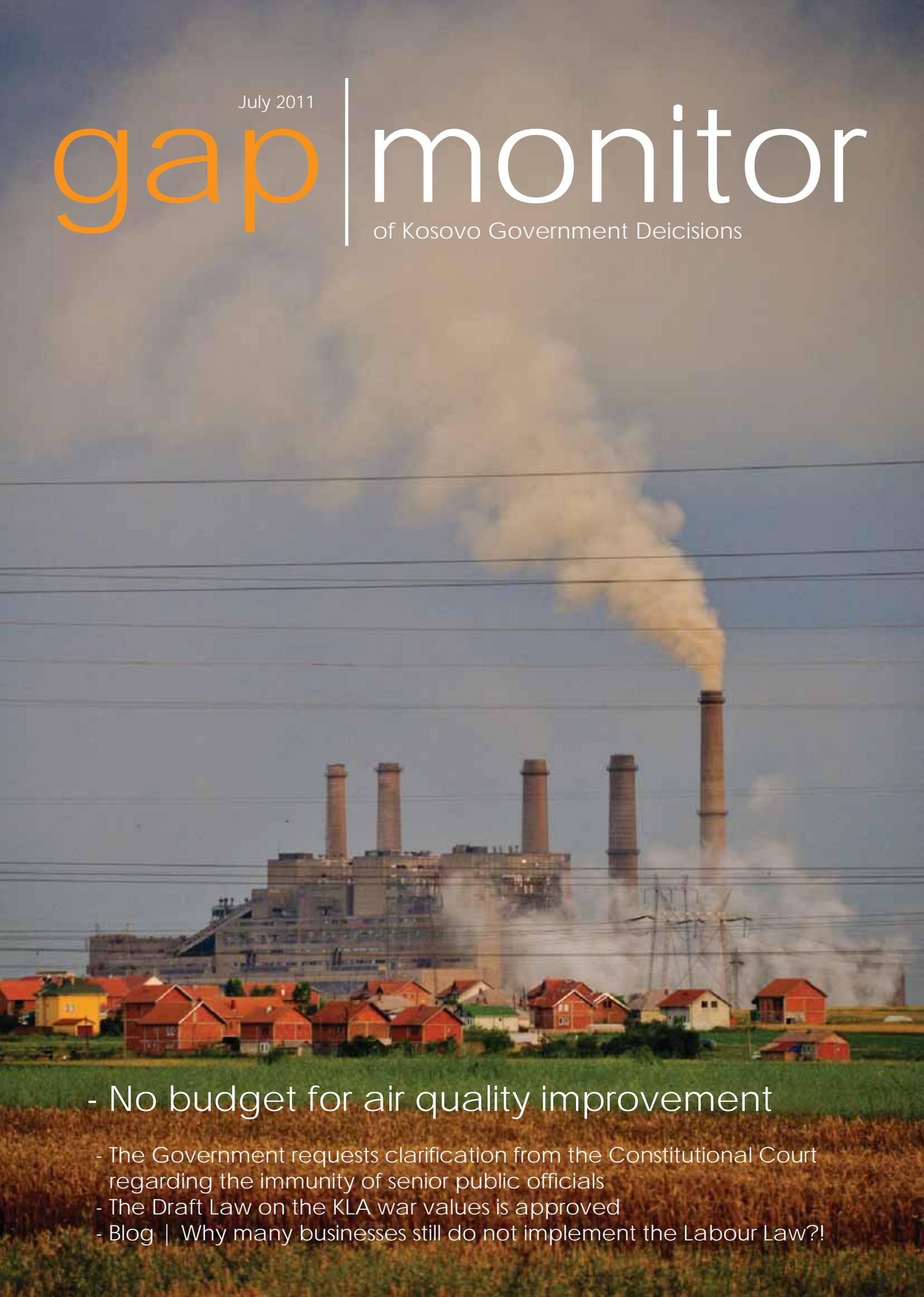


July 2011

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of Kosovo Government Decisions



- No budget for air quality improvement

- The Government requests clarification from the Constitutional Court regarding the immunity of senior public officials
- The Draft Law on the KLA war values is approved
- Blog | Why many businesses still do not implement the Labour Law?!



## Introduction

- During July of 2011, the Government of Kosovo convened five regular meetings and one extraordinary meeting. During the five regular meetings, the Government approved 39 decisions, whereas at the extraordinary meeting the Prime Minister informed his cabinet ministers about the latest developments in the northern part of Kosovo.

- In July the Government approved 13 draft laws. Thirteen of the approved draft laws raise to 58 the total number of drafts laws approved during the seven months of 2011, respectively 39.1% of the Legislative Strategy. In the remaining five months, the Government needs to approve 90 more draft laws in order to fully implement the legislative strategy. The majority of the draft laws approved so far, have not complied with the timeliness outlined in the Legislative Strategy. Thus, the work plan of the Assembly of Kosovo was mostly affected by (by See the full article on the Legislative Strategy).

- The Draft Law for the Historic Centre of Prizren and the draft for the KLA war Veterans were among those approved by the Government. The draft law for Prizren's Historic Centre is one of the few remaining laws from Ahtisaari's package. The drafting process and the content of the draft law were kept confidential from the public. According to the Draft Law, Prizren's Historic Centre will be governed by a separate body, out of the jurisdiction of municipal authorities (Read the full report on the content of the draft law on Prizren's Historic Centre, within GAP Monitor). On the other hand, found under the pressure of the war veterans, the Government of Kosovo approved the Law on KLA War Values. Clarification of list of people benefiting from this law remains the key challenge, in the absence of an accurate list of KLA members (read the report titled "The Draft Law on War Values").

- During this month, the Secretary Generals of six Ministries were selected.. By the end of July, 13 out of 19 Secretary Generals of ministries were selected. This process is conducted in non - transparent form and with political interference that hamper further the professionalism and independence of civil service. Although, the job advertisement was published, the current acting Secretary Generals, politically appointed, were selected and hired. Members of the governing political party (PDK) and moreover, individuals under EULEX investigations have been selected and hired as Secretary Generals (read the full report below).

- The Government approved the semiannual budget report for 2011. The report highlights the good performance over this period in terms of budget revenues. On the other hand, the Government has undertaken measures for freezing some expenditures until the PTK is sold, due to the risk of facing financial deficit.. For the first time since the domestic institutions have the responsibility for developing and executing state budget, there will be no midyear review of the Law on Budget. However, the Law on Budget for 2011 has already been fundamentally changed. According to the Law on Management of Public Finances, in case there are fundamental changes to the Law on Budget, the Government must submit to the Assembly a draft law for amending and supplementing the Law on Budget. This was not the case in 2011.

- The Government has failed to approve the Air Quality Strategy and Action Plan. During the period of seven months the Government has taken various decisions that indirectly affect the aggravation of air quality, as is the decision for removing excise tax, on vehicles produced last 13 years, the energy projects, etc. On the other hand, the Government emphasized the fact that there are no budgetary means for implementation of the Action Plan for Air Quality 2011-2015. The cost of implementation of the plan is estimated to be 300 million euros. On the other hand, laws and other subsidiary acts that regulate protection of air quality and environment cannot be implemented due to the failure to approve the plan. (See the article “Kosovo without budget for improving the quality of air” inside the GAP Monitor).

- Still, the access to information and official documents in the executive branch remains difficult. Access to information is not provided in accordance with the law nr. 03/L-215 on Access to Public Documents and Government Regulation nr. 03-2011 for Government Service for Public Communication. The executive institutions do not publish the drafts of the approved documents even after submission of requests for access to public documents. Usually the most efficient way to ensure these documents is through the informal ways. None of the public relations offices in these institutions operates in compliance with the Government Regulation for Government Communication Service. Moreover, access to official documents through these offices is the most difficult way to get to information. 18 out of 20 documents approved by the Government can be found in GAP Monitor website. Individual reports for all decisions taken during July 2011 can be found in GAP portal Monitor in internet, [www.gapmonitor.org](http://www.gapmonitor.org).

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## No budget for air quality improvement

Air quality and environmental protection are challenges that Kosovo is failing to put under control. An attempt to restore order in improving air quality and environmental protection was noticed in the 24th meeting of the Government, held on July, 2011. Three items of the agenda for this meeting were related to air quality and environment: The Approval of the Administrative Instruction on Air Quality Standards, Air Quality Strategy and Action Plan and Biodiversity Strategy and Action Plan.

Kosovo is considered to be the worst air quality country in the region. Air pollution is mainly caused by power plants, vehicle exhausts, and dust, etc. Only in 2004, the Assembly adopted the Law on Air Pollution. This law was replaced with a new law in 2010-nr.03/L-160 Law on Air protection from Pollution. This law aims to regulate and guarantee the rights of the people

to live in a clean air environment, protecting human health, fauna, flora and natural and cultural environmental values.

### **Law on Air Protection from Pollution**

Law Nr.02/L-160 on air protection from pollution sets the legal basis of this field, whereas the most important legal regulations remain to be completed by subsidiary acts. Law in total has 42 articles and more than half of them, or 22 articles, foresee issuing special subsidiary legal acts. These subsidiary acts foreseen

has issued two subsidiary acts that supplement the Law on Air Protection from Pollution. The administrative instruction nr.15/2010 which sets the criteria for determination of measuring air quality, the number and frequency of measurement and classification of pollutants that are monitored, the working methodology, the form and time of data reporting, entered to force on September 2, 2010,

During the meeting held on July 20, 2011, the Government approved the Administrative Instruction on Air quality Stan-

Despite the existing legal basis for environmental and air protection, because of lack of budgetary means these laws remained unimplemented

by law should be issued within 18 months from the date of entry into force of the law. The law entered to force in March 2011, or 17 months ago.

### **Issuance of subsidiary acts**

The Government of Kosovo

dards. These two administrative instructions supplement the most important areas covered by the law. However, none of them has been published on the websites of the MESP, Prime Minister Office or in the Official Gazette.



### **Public Information on Air Quality**

MEPP is obliged by law and the administrative instruction to inform the public and provide data on air quality. So far, the Government failed to implement the law as there are no reports published with regard to the air quality.

While the Government of Kosovo continues to make decisions that negatively affect air quality (new generating capacities of power, allowing the import of old vehicles, etc...), nothing has been done in order to improve the air quality

### **Biodiversity Strategy and Action Plan**

Based on Law nr.03/l-233 for the Protection of Nature, the Government of Kosovo has approved the 2011-2020 Biodiversity Strategy and Biodiversity Action Plan for 2011-2015. These two documents further promote the environmental protection.

The strategy sets four strategic objectives by 2020: 1. Development of the legal and institutional framework in accordance with EU standards and effective implementation; 2. Preservation and protection of species of plants and animals, natural habitat and representative landscapes in natural balance; 3. Ensuring integrated protection

of the nature through cooperation with other sectors, the utilization of the sustainable biodiversity and the equal sharing of benefits; 4. Promoting education and effective communication for biodiversity.

The Action plan has been approved for a five years period, while its estimated cost for the Kosovo budget is 50 million eu-

ros. The Ministry of Finance expressed concerns and warned that its cost might cause problems to the Government. However, the Government approved two important documents on environment protection.

### **Air Quality Strategies and Action Plans**

In order to ensure the efficient implementations of the legal norms and with the aim of improving the air quality, the Law on Protection of Air Quality, envisages issuance of strategies and action plan as well as drafting of reports for e implementation of action plans.

During the 24th meeting of the Government, the MEPP introduced for approval the for Air Quality Protection Strategy 2011-2020 and the Action Plan for the period 2011-2015. The Government did not approve the Strategy and the Action Plan, upon justification that

the five years Action Plan carries a financial cost of 300 million euros, which is unaffordable for the

increased vehicle numbers has caused the reduction of air quality. So far tests confirm the air

Despite concerns about the quality of the environment, despite the presented evidence that the air quality is significantly more polluted from that of EU reasonable standards, the Government still has not adopted the air quality strategy and action plan. On the other hand, the Government has taken numerous decisions that aggravate air quality, such as expansion of new lignite mining construction

The Government did not approve the Strategy and the Action plan for Air Quality, explaining that the financial cost for the next 5 years exceeds 300 million euros

state budget.

The Air Quality Strategy 2011-2012 confirms the fact that the air quality in Kosovo is not in good. The pollution is mainly caused by KEK, Sharrcem, Ferronikel, where emission released into the, exceed the allowed limit. Also, according to what is confirmed within the strategy, the

quality non-compliance with EU standards. MESP begun extending network for monitoring air

Biodiversity Action Plan will cost the budget of Kosovo 50 million euros for the upcoming five years

quality and monitoring points are expected to be finalized within 2011.

of new power capacity, allowing the import of older vehicles, etc.

## The principle of reciprocity in trade relations with Serbia and Bosnia & Herzegovina begins to be implemented

**D**uring the 24th meeting held on July 20th, the Government of Republic of Kosovo has supported the decision of the Ministry of Trade and Industry for imposing measures of reciprocity in trade relations with Serbia and Bosnia and Herzegovina. According to the decision of the Ministry, which came into force on the same day, July 20th, the custom stamps and the tax administration of Republic of Serbia will not be recognized. This means that with the decision does now allow the import of goods under these stamps. According to the decision, the custom stamps of Bosnia and Herzegovina will not be recognized, and any goods under this will be subject to custom taxation of 10%. It should be clear that this is a decision of the Ministry of Trade and Industry, which was welcomed by the Government, but

was not brought to a vote by the Prime Minister to stand out then as an ordinary decision of the Government of Kosovo. There is a need to clarify that this decision of the Ministry of Trade and Industry, which was welcomed by the Government, but was not brought to a vote by the Prime Minister to stand out then as an ordinary decision of the Government of Kosovo.

Establishment of equal trade measures with these two coun-

tries and Bosnia have did not allow the import of Kosovo products, including the transit through their territory.. In March 2011, the GAP Institute published an analysis, calling on the Government to change the status quo regarding trade relations with these two countries. Due to the huge trade loss, resulting from refusal of Serbia and Bosnia to apply CEFTA agreement, GAP had recommended the Government to establish a temporary rebalancing

This Ministry of Trade and Industry decision was welcomed by the Government, but was not brought to a vote by the Prime Minister

tries can be considered as an appropriate action, which should have been undertaken earlier. It is important to emphasize that since December 4, 2008 when Kosovo changed custom stamps from UNMIK custom services to Kosovo Custom stamps, Serbia

measures, namely to increase customs duties on products from Serbia and Bosnia in order to balance losses, caused by these two countries. This analysis can be found at <http://www.institutigap.org/?cid=1,5,178>.



## Thirteen Draft Laws Approved

**D**uring the five meetings held in July, the Government of Kosovo approved 13 draft laws outlined in the 2011 Legislative Strategy. The fol-

The Government has to approve 90 draft laws over the next five months, if it aims at submitting all draft laws outlined in the legislative strategy

lowing are the draft laws approved by the government: 1.D/L on Protection of Informers; 2.D/L on Firefighting and Rescue; 3. D/L on Trade with Foreign Countries; 4. D/L on import measures; 5. D/L on Public Private Partnership; 6. D/L on Prevention of Conflicts of Interests in Exercising Pub-

lic Function; 7. D/L on Declaration, the Origin and Control of the Assets of Public Seniors and Declaration, the Origin and Control of Gifts; 8. D/L

on International Agreements; 9.D/L on Kosovo's Academy for Public Safety; 10. D/L on the Status and Rights of Martyrs, Handicapped, Veterans, members of the Kosovo's Liberation Army, Civilian Victims and their Families; 11. D/L on Historic Centre of Prizren; 12. D/L on Freedom of the Asso-

ciation NGOs, and 13. D/L on Genetically Modified Organisms.

With these 13 approved draft laws in the first seven months of 2011, 58 is the total number of draft laws approved. The Legislative Strategy of 2011 contains 148 draft laws. Over the upcoming five months, the Government has to approve 90 draft laws over the next five months, if it aims at submitting all draft laws outlined in the legislative strategy.

2011 Legislative Strategy 148 draft laws		
January - June 45	July 13	to be approved: August - December 90
39,1%		60,9%

The table outlines 13 approved drafts laws in July, the dates of their adoption by the Government, the deadlines set by LS'11 and deadlines foreseen by the Assembly work plan for 2011.

Draft Law on:	Submission to the OFLS as foreseen by LS' 11	Government Approval	Kosovo Assembly Work Plan	
			1 <sup>st</sup> reading	2 <sup>nd</sup> reading
Protection of Informers	31.05.2011	06.7.2011	7/2011	9/2011
Firefighting and Rescue	31.03.2011	06.7.2011	5/2011	7/2011
Foreign Trade	30.06.2011	06.7.2011	7/2011	10/2011
Protective Measures on Imports	30.06.2011	06.7.2011	7/2011	10/2011
Public Private Partnership	31.05.2011	06.7.2011	7/2011	10/2011
Prevention of Conflicts of the Interests in Exercising Public Function	31.05.2011	13.7.2011	7/2011	10/2011
Declaration, Control and the origin of Assets of Public Seniors and Declaration, the Origin and Gifts Control	31.05.2011	13.7.2011	7/2011	10/2011
International Agreements	31.05.2011	13.7.2011	7/2011	10/2011
Academy of Kosovo for Public Safety	30.06.2011	13.7.2011	7/2011	10/2011
Rights and Status of Martyrs, Invalids Veterans, Members of the Kosovo Liberation Army, Civilian Victims and their Families	31.05.2011	22.7.2011	7/2011	10/2011
Historic Centre of Prizren	30.04.2011	27.7.2011	7/2011	10/2011
The association freedom of NGOs	31.05.2011	27.7.2011	7/2011	09/2011
Genetic Modified Organisms	30.04.2011	27.7.2011	7/2011	09/2011

Based on the table above, the draft law on Fire fighting and Rescue should have been approved by the Assembly in July, but the Government's failure to submit the draft on time, does not allow the Assembly to keep up with the timeliness outlined in its work plan. The Assembly envisaged to review during July, twelve out of thirteen draft

laws approved by the Government, but failure to submit them on time in the Assembly, prevented them from being proceeded in the Assembly.



## The Draft Law on Prizren's Historic Centre is approved

**D**uring the 26th meeting, held on July 27, 2011 the Government approved the draft law on Prizren's Historic Centre. as one of the two draft laws deriving from the Ahtisaari's package, that is not yet approved. The Law on Hoqa e Madhe is the remaining law deriving from the Ahtisaari's package, which is outlined in the 2011 Legislative Strategy.

This is one of the two draft laws deriving from the Ahtisaari's package, that is not yet approved

Approval of these two laws was delayed from year to year, because of the sensitive nature of issues covered by them. Civil society in Prizren, several times has requested to be involved in the drafting process. They were not allowed to be part of the process, and the draft law was kept hidden from the public.

The draft law on Prizren's Historic Centre covers 1.377 cadastral areas in the centre of Prizren and 141 cadastral areas around

the Fortress area. 104 buildings and four architectural complexes are included within this area.

According to this draft law, the construction, recreational activities, municipal services and advertising spaces, shall be governed in a particular manner, by a new body formed by the municipality, but consists of religious communities, ethnic com-

munities and civil society. This body will be named the Committee for Cultural Heritage of Prizren, and will consist of seven members. Six members will be selected from the civil society and religious communities, as follows: One member of Islamic community, one of the Serbian Orthodox Church and one of the Catholic Church and three members from civil society. The seventh member will be selected by the municipal structures, specifi-

cally by the Community Office.

Bases on the terminology used in the draft laws, the Orthodox religious sites, are treated as Serbian, while religious sites of two other religions are not associated with any other community. Also, according to this draft law, members of religious communities are not distinguished from the civil society members. The Government of Kosovo is working in the process of drafting and approving the draft law on Religious Communities, which will envisage a special status for religious communities, other than the status of NGOs.

The draft law, prohibits merging of two or more cadastral land parcels into a single unit or transforming and construction activities that result in establishing of a single object in two or more cadastral parcels; construction of buildings over two floors (ground + 2 floors),

construction of basic buildings of more than 150m<sup>2</sup>; activities that will result in permanent changes

Serbian Orthodox Church for any activity, which affects the properties of the Serbian Ortho-

the impression that this law considers all religious communities equally, the article 18.4, gives an additional voice to the Orthodox Church.

Previous laws from Ahtisarie's Package were approved by the Assembly, through an accelerated procedure. Members of the Assembly of Kosovo and ICO, have made clear that after 120-day transition period (February-June 2008), there is no need to review and approve legislation through hasten procedures.

Protection of the heritage sites and cultural areas is regulated also by the Cultural Heritage Law, the Law on Special Protected Areas and the Law on Spatial Planning

to the natural morphology of the terrain, etc.

Also, under the Article 18 paragraph 4, the Committee shall require the consent of the

dox Church in Prizren's Historic Centre in accordance with Annex 5 of the Comprehensive Settlement and the Constitution.

Although at first sight one gets

## The Draft Law on the KLA war values is approved

**D**uring the 25th meeting held on July 22, 2011, the Government of Kosovo approved the draft law on the Status and the Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Army, Civilian Victims and their Families, otherwise known as "The law on the KLA war values".

This draft law is part of the legislative strategy of the Government since 2009. On July 27, 2009 the Government of Kosovo included this draft law in the Legislative Strategy, 2009. Also, the same draft law was carried into the Legislative Strategy of 2010, where it was approved on August 5, 2010. Due to the institutional crisis that led to the early parliamentary elections, the law on the values of the KLA war was not approved and was returned back.

The draft law on the war values was included in the Legislative Strategy of 2011, and in accordance with the timeliness it should have been approved in June. The Government had included in the agenda the adoption of this draft law at the meeting planned for June 20th, 2011,

The law is expected to cost 4.8 million euros a year

but the meeting was canceled due to the death of the member of the Assembly Mrs. Nekibe Kelmendi.

The draft law then was not included in the agenda of the following 5 meetings, while the Government explained that negotiations with the IMF caused

the delay. According to the Prime Minister, this legal act is one of the most appropriate draft laws that Kosovo's Government has approved, and is one of the most advanced laws in the region which protects the categories emerged from war.

The Government has indicated that the approved draft law approved during the 25th meeting of the Government, was no different from the one approved on August 5, 2011.

Last year, when the draft law was submitted in the Assembly, the Government had included the Financial Impact Assessment. According to this assessment, the draft law on the war values contains an additional annual budget cost of 4.8 million euros.

According to the prime Minis-

The budgetary cost is mainly a result of the increased number of beneficiaries and to the increasing levels of received benefits for these beneficiaries:

- The actual number of beneficiaries of pensions for war invalids under the draft law is estimated to be increased to 13.573, from the actual number of 12.522;
- According to the draft law some categories will benefit higher pensions, while some categories will have a deduction of the pension;
- The number of new pensions is 1051 consisting of 450 families of martyrs, 312 are dealing with the existing pension growth schemes, 250 for people who still missing in the category of the civilian casualties and 39 belong to the missing civil categories.

By using the above assumptions, calculations result in a very high cost of 4,800,000 as follows:

- Missing civilians from 44.000 euros( 39 pensions up to 139 euros);
- The category of civilian family victims that include 250 pensions with a cost of 400,000 euros per year;
- The rest of the budget expenditures of around 3,600,000 euros represent the increasing effect of the beneficiaries, the new categories that will benefit (as martyrs of the nation, 450 people will receive pensions from 286 euros);
- Increasing of the invalid war pensions in 2010 estimated to 1,600,000 euros;
- Due to the fact that a number of dead individuals are still in the category of pensions, there are savings or cost reductions of about 840,000 euros.

ter, who introduced this draft law during the Government meeting, the IMF has given the approval for the adoption of this law. This

verification of the veteran's lists, members, KLA invalids and martyrs is not done yet, even though in April 22, 2011, the decision

the KLA Veterans Organization, representatives of all Operational Areas, representatives of the Prime Minister office and representatives of KPC. According to the decision, the commission would have to conclude the work by 2010.

In April 2010 the Government established an ad-hoc committee to verify the lists of the KLA members, but this committee failed to come up with accurate data on the former members, martyrs, invalids and KLA veterans

By requesting once again the creation of the committees to verify the lists, the Prime Ministers seemed to forget that such commission had already been established. Based on the Rules of Procedures of the Assembly, the draft law will pass the first reading in September, while it will be approved by November of this year.

law is not expected to come into force this year, but in January 2012.

04/121, the Government had formed an ad-hoc committee to verify the lists. According to the decision of the Government, this committee will consist of 11 persons who will represent: the former General Staff of the KLA,

Calculation of the budgetary cost remains difficult, because there are no accurate lists of former KLA members, etc. The

## The semiannual budget report for 2011 is approved

On July 27, 2011, in the 26 meeting, the Government of Kosovo approved the Semi-annual Budget Report of 2011. According to the Law on Management of Public Financial, the Government is obliged to develop and submit to the Assembly quarterly reports on budget expenditures. Moreover, under the pressure of the European Commission, the Government agreed to publish monthly reports from the beginning of the 2011, but such thing did not happen.

In this six-month, projected revenues are realized 46% of annual plan, 579 million euros, which if we compare with the same period of 2010 has increased by 9%. This means that revenue collection is higher this year. The revenues from customs and TAK are 20% higher than in 2010. Also non-tax revenues have been increased compared to the same period a year ago. These revenues are 45 million euros or 13% more than a year ago. The own source

municipal revenues, for the first part of the year are 13% higher than the previous year. The dividend of 40 million euros by PTK and 5 million euros from the International Airport of Prishtina "Adem Jashari", are also considered as revenues.

On the other hand, expenditures are not implemented in accordance to the budget plan. In the first six-months of 2011 expenditures were realized at 35%. In the cat-

category of wages and salaries expenditure for this month are 1% higher compared to the same period of 2010, respectively, on this year 148 million euros are spent in total. In the category

The Government has not approved a draft law to amend the Budget Law for 2011, as foreseen by the Law on Management of Public Financial

goods and services costs are 8% lower compared to the same period of last year. The largest spending increase during the first half of 2011 in the capital expenditure category we encounter the amount of 58 million euros,

an increase of 55% compared to the same period of 2010. According to the receipts and payments table for the first half of 2011 we have increased revenues compared to 49.44 million euros pay-

ments and account balance in CBK bank until June30, 2011 is 339.15 euros.

The Government at its last meeting also took a decision for the allocation of 60 million euros, which has been the recommen-

dation of the IMF. This amount shall be held in reserve and not to be expended before the tender for privatization of PTK is rewarded. According to the decision of the Government these funds will be collected from the budgetary reductions into various categories, so 8 million euros will be taken by categories of goods and services, 37 million euros of capital investment category, while 15 million euros from the other categories, namely the amount which was scheduled to be given to KEK in loan form.

## The Committee for Management of the Fund for Supporting Minority and Multi-Ethnic Media, and Other Special Groups, is again operational

In the 27 meeting, held on July 20, 2011 with the decision 03/24, the Government of Kosovo has appointed the Committee for Managing the Fund for Minority Support, Multiethnic and other special groups. The functioning of the committee is foreseen also with the regulation 01/2008 on the functioning of the fund for supporting the minority and multiethnic media, and other

special groups, approved by the Government on December 3, 2008. Members of this fund will be representatives from the Office of the Prime

Minister for Public Communication, Ministry for Communities and Returns, Independent Media Commission, Press Council, IREX, Media Institute and editorial programs for minorities in RTK. The committee will be supported by the Secretary for Fund

Management, which will function within the Prime Minister's Office of Public Communications.

This Committee, announces the competition that makes the call for submitting the projects for funding and resource allocation from the fund is made based on the projects submitted by the minority media, multiethnic and other special groups (to understand more about the foreseen

Due to financial problems of the RTK, Minority Media Fund was not allocated in 2010. In 2009 this fund was 200,000 euros and was allocated to 17 media outlets.

terms of this competition, read the GAP Monitor, February 2009, page 17).

Funds allocated for this purpose will be filled by the RTK, where 5% of RTK incomes are allocated for supporting the Minorities media, multiethnic and

other special groups. For the first time the committee was established and became functional in 2009. On January 30, 2009, with the decision 03/52, the Government established this committee, with the same membership structure. (to learn more about the decision, read the GAP Monitor, January 2009, page 10). In 2010 the Government has not allocated the fund for this media, arguing that RTK has difficulties in financing its programs.

In 2009, 200.000 euros Fund was available. In 2009, this commission had had seven months to decide for the beneficiary media. The list of beneficiary media of this fund was made public on October 8, 2009, with the Government's decision 04/86. Back in 2009, 17 media benefited funds up to 15.000 euros.



## The Resettlement Policy Framework for the inhabitants of the New Mining Area is approved

During the 22nd meeting held on July 6, 2011, the Government of Kosovo with the decision 09/22 approved the Resettlement Policy Framework for the Area of New Mining Field. Two years ago, on March 13, 2009, the Government declared the new mining area as an area of special economic interest. As it was

Bank principles to relocate the population. RPF for the New Mining Area is a document which lays the basis for the relocation of the residents from the territory where natural resources will be used for the construction of the Kosovo C.

The RPF recognizes the fact that the relocation and compensation

erate in new environment), cultural, etc.

The Resettlement Policy Framework contains no deadlines, but it is left to be decided on any plan of action for relocation (RAP), depending on the dynamics of the project. The time schedule and approximate budget for Lignite Power Project is being developed collaboration with the mine planners. The most critical issue at this stage is preparing the RAP for mining stage of Sibovc.

The legal base for expropriation and relocation remains the law nr 03/L-139 on expropriation of real estate area. The Government of Kosovo even two years after the law entered into force has failed to consolidate institutions responsible for expropriation and did not managed to issue the administrative instruction for determining the compensation for expropriation of real estate property, as it was provided in the Article 15 paragraph 6 of the Expropriation Law.

The new mining field in an area of 143,254 km<sup>2</sup> and includes 22 cadastral areas extended in four municipalities. Even after two years of entry into force of the law, the Government of Kosovo has failed to consolidate the organisms for expropriation and did not issue the administrative instruction for setting compensation of the real estate expropriation

written also in the GAP Monitor for March 2009, that the New Mining Field covers an area of 143.254 km<sup>2</sup> and within it includes its extended 22 cadastral areas expanded into four municipalities.

The Resettlement Policy Framework (RPF) is based on the World

of residents is a complex process, where material compensation is not sufficient and that the displaced residents will suffer social damages (displacement from their family circle and neighborhood), economic (loss of customers for businesses that close and you they have to op-

## The Government requests clarification from the Constitutional Court regarding the immunity of senior public officials

During the 24th meeting held on July 20th, the Government, approved the decision (decision 09/24) to request from the Constitutional Court (CC) to give

of EULEX has no legal and constitutional basis and that the Government may submit such request directly to the Constitutional Court. The government on

and the President of Kosovo.

During the 24th meeting of the Government, the Prime Minister informed members of the Government about the content of request submitted to the CC, and thanked them for approving the decision, before the putting it for a vote.

EULEX is conducting investigations against several senior public officials. The Constitution of Kosovo, the Assembly Rules of Procedures and the Law on Rights and Responsibilities of Members of the Assembly include provisions that cover the immunity of senior public officials.

The Constitutional Court has received the request of the Government and is expected to publish its opinion by September, 2011. The Government requested from the CC to provide explanations if the senior officials have immunity for crimes committed outside their official duties.

Few months ago, the Prime Minister has stated that the Government cannot demand for explanations from the CC on the immunity of the Assembly members, because the powers are divided

additional explanations with regard to provisions of the Constitution of the Republic of Kosovo that cover the immunity of senior public officials.

This decision was taken following the request of the EULEX submitted to the Assembly to approve a resolution on the immunity of members of the Assembly of Kosovo. The Assembly refused to take such a decision on the grounds that the request

the other hand refused to make a request at the CC with justification that the executive cannot request the interpretation on issues related to the Assembly, because branches of the government are clearly divided. Nevertheless, the Government did submit the request to the CC. But, except for clarifications on the immunity of members of the Assembly, the Government also requested clarification about the immunity of other senior public officials, such as members of the Government

Article 75 of the Constitution of Kosovo is about the immunity of the MA:

1. Assembly deputies shall be immune from prosecution, civil lawsuit and dismissal for actions or decisions that are within the scope of their responsibilities as Assembly deputies. The immunity shall not prevent the criminal prosecution of deputies of the Assembly for actions taken outside of the scope of their responsibilities as Assembly deputies.
2. A member of the Assembly shall not be arrested or otherwise detained while performing her/his duties as a member of the Assembly without the consent of the majority of all deputies of the Assembly.

Article 81 of the Constitution of Kosovo covers the immunity of the President of the Republic of Kosovo:

1. The President of the Republic of Kosovo shall be immune from prosecution, civil lawsuit and dismissal for actions or decisions that are within the scope of responsibilities of the President of the Republic of Kosovo.

Article 98 covers the immunity of members of the Government:

1. Members of the Government shall be immune from prosecution, civil lawsuit and dismissal for actions or decisions that are within the scope of their responsibilities as members of the Government

## By the end of July 13 out of 19 secretary generals of ministries were selected and hired

During the meetings held on July 6, 13 and 27, the Government appointed the Secretary Generals of the: Ministry of Foreign Affairs (MOFA), the Ministry of Environment and Spatial Planning (MESP), Ministry of Agriculture, Forestry and Rural Development (MAFRD), Minis-

try of Communities and Returns (MCR), Ministry of Interior (MOI) and Ministry of Public Administration (MPA).  
Competition for the three positions of the General Secretaries of the MFA, MRC and MESP was announced on June 9, 2011, and remained open for 15 calendar days from the date of publication. The length of term for the Secretary Generals is scheduled to be 3 years, while their monthly gross salary is 900.90 euros. Job advertisement for the position of the Secretary General in the MIA was published on June 12, 2011, while the advertisement for the same position in the MPA was announced on June 27, 2011, under the same length of term and salaries as for other Ministries.

### In July 2011, the Government appointed Secretary Generals of six Ministries

try of Communities and Returns (MCR), Ministry of Interior (MOI) and Ministry of Public Administration (MPA).

Competition for the three positions of the General Secretaries of the MFA, MRC and MESP was announced on June 9, 2011, and remained open for 15 calendar days from the date of publication. The length of term for the Secretary Generals is scheduled to be 3 years, while their monthly gross salary is 900.90 euros. Job advertisement for the position of the Secretary General in the MIA was published on June 12, 2011, while the advertisement for the same position in the MPA was announced on June 27, 2011, under the same length of term and salaries as for other Ministries.

By decision 07/22, the position of the Secretary General to the MAFRD was appointed Mr. Nagip Skenderi. Mr. Skenderi received his BA and MA in the field of economics at the University of Prishtina, and later received his PhD at Linz University in Austria. He is also a lecturer at the University of Prishtina.

Based on decision 08/22, the Secretary General of the MESP was appointed Arben Çitaku,

who was already serving as an acting Secretary General. . By decision 08/23, Zana Kotorri was appointed the Secretary General in the Ministry of Returns and Communities, who served as an acting Secretary General since 2008. In June of this year Mrs. Kotorri's office and the MRC

were searched by EULEX investigators, with the suspicion illegal corruption activities.

By the decision 07/23, Kapllan Halimi was appointed the Secretary General of MAFRD, who was serving as an acting Secretary General since May 2010. Mr. Halimi has previously worked in the Ministry of Education Science and Technology. Before serving in the civil service Mr. Halimi was part of the election team of Mr. Hashim Thaqi in the parliamentary elections of 2007.

The Ministry of Public Administration, which is responsible for organizing the interviews and for the selection of the candidates, refused to make public names of members of the panel responsible for interviewing and selecting Secretary Generals. Current selection process for the Secretary Generals did not guarantee non party appointment

During the last meeting in July, the Government appointed two other two Secretary Generals. Ilhami Gashi was appointed in the MIA, while in MPA Fitim Sadiku, who is a lawyer and since 2008, served as an acting Secretary General.

At the same meeting, the

Government named four Chief Executive officers of Independent Agencies. Hafiz Gara was appointed, Chief Executive in the Standardization Agency MTI, Valdrin Lluka was appointed in the Investment Promotion Agency in MTI was named Valdrin Lluka, Ramë Manaj was appointed in the State Archives Agency, while Granit Berisha was appointed the Chief Executive for Supporting Small and Medium Enterprises in MTI.

As emphasized in the previous numbers of GAP Monitor, the selection of secretary Generals and the heads of agencies shall be in accordance with Law 03/L-149 for the Civil Service of the Republic of Kosovo, regulation 06/2010 on the procedures for position of the appointments of the Senior Managers in the Civil Services of Kosovo's regulation 02/2010 of procedures for Civil service recruitment. But, based on regulation 06/2010,

the Committee on Criteria of Evaluation consists of: three Secretary Generals, a university professor in the field area, and a member of civil society. MPA did not want to make public names of the committee members.



## MESP Strategic Development Plan is approved

**D**uring the 26th meeting held on July 27, 2011, in the 26 meeting, the Government approved the Strategic Development Plan of the Ministry of Environment and Spatial 2011-2014. MESP is the fifth Ministry to have its three year development plan approved. In 2009 and 2010, the Government has approved the strategic development Plans for the: the Ministry of Interior (MOI), the Ministry of Public Administration (MPA), the Ministry of Local Government (MAPL), and the Ministry of Transport and Communications (MPTP). The Strategic Development Plan for 2011-2014 sets eight strategic objectives for MESP: 1. Improving the environment;

2. Managing the natural resources; 3. Strengthening the Spatial planning; 4. Registering information for the land; 5. Regulating the construction area by technical construction rules in harmony with the EU standards; 6. Increasing the access to affordable housing and convenient for the household economic condition and increasing the value of housing stock; 7. Strengthening the Inspectorate, and 8. Climatic changes and protection from the radiation. Specific measures have been envisaged in order to achieve the strategic objectives. The action

plan also provides the timelines for implementing the concrete measures. Some of the most important actions in the next three years are: The creation of the Agency for Protection of the Radiation (2011); Establishing the Monitoring System for Air Quality (the four fourth quarter of 2011), Establishing conditions for the approval of all the international environmental conventions

The Strategy and Action Plan contains no budgetary costs for the planned activities

(2014), the compilation of the Eco-fund law, (2011), the Draft strategy for Waters (2012), etc. The Strategy and Action Plan contains no budgetary costs for the planed activities.

## The Government approves 2011-2016 National Strategy and Action Plan on Community Safety

**D**uring the 23rd meeting held on July 13, 2011, the Government approved the National Strategy and Action Plan 2011-2016 on Community Safety.

This document is of special importance as it enables the security structures to be much closer to the citizens in order to make it safer. Also, this strategy ensures coordination with other strategies previously approved by the Government as: the Strategy against the Human Trafficking, the Crime Prevention Strategy, the Strategy against Drugs and Terrorism, the Organized Crime, and the Migration and National Security Strategy. The strategy enables the creation of local partnerships and the implementation of national objectives at the municipal level.

The National Strategy and Action Plan 2011-2016 for Community Safety addresses the needs of Kosovo and these needs has divided into five strategic goals and six specific objectives:

- **Strategic Objective 1** - The level of public confidence in the Governmental and security Institutions is continuously in rising.
  - » **Specific Objective 1** - Governmental and Security institutions are pro-active and have developed preventive programs.
  - » **Specific Objective 2** - Ensuring active participation of citizens in the security forums (MCSC, CSAT, LPSC) including civil society to adequate addressing of the needs of the institutions.
  
- **Strategic Objective 2** - Violation of Public Safety, Personal and Property is at low level.
  - » **Specific Objective 1** - Level of crime, of conflicts between different groups and the public discontent is reduced (acceptable level).
  - » **Specific Objective 2** - Methodology of the Kosovo Police work is based on the concept of community policing.

- **Strategic Objective 3** - Return and reintegration of citizens do not appear to be as a technical challenge for liberalization of visas or in the integration of Kosovo into the European Union.
  - » **Specific Objective 1** - Municipal institutions and security forums help the integration of the returned citizens.

- **Strategic Objective 4** - The related issues to non-majority communities and institutional are adequately addressed.
  - » **Specific Objective 1** - Non-majority communities participate actively in the community security mechanisms.

- **Strategic Objectives 5** - Forums for Security help intensively on the implantation of national strategies at local level.
  - » **Specific Objective 1** - Inter-Institutional coordination and cooperation between different mechanisms to facilitate the implementation of national strategies at local level.

- **Strategic Objective 6** - Increasing the awareness of the citizens and the coordination of them at local and central Government in improving the public safety.
  - » **Specific Objective 1** - Harmonization of the action plan to the security plan in schools, that of KP's operational and MCSC.
  - » **Specific Objective 2** - Raised awareness of citizens about the importance of promoting inter-ethnic, multi-cultural and inter-religious.
  - » **Specific Objective 3** - Awareness of the citizens of the republic of Kosovo to the global security threats.

- **Strategic Objective 7** - Prevention and reduction of crime in the community.
  - » **Specific Objective 1** - Strengthening the institutions with the human resources capacities and other security forums dealing with crime prevention.
  - » **Specific Objective 2** - Increasing the community awareness of the danger of using drugs.
  - » **Specific Objective 3** - Raising the community awareness on the issues of human trafficking.

- **Strategic Objective 8** - Successful transition of the CSAT.
  - » **Specific Objective 1** - Successful transition of ICITAP from to CSAT to MIA.
  - » **Specific Objective 2** - Creation and revitalization of the safety of the community.

- **Strategic Objective 9** - The security institutions are able to respond to the threats that can come from natural and other disasters and there are existing plans for response and recovery after the disaster.
  - » **Specific Objective 1** - Promoting the safer behavior and actions for the prevention, preparedness, response and recovery from the natural disasters and other disasters that can cause danger to life, the goods, and the infrastructure, cultural heritage and environment.
  - » **Specific Objective 2** - Evaluation of the risks, identification, training and monitoring of the shelters.

Besides the strategic goals and objectives outlined in this strategy, it is foreseen the implementation, the supervision and evaluation of the latter.

The main dimensions of the observation and evaluation of the strategy are:

1. Institutional capacities;
2. Indicators of the monitoring along and at the end of five years period;
3. Information sources and measuring instruments;
4. The distribution and the usage of the monitoring and evaluation.

As it was mentioned in the beginning, along with the strategy, the Government has approved also the Action Plan. This plan has foreseen the objectives; the activities that will be carried out during the five years period, relevant institutions which will be responsible for the carried out foreseen activities, time-lines, the budget which is expected to be 232 thousand euros, and the indicators.

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**Jeton Mehmeti**

## Why many businesses still do not implement the Labour Law?!

The right to hire people does not mean the right to abuse. Therefore, the employee deserves more than the material compensation that he/she receives, he/she deserves the respect because here the respect for dignity of an individual is in question

It has been more than six months since the labour law entered into effect and many employers not only that do not implement it, but still have not read its provisions. Many private businesses, mainly small and medium, continue to operate under the “laws” of the owner. The employee on the other hand, satisfied (but not happy) that he has a job, does not even try to ask for his/her rights provided by law, often because of the fear that by asking for the labour rights might lose the job itself. Even employer, like the employee, has not read the labor law.

A few weeks ago the Gap institute published an analysis about the labour law enforcement during the first six months. During our research I heard about various violations of the employees rights in the private sector. I heard that a construction worker worked ten hours per day, seven days a week, without any measures of protections and without an employment contract. I heard that the waiters working hours ran from eight o'clock in the morning until the last guest visit around midnight. A pharmacist did not complain because she was working on the “regular schedule”, that is eight hours a day and on Sunday she had a day off. One guy told me that he has been working in a dairy for four years and all the vacation he got from the owner until now were ten days when he got married. Even he did not complain because it was something that they agreed upon at the beginning.

I was not surprised by these vio-

lations of the rights of employees, but I was surprised how for a lot of employers these do not present any violations. And this was exactly where the problem started: violation of the law in this country has become something normal, while respecting it is outstanding. Someone said that in a country where human rights to have a job are not guaranteed, the rights of those who work can be considered a luxury. But is it right and moral that the employer deprives the employee of his legitimate rights? Moreover, when in many private businesses people close to the employer are hired, two offenses are done, both as an employer and as a family friend. Overall, the salaries in the private sector are very low.

Here I can understand the employers up to a certain point. But, I cannot understand why the employee does not have a working contract, why is he forced to work more than forty hours a week, why does not he have four weeks of annual vacation, or sick leave up to forty days?

What would the business lose if an employee would work five days a week and the other two he would spend with his family?

Hire additional people at a part-time schedule if it is a kind of business which requires seven days a week operation. Many hotel and restaurant owners, pharmacies and construction firms are proud with the number of employees they have, but are the employees proud of their employers? The right to hire people does not mean the right to

abuse. Therefore, the employee deserves more than the material compensation that he/she receives, he/she deserves the respect because here the respect for dignity of an individual is in question. Further, more business have more respect towards the car manual labour than for the legal rights of employees.

Academics provide a thousands of the reasons why should the government intervene at the labour market to issue a law to regulate it is because the labour markets are not perfect and as a result the employers with the market power which they have, abuse their employees which leads to unjust ice and inefficiency. Today, at the time when we have the labour law we have to respect it. Law enforcement requires the commitment of employers, employees and the labour inspectorate. The employer must be familiar with the provisions of the labour law, with the obligations towards the employee and the penalty provisions of the law in case of violating the rights of employees.

Employers should recognize that the absence of contract can be fined up to 1.000 Euros, work longer than the full working hours fined up to 5.000 Euros as well as not granting annual leave, while not providing pay for maternity leave is punished by fine up to 10.000 Euros.

On the other hand the employers should read the labour law which you can easily find on the website of the Assembly and in the Official Gazette. Central and local pub-

lic institutions have to provide any new business owner with a copy of the Labour Law. Employees should read their rights, should know how should their labour contract look like, how much should the probation period last, how much should the working hours be, what additional salary belongs to those who work the night shift, on days of holidays and on weekends, how long are annual holidays or marriage holidays, their rights in case of death of a family member, childbirth, maternity leave, etc.

The employee should also know that in case of denial of these rights by the employer, the law guarantees protection after the complaint is submitted to the court or to the work inspectorate. Labour inspectors should be more present on the field, to hear complaints of employees and should not make compromises with those who violate labour law and employees' rights. It is true that the inspectors do not enjoy optimum conditions for work, but it is still their legal obligation to monitor the implementation of the labour law, until employers become aware that respecting the rights of employees means fulfilling a legal and moral obligation.

Academics provide thousands of reasons why should the government intervene at the labour market to issue a law to regulate it is because the labour markets are not perfect and as a result the employers with the market power which they have, abuse their employees



3. Decisions of the Government during the 24th meeting held on July 20th, 2011:
  - 3.1 Decision 02/24, Action Plan for the Security Strategy of the Republic of Kosovo approved;
  - 3.2 Decision 03/24, Committee for Management of the Fund for the Support of the Minorities, Multiethnic and other special group's media, appointed;
  - 3.3 Decision 04/24, Candidates to the Transitional Board of Train-Kos and Infra-Kos boards appointed;
  - 3.4 Decision 05/24, Administrative Instruction on Air Quality Standards approved
  - 3.5 Decision 06/24, approving the Strategy and Biodiversity Action Plan;
  - 3.6 Decision 07/24, Decision on completing and changing the decision on the import list of medicines and medical products approved;
  - 3.7 Decision 08/24, Kosovo Government asks for clarification from the Constitutional Court regarding Government members' immunity for the actions taken outside their responsibilities;
  - 3.8 Decision 09/24, Government of the Republic of Kosovo refers a complaint to the Constitutional Court for clarification regarding the immunity of members of the Assembly for actions taken outside the scope of their responsibilities;
  - 3.9 Decision 10/24, the Government of the Republic of Kosovo referred to the Constitutional Court the complaint for clarification regarding the immunity of the president for taken actions outside the scope of their responsibilities.
4. Decisions of the Government during the 25th meeting held on July 25th, 2011:
  - 4.1 Decisions 02/25, Draft Law on the Status and Rights of Martyrs, Invalids, Veterans, Members of the Kosovo Liberation Army, Civilian Victims and their Families approved.
5. The decisions of the 26 meeting of the Government, held on July 27, 2011:
  - 5.1 Decision 02/26, D/A on Prizren's Historic Centre approved;
  - 5.2 Decision 03/26, D/L on allocation of expenditure reductions approved;
  - 5.3 Decision 04/26, D/L on Freedom of Association in Non-Governmental Organizations approved;
  - 5.4 Decision 05/26, D/L on Genetically Modified Organism approved;
  - 5.5 Decision 06/26, the Semiannual Budget Report 2011 approved;
  - 5.6 Decision 07/26, Decision on allocation of funds in the amount of 60.000 euros for the Auditory General approved;
  - 5.7 Decision 08/26, Strategic Development Plan 2011-2014 of the Ministry of Environment and Spatial Planning approved;
  - 5.8 Decision 09/26, Decision for appointment of permanent secretaries in MIA and MPA approved;
  - 5.9 Decision 11/26, Decision to amend and supplement the decision 11/12 dated 27.04.2011, approved.

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of Kosovo Government Decisions

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