



UNMIK



PISG

Readmission Policy

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1. Introduction

This Policy paper introduces the strategy and procedures in Kosovo in handling readmission of persons originating from Kosovo¹ and residing without legal status in host countries.²

This policy was drafted by the Working Group on Repatriation led by UNMIK/OCRM and PISG and composed of representatives of PISG and other international organizations. It was endorsed by the Government of Kosovo on 31 October 2007 and approved by Special Representative of Secretary-General (SRSG) of the United Nations Interim Administration Mission in Kosovo (UNMIK) on 28 November 2007. The readmission procedures elaborated in Section IV shall, effectively and smoothly, succeed the current readmission policy implemented by the Office of Communities, Returns and Minority Affairs (OCRM), UNMIK. The policy may be changed or improved, during/after the transition period, upon need. However, such action shall be taken only after a thorough discussion on why such changes are necessary and how the policy should be amended, among the relevant stakeholders including UNMIK, European Union (EU), PISG/Kosovo Authorities and other possible International Actors present after status settlement. Such changes for amendment of the Readmission Policy should be examined carefully and all stakeholders should ensure that the changes are in line with international standards and, laws and regulations in force in Kosovo at the time of the changes.

Although the obligation of states to accept returning nationals is generally accepted to be a norm of international customary law, until now, due to the post-conflict situation and to the specific situation that Kosovo is under the UN administration, UNMIK allowed only a certain number of returns to Kosovo from a humanitarian point of view.

According to the United Nations Security Council Resolution 1244 (1999), United Nations High Commissioner for Refugees (UNHCR) has the mandate to supervise the safe, dignified and free return of all refugees and internally displaced persons (IDP). It regularly assesses the situation of ethnic minorities, international protection needs of ethnic groups and other categories of persons in Kosovo, and has issued a number of position papers.³

¹ This may include underage children and other dependant family members of persons originating from Kosovo, who have the right to reside in Kosovo. Their readmission will be accepted during the transition period depending on verification of their identity and their relationship to the person originating from Kosovo. In future, these matters will further be regulated by the Law on Citizenship and the Law on Foreigners.

² The term “persons residing in host countries without legal status” includes those who no longer fall under the scope of temporary international protection in host countries, as well as rejected asylum seekers and those who have entered the host countries illegally and/or overstayed their visa.

³ The most recent UNHCR Position Paper states that the inter-ethnic environment for members of both Ashkali and Egyptian communities has improved and as such, UNHCR considers that

PISG/Kosovo Authorities take account of such views of UNHCR earnestly and commit to improve the security situation in Kosovo, and prepare to readmit persons originating from Kosovo in accordance with international norms.

In principle, no person will be readmitted to Kosovo unless the person has been confirmed to originate from Kosovo. To prepare and readmit its persons, PISG/Kosovo Authorities will cooperate with the host countries to realise safe and dignified returns of its persons. Such cooperation will include signing of procedural agreements and eventually, formal readmission agreements with these host countries.

PISG/Kosovo Authorities will seek to reach an agreement with host countries to attain durable returns of all residents of Kosovo by implementing readmission procedures elaborated in Section IV of this policy, and monitor such readmission procedures in Kosovo to be conducted in compliance with relevant international human rights standards.

1.1 Terminological Clarification

In November 2002, in its Return Action Programme, the Council of the European Union defined return as ‘the process of going back to one’s country of origin, transit or another third country, including preparation and implementation [and such] return may be voluntary [and assisted] or enforced’.⁴

There are numerous sub-categories of return which describe the way it takes place, e.g. voluntary, forced, assisted or spontaneous return; as well as subcategories which describe

persons belonging to these ethnic minorities are no longer at risk. UNHCR does consider however the security situation of persons belonging to Kosovo Serbs, Roma and, Albanian in a minority situation as sensitive and therefore warrants continued protection for these categories of persons .

In addition, it should be noted that individuals should not be returned to face the risk of torture or cruel, inhuman or degrading treatment or punishment or other violations of their human rights under international human rights law including Article 3 of the European Convention on Human Rights (ECHR), Article 7 of the ICCPR, and Article 3 of the Convention against Torture (CAT). Article 19 (2) of the Charter of Fundamental Rights of the European Union also states, “no one may be removed, expelled or extradited to a state where there is a serious risk that he or she would be subject to the death penalty, torture or other inhuman or degrading treatment or punishment”.

⁴ *Proposal for a Return Action Programme*, Brussels, 25 November 2002, Council of the European Union document No. 14673/02, p.29

According to IOM definition, ‘return’ refers broadly to the act or process of going back. This could be within the territorial boundaries of a country, as in the case of returning IDP and demobilized combatants; or from a host country (either transit or destination) to the country of origin, as in the case of refugees, asylum seekers, and qualified nationals. There are subcategories of return which can describe the way the return is implemented, e.g. voluntary, forced, assisted and spontaneous return; as well as subcategories which describe who is participating in the return, e.g. repatriation (for refugees). See Richard Perruchoud (Ed.), *Glossary on Migration*, IOM publication, 2004, p. 56

who is participating in the return, e.g. repatriation (for refugees).⁵ Also the *Green Paper on a Community Return Policy on Illegal Residents*, published in April 2002, acknowledges the existence of various categories of returnees while making a clear-cut distinction between those who decide autonomously to go back to their country of origin and those who are forced to leave the host country.

The readmission is considered to be ‘an act by a state accepting the re-entry of an individual (own nationals, third-country nationals or stateless persons), who has been found illegally entering to, being present in or residing in another state’⁶.

Usually, and also in this context, the concept is linked to the framework established by the Readmission Agreements. The Readmission Agreements (RAs) address procedures for one State to return irregular migrants (both nationals and third country nationals) to their home State or a transit State (see below for a further explanation).

1.2 Human Rights Standards

Numerous international instruments refer to the right of migrants to return (and some also exhort states to manage return) such as the Universal Declaration of Human Rights, The 1994 Cairo International Conference on Population and Development (ICPD), the UN (Palermo) Protocols against migrant smuggling and human trafficking. The obligation of States to accept returning nationals is generally accepted to be a norm of customary international law.

According to Article 13(2) of the Universal Declaration of Human Rights “everyone has the right to leave any country, including his own, and to return to his country”. This is also reinforced in Article 12 of the International Covenant on Civil and Political Rights (ICCPR), which at paragraph 2 states that “[n]o one shall be arbitrarily deprived of the right to enter his own country.”⁷ Nevertheless, paragraph 3 of the Covenant provides for certain restrictions: “The above-mentioned rights [in Article 12(2)] shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the right and freedoms of others, and are consistent with the other rights recognised in the present Covenant.”⁸

⁵ For a more specific definition of the different types of return, refer to the *Green Paper On A Community Return Policy On Illegal Residents*, Brussels, 10.04.2002, COM(2002) 175 final. Available at: http://europa.eu.int/eur-lex/en/com/gpr/2002/com2002_0175en01.pdf and to the IOM’s Comments on the *EU Green paper on a Community return Policy on Illegal Residents*, IOM, 2001,

http://ec.europa.eu/justice_home/news/consulting_public/return_policy/iom_en.pdf

Refer also to the IOM Glossary on Migration,

<http://www.iom.int/DOCUMENTS/PUBLICATION/EN/Glossary.pdf>

⁶ Richard Perruchoud (ED.), *Glossary on Migration*, IOM publication, 2004, p. 52

⁷ See also Article 2.2 of the Fourth Protocol of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

⁸ See also Article 2.3 of the Fourth Protocol of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The right to return has to be enjoyed without any form of discrimination, as set forth in Article 5(d) (ii) of the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD)⁹.

In order to ensure the right to return of all persons originating from Kosovo and without legal status in host countries, PISG/Kosovo Authorities would do its utmost to create a suitable conditions for ensuring a sustainable and durable return to all persons originating from Kosovo. Voluntary return¹⁰ of such persons is considered to be the preferable solution.

The readmission process has to be conducted in the respect of the *non-refoulement* principle¹¹.

1.3 EU Standards

Articles 61, 62 and 63 under Title IV of the Treaty of the European Community (TEC) give legal foundation for a common return policy of European Union. Article 63(3)b of the Treaty states that the Council (of the European Union) shall adopt measures on immigration policy in the area of illegal immigration and illegal residence, including repatriation of illegal residents.

The *Green Paper on a Community Return Policy on Illegal Residents* (2002)²⁸ introduces the idea of enhanced cooperation with the countries of origin, which should also lead to the conclusion of Readmission Agreements. This document, called for the establishment of common standards regarding the expulsion, detention and removal of third country nationals in order to improve co-operation on return among European Union Member States.¹²

The paper underscores the importance of giving priority to voluntary returns for humane reasons. Nonetheless, it states the necessity of forced repatriation as a last resort with an objective to prevent further illegal immigration to the EU. This is also stated in the

⁹ Article 5(d) (ii) of the ICERD states that “[...] States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the [...]” “[...] (ii) The right to leave any country, including one’s own, and to return to one’s country; [...]”.

¹⁰ European Council on Refugees and Exile (ECRE) defines voluntary returns as the return of Convention refugees, persons who are under temporary international protection and lawfully residing in host countries, or persons with pending asylum application, who decide depending upon their own will to return to their country of origin. Such decision should further be the result of having been fully informed of the situation of the country of origin.

¹¹ The principle of *Non-refoulement* is recognised international customary law. Article 33 of the 1951 Geneva Convention Relating to the Status of Refugees states that “[n]o Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

¹² Jan Niessen, *Five years of EU migration policy-making under the Amsterdam and Tampere mandates*, MPG, p. 34

Action Plan proposed by the Council of the European Union, which stresses that forced repatriation is indispensable ‘in order to safeguard the integrity of the EU immigration and asylum policy and the immigration and asylum systems of the Member States.’¹³ When enforcing repatriation, Member States will need to make sure that return is carried out in compliance with all international human rights instruments.

Return by force of a large number of persons residing in host countries without legal status should be implemented after a thorough assessment of the situation of the country of origin. A large number of returns in a short period of time to the country of origin may impact the development of the returning country causing destabilisation. Hence, intensive cooperation/coordination between the host country and returning country is indispensable.

1.4 Unaccompanied Children¹⁴

Readmission procedures of unaccompanied children should be carried out in accordance with international standards.¹⁵ The best interest of the child must be the primary consideration for making any decision and taking any return action under such decision.

Unaccompanied children are considered to be “persons under the age of majority who are not accompanied by a parent, guardian, or other adult who by law or custom is responsible for them”¹⁶.

According to the Council Directive 2003/9/EC (January 2003) unaccompanied children are defined as: “persons below the age of eighteen who arrive in the territory of the Member States unaccompanied by an adult responsible for them whether by law or by custom, and for as long as they are not effectively taken into the care of such a person: it shall include minors who are left unaccompanied after they have entered the territory of Member States”.

Unaccompanied children present special challenges for border control officials since detention and other practices used for undocumented adult aliens may not be appropriate to apply. Readmission of unaccompanied children to Kosovo should be considered only when family reunification can be arranged; or when, having consulted the responsible

¹³ *Proposal for a Return Action Programme*, Council of the European Union Document 14673/02 of 25 November 2002, p. 9, para.12

¹⁴ The Article 1 of the Convention on the Rights of the Child defines a child as ‘every human being below the age of eighteen years.

The Law on Social and Family Services adopted by the Assembly of Kosovo on 21 April 2005, and promulgated by UNMIK Regulation No. 2005/46 on 14 October 2005, defines in Article 1, Section 1.3 (g) that ‘[c]hild shall mean a person who is under the age of eighteen years’.

¹⁵ The repatriation procedures must not be carried forward against the 1989 Convention on the Rights of the Child (CRC), the 1951 Convention Relating to the Status of Refugees, the European Convention on Human Rights and the Convention against Torture.

¹⁶ Perruchoud, n.6 above, p.67

authorities in Kosovo, namely the Ministry of Labour and Social Welfare (MLSW)¹⁷, or a caregiver, or an appropriate governmental organization such as the Municipalities and Centre for Social Work,¹⁸ has agreed and is able to provide immediate and adequate protection and care upon arrival.¹⁹

Before agreeing to readmit an unaccompanied child from host countries, MLSW, Municipalities, Centre for Social Work and/or any other governmental/non-governmental organization that provide social and family services, will undertake, directly or indirectly, the family tracing process and assessment on safe return of such child as part of evaluating the necessity of providing social assistance to the child and identifying the actual needs for assistance upon reception.²⁰ Such family tracing process shall be undertaken as soon as MLSW receives a reference from DBAM/MoIA and should be carried forward in a confidential manner. In case there is a risk of endangering the child and/or family members of the child in Kosovo, the family tracing of the child should cease.

The MLSW will, if necessary, seek assistance from the host countries in order to trace the family members of an unaccompanied child and may request information.²¹

¹⁷ Law on Social and Family Services of 21 April 2005, Article 2 states the role of the Ministry of Labour and Social Welfare, and Section 1 of the Article articulates that '[t]he Ministry [...] has overall responsibility for the organization of the provision of Social and Family Services in Kosovo'. The Ministry guarantees the residents of Kosovo the 'fair and equal access to Social and Family Services without distinction of any kind, such as race, ethnicity, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.'

¹⁸ Ibid., Article 7, Section 1 states that the Centre for Social Work will be the public institution established in each Municipality that is 'responsible for exercising the powers set out by [the Law on Social and Family Services] on behalf of the Ministry and providing social and family services on behalf of the Ministry'.

¹⁹ Council Resolution (97/C 221/03) of 26 June 1997 on *Unaccompanied Minors who are Nationals of Third Countries*, The Council of the European Union, Article 5, Section 1 states that the EU Member States "may only return the minor to his country of origin or a third country prepared to accept him, if on arrival therein – depending on his needs in the light of age and degree of independence – adequate reception and care are available."

²⁰ n. 15 above, Article 9, Section 4 articulates that the 'Centre for Social Work maintains a register of families and the children in need who are resident in their territory and who lack family or other community support [...] The Centre for Social Work shall arrange for those [children] in need to be visited on regular basis by a responsible person, in order to [...] provide the family and the child with whatever services may be considered necessary'.

²¹ Council Resolution, n.17 above, Article 3, Section 3 states that EU Member States should "endeavour to trace the members of the family of an unaccompanied minor as soon as possible, or to identify the place of residence of the members of the family" for reunification.

[http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31997Y0179\(02\):EN](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31997Y0179(02):EN)

2. PISG/Kosovo Authorities Roles and Responsibilities – General for Repatriation and Readmission

PISG/Kosovo Authorities will endeavour to build suitable conditions for persons, residing in host countries without legal status and facing repatriation, to return to Kosovo without any fear of harassment, intimidation, persecution, discrimination or any punitive measures despite whatever administrative procedures they may have gone through in the host countries e.g., asylum application in the host countries. The means of creating suitable conditions for person to be repatriated are identified in the Reintegration strategy for Repatriated Persons developed by PISG, UNMIK and other international actors. PISG/Kosovo Authorities will confirm whether persons requested for readmission originate from Kosovo and will cooperate closely with host countries in order to guarantee the success of readmission procedures.

In order to ensure the accuracy of the readmission procedures, PISG/Kosovo Authorities will seek to sign bilateral Memorandums of Understanding (MoU) on repatriation and/or Readmission Agreements to facilitate organised and phased return of its persons. While negotiating such agreements, and in view of the difficult socio-economic situation currently prevalent in Kosovo, the PISG/Kosovo Authorities will discuss with host countries the possibility to provide assistance packages to repatriated persons, in order to facilitate their reintegration. This will contribute to a sustainable and durable return process.

PISG/Kosovo Authorities will pay special attention to the repatriation of vulnerable groups²². In particular, while negotiating MoUs and/or Readmission Agreements, the PISG/Kosovo Authorities will ensure that unified procedures are followed in accordance with international instruments and standards applicable to each category of vulnerability, respecting confidentiality and privacy while providing relevant information when submitting a request form for readmission of persons belonging to these vulnerable groups. The Ministry of Internal Affairs (MoIA) will have the responsibility to closely follow/coordinate readmission procedures and to ensure that vulnerable groups receive sufficient assistance throughout the readmission process. The MoIA will also be responsible for especially linking such cases to reintegration mechanisms and informing all relevant actors such as, Ministry of Labour and Social Welfare (MLSW), Ministry of Local Government Administration (MLGA) and municipalities, in order to facilitate reintegration of these persons in the place of return.

²² According to IOM's *Glossary on Migration*, Perruchoud, n.6 above, p.70, 'vulnerable groups' are "[a]ny group or sector of society that is at higher risk of being subjected to discriminatory practices, violence, natural or environmental disasters, or economic hardship, than other groups within the State" or "any group or sector of society (such as women, children or the elderly) that is at higher risk in periods of conflict and crisis". As such, members of ethnic minority communities, families that are usually economically deprived, unaccompanied minors, single female heads of households, senior citizens/elderly, and households with mentally or physically handicapped or chronically ill family members could be considered as 'vulnerable groups'.

In general, the PISG/Kosovo Authorities will need to ensure that all local authorities and institutions involved in the readmission process are properly coordinated, and that there is a functioning mechanism of information exchange where necessary to ensure the smooth and correct implementation of the present policy.

In addition, the PISG/Kosovo Authorities will have to ensure that the relevant authorities and especially the Department of Border Management, Asylum and Migration (DBAM) in MoIA, continue to develop and have the opportunity to build up their capacities and to improve their operations as needed in order to reach the best possible standard in dealing with readmissions. Where possible, PISG/Kosovo Authorities may request for assistance and capacity building support from host countries.

2.1 Ministry of Internal Affairs

Ministry of Internal Affairs (MoIA) will take a leading role in implementing the overall Readmission Policy of the PISG/Kosovo Authorities. The MoIA, in particular, the Department for Border Management, Asylum and Migration (DBAM) will be the focal point on all matters relevant to migration management, including the establishment of working relations with host countries.

One of the focuses of MoIA in the field of migration will be to process readmission requests from host countries. This will include, but not limited to:

- a) Management of involuntary repatriations from third countries, of persons who originates from Kosovo and possess no legal status to reside in the third countries,
- b) Coordinate the procedures to confirm the origin of persons announced for readmission, through different structures within MoIA including Central Civil Registry, Municipal Civil Registration Centres (MCRC), Municipal Civil Status Offices (MCSO) and local police in respective municipalities,
- c) Implementation of readmission agreements (examination of readmission applications and requests for issuance of travel documents),
- d) Coordinate with Border Police regarding the permission/denial of entry of persons to Kosovo,
- e) Development of return policies and, facilitation of preparation/implementation of migration management related laws/subsidiary legislation,
- f) Ensuring international and regional cooperation with EU and other surrounding states, and regional initiatives such as, Migration, Asylum, Refugee Regional Initiative (MARRI), UN Agencies and so forth,
- g) Participation in a work of Inter-ministerial Reintegration Task Force,
- h) Liaison with migration authorities of reception countries and their representatives in Kosovo,
- i) Research, analysis and collection of data on EU return policies and international human rights standards,

- j) Preparation of briefing materials press releases and reports (on migration situation),
- k) Participation in migration management meetings, conferences and inter-governmental meetings,
- l) Ensuring adequate training and capacity building is provided now and in the future to staff involved in the readmission process.

Until the full transfer of competencies from UNMIK to PISG/Kosovo Authorities, UNMIK will be the first contact point for host countries concerning the readmission of persons residing in the host countries without legal status. UNMIK and MoIA will work together for smooth operation of readmission procedures of persons who are confirmed to originate from Kosovo and face repatriation from host countries.

2.2 Ministry of Local Government Administration

Ministry of Local Government Administration (MLGA) will guarantee that at the municipal level, all relevant information and necessary support will be provided to DBAM/MoIA and other involved actors according to readmission procedures stated below, in order to confirm readmission requests from host countries.

The MLGA will be responsible for leading and overseeing the implementation of the PISG/Kosovo Authorities' Reintegration Strategy and for coordinating the different actors involved (see Reintegration Strategy for more details.)

2.3 Municipality

All municipalities, through their relevant offices and departments, will assist central government institutions, especially DBAM/MoIA, with their work to confirm the identity and the origin of the persons who are requested for readmission by host countries.

After the readmission process of a person is completed, municipalities will coordinate with central level and prepare for the reintegration of readmitted persons into respective municipalities without delay (see Chapter on Procedures and Reintegration Strategy for more details).

3. Readmission

3.1 Readmission of persons originating from Kosovo

As mentioned previously, it is an established principle of international law that states have an obligation to receive back their own nationals. Accordingly, Kosovo will in the future have the same obligation to readmit all persons who are confirmed to originate from Kosovo.

PISG/Kosovo Authorities will not readmit any persons who are residing in host countries and are considered to originate from Kosovo, without confirmation of the persons' country of origin. In particular, in order to determine if the persons originate from Kosovo, PISG/Kosovo Authorities will put in place coordination mechanisms among relevant ministries and municipalities. The repatriation shall be carried forward once the identification is confirmed.

During the UNMIK presence including the transition period, UNMIK/OCRM will continue to follow the UNHCR Position Papers relating to persons with continuing need for international protection. Recognised international law and standards will apply in cases of persons belonging to such protected categories who are facing deportation due to their conviction of serious crimes.

3.2 Readmission of third country nationals or stateless

Treatment of third country nationals or stateless persons who entered any other states illegally via Kosovo needs to be discussed with the host countries, and conditions to readmit them to Kosovo should be stated clearly in Readmission Agreements. The readmission of third country nationals should be dealt with as a separate issue, as its nature and implications are outside the scope of the present policy.

4. Readmission Procedures

According to UNMIK regulation 2001/9 (15 May 2001), UNMIK has reserved powers with reference to foreign affairs and border control related issues,²³ including readmission of persons originating from Kosovo. Full transfer of these competencies to the Provisional Institutions of Self-Government (PISG) will not be complete until the final status of Kosovo is decided. During this transition period, while the overall competencies remain with UNMIK/OCRM, PISG (MoIA) will be handed over the functional/operational responsibility for the implementation of the aforementioned competencies. This will involve, *inter alia*, confirmation of the identity and origin of persons residing without legal status in a host country, who this country would like to return to Kosovo. After the final status of Kosovo is determined all the competencies of UNMIK/OCRM in respect of readmission will be taken over by the Ministry of Internal Affairs (MoIA).

In principle, no person shall be readmitted to Kosovo unless;

- the person has been confirmed to originate from Kosovo.²⁴

Travel documents will be issued only after the identification is made clear in accordance with the following readmission procedures, and such travel documents will be issued by the host countries until Kosovo sets up consulates.

4.1 Requests for Readmission

Until the competencies are fully transferred to PISG, UNMIK will be the first point of contact for host countries with respect to readmission of persons originating from Kosovo. The authorities in Kosovo shall accept the readmission of a person announced for repatriation by a host country only if there is a proof or valid assumption on the basis of *prima facie* evidence that the person to be readmitted originates from the territory of Kosovo.

Requests for readmission can be sent either by fax or email. The means of communication will be decided in accordance with the law applicable in Kosovo and in the host country, and shall be specified in readmission agreements and technical arrangements between Kosovo and host countries.

²³ Article 8.1, UNMIK Regulation 2001/9, The Constitutional Framework for Provisional Self-Government in Kosovo states that “[t]he powers and responsibilities of the Provisional Institutions of Self-Government shall not include certain reserved powers and responsibilities, which will remain exclusively in the hands of the SRSG.” These reserved powers shall include “[o]verseeing the fulfillment of commitments in international agreements entered into on behalf of UNMIK” (Section n)), and “[e]xternal relations, including with states and international organizations, as may be necessary for the implementation of [SRSG’s] mandate” (Section (0)).

²⁴ For the readmission of third country nationals reference has to be made to the paragraph III, Para. 2 of this policy paper and to the readmission agreements.

Requests for readmission should contain to the extent possible the following information:

- a) personal details of the person to be readmitted such as given names, family names, father's name and mother's name, date of birth, place of birth, the last place of residence upon availability
- b) information on ethnicity²⁵
- c) copies of documents that prove the citizenship, place of origin, last place of residence or place of birth
- d) indication (if any) of the assistance or special arrangements that the person to be repatriated might need during the readmission process. This may include *inter alia* information on medical conditions
- e) indication (if any) of necessary security measures or custodial arrangements that might be required during and after the readmission process²⁶

Requests for readmission will not contain details of criminal or health record except in cases where required as explained in d) and e) above.

No information on asylum status of the person subject to readmission will be provided to the PISG/Kosovo Authorities, in accordance with European standards and data protection legislation in both Kosovo and host countries.

4.2 Proof of Origin and *prima facie* Evidence

Following documents can be used as an evidence to prove that a person requested for readmission originates from Kosovo:

- a) valid UNMIK travel documents
- b) valid UNMIK Identity Cards

Following documents and evidence can be considered as *prima facie* evidence of the presumption of Kosovo origin:

- a) photocopies of valid UNMIK travel documents and UNMIK Identity Cards
- b) expired UNMIK travel documents and UNMIK Identity Cards or photocopies thereof
- c) driving licenses or photocopies thereof
- d) birth certificates or photocopies thereof
- e) military books or photocopies thereof

²⁵ This information will only be requested from the host countries during the UNMIK transition period, due to the fact that UNMIK will follow the UNHCR Position Papers according to which certain categories of persons remain in need of continued international protection. At a later stage, the host countries will not be providing such information to the Kosovo Authorities.

²⁶ Such arrangements are, in general, processed separately through judicial channels between sending and receiving states.

- f) bona fide statements by witnesses
- g) language spoken by a person to be repatriated
- h) any other documents that may help to establish a place of origin of the person concerned such as Yugoslav passports and Identity Cards
- i) any expired documents mentioned above

Statements by the person concerned can be *prima facie* evidence of the presumption of Kosovo origin only in combination with any of the other aforementioned documents and evidence, due to the particularities in Kosovo.

4.3 Internal Screening Procedure

As stipulated in UNMIK regulation No 2005/15, MoIA is responsible for integrated border management in respect to established border crossing arrangements²⁷ and thus, will be a successor of UNMIK in handling readmission cases after full transfer of competencies. Until then, host countries will continue sending requests to the UNMIK/OCRM on each individual case of return.

During the transition period UNMIK/OCRM will work in close cooperation with PISG especially in respect of confirming the identity and places of origin of persons subject to readmission. Such confirmation will be carried forward in a following method.

1. Upon receipt of a readmission request from a host country UNMIK/OCRM will forward the request to the Department for Border Management, Asylum and Migrations (DBAM) at the MoIA.²⁸
2. DBAM/MoIA will duly log in all the requests and list them, on the basis of information available in the requests, municipality wise.
3. These lists will then be sent to the UNMIK Civil Registrar for verification in the Central Registry Database at the Central Processing Centre (CPC) to verify/screen the information in respect of each individual case.
4. In case the information can not be verified in the Central Registry Database, the UNMIK Civil Registrar will inform DBAM/MoIA. DBAM/MoIA will then forward the case to the Department of Registration and Civil Status in the MoIA. The Department of Registration and Civil Status will be responsible for verification of available documents in the Municipal Civil Status Offices and the Municipal Registration Centres, as well as other available sources if necessary (hospital or school records etc.). The Department of Registration and Civil Status will then

²⁷ Annex XVI, Regulation No 2005/15 (16 March 2005) amending UNMIK Regulation No. 2001/19 on the executive branch of the Provisional Institutions of Self-Government in Kosovo.

²⁸ After the termination of UNMIK's mandate in Kosovo, UNMIK will no longer be in the position to receive the readmission requests from host countries.

inform DBAM/MoIA about the positive or negative outcome of the verification.

5. If the person subject to readmission does not have any documents available, the DBAM/MoIA will request the Police Station Commander of the respective municipality to make an inquiry at the indicated last place of residence, through its Community Police Units. Community Police Units will be required to thoroughly investigate by visiting last places of residence, interviewing community leaders and neighbours, cross checking information with municipal officials and by any other methods available. Records of the investigation should be kept for future references. As soon as the Community Police Unit has completed the process of identification and confirmation of the last place of residence, the Police Station Commander will send the information back to DBAM/MoIA. At this stage DBAM/MoIA shall forward all the information related to readmission cases to UNMIK/OCRM.
6. In exceptional cases when there are no documents and/or information regarding the last place of residence available, linguistic analysis carried out in a host country can be accepted as a prima facie evidence and may be accepted as a ground for provisional readmission. The authenticity of such linguistic expertise in a host country will be subject to the assessment and approval of UNMIK/OCRM and/or PISG/Kosovo Authorities, and will be stated in the respective Readmission Agreements. Modalities and ways to conduct such language tests shall be subject to bilateral agreements/arrangements. Upon return of such person to Kosovo, the border police will conduct an interview to identify and verify his/her place of origin. Border police retains the right to return the person back to the host country, if as an outcome of the interview it is established that the person does not originate from Kosovo.

After full transfer of competencies DBAM/MoIA will eventually develop normal working relations with its counterparts in host countries. Within this framework DBAM/MoIA will contact the host country authorities and vice versa, in cases where more information, clarifications and so forth are necessary.

After the identification is made clear in accordance with the above readmission procedures and the readmission is approved host countries will issue travel documents until Kosovo sets up its consulates.

4.4 Time Limits

A request for readmission should be responded within reasonable amount of time. The time limits should be negotiated with each individual state separately in bilateral agreements or Memoranda of Understanding. Until such agreements/arrangements are made, UNMIK/OCRM and PISG/Kosovo Authorities will operate within a time limit of up to 28 days; understandably, UNMIK/OCRM and PISG/Kosovo Authorities will

endeavour to finalise cases in even shorter time, if possible. Specific cases where a person announced for repatriation is in custody in the host country will be prioritised and efforts will be made to finalise the procedures in the minimum possible time, in order to avoid unnecessary duration of custody. These timeframes can be subject to change based on the assessment of test cases.

Internal timeframes for PISG/Kosovo Authorities institutions shall be agreed within PISG/Kosovo Authorities.

4.5 Data Protection

During the readmission process both UNMIK/OCRM and PISG/Kosovo Authorities should provide that no one, other than parties involved in the process, has access to personal data of persons subject to readmission or being readmitted to the territory. Existing data available to UNMIK/OCRM shall be progressively and in a phased manner shared with PISG/Kosovo Authorities, keeping the data protection principles in view and the Kosovo Law on Data Protection, currently under development. Personal data should be used only for the specified, explicit and legitimate purposes. European standards on data protection should be observed during the transition period until and after the relevant law is adopted.

4.6 Human Rights Standards

International human rights standards should be fully observed throughout the process of readmission. Both UNMIK/OCRM and PISG/Kosovo Authorities should provide safe and dignified return of persons subject to involuntary return and create suitable conditions to return to Kosovo.

4.7 Monitoring and Guidance

The whole process of readmission will be monitored and guided by UNMIK/OCRM currently and during the transition phase. During this period the necessary arrangements will be made to hand over the monitoring and guiding roles to relevant international agencies and organisations.

– EXPLANATORY ANNEX –

Applicability of the policy

The present policy has been drafted with the following framework in mind:

The Policy reflects the efforts of UNMIK to normalise the procedures followed with regard to repatriations to Kosovo. As such, the Policy will come into effect as soon as it is endorsed by PISG and approved by the SRSG. The aim is for the Policy to apply during the remaining period of UNMIK presence as well as post-status. Future Kosovo Authorities may consider amending this policy as necessary.

With this in mind, it is considered advisable, that in this explanatory annex some clarifications are given with regard to certain terms used or issues mentioned in the document. These are as follows:

Use of the term “PISG/Kosovo Authorities”

Since the policy is meant to cover the period of UNMIK presence and transition period, as well as the future period after the completion of UNMIK’s mandate, this term is used in the paper to denote the Provisional Institutions of Self-Government in Kosovo and future Local Authorities in Kosovo.

Use of the term “persons originating from Kosovo”

In the current situation and in the specific context of Kosovo, this term has been selected as the most appropriate one. Other terms such as “nationals” or “citizens” are at this time not applicable for Kosovo from a legal standpoint. It is understood that the document can be amended in the future, when and if necessary.

Actors and procedures

The present policy has been drafted on the basis of the existing structures and mechanisms in Kosovo. Where possible, efforts were made to predict the involvement of other actors or the necessary amendments to the procedure. However, the principle applies for the whole document, that if in the future other structures are in place, which might have a role with regards to readmission, or if any of the procedures proposed should be modified, the present policy will be amended accordingly.