

# **KOSOVO\***

## **TECHNICAL BACKGROUND PAPER RULE OF LAW SECTOR**

1 July, 2008

This technical background paper has been produced by external experts funded by the European Commission, in consultation with other donors, and the Kosovo authorities.

The paper is intended to inform discussion at the 11 July Kosovo Donors' Conference by providing further information on this sector. The paper also aims to facilitate improved donor co-ordination and aid effectiveness at a sectoral level after the Conference.

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## Abbreviations and Acronyms

ABA/CEELI	American Bar Association/Central and East European Law Initiative
BBP	Border and Boundary Police
BCP	Border Crossing Point
CARDS	Community Assistance for Reconstruction, Democratisation and Stabilisation
CARPO	CARDS Regional Police Project
CCTV	Closed Circuit Television
CoE	Council of Europe
DFID	Department for International Development (UK's international development instrument)
EC	European Commission
ESDP	European Security and Defence Policy
EU	European Union
fYRoM	former Yugoslav Republic of Macedonia
ICITAP	International Criminal Investigative Training Assistance
IPA	Instrument for Pre-accession Assistance
ISDN	Isolated Subscriber Digital Network
KAAC	Kosovo Anti-Corruption Agency
KFOR	Kosovo Force
KJC	Kosovo Judicial Council
KJI	Kosovo Judicial Institute
KPS	Kosovo Police Service
MIA	Ministry of Internal Affairs
MoJ	Ministry of Justice
NCSC	National Centre for State Courts
OSCE	Organisation for Security and Co-operation in Europe
SDC	Swiss Agency for Development and Cooperation
SIDA	Swedish International Development Cooperation Agency
TA	Technical Assistance
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNMIK	United Nations Interim Administration Mission in Kosovo
UNOPS	United Nations Office for Project Services
USAID	United States Agency for International Development

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## 1. INTRODUCTORY REMARKS

Rule of law and respect of fundamental rights are at the heart of the political criteria for advancing towards the EU and a key condition for political, economic and social development. This paper examines the rule of law sector in Kosovo, an area where Kosovo's authorities are committed to improve the current situation. However, a number of measures remain to be undertaken which would improve the efficiency and effectiveness of the system. This paper highlights some of the most pressing needs and challenges in the rule of law sector in Kosovo in order to identify possible areas for international support.

The European Council of 19-20 June 2008 recalled the EU's commitment to play a leading role in ensuring the stability of Kosovo and reaffirmed the European perspective of the Western Balkans. In order to further develop the rule of law sector in Kosovo, the EU has pledged a civilian mission called "EULEX Kosovo" within the framework of the European Security and Defence Policy (ESDP), established by a Council Joint Action of 4 February 2008. EULEX Kosovo shall support the Kosovo authorities by monitoring, mentoring and advising within the broader rule of law area – in particular in the police, judiciary, customs and correctional services. This mission should foster a self-sustainable and accountable judicial and administrative system, based on European best practice and internationally recognised standards. EULEX Kosovo will also have some executive powers, in particular to investigate, prosecute and adjudicate serious and sensitive crimes in cooperation with the Kosovan authorities. Once it reaches full operational capability, the mission will have approximately 1.900 international staff, including police officers, judges, prosecutors and customs officials and around 1.100 local staff. Third countries (e.g. Croatia, Norway, Switzerland, Turkey, USA) also participate in the mission. Given the broad mandate of EULEX Kosovo, consultations of possible donors with the Mission will be needed concerning certain recommended projects. A list of projects in which EULEX Kosovo could be involved itself can be found at the end of this document.

EULEX Kosovo will fulfill its mandate in full cooperation with the EU Assistance Programmes. The European Commission already implemented significant project funding to strengthen Kosovo's institutions, foster its socio-economic development and advance regional integration. It will continue reform through regular policy and technical dialogue in the context of the Stabilisation and Association Tracking Mechanism to foster Kosovo's advance towards European standards.

This document is based on a fact finding, needs assessment and cost estimation mission of two independent experts to Pristina from 20 to 27 April 2008 which also takes into account the contributions of the Kosovan authorities (Ministry of Justice, Ministry of Internal Affairs). The report gives a short overview of different aspects in the rule of law area, namely the sectors borders and boundaries, judiciary, police and anti-corruption, and tries to identify the main challenges in the future. In chapter 2 of this paper, background information is provided concerning the four above mentioned sectors. Chapter 3 summarises past, present and future interventions of international donors. Chapter 4 identifies important challenges ahead in these fields and finally suggests concrete projects for investment.

## **2. SECTORAL BACKGROUND INFORMATION**

### **2.1. BORDERS AND BOUNDARIES**

In the area of border/boundary control basic structures exist, but need to be strengthened and further developed. The outer borders/boundaries of Kosovo (border-/boundary length to Albania – 150 km, to the former Yugoslav Republic of Macedonia (fYRoM) – 140 km, to Montenegro – 70 km, to Serbia – 245 km) are neither clearly determined, nor respectively marked. The border is not controlled in a systematic manner. A particular point for attention is the boundary with Serbia in the North.

Since 1999, the United Nations Interim Administration Mission in Kosovo (UNMIK) preserves the ultimate responsibility as regards the Border and Boundary Police (BBP). The competence of the BBP is essentially limited to border crossing points. On the green border the Kosovo Force (KFOR) is acting, but it understands itself as being responsible only for the military safeguarding of the border/boundary. The BBP is structured and organized as follows:

- BBP Headquarter
- Regional Command of the BBP North, East and West
- Border Crossing Points (BCPs):
  - 2 BCPs to fYRoM
  - 3 BCPs to Albania
  - 1 BCP to Montenegro
- Sub-stations (temporally restricted opened BCPs)
- 6 Gates on the administrative boundary-line to Serbia
- BCP Pristina International Airport

The BBP is a service within the Kosovo Police Service (KPS) and thus subordinated to the Ministry of Internal Affairs (MIA). BBP-related matters are dispersed within the MIA, and – because of the subordination to the Department for Border, Asylum and Refugees – are not connected with the Department for Public Security and Development, which is competent to deal with police matters. However, discussions about a reconfiguration of the hierarchical structure are ongoing.

The present number of personnel amounts to about 1.200 BBP staff, including the civil employees. An increase of the number of staff seems indispensable to complete successfully of the police tasks set. The remuneration of the BBP personnel remains modest, and they do not benefit from social or legal protection.

The current educational and training situation of the BBP is a good basis; however, it needs intensification in all fields and areas. Concerning its equipment, the available data base is neither adequate nor compatible with European standards. Telecommunication connections are also only sporadically available to some offices, and this makes the communication almost impossible.

Based on the preceding description, the protection of borders/boundaries cannot currently be fully guaranteed. The number of illegal border/boundary crossings, especially at the green border, continues to be high.

## 2.2. JUDICIARY

Kosovo's regular court system is composed of 26 municipal courts, 5 district courts, the Commercial Court of Kosovo and the Supreme Court. The minor offences court system includes 26 municipal courts of minor offences and the High Court for Minor Offences. According to July 2007 statistics from the Kosovo Judicial Council (KJC), the judiciary had 322 judicial positions with 301 serving judges, including 13 judges serving on the Supreme Court, 4 judges on the Commercial Court, 5 judges on the High Court for Minor Offences, 49 judges on the district courts, 141 judges on the municipal courts and 89 judges on the minor offences courts.

Municipal courts operate in each of Kosovo's municipalities and serve as courts of first instance for criminal offences punishable by sentences of up to 5-years imprisonment, for property and labour disputes, inheritance matters and other civil matters. Municipal courts generally adjudicate in panels of one professional and two lay judges. Criminal offences punishable by a fine or by imprisonment of less than 3 years are considered by an individual judge.

District courts are located in each of Kosovo's 5 regional capitals, namely Pristina, Gjilan/Gnjilane, Peja/Peć, Prizren and Mitrovica. They hear appeals from the decisions of the municipal courts. They also serve as courts of first instance for criminal offences punishable by prison sentences of more than 5 years, major property disputes, divorce cases, intellectual property rights disputes and other matters. First instance panels generally consist of one professional and two lay judges. Panels of two professional and three lay judges hear cases punishable by imprisonment of more than 15 years, as well as appeals from the municipal courts.

The Commercial Court is situated in Pristina and has a Kosovo-wide first instance jurisdiction over disputes between private business entities, bankruptcy proceedings and certain commercial criminal offences.

The Supreme Court of Kosovo is the highest body in the regular court system. It operates as a third instance appellate court in a limited number of criminal cases; e.g., it hears appeals from district court decisions on appeal from municipal courts. The Supreme Court also hears direct appeals in cases originating in the district courts and serves as a court of first instance for extraordinary matters and other matters as provided by law (e.g. administrative disputes). A special chamber of the Supreme Court, consisting of 2 Kosovo Supreme Court judges and 3 international judges, was established to resolve challenges to privatisation decisions by the Kosovo Trust Agency. The availability of jurisprudence of the Supreme Court remains scarce.

The Kosovo judicial system still faces substantial difficulties and the persistent weakness of the judiciary. At the same time, Kosovo is in midst deep changes with the new Constitution which entered into force on 15 June 2008. It is too early to determine which effects these changes will have on the judiciary.

There is a lack of trust by the population in the judicial system due to delays in adjudications. One main deficiency of the Kosovo judicial system is its limited budget. **Courts and prosecution offices** suffer from insufficient staff numbers, modest salaries, lack of training and poor infrastructure. Since 2001, almost no new judges and prosecutors have been recruited; vacancies have only been filled by relocating judges and prosecutors. Court and prosecution buildings generally lack space and often there are insufficient trial and interrogation rooms. Judges (and prosecutors to a lesser extent) are generally overloaded and numbers have decreased since 1999. There is a reluctance to indict high profile criminal cases. Parallel courts continue to function in regions with a majority of Kosovo Serb inhabitants. Following Kosovo's Declaration of Independence on 17 February, many police and judicial Kosovo Serb administration staff refused to resume work.

IT equipment exists; however, the automated court management system is not used by the majority of the courts yet and more efforts are needed in this area. However, technical equipment in trial rooms is usually of a high standard. The existing statistics do not give a clear picture of the case backlog. There is no differentiation between backlog and pending cases and figures vary between 1.5 million and some 50.000 cases. The main areas of the backlog are in the field of civil justice and relate to property cases and the non-execution of judgements. A system of execution of civil judgements does not exist in practice. In the field of penal law up to 80% of the cases relate to the illegal possession of arms. Concerning court administration, it seems that the number of court administrative assistance staff is relatively satisfactory.

Cases are usually not allocated at random, but often simply by decision of the presidents of the courts and prosecution offices. International observers could not report any substantial violation of minority rights. However, equitable representation of non-majority communities in the judiciary has not been achieved yet. The length of the trial is a matter of serious concern, in particular if it involves people in detention. Judges switch division of cases between the municipal and district level remains problematic. The implementation of the code of ethics is weak, as judges have not received any instructions on the code. The capacities of the prosecution service to lead investigations are limited. The planned establishment of a judicial police inside the KPS should not lead to duplications with the already existing specialised police departments. Due to Kosovo's small size and to the limited possibilities for relocating witnesses outside Kosovo, the amount of evidence given by witnesses is still quite small, especially as far as war crimes cases are concerned.

As the Special Prosecution Office is still young and lacking local prosecutors, it could be appropriate to look at European models on specialized prosecution services. The successful models integrate prosecutors, police officers, specialists and clerks. This is even more appropriate in places where distrust between institutions is one of the main challenges to inter-institutional cooperation.

The Constitution created a constitutional court which adds to legal certainty and law interpretation. Hard copies of the Official Gazette are not always delivered to courts and prosecution offices in a consistent and timely manner. The absence of lawyer-linguists often results in contradictory versions of legal documents.

The **Ministry of Justice (MoJ)** is implementing a very ambitious agenda of important draft laws. Its administrative structure in relation to the tasks assigned persists to be weak. Despite a strategy for reforming the judicial system, no comprehensive plan to streamline the three systems of laws (ex-Yugoslav, UNMIK, Kosovan) has yet been identified. The MoJ seems aware of the problem and has presented plans for significant investments in the judicial system until 2011. Key competences such as international legal assistance remain under international control.

The **legal aid system** which was introduced Kosovo-wide in January 2008 via five district legal aid offices seems promising, but requires the strengthening of related capacities. The offices are difficult to access. The existence of such offices is not widely known by the population and even some judges are not aware of this system. First experiences indicate that more than half of the legal aid provided was for administrative cases. Staff in the legal aid offices are committed despite the difficult working conditions.

The new law on **mediation** was adopted on 19 May 2008. Implementing provisions as well as human resources for its implementation are still missing. The law will potentially alleviate the courts workload. The understanding of mediation is weak among judges. The law seems to focus on a concept of mediation involving the judge as a mediator. The draft law on notaries provides for the resolution of minor cases by notaries.

**Legal education** would need a thorough revision of curricula and more accessible preparation for the Bar exam: The overall quantity of students educated each year seems to be satisfactory. However, the quality of training (curricula, teaching staff, premises) is insufficient. Furthermore, only a small number of students are admitted to practical courses crucial for preparing the bar exam. For the 700 students having passed the bar examination between 2001 and 2007 there is no prospect of joining the profession of judge or prosecutor.

The **Kosovo Judicial Institute (KJI)**, which is in charge of training for judges and prosecutors, recently expanded its curricula for both pre-appointment and continuing legal education courses for judges. The KJI is starting a new 15 months preparatory programme for judges and prosecutors, starting in autumn 2008. Preparations seem promising, but human resources remain scarce. The KJI has also devised new continuous vocational training courses which need to be implemented.

Another crucial step for introducing the stable and pertinent trial system is made by efforts on drafting the Law on Courts whereby the key features of the judicial system will be introduced. The judicial reform process based on the Kosovo Ministry of Justice Strategic Plan 2006-2011, its implementing Action Plan as well as the KJC Strategic Plan for the Kosovo Judiciary 2007-2012 has been launched. The reform comprises essential strategic goals such as establishing a strong legal and administrative framework for court organisation and operations, developing and implementing effective procedures for the appointment, development, promotion and discipline of judges, establishing effective procedures and practices for budgeting and financial management in and for the courts, eliminating case backlogs before the courts, implementing modern systems of communication and information management at the courts, to create an efficient and modern judiciary.

### 2.3. POLICE

The **Kosovo Police Service (KPS)** is the main body to enforce the rule of law in Kosovo. The KPS consists of approximately 8.000 officers at all levels. The KPS is in need of further capacity building in compliance with European standards and practices. Changes in the short term aim at approving the related legislation, including subsidiary acts. They would need to be implemented and developed further in the medium term. Equally, continuous training of staff is necessary, including on modern equipment. In addition, basic and specific equipment is heavily needed.

Despite efforts in the area of training, the KPS is still ineffective in investigating cases of serious crimes. The salary of KPS officers is modest. Mutual control between police and other actors of the law enforcement chain (prosecution, courts) should be strengthened.

Kosovo remains on a main traffic route for **drugs** to Western Europe. Few policemen are employed in this field. A special narcotics investigation unit in the directorate for organised crime of the KPS is handling drug-related investigations. This unit managed to seize some narcotics in 2007. The beginning of 2008 also saw positive results in confiscating narcotic substances and arresting several criminal groups. To fight drug-related crime, KPS capacity-building is planned through training, better equipment and more staff. There is no strategy or action plan to prevent and combat illegal drug-trafficking and the regional cooperation with similar neighbouring institutions in combating drug-related crime has to be improved.

Fighting **money laundering** is an issue demanding urgent attention. The legal foundation for the fight against money laundering and financing terrorism exists. However, no sentences have been handed down by the courts for money laundering. The administrative capacity of the KPS department for organised crime for dealing with money laundering is still weak. The wide range of actors dealing with money laundering and the lack of a clear distribution of competencies are hindering investigations and prosecution of money laundering offences. Communication between the KPS

economic crimes and corruption investigation section and the regional units is still insufficient and there is no common database.

Kosovo is still a destination and transit area for victims of **trafficking in human beings**. Overall, little progress has been made in this field. The implementation of relevant legislation in the field of trafficking in human beings is very weak. The diversity of structures and the lack of communication in the chain of investigation often lead to cases of alleged human trafficking not being followed up. The cooperation between central and regional units combating the trafficking in human beings needs to be improved. The MIA has initiated a draft Strategy for Combating Trafficking in Human Beings, an Action Plan for the Prevention of Drug Trafficking as well as a draft Strategy for the Collection of Small Arms.

## **2.4. ANTI-CORRUPTION**

Due to a lack of clear political will to fight corruption, and to insufficient legislative and implementing measures, corruption is still widespread and remains a major problem.

The independent Kosovo Anti-Corruption Agency (KAA), operational since February 2007, collects declarations of assets from high-level politicians and state officials. A Law on Declaration of Assets was approved by the Kosovo Assembly, but has not been implemented yet. Therefore, the declarations of assets are not yet published and the KAA has no possibility to check the validity of these declarations. The number of officials who have the obligation to declare their assets remains low.

The KAA has repeatedly had to defend its independence against political pressure. The KAA is still understaffed, but its budgetary allocation was increased in 2008 by 50%. The Agency is expected to produce a new comprehensive Anti-corruption Strategy. A new Action Plan will cover sectoral plans to fight corruption within the public administration as well as in civil society.

For applying disciplinary sanctions, the system relies strongly on the cooperation of the public institutions to which the public officials belong. So far public institutions have been reluctant to apply sanctions.

Several preventive instruments exist, such as the freedom of information law, declarations of assets, law on internal audit, rules on conflict of interests and incompatibilities. The revision and harmonisation of relevant legislation have started, but are far from being achieved. While improvements can be brought to the legal framework, the biggest challenge is with **the proper implementation of the existing laws**.

The judiciary and the law enforcement bodies lack specialized training, material resources and technical capacities to successfully investigate corruption. Future training should be inter-institutional in order to help develop a common language between all institutions involved. A general suspicion impedes efficient working relationships between various institutions, leading to limited sharing of sensitive data and ultimately favouring criminals.

### 3. SUMMARY OF INTERVENTIONS

#### 3.1. EU FUNDED

##### 3.1.1 Borders and Boundaries

Two **projects** under the EU Instrument for Pre-accession Assistance (IPA) aim to at a more effective structure and administration of the BBP within the KPS through institution building, legal drafting, equipment supply and infrastructure works.

Based on a feasibility study, a proposed € 3 million **IPA 2008 project** focusing on "BBP Equipment" will enable the BBP to control the complete borderline and the flow of persons in and out of Kosovo in particular through establishing an EU-compatible communication system and procurement of equipment for border controls.

Other IPA initiatives build on projects previously funded by the EU's **CARDS** (Community Assistance for Reconstruction, Democratisation and Stabilisation) instrument, to establishing an integrated border management strategy and supporting its infrastructure, including upgrading border posts (€ 3,7 million); and training of BBP officers to combat trans-national crime,

##### 3.1.2. Judiciary

A proposed € 3,6 million **IPA 2008 project** will support the "Legal Education System Reform". The higher legal education standards and qualifications in Kosovo will be improved by involving the Kosovo Judicial Institute, the Faculty of Law of the Universities of Pristina and Mitrovica, the Kosovo Chamber of Advocates and the Kosovo Law Centre.

A second proposed project under IPA 2008 (€ 2 million) will help the MoJ in Kosovo to approach EU standards. The project's purpose is to strengthen the administrative, policy making and legal drafting capacities within the ministry, enhancing the functioning of the justice system and reducing the backlog of cases in courts by setting up mechanisms for alternative dispute resolution and laying the foundation for a notary system.

A third proposed project under IPA 2008 (€ 4 million) to improve the penitentiary system will enable the Kosovo authorities to cope with a potential increase of the convictions in courts due to the readmission of an important number of persons with a criminal background from the EU Member States, thus minimising the risk for public security that emanates from these persons.

Past and ongoing EU projects funded under the **CARDS programme** are:

- establishment and support of a comprehensive legal aid system
- rehabilitation and modernisation of courts and judicial buildings (Dubrava, Prizren and Mitrovica prison facilities, enhancement of the prison capacity in the Lipjan Detention Centre),
- institution building of the training institute for Kosovo magistrates, the Kosovo Judicial Institute, **in collaboration with the Organisation for Security and Co-operation in Europe (OSCE)**
- training for the Bar Association together with **the OSCE, the Council of Europe (CoE), the American Bar Association/Central and East European Law Initiative (ABA/CEELI), the Kosovo Foundation for Open Society and the United States Agency for International Development (USAID)**
- support to the MoJ and the Kosovo Judicial Council
- support to the juvenile justice system **in cooperation with the United Nations Children's Fund (UNICEF)**

- establishment of the Kosovo Special Prosecutor's Office

An IPA 2007 project entitled 'Institution Building Project' supports capacity-building in legal drafting and expert support to draft and implement laws, regulations and policy advice. This covers all sectors, including Rule of Law.

The **Instrument for Stability** is contributing € 5 Million to support the process of vetting judges and prosecutors in Kosovo. The process will contribute to establishing an independent and professional judiciary and prosecution service to administer Kosovo's justice system in a professional and transparent manner, thus building public confidence and trust in the rule of law. This project is co-financed by the US Office and implemented by the United Nations Office for Project Services (UNOPS).

### 3.1.3 Police

Two **CARDS projects** support the establishment and development of the MIA by offering training and technical advice in order to build the institutional capacity of the ministry and the KPS.

### 3.1.4. Anti-Corruption

A €1 million **IPA 2007 project** is focusing on the development and enforcement of anti-corruption policies and legal framework, together with increasing public awareness.

**CARDS projects** include the financing of the Financial Investigation Unit to fight against fraud and financial crime, assisting the Financial Information Centre to combat money laundering, financing of terrorism and economic crime as well as the development of an Anti-Corruption strategy.

The EU is also funding the CARPO project (CARDS Regional Police Project) implemented by **the Council of Europe (CoE)** to develop a regional strategy against economic and organised crime.

## 3.2. OTHER DONORS

The KPS sub-sector (*police, borders*) used to be the largest recipient of bilateral donors' support until now. **USA, Germany, the Netherlands, Canada, Denmark, Japan and UK** support the capacity building efforts of KPS with different projects (specific equipment, forensics, training, community policing, anti-trafficking support, etc.). **France** provides technical assistance to interior security.

Concerning the *judiciary* and *anti-corruption*, **USA, Belgium, Canada, Germany, Finland, Switzerland and UK** are involved in the justice system reform – aiming at an effective and impartial justice system – by financing programmes to train judicial personnel, offering help in drafting new laws, providing equipment for court witness protection and strengthening the correctional service.

**USAID projects** include an initiative combating trafficking of human beings, support to the Justice System Reform and a programme for legal professional development (the latter through the **Organization of legal initiatives on Central Europe and Eurasia of the US Association of Lawyers (ABA/CELL)**). The USAID-financed project "Kosovo Courts Administration Reforms" has already been completed.

The **US-funded ICITAP** (International Criminal Investigative Training Assistance) Programme supports Kosovo's MIA, the KPS and BBP through the dispatching of advisors. ICITAP are financing

a Kosovo forensic laboratory and are planning to set up a Kosovo-wide IT system for the security enforcement agencies. ICITAP furthermore provides training of police and prosecutors in areas like anti-trafficking and financial crime investigations.

The **National Centre for State Courts (NCSC)**, **contracted by USAID**, is implementing a "Justice Sector Support Program" which includes key functions and organisations necessary to ensure an independent judiciary.

The **American Bar Association Rule of Law Initiative** currently focuses its work on the "Legal Education Reform". The **CoE** has supported the creation of the Kosovo Probation Service, the capacity building of the Kosovo Correctional Service and the Ombudsperson Institution.

A project of the **Swiss Agency for Development and Cooperation (SDC)** with the MoJ supports the correctional services in Kosovo. SDC has also supported the drafting of a Law on Notary (to establish a notary system in Kosovo), and SDC collaborates with other donors (**Sweden, Norway, World Bank**), to re-establish the Kosovo cadastre.

The **Swedish International Development Cooperation Agency (SIDA)** supported trainings of judges, prosecutors and defence lawyers.

The **Department for International Development of UK (DFID)** financed the project "Building of policies in the judiciary sector". It currently funds initiatives that contribute to conflict prevention by supporting the MoJ and the MIA under the Global Conflict Prevention Pool.

The **United Nations Development Programme (UNDP)** has designed a three-year program which consists of three pillars, namely Access-to-Justice, Justice Sector Capacity and Transitional Justice. Furthermore, this multilateral donor supports the institutional capacity building of the KPS, also to improve the public perception of Kosovo.

The **United Nations Development Fund for Women (UNIFEM)** funded a gender mainstreaming project within the KPS.

## 4. MAIN CHALLENGES

### 4.1. BORDERS AND BOUNDARIES

- Full demarcation of external borders: The outer borders of Kosovo are neither clearly determined nor respectively marked. In June, Kosovo started the process of demarcation of the border with fYRoM.

The outer borders/boundaries of Kosovo are as follows: 150 km to Albania, 140 km to fYRoM, 70 km to Montenegro, 245 km to Serbia. Their total length is therefore 605 km.

For a proper demarcation, the following is required:

- Circa every 500 m one pyramid
- Circa every 50 m one border stone
- Circa every 100 m one border sign

#### **Estimated Costs including transportation, groundwork, drill machinery etc.: €700.000**

- Improvement of the physical infrastructure at borders: upgrading works and repairs of buildings and offices at border and boundary crossings are necessary. At some border posts, containers are still used for offices. This situation has to be improved by constructing more permanent installations. Furthermore, roads in some border areas, which are almost unusable for cars, need to be repaired. Border gates that have major electricity problems should be provided with electricity generators, otherwise it is impossible to carry out data bank controls during the night. Telecommunication lines are also needed.

In order to avoid unnecessary duplication of infrastructure, an inter-agency cooperation mechanism regarding the different services working at border crossing points should be established. A clear overall investment policy and strategy in line with the National Integrated Border Management Strategy is essential.

Border crossing facilities:<sup>1</sup>

<b>BCP</b>		<b>Comments</b>	<b>Estimated costs (in €)</b>
HQ		renovation	200.000
4 RHQs		renovation	500.000
G.JANKCOVIC BCP	fYRoM		150.000
GLOBOCICA BCP	fYRoM	renovation	150.000
VRBNICA BCP	Albania	acceptable	-
QAFA PRUSHIT BCP	Albania	acceptable	-
QAFA MORINA BCP	Albania	renovation	100.000
AIRPORT		acceptable	-
BCP KULINA GATE	Montenegro	renovation	150.000
BCP GATE - 1	Boundary	new	400.000
BCP GATE - 3	Boundary	new	400.000

<sup>1</sup> To be partly covered under IPA 2008.

<b>BCP</b>		<b>Comments</b>	<b>Estimated costs (in €)</b>
BCP GATE - 4	Boundary	new	400.000
BCP GATE - 5	Boundary	new	400.000
BCP GATE - 6	Boundary	new	400.000
BCP GATE - 31	Boundary	new	400.000
KRUSHEVA SUB STATION		renovation	150.000
Roads and Parking spots	all BCPs	Reconstruction/new each BCP ca. 3.000 m	5.000.000

- Creation of a common database including software: The available data base equipment for the BBP is far from being adequate and is not interconnected. A database system used at three main border crossing points is not compatible with European standards. A central database which can be accessed from all border crossings needs to be created.

Stakeholders need a clear picture of the legal framework and especially of the data protection law. The inter-service cooperation with the databases of KPS must be clear in order to ensure interoperability. Solutions related to sharing, storage and transmission of data should be taken into account.

**Estimated Costs: €1.500.000<sup>2</sup>**

- Specific IT-hardware: fingerprint scanners as well as document boxes (for processing passports) and devices for the improvement of document checking (equipment for detecting fraud or falsified documents) are needed.

**Estimated Costs for all border crossing points incl. reserve (25 Document boxes): €1.000.000**

- Communication equipment: The telecommunication connections of the BBP are only sporadically available to some offices which are often without landline and mobile connection, and this makes the communication almost impossible. Urgently required are a cellular telephone network, secured telephone lines and digital communication installations as well as cryptographic security devices.

**Estimated Costs: €2.500.000**

- Better equipment for strengthening controls at the border: investments in better technical equipment are urgently needed to strengthen controls along the green borders as well as the blue border in the North of Kosovo. The BBP needs basic equipment (e.g. uniforms) but also more specific devices like thermo vision cameras, radar surveillance and night vision devices. Currently, there are insufficient vehicles to carry out patrols.

<b>Technical equipment<sup>3</sup></b>	<b>Item no.</b>	<b>Estimated costs (in €)</b>
Thermo vision cameras	10	1.500.000
Radar surveillance	5	400.000
Night vision goggles	200	2.000.000
Patrol boats and trailers including safety equipment	4	400.000
Uniforms (summer and winter)	2100	400.000

<sup>2</sup> To be covered under IPA 2007/2008.

<sup>3</sup> To be partly covered under IPA 2007/2008.

<b>Technical equipment<sup>4</sup></b>	<b>Item no.</b>	<b>Estimated costs (in €)</b>
Gas Masks, helmets, bullet proof vests,	300	600.000
Static and mobile tire spikes	30	20.000
Transportation detention buses (police package)	2	500.000

- Other equipment relating to border control:

<b>Other equipment</b>	<b>Item no.</b>	<b>Estimated costs (in €)</b>
Docu centre expert spectral analysis system	2	100.000
Drug test field mini lab	5	100.000
Automatic Biometric ID System	20	200.000
Inspect-4 desktop station W/digital camera	6	30.000
Pacsan 1000 stand alone passport reader	30	150.000
Microscope PAG 700 projecting stereo zoom	5	125.000
Digital camera W/PIA-6 software for microscope PAG 700 L	5	2.500
Retro check compact W/magnifier	15	5.000
Inspection kit-expert	15	7.000

- Adoption of a new law on border security

**Estimated costs: €400.000**

- Printing of passports ensuring basic security features and ID-cards for foreigners

**Estimated costs: €6.000.000**

- Drafting and adoption of specified secondary legislation on BBP

**Estimated costs: €200.000<sup>5</sup>**

- Specific on-the-job training including regional coordinated BP training by experts to strengthen the professional capacity of the staff: Techniques to examine documents, use of modern surveillance equipment, field training

**Estimated costs: €1.000.000<sup>6</sup>**

- Crime and Intelligence and risk Assessment training (50 officers)

**Estimated costs: €250.000**

<b>Vehicles</b>	<b>Item no.</b>	<b>Estimated Costs (in €)</b>
4 wheel drive V 8 engine police package vehicles	50	2.000.000
Undercover vehicles	15	230.000
ATVs /Quads and Trailer and safety kits	25	300.000
Tow truck large/ Bus	1	250.000
Tow track medium	1	100.000
Mobile command and control centre	1	2.000.000

<sup>4</sup> To be partly covered under IPA 2007/2008.

<sup>5</sup> To be covered by Border Police Twinning.

<sup>6</sup> To be partly covered by Border Police Twinning.

- Canine Unit to increase the border affectivity (20 dogs)

**Estimated costs: €100.000**

**All Police Staff Training/Training installations:**

- Training on specific IT-issues for the appropriate use of technical devices

**Estimated Costs: €700.000**

- Training on specific IT-issues for the appropriate use of technical devices

**Estimated Costs: €450.000**

- General language training for all Police (Albanian, Serbian, English)

**Estimated Costs (All Police 2500 officers): €500.000**

- Joined training with IBM Agencies

**Estimated Costs: €100.000**

- IT and leadership training

**Estimated Costs (All Police 180 officers): €500.000**

- Training installations/equipment:

<b>Training installations/-equipment</b>	<b>Item no.</b>	<b>Estimate (in €)</b>
Shooting gallery	2 open, 2 closed	900.000
Special police driver training	1	500.000
Sport halls (Gym) for 6 regions	6	700.000
IT training equipment		80.000
ID smart equipment and software		100.000
Training vehicles	15	200.000
Emergency Ambulance equipment	1	140.000
Emergency Ambulance equipment, Large and medium	1+1	330.000
Language Laboratory	1	30.000
Setting of electronic archive		120.000

**4.2. JUDICIARY**

<b>Priority area</b>	<b>Estimated costs for upcoming 3 years (in €)</b>	<b>Comments</b>
<ul style="list-style-type: none"> <li>• Improvement of the building structure of court houses and prosecution offices</li> </ul>	36.400.000	The estimate includes the cost of constructing new buildings where needed, including the construction of a central court building in Pristina which will house all courts in Pristina (municipal, district, supreme) and the Kosovo Judicial Council.

<b>Priority area</b>	<b>Estimated costs for upcoming 3 years (in €)</b>	<b>Comments</b>
<ul style="list-style-type: none"> <li>Supply of office furniture for the court facilities</li> </ul>	2.700.000	A two- or three- stage supplies project with the aim to provide new office furniture (incl. office desks, chairs, file cabinets, etc.) and air-conditioners for the existing and future court houses.
<ul style="list-style-type: none"> <li>Delivery of security systems for court houses</li> </ul>	2.200.000	This amount includes the funding needed for procurement and subsequent installation of security systems, surveillance equipment, CCTV, access control equipment and fire protection systems for the existing court houses and the ones expected to be built and used as court houses in the nearest future.
<ul style="list-style-type: none"> <li>120 Cars/vehicles for the court houses and prosecution offices</li> </ul>	3.300.000	A one- or two- stage supply project for the delivery of approx. 95 all-purpose sedans, 5 off-road vehicles, 15 medium-size buses and 5 large buses.
<ul style="list-style-type: none"> <li>Enhancement of the witness protection scheme in terms of security features, budget and logistics, especially by improving the security of court rooms dealing with high security risk cases</li> </ul>	2.700.000	Appropriate modifications of existing facilities plus the supply of specialised equipment and vehicles as well as safe houses.
<ul style="list-style-type: none"> <li>Further development of ISDN links to enable video conferences</li> </ul>	600.000	Establishing ISDN lines in Kosovo and review of existing ones.
<ul style="list-style-type: none"> <li>Replacement of 70% of the computers used by the courts and prosecution offices in order to be able to implement fully the automated case handling system</li> </ul>	500.000	
<ul style="list-style-type: none"> <li>Staff training on specific IT-issues for the appropriate use of technical devices</li> </ul>	850.000	A two- or three stage TA project with a majority of local experts should be adequate.
<ul style="list-style-type: none"> <li>Further development of the legal aid system: provide help to every person in need.</li> </ul>	700.000	A TA or Twinning project and the delivery of some IT equipment and furniture would be adequate. Although some structures have already been set up and are operational, the legal aid office still needs to recruit the necessary staff to implement the legal aid scheme.

Priority area	Estimated costs for upcoming 3 years (in €)	Comments
<ul style="list-style-type: none"> <li>Enhance the capacities of the Ministry of Justice: the organigramme of the ministry needs to be streamlined and general working conditions to be improved. Enhanced capacities of the Ministry of Justice are intended to contribute to better policy-making, higher quality legal drafting and legal harmonisation and therefore to a better functioning of the whole justice system.</li> </ul>	2.500.000 <sup>7</sup>	Mainly TA or Twinning projects.
<ul style="list-style-type: none"> <li>Strengthen capacities to prosecute and try cases: Kosovo faces challenges in effective prosecution. Its courts are overburdened by an important and increasing backlog of cases – more than 50.000 civil cases and over 36.000 criminal cases pending for a population of approximately 2 million people. A computer system should be introduced which enables a random allocation of cases and the automated case management system should be further developed in order to improve court statistics.</li> </ul>	5.900.000	All costs related to KJC amount to € 1.8 million. The rest includes the development of a case management system (for the prosecution) and the supply of related hardware and networking.
<ul style="list-style-type: none"> <li>Development of a functioning system for the execution of judgements: execution of judgements remains weak. This is partly due to the fact that there is no civil register, proper addresses are missing in many cases and there are no Kosovo Serbs among the court messengers.</li> </ul>	9.000.000	For all detention facilities (including the construction of new ones). The costs for the civil register and the new cards and passports have been included in the review of the "police" sub sector.
<ul style="list-style-type: none"> <li>Fair and transparent procedures on recruitment, transfer, appraisal, promotion, conduct and dismissal of civil servants, including police and justice system employees: improve the functioning judiciary whose independence, accountability, professionalism and efficiency must be guaranteed. The career development and recruitment of judges and prosecutors should be based on fair, transparent technical and professional criteria.</li> </ul>	3.200.000	A collection of twinning and TA projects to be implemented over the three year period of 2009-2011, properly distributed in time as to ensure logical sequence and sustainability, should be able to address the needs specified on the left.
<ul style="list-style-type: none"> <li>Capacity-building through training and education of judicial and administrative personnel: training should be given to judges, prosecutors, lawyers, bailiffs and members of the bar association and cover legal and IT-issues, as well as more specific topics (e.g. money laundering, economic and complex criminality, handling of mutual legal assistance requests in criminal matters and extradition requests, plea agreement law).</li> </ul>	1.700.000 <sup>8</sup>	

<sup>7</sup> Covered under IPA 2008.

<sup>8</sup> To be partly covered by the 2008 Twinning on Legal education.

<b>Priority area</b>	<b>Estimated costs for upcoming 3 years (in €)</b>	<b>Comments</b>
<ul style="list-style-type: none"> <li>Address the lack of relevant law literature in the courts, especially the lack of commentaries of the recently enacted codes of procedure</li> </ul>	150.000	Presently, there is no resource where professionals can have a full access to legislation in force, court decisions, legal comments or doctrine.
<ul style="list-style-type: none"> <li>Strengthen the capacities of the Official Gazette to timely publish new legislation.</li> </ul>	200.000	There is a huge backlog in publication of legal acts which are published with a delay of up to several years.
<ul style="list-style-type: none"> <li>Improvement of human resources in the Kosovo Judicial Institute in order to transform it into a viable institution responsible for judicial training.</li> </ul>	200.000	
<ul style="list-style-type: none"> <li>General language training of personnel working in the judiciary (especially Albanian and Serbian, but also other languages): as no lawyer-linguists are working in the assembly, this often results in inconsistent translations and ambiguities in the various official language versions.</li> </ul>	1.350.000	
<ul style="list-style-type: none"> <li>Enhance the legal framework: adoption of laws on courts, prosecution service, witness protection, construction, mediation and notaries.</li> </ul>	3.200.000	In-depth, complex activities related to drafting and coordination of laws, follow-up secondary legislation, some promulgation-related activities and some training are included.
<ul style="list-style-type: none"> <li>Develop a system of administrative justice: Structural considerations should be taken into account and the administrative capacity of the KJC has to be enhanced.</li> </ul>	3.500.000	Several TA, twinning and supplies projects will be adequate to achieve the goals.
<ul style="list-style-type: none"> <li>Review the legislative framework in the area of civil law and the Criminal Procedure code</li> </ul>	750.000	
<ul style="list-style-type: none"> <li>Improve the drafting of appropriate legal texts by legal training and coaching</li> </ul>	900.000	
<ul style="list-style-type: none"> <li>Setting-up a chamber of notaries</li> </ul>	1.000.000	

### 4.3. POLICE

- Improve the building structure of KPS police stations and the headquarter buildings: the officers often have to work in facilities and buildings which are in extremely bad condition, both unhealthy and insecure. In addition, there is a lack of IT equipment, direct IT links and a central database.

<b>Buildings</b>	<b>Renovation/new</b>	<b>Estimated costs (in €)</b>
6 regional HQ	Renovation/new	8.820.000
30 stations	Renovation/new	
25 sub stations	renovation/new	
IT equipment		6.000.000

- Creation of central and local databases: a consistent format and content of key crime data at regional and central level has to be created and implemented. Network links between the regional and local level are essential. The IT system of the police forces should be compatible with other structures (e.g. the judiciary); in this respect, cooperation with public prosecutors, inter-agency and international cooperation was not always satisfactory in the past. Until now, the level of information collection and exchange between the different Kosovo agencies was poor and databases were usually not connected. Therefore, a central database for intelligence – incident and person based – which can be accessed by all relevant institutions fighting crime, has to be established.

**Estimated costs: €1.800.000<sup>9</sup>**

- Better basic equipment: uniforms, document printing, ballistic shields, detectors etc.

	<b>Item no.</b>	<b>Estimated cost (in €)</b>
Uniforms (summer and winter)	15.000	5.000.000
personally protection kit, such as helmets, body protection, shields	2.000	3.000.000
Bullet proof vests	1.500	1.200.000

- Further equipment needed: Communication equipment, cars, investigation kits, forensic equipment

	<b>Estimated costs (in €)</b>
Radio communication net Handheld radios, Centre for Disaster Recovery, Microwave system, etc.	10.000.000
Civil cars	8.500.000
Investigation kits	250.000
Forensic equipment	300.000

- Staff training on specific IT-issues for the appropriate use of technical devices

**Estimated Costs: €1.000.000**

- Strengthen capacities in forensics and laboratory equipment

**Estimated Costs: €1.800.000<sup>10</sup>**

- Boats (for Gazivoda lake), included already in a IPA 2007/08 project

**Estimated Costs: €200.000**

- Strengthen special units to deal with drug related issues: Within the MIA, a national police statistics system managed by a central statistical department should be created, and all the law enforcement agencies should use the same system to collect data.

**Estimated Costs: €1.500.000**

- Staff training programs to combat organised crime: There is a need to extend police training on trafficking and organised crime, also on international standards and best practices. Moreover, tactics, special investigation techniques, such as an extensive use of tapping and technical surveillance, undercover agent operations and the use of "crown witnesses" should be envisaged.

**Estimated Costs: €300.000**

<sup>9</sup> US (ICITAP) have earmarked 25 million € for an all-encompassing IT system for the Kosovo security enforcement agencies.

<sup>10</sup> A state-of-the-art forensic laboratory financed by the US has been handed over to the Kosovo authorities on 7 May 2008.

- General language training (Albanian, Serbian)

**Estimated Costs: €1.200.000**

- Implement the law on the police: Implement legislation to establish the KPS and strengthen its investigative and internal control capacities and further streamline its structure.

**Estimated Costs: €500.000**

- Complete the legislative framework concerning organised crime

**Estimated Costs: €140.000**

- Implement a crime reduction strategy

**Estimated Costs: €800.000**

- Set up a strategy to combat organised crime and terrorism

**Estimated Costs: €600.000**

#### 4.4. ANTI-CORRUPTION

Priority area	Estimated costs (in €)	Comments
<ul style="list-style-type: none"> <li>• Adapt the anti-corruption legal framework: Although the Law on Anti-Corruption sets a sound legal basis for tackling corruption in Kosovo's institutions, there are still some gaps in the law. Therefore revisions for an amended law are necessary. In particular, the legal basis to deal with high-level crimes must be completed. Furthermore, the differing definitions of corruption in the penal law and in the anti-corruption law result in legal uncertainty.</li> </ul>	650.000 <sup>11</sup>	A properly defined TA component should be able to address all outstanding issues in this regard.
<ul style="list-style-type: none"> <li>• Enhance the implementation and enforcement of existing laws: The judiciary and law enforcement are still not powerful in Kosovo and there are allegations of political influence and threats. The level of relations and cooperation between the investigating police and the Public Prosecutors Office is not effective and not precisely regulated by law.</li> </ul>	2.600.000	The needs for equipment and construction works related to the sound functioning of the judiciary and system of prosecution, courts and prisons are identified elsewhere. This amount is related only to anti-corruption activities and judiciary staff (judiciary units) involved therein.
<ul style="list-style-type: none"> <li>• Implement the Anti-Corruption Strategy</li> </ul>	1.500.000	
<ul style="list-style-type: none"> <li>• Strengthen the Kosovo Anti-Corruption Agency by improving the human resources through training</li> </ul>	800.000	
<ul style="list-style-type: none"> <li>• Enhance intelligence to be able to identify corruption efficiently</li> </ul>	1.800.000	This activity belongs with the KPS.
<ul style="list-style-type: none"> <li>• Staff training on specific IT-issues for the appropriate use of technical devices</li> </ul>	300.000	

<sup>11</sup> Covered under IPA 2007.

<b>Priority area</b>	<b>Estimated costs (in €)</b>	<b>Comments</b>
<ul style="list-style-type: none"> <li>Strengthen the internal auditing and control capacity within the MIA (in line with the MoJ)</li> </ul>	280.000	Only some additional training is necessary as the MIA has already recruited internal auditors and also resorts to the services of external auditors to confirm the findings of their in-house staff.
<ul style="list-style-type: none"> <li>Enhance the capacity of the Financial Investigation Unit within the KPS organised crime directorate to fight more efficiently money laundering</li> </ul>	900.000	This component should foresee at least the supply of some specialised equipment and the delivery of specialised training on evidence collection.
<ul style="list-style-type: none"> <li>Increase awareness of the problems of corruption within the public administration and for the public through ethics training and awareness-raising campaigns</li> </ul>	1.100.000 <sup>12</sup>	Two separate, adequately-targeted public awareness campaigns and several training sub-activities for the local administration are envisaged.

<sup>12</sup> To be partly covered under IPA 2007.

## 5. SUMMARY OF ESTIMATES

Overall, the estimates are as follows: € 39,2195 million for "Borders and boundaries", € 83,5 million for "Judiciary", € 52,91 million for "Police" and € 9,93 million for "Anti-corruption".

### Summary table :

Sectors	Estimates (in €)
Borders and boundaries	39.219.500
Judiciary	83.500.000
Police	52.910.000
Anti-corruption	9.930.000
<b>Total estimate</b>	<b>185.559.500</b>

For the three-year period (2009-2011) the local authorities will provide funding for projects that are in the focus of this exercise such as: € 19,2 million for the MIA, € 9,2 million for the Ministry of Justice, € 50,5 million for the Kosovo Police Service, € 1 million for Justice within the Reserved Powers (i.e. the Office for Missing Persons and Forensics and the Special Prosecutors), € 0,72 million for the Kosovo Police Service School and € 4,7 million for the Kosovo Judicial Council.

**Interested parties are invited to consult EULEX Kosovo before proceeding with tendering out and implementing one of the projects listed below to ensure co-ordination with EULEX competences:**

- Adoption of a new law on border security
- Drafting and adoption of secondary legislation on the Border and Boundary Police
- Enhancement of the capacities of the Ministry of Justice (policy-making, legal drafting etc.)
- Strengthening of capacities to prosecute and try cases
- Fair and transparent procedures on recruitment, transfer, appraisal, promotion, conduct and dismissal of civil servants, including police and justice system employees (improve the functioning of the judiciary)
- Enhancement of the legal framework (adoption of laws on courts, prosecution service etc.)
- Review of the legislative framework in the area of civil law and the Criminal Procedure code
- Staff training programs to combat organised crime
- Implementation of the law on police
- Completion of the legislative framework concerning organised crime
- Implementation of a crime reduction strategy
- Setting-up of a strategy to combat organised crime and terrorism
- Projects on anti-corruption