue of independence.

### Guaranteeing fair trial and pre-trial procedures

Through a questions and answers session and with particular reference to the European Convention on Human Rights, Dr Annette Windmeiser of the East European Human Training Rights Project sought to elucidate how pre-trial and fair trial procedures are guaranteed under international law. The group was split into smaller sub-groups and asked to note their perceptions of the two most important factors for ensuring the application of basic human rights concepts in trial situations. The sub-groups then presented their findings and a number of misconceptions were clarified.

### Post-trial human rights issues

The final presentation addressed the issues of human rights provisions in the post-trial phase. Professor Andrew Michels remarked that these provisions were normally sadly neglected, even in such countries as the United States. This was a fundamental error since the way a society treated its prisoners after conviction had consequences for the kind of people it returned to society after release. Professor Michels offered a number of recommendations in this regard. He singled out the role of NGOs in keeping the state of prisons in the public conscience; this could be further supplemented by encouraging the media to be accountable in their reporting of convictions. There was a need for adequate funding for penal institutions as their proper administration entails long-term consequences for society. Pressure to safeguard proper conduct and standards for the treatment of prisoners could be brought about by the organization of official visitors programmes. Such public participation could also provide a means for inspection of objective and reliable procedures for parole.

### Discussion

Participants raised the question of possible channels of redress for violations of their rights by the international law enforcement bodies. Some participants furnished recent examples of such violations and highlighted the reluctance many Kosovars experienced in seeking redress. One participant queried whether it would be beneficial to open some trials to public scrutiny.

At the end of the final session on Sunday, the Chair called on each of the participants to make his or her comments and suggestions regarding the training event and the

activities of the STWG so far. In connection to this, the Chair also highlighted the need to address the long-term direction of the initiative particularly in view of the forthcoming Assembly elections. A number of options were discussed and the Group was invited to consider these options in more detail at a later stage. This issue outlined in more detail below.

### *Success of the activities*

Throughout the event and particularly in the final round-up session on Sunday, the participants praised the high-level of professionalism and organisation that had been on evidence throughout the event. ECMI was also praised for its efforts to initiate an event of this nature and the commitment it had shown to supporting the process of civil society building in Kosovo/a. It was also thanked for arranging the presence of such high-level speakers. Many participants appreciated the level of debate that had been generated during the seminars and the expertise of the speakers invited.

Despite the arduous journey the participants had endured prior to the training event and despite the demanding schedule, attendance throughout the event remained very high. No fewer than three-quarters of the group attended all sessions and the concluding question and answer sessions often lasted longer than the presentations themselves. This attests to the level of commitment shown by the group and the enthusiasm that was evident on the part of many of the trainers.

The training seminars were also successful at engaging the attention and involvement of non-lawyers – most of the group – while also managing to hold the attention of those with a legal background. It became apparent in the question and answer sessions that many of the participants were well informed about legal matters and able to pose quite trenchant and technical questions. It remains unclear whether this was a consequence of the participants' prior engagement and interest in judicial affairs. However, given that the level of informed participation was spread equally among the members of the group, it seems likely that the STWG meeting prior to the training event had gone some way to raising the level of awareness and involvement in these matters.

The event can also be regarded as going some way towards fostering better inter-ethnic and cross-party dialogue. Although the objective of the STWG continues to be one of furthering inter-ethnic dialogue and cooperation in Kosovo/a, the successful cooperation that was evident throughout the three-day event was testimony to the willingness of most communities to work together. This was particularly the case between Kosovar Albanians and other ethnic groups, and to a lesser extent with the Serbs, who remain in a more vulnerable position.

Meetings in Kosovo/a provide limited space for the kind of inter-ethnic cooperation and interaction that is essential for a project of this kind. The necessity of having to provide a secure environment for meetings limits the time available for dialogue to develop. It also debars endangered participants, and those from more remote areas, from participating in social events. In Kosovo/a, there is also the added burden on participants to yield to pressure from other members of their community. This was not the case in Flensburg. The changed environment and extended time the participants spent in each other's company increased the opportunity for interaction and dialogue. The capacity and willingness to get along was particularly evident at social occasions outside the formal framework of the seminars where the pressure of representing a public position was removed.

Although the organisers of the event cannot claim responsibility, the timing of the event also proved judicious in more ways than one. The STWG meeting at the end of June coincided with major developments inside Kosovo/a. The Constitutional Framework had only recently come into power and UNMIK had altered its administrative structure with the creation of a new pillar for justice and the police (Pillar I). This brought the subjects of the STWG meeting in Pristina and the subsequent training event in Flensburg closer to the participants and gave their activities more immediate relevance.

On the other hand, participants felt that the programme had been too intense and that too little time had been set aside for leisure activity. The question of the availability of materials was also raised and it was felt that the study material, documents and seminar handouts had not been supplied sufficiently in advance of the training

workshop. There was also criticism that the translation of documents into minority languages had not been adequately provided.

Another observation was that more could have been done to ensure minority participation in the training event. There was also a feeling that greater effort should have been made to ensure the participation of local experts as well as internationals.

Many of these criticisms are valid and arise not merely as a consequence of the huge practical and logistic problems involved in undertaking such an initiative but also from attempting to undertake a project of this nature in Kosovo/a. Some of these problems are outlined below.

With regard to the training programme, however, it must be acknowledged that the agenda had been demanding. In the desire to make the most of a rare opportunity to take Kosovars out of their normally deeply politicised environment and make the training event cost effective, the organisers had designed a programme that proved both challenging and arduous to all concerned. This was acknowledged in the final evaluation session on Sunday. It was noted that for future training events the provision of leisure time and study periods would be taken into account and given sufficient weight in the programme. This is an area that was perhaps neglected in light of the need to foster personal as well as professional relationships across ethnic divides.

#### *Practical problems encountered*

Undertaking a project of this nature necessarily entails encountering a number of problems and obstacles. Ensuring the participation of even one minority representative in a meeting or training session is no easy task. Protecting minority groups against threats to their lives remains an ongoing concern in Kosovo/a. Guaranteeing the safety of a number of participants from minority groups in meetings or training events therefore entails setting in motion a complex train of procedures for ensuring the adequate provision of security arrangements. As ECMI is not part of the UNMIK/OSCE structures, it has no direct access or entitlement to close protection facilities or safe transportation. ECMI has therefore often had to rely on the good will and commitment of the participants as well as the goodwill of UNMIK

representatives supportive of the venture. After developing contacts with UNMIK and the office of the SRSB, ECMI has now managed to ensure the adequate provision of a secure venue and safe transportation.

Nevertheless, the organisers of such events necessarily operate under a certain level of risk. Communicating and liaising with Serbian participants in their own language remains hazardous and safe channels have to be established to do this. There are also risks to local staff of association and stigmatisation. In addition, there is the ever-present risk of operating in a volatile region.

For the training event in Flensburg, visas for the participants had to be arranged through the German Embassy in Skopje. As the situation in Macedonia deteriorated, Kosovar Albanians were unable to travel to Skopje themselves. An international intermediary therefore had to be found, which would take this task in hand. Luckily, the German Mission in Pristina kindly intervened and executed this task through diplomatic channels. Nevertheless, this procedure is time consuming and dependent on developments in the region. It was therefore uncertain right up until the last minute whether some participants would receive their travel documents in time. This was particularly the case with members of the PDK party, who have so far only been issued with temporary travel documents.

Escorting endangered participants through public places also adds to the risk. Here the possibility of association is increased and special channels have to be put in place to ensure the safe passage of endangered participants. For these participants to take part in the training event in Flensburg, a member of ECMI had to be deployed to the region to facilitate coordination and liase between the security and airport authorities as well as accompany the Serbian participants onto the plane.

In addition to the provision of security and travel arrangement, there is also the problem of providing participants with adequate background materials for their activities. Documents are often only available in English. There is no official Albanian or Serbian translation of the Constitutional Framework, for instance, let alone Turkish. Where documents do exist in translation, these are often inconsistent or only available in one of the official languages. As Turkish is not counted as one of

the official languages outside certain municipalities in Kosovo/a, there is a scarcity of Turkish language documents. Often international organisations, such as the Council of Europe, have taken it upon themselves to provide translations of important documents. As Turkey is, however, not a member of the Council of Europe, there is no provision made for translation into this language.

#### *Evaluation of the training module*

Immediate evaluation of the training event was effected in several ways. A number of ECMI staff observed the proceedings of the seminars and took part in behind the scenes activities. In this way, the organisers evaluated the responses of the participants as they occurred and attended to developments immediately. The organisers also interacted with the participants during the coffee breaks and at meal times, and engaged them in informal soundings. Immediate feedback was also channelled through the ECMI Regional Representative and Local Assistant, who accompanied the Group on their journey to and from Kosovo/a.

Formal evaluation was achieved through a roundtable discussion at the closing session of the training event as well as through the distribution of an anonymous questionnaire in the relevant languages. The overall evaluation of the training event was highly positive, nearly all participants awarded top marks for the quality and usefulness of the seminars. The design of the programme and organisation of the event were also highly praised. The atmosphere of the training event was congenial throughout and the social events that had been organised for the group proved extremely effective in generating closer relationships between members of the group.



#### **e. Recommendations**

The following recommendations have evolved gradually through a process of discussion and consultation between members of the STWG and between members of the Steering Committee on the Judiciary. They have been developed in response to concerns articulated during these discussions and concerns expressed during the STWG session on the administration of justice. Further recommendations and suggestions were generated during the training seminars in Flensburg, outlined above, and these have been incorporated below.

## RECOMMENDATIONS

### *On the Unity of the Judiciary*

- The common goal must be to build a society in Kosovo/a that is based on the uniform acceptance of democratic standards and the rule of law.
- To ensure the stability of the legal system, the promotion of the rule of law and the realization of equal justice for all, the establishment of a unified system is crucial.

### *On Professionalising the Judiciary*

- In order to sustain the conditions required to engender a professional and independent judiciary, a comprehensive and coordinated strategy of high-quality training for all levels of judicial personnel needs to be implemented. This should include:
  - The provision of continuous, on-the-job training in an appropriate language for established judicial personnel as well as those just starting out;
  - The creation of a structured framework of education, with the involvement of professional bodies and NGOs, and with integrated mechanisms for the transfer of knowledge;
  - The extension of compulsory and comprehensive training in the applicable law of Kosovo/a to international judges and judicial personnel;
  - The adoption and implementation of a discernible time plan to achieve this strategy.
- To support the judicial system and the just application of law, the international agencies should also collaborate with the professional bodies of Kosovo/a and present a programme for the establishment of forensic and other court services. Efforts by judges to organise themselves into a lobby group should be supported and commended.
- The selection of judges and admission of lawyers to the Bar should be performed exclusively according to criteria of competence and meritocracy.

The process of qualification should be designed with the appropriate involvement of professional and university bodies in Kosovo/a.

- International efforts should focus on increasing the status and salary of all members of the judicial services, and especially judges, as an anti-corruption measure. Provision for this and for maintaining an adequate level of judicial services should be foreseen in the Consolidated Budget for Kosovo/a.
- More vigorous steps should also be taken to guarantee the safety of judges and judicial officials.

#### *On Ensuring Independence of the Judiciary*

- To safeguard the independence of the judicial process, and particularly in regard to fair trial and human rights standards, executive interventions ought to be avoided.
- Where such interventions take place, they should be executed according to international standards and only for an interim period; the reasons for doing so must be principled, consistent and transparent.
- The international agencies must live up to their own obligations and ensure as a priority an adequate mechanism of appeal for challenging executive decisions.

#### *On Increasing Transparency and the Adequate Provision of Information*

- To ensure the proper implementation, and increase popular understanding and acquiescence to laws, more effective steps should be taken to improve the transparency and availability of legal information.
- A public information campaign should be launched on television, radio, through the production of free leaflets as well as through local newspapers to keep the general public informed about the structure and function of the judicial system.
- There needs to be a clearer and more realistic acknowledgement of the inadequacies of existing translation facilities and the keeping of court records, including witness statements. Adequate resources and funding should be

allocated to improving these services, possibly through the use of competitive tendering.

- The appointment of an official courts spokesperson should be investigated, providing he operate subject to recognised standards of privacy and security.
- The establishment of citizens' advice bureaux and helplines, in collaboration with NGOs, should be explored as a means of furnishing easy and equitable access to legal advice and services.
- There is also a clear need to set up a widely accessible electronic database of legal information holding information on applicable law, court decisions and orders as well as international standards and judgements relevant to the application of human rights.
- Urgent steps should be taken to establish such an electronic data processing system to forestall a backlog of cases.

#### *On Improving Cooperation and the Provision of Services*

- The international implementation agencies should make more intense efforts to strengthen cooperation between the courts and the enforcement agencies.
- Areas of particular concern are the inadequate provisions for serving of summons, protection of witnesses and the execution of court orders.

#### *On Compliance with International Human Rights Standards*

- Moves to bring all aspects of the administration of judicial services in line with universal human rights standards should be a central goal of policy-makers.
- Specialised training programmes in human rights should be made available for all judicial personnel, either through the Office of the Ombudsperson, NGOs or other channels.
- Fostering a culture of human rights through public awareness campaigns and through ensuring the compliance of court decisions with human rights principles would raise public confidence and establish trust in the legal system across communal divides – an essential element for ensuring equal access to justice.

*On Guaranteeing Pre-trial, Fair Trial and Post-trial Human Rights*

- Without the comprehensive application of human rights provisions in all phases of criminal procedure – trial, pre-trial and post-trial – the establishment of a human rights culture in Kosovo/a would be illusory.
- Particular attention needs to be paid to the provision of adequate defence counsel, trial conduct and the provision of safe premises for endangered minorities
- Attention also needs to be focused on ensuring the provision of judicial review of decisions to detain within a discernible period of time.
- There is also a clear need for the translation of all documents and proceedings into a language the defendant can understand, this includes expediting the communication of grounds for arrest.
- Attention to the treatment of prisoners should be heightened in the public conscience. Public participation and NGOs should be supported monitoring the state of the prisons, through the establishment of an official visitors programme.
- Greater consideration should be paid to exploring alternative modes of sentencing for minor offences, and procedures for parole should be improved to make them more reliable and objective.

## APPENDIX

### 1. Programme of the Third Meeting

*Saturday, 30 June 2001*

TIME	ACTIVITY
9.00-9.45	<b>Introductory Remarks</b> <ul style="list-style-type: none"> <li>○ Presentation of background paper</li> <li>○ Brief presentation UNMIK: general overview of implementation agency policies – successes, failings and constraints.</li> <li>○ Preliminary remarks on unity of the judiciary in Kosovo/a</li> </ul>
	Coffee Break
10.00-11.00	<b>First Plenary Session:</b> <ul style="list-style-type: none"> <li>○ Professionalisation and independence of the judiciary</li> <li>○ Training and provision of facilities</li> <li>○ International monitoring and relations with international judicial structure</li> </ul>
	Coffee Break
11.15-12.45	<b>Second Plenary Session:</b> <ul style="list-style-type: none"> <li>○ Cooperation with the Executive</li> <li>○ Provision of practical facilities</li> <li>○ Enhancing conduct of court proceedings: communication of summons, witness protection and execution of court orders</li> <li>○ Role of the courts in improving overall security in Kosovo/a</li> </ul>
12.45-14.00	Lunch
14.00-15.00	<b>Third Plenary Session: Human Rights in the Judiciary</b> <ul style="list-style-type: none"> <li>○ Ensuring compatibility with and awareness of international human rights standards</li> <li>○ Equal access to judicial services</li> <li>○ Guaranteeing fair trial, pre-trial and post-trial human rights</li> </ul>
	Coffee Break
15.00-16.00	<b>Working Groups 1 and 2:</b> <ul style="list-style-type: none"> <li>○ Working Group 1: First plenary topics</li> <li>○ Working Group 2: Second plenary topics</li> </ul>
16.00-18.00	<b>Dialogue with UNMIK, JIAS and OSCE</b>
19.30-20.30	<b>Closing Dinner</b>

## 2. Implementation Agency Representatives

Name	Agency	Status
Alexander Borg Olivier	Director of the Office of the Legal Adviser, UNMIK	Attended
Maurice de Thevenard	Senior Legal Officer, UNMIK	Attended
John Cubbon	Officer in Charge, Prosecution Services and Court Administration, UNMIK	Attended
Nekibe Kelmendi	National Co-Head of the Department of Judicial Affairs	Attended
Françoise Simard	Head of the Legal Office, Penal Management Section, Department of Judicial Affairs	Attended
Zait Xhemajli	Judge at the Supreme Court of Kosovo/a	Attended
Carsten Weber	Chief of Rule of Law Liaison, OSCE	Attended
Naser Peci	Legal office, Penal Management Section, Department of Judicial Affairs	Attended

Other implementation agency officials were invited to the session but owing to previous commitments were unable to attend. These were:

- Gary Matthews (Deputy to the SRSG and Head of Pillar I – Judiciary and the Police);
- Fernando Castanon (Co-Head of Judicial Affairs);
- Colonel van den Elsen (KFOR Legal Office);
- Colette Rausch and David Marshal (OSCE Rule of Law Department).

Two further internationals attended the session as observers: Benjamin Allen (Senior Rule of Law Advisor, USAID) and Lothar Rieth (Office of the Ombudsperson).

## VII. PROJECT OUTLOOK

Unlike projects aimed at supporting fragile democracies through the provision of physical infrastructure, there is seldom much visible outcome from initiatives such as the Kosovo/a Civil Society Project. The promotion of democratic reform and capacity building normally bears little concrete return on investment. The activities of the Standing Technical Working Group over the first half of 2001, however, belie this claim. The STWG initiative has thus far generated a great deal of enthusiasm from all sectors of Kosovo/a society and garnered the widespread support of the highest levels of the political parties, the implementation agencies and the donor community.

Much of the success of this project ultimately lies with the willingness and ability of its participants to carry out the concrete tasks of preparing the ground for civil society to flourish. Reflecting on progress so far, the organisers of the project can nevertheless declare themselves quietly optimistic. The progress of the STWG and its dialogue with the international implementation agencies has evolved at a greater pace and level of involvement than the organisers had first anticipated. The Group's activities over the year have extended beyond the formal framework of the meetings and there is a growing eagerness amongst the Group members now to see tangible results from their deliberations. One way of ensuring progress will be through further supporting the activities of the Steering Committees, which have now in the process of establishing themselves as authoritative channels of consultation and transaction between the STWG and the relevant offices of the implementation agencies. This process will be ongoing.

To monitor developments, the organisation of a larger high-level event is envisaged for December. Here, the members of the Group will be able to elicit feedback from UNMIK and the other implementation agencies on the topics addressed over the year. In the meantime, the Group will seek to build on its competencies and increase its knowledge base by undertaking two further meetings later in the year. These will address the issues of economic development and sustainability, and the question of property disputes and ownership. (A work plan of the STWG's activities in 2001 can be found in Annex A.)



Interest in the activities of the STWG has also grown within the ranks of the international implementation agencies, the international missions in Kosovo/a and the donor community. To build on this support, ECMI is exploring possibilities of creating further channels of cooperation between the members of the STWG and these bodies.

ECMI is therefore actively exploring opportunities and initiatives for supporting more training sessions and capacity-building exercises both inside and outside Kosovo/a. One area where active work needs to be pursued is in the field of language training. Many members of the Group are hampered by their inability to communicate in English, or even in Albanian in the case of minority groups. This exacerbates their feeling of exclusion, and engenders a feeling of impotence – not only at being unable to communicate confidently with international officials but also at the inability to keep themselves adequately informed of developments in Kosovo/a. Another area where attention should be focused is in developing the skills and techniques of political representatives in meaningful negotiation and debate. Through continual observation of the Group's activities, it is apparent that there are significant weaknesses in the participants' understanding of how to plan and conduct negotiations as well as lead debates. Failure to address this issue quickly could undermine effective political progress once the Assembly is in place.

ECMI is exploring possibilities of initiating spin-off projects in these two areas. The British Council will soon be establishing an English-language programme at its base in Pristina. The priority of this programme is to enhance the English-language skills of political representatives and ECMI is investigating collaboration in this programme through members of the Group. ECMI is also exploring ways of enhancing the negotiation skills of the Group. Contacts with the Conflict Management Group, an offshoot of the Harvard Negotiations Project have been established. In addition to this and in light of the resounding success of the training event in Flensburg, ECMI will be looking to add to its existing training agenda by initiating training and capacity-building seminars in the areas of economic sustainability and development. With all of these initiatives, a definite arrangement can only be put in place once the remaining elements of funding have been confirmed.

To address these issues and support the future development of the project, ECMI is looking to supplement its local office with the employment of an international staff member. It is envisaged that this addition could facilitate the development, coordination and implementation of projects as those outlined above as well as generate channels of cooperation between the Group and international organisations. Nevertheless, ECMI will also seek to further expand its network of local actors, and increase the involvement of local academics as consultants on the project.

As the engagement with the locals grows and members of the Group grow eager to apply their knowledge in concrete situations, the activities of the project will, however, need to adapt to accommodate for these developments. This is particularly pertinent in the light of the forthcoming Assembly elections in November.

The elections in November and the establishment of an Assembly will certainly change the parameters of the Group's activities. A number of the participants will almost certainly be elected into positions of governmental administration and the involvement of the international community in the decision-making process will gradually be transferred to local actors. Nevertheless, ECMI's function as an intermediary still remains high.

Discussions about the future direction of the project were initiated at the closing session of the training event in Flensburg. ECMI will continue to monitor opinion on this matter and develop the project accordingly. Given the continued need for an active civil society forum in Kosovo/a, it is hoped that this will take place by preserving some elements of the present format of the STWG i.e. to contribute to dialogue, improvement in governance and democratic accountability. Another option being explored is the idea of transforming the STWG into a public policy "think-tank", to facilitate the analysis of policy options, organise training workshops and provide for the documentation and dissemination of information. This civil society forum could be used as a base outside normal government channels for exploring and generating informed policy options between government representatives and non-governmental actors.

## ANNEX A

### a. STWG work plan 2001

STANDING TECHNICAL WORKING GROUP: WORKING PLAN 2001						
Wk	July	August	September	October	November	December
I						
II	Judicial Services & Human Rights: Training Session, Flensburg, Germany (12-15/07/01)				Assembly Elections	Sixth STWG - Review of STWG Activities for 2001 (08-09/12/01)
III			Fourth STWG - Economic Development and Sustainability (22/09/01)	Fifth STWG - Ownership and Property Issues (20/10/01)		
IV		Reconstruction of Health System: Training Session, WHO Geneva (26-30/08/01)				

### b. Participants in the STWG

The list that follows has been developed by ECMI since October 2000. Additional names have now been added at the suggestion of those who participated in the constitutive meeting. A few others committed themselves to participation in the session, but were unable to attend for practical reasons.

For future meetings, the list of permanent members will be supplemented by NGOs or individuals from Kosovo/a who can make a contribution to the specific issue under review at a particular session. There may be as many as ten such individuals per session. For the next topic, the provision of judicial services in Kosovo/a, efforts have already been made to identify and secure the participation of the appropriate local

NGOs and practitioners or academics who can assist the STWG in its deliberations on this matter.

Key: Numbers denote attendance at the respective sessions

T1 = Training workshop on Judicial Services and Human Rights

T2 = Training workshop on Health Care

**Political Party Representatives**

<b>Name</b>	<b>Affiliation</b>	<b>Ethnicity</b>	<b>Attended</b>
Hysni Bajrami	PDK	Albanian	1, 2, 3, T1
Mevludin Krasniqi	PDK	Albanian	1, 2, 3
Ruzhdi Hamza	PDK	Albanian	1, 2,
Valon Murati	LKÇK	Albanian	1, 2, 3, T1
Izet Sadiku	LDK	Albanian	1, 2, 3, T1
Ilir Salihu	LDK	Albanian	1, 2, 3
Besnik Osmani	LDK	Albanian	1, 2, 3
Fikrete Zajmi Kadriu	PRK	Albanian	1, 2, 3, T1
Bekim Zhubi	PSDK	Albanian	2,
Gafurr Podvorica	PLK	Albanian	1, 2, T1
Mikel Mirakaj	PLK	Albanian	2, 3, T1
Nazmi Halimi	PSHDK	Albanian	1, 2, 3, T1
Gjylnaze Syla	AAK	Albanian	1, 2,
Blerim Tafilaj	AAK	Albanian	1,2, 3,T1
Vetima Krasniqi	AAK	Albanian	1, 2, 3, T1
Mehmed Ćeman	BSDAK – Istok	Bosniak	2, 3, T1
Ruzdija Krijestorac	Member of the Executive Council, Party for Democratic Action (SDA)	Bosniak	P, 3, T1
Nebahat Doğan	KTHP	Turkish	1, 2, 3, T1
Şerafettin Ömer	Vice-president of TDB	Turkish	1, 2, 3, T1
Bislim Hoti	Albanian-Egyptian Council	Egyptian	P, 3
Sabit Rrahmani	PDASHK	Ashkaeli	1, 2, 3
Nexhmedin Sejdiu	TMK	Albanian	1, 2, 3, T1
Gani Toska	President, Roma Association of Kosovo/a, Pec/Pejë	Roma	1, 2, 3, T1

Nenad Radosavljević	Mayor and director of Radio 'Mir' (Peace)	Serbian	1, T1
Slavisa Kolašinac	Mayor of Upper Rahovec	Serbian	1,
Dragan Velic	Member of the Serbian National Council	Serbian	2, 3, T1
Rada Trajkovic	Member of the Serbian National Council	Serbian	2

### NGO Representatives

Gjylieta Mushkolaj	Executive Director, Kosova Institute for NGO Law - Member of Committee for Bar Examination	Albanian	2, 3, T1
Halit Ferizi	HANDIKOS (Replacements: Afrim Maliqi, Dr Nexhat Shatri)	Albanian	2, 3
Fisnik Halimi	Kosova Action for a Civil Initiative (KACI)	Albanian	1, 2, 3, T1
Arbnor Pula	Project Director, Forum for Democratic Initiatives (FID), Gjakovë	Albanian	1, 2, 3, T1
Mirlinda Kusari	Shoqata Afariste e Gruas (SHERA)	Albanian	3, T1
Visare Aliu	President 'Youth Vision'	Albanian	1, 2, 3
Bersant Disha/ Artan Venhari	Programme Coordinator, Kosova Institute for Democratic Society (KIDS)	Albanian	2, 3, T1
Ibrahim Makolli	KMDLNJ	Albanian	1, 2,
Ted Orlin, Enver Hasani	Human Rights Center (Universty of Pristhina)	Albanian	1, 2, T1
Fatmire Lutolli	Jehona	Albanian	2,
Luan Shllaku	KFOS/OSI	Albanian	P
Suzana Arni	Minority Officer, Kosovo/a Foundation for Civil Society (KCSF)	Albanian	2, 3, T1
Bayram Rogova	SHEFKAT	Turkish	1, 2, 3

Agim Hyseni	Democratic Hope/Shpresa Demokratike	Ashkaeli	
Fahredin Tahiri	ZAMAN	Bosniak	1, 2, 3
Petar Jeknic	Independent Media Group, Pristina	Serbian	2, 3
Blagoje Radić	Humanost na Delu, Director (Rahovec)	Serbian	2, 3
Radmila Djordjevic	MARAS, Leposavic	Serbian	2, T1

**c. ECMI staff**

The following members of the ECMI staff operate in support of the Sessions:

<b>Name</b>	<b>Position</b>	<b>Expertise</b>
Marc Weller	ECMI Director	Ten-year involvement in the Kosovo/a issue, legal advisor to a delegation at Rambouillet, author/editor of 3 volumes on Kosovo/a, lecturer in the University of Cambridge
Graham Holliday	ECMI Research Associate Balkan Projects Coordinator	MA in Political Science, MPhil in International Relations, University of Cambridge
Leon Malazogu	ECMI Regional Representative, Pristina	MA in Conflict Resolution, Notre Dame University. Formerly Associate for the Project on Ethnic Relations and author of various articles on Kosovo/a
Camille Monteux	ECMI Visiting Researcher	MA in International Studies & Diplomacy, School of Oriental and African Studies, London University
Donika Krasniqi	ECMI Local Assistant	

Two former senior members of UNMIK, Dr Karin von Hippel now of the Centre of Defence Studies, London; and Professor Andrew Michels now of De Paul University, Chicago, have been employed to act as Senior Consultants on this project.

In addition, ECMI employs six local translators for this venture (Albanian, English, Serb). Every effort has been made to provide translation into Turkish, but so far to no avail. The cooperation of the Turkish minority has now been enlisted to address this

situation, and renewed efforts are underway to ensure Turkish translation at future events.

#### **d. List of experts**

The experts below have been identified and selected to provide as wide a spectrum of expertise as possible. The list is made up of international experts as well as experts who are indigenous to Kosovo/a. This list has also been designed to include specialists who have particular knowledge of issue areas explicitly identified by the Steering Committees during their deliberations, as well as those who can more profitably comment from a general perspective. In addition to the experts who were able to attend the meetings and training events, ECMI has sought the advice and help of numerous specialists who have pronounced themselves in favour of supporting this venture. In an attempt to establish a systematic network of advisory services across a number of policy areas, ECMI is in the process of developing a directory of experts on whose services it can draw for its future activities.

#### **Civil Registration and Documentation**

<b>Name</b>	<b>Affiliation</b>	<b>Area of specialist knowledge:</b>
Dr Karin von Hippel	Senior Research Fellow, Centre for Defence Studies, King's College London.	Former member of UNMIK responsible for minority issues
Professor Andrew Michels	Visiting Professor in Human Rights and International Organisations, Loyola, Marymount University	Problems of civil registration, recording of vital statistics, ID card and travel documents issuance
Frank Adam	Lawyer, Election Department of Hungarian Ministry of Interior - Central Data Processing, Registration and Election Office	Problems of civil registration and ID documents issuance

Two other local experts were invited to the constitutive session, but withdrew at short notice.

Tommaso De Cataldo	Project Officer, International Organisation for Migration	Registration problems of migrants and IDPs without ID or travel documents.
Bruno Fondi	Italian border police/ UNMIK border Police Chief of Personnel and Administration	Travel documents regulations, documentation forgery.

### Reconstruction of a Health System and Access to Health Care

Name	Affiliation	Area of specialist knowledge:
Neshad Asllani	Kosova HR	Secondary and tertiary health care
Jim Campbell	Project Manager, DFID Institute for Health Sector Development,	Primary, secondary and tertiary health care
Mateja Kozuh Novak	Minorities Officer, WHO	Minority access to health
Paula Sansom	Programmes Director, International Medical Corps	Health education
Erik Schouten	Head of Mission, WHO Pristina	Drug abuse
Tycho Vuurmans	Medecin du Monde, Medical Coordinator	Secondary and tertiary health care
Anthony Zwi	Head of Health Policy Unit, London School of Hygiene & Tropical Medicine	Reconstruction of health systems in war-torn societies

### Judicial Services

Name	Affiliation	Area of specialist knowledge:
Jian Bani	Former OSCE Human Rights Officer, Bosnia-Herzegovina – now Schalast & Partner, Frankfurt	Pre-trial and fair trial human rights guarantees
Ismet Salihu	University of Pristina	Criminal law
Andrew Michels	Professor of International Law and Human Rights, De Paul University, Chicago	Human rights and international human rights provisions
Blerim Reka	Kosovo Law Centre	International standards
Gregory Gisvold	ABA/CEELI Country Director Kosovo, Montenegro	Equal access to legal services in war-torn societies



Lirie Osmani	Professor of Penal Law, University of Pristina	Penal law
Brian Doran	DPK Consulting, Chief of Party, Court Administration in Kosovo Project	Administration of judicial services
Vincent de Wilde	Former trainer with Danish Centre for Human Rights - Rwanda	War crimes and mechanisms of reconciliation

**e. A note about ECMI**

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

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

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

A third area is ECMI's active involvement in constructive conflict management, in projects ranging from the Baltic republics to the Balkan states of South Eastern Europe. In the latter region, ECMI maintains three small regional offices in support of its project activities.

ECMI was founded in 1996 by the governments of Denmark, Germany and Schleswig-Holstein. It is a non-partisan and interdisciplinary institution, which can draw upon an international core staff of the highest calibre, supplemented by a number of senior non-resident associates, visiting fellows and summer research associates from all over Europe and elsewhere, bringing the total number at any one time to around 20. The Centre also maintains active relations with other institutions involved in conflict resolution and inter-ethnic relations and engages in collaborative projects with them.

While its core funding is provided by its governmental sponsors, the Centre actively pursues project-based funding to support its rapidly expanding activities. ECMI has attracted funding from the Carnegie Corporation of New York, the European Union and the Council of Europe, several European Ministries for Foreign Affairs and a number of other major foundations.

ECMI occupies a historic building in the centre of Flensburg, where it holds meetings and conferences. The building also houses its specialized library and provides the hub for ECMI's ambitious publishing projects and Internet information programme. This includes the publication of the Internet Journal on Ethnopolitics and Minority Issues in Europe (JEMIE), the launch of the European Yearbook on Minority Issues, and a dedicated series of Studies, monographs and handbooks covering ECMI's areas of interest. These activities are supported by a dedicated IT and library team and a small publications office.