



Organization for Security and Co-operation in Europe
MISSION IN KOSOVO

Presentation for Human Dimension Implementation Meeting
Session II - 24 September 2007
OSCE's Specialized Human Rights Technical Assistance in Kosovo

This presentation address the question: What concrete programmes exist to support implementation of OSCE commitments related to non-discrimination?

Background:

While many OSCE missions focus on monitoring and reporting on the human rights compliance and democratic practices of long-standing governments, new and provisional governments need more time and specialized assistance to develop their own mechanisms for ensuring compliance with the same human rights and democratic governance principles. Thus, governments who are in the process creating new mechanisms, for example in Kosovo, need a different kind of general “developmental technical assistance” from OSCE and other international actors than more mature governments need. These governments may benefit from the assistance methodology that OSCE is currently using in Kosovo. Only after new mechanisms are fully operational can the traditional OSCE approach work to monitor them and report recommendations for improvement through specific corrective action.

Overview:

The fledgling Provisional Institutions of Self-Government (PISG) in Kosovo is still under construction. In only seven years, an entirely new legal framework has been built and is currently being implemented. No matter what the eventual status determination for Kosovo will be, Kosovo and all its neighbors seeking membership in the European Union will in time be held accountable for meeting European standards for compliance with human rights and good governance principles, including implementation of anti-discrimination legislation.

For the purpose of reaching new levels of human rights compliance, from 2005 to 2007 the Kosovo Prime Minister has endorsed three new pieces of secondary legislation to create a new structural mechanism for addressing human rights compliance in fifteen executive branch ministries for the first time in the history of the province. This mechanism includes a Human Rights Unit of three to seven dedicated, professional human rights staff within each ministry; all coordinated by the Office of the Prime Minister's Advisory Office of Good Governance, Human Rights, Equal Opportunity and Gender. In addition to internally monitoring each ministry's sector-specific needs for increasing human rights compliance, each Human Rights Unit targets its human and other resources to key issues, such as: minority rights, gender equality, rights for persons with disability, child rights, anti-trafficking in humans, anti-discrimination and equal opportunity.

OSCE's Specialized Assistance:

After the Kosovo Prime Minister issued the first piece of legislation establishing the ministry-based Human Rights Units (HRUs), OSCE responded by creating a specialized unit¹ to advise the staff of the HRUs on how to build human rights compliance in each sector addressed by the ministries. The senior staff in the OSCE unit of twenty-two include some of the most qualified and experienced staff in the mission in Kosovo including ten lawyers and two PhDs.

The staff of this OSCE unit is essentially *on loan* to the Kosovo government. They sit in the ministry offices together with ministry HRU staff to offer daily, or as-needed technical assistance, advice and capacity-building support according to the “rights-based approach.” Their top priority above all others when assisting their ministry colleagues is the ministry’s best interest in improving human rights compliance, which aligns well with the OSCE mission in Kosovo’s mandate to do exactly that. While the rights-based approach to measuring and advocating for human rights compliance is standard, the OSCE staff’s approach to the *people* in the Human Rights Units is more unique in its *people-centered* focus. Several examples of this people-centered focus include the development of empowering relationships, proactive intervention skills, and lateral decision-making.

- Empowering relationships. In earlier programs OSCE provided all-knowing “experts” to support government actors who were the knowledge-hungry “students”. This program empowers the civil servant members of the Human Rights Units themselves as both the human rights experts and the actors. Specifically, the government authorities are the ones who identify the ministry’s needs and put into practice inside the ministry structures the legislation and policy that specifies ministry human rights legal obligations. The role of the OSCE is not tell-officials-what-to-do, but rather to provide advice and suggestions from the sidelines to the government officials on how they can best achieve their objectives for improving their ministry’s human rights compliance.
- Proactive intervention skills building. In post-socialist and post-conflict environments, government structures are often based on top-down, authoritarian hierarchies. In these kinds of structures, information is closely-guarded, withheld on a need-to-know basis; and middle managers are the silent implementers of the decisions of higher ranking leaders, with access to few resources for programs that they themselves envision and design. In addition to providing advice and technical assistance for rights-based human rights programming to each ministry’s HRU, OSCE advisors also assist their counterparts in developing (a) their own professional as well as personal commitment to human rights, (b) their advocacy skills for developing the commitment of their supervisors and peers to human rights compliance as a key ministry legal obligation. Further OSCE advisors assist with work planning, from the problem identification stage, through project design, budgeting, development and implementation, through the evaluation stages. Further, through programmatic incentives, such as funding to do ministry-specific projects, the OSCE unit rewards ministry-based HRUs for successful implementation of ideas that originate within the HRU members.
- Development of lateral decision-making. Compared to authoritarian hierarchies, democratic organizational systems maximize the power of consensus and lateral coalitions. Thus, the

¹ Through 2006, the Central Human Rights Advisory Unit was in OMiK’s Department of Human Rights and Rule of Law. On 1 January 2007, this unit was renamed the Good Governance Unit and relocated to the new Department of Good Governance and Democratic Institutions.

OSCE unit advocates for peer-review, internal and cross-ministerial alliances, and participatory two-way decision making structures, rather than authoritarian or ascription-based, top-down only decision making hierarchies. This is also a core principle of democratic governance: for the people and by the people. For example, OSCE recommends that the ministry-based Human Rights Unit Coordinator attend all internal ministry senior staff members and build advisory relationship with relevant ministry department heads, starting with the Legal Department. Further, OSCE recommends cross-ministerial cooperation on government programs addressing minority rights, gender equality, persons with disability rights, anti-trafficking, anti-discrimination, etc.

In conclusion, this OSCE Mission in Kosovo program, which lends human rights advisory staff directly to ministries and uses the people-centered approach for building new human rights compliance mechanisms has generated significant successes in the development of ministry-based mechanisms for promoting human rights compliance in only eighteen (18) months. When the program began in March 2006, only one of sixteen ministries had the minimum of three staff dedicated full-time to the ministry's human rights compliance or access to the government budget. As of September 2007, eight ministries have three full-time staff dedicated to human rights, the ninth has five full-time staff. Nearly all ministries have started regular communications with the Ombudsperson Institution in Kosovo. In addition, the new human rights structural developments at the central ministry level has led to the identification of gaps in compliance oversight at the municipality and central assembly levels. In 2008, the OSCE will continue this specialized assistance to continue providing technical assistance and building capacity of ministry-based Human Rights Units, as well as expanding the government's new human right's mechanisms into the municipalities and legislative branch of government.

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