RAPORTI VJETOR 2007

GODIŠNJI IZVEŠTAJ 2007
ANNUAL REPORT 2007

Prishtina January 2008
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ABBREVIATIONS

IOBK - Independent Oversight Board of Kosovo
PISG- Provisional Institutions of Self- Government
UNMIK- United Nations Interim Administration Mission in Kosovo
SRSG- The Special Representative of the Secretary- General
MPS- Ministry of Public Services
KCS- Kosovo Civil Service
CEO - Chief Executive Officer (Municipality or Executive Agency)
REG- Regulation on Kosovo Civil Service
AD- Administrative Direction (2003/2)
LAP – Law on Administrative Procedures
AI- Administrative Instructions (2005/01 and 2005/02)
UCCK – University Clinic Centre of Kosovo
UP - University of Pristina
EA- Employing Authority
OSCE- Organization for Security and Cooperation in Europe
DFID- Department for International Development (U.K)

INTRODUCTION
The Independent Oversight Board of Kosovo (IOBK), following the provision of section 14.1 of Regulation 2001/36 on Kosovo Civil Service, in order to provide full information about its activities during 2007, has the pleasure to present the Report for last year to the competent bodies and the public.

The activity of the Independent Oversight Board of Kosovo, during 2007, as a whole, was oriented and tended fulfill the mission and goals set by the Business Plan.

Aware that “achieving of goals is not done by people, but through people” IOBK did not constraint its primary goal, achievement of comprehensive Oversight regarding application of the Law on Civil Service, only in the simple oversight and enforceable component, but it widely provided the probabilities of consultations, advices and discussions with employment authorities in Kosovo Civil Servic in order to achieve the highest level of application of the legal provisions and commitment for a stable and professional civil service.

During 2007 IOBK sought to:

- Give effective response to the concerns of the civil servants;
- Identify areas where application of Law on Civil Service is facing obstacles and give recommendations to improve such situations, whenever needed;
- Develop internal capacities of IOBK in order to increase the work efficiency;
- Carry out its transformation into a complete independent body that would report to Kosovo Assembly only.

The whole IOBK activity presented in this Report has its continuous purpose guaranteeing an ethical, law based, diverse and effective Civil Service, for the benefit of all Kosovo citizens. Taking into account the fact that a well organized civil service, which has a competent administration is a precondition for the functioning of the democratic institutions and a sign of rule of law.

Certainly, the third Annual Report prepared by the Board has no intention to present everithing preformed within the year the report is referred to, since the goal is to point out the main points of its activities, including what is considered to be as a success of the Board, work difficulties, flaws or obstacles and the challenges in the future, especially its transformation into a body that would directly report to the Kosovo Assembly.

Hereby, we would like to thank all local and international institutioan for understanding and the continuous support for IOBK work.

Regards,

Sevdail Kastrati, Chairperson of the Board
Independent Oversight Board of Kosovo is an organ established pursuant to UNMIK Regulation 2001/36 on Kosovo Civil Service, which determines such as; the functions, content, authority and the field of activity of the Board.

The Board was officially established on 23 September 2004, when IOBK members made a solemn oath starting their activity in the Board.

IOBK is composed of seven members, appointed by SRSG in consultation with the Prime Minister of Kosovo, being selected through the public competition, in open competing procedures and based on merit.

The Board has its Chairperson selected by the Board.

Pursuant to the provisions of the Law on Civil Service, the IOBK members are not civil servants.

The Board has its Secretariat, composed of employees who are civil servants according to the law and they carry out administrative/technical preparatory tasks after IOBK needs, and they are supporting staff of the Board.

The Board members are selected for a period of time foreseen with the law and they can be terminated from their duties as foreseen by the law only.

All the current Board members have work experience in Public Administration, in managing the human resources and experience in the Kosovo courts, which absolutely makes them suitable and credible in exercising the duties of a Board member.

Based on the applicable law, the Board has three key roles:

- The responsibility to resolve the appeals filed by the civil servants and the applicants for job in KCS, in the final instant of the administrative procedure,

- The function of Review of Appointments at the Level of Heads of Kosovo Civil Service Departments,

- The function of Compliance of the Law on Kosovo Civil Service, by Employment Authorities of KCS.

THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:
Sevdail Kastrati, Lawyer, Chairperson of the Board, he has a degree on European Integraions and attended many trainings related to civil service. Since 1986 he was exclusively working on legal aspect of employement. He has knowledge on English and Serbo-Croatian languages.

Bisera Spahi, member of IOB. Dip. Ecconomist with title of personnel manager in MPS. Certificated for human resources in Kosovo Civil Service, also for international trainer in public procurememt. Has finished school for leadership of American Institute for International development in cooperation with KIPA. Since 2004 is nominatet for IOB member.

Mursel Ahmeti, Law degree obtained on 1982. He has passed the professional exam on administration and has a successful experience as a lawyer. He has attended the following trainings: Civil Service of Kosovo, Legislation, Procedures and Technics of Management as well as the training related to a Board member position.
He worked as Head of Property-Legal sector from 1985 till 1990 and as a Director of the General Directorate in the Municipality of Mitrovica from 2001 till 2004. In 2004 he was appointed as a member of IOB.

Nebojsha Azdejkovic, graduated on Law and Economics at the University of Prishtina. In 2000 he finished postgraduation studies, Police academy in Vushtrri/Vucitrm. He has specialized on Organized Crime in USA. Since 2001, he was a Complaint Board member of UNMIK Police Comesariat. In 2004 he was appointed as member of KPMK-së. In 2006 he was appointed as member of the Group of Experts for Public Administration Reform. He speaks Serbian, Albanian and English.

Bajram Zogiani, Law degree, Board member. He has completed the Bar exam, a trainer of KCS, all his work experience is related to administration. He has many trainings attended related to KCS, legislation and courts.
Flora Balidemaj-Hoxha, Master degree on Law, Criminal-Legal Department, Board member. She has finished the Bar exam and many trainings on judicial field and lately on civil service. From 2003 till 2007, she worked as a professional co-worker and a secretary in the Supreme Court and since June 2007 she works at KPMK. She speaks English and Serbo-Croatian.
The legal basis of Independent Oversight Board of Kosovo to exercise its activities derives from the positive legislation in Kosovo mainly through:

- UNMIK Regulation 2001/36 on Kosovo Civil Service,
- AD 2003/2 on Implementation of the Regulation 2003/1,
- Law on Administrative Procedures (Law of Kosovo Assembly No 02L-28),
- Administrative Instruction 2005/01 on Rules of work of IOBK,
- Administrative Instruction 2005/2 on Appeals Procedures of IOBK,
- 12 Administrative Instruction of MPS regarding the KCS procedures

Applicable laws in Kosovo pursuant to UNMIK Regulation 1999/24 on Applicable Law in Kosovo.

IOBK was based also in the Administrative Directions and Legal Advices of the Ministry of Local Government Administration in relation to certain issues of the municipalities of Kosovo.

Apart from this, during the monitoring visits, IOBK also uses the questionnaires to undertake the monitoring checks regarding the compatibility of application of Law of KCS by Employing Authorities, which is drafted by the Board itself.

The appealing parties also are obliged to fulfil the obligatory appeal form with all requirements foreseen by it, pursuant to AI 2005/02 on Appeals Procedures, which IOBK follows with.

Another formal and practical source that is used by the IOBK members, especially during organization procedures and holding of hearings with the present parties, is the Calendar compiled by both IOBK and OSCE, which was discussed and Approved in the common seminar organized in Ohrid, Macedonia in 2006 and the experience gained by the manner the hearings were arranged by the Commission of Tribunal of Civil Service in Canada, where the members of IOBK apart from meetings attended some hearing sessions experiencing them in practice.

2007 – IN FIGURES – A REVIEW OF THE REPORT

COMPLAINTS:
In 2007 there was a total of 384 complaints submitted.
### Nationality, Gender, Employer, Complaint basis

<table>
<thead>
<tr>
<th>Nationality</th>
<th>Gender</th>
<th>Employer</th>
<th>Complaint basis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albanian</td>
<td>378</td>
<td>Men</td>
<td>296 Ministry</td>
</tr>
<tr>
<td>Serbian</td>
<td>02</td>
<td>Female</td>
<td>82 Executive Agencies</td>
</tr>
<tr>
<td>Other</td>
<td>04</td>
<td>Other</td>
<td>06 Municipalities</td>
</tr>
</tbody>
</table>

COMPLAINTS SOLVED

There are 386 complaints solved, 294 of them from 2007 and 92 from previous years. Based on the information obtained by IOBK, 39 decisions were not implemented.

<table>
<thead>
<tr>
<th>Approved</th>
<th>78</th>
</tr>
</thead>
<tbody>
<tr>
<td>Partially approved</td>
<td>33</td>
</tr>
<tr>
<td>Dismissed</td>
<td>60</td>
</tr>
<tr>
<td>Rejected</td>
<td>193</td>
</tr>
<tr>
<td>Other forms</td>
<td>22</td>
</tr>
</tbody>
</table>

### MONITORING VISITS AT EMPLOYMENT AUTHORITIES - COMPLIANCE WITH THE LAW ON CIVIL SERVICE

<table>
<thead>
<tr>
<th>Employment authority</th>
<th>Recommendation</th>
<th>Realization followed during the first 6 months of 2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry</td>
<td>11</td>
<td>48 recommendation points</td>
</tr>
<tr>
<td>Municipality</td>
<td>20</td>
<td>73 recommendation points</td>
</tr>
<tr>
<td>Executive agency</td>
<td>4</td>
<td>19 recommendation points</td>
</tr>
<tr>
<td>Other authorities</td>
<td>8</td>
<td>30 recommendation points</td>
</tr>
</tbody>
</table>

### MONITORING OF APPOINTMENTS OF THE DIRECTORS OF DEPARTMENTS

<table>
<thead>
<tr>
<th>Employment authority</th>
<th>Recommendation</th>
<th>Realized</th>
<th>Not followed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry</td>
<td>52</td>
<td>9</td>
<td>8</td>
</tr>
<tr>
<td>Municipality</td>
<td>79</td>
<td>13</td>
<td>12</td>
</tr>
<tr>
<td>Executive agency</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other authorities</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
</tbody>
</table>

### DETAILED ELABORATION OF THE BOARD ACTIVITIES
THE ROLE OF COMPLAINT RESOLUTION

Whenever civil servants employed at Kosovo Civil Service consider that an activity of their Employment Authority violates any rights provided for by the employment are entitled to file a complaint with Independent Oversight Board of Kosovo.

This right of the civil servants is entitled to them in case they exhaust all remedies within the institution where they work or used to work.

The applicants of Kosovo Civil Service are entitled to the same right of complaint with IOBK, providing that, prior to filing a complaint with IOBK; they should file a complaint to the complaint Commission of the institution they applied at.

Upon receiving a complaint at IOBK, it gets recorded in its Secretariat and then referred to the Board for decision.

A Board commission consisting of three members, on behalf of the Board, undertakes all procedure actions for resolution of the complaint including: consideration of evidence submitted, arrangement of hearings, hearing of eventual witnesses, drafting of minutes from hearings, consulting and voting sessions and finally issue of DECISION in relation to the actual complaint; (see an example of a complaint submitted to IOBK - first page).

In respect to the reporting time period, that is 2007, the IOBK Secretariat recorded 384 complaints and upon completion of protocol technical-administrative proceedings were referred to the Board for decision.

Based on gender:

- female 82 or 21.3%
- masculine 296 or 77%
- other 06 or 1.56%

Based on ethnicity of the complainants:

- Albanian 374 complainants or 97.4%
- Serbian 3 complainants or 0.78%
- Bosnian 2 complainants or 0.6%
- Turkish 1 complainant or 0.26%
- Other (Employment Authority) 4 complainants or 1.04%.
From the figures mentioned above it is clearly noticed that IOBK received more complaints submitted persons with masculine gender, even more than those of feminine gender. There is also an encouraging fact that IOBK receives complaints submitted by persons of all nationalities, though in a smaller number, it is an indicator that the civil servants trust in this body regardless of their gender and ethnicity.

(A copy of a complaint submitted by a complainant with Serbian ethnicity)

TO: INDEPENDENT OVERSIGHT BOARD
Prishtina

Unsatisfied with the Disciplinary Committee decision on the termination of my contract with the Gjilan Municipality, Municipal Civil Service, with the number 02/37 on the date 12/01/2007 and the Complaint Committee Decision of the MCS of Gjilan Municipality no. 1248 dated 19/03/2007, promptly and within the timeframe, I submit:

COMPLAINT

My contract as a Deputy Director of the LKZ, where I carried out my assignments and duties, was terminated on 15/01/2007 by the Disciplinary Committee decision.

Following this decision, I submitted the complaint no. 0201-556 on 25/01/2007 to the Complaints Committee which confirmed the decision of the Disciplinary Committee, so I consider that the first-degree body as well as the Complaint Committee with their actions have:

1. Incorrectly and partially established the factual situation and
2. Violated substantive provisions

I possess all the necessary skills and knowledge for my field, as well as years of working experience for the job I do since the arrival of international forces in Kosovo.

Proof for the above-mentioned are my efforts to maximally help all members of my community so that they can get familiar with the responsibilities, procedures and competencies, as well as goals and aims of certain institutions and bodies after June 1999.

I also want to emphasise that the previous decisions were taken under the pressure to which the LKZ director Ranko Makic was subject for a long time. This pressure came from Serb deputies in the Gjilan Municipal Assembly, especially from the Deputy Mayor. This is of the utmost importance for realistically considering issues and taking a decision that is objective, independent and unbiased.

As a proof for the above-mentioned, I also submit the statement of the LKZ Director Ranko Makic dated 24/03/2007 related to my work, as well as conditions and circumstances under which he worked and took decisions, which for me and my family of 4 have crucial life importance.
OSCE, UNMIK and KFOR have highly evaluated my work and dedication

Therefore

I SUGGEST

That the Independent Oversight Board considers the complaint to be grounded and change the decisions, consequently enable me to continue carrying out my work and tasks normally and unimpeded or return the case to the first-degree body to consider it again.

Gjilan
11/04/2007
Complainant

Mladen Mitrovic, LKZ Deputy Director

REASONS THE PARTIES COMPLAIN IN IOBK

The reasons why the civil servants complain at IOBK are different. During 2007 the vast majority of the complaints consist of two claiming bases: termination of employment contract and non-extension of the employment contract after expiry of the time frame.

If the table and the diagram, presenting this subject, are carefully reviewed, it would be concluded that the number of the complaints submitted in the Board is almost the same; 127 due to termination of the contract and 138 due to non-extension.

The main reason the employment authorities undertook these two legal actions was lack of budget, respectively the decision of the Government of Kosovo in relation to implementation of International Monetary Fund recommendations for reducing of the number of civil servants, and the amount of the means allocated by the Ministry of Finances for employees' salaries, which was lower than previous budgetary year.

Being faced with such a challenging situation, the only goal of the Board was to maximally comply with the law, making clear distinctions between situations when the employment contract of a civil servant is terminated before the expiry of the time frame the contract was concluded and situations when an employment contract is not extended by the employer at KCS, after the expiry of the time frame.

All complaints related to the contracts terminated prior to expiration of the set time frame are approved in favor to the complaining parties and the employer is obliged by the IOBK Decision to follow the provisions of the contract of which it is a contractual party providing the employee with the possibility to exercise all rights and obligations in compliance with the signed employment contract. This kind of decision is issued by respective commissions of IOBK in all cases where the main reason of unilateral termination of employment contract was, according to the employer, lack of budget.

Neither the basic legislation on Civil Service (Regulation 2001/36 and Administrative Direction 2003/2) nor bylaws, Administrative Instructions, determine the possibility of termination of employment contract within the time frame the contract is concluded, however, in case of disciplinary procedures conducted against a civil servant, after which eventually the termination of employment might be imposed (Section 30.2 f AD 2003/2) by disciplinary commission of the employer or in case of negative appraisal after or during 3
months probation period of the civil servant. However, none of these two actions was undertaken in relation to all granted cases.

This kind of decisions for termination of employment contract was especially a characteristic of Judicial Council of Kosovo that has the capacity of an employer for civil servants of Kosovo courts. In this regard, a section of report will present the implementation of the IOBK decisions through a special review with real and documented examples.

The table and the diagram below present a full review of the complaints received, based on their nature:
- termination of the employment contract 127 or 33%
- non-extension of the employment contract 138 or 35.9%
- dispute of vacancy 40 or 10.4%
- degradation of position 11 or 2.86%
- material compensation 26 or 6.7%
- suspension from work 05 or 1.3%
- other 37 or 9.6%

(see the diagram presenting the situation graphically)

As it can be noticed, other reasons the parties submit complaints to the Board are due to the opinions of the persons applying for work at Kosovo Civil Service that there are irregularities during recruiting process for relevant vacancies, respectively the non-
compliance with the leading principals of Law on KCS and the requirements set by the Administrative Direction 2003/2.

The applicants usually challenge the decision of interview panel stating that he/she unfairly is not selected for the relevant position even though he/she fulfilled all requirements and violation of the leading principal of merits during the recruiting process, determined by Section 2.1 of Regulation on Civil Service.

During deliberation of these complaints, the IOBK commissions, apart from allegations of the complainants submitted in the complaint ex officio verify the fulfillment of legal requirements set by legal provisions, such as: the content of the public advertisement/vacancy, composition of the interview panel, number of applying candidates, etc. and based on these facts issue a right decision.

Below is presented a general summary of the complaints submitted to the Board and classified pursuant to the employer criteria against which the complaint has been submitted to:

Employers against which the complaints have been submitted to:

- Ministries ........................................ 183 complaints or 47.6%
- Executive Agencies......................... 12 complaints or 3.1%
- Municipalities................................... 180 complaints or 46.8%
- Ombudsperson ..............................1 complaint or 0.5%
- Prime Minister Office.................... 1 complaint or 0.5%
- Other (regional hospitals KTA, UP... 7 complaints or 1.8%
EMPLOYERS AGAINST WHICH THERE ARE MORE COMPLAINTS SUBMITTED

During the process of deliberation of complaints, the Board commissions concluded that there are some complaints submitted to IOBK which are related to specific employers, and the situation is as follows:

- Judicial Committee of Kosovo  58 complaints or 15%
- MA Ferizaj  32 complaints or 8.8%
- MWSW  30 complaints or 7.8%
- MA Gjilan  20 complaints or 5.5%
- QKUK  20 complaints or 5.5%
- MEST  13 complaints or 3.4%
- MA Malishevë  11 complaints or 2.8%

Hereby, it is not hard to conclude that the vast number of the complaints submitted is related to these three certain sectors where civil servants work: Judicial Council of Kosovo, Education Sector and Health Sector.

DETERMINATION OF COMPLAINTS IN IOBK

As it was shown in the tables presented in the beginning of this report, the relevant commissions of IOBK during 2007 decided a total of 386 complaints from which 294 complaints are related to 2007 whilst 92 of them to the previous years.

Based on the existing legislation, IOBK decides about the form of complaint resolution. The commission consisting of three members may decide about a complaint based on the facts (evidence submitted with the case by the complainant and the response to the complaint by the employer, attaching the available evidence (Section 5.7 of Administrative Direction 2005/2 –On Complaint Procedures of IOBK), or call for a hearing where parties apart from submitted written evidence shall have the opportunity to directly declare themselves in front of the competent Board commission.

In cases of conflict of the material facts and when the commission finds that it is necessary for a preparation session related to hearing of the parties, then the Secretariat of IOBK takes all the necessary steps to arrange this session notifying the parties of the date and location where the hearing will be held.

The Board hearings will be held in an office of the Board, which in fact is a small office, which has enough space only for the commission, minutes keeper and both parties in the dispute, so there is hardly enough space for public or media, though this was requested sometimes by the parties. Otherwise, pursuant to the legal provisions the Board hearings are opened for the public.
The total number of the complaints decided in 2007 is 386, as represented below:

**According to the manner they are decided**

- Approved complaints 78 cases or 20.2%
- Partially approved complaints 33 cases or 8.5%
- Rejected complaints 193 cases or 50%
- Dismissed complaints 60 cases or 15.5%
- Other forms 22 cases or 5.7%

**According to gender:**

- Feminine 90 or 23.3%
- Masculine 293 or 75.9%
- Other 04 or 1.0%

**According to the ethnicity of the complainant:**

- Albanian 375 or 97.1%
- Serbian 02 or 0.5%
- Other 04 or 77.7%
- Other from Employment authority 05 or 1.2%

From the total number of the cases decided in 2007, 294 cases are related to 2007 and 92 to previous years.
IMPLEMENTATION OF IOBK DECISIONS BY EMPLOYERS

IOBK decisions are binding to be implemented by the employment bodies within Kosovo Civil Service. Pursuant to Section 11.3 of Regulation 2001/36, the Permanent Secretaries of relevant Ministries and the Main responsible persons of the respective employment authority (Chief Executives) are responsible for implementation of IOBK decisions.

In comparison to 2006 the Independent Oversight Board received a larger number of complaints and a larger number of them was also resolved, however, there was an increase of the number of decisions not implemented by the employment authorities:

Which are the employment authorities distinguished for failure to implement the Board decisions:

During consideration of notices regarding failure to implement the decisions of the Board, it was found that some employment authorities within KCS are distinguished for the number of unimplemented decisions and in some cases for their ignorance towards such decisions, such as:

- Judicial Council of Kosovo,
- Ministry of Culture, Youth and Sports; and
- Municipality of Malisheva.

Authorities that follow IOBK Decisions

On the other hand, it is a pleasure to specify the authorities that not only implement the Board Decisions but they always are ready for correct cooperation, such as:

- Kosovo Forest Agency,
- Municipality of Suhareka, and
- Municipality of Shtime

Of course, in both cases only distinguished examples were mentioned, as there are other employment authorities that could be included in one of the abovementioned categories.
No 02/138/2007
The IOBK Commission consisting of: Bisera Spahi, Chairperson, Mursel Ahmeti and Nebojsa Azdejkovic, members of the Commission during the consideration of the complaint No 02/138/2007 dated 27.3.2007 submitted by Mr. Nexhat Berisha from Suhareka, regarding the challenge against the decision for termination of his employment contract, upon reviewing the all provided evidence, in a session that was not opened to the public on 30.03.2007, pursuant to Section 11.1 of UNMIK Regulation 2001/36, in respect of the Section 5.7 of AI of MPS (No 2005/2), takes this:

DECISION

I. The complaint submitted by Mr. Nexhat berisha from Suhareka is GRANTED.

II. The employment authority is OBLIGED that within a deadline of 15 days upon issuing this Decision, to give opportunities to the Complainant to use all legal remedies deriving from his employment in compliance with the employment contract.

III. The responsible person for this Decision to be implemented is the Chief Executive of the Municipality of Suhareka.

IV. After the actions referred in the Decision are completed, The Independent Oversight Board of Kosovo must be notified.

V. In case of failure to comply with this Decision, IOBK will notify the SRSRG and the Prime Minister pursuant to Section 11.4 of Regulation 2001/36 on KCS.
Reasoning

The Commission appointed to deliberate the complaint submitted by Mr. Nexhat Berisha from Suhareka, reviewed all file documents, held a non-public session for consulting and voting, scrutinized evidence filed by the complainant and verified that the complaint is based on law.

Beacause of the following reasons:

Section 35.1 of AD 2003/2, as a legal basis for automatic termination of employment is applied in the following situations:

   a) day of death…
   b) upon expiry of the contract…
   c) upon written resignation of the employee…
   d) when the permanent employment of a civil servant is not verified after the expiry of probation period.

Section 35.2 Employer has the confidential right to terminate the employment contract in the civil service:

   a) as a disciplinary measure due to serious violation of Code of Conduct in compliance with Chapter VII; and
   b) due to health conditions, where a civil servant based on a certificate issued by a medical body is not able to perform his/her tasks because of long illness.

Reviewing legal rules of these sections of AD 2003/2, it can be verified that there is no other legal basis for termination of employment during the time the employment contract is valid, apart from the disciplinary measures imposed in accordance with legal procedures.

Complaint Commission of IOBK verified that in the the actual case there was no disciplinary procedure applied or imposed against Mr. Nexhat Berisha, therefore there is no legal basis for termination of his employment contract. In this respect, the employment authority is obliged to follow obligations rising from the employment contract.

Based on the factual and legal evidence from the file documents, the Complaint Commission of IOBK decided as mentioned in the provision.

LEGAL ADVICE: This Decision is final in the administrative proceedings. No complaint is allowed against this Decision.

Case: No 02/138/07, decided on 11.04.2007 in the Independent Oversight Board of Kosovo
The Decision to be sent to:

- Chief executive of Municipality of Suhareka,
- The Complainant,
- Archive.

Prishtina, 11.04.2007

IOBK Commission

Translated by:
1. Bisera Spahi, Chairperson
2. Nebojsa Azdejkovic, Member
3. Mursel Ahmeti, Member

Shemsedin Mujku
On 16.04.2007
MUNICIPAL ASSEMBLY
CHIEF EXECUTIVE
02 No  234
Suhareka, 30.04.2007

From: Agim Zenelaj, Chief Executive

To: Independent Oversight Board of Kosovo, Pristina

Subject: Information

In relation to the case of Mr. Nexhat Berisha, Reference No 02/138/2007, we would like to inform you receipt of the IOBK Decision and at the same time we accept the implementation of this Decision, Mr. Nexhat Berisha will return back to his previous position.

Regards,
Pursuant to Section 49 of the Statut of Municipality of Suhareka, the Chief Executive on 30.04.2007 issues this:

**DECISION**

I. Nexhat Berisha from Suhareka to be returned back to his position, as a cleaner, in the Secondary Technical School “Skender Luarasi” in Suhareka;  

II. The Municipal Education Directorate of Suhareka will be responsible for implementation of this Decision.  

III. This Decision becomes effective upon the date of issue.

**Reasoning**

Based on the decision issued by Independent Oversight Board of Kosovo Ref. No 02/138/2007, the Chief Executive decided that Mr. Nexhat Berisha be returned to his previous position in compliance with the IOBK Decision, therefore it is decided as in Paragraph 1 of this Decision.

The Municipal Education Directorate of Suhareka will be responsible for implementation of this Decision.

To be notified:  
Chief Executive,  
Agim Zenelaj

KPM, DKA, Archive
It should absolutely be mentioned as a positive case, the fact, which verifies the thesis that “justice comes late but wins”, that the Municipality of Vushtrria/Vucitrn finally took necessary steps in order to implement IOBK Decisions that were outstanding since 2006 and are referred to in all Board Reports as unimplemented Decisions. (See a copy of the Conclusion from Municipal Assembly of Vushtrri/Vucitrn).

MUNICIPAL ASSEMBLY
VUSHTRRI
01No 564/07
On 27.09.2007

With reference to the note from Ministry of Local Government administration V No 02/174/1 dated 22.08.2007, in relation to the implementation of Independent Oversight Board of Kosovo decisions No 17, 18, 19, 20/2006 and Decision No 02/16/2006, pursuant to section 11.3 of Regulation 2000/45 on Self-Government of Municipalities in Kosovo and Sections 88 and 96 of the Statut of the Municipality of Vushtrri, the Municipal assembly in the session held on 27.09.2007 issued this:

CONCLUSION

For implementation of IOBK decisions No 17, 18, 19, 20/2006 and Decision No 02/16/2006, dated 15.06.2005

1. By this the following are persons, such as: Chief Executive, Ombudsman and the Director of the Directorate of Treasury, Budget and Finances are OBLIGED to take all the necessary procedure actions within their legal authority and responsibility in order to implement the decisions issued by Independent Oversight Board of Kosovo, as follows:

a) The IOBK Decision No 02/16/2005 dated 18/07/2006, respectively Article 3 of the Decision by which Mr. Esret Uka will be entitled to exercise his employment rights in compliance with the employment contract No 06/2003 dated 25.04.2003 in respect of the time he did not work;

b) The IOBK Decisions No 17, 18, 19, 20/2006 dated 15.06.2005, respectively Article 2 of the Decision by which Mr. Besim Jashari, Mr. Veli Karaqa, Mr. Bajram Xhafa and Mr. Hysen Sfarqa will be entitled to exercise their employment rights in compliance with their employment contracts – Contracts No 79/2003, No 77/2003, No 81/2003 and 84/2003, all of them dated 02.07.2003 in respect of the time they did not work.
2. General Administration Directorate- Sector of Personnel management is obliged to provide the Directorate of Treasury, Budget and Finances with employment contracts of the mentioned persons taking into account for each of them the period of time they did not work up to the date of contract expiry, since there is information that some of these employees have already started working for other institutions in Kosovo and they already working there.

3. This Conclusion becomes effective on the day of its approval by the Municipality Assembly of Vushtrri and should be implemented immediately.

4. The Conclusion will be delivered to the following:

Mr. Lutfi Haziri, Deputi Prime Minister and Minister of LGA
Mr. Estref uka, Doberlluk, Vushtrri
Mr. Besim Jashari, St. “Avni Rrustemi” No 12, Vushtrri
Mr. Veli Karaqa, St. “Drenica” No9, Vushtrri,
Mr. Bajram Xhafa, St. “Bahri Kuqi”, Vushtrri,
Mr. Hysen Sfarqa, Studime e Poshtme, Vushtrri,
Mr. Muharrem Parduzi, Chief Executive,
Mr. Ekrem Salihu, Ombdusperson,
Mr. Isuf Jashari, Director of Treasury, Budget and Finance Department,
Mr. Bislim Dushi, Personnel Manager in the Directorate of General administration in Vushtrri.

President of the Assembly,
Muhharem Shabani

The parties submitting the complaint inform IOBK if its Decision fails to be implemented by a certain employment authority within KCS and upon receiving the information the Board makes additional efforts to ensure the implementation of the decision, explaining to the employment authority the necessity of the decision to be implemented and also warning it on the consequences if the decision fails to be implemented. In some cases such additional efforts are successful, as the case related to the implementation of the decision in respect of the complainant, Mrs. Lule Kastrati from Peja/Pec, when after the visit of IOBK members to Peja/Pec MA this decision got implemented.

However there are cases when even these explanations and efforts produce no results, following that the case related to failure to implement the Board Decision is referred to SRSG and the Prime Minister of Kosovo, pursuant to Section 11.4 of Regulation 2001/36.
To: Mr. Joachim Rucker, Kosovo SRSG

From: Sevdail Kastrati, Chairperson of IOBK

Subject: Information

Dear, Special Representative of the Secretary General

Based on Section 12, Paragraph 1, Article (c) of Regulation 2001/36 on Kosovo Publice Services and for the purpose of mutual information, you are informed as follows:

The Commission of the Independent Oversight Board of Kosovo, consisting of Mr. Bajram Zogiani, Chairman, Bisera Spahi and Mrs. Flora Balidemaj, Member, exercising its monitoring duty related to the appointment of the department directors in the Municipality of Klina on 27.06.2007, found that the appointment process had many serious legal flaws, therefore it recommended for the interview to be repeated in order to eliminate these flaws.

After consulting with the interviewing panel and the headperson of the Municipal Assembly it was decided for vacancy repetition, however once the Commission of IOBK left the interviewing panel resumed with candidate interviews recommending the Municipal Assembly appointment of the Municipal Directors of the Municipal Directorates, which was conducted by the Municipal Assembly of Klina on 29.06.2007, appointing 10 directors of the municipal directorates.
The comments of the IOBK Commission were the following:

I. The vacancy was not advertised pursuant to Section 4 of AD 2003/2;
II. The interviewing panel was not appointed pursuant to legal provisions and Section 76 of the Statut of MA Klina which stipulates for the interviewing panel to be appointed by the Municipal Assembly and to be headed by the head of the Municipal Assembly. In the actual case, the interviewing panel, pursuant to Decision 1/3 No 112-2477, was appointed by the Chief Executive and it was headed by him.
III. The composition of the interviewing panel was not in compliance with Section 7.2 of AD 2003/2 (the Commission was consisted only from men, thus no gender and ethnical equality), whereas the employment authority provided no written statement that would justify the diversity principal pursuant to Section 7.3 of the same AD.

From the abovementioned facts derives that MA of Klina failed to comply with:

* IOBK recommendations.
* Legal Advice of the Ministry of Local Government Administration
* UNMIK Regulation 2000/45
* UNMIK Regulation 2001/36
* AD 2003/2 on Application of Regulation 2001/36

Based on these, IOBK concludes that the appointment for the directors of municipal directorates in Klina was conducted in breach of the principals of Kosovo Civil Service set with Section 2.1 of Regulation 2001/36 on Kosovo Civil Service.

We are of the view that failure to implement the Board decisions, apart from presents violation of the provisions of Law on Kosovo Civil Service and also is not a good sign of the principal of rule of law within the society.

Having that pursuant to the law, you are the guarantee for implementation of the Board decisions, we sincerely ask from you to exercise your authority in order for these decisions to be implemented.

Thanking you in advance for the support given to IOBK, I would like to express my greetings and once again offer the readiness of the Board for cooperation in relation to all necessary areas for the general interest in order to create an effective, professional Civil Service, based on legal activities and above all serving Kosovo citizens.

Annex: Copies of the decisions and additional documentation

Regards,
Sevdail Kastrati
31 August 2007

Dear Mr. Kastrati,

I refer to your letter reporting the failure of the Municipality of Klinë/Kлина to implement certain decisions of the Independent Oversight Board of Kosovo, as provided for in Article 11.4 of UNMIK Regulation No. 2001/36 on the Kosovo Civil Service. I concur with you that it is important to uphold the rule of law in the municipal administration of Klinë/Kлина.

Under the applicable legislation, the Ministry of Local Government Administration (MLGA) has the authority to take remedial action on the basis of UNMIK Regulation No. 2007/18 of 9 May 2007 amending UNMIK Regulation No. 2001/19, Annex XIV which sets out the supervisory functions of the MLGA.

Please be informed that UNMIK has contacted the Ministry with the aim to promote and enhance compliance by the Municipality with IOB decisions in accordance with the applicable law.

I thank you and your fellow board members for the important work you do in promoting the governing principles of the Kosovo Civil Service and wish you every success in continuing your work.

Yours sincerely,

Joachim Rücker
Special Representative of the Secretary-General

Mr. Sevdail Kastrati
Chairperson
Independent Oversight Board

cc: Mr. Lutfi Haziri, Minister of Local Government Administration
A special employment authority was quite distinguished for failure to implement the Decisions of Independent Oversight Board of Kosovo during 2007, failing to implement 21 IOBK Decisions. That is Judicial Council of Kosovo and knowing its role in the country, we did not expect such a total ignorance of the Board Decisions by its side.

In fact the Board received 58 complaints from which 21 were granted in favor of the parties as their employment contracts were unilaterally terminated prior to the expiry of the time frame for which the contracts were concluded, and the only justification to them was lack of budget in order to pay their personal incomes.

IOBK, following the set procedures for resolution of such complaints found that no legal criteria were fulfilled in order to terminate their employment contracts, since there was no disciplinary action taken against the employees, no negative appraisal for their performance at work was done and the employment authority had produced no evidence on lack of budget. No legal provision foresees the right of termination of an employment contract, apart from statutory cases determined by Law, which the Judicial Council never fulfilled.

Furthermore, the Judicial Council informed IOBK that it is unable to implement IOBK Decisions due to lack of budgetary means.
(See a copy of a decision of Kosovo Judicial Council, a decision of the Independent Board and the notification of Judicial Council regarding the failure to implement the decisions)

KOSOVO JUDICIAL COUNCIL

Reference: 03/118-451

Based on the decision of Kosovo Judicial Council, Reference: 03/118-591 dated 15/12/2006, the Secretariat of Kosovo Judicial Council issues this:

DECISION

The employment contract of Afrim Zhubi, Receptionist in the Municipal Minor Offence Court in Gjakova is terminated on 20/04/2007.

If he has any unused days from the annual leave, he will be reimbursed for the value of such unused days. All inventory that he was responsible for should be returned back together with his identification card.

Reasoning

Starting from the determination for reforming Kosovo Judicial System in general, and the reformation of judicial administration in particular as well as the budgetary shortfalls the in relation to 156 positions for civil servants within the judicial institutions for 2007, Kosovo Judicial Council decided as in the abovementioned provision.

Reductions of the positions was principally done at all judicial institutions, where such positions were less used and not essentially affecting the process of work.

The Board obliges the Secretariat to implement this Decision in compliance with the Law on Kosovo Consolidated Budget for 2007.

Legal Advice: The unsatisfied party is entitled to submit a complaint against this Decision to the Independent Oversight Board within the deadline of 30 days upon the receipt of this decision.

CC: 1 copy to the party,
1 copy to archive,
1 copy to personnel Halit Muharremi, Director
Decision No 02/273/2007

The IOBK Commission consisting of: Nebojsa Azdejkovic, Chairperson, Mursel Ahmeti and Bisera Spahi, members of the Commission during the consideration of the complaint No 02/273/2007 dated 7.08.2007 submitted by Mr. Afrim Zhubi from Gjakova, regarding the challenge against the decision for termination of his employment contract, upon reviewing the all provided evidence, in a session that was not opened to the public on 23.08.2007, pursuant to Section 11.1 of UNMIK Regulation 2001/36, in respect of the Section 5.7 of AI of MPS (No 2005/2), takes this:

**DECISION**

**I.** The complaint submitted by Mr. Afrim Zhubi from Gjakova is GRANTED. Decision No 03/118/451 of the employment authority, in relation to the termination of employment contract and the decision of the Complaint Commission No 61/2007 are cancelled.

**II.** The employment authority is OBLIGED that within a deadline of 15 days upon issuing this Decision, to give opportunities to the Complainant to use all legal remedies deriving from his employment in compliance with the employment contract.

**III.** The responsible person for this Decision to be implemented is the Director of the Secretariat of Kosovo Judicial Council.

**IV.** After the actions referred in the Decision are completed, The Independent Oversight Board of Kosovo must be notified.

**V.** In case of failure to comply with this Decision, IOBK will notify the SRSG and the Prime Minister pursuant to Section 11.4 of Regulation 2001/36 on KCS.
Reasoning

The Commission appointed to deliberate the complaint submitted by Mr. Afrim Zhubi from Gjakova, reviewed all file documents, held a non-public session for consulting and voting, scrutinized evidence filed by the complainant and verified that the complaint is based on law.

Because of the following reasons:

Section 35.1 of AD 2003/2, as a legal basis for automatic termination of employment is applied in the following situations:

e) day of death…
f) upon expiry of the contract…
g) upon written resignation of the employee…
h) when the permanent employment of a civil servant is not verified after the expiry of probation period.

Reviewing legal rules of these sections of AD 2003/2, it can be verified that there is no other legal basis for termination of employment during the time the employment contract is valid, apart from the disciplinary measures imposed in accordance with legal procedures.

Complaint Commission of IOBK verified that in the actual case there was no disciplinary procedure applied or imposed against Mr. Afrim Zhubi, therefore there is no legal basis for termination of his employment contract. In this respect, the employment authority is obliged to follow obligations rising from the employment contract.

The Secretariat of Kosovo Judicial Council on 11.07.2007 advertised the vacancy No 02/2007 for the position of a referent No 8 in the Municipal Minor Offence Court of Gjakova, where the complainant, Afrim Zhubi is still working and he also has an employment contract concluded with the employment authority. Taking into account that the vacancy was advertised, this shows that there is enough budget for such a position. The Director of Secretariat of Kosovo Judicial Council is recommended to correct the vacancy, advertised under the mentioned number and cancel the position under 8 and also inform IOBK in this regard.

Based on the factual and legal evidence from the file documents, the Complaint Commission of IOBK decided as mentioned in the provision.

LEGAL ADVICE: This Decision is final in the administrative proceedings. No complaint is allowed against this Decision.

Case: No 02/273/07, decided on 23.08.2007 in the Independent Oversight Board of Kosovo
The Decision to be sent to:

- Director of the Secretariat of Kosovo Judicial Council,
- The Complainant,
- Archive

Prishtina, 23.08.2007

IOBK Commission

Translated by: 1. Nebojsa Azdejkovic, Chairperson
Shemsedin Mujku 2. Bisera Spahi, Member
On 14.08.2007 3. Mursel Ahmeti, Member

KOSOVO JUDICIAL COUNCIL

Secretariat of Kosovo Judicial Council

Reference: 03/1183/117

To: Sevdail Kastrati, Chairperson of Independent Oversight Board of Kosovo

Through: Halit Muharremi, Director of Secretariat of KJC

From: Vahid limani, Head of Department of Administration and Personnel

Subject: Information related to failure to implement your decisions for returning the reducted civil servants in their working places

In relation to failure to implement your decisions for returning the reducted civil servants in their working places within the judicial administration, we would like to inform you as follows:

By our request dated 29.05.2007 you were informed that we are restricted with budgetary means from the Government of Kosovo for 2007, which implies that beside our good will, we are unable to implement your decisions related to the return of the civil servants in the positions referred to above.

However, we are of the view that there is a need to find a unique solution for the whole contingent of the reducted civil servants in all institutions.

Regards,
It is an unusual scenario with the Judicial Council which following the termination of employment contracts of civil employees across Kosovo Courts, after a short time period, advertised 4-5 vacancy notices in the public media related to very similar positions, failing to comply with the Government’s Decision for freeze of employment 06/214 and the Administrative Instruction of Ministry of Public Services 2006/12 “Measures for Employment Freeze of Civil Employees at Civil Administration Bodies” promulgated by Ministry of Public Services based on the Government’s Decision, obliging employment authorities, specifically Section 4.1 that foresees filling of vacant positions to be conducted through rotations. It is logically not understandable and legally baseless to allege that there is lack of budget for the alleged lay off positions and on the other hand advertising vacancy notices for the same or very similar positions. Essentially, this leads towards employers will to exchange the employees with different persons.
(See the copy of the vacancy advertised in a newspaper)
All this illicit situation created inconvenient situations even within Kosovo Courts, which beside putting justice in place are also obliged to comply with Justice and Legality. The President of the Municipal Court in Peja/Pec for example asked for IOBK suggestion how to act in the actual situation, feeling himself ‘confused and frustrated’, since as a lawyer he was not able to implement a decision issued from a Kosovo Authority and which decision is related to the institution run by him.

(See copy of the note to the President of Municipal Court in Pejë/Pec)

INTERIM ADMINISTRATION OF KOSOVA
MUNICIPAL COURT IN PEJA
II No 39/07
Peja, 17.12.2007

MINISTRY OF PUBLIC SERVICES
Independent Oversight Board of Kosovo
Chairperson of IOBK
PRISTINA

Dear, Mr. Chairperson,

By the Decision Ref. 03/118-181/07 dated 15.12.2006, the employment contract of Isa Berisha, employee of the Municipal Court in Peja expected to expire on 31.12.2007, which means that his employment is terminated in relation to 2007.

The complaint of the employee, Isa Berisha No 1885 dated 25.09.2007 was granted by Independent Oversight Board of Kosovo whilst the abovementioned decision was cancelled, issued by Secretariat of Kosovo Judicial Council as well as the decision of Complaints Commission No 13/07 dated 22.03.2007, as baseless. Further, Article 2 of the decision obliges the secretariat of Kosovo Judicial Council to return the employee to his work position within a deadline of 15 days upon the receipt of this decision, including all the rights and the obligations set in the employment contract. Thus, the employee should be retroactively compensated for all monthly salaries as of 31.12.2006 until the time when he gets regular payment.
In Article 3 of decision it is stated that the employee should be return to his employment and duties or any other place with similar salary and qualification.

In Article 4 of the decision it is stated that the responsible person for this Decision to be implemented is the Director of the Secretariat of Kosovo Judicial Council.

In Article 5 of the decision it is stated that after the actions referred in the Decision are completed, The Independent Oversight Board of Kosovo must be notified.

In Article 6 of the decision it is stated that in case of failure to comply with this Decision, IOBK will notify the SRSG and the Prime Minister pursuant to Section 11.4 of Regulation 2001/36 on KCS.rder to take further steps.

I, as the President of the Court, am confused, frustrated and disappointed with the failure to act in compliance with the abovementioned decision, prior to the issue of the mentioned decision by the secretariat of KJC Reference 03/118-722 dated 11.07.2007…..

In addition, Ministry of Culture, Youth and Sports also failed to implement IOBK Decisions. In an actual case this was done publicly by a decision issued by Acting Secretary Permanent Mr. Mon Zhubi, who in breach of all legal norms that regulate civil service REJECTED implementation of IOBK Decision No 879/07, by which the complaint filed by Mrs. Minire Zeka, employee within this Ministry, was granted. This is absolutely unacceptable, since the Ministry could have used all available remedies rather than reject the implementation of the Decision. This case also was referred to SRSG and the Prime Minister.
INSTITUCIONET E PËRKOHSHME VETQEVERISËSE
PRIVREMENA INSTITUCIJA SAMOUPRAVE
PROVISIONAL INSTITUTIONS OF SELF GOVERNMENT

QEVERIA E KOSOVES / MINISTRIA E SHËRBIMEVE PUBLIKE
VLADA KOSOVA / MINISTARSTVO JAVNIH SLUŽBI
GOVERNMENT OF KOSOVA / MINISTRY OF PUBLIC SERVICES

MINISTRY OF CULTURE, YOUTH AND SPORTS

SECRETARY PERMANENT

Pursuant to Section 5 Paragraph 5.4 Item (c) of Unmik Regulation 2001/19 dated 13.09.2001 on Executive Branch of Provisional Institutions of Self-Government in Kosovo, Acting Secretary Permanent of MCYS, Mr. Mon Zhubi on 22.11.2007 issues this:

DECISION

1. The IOBK Decision dated 21.06.2007 No 879/2007 is dismissed, by which it was required that Mrs. Minire Zeka be returned back in the position of the Personnel Manager in MCYS.
2. Returning of Mrs. Minire Zeka in the position of Personnel Manager, as per IOBK recommendations, is impossible since she lacks the skills for such a managing position and the duties set for this position.
3. As of 1 January 2008, MCYS will consider the possibilities to find another position for the abovementioned person that would be consistent to her professional skills.
4. This Decision becomes effective in the day of its signature.

Reasoning

After the review of the decision issued by Independent Oversight Board of Kosovo, we concluded that:

- Based on the evaluation conducted by the Director of the Department of Central Administration regarding the performance of Mrs. Minire Zeka, it is concluded that she failed to positively perform her duties assigned during 2006, and especially in January 2007.
- The same person has received written and oral warnings requesting from her to improve the efficiency of the Personnel office, but she failed to achieve such goals.
In the beginning of 2007, beside positive evaluation in 2006, she was given the opportunity to improve and increase the efficiency of the sector she was working in, but this was impossible, therefore, against our will, we were forced to take actions against the situation created.

- Inefficiency at work, negligence, lack of coordination with the staff inside and outside the Ministry, failure to fully systemize the files, failure to report in time, lack or failure to follow the administration/legal procedures, etc. were the main reasons for such a decision to be issued.

- The Special Decision of MCYS for disposition of Mrs. Minire Zeka was in compliance with UNMIK Regulation 2001/36 on KCS and AD 2003/02, respectively Section 11.1 and 14.2, therefore it was decided as in the provision of the decision.

Mon Zhubi
Acting Secretary Permanent

CC:
- Party,
- IOBK
- Personnel Office
- Legal Office
- Archive of Ministry

Pursuant to Section 11.6 of this Regulation, IOBK Decision is considered as final in administrative proceedings and based on the Law on Administrative Conflicts it could be appealed to Supreme Court of Kosovo only, which then could determine legality of the Decision.

Essentially, there are some misunderstandings in this regard, as the Supreme Court receives claims filed by unsatisfied Parties in relation to administrative conflict, but following that refers them back to the Municipal Courts, where in most of the cases such courts have already been announced as incompetent to decide about the same cases. We consider that this is an unreasonable action and also in disfavor to the parties and creating unnecessary delays.

On the other side, the Municipal Court upon receiving the charge, now in the capacity of the respondent, invites the Independent Oversight Board to make a decision, which is out of any legal reasonable mind as IOBK is not a party in the dispute, but an authority authorized by law to take decisions on any dispute. Imagine if a court is sued because it decides about a case for which it has the legal authority as well as the jurisdiction to take relevant actions.

Copy of Invitation to IOBKK by the Court and a Court Decision dismissing the charge against IOBK, which show the absurdity of all this situation.
THIRRJE PËR SHQYRTIMIN KRYESOR - POZIV ZA GLAVNU RASPRAVU

Këshilli: "Pavanan Hënëzgjorës i Koshovës" nga "Prilep" iz.

rr. dhe nr. thirret si
ul. i broj

të vijë me datën 16.05.07,në ora 19:00

poziva të ka

në këtë Gjykatë, thoma nr. 38

dasë u zevëjë dëna

u cas, u osej Sud, soba br.

për përstëhtjen juridike të paditësit

pravojn stvri tuzicca

e përfshirësion

predistavja

kundë të paditurin

ratio tuzinës

të cilin e përfshirësion

këtë predistavja

për

Gjykatari - Sudja

Kagj Pejovci
IN THE NAME OF PEOPLE

C1 No 279/06

MUNICIPAL COURT IN PRISTINA, as a first instant civil court, with the judging panel consisting of the Judge, Flutra Hoxha, President of the Judging panel and the professional judges, Shaban Gërgjaliu and Fetah Tahiri, members, regarding the legal case filed by Shkurte Luma from Lipjan, St. “Zenel Hajdini” No 6, who is represented by Ibrahim Duriqi, Attorney, from Lipjan against the respondent Independent Oversight Board of Kosovo and Municipal Assembly of Shtime, Directorate of Education and Culture, in relation to the payment of her personal incomes, during the main deliberation dated 16.05.2007, where the respondent failed to attend while the plaintiff did attend the session, took the following:

VERDICT

The charge submitted by Shkurte Luma from Lipjan is GRANTED as grounded, whereas the responding party, Municipal Assembly/Directorate of Education and Culture in Shtime is OBLIGED to compensate her in relation to the salaries for work performed as a teacher in the Primary School “Naim Frashëri” for the period from 01.09.2003 till 31.08.2004, in the total amount of 726 Euro, accounting 95.94 Euro per month and an interest of 3.50% based on the tariff of Kasa Bank in Pristina, in relation to deposits for 12 months since 16.05.2007 until the total payment, and all of this should be conducted within the deadline of 15 days, upon the time this verdict becomes effective and also threatening of forceful finalization.

The charge submitted by the plaintiff against Independent Oversight Board of Kosovo is DISMISSED as baseless.

The respondent is obliged to compensate the plaintiff all the proceeding expenses in an amount of 251 Euro, within the deadline of 15 days, upon the time this verdict becomes effective and also threatening of forceful finalization.

Reasoning

The Plaintiff, through her authorized person, based on the charge submitted and the court proceedings, required from Independent Oversight Board of Kosovo established within Ministry of Public Services to issue a decision in relation to the complaint 0287/05 dated 25.08.2005, deciding to dismiss the complaint and then the plaintiff approached the Supreme Court of Kosovo which by Decision A No 161/2006 dated 27.07.2006 dismissed the charge referring the file documents to this court as a competent court for this legal case. It was concluded that the plaintiff was working in two working places, in the Secondary School in Lipjan, where she was working as full time job, and also, based on the contract, she worked in the Primary School “Naim Frashëri” in Shtime as part time job, respectively she was paid only half amount of the salary, 95.94 Euro. She worked only 12 months and she got paid with only 425 Euro, whereas the amount of unpaid sum is related to the half salary in an amount of 726 Euro. By the appeal dated 29.03.2007 she amended the charge putting Independent Oversight Board of Kosovo as the first responding party and the Municipal Assembly-Directorate of Education and Culture as the second responding party.
It is necessary to point out that as for implementation of the Board Decisions, especially in local administration, Ministry of Local Government Administration had quite a positive role on this regard, which after amendments of Regulation 2001/19 took additional authorities and also showed good will in cooperation with the Board during exercising such authorities.

AUTHORITY OF APPOINTMENT CONSIDERATION OF HEADS OF DEPARTMENTS IN KCS

The Independent Oversight Board of Kosovo has a special authority, not evident to the same or similar bodies of neighbouring countries, that is monitoring of selection procedures of Directors of Departments within Kosovo Civil Service, all Ministries, Executive Agencies and Municipalities of Kosovo.

This authority is determined with Section 12 of Regulation 2001/36 on the Kosovo Civil Service, by which the employment authorities are obliged to inform the Board for the time of the interviews related to filling of vacant positions for Directors of Departments and also submit all necessary documentation to a certain IOBK commission in respect of the vacancy for which IOBK was invited.

(Copy of monitoring invitation)

PROVISIONAL INSTITUTIONS OF SELF-GOVERNMENT

GOVERNMENT OF KOSOVO
Ministry of Energy and Mining

To: Sevdail Kastrati, Chairperson of IOBK
Through: Resmiye Mumxhiu, Director of DCA
From: Florina Mehaj-Kosumi, Head of Personnel Division
Subject: Invitation to monitor the interview procedure

Dear members of IOBK,

You are invited to perform monitoring of the interview procedure for the position:
1. Procurement Director

This position was advertised in daily newspapers “Zëri” and “Kosova Sot” and broadcasted in the multi-ethnic Radio “K” on 24.02.2007, and the deadline for application was extended for another 15 days. The extension of the deadline also was advertised in the dailies “Koha Ditore”, “Zëri” and “Kosova Sot” and broadcasted in the Radio “K” in Fushë Kosova on 12.03.2007.

The interview will be held on 20.04.2007 starting at 10:00 hours in the premises of Ministry of Energy and Mining, Qyteza Pejton, St. “Sejdi Kryeziu” No 5, Prishtina.

Thanks for understanding.

Regards,

By exercising this authority, IOBK completed 46 monitoring visits, where the legal procedures for selection of 134 directors of departments were monitored. (See the diagram below)

![Monitoring visits diagram]

- Monitoring of selection of Department Directors - 134
- Monitoring in Ministries - 52
- Monitoring in Municipalities - 79
- Other entities - 3

During exercising of this authority, the Board (a commission of three members) verifies if the requirements for holding the interview are met, checking the complete recruiting file related to specific case and especially the copy of the vacancy advertised, also the structure of the interview panel ensuring compliance with requirements set by Section 7.2
of Administrative Direction 2003/2, list of the applicants, the course of the interview and upon receiving the report from the employment authority, it decides if such procedure was in compliance with principals of Kosovo Civil Service.

Employment authorities usually consider the remarks of Board Commission that was present and consult it for the way forward. During last year, it was only the Municipality of Klika that failed to comply with IOBK recommendations, which despite of the Commission remarks continued with interviews for selection of Directors of Departments. This case was referred to SRSG and the Prime Minister of Kosovo.

An IOBK Commission also reported to SRSG and the Prime Minister of Kosovo in regard to Ministry of Justice violation of the merits principal (Section 2.1 of Regulation 2001/36) by appointing the Director of the Department for Civil Rights.

**IOBK MOST COMMON RECOMMENDATIONS DURING EXERCISING OF THIS AUTHORITY**

The most common remarks to employment authorities during the process of directors of departments appointment monitoring, followed with respective recommendations, are as follows:

**Failure to compensate the interview panel under Section 7.2 of AD 2003/2,**
**Failure to advertise the public vacancy under Section 4.1 of AD 2003/2; and**
**Failure to extend deadline of the vacancy, under Section 4.2(g) of the same AD.**

As stated above, in most of the cases these remarks and recommendations are considered and the vacancy is readvertised correcting the errors made.

(See a vacancy readvertised as per IOBK suggestions and a report from a process of directors of departments appointment monitoring)
Në pajtim me mësinin 4. paragrafin 4.2 nën pikënd(k), mbi shqiptjet e vendosjeve të lirë të punës sipas Ordhësimit Administrativë Ndër 2003/2 për Zhvillimin e Kriqullorës së UNMIK-it Nr. 2001/36 mbi Shërbimin Civil të Kosovës, më gjërim të arritur të nejat ekullitë të belicañjë të kandidatëve sipas përfshirjesit emik, Zyrën e Persoimit të Administratitë Të Tëzimit të Kosovës lehtët kanë

**NJOFTIM**

**PËR VAZHDIINIMIN E AFAIATIT TE KONKURSIT**

Njohetet se gjithë të interesuarët si vazhdonet afati i konkursit të shpallur në gazetët ditore “Zënë” dhe “Koha Ditore” me datën 25.07.2007 për këto pozitë të punës:  
2. Udhëheqësi Ekipi për Edukimin e Të Tëzimit, me Prishtinë L nr. i ref: MEF/ATK 019/07/2007

Konkurri do te jetë i hapur deri me datën 23.08.2007. Përmbyjja e konkurrit për këto 2 (dy) pozitë mbetet e njëjte me konkurrimin e shpallur me datën 23.07.2007.

Kandidatët që kanë aplikuar me haret per këto pozitë nuk kanë ndihësi se aplikojnë për shumë pozitë. Apikacionet e plotësoara të bashku me kopjë të dokumenteve të kërkuar sipas kategorisë së konkurrit do të dorëzohen në Zyre Qendrore të Administratit të Administratit të Të Tëzimit në Kosovë me Adresën: Kërkimi, i riugjëte “Bill Clinton” dhe “Nena Tërëzi” i ndryshimi apo përmasa pasatë. Per informata shtesë mund të njohohet përmas telefonimi 038/200 250 22 apo adresë elektronike hij.rambatiq@atk.co.org

Shihen dhe lehtësohen kandidatët e emërtuar të zhvilluar të kërkohet në këtë konkurs dhe zhvillohet në këtë konsideracion i konkurrit.

**OBAVEŠTENJE**

**O PRODIŽETUKU ROKA KONKURSA**

Obavestavaju svi zainteresovani da se produljjuje rok konkursa objavljen u dnevnom listu “Zeni” i “Koha dite” od 25.07.2007., za slobodne radne pozicije:


Konkurs biće otvoren do 23.08.2007.

Sadržaj konkursa za ove dve (2) pozicije ostaje isti, kao i u konkursu objavljen dan 25.07.2007.

Kandidati koji su aplikirali ranije za ove pozicije ne moraju da pomoću apliciraju. Popunjene aplikacije se traženim fotografijama dokumentima prema konkursu dostavljaju u Centralnu Kancelariju Poreklih Administracije Kosova na adresu Ulica Fatimazit “Bill Clinton” i “Nena Tërëzi” b.b. u Prishtini ili preko pošte. Za dodatne informacije obrazite se na telefon 038/200 255 22 ili elektronsku adresu hij.rambatiq@atk.co.org.
DATE 15.08.2007
REFERENCE IOBK Decision dated 21.07.2007

To: IOBK

Through: IOBK Chairperson

From: IOBK Commission consisting of: Mursel Ahmeti, Flora Balidemaj and Bisera Spahi.

Subject: Report of the Commission monitoring the process of appointment of the Department Director

Employment Authority: Municipality of Istog

Position: Director of Education Directorate

The abovementioned Commission established by the decision of Independent Oversight Board of Kosovo, in the meeting dated 21.07.2007 presented the report from the interview process held on 30.07.2007, as scheduled.

Prior to commencing with interviewing the applicants, the Commission reviewed all relevant documentation related to the appointment process.

The Commission reviewed the following documentation:

- Decision of the Municipal Assembly to advertise the vacancy;
- Advertisement of the vacancy was done based on the set procedures and it was extended;
- Decision of the Municipal Assembly for establishing the panel for selection of the candidates was conducted according to the set procedures;
- Full list of the candidates and the necessary data;
- Selection of the candidates for the close list;
- Treatment of the candidates during the interview was correct;
- The interview process was assisted by the Personnel Manager.
The Personnel Manager delivered to the Board the decision of the Municipal Assembly 01 No 33/07 dated 07.08.2007, showing that the Assembly appointed Mr. Agim Haxhiu as the director of Education Directorate, who gained most of the points and was recommended by the selection Panel.

The Commission unanimously concluded that the appointment procedure was fair and in compliance with principals of Civil Service determined by Regulation on Kosovo Civil service No 2001/36, Section 2, Paragraph 2.1.

The Commission recommends the Board that upon reviewing the report of the Commission to approve the:

DECISION

Appointment of Mr. Agim Haxhiu in the position of the Director of Education Directorate in the Municipality of Istog, which was done in compliance with the leading principals of KCS.

Commission,
Mursel Ahmeti,
Flora Balidemaj,
Bisera Spahi

The interview process related to the candidates for the Director of Education Directorate was monitored also by: UNMIK representative and OSCE representative.
Regardless of the fact that Regulation on Kosovo Civil Service (Section 1) defines the Directors of Departments in Ministries and Executive Agencies as civil servants, the way of their appointment is different from one used in appointing Directors of departments in the Municipalities of Kosovo. The first ones are appointed pursuant to general procedures set by LKCS and AD 2003/2, whereas in relation to the Directors of departments in the Municipalities there is also one more legal act, Regulation 2000/45 On Self-Government of Municipalities in Kosovo. (Section 31 of this Regulation)

In this context the formal issue of appointment of directors by the Municipal Assembly is quite disputable as for the guiding principals of KCS, due to the fact that vast majority of deputies of the Municipal Assemblies are appointed based on their political affiliation so practically it is very hard to turn aside their political will during voting for the candidate that must be appointed for the department director position. However, though based on the authority they can not be considered as directors of departments, and their appointment is not directly monitored by IOBK, a category of directors is more “problematic” as for the implementation of legal provisions, including in two sets of legal norms that are often in contradiction to each other. This is related to the directors of primary and secondary schools who are appointed pursuant to statutory procedures on Education and Administrative Directions of Ministry of Education which often fail to fulfill the requirements set by Law on Civil Service, the the school directors and all other education staff is defined as civil servants, pursuant to Law on KCS. This is especially found with establishing of interview panel, which does not fulfill the requirements set under Section 7.2 of AD 2003/2.

Nevertheless, IOBK monitoring commission takes into account the aspects of such cases and it always pays attention to the legality of the procedures monitored.

AUTHORITY OF ASSESSMENT RELATED TO LAW COMPLIANCE

Pursuant to Section 13 of Regulation 2001/36 on Kosovo Civil Service, the Board performed assessment related to rule of law across employment authorities.

An efficient, functional and reliable administration can not be imagined without a solid legal basis, especially if that legislation is not followed and implemented properly.

The IOBK’s goal is to control the level of law application related to Civil Service by the employment authorities and also elimination of flaws and errors identified after visits made in relevant bodies. During exercising of this authority, the Board applied known methods that are also applied in other bodies similar to IOBK, such as in England, Albania, Romania, Macedonia, Canada, etc.

Monitoring/control visits were performed at employment authorities of Kosovo Civil Service based on the plan preliminarily approved by the Board.

Whereas the whole process of control was based in an unique questionnaire which exactly determines the activities to be undertaken, documentation to be checked, contacting persons, etc.
In this regard there were monitoring visits made in the following employment authorities:

- Presidency........................................ 1 visit
- Ministries ........................................ 10 visits
- Executive Agencies ......................... 3 visits
- Prime Minister’s Office...................... 1 visit
- Kosovo Assembly.............................. 1 visit
- Municipalities................................. 22 visits
- KTA .............................................. 1 visit
- Regional hospitals............................ 3 visits
- Student Centre................................. 1 visit
- Judicial Council of Kosovo................. 1 visit
- Pilot Municipal Sectors....................... 3 visits

During the process of monitoring IOBK found that in comparison to the previous year, there are improvements in implementation of the procedures set by Regulation 2001/36, however, there still are some areas that need improvement and in this regard the Board issued 51 reports with recommendations for improvements in certain activities.

**Recomendations are mainly related to the following fields:**

Failure to appoint the personnel manager;

Failure to transfer the competencies to the personnel;

Duration of employment contracts in breach of the law;

Failure to complete personal files;

Failure to keep record of personal health and education files by the municipal authorities, and

Flaws related to vacancy procedures development.

These are the fields that after monitoring visits it was found that there is a need for improvements, such as: Chief Executives in some municipalities sign the employment contracts (e.g. Kamenica, Obilic, etc.) failing to transfer this responsibility to the personnel managers, who according to the law are appointing body and Chief executives are the highest executive and approving officials as the signing of contracts is more a technical issue than a substantial one. The personal files lack personal data based on which the age of the civil servant would be determined as well as the status of Kosovo citizenship (copy of ID or Birth Certificate) and which are related to the pension of the civil servant and also to the issue of gaining the status of a civil servant.

Furthermore, there are many uncertainties related to promotion of the civil servants, and many times there are illegal actions taken (Ministry of Agriculture).
From the perspective of IOBK, the transformation of Legal Offices into Legal Departments by an Administrative Direction is quite disputable and especially the automatic appointment of the heads of legal offices into directors of the respective departments. Due to the fact that during appointment of the directors of the departments it is mandatory for IOBK to attend such events, which never happened in this actual situation.

Based on the continuous recommendations from the Board in relation to the personal data files of the employees in education and health sector, where legally the Municipality has the status of the employer, there were improvements achieved. In many of the municipalities the municipal personnel managers already have access in such files, but there are still municipalities where there was no possibility for such a thing to happen, such as: the Municipality of Kaçanik, where the process as a whole was being performed without the possibility of the personnel office to access in such issues, the same also happened in Podujevo.

Also there were improvements noticed on the role of complaints in such fields, as in many cases, such as; Prizren, Kaçanik, Prishtina, etc. the civil servants from education and health sector also submit their complaints to the Municipal Complaints Commission.

The disciplinary procedures are conducted more professionally and it seems that the recommendations from the previous years of IOBK as well as the visits made more frequently had the effect of the most serious disciplinary measure, that is termination of employment, be imposed only in cases where there is a drastic violation of the law.

During its visits, IOBK found that there are employment authorities that fail to conduct regular performance evaluation and the employment contracts are not extended pursuant to set rules (Municipality of Prishtina, Ministry of Culture).

In some cases, as in the Municipality of Gjilan or the Ministry of Trade and Industry, Ministry of Community and Return, there were contracts concluded with employees, normal employment contracts and special service contracts which are not determined by Law on Civil Service.

IOBK found that in many cases the vacancy notices were not advertised in compliance with the requirements set by Section 4.2 of AD 2003/2 and due to this it obliged the employment authority to readvertise the public notice at the Ministry of Public Services (as the case of the vacancy for Director of Procurement Department).
SPECIAL ASSESSMENT OF THE LAW COMPLIANCE PURSUANT TO SPECIAL REQUESTS

Based on the provision of Section 14.1 (c) the Prime Minister of Kosovo required, in respect of two cases, with special request for compliance to the Law on Civil Service, pursuant to the items specified in the request, and that is: Municipality of Gjilan/Gnjilane dhe Ministry of Culture, Youth and Sports.

(See copy of the request of the Prime Minister of Kosovo)

Sevdail Kastrati
Chairman of Independent Oversight Board

Dear Mr. Kastrati,

I am writing in relation to the request No 07/1279 dated 14 January 2007, sent by Officials of Sport Department – MCYS. The request in hand is related to the vacancy advertised on 9 February 2007 in this Department.

Based on the Administrative Direction 2003/08 Procedure of Work Evaluation and Administrative Direction 2003/06 Procedure of Employment Termination, we require from you to conduct a general control of the vacancy advertisement procedures within Ministry of Culture, Youth and Sports.

Please send the mentioned report by 23 February 2007.

Sincerely,
Agim Çeku
Prime Minister of Kosovo
Upon receiving such a request, the Board authorized an its own commission that conducted a control at the location of the respective employment authority and then minutes on the situation and the report with recommendations were sent to the Prime Minister of Kosovo.

It should be pointed out that upon receiving the report, the Prime Minister of Kosovo fully supported the recommendations of IOBK ordering for their immediate implementation.

A concerning issue within the Ministry of Culture was advertisement of the vacancy for some departments, without prior notification of the employees if their valid employment contracts would be extended or not. Therefore, after IOBK recommendations and the order from the Prime Minister these vacancies were cancelled, which in fact made our goal a reality, referred in the introduction of this IOBK report titled “Effective response towards the concerns of the civil servants”.

* See the copy of advertised vacancy cancellation of MCYS)
In order not to mention only cases considered as negative ones, the Board has the pleasure to also specify some employment authorities where the level of application of the Law on Civil Service is fully satisfactory. The cooperation between these authorities and IOBK is on principal basis.

In this regard, it is important to mention that good work performed by the personnel managers within the employment authorities enabled a higher level of dedication to application of the Law on Civil Service and so the recruiting, disciplinary and complaint procedures within an employment authority of KCS be conducted, in most of the cases, in compliance with the legal provisions.

The Board is of the view that the personnel managers in the Municipality Assembly of Malisheva, MA of Shtime, Ministry of Transport and Post Telecom, Kosovo Government, Ministry of Health, Ministry of Trade and Industry contributed a lot in regard to the application of the law in general as well as the applicable procedures within the civil service by their employment authorities.

Also, at the same time the Omdüspersons of the following municipalities: Prishtina, Skenderaj, Vushtrri and Ferizaj showed high level of professionalism during exercising of their activities and also a correct cooperation with the Board.

However, their impact in the general course of events within their employment authority was not full due to different reasons.

In order for the Board to fully and successfully accomplish this task, apart from its routine activity and commitment, there is a need for coordination with other bodies and the successful work of the Department of Administration of the Civil Service within MPS is very important upon which depend many factors related to the Kosovo Civil service.

In this regard there were positive signs recently.
OTHER ACTIVITIES OF THE BOARD

The Independent Oversight Board of Kosovo in 2007, apart from duties set by law, conducted other activities that had a third goal referred in the introduction of this report “Increase of the internal capacities of the Board in order to increase the work efficiency”.

In this respect, it was proposed that within the internal capacities of the Board to promote a secretariat assistant to the position of the Monitoring Officer, taking into account that the same person has sufficient knowledge in order to perform the task related to the position recommended.

Also there were professional work sessions and also attendance in work meetings and seminars in the country which subject was Public Administration, and also visits abroad, though the last were not very common due to lack of material means from the Board budget. The experience gained was very significant and helpful and a part of it was directly applied in the daily work of IOBK that resulted with the increase of the professionalism of the Board work.

In this respect IOBK has excellent work relationship with the Commission of the Civil Service of Albania exchanging reciprocal experiences and visits based on amicable and principal or professional cooperation.

CONFERENCES, MEETINGS AND SEMINARS IN KOSOVO

Mr. Nebojsha Azdejkovic, member of IOBK, was a member of the Group of Experts for the Reform of Public Administration attending actively in all meetings of the Group and giving his contribution in determination of the IOBK role in this relevant process.

The Independent Oversight Board of Kosovo delegated one of its representatives to attend, when requested, any meetings related to the fulfillment of the first Standard (Democratic Institutions – Rule of Law) giving its contribution with specific reports.

It also attended meetings related to the fulfillment of the III-IV Standard; “Freedom of Movement” and “Safe Return”.

In the meeting ”The Reform of the Public Administration in Kosovo – Involvement and the Role of Women” held in Prishtina on 23.10.2007, the Board presented a Report related to the number of the received gender related complaints and also the Board activity in relation to the full promotion of gender equality.
Furthermore, the Board through two representatives attended a conference that lasted for a day “Equal Opportunities-Persons with Disabilities” in Prishtina, where with a presentation it gave its contribution to the conference.

The Kosovo Police Inspectoriat invited the representative of IOBK to hold lectures with the subject “IOBK and Kosovo Civil Service” for the upcoming generation of the Police Inspectors, which was considered to be as very successful and special gratitudes were expressed to the Board by the Minister of Internal Affairs.
IOBK was never consulted during drafting of the first draft of “Law on Civil Service”, not even in the part related to the position of the Independent Oversight Board, which should have been determined after IOBK had received a copy of the draft already prepared. Therefore, the Board in written form sent its comments, whereas in the first public debate arranged in relation to this Law in Albanian on 24.4.2007, the IOBK representative presented many comments on this draft expressing the Board position about this draft/law.

On March 2007, the Board organized a professional session for consideration of a large number of complaints related to termination of employment contracts or non-extension of them for the civil servants, due to lack of financial means. This session was held in Struga, Macedonia in order to remove the daily and continuous pressure of the parties. However, the Board after three days work decided on more than 100 cases.

(Picture from the meeting in Struga)

On the road back from Struga, members of the Board visited the Agency for Estate Employees of Macedonia in Skopje, exchanging reciprocal professional views in relation to the methods used during work by two similar bodies. The host from Skopje offered the Board from Kosovo free working spaces in Manastir, any time the Board has a need for that.
There were also two other meetings organized by MPS in Ohrid, Macedonia, in relation to the Reform of Public Administration and especially the “Functional Review” of IOBK, where IOBK presented its opinions in regard to this aspect of the Reform offering also the direct engagement of its members in this process.

On August 2007, the Chairperson of IOBK in the capacity of the Board representative was invited to be part of the delegation of MPS in Germany and the competent bodies of Baden Wytenberg District, where he presented achievements of Kosovo Civil Service and explained the role of the Board in overseeing the Public Administration.

The Independent Oversight Board of Kosovo received an invitation letter from “National Agency of Civil Service” of Romania to participate in the International Conference held in Bucuresti with the subject: “European Salary System in Civil Service”, but due to lack of financial means it could not attend the conference thought the subject of the conference was quite important to IOBK.

What was not achievable with the first invitation was achieved with the second invitation letters sent by the Agency, and the Board was sponsored by DFID, so a two member delegation from the Board attended the International Conference that lasted two days in Bucuresti, Romania held on 29 and 30 May 2007, with the subject: ”Public Integrity and Anticorruption in Civil Service”.

It should be pointed out that the representatives from Kosovo were the only ones from Ballkans. In addition, apart from active participation in the Conference, there were useful contacts established with representatives from SIGM, EAR, OECD, etc.
The most special study visit made by IOBK was in Canada, which was fully sponsored by OSCE Mission in Kosovo and it was a high level organization by the Canadian institutions.
September 10, 2007

Mr. Sevdail Kasrati
Chair
Independent Oversight Board of Kosovo
Pristina
Kosovo

Dear Sir:

Re: Invitation to visit Ottawa

It gives me great pleasure to invite you and your colleagues on the Board and accompanying staff (as listed below) to Ottawa from November 4-10 2008 to undertake a capacity building/study tour of various government agencies, as well as WUSC’s head office.

WUSC seconds Canadian advisors on behalf of the Canadian International Development Agency, CIDA’s Balkans Civilian Deployment Project to work with partner agencies in Kosovo and the region on good governance and capacity building programs. As you are aware, WUSC recruited a Canadian as senior advisor to the Independent Oversight Board of Kosovo (IOB). The purpose of Anita Vandenbeld’s assignment is to assist the IOB in encouraging the use of the merit principle in civil servant appointments and to facilitate the transfer of the IOB to a fully independent institution reporting to Parliament. This study tour has been organized with her assistance and is funded by the Organization for Security and Cooperation in Europe (OSCE).

We understand that the IOB was established in September 2004 with three main functions: to monitor compliance with the civil service law; review senior level appointments, and hear appeals that arise. We think that the study tour will provide you and your colleagues with an opportunity to observe the work of the Public Service Commission, the Public Service Labour Relations Board, and various committees within the Parliament of Canada. We will also be able to share with you our experience, as a non-governmental agency, in working collaboratively and successfully with our government.
Members of the IOB, besides yourself, who we invite to join the study tour are:
Murad Ahmedi
Bajram Zogaj
Bisera Spahi
Nebojsa Azdejkovic
Flure Balikajaj

We also invite the following OSCE staff members:
Lummi Rama
Petri Hysaj

We look forward to meeting all of you in November.

Yours sincerely,

Ravi Gupta
Associate Executive Director
WUSC

cc Anita Vanderbeek, Deputy Coordinator, Central Assembly Unit
Marianne Wightman, Senior Project Manager, WUSC
On behalf of the Independent Oversight Board of Kosovo there were seminars and meetings arranged by the Commission of Canada Civil Service, by the Tribunal of Employment Relations of the Civil Employees of Canada, by the Office of Auditor General in Canada, by WUSC and other non-governmental organizations. Finally, there was a high level expectation in the Senate of Canada, where the Senator, Mr. Yoine Goldstein during the meeting with the members of the Board expressed gentle words for people of Kosovo and supported its general aspirations, wishing us a pleasant stay in Canada.
There were also important meetings held with the Commission of Civil Service and the Board of Employment Relations in Canada Civil Service, where the Board was practically notified of the work methods used by these Boards, and it also attended a hearing where there was quite an interesting experience gained during the resolution of disputable cases, through mediation of the Board, which showed to be quite effective.

Mrs. Anita Vandenbeld played a key role in organizing and arranging the mentioned visits, so the Board sincerely expresses its gratitudues to her.
RELATION WITH LOCAL AND INTERNATIONAL ORGANIZATIONS

• THE PRIME MINISTER OF KOSOVO

The Prime Minister of Kosovo gave his consent to extend the employment contracts for four members of the IOBK. In addition, there was a correct relation in respect of the two requests for emergent control of two employment authorities in Kosovo Civil Service, where upon receiving the reports from the Board, the Prime Minister ordered immediate implementation of the IOBK recommendations.

The Prime Minister of Kosovo, on September 2007, met all members of the Board to discuss three issues that are important to the Board, such as:

- Budget of the Independent Oversight Board of Kosovo;
- Salaries of the IOBK members; and
- Transformation process of the Board.

The Prime Minister was informed about the very limited budget of IOBK resulting with cancellation of many important activities. Some of these visits then were supported by his Office and some others were sponsored by international organizations. Furthermore, there were discussions on the fact that even though the Board has three times more tasks to perform and as well as more field activities than many other independent boards, still the salaries of the members of the Board are two times lower.

As for the transformation process of IOBK, there were discussions on unjustified delays in the process. The Board got full support in relation to these three issues, hoping that such goals will be achieved in 2008.

The Prime Minister’s Office, through the Office of the Permanent Secretary, also financially assisted the Board and also assisted in getting visas to attend international seminars.

• MINISTRY OF PUBLIC SERVICES

In 2007 Ministry of Public Services supported the Board with logistical equipment, fuel, stationaries, etc. enabling normal functionality of the Board and having no influence in relation to the decisions issued by the Board.

• MINISTRY OF LOCAL GOVERNMENT ADMINISTRATION

During 2007, the Board also conducted good cooperation with MLGA and especially after the latest amendments of Regulation 2001/19, taking additional authority in the area of local government and also in its relation with IOBK. It reported to the Board in relation to three cases of illegal decisions from the employment authorities of the local government, submitting to the Board all the relevant necessary documentation for decision making. This Ministry promulgated many Administrative Instructions and Legal Advices for the Local Government, which were used by IOBK as valid legal documents during its work.
• OMBDUSPERSON AND OTHER INDEPENDENT INSTITUTIONS

Among all independent institutions, IOBK has a special relation with the Office of Ombudsman in Kosovo, which is represented by quite an efficient relation in data exchange regarding cases of common interest and also providing documentation that could be relevant for successful resolution of such cases.

Acting Ombudsman, time after time, visited IOBK and we hope that this useful cooperation will continue in the upcoming years.

The Board was invited for the first time in a common meeting with Independent Institutions of Kosovo on December 2007 held in the premises of Independent Media Commission and being actively engaged in this meeting it expressed its readiness for cooperation with all independent institutions.

• SPECIAL REPRESENTATIVE OF THE SECRETARY GENERAL

Based on the section 8.1 of regulation 2001/36 on Kosovo Civil Service, the SRSG issued 4 appointment notes for the IOBK members whose previous appointment notes had already expired.

Furthermore, the SRSG always responded on the information delivered to him by IOBK in relation to the failure to implement its decisions or respective recommendations.

On May 2007, Mr. Rücker welcomed members of the Board in his office and thanked them for their successful work and providing continuous support in the future.

(Members of the Board with the SRSG, Mr. Rücker)
OSCE

During 2007, the OSCE Mission in Kosovo continued its support to the Board in different forms.

OSCE appointed a professional co-worker to assist independent bodies of Kosovo, such as Mrs. Vandelbeld, who committed her dedication to work with IOBK.

OSCE also sponsored a TV program at TV 21 on 24 October regarding the Kosovo Civil Service, where among other participants a representative of IOBK was also invited to present the work of IOBK, as an oversight and decision making body of KCS.

OSCE assisted the working group in relation to the transformation of the Board, engaging one of its representatives, and finally OSCE sponsored and arranged the visit of IOBK to Canada.

DIFFICULTIES AND OBSTACLES AT WORK

a) Unfinished process of IOBK transformation into an independent body that would report to the Kosovo assembly in compliance with Section 7.2 (last paragraph) of Regulation 2001/36.

Under Law on Civil Service, the Board is determined as “an autonomous unit within the Ministry of Public Services”, whereas the English version of the Law specifies that the Board is an autonomous unit located at MPS, after two years the position of the Board will be reviewed in order to transfer it into a fully independent body that would report only to the Kosovo Assembly. This process initiated on February 2007 is not finalized yet for many different reasons, therefore IOBK still holds the same legal status.

Even though the Board is independent in decision making, in fact since the Board falls, notwithstanding in a symbolic way, within a Ministry creates obstacles in accomplishing its duties. This is due to the fact that its neutrality is put in question by employment authorities in the Civil service, and especially by some Ministries apostrophizing the fact that “How can a Ministry be checked by a body belonging to another ministry, which is not above the Ministries?”

It is an absolute necessity for this process to be finalized as soon as possible in order to ensure “formal independence of the Board”.

b) Constant lack of a member in the composition of the Board

Almost during the whole 2007 the Independent Oversight Board functioned with six members, though the Law foresees 7 (seven) of them. Taking into account that the number of the complaints submitted this year increased and also the fact that IOBK is a collective body where all duties are performed in the form of commissions consisting of three members, the need for appointing the seventh member of IOBK as soon as possible is quite evident.
c) Insufficient Board Budget

The Board budget, apart from the salaries provided, offers no other possibilities for carrying out other activities, such as; study visits, purchase of professional literature which is necessary for professional training, attending of necessary trainings, etc.

During the last two years, the Board submitted its budget estimates in accordance to its real needs, but the budget never got approved, in the contrary, The Ministry of Finance never invited IOBK at budget hearing sessions, where IOBK would defend its own requests.

d) Large number of complaints that limits the opportunities for the Board to efficiently get engaged with two other activities

As a result of budget shortfall, the number of the complaints submitted to the Board is twice more than in 2006, whereas the human capacities of the Board remained the same, even there is a member less. Such situation forced the Board members to commit themselves more to resolution of these cases leaving less time for them to exercise two other Board activities, though there were great efforts in this regard.

In this respect, lack of space also represents a physical obstacle, as the commissions of the Board had to work in shifts using the only existing office, which resulted with unjustified delays which would definitely be avoided if the Board had another office destined to hearings.

CHALLENGES OF THE FUTURE

In 2008 the Board is expected to face with additional work engagements and other activities, where some of them freely might be called as real challenges.

1. Adaptation of the Board in new working conditions, as a body reporting only to the Assembly

Assuming that IOBK in 2008 will be an independent body already transformed, which would report to the Kosovo Assembly only, it is a challenging situation for the Board members who must adapt to new working conditions and will know their new role and their line of responsibility.

In meantime, the Board must prepare new rules of internal organization and Regulation on complaint procedures in IOBK, which should be approved by Kosovo Assembly.

In new circumstances, the Board shall hopefully propose a sufficient budget, which would completely be managed by IOBK and the responsibility for it shall fall under the Board.

2. Full realization of oversight of Kosovo Civil Service

Kosovo Civil service is not any more in the stage of its establishment or consolidation, therefore the Board always will require full application of the legal norms and especially during the composition of interview panels for relevant positions within KCS and also in relation to the disciplinary procedures and complaint commissions in the employment authorities.
3. Facing with the increased number of the complaints in IOBK

Due to shortfalls and the IMF requirements for reducing the number of employees in KCS, the Board expects an increase of the number of the complaints submitted by the civil servants during 2008.

Also the number of the complaints submitted to IOBK will certainly increase due to the situation created as a result of competition by some of the civil servant in the elections, where a number of the competing civil servants got no personal incomes or employment due to their competition in the election.

4. Efficient response to all requests for monitoring

As a result of the amendments made in Regulation 2000/45 On Self-Government of Municipalities in Kosovo with Regulation 2007/30, the legal status of the directors of the municipal directorates drastically changed.

In this regard, during 2008 we expect invitations to monitor appointments of the personel and administration directors from all the Municipalities of Kosovo as well as the appointments of the directors of the departments of Ministries and Executive Agencies.

Having that based on the law the Board should necessarily get involved in this process with a commission consisting of three members with the possibility that there might be two processes at the same day in different employment authority in the Civil Service and taking nto account the fact that the Board actually has only six members, all these issues might cause dificulties for IOBK to provide the parties involved with effective response.

The goal of the Annual Report of the Board for 2007 was not to represent the whole work performed by the Board during the year, since even if we would like to it would be hard to do so, due to so many activities carried out. However, we hope that we managed to present main items which the Board identifies itself on.

All those to whom the report dedicates to, are welcomed to give their comments, suggestions and eventual critics. Any comment or remark received would be useful to the Board and will be considered with maximal comittment by its members, for the purpose of improvement and elimination of any errors referred in the comment or remark.

Any Employment Authority in Kosovo Civil Service that had direct work relations with the Board is welcomed to provide its comments in relation to the proffessional behaviour of the Board members and the work of the Board in general. All comments will be seriously considered and in accordance with results from such considerations there will be respective conclusions issued.

Herby, IOBK thanks all local and international institutions and the individuals for support given to the Board. A special gratitude is expressed to the written and electronic media for their correct reports on the Board work.