



**The Republic of Kosovo**  
**Republic of Kosovo-Republic of Kosovo**  
*Government - Vlada - Government*  
**Ministria e Punëve të Brendshme /Ministarstvo unutrašnjih poslova /Ministry of Internal Affairs**

# CONCEPT DOCUMENT ON CITIZENSHIP

Drafted by the MINISTRY OF INTERNAL AFFAIRS

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## Summary of the Concept Document

<b>General Information</b>	
Title	Concept Document on Citizenship.
Ministry responsible	Ministry of Internal Affairs; Department of Citizenship, Asylum and Migration; Division for Citizenship.
Contact person	Liridon Neziri 038 200 19636
SOP	Strengthen the legal framework related to migration, asylum and citizenship issues.
Strategic priority	Harmonization of legislation and upgrade of institutional capacities in the field of control, supervision and implementation of legislation in the field of citizenship.

<b>Decision</b>	
The main issue	The current Law on Citizenship has deficient provisions which create legal gaps and ambiguous interpretations by the central and local level, especially in matters of acquiring citizenship.
Summary of consultations	To be completed upon public consultation.
	To be completed upon public consultation.
Proposed option	New Law on Citizenship.

<b>Main expected impacts</b>	
Budgetary impact	This concept paper is not intended to create additional budgetary costs. All planned activities will be covered by current budget allocations.
Economic impact	<p>The possibility of acquiring citizenship for members of the Kosovo Diaspora on transparent terms, as provided in the amended provision of Article 16 of the Law on Citizenship, would have an impact due to the potential for investment by members of the Kosovo Diaspora in the Kosovo economy.</p> <p>Expanding the opportunity to acquire the citizenship of Kosovo even for those persons who had a suitable connection with Kosovo by birth, but who had not maintained a regular residence in Kosovo, offers the opportunity to acquire citizenship for the category of young people, who by acquiring citizenship upon establishing residence in Kosovo can contribute to the economy of Kosovo with their skills, expertise and potential.</p>

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Social impact	The impact of the economic integration of naturalized persons by creating new jobs can have a social impact, respectively to reduce the unemployment rate of young people, who would otherwise be determined to emigrate abroad - legally or illegally.
Environmental impact	Citizenship as a legal status has no direct impact on the environment. However, the processing of cases, i.e., applications for naturalization with supporting documents, loss of citizenship applications, applications for citizenship registration and issuance of citizenship certificates have an impact on the environment in terms of paper consumption. Application processing is based on the paper alphanumeric system.
Cross-cutting impact	No cross-cutting impacts are expected but they are limited to institutional functional review and re-organization under the supervision and control from the central level in relation to the Municipal Offices of Civil Status in the field of citizenship.
Administrative burden for companies	This Concept Document recommends the development of a long-term strategy for processing of cases based on Information Technology, including the creation of the e-population register, as well as the identification and tracking of all processes related to citizenship. The implementation of this information technology-based policy is expected to have an impact on the administrative charges by providing more efficiency and accountability in case review and in relevant decision-making.
SME tests	The SME test is not considered relevant to the field of citizenship and as such is not applicable.

<b>Next steps</b>	
Short term	New Law on Citizenship.
Mid term	[List the most important activities that will take place within two to five years upon approval of the Concept Document].

## Introduction

Fig. 1: Table with general information on the Concept Document

Title	Concept Document on Citizenship.
Ministry responsible	Ministry of Internal Affairs, Department of Citizenship, Asylum and Migration, Division for Citizenship.
Contact person	Liridon Neziri 038 200 19601
SOP	Strengthen the legal framework related to migration, asylum and citizenship issues
Strategic priority	Alignment of legislation and upgrade of institutional capacities in the field of control, supervision and implementation of legislation in the field of citizenship.
Working group	Liridon Neziri - DCAM / MIA - Chairman; Qëndrim Bytyqi - DEIPC / MIA, Deputy Chairman; Gazmend Camaj - DCAM / MIA, member; Mërgim Himaj - LD / MIA, member; Drita Xheladini - DBF / MIA, member; Rroksana Qarri - PIO / MIA, member; Venera Dibra - HRMU / MIA, member; Marigona Ramaj - DIEPC / MIA, member; Lorik Lipoveci - Cabinet of the Minister / MIA, member; Ekrem Zeqiri - DCAM- MIA, member; Erdon Arifaj - CRA / MIA, member; Nehat Pllana- Legal Office / OPM, member; Arife Gashi - GCS / OPM, member; Fitore Canolli - Municipality of Prishtina; Representative from the Office of the President; Drita Perezic - ICITAP, member; Isah Maloku - ICITAP, member;

	<p>Milanka Bazder - UNHCR, member;</p> <p>Mentor Seferi - CRPK, member;</p> <p>Valbona Boshtrakaj - EU Office.</p>
Additional information	<p>The Concept Document was drafted by the working group upon decision of the Secretary of MIA and with the support of GIZ within the Project 'Support to the Kosovo European Integration Process'.</p>

## Chapter 1: Definition of the problem

The definition of the problem was preceded by a chronological description of developments in the field of citizenship. In this regard, this chapter is divided into the following sections: 1). Legal and institutional framework in the field of citizenship, 2). Capacities, information campaigns and statistics; 3). International standards in the field of citizenship and their impact on Kosovo; 4). Evolution of the statehood concept in Kosovo before and after the proclamation of independence; 5). The main gaps in the relevant legislation in the field of citizenship, including the shortcomings found during the implementation.

The Concept Document aims to present a comprehensive analysis of developments in the field of citizenship focusing on legal, strategic and institutional measures. As such, the Concept Document provides a clear overview of legal gaps in the field of citizenship in relation to the developments of the last 12 years, as well as the shortcomings found in the implementation of the relevant legislation, mainly at the local level. The Concept Document addresses a rather complex area such as citizenship, which despite the fact that it is an exclusive right of sovereign states which regulate this area on the basis of state interest, nevertheless should be in the spirit of the international treaties and case law, defining this field especially in terms of protection of human rights and prevention of statelessness.

The Concept Document on Citizenship is not related to the implementation of the EU Acquis, because this area remains the competence of the member states, however in the framework of defining the problem and recommending measures for change, comparative analysis has been developed with countries that have similar specifics (Croatia, Slovenia) both in matters of state succession, definition of Diaspora, etc.

### Legal, strategic and institutional framework

The legislative framework of the Republic of Kosovo contains various legal norms, whereas the Constitution of the Republic of Kosovo is the highest legal act.

The Constitution of the Republic of Kosovo entered into force on 15 June 2008. It reflects important guarantees which are also important for the conformity of the rights of individuals regarding citizenship, its acquisition and preservation. It is important that the Constitution in Article 14 specifically stipulates that **the acquisition and termination of the right to citizenship of the Republic of Kosovo are provided by law**, but equally important for citizenship are the privileges of the Constitution defined by other articles, namely:

Article 3: Equality before the law and the fact that the Republic of Kosovo is a multi-ethnic society; Article 5: defining the official languages of Kosovo, including Turkish, Bosnian and Roma to be used as official languages at the municipal level, Article 7: defining the values, including respect for the rule of law and respect for human rights and non-discrimination as a fundamental value important for issues related to citizenship, as well as part of basic law and international treaties, applicable in the field of citizenship. Article 19 refers to the direct application of international treaties, which after ratification become part of the domestic legal order, with direct applicability power, so the principle of the supremacy of the law of international treaties prevails over domestic law. In this regard, the Constitution in Article 22 in lists the following treaties as essential legal instruments:

1. Universal Declaration of Human Rights;
2. European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols;
3. International Covenant on Civil and Political Rights and its Protocols;
4. Convention on the Elimination of All Forms of Racial Discrimination;
5. Convention on the Elimination of All Forms of Discrimination against Women;
6. Convention on the Rights of the Child;
7. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In this regard, it is clear that the implementation of international law of treaties provides the reflection of the case law of the European Court of Human Rights as an important source for the institutions of the Republic of Kosovo that implement the legislation, which has an impact on human rights and fundamental rights.

Regarding the correlation of the guarantees of the Constitution, which have an impact in the field of citizenship, it is necessary to underline, Article 32 - Right to legal remedies even against administrative decisions, Article 36 - Right to privacy, including family life and data protection, and Article 41 Right of access to public documents. Moreover, after the Constitutional amendments in 2012, the specific provisions regarding the status of citizenship after the transfer of competencies to the Republic of Kosovo, the "provisions of state succession", it is important to underline that Article 155 of the Constitution refers to: 1) All legal residents of the Republic of Kosovo on the date of adoption of the Constitution, 15 June 2008, have the right to citizenship of the Republic of Kosovo; and 2) Recognition of the right to citizenship of the Republic of Kosovo for all citizens of the former FRY habitually residing in Kosovo on 1 January 1998 and their direct descendants to Republic of Kosovo citizenship regardless of their current residence and of any other citizenship they may hold, are moved to Chapter I on the Basic Provisions of the Constitution of the Republic of Kosovo. In this regard, the status of citizenship associated with the succession of the state enjoys the status of constitutional right. Therefore, the Constitution as the highest legal act contains sufficient legal guarantees to protect any person from arbitrary or discriminatory practice when exercising the rights provided in the legislation on citizenship.

The main legal act that regulates the field of Citizenship is Law no. 04/L-215 on Citizenship in Kosovo, which entered into force in 2008, amended by the Law on Citizenship in 2013. The legal basis for this law derives from Article 14 of the Constitution of Kosovo which stipulates that 'The acquisition and termination of the right to citizenship are provided by law'. In addition, Article 155 of the Constitution of Kosovo recognizes the right to citizenship of all legal residents in Kosovo (on the date of adoption of the Constitution), as well as all citizens of the former Federal Republic of Yugoslavia with permanent residence

in Kosovo on 1 January 1998. Meanwhile, after the end of supervised independence in 2012, with the amendment and supplementation of the Constitution, Article 155 has moved to Chapter I - Basic Provisions.

In order to implement the legal provisions as defined in the Law on Citizenship, five (5) Administrative Instructions were drafted and approved (secondary legislation):

1. Administrative Instruction no. 05/2020 on the criteria and procedures for acquiring citizenship of the Republic of Kosovo;
2. Administrative Instruction (MIA) no. 06/2020 for the procedure and criteria of determining the status of a stateless person, the manner of acquisition of citizenship by the stateless person and the person with refugee status;
3. Administrative Instruction no. 05/2017 about the criteria that contain evidence about the citizenship of the federal Republic of Yugoslavia and permanent residence in the territory of Kosovo on 01 January 1998;
4. Administrative Instruction no. 06/2019 on the procedure of loss of Kosovo citizenship by release and deprivation;
5. Administrative Instruction (MIA) no. 03/2020 on establishment and defining of working rules for the Commission for Appeals for Citizenship;
6. In addition, there is a Regulation no. 01/2017 approved by the Office of the President that regulates the Procedure for Granting Citizenship by the President for Special Interest of the Republic of Kosovo;
7. Law on Civil Status no. 04/L-003 of 2011, defines citizenship as a component of civil status and includes citizenship as data registered in the birth register (Article 36/3.7).

Regarding the citizenship of Kosovo, it is worth to mention the Law on Readmission (Law 03/2-208 of July 2010) which obliges the Republic of Kosovo to readmit its citizens residing abroad in case of non-fulfillment of conditions to reside in the respective country where they emigrated: Department for Citizenship, Asylum and Migration in the Ministry of Internal Affairs is responsible to verify the citizenship of the persons who are expected to be readmitted, as well as to register the readmitted persons.

In terms of institutional structure, the following main institutions are responsible for implementing the legal provisions as defined in the Law on Citizenship, the Law on Civil Status, the Law on Readmission and Agreements on Readmission:

- Division for Citizenship (Department of Citizenship, Asylum and Migration) of the Ministry of Internal Affairs: responsible for processing and decision-making process regarding naturalization applications on all grounds, release and deprivation of citizenship;
- Office of the President of the Republic of Kosovo: responsible for processing and deciding about the requests for naturalization of foreigners who are of special interest to the state;
- Civil Registration Agency (independent agency under the Ministry of Internal Affairs): is responsible for inspecting the work of civil registrars acting locally regarding registration of citizenship in the birth register and the citizenship register (also in the case of Articles 31 and 32);
- Civil Registry Offices (municipalities): are responsible for receiving applications for naturalization, preparing the file with supporting documents, entering citizenship data into the birth register, registration of citizenship and maintaining the citizenship register, for issuing citizenship certificates,

for ascertaining legal facts, including permanent residence in the relevant reference dates for the registration of citizenship according to Articles 31 and 32 of the Law on Citizenship;

- Commission for Appeals: a body established by the Minister of Internal Affairs that decides on appeals against negative decisions on obtaining citizenship by naturalization or loss of citizenship by release or deprivation;
- Division of Readmission of DCAM, Ministry of Internal Affairs: responsible for determining the citizenship of the Republic of Kosovo for persons who are subject to return to Kosovo under readmission agreements;
- Basic Court in Prishtina-Department for Administrative Affairs: decides on administrative disputes against the decision of the Appeals' Commission.

Ministry of Foreign Affairs and Diaspora, Consular Service: responsible for submitting applications for release from citizenship, and personal submission of decisions for release or naturalization, as well as forwarding requests for transposition of birth and death registration of Kosovo citizens who have occurred outside Kosovo and registration in the citizen register.

#### Capacities, information campaigns and statistics

According to the UNDP/FBO publication of July 2019<sup>1</sup> Kosovo is the state with the youngest population in Europe, with over 50% of the total population younger than 25 years. While, the project coordinated by GIZ for Creating Perspectives for young people in Kosovo<sup>2</sup> (2017-2020) found out that the youth unemployment rate is over 50%, which is in the context of the general economic situation in Kosovo as a driving factor for emigration, where one in two Kosovars wants to emigrate. In order to address this issue and provide strategic orientation for sustainable solutions, the Government of Kosovo in 2018 approved the Action Plan for Increasing Youth Employment<sup>3</sup> (2018-2020).

Kosovo Population Projection<sup>4</sup> of the Kosovo Agency of Statistics shows a low variant until 2027. Decline in population by 100,000 people, while for average evaluation, it was 40,000: data on the emigration rate for 2014-2015 when emigration rates reached the highest percentage showed that 65% of them were male and 35% female. The average fertility rate in 2011 was 2.4 children per woman, while in 2016 fell into 2.1, whereas the projection model for 2031 estimates that it will fall further to 1.5 children per woman. The gender ratio for the general period 2017-2061 is the same, 110.5 boys for 100 girls. The general overview of demographic trends of the population shows the stable emigration throughout the period.

The Government of Kosovo in cooperation with international partners addresses the challenges with relevant strategic policies in the field of migration, strategies and light and extended migration profiles,

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<sup>1</sup>[https://www.ks.undp.org/content/kosovo/en/home/library/democratic\\_governance/social-cohesion-in-kosovo--context-review-and-entry-points.html](https://www.ks.undp.org/content/kosovo/en/home/library/democratic_governance/social-cohesion-in-kosovo--context-review-and-entry-points.html)

<sup>2</sup><https://www.giz.de/en/worldwide/66634.html>

<sup>3</sup>[https://kryeministri-ks.net/wp-content/uploads/2019/08/Plani-i-Vepimit\\_Punesimi-i-te-Rinjeve\\_ENG-1.pdf](https://kryeministri-ks.net/wp-content/uploads/2019/08/Plani-i-Vepimit_Punesimi-i-te-Rinjeve_ENG-1.pdf)

<sup>4</sup><https://ask.rks-gov.net/media/3741/kosovo-population-projection-2017-2061.pdf>

which reflect data on the number of people who have emigrated and those who have returned to the country.

These statistics clearly underline the importance of data collection for various strategic country objectives. In this regard, accurate data on citizenship play an important role in strategic planning in various sectors in order to restrain the negative trends that are affecting the general population. Project launched in 2017<sup>5</sup> 'Strengthening the Management of Migration Authorities', supported by the Swiss Cooperation Office and implemented by ICMPD and the University of Maastricht, helped develop statistical tools that provide a standardized system for collecting migration statistics, which predicts migration as well as immigration levels. Statistics are important for the decision-making process according to the State Strategy for Migration 2021-2025.

Without a doubt, the citizenship statistics are relevant to socio-economic programs aimed at improving the economic development of the state and addressing the challenges associated with the most vulnerable sections of the population, given that persons left behind as a result of uncontrolled migration, namely the elderly and children, or members of war-displaced ethnic groups. To this end, it is important to mention the successful UNHCR and UNICEF campaign launched in 2017<sup>6</sup> which aimed to develop a joint strategy to address statelessness of children, aimed at eradicating statelessness among Roma, Ashkali and Egyptian children in Kosovo, to ensure full access to documents on their legal identity and access to the rights that belong to them. Since 2008, in cooperation with the Ministry of Internal Affairs, there have been more than 100 sessions aimed at capacity building for municipal registrars, central authorities and judges. With the support of UNHCR and other partner organizations committed to localizing sustainable solutions, Municipal Offices on Return and Communities were established and now are operational. This action also contributed to the exemption from administrative fees for issuing documents to children.

The relevance of citizenship status and the lack of its registration for the category of Roma and Ashkali children was treated differently in the Report of the Office of the High Commissioner for Human Rights - Civil Society Report on Human Rights in Kosovo for 2019<sup>7</sup> which specifically shows the challenging situation of this community, in particular of children (page 28), the Law on Child Protection adopted in July 2020 provides the appropriate legal basis for the implementation of measures to protect these children, who due to vulnerability, easily become victims of forced trafficking in begging, or even in prostitution<sup>8</sup>. Approval of the National Strategy for the Rights of the Child 2019-2023<sup>9</sup> is the Government's response to provide adequate manners of inter-institutional cooperation that will protect children who belong to vulnerable groups against abuse as well, giving them access to all the rights that belong to them. To this end, cooperation with the Division of Citizenship of the Ministry of Internal Affairs and the Civil Registration Agency and municipal authorities is a condition for overcoming these challenges.

#### Importance of international standards for citizenship and their impact on the Law on Citizenship of the Republic of Kosovo

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<sup>5</sup><https://macimide.maastrichtuniversity.nl/strengthening-migration-management-authorities-in-kosovo/>

<sup>6</sup><https://www.unhcr.org/see/where-we-work/kosovo/achievements-and-impact>

<sup>7</sup>[https://www.ohchr.org/Documents/Press/kosovo\\_cso\\_2019\\_human\\_rights\\_report\\_en.pdf](https://www.ohchr.org/Documents/Press/kosovo_cso_2019_human_rights_report_en.pdf)

<sup>8</sup><https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/kosovo/>

<sup>9</sup><https://konsultimet.rks-gov.net/Storage/Consultations/40542-UpdEn.pdf>

**The legal nature of citizenship in the European context:** Although the Law on Citizenship of Kosovo is largely in line with the UN Convention on Statelessness, namely the UN Convention on the Reduction of Statelessness (1954) and the UN Convention on the Reduction of Statelessness (1961), due to the specifics associated with the successor state, it is also important to analyze the provisions of two European instruments relating to citizenship, one specifically for successor states and statelessness.

Council of Europe: European Convention on Nationality - hereinafter CEECN (November 1997)<sup>10</sup> is still the most comprehensive treaty on citizenship, most progressive in terms of the legal instrument that managed to codify the guiding principles, definitions and rules applicable in the field of citizenship. This treaty stipulates (Article 2/a) that "nationality" means the legal bond between a person and a State and does not indicate the person's ethnic origin. This definition had a strong echo for the new democracies that followed the changes and shaped new European political map. In the field of citizenship, it was one of the guiding standards for those states that sought to harmonize their respective citizenship legislation or to adopt a new one according to the standards laid down in the said convention. In terms of legal effects, citizenship and nationality are synonymous.

For the new states that emerged after the dissolution or secession from a previous state, the Council of Europe has developed specific standards covering the issue of statelessness in relation to the successor state, also in the form of a Council of Europe Convention on the Avoidance of Statelessness in relation to the successor state<sup>11</sup>. This treaty laid down the principles for the avoidance of statelessness and the specific rules for the liability of the successor state, and the liability of the predecessor state in case of statelessness. These two treaties are cornerstone that should be reflected in the legislation of the European States "to govern citizenship, despite having ratified the treaties - both provide the inclusion of the principles of binding international instruments, namely the UN Conventions on the Status of Statelessness and Reduction of Statelessness. According to the definition of "internal law" of CEECN, Article 2/d, means all types of provisions of the national legal system, including the constitution, legislation, regulations, decrees, case-law, customary rules and practice as well as rules deriving from binding international instruments.

CEECN in Article 3 also defined an important general principle: the principle of State Competence where each state according to its own law enjoys the right to determine who its nationals are, whereas this power is limited by acceptance by other states, in so far as it is consistent with applicable international conventions, customary international law and the principles of law generally recognized with regard to nationality. Other applicable principles set out in Article 4 define: a) the right of everyone to nationality, b) the avoidance of statelessness, c) no one shall be arbitrarily deprived of his or her nationality, d) neither marriage nor dissolution of marriage between a citizen of a State Party and an alien, nor the change of nationality by one of the spouses during the marriage, shall automatically affect the citizenship of the other spouse.

Non-discrimination (Article 5) prohibits rules on nationality that contain distinctions or include any practice which amount to discrimination on the grounds of sex, religion, race, color or national or ethnic origin. Each State Party shall be guided by the principle of non-discrimination between its nationals, whether they are nationals by birth or have acquired its nationality subsequently.

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<sup>10</sup><https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/166>

<sup>11</sup><https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/200>

States that accept the principles mentioned in this way also accept the principles and rules of nationality contained in universal legal instruments, namely Article 15 of the Universal Declaration of Human Rights<sup>12</sup> (Everyone has the right to a nationality), Article 7 of the UN Convention on the Rights of the Child<sup>13</sup> (the child shall be registered immediately after birth and shall have the right from birth to a name); the obligation to avoid statelessness has become part of customary international law and the 1961 Convention on the Reduction of Statelessness<sup>14</sup>, determines the rules for its implementation, whereas to align the implementation of the rules between the states, the Statelessness Guidelines No. 4 for Article 1-4<sup>15</sup> (December 2012), and the Guidelines for Statelessness no. 5 on loss and deprivation of nationality under Articles 5-9 (May 2020)<sup>16</sup> of the Convention on the Reduction of Citizenship. Together with the UN treaties on the elimination of discrimination, the framework treaty applicable in Europe is a powerful part of the principles and rules that should reflect into national legislation and, above all, its implementation.

Despite the fact that the European Convention on Fundamental Rights and Freedoms<sup>17</sup> compared to e.g., American Convention on Human Rights<sup>18</sup> does not put the right to nationality as a human right, the progressive practice of international courts, in particular the European Court of Human Rights defines the case law which clearly emphasizes the fact that the principles of international law, namely the prohibition of discrimination, avoidance of statelessness against the right to nationality, the right to privacy and for this purpose the right to family life are the standards that should be reflected in the relevant legislation governing nationality, while at the individual level, in case of violation of the principles, individuals have the right to fair indemnity.

These guarantees, especially the enjoyment of the right to private and family life<sup>19</sup> have a tremendous impact on nationality decisions, the legal vacuum in relevant legislation on nationality, and the misapplication of the law itself. The impact of case law on the case law of the successor state (the case of the dissolution of the former SFRY Kurić and others vs. Slovenia<sup>20</sup>), as well as on statelessness and the impact of denial of citizenship on private life (Karassev vs. Finland)<sup>21</sup>, the case Genovese vs. Malta<sup>22</sup>, case Ramadan vs. Malta<sup>23</sup>, case K2 vs. United Kingdom<sup>24</sup> and others) is an important source of law for mandated authorities on nationality matters, as well as for individuals whose rights have been violated.

Nationality, although not listed in the European Convention on Human Rights (ECHR) as a human right in itself and its relation to other rights embodied in the ECHR and relevant Protocols, is therefore a right that is listed as personal right: restricts the state and its power from acts that can lead to arbitrary decisions

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<sup>12</sup><https://www.un.org/en/universal-declaration-human-rights/>

<sup>13</sup><https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>14</sup>[https://www.unhcr.org/ibelong/wp-content/uploads/1961-Convention-on-the-reduction-of-Statelessness\\_ENG.pdf](https://www.unhcr.org/ibelong/wp-content/uploads/1961-Convention-on-the-reduction-of-Statelessness_ENG.pdf)

<sup>15</sup>[https://www.un.am/up/library/Guidelines%20on%20Statelessness%20No%204\\_eng.pdf](https://www.un.am/up/library/Guidelines%20on%20Statelessness%20No%204_eng.pdf)

<sup>16</sup><https://reliefweb.int/report/world/guidelines-statelessness-no5-loss-and-deprivation-nationality-under-articles-5-9-1961>

<sup>17</sup>[https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf)

<sup>18</sup><https://treaties.un.org/doc/publication/unts/volume%201144/volume-1144-i-17955-english.pdf>

<sup>19</sup>[https://www.echr.coe.int/documents/guide\\_art\\_8\\_eng.pdf](https://www.echr.coe.int/documents/guide_art_8_eng.pdf)

<sup>20</sup><https://hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-111634%22%7D>

<sup>21</sup><https://www.refworld.org/cases,ECHR,45d076a92.html>

<sup>22</sup><http://hudoc.echr.coe.int/fre?i=001-106785>

<sup>23</sup><https://www.refworld.org/cases,ECHR,57ff5080ae3.html>

<sup>24</sup><https://www.statewatch.org/media/documents/news/2017/mar/uk-echr-terrorism-deprivation-citizenship-art-8-judgment-pr-9-3-17.pdf>

and discrimination, so it is an exclusive right of the fundamental principle of a democratic society: the rule of law. With regard to ownership over the right to privacy, it is clear that this right belongs to the individual and the state is obliged to protect it with its legal order.

In this regard, it is important to refer to the specific chart of rights guaranteed to every child under the UN Convention on the Rights of the Child, namely Article 8/2, which sets out the obligation of state to act promptly in any case where any child has been unlawfully deprived of some or all elements of his/her identity and/or to provide assistance to restore the identity. In this context, it is important to mention the overall commitment of the international community, as is set out in the Sustainable Development Goal, 16/9,<sup>25</sup> to provide legal identity for all by 2030, including birth registration.

For this purpose, it is important that general legislative framework which covers nationality of a respective state, to be in line with developments of the case law of international courts.

#### The evolution of the concept of nationality of the Republic of Kosovo before the proclamation of the independence

Before proclamation of independence of Kosovo in February 2008, respectively since 1999 when the authority in the territory of Kosovo was held by UNMIK, the nationality status of the Republic of Kosovo did not exist. Instead, rights relating to nationality and population status were regulated by UNMIK Regulation 2000/13 on the Central Civil Registry<sup>26</sup> extending the status of permanent residents of Kosovo to categories of the population who could provide evidence that they were descendants of at least one ancestor, or who had resided for at least five years, except persons who were forced to leave territory as refugees.

However, the mentioned norm was not developed only to provide the population with identity documents. Given the fact that the main source of evidence for legal identity (civil registers) was forcibly taken and sent to Serbia, so that the evidence was not accessible to the population, on the other hand the Interim International Administration (UNMIK) had the responsibility to organize the first local elections which created municipalities as a source of democratic power at the local level. In this regard, the newly established register under UNMIK Regulation 13/2000 was used to establish the voter list for the October 2000 local elections<sup>27</sup>. Although the Regulation was supposed to cover the needs of the population, including those who did not have the right to vote (minors) and provide identity documents for this category.

**Transfer of permanent residents of Kosovo to the nationality of Kosovo after the proclamation of independence in 2008: initial citizenship body:** Kosovo announced Independence on February 17, 2008<sup>28</sup>, whereas on 20 February 2008, the Law on Citizenship entered into force<sup>29</sup>. The law was based on progressive legal standards regarding the conditions for obtaining and losing citizenship, aligned with most of the principles of the European Convention on Nationality: the law provided the principle of dual citizenship and thus contributed to reducing cases of statelessness related to the acquisition of citizenship

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<sup>25</sup><https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf>

<sup>26</sup>[https://data.globalcit.eu/NationalDB/docs/KOS%20UNMIK\\_Regulation\\_on\\_Civil\\_Registry\\_2000%5B1%5D.pdf](https://data.globalcit.eu/NationalDB/docs/KOS%20UNMIK_Regulation_on_Civil_Registry_2000%5B1%5D.pdf)

<sup>27</sup><https://rm.coe.int/168071a3cf>

<sup>28</sup><https://www.refworld.org/docid/47d685632.html>

<sup>29</sup><https://aceproject.org/ero-en/regions/europe/KS/law-no.-03-l-034-on-citizenship-of-kosova-20/view>

from birth or naturalization: the basic principle of acquiring citizenship at birth is *jussanguinis*, whereas *jus soli* is mainly limited to cases where the newborn child may be at risk of statelessness (birth of a child by stateless or unknown parents).

However, the part of the law on transitional provisions, according to provisions 28 and 29 (after the amendment of the law, now provisions 31 and 32) covering the successor state is not fully in line with the general principles for the successor state embodied in Article 18 of the CEECN (entered into force in November 1998), in particular with regard to the will of the person concerned, as well as the principle of effective and genuine connection of the person concerned with the state: the possibility of facilitated naturalization of members of the Kosovo Diaspora as defined in Article 13 (later 16) provides opportunities to acquire Kosovo citizenship for those persons who are not covered by the provisions of Articles 31 and 32, which after the amendment of the Constitution in 2012 have the nature of a constitutional provision, consequently the highest level high legal guarantee. The solution is not in accordance with the concrete rules and principles of the Council of Europe Convention on the Avoidance of Statelessness in relation to the successor state - 9, (May 2009) namely Article 5: The responsibility of the successor state which in paragraph 1 sets out the obligation to grant its citizenship to persons who, at the time of the successor state, had the citizenship of the predecessor state and who would become stateless as a result of the successor state if at that time: were not permanent residents of any of the states in question, but had an appropriate connection with the successor State, in accordance with paragraph 2. An appropriate connection includes, inter alia (2/b) - birth in the territory which has become the territory of the successor state or has had the last permanent residence in the territory of the predecessor state which has become the territory of the successor state. Respect for the will of the person in question is covered by Article 7- and stipulates the obligation of the successor state not to refuse to grant its citizenship to a person who would meet the criteria of the previous conditions (Article 5 / 2-) for the reasons that a person may acquire the citizenship of another state in question.

The rules mentioned are developed based on practical cases that have been identified by the states that participated in the elaboration and adoption of the treaty, in cooperation with the UNHCR. The rules were developed in order to minimize gaps in the legislation of the new states that emerged after the successor states and would be stateless, mainly in the case of the former SFRY and the former USSR.

Due to the conflicts in the 90s, these situations have led to most cases of statelessness with displaced populations, being de facto, or even de jure. The rules have been developed in order to be used by the states that need to resolve issues related to the successor state and which may lead to statelessness. In fact, with regard to obligations under the treaty, they have no effect behind the action. But this fact does not stop state to use the rules as a useful mechanism to fill the gap that may still exist in the legislation covering citizenship. Rather, it can be used as a legal argument justifying the change in legislation.

The transitional solution used in the Law on Citizenship is "imported" by UNMIK Regulation 2000/13, which is a consequence of an objective fact, given the specific circumstances of the general and complex political process which led to the proclamation of independence in 2008. **Article 32** also covers residents of Kosovo, who had their permanent residence on 1 January 1998 in Kosovo and were citizens of the FRY, granting them citizenship of the Republic of Kosovo, provided that they register if they have been registered in the register of citizens, regardless of their place of residence or current citizenship. The competent authority shall use the UNMIK criteria from Regulation 2000/13 to determine permanent residence in Kosovo on 1 January 1998.

The primary institution for citizenship of the Republic of Kosovo is based on the territorial principle and does not foresee the principle of origin, as is the case of all successor states of the former SFRY; the principle of continuity of the former citizenship of the Republic that was acquired in accordance with the laws governing the acquisition and loss of citizenship before the entry into force of the new Law on Citizenship of an independent state turned into the citizenship of the new state, which replaced the former Republic as an independent state. Some states, in addition to the mentioned legal principle, have provided a legal basis for the acquisition of citizenship for citizens of other republics with permanent residence in their territory (for instance, the Republic of Slovenia defined the general condition: permanent residence registered on 23 December 1990 (date of the independence referendum), who lived in the territory of Slovenia and submitted application for citizenship within the period 23 December 1991. This rule was later amended in December 1991 excluding those who took an active part in armed aggression against the Republic of Slovenia. In the case of North Macedonia, the law made easier acquisition of citizenship for permanent residents and that lived in Macedonia for at least 15 years and had sufficient means to support themselves. The Republic of Croatia did not provide specific rules for obtaining citizenship for residents with citizenship of another republic, whereas in the case of Bosnia and Herzegovina, the Law on Citizenship continued the citizenship of the Republic for all persons who were permanent residents on April 6, 1992, despite their will.

### Main shortcomings in the implementation of the legislative framework:

Law on Citizenship of the Republic of Kosovo together with five administrative instructions for its implementation (AI on Criteria and Procedures for Acquisition Citizenship of the Republic of Kosovo-05/2020; AI on Criteria and Procedures for Determining the Status of Stateless Persons; Manner of Acquisition of Citizenship by Stateless and Refugee Persons, 06/2020-AI about the Criteria that Contain Evidence of Citizenship of the Federal Republic of Yugoslavia and Permanent Residence in the Territory of Kosovo on 1 January 1998, 07/2017; AI on the Procedure for Loss of Kosovo Citizenship by Release or Deprivation; 06/2019, AI on Establishing and Defining the Rules of Procedure for the Commission for Appeals for Citizenship), in terms of the safeguards provided by the Constitution of the Republic of Kosovo in terms of the fact of precedence of the international law and treaties against domestic law, are generally in line with applicable international standards in the field of citizenship and existing state case law.

However, the consistency of Article 32 with the specifics under the principles of the successor state may not satisfy the possible evidence in the Court, especially with regard to the fact that there is case law for successor states regarding the dissolution of the former SFRY. The legal standards covering the affairs of the successor state are relatively new and developed mainly in the late 1990s and early 2000s. The case law of the Courts, including the ECHR, reflects the fact that citizenship rights have been violated (namely the right of Article 8 of the European Convention on Human Rights) are listed as a violation of human rights and for this purpose, enter under the principles of the rule of law.

Regarding Articles 31 and 32, both provisions have the acquired nature of the rights protected by the Constitution in Chapter I on the fundamental right with legal effect, so the status of citizen is also protected by the Constitution. Enforcement is practiced in the municipal civil status office, also in connection with the verification of legal facts that are important for the confirmation of status. Comparison of Administrative Instruction 05/2017 on Criteria Containing Evidence on Citizenship of the FRY with permanent residence in the territory of Kosovo on 1 January 1998, or the Law on Citizenship

(Articles 31 and 32) for the protection of this right, describes a procedure to issue a written decision, which will contain reasoning and evidence that have been used as a statement of procedure development.

Due to strict adherence to the rules developed by the international administration pursuant to UNMIK Regulation 13/2000 on the Central Civil Registry of March 2000, which means 21 years ago - which are transposed verbatim into the transitional provisions of the Law on Citizenship (Articles 31 and 32), shall be revised taking into account inclusion of persons who are not covered by the regulation because on the given date they were outside Kosovo, either in other Republics of the former SFRY or in other states that may not qualify with Article 31 or 32. This may be the case for those who originated in Kosovo from their ancestors, but were born outside Kosovo (including territory of the former SFRY from 1 January 1981 to 01.01.1998) and may not prove their connection with Kosovo with ancestral birth certificates and may be at risk of statelessness (Roma population). This issue has been raised in many reports of the international organizations, including the EC Annual Progress Report on Kosovo, from 6 October 2020 (pages 37, 38)<sup>30</sup>.

Moreover, it is a known fact that emigration in Kosovo has existed for a long time, that there is evidence of emigrants who left the territory today since the end of the First World War, emigration flows continued and gained in intensity over the 60s of last century, mainly for employment reasons. Those who lived in Kosovo, being born there, but were not resident on 1 January 1998, although providing substantial economic support to relatives who stayed in Kosovo, namely their parents, should be included in the provision which grants citizenship with *ex lege* effect, but naturalization. Actually, this category is already covered by Article 16, which covers the "Kosovo Diaspora".

Actually, states are free to draft conditions for acquiring their citizenship - which must be in line with principles and standards – and may cover categories according to the specifics of the country, its traditions and its possibilities. States treat the issues of their "Diaspora" mainly as long-term economic migration which can be extended to cover more generations, although one should be aware of the fact that the overriding interest of states is to provide citizenship to those who have a genuine and effective connection - and the content of this connection is a matter for the legislator and the political consensus brought to the Assembly in a form of the law. Comparative practice in this area varies, some countries have adopted special laws that deal exclusively with the conditions of gaining citizenship of members of their long-term emigration, but some countries are reluctant (mainly customary law countries that apply the principle of *jus soli* and restrict access in their nationality only to the second generation born abroad, while on the other hand, also the traditional countries of emigration – for instance, Ireland offers wide opportunities to obtain its citizenship. Some countries, due to specific circumstances of their history, grant access to their citizenship even to the heirs of sections of the population who have been forcibly displaced, or even systematically killed centuries ago (e. g. Spain allowed the heirs of the Jewish community who had been expelled from the territory of Spain about 500 years ago). Some states allow citizenship to be restored if such a legal status already existed but was lost due to release or waived due to economic integration in the foreign state (Croatia, Bosnia and Herzegovina).

Diaspora in comparative citizenship law is not an internationally aligned legal expression: in the context of the general sense of today, it was introduced in the 1990s<sup>31</sup>: International Organization for Migration

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<sup>30</sup>[https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/kosovo\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/kosovo_report_2020.pdf)

<sup>31</sup>Safran, W1991: *Diasporas in Modern Societies: Myths of Homeland and Return*, Diaspora 1, p 83-99

(IOM) <sup>32</sup>e. g. in 2013 introduced the definition of Diaspora<sup>33</sup> as: "Emigrants and their descendants, who live outside the country of their birth or ancestry, either on a temporary or permanent basis, yet still maintain affective (emotional) and material ties to their countries of origin."

The Law on Citizenship addresses the acquisition of citizenship of the Kosovo Diaspora in Article 16, however, it extends the possibility to become a citizen of Kosovo only to those who legally reside abroad and qualify for naturalization with a general norm, which covers those born in Kosovo and their heirs, without any time limit of the period of birth of the person, so in principle, it can also include persons who were born during the time when the Ottoman Empire exercised its sovereignty over the present territory of the Republic of Kosovo. As defined by the general standards applicable to nationality, the prevailing principle is to cover persons having a genuine and effective connection with the territory, a norm of customary international law, assumed by the ICJ in the case of *Nott Bohm* in 1953<sup>34</sup>.

The shortcomings seem to be with the very general norm which does not specify the existing genuine connection, i.e. the period during which most persons still maintain connections with the territory and population, or have even returned to Kosovo, failing to meet the conditions covered by Article 31 or 32. Furthermore, the rule does not distinguish situations between those who were permanent residents in other parts of the former joint SFRY, who originally belonged to Kosovo, preserving its culture, traditions and contributing to the economic development of the state, and after the political unrest in 1981 they left Kosovo.

In existing Article 16, the fourth paragraph provides for a sub-legal act to define the criteria for close economic and family ties, where these criteria are not sufficiently specified in the sub-legal act for the procedures of acquiring citizenship, but are at a general level. Furthermore, the general spirit of the Administrative Instruction, which aims to ensure harmonized processing of all applications and to provide criteria regarding the fulfillment of conditions for obtaining, losing or registering citizenship according to various provisions of the Law on Citizenship, contains a strong burden of proof, which mainly falls on the applicant, even in the case of the submission of a birth, marriage certificate - documents which are issued by public institutions, whereas the civil status officer in the municipality where the application is submitted has access - and this also applies in cases of application for registration of citizenship of a newborn child. Such a practice is not good, neither in terms of efficiency of public administration to provide services to citizens nor as a step towards simplification of administrative procedures oriented to the needs of users, nor does it provide safe and cost-effective procedures with the objective of achieving the goal set by law.

The main problem in the field of citizenship is related, but not limited to the implementation of legal provisions by the municipal level, namely exceeding the mandate and authorizations by Civil Status Officers when registering persons in the register of citizens. In this context, Civil Registry Officers, without having authorizations and legal mandate, carry out procedures for naturalization categories (mainly members of the Diaspora or foreign persons who do not enter any legal category for the acquisition of

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<sup>32</sup><https://diaspora.iom.int>

<sup>33</sup><https://www.iom.int/files/live/sites/iom/files/what-We-Do/idm/workshops/IDM-2013-Diaspora-Ministerial-Conference/Background-Paper-2013-Diaspora-Ministerial-Conference-EN.pdf>

<sup>34</sup><https://www.icj-cij.org/en/case/18/summaries>

citizenship) through their registration in the Central Register of Citizens. Among the main factors that affect this issue are related to legal ambiguities, namely the misinterpretation of Article 16 and Article 32 of the Law on Citizenship. Moreover, a combination of factors such as limited professional capacity at the local level, the lack of effective supervision by the central level, as well as the current shortcomings in the Information Technology Infrastructure regarding the entry of data within the Central Register of Citizens are some of the driving factors of the problem. This situation has produced some effects/consequences such as compromising the security of civil documents, threatening national and public security. It also has an impact on the budget because it is believed that persons who do not meet the criteria to gain citizenship, benefit from social and pension schemes, employment, grants and other forms of support from the Institutions of the Republic of Kosovo. In addition, this situation also affects the integrity of Kosovo Institutions and the fulfillment of the criteria which stem within the process of European integration and possible visa liberalization with the Schengen Area.

Another challenge remains the large number of citizens of the municipalities of Presheva, Medvegja, Bujanovc who have moved to Kosovo since 1999, for economic, political, and security reasons and for a long time are facing issues of remaining without status and legal residence and personal identification documents within the territory of the Republic of Kosovo. Some of them failed to be granted the right to citizenship in the absence of relevant documentation issued by the authorities of the country of origin. This way of living and livelihood for these citizens is difficult to have a normal life and to enjoy the basic rights. In this case, in order to make the life easy, mitigation measures should be provided that lead to the acquisition of citizenship for this category of citizens, especially for those who have been staying in the Republic of Kosovo for over 20 years. In this regard, the legal framework should be amended, by enabling them with special (facilitated) measures in the Law on Citizenship, such amendments reflect positively on this category of citizens to the right of acquisition of citizenship.

The realization of international obligations in the field of readmission remains a challenge for some categories, therefore the Law on Citizenship for these categories should provide legal facilities for registration of citizenship *ex leges*, otherwise, some of these categories risk remaining stateless. Mainly conveniences will be for those categories, who are related to the origin and persons who are born within the territory of Kosovo. Facilitating of measures for registration as *ex leges* citizens for these categories would greatly affect the fastest and most sustainable integration within Kosovo society, as well as would facilitate the direct implementation of international readmission agreements, and the Law on Readmission.

The law in force contains the definition of a stateless person, which is fully in line with the 1954 Convention on the Status of Stateless Persons, as well as safeguards on statelessness prevention in childhood/adulthood, in accordance with the 1961 Convention on the Reduction of Statelessness.

Procedurally, for an individual to apply for the status of a stateless person in Kosovo, he/she must initiate the necessary legal procedure for the recognition of this status. Only with legal recognition of status, a person (foreigner with undetermined citizenship) can obtain the following: personal documents, access to various rights, be included in protection schemes, and be part of society as an equal member. Furthermore, the definition of stateless person is also described in the Law on Asylum, The Law on Foreigners, the Law on Readmission, the Law on Civil Status, as well as many other legal acts related to the legal framework of Kosovo.

When it comes to the procedure for determining statelessness status, the designers of the Law on Citizenship have not foreseen a clear legal norm that would regulate the **procedures, obligations and rights of persons with recognized statelessness status**. Currently, there is an administrative instruction that provides the basis for reviewing applications and decision-making processes. However, in accordance with international standards, it is recommended to include a special legal provision in the Law on Citizenship that provides the basis for the development of a specific sub-legal act on the procedures for determining statelessness status and derivative rights from this status. Therefore, for insurance purposes of procedural guarantees, "procedures for determining statelessness should be formalized in law"<sup>35</sup>.

It is therefore recommended to put a specific Article on the procedures for determining the statelessness status before the Articles on the naturalization of foreigners and/or persons with refugee status and stateless persons.

Also, the legal norms for the naturalization of persons with refugee and statelessness provide for the provision of evidence of criminal past from the last country of origin/country of residence, which may be impossible for these two categories which may not be in the position to obtain the documents required by their last country of origin/country of residence for objective reasons.

Therefore, it is recommended to apply more favorable conditions when it comes to evidence on the criminal past<sup>36</sup> from the last country of origin/country of residence when applying for naturalization by refugees and stateless persons.

Fig. 2: Relevant policy documents, laws and bylaws

Policy document, law or sub-legal act	Link to the policy or planning document via the Internet or legal acts in the Official Gazette	State institution(s) responsible for implementation	Role and tasks of the institution(s)
Law on Citizenship 04-L-215	<a href="https://gzk.rks-gov.net/ActDetpx?ActID=8873">https://gzk.rks-gov.net/ActDetpx?ActID=8873</a>	Ministry of Internal Affairs	Specifies ways of acquiring, losing and reacquiring the citizenship of the Republic of Kosovo.
Administrative Instruction no. 05/2020 on the criteria and	<a href="https://gzk.rks-gov.net/ActDetail.aspx?ActID=31136">https://gzk.rks-gov.net/ActDetail.aspx?ActID=31136</a>	Ministry of Internal Affairs	Defines the criteria, procedures, as well as the

<sup>35</sup> UNHCR Handbook on Protection of Stateless Persons, under the 1954 Convention relating to the Status of Stateless Persons, Geneva 2014, part B, section B establishing determination procedures, paragraph 71, at the following link: [https://www.unhcr.org/dach/wp-content/uploads/sites/27/2017/04/CH-UNHCR\\_Handbook-on-Protection-of-Stateless-Persons.pdf](https://www.unhcr.org/dach/wp-content/uploads/sites/27/2017/04/CH-UNHCR_Handbook-on-Protection-of-Stateless-Persons.pdf), accessed on 01 November 2021

<sup>36</sup>UN High Commissioner for Refugees (UNHCR), Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness, 21 December 2012, HCR / GS / 12/04, available at: <https://www.refworld.org/docid/50d460c72.html>, accessed on 02 November 2021

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procedures for acquiring citizenship of the Republic of Kosovo			manner of acquiring citizenship.
Administrative Instruction (MIA) no. 06/2020 on the procedure and criteria for determining the status of a stateless person, the manner of acquiring citizenship for a stateless person and a person with refugee status	<a href="https://gzk.rks-gov.net/ActDetail.aspx?ActID=31137">https://gzk.rks-gov.net/ActDetail.aspx?ActID=31137</a>	Ministry of Internal Affairs	Defines the procedures and criteria for recognition of the status of a stateless person, the rights of a stateless person, as well as the manner of acquiring citizenship for a person with stateless status and a person with refugee status in the Republic of Kosovo.

Administrative Instruction no. 05/2017 about the criteria that contain evidence about the citizenship of the federal republic of Yugoslavia and permanent residence in the territory of Kosovo on 1 January 1998	<a href="https://gzk.rks-gov.net/ActDetail.aspx?ActID=14900">https://gzk.rks-gov.net/ActDetail.aspx?ActID=14900</a>	Ministry of Internal Affairs	Defines the criteria that constitute evidence of citizenship of the former FRY and permanent residence in the territory of Kosovo on January 1, 1998 according to Article 32 of the Law on Citizenship of Kosovo.
Administrative Instruction no. 06/2019 on the procedure of loss of Kosovo	<a href="https://gzk.rks-gov.net/ActDetail.aspx?ActID=20689">https://gzk.rks-gov.net/ActDetail.aspx?ActID=20689</a>	Ministry of Internal Affairs	Defines the application procedures for the loss of citizenship of the

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citizenship by release and deprivation			Republic of Kosovo with release and deprivation.
Administrative Instruction (MIA) No. 03/2020 on establishment and defining of working rules for the commission for appeals for citizenship	<a href="https://gzk.rks-gov.net/ActDetail.aspx?ActID=30247">https://gzk.rks-gov.net/ActDetail.aspx?ActID=30247</a>		Establishes and determines the working rules of the Commission for Review of Complaints for gaining, losing and revoking citizenship, as well as appeals against the decision to refuse recognition of stateless status of the Republic of Kosovo
Law No. 04/L-003 on Civil Status of 2011	<a href="https://gzk.rks-gov.net/ActDetail.aspx?ActID=2743">https://gzk.rks-gov.net/ActDetail.aspx?ActID=2743</a>	Ministry of Internal Affairs/Civil Registration Agency	Regulates the meaning and components of the civil status of citizens of Kosovo, foreign citizens and stateless persons, with temporary or permanent residence in the Republic of Kosovo.

Figure 3: The problem tree, which presents the main problem, its causes and effects

<b>Effects</b>	Violation of document security.
	Violation of public and national security.
	Socio-economic impact.

	Violation of process integrity and credibility in institutions
<b>The main problem</b>	Deficient provisions which create legal gaps and ambiguous interpretations from the central and local level, especially in the issue of acquiring citizenship.
<b>Causes</b>	Misinterpretation of Article 16 and 32 of Law on Citizenship.
	Limited professional capacities.
	Gaps in the civil status system regarding the entry of data in the register of citizens.
	Inefficient central level control mechanism.

Figure 4: Stakeholder overview based on problem definition

Stakeholder's name	Cause or Effect (s) to which the party is related	The way in which the party is related to this cause (s) or effect (s)
Department of Citizenship, Asylum and Migration	Violation of process integrity and reliability in Institutions	Division for Citizenship as the competent body responsible for processing and decision-making process for naturalization requests. On the other hand, the Civil Registry Offices, as a result of legal ambiguity, respectively misinterpretation of legal provisions and by entering data in the central register of citizens, perform naturalization procedures even in cases where persons do not meet the criteria set by law. This situation affects the integrity and reliability of the process and consequently the Department for Citizenship, Asylum and Migration as a competent body, responsible for the implementation of legislation in the field of citizenship.
Civil Registration Agency	Inefficient central level control mechanism	The Civil Registration Agency, respectively the Inspectorate, has a mandate to oversee the implementation of legislation in the field of civil status and in this context has an impact on issues related to citizenship. However, in the absence of proactive oversight and effective control by the CRA, and current gaps in the information technology system. Regarding the entry of data in the central register of citizens, it has resulted in cases of exceeding the authorizations and mandate by the Municipal Offices of Civil Status which are also reflected in the field of citizenship. Supplementing and amending the Law on

		Citizenship and the Law on Civil Status are considered as a good opportunity to strengthen oversight, control and accountability by the central level in relation to the Municipal Offices of Civil Status.
Municipal Offices of Civil Status	Misinterpretation of Articles 16 and 32 of the Law on Citizenship	Municipal Civil Registry Offices have responsibilities in the field of citizenship according to the legal provisions set out in the Law on Citizenship and the Law on Civil Status. It is evident that there is a significant lack of professional capacity in relation to issues related to citizenship, and this is evidenced in cases of misinterpretation of Articles 16 and 32 of the Law on Citizenship, through which naturalization procedures are performed. In some cases of naturalization which are more exceptions than the rule, we also had overstepping of responsibilities and abuse of office, which were subsequently annulled by the competent body (DCAM) or prosecuted by law enforcement authorities. To this end, in the framework of this Concept Document it is recommended to consider the supplementation and amendment of the Law on Citizenship to eliminate any legal ambiguity as well as capacity building to develop the knowledge base on citizenship issues.

## Chapter 2: Objectives

The main goal is defined in the issue of facilitating the procedures for special legal categories in order to have a positive impact on the sustainable socio-economic development of the country and the prevention of statelessness. This goal is also reflected in the strategic documents of the Government, respectively in the Migration Strategy 2021-2025, as well as partly in the National Development Strategy, respectively the pillars which refer to Sustainable Economic Growth, Human Capital and Equal Society.

As for the Strategic Objective, this Concept Document aims to further harmonize the legislation and advance the institutional capacity in the field of control, supervision and implementation of legislation in the field of citizenship.

In order to achieve the strategic objective, specific objectives are envisaged according to the S.M.A.R.T model, which are in cohesion with the purpose of the policy and derive as a result of the analysis of the situation, respectively the defects identified in the field of citizenship. In this context it is intended to address the following issues:

- 1) Strengthening the control and supervision of the implementation of legislation in the field of citizenship;
- 2) Capacity building to develop the professional knowledge base in the implementation of legal provisions in the field of citizenship;

- 3) Advancing the central system of citizens and developing procedures based on Information Technology.

These objectives have not previously existed in the framework of strategic planning documents of the Government of the Republic of Kosovo. Also, beyond the Migration Strategy 2021-2025, this document has foreseen measures which aim at further alignment of legislation, facilitation of procedures for special categories and advancement of responsible institutional capacities in the field of citizenship, in defining strategic and specific objectives, the debate in the public discourse on the issue of citizenship has been taken into account, especially in the context of electoral processes in the country, respectively the right to vote and to be elected.

Figure 3: Relevant Government Objectives

<b>Purpose of the policy:</b>	<b>Name of relevant planning document (source)</b>
<i>Purpose:</i> Facilitate procedures for specific legal categories and prevent statelessness.	Migration Strategy 2021-2025
<i>Strategic objective:</i> Alignment of legislation and advancement of institutional capacities in the field of control, supervision and implementation of legislation in the field of citizenship.	According to this Concept Document
<i>Specific objectives:</i> 1) Strengthening the control and supervision of the implementation of legislation in the field of citizenship; 2) Capacity building to develop the professional knowledge base in the implementation of legal provisions in the field of citizenship; 3) Advancing the central system of citizens and developing procedures based on Information Technology.	According to this Concept Document

## Chapter 3: Options

In the development and analysis of options, the main findings from the situation analysis process, i.e., the diagnosis of the problem, including its main causes and effects, have been taken into account. In this regard, based on the options presented, decision-making regarding the most reasonable option for achieving strategic and specific objectives in the field of citizenship will be easier because each option has been elaborated and clarifications have been provided regarding the disadvantages and advantages of each of them.

### Chapter 3.1: No change option

Ongoing existing situation by failing to take any legal, strategic or institutional measures will have a negative impact on all areas affected by the field of citizenship. In this regard, if this approach is continues, the effects of the problem will escalate to the extent that they will affect the security and credibility of civil documents, endanger the status of vulnerable categories, threaten public and national security, violate the integrity of election processes, exceeding authorizations and abuse of official duty, the integrity of the Institutions of the Republic of Kosovo. Consequently, this will have a financial impact

especially in cases where persons acquire citizenship without meeting the legal criteria and consequently enjoy benefits from pension, social or other beneficiary schemes from the country budget etc. In this context, the option of maintaining the 'status quo' is not an option which enjoys the support of the institutional stakeholders involved in the field of citizenship.

### Chapter 3.2: Option to improve enforcement and execution without legal changes

It is a joint assessment of the actors involved in the field of citizenship that the Law on Citizenship and the five Administrative Instructions for its implementation, in terms of protection measures provided by the Constitution of the Republic of Kosovo, also in terms of the rule of law and international treaties versus domestic law, are generally in line with applicable international standards in the field of citizenship and existing state case law. However, the current law has some shortcomings which have been elaborated in the problem analysis section, including the identified shortcomings in the implementation of legal provisions, especially at the local level, as well as the lack of effective control and oversight by the central level.

Within this option, some measures have been proposed which aim at addressing the identified defects by strengthening the implementation of existing legislation. In this regard, it is recommended to develop a capacity building program for officials dealing with the implementation of legal provisions in the field of citizenship, functional review of responsible institutions, transferring responsibility to the competent authority (DCAM) in controlling and supervising the implementation of the law at the local level, providing administrative facilities for registration of births, organizing awareness campaigns for the realization of rights for vulnerable categories, etc. Undertaking these measures would undoubtedly improve the level of implementation of legislation in the field of citizenship, thus increasing the quality of services, accountability and integrity of public institutions.

### Chapter 3.3: The third recommended option

In order to address the issue of deficient provisions which are creating legal gaps and ambiguous interpretations on the issue of acquiring citizenship and in order to achieve full compliance with the Law on Citizenship and Administrative Instructions, with the practice and standards that have been developed during the last 12 years, with a focus on the precise definition of Diaspora in the context of citizenship, avoidance of statelessness including minority rights, and procedural rules that seek to simplify bureaucratic procedures, as well as to ensure high professional standards in the performance of the duties of the competent authority (DCAM) related to citizenship issues, drafting of the Law on Citizenship is recommended by intervening in the provisions of the current law which affect on the above issues. Based on the problems elaborated in this concept document and the legal shortcomings that have been encountered in implementation, the recommendation will be a new Law on Citizenship, which is supported by the Working Group and is based entirely on the analysis of the situation and findings from diagnosing the main problem, the factors that promote it and the effects it causes.

The new law aims to solve the following problems:

Strengthening the mechanisms for the implementation of legal provisions by the central level for the municipal level.

Strengthening the Information Technology Infrastructure for the data of the Central Register of Citizens.

For the citizens of the municipalities of Presheva, Medvedja and Bujanovac, affirmative and positive action measures will be provided for this category to gain the right to citizenship.

All citizens from Presheva, Medvedja and Bujanovac, who have resided in the RKS for at least 5 years from 12.06.1999 until 31.12.2021, will have the right to acquire Citizenship based on the regulation of the legal framework with this Concept Document, while in terms of procedural criteria will be regulated by bylaws.

Establishment of legal conveniences for the registration of citizenship for persons who return on the basis of the readmission process, who are persons with irregular residence in the returning states and readmitting them is an international obligation.

Establishment of a specific Article on the procedures for determining the statelessness status before the Articles on the naturalization of foreigners and/or persons with refugee status and stateless persons.

Application of more lenient conditions when it comes to evidence of criminal record<sup>37</sup> from the country of origin/place of last residence when applying for naturalization by refugees and stateless persons.

## Chapter 4: Identifying and Assessing Future Impacts

Expected impacts have been identified and elaborated within this Chapter, based on the option which has found support from the working group, namely the option of amending the Law on Citizenship.

*Figure 4: The most significant impacts identified for the impact category*

<b>Categories of impacts</b>	<b>Relevant impacts identified</b>
Economic impacts	<p>The possibility of acquiring citizenship for members of the Kosovo Diaspora on transparent terms, as provided in the amended provision of Article 16 of the Law on Citizenship, would have an impact due to the potential for investment by members of the Kosovo Diaspora in the Kosovo economy.</p> <p>Expanding the opportunity to acquire the citizenship of Kosovo even for those persons who had a suitable connection with Kosovo by birth but who had not maintained a regular residence in Kosovo, offers the opportunity to gain citizenship for the category of young people, who by earning of citizenship after establishing residence in Kosovo can contribute to the economy of Kosovo with their skills, expertise and potential.</p>
Social impacts	<p>The impact of economic integration of naturalized persons by creating new jobs can have a corresponding social impact to reduce the unemployment rate of young people, who would otherwise be eligible for emigration - legal or illegal - abroad.</p>
Environmental impacts	<p>Citizenship as a legal status has no direct impact on the environment. But, the processing of cases, respectively applications for naturalization with supporting documents, loss of citizenship applications, applications for</p>

<sup>37</sup>UN High Commissioner for Refugees (UNHCR), Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness, 21 December 2012, HCR / GS / 12/04, available at: <https://www.refworld.org/docid/50d460c72.html>, accessed on 02 November 2021

	citizenship registration and issuance of citizenship certificates have an impact on the environment in terms of paper consumption. Application processing is based on the alphanumeric system which is based on paper.
Impacts on fundamental rights	Impact on the facilitation of reintegration procedures of vulnerable groups, who could not be naturalized due to non-registration of residence in Kosovo, even though they had in fact been based in Kosovo.  Impact on foreigners in cases when it is revoked or lost due to security reasons, as well as due to non-compliance with the conditions for naturalization. Procedural safeguards and their observance also play an important role in the field of fundamental rights (e.g., family reunification, child rights, etc.).
Gender impact	Supplementation and amendment of the legislation in the field of citizenship, as well as proposed measures/amendments at the institutional and organizational level, are not expected to have a gender impact.
Impacts of social equality	Supplementation and amendment of the legislation in the field of citizenship, as well as the proposed measures/amendments at the institutional and organizational level, are not expected to have an impact in the issues of social equality
Impacts on young people	Amendments to the legislation in the field of citizenship, as well as the proposed measures/amendments at the institutional and organizational level, are not expected to have a significant impact on young people.
Impacts on administrative burden	Amendments to the legislation in the field of citizenship, as well as the proposed measures/amendments at the institutional and organizational level, are not expected to have an impact on the administrative burden.
Impact of SMEs	Amendments to the legislation in the field of citizenship, as well as proposed measures/amendments at the institutional and organizational level, are not expected to occur in SMEs.

A more detailed elaboration of the potential impacts regarding the option proposed in this Concept Document is presented below:

### 1. Identification of economic impacts:

Citizenship is a specific legal category of status which is closely related to the genuine nature of the State itself. As such, it also has an **economic impact** on the overall status of the State, especially given its integration into the international community, or membership in international organizations.

Moreover, monitoring the demographic trends of citizenship in the long run is one of the basic **economic tools** of statistical staff in the field of national macroeconomic measures. This can only be done if there are clear definitions under the Law on Citizenship and tools developed for collecting and analyzing trends for the purposes of economic forecasting.

The economic impact of the proposed amendments to the law and bylaws on citizenship, and of the policy measures for the state as in the Republic of Kosovo, which appeared in specific circumstances, where after the announcement of independence in 2008, not all states of the international community have yet

recognized its independence, so it should be measured against the alignment of general citizenship legislation with the standards of customary international law in this area.

Kosovo's lack of membership in international organizations also affects the inability of applicants to challenge (negative) citizenship decisions issued by the competent authorities of Kosovo in international courts (e.g., ECHR), or the ICJ. Consequently, this has an impact on the very foundations of the State, the trust in its institutions and the possibility of testing legality under the jurisdiction of the international court. Lack of such quality may hinder decisions on foreign investment in Kosovo's economy.

It should not be overlooked that one of the most well-known cases under the jurisdiction of international courts dealing with the State's right to offer its diplomatic protection is the *Nottebohm case*<sup>38</sup>, which also defined the concept of citizenship 'Citizenship is a legal connection based on a social fact of connection, a genuine connection of existence, interest and feelings, together with the existence of mutual rights and duties.' Therefore, citizenship is determined by the social ties of the person with his country, and when it is established, it creates rights and duties by the state, as well as by the citizen.

Citizenship also has an impact on one of the main priorities of Kosovo in international cooperation, which is closely related to the freedom of movement of citizens of the Republic of Kosovo in the EU. Kosovo continues to be the only country in the Western Balkans whose citizens still cannot move without visas in the Schengen Area despite the fact that the European Commission has found that all criteria are met and has recommended the abolition of visas for Kosovo citizens, but such a recommendation has not yet found full support in the EU Council due to skepticism expressed by some Member States.

Permanent population of a specific territory, in accordance with customary international law<sup>39</sup>, considering the independence proclaimed after the declaration of Kosovo's Independence in February 2008, is one of the qualifications for the State as a subject of international law. Legally, the permanent population of the State after the independence and international recognition of such an act, becomes the relevant legal status of citizenship. Therefore, this means not only the dimension defined by domestic law, but also international relations in accordance with relevant international standards, and to this end, the role of the State for the diplomatic protection of citizens.

The capacity of the State to provide the right status as a citizen to all persons who qualify under its legal system is one of the elements of the rule of law. Transparency of procedures for all, prompt processing based on the principles of equality and non-discrimination are among the preconditions that must be met as basic conditions on which the principle of the rule of law is based. Compared to the EU<sup>40</sup> 'Respect for the rule of law is essential for citizens and businesses to have confidence in public institutions.' Visa liberalization with the EU, which is also based on the principles of the rule of law, for the citizens of Kosovo, it will give impetus to EU integration and therefore plays an important role in the economic sector.

**The economic impact of the proposed solutions** as defined in the objectives under this concept document that would be implemented in the framework of **supplementations and amendments to the law on citizenship and new bylaws**:

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<sup>38</sup> <https://www.icj-cij.org/public/files/case-related/18/2676.pdf>

<sup>39</sup> <https://www.jus.uio.no/english/services/library/treaties/01/1-02/rights-duties-states.xml>

<sup>40</sup> [https://ec.europa.eu/info/sites/info/files/communication\\_2020\\_rule\\_of\\_law\\_report\\_en.pdf](https://ec.europa.eu/info/sites/info/files/communication_2020_rule_of_law_report_en.pdf)

1) registration of citizens "ex officio" and not exclusively at the initiative of the individual, would provide a more efficient and transparent system for registration of citizens under the control of the competent authority (MIA/DCAM) for citizenship issues;

2) The possibility of acquiring citizenship for members of the Kosovo Diaspora on transparent terms, as provided in the amended provision of Article 16 of the Law on Citizenship and bylaws that would determine the criteria for social, economic and family ties with Kosovo, will raise trust in institutions. There is a strong potential for investment by members of the Kosovo Diaspora in the Kosovo economy, if the acquisition of citizenship will be facilitated on objective and transparent terms. Moreover, if the conditions will be based on strict criteria of the closest effective and genuine ties with Kosovo. Diaspora investments in Kosovo's economy can boost greater youth employment, preventing them from emigrating abroad and instead contribute to the growth of the country's economy.

3) Expanding the possibility to acquire the citizenship of Kosovo also for those persons who had a suitable connection with Kosovo by birth between 1.1.1981 and 1.1.1998, but who had not maintained a regular residence in Kosovo on the specified date 1.1. 1998, or have never had a regular residence (as provided in Article 32 and Article 31 of the Law on Citizenship), if they meet the general conditions of naturalization as defined in Articles 9 and 10 (1,2,3,4) offers the possibility of gaining citizenship for the category of young people, who by gaining citizenship after settling in Kosovo can contribute to the economy of Kosovo with their skills, expertise and potential.

**The recommendation for the integration of the issue of citizenship in the framework of strategic policies in the field of Migration**, will have an economic impact with adequate and timely measures related to the forecast of demographic changes, based on the monitoring of trends and levels of acquisition of citizenship by birth, the registration of births of citizens from abroad, as well as naturalizations, and the release and renunciation of citizenship due to socio-economic integration abroad. The "brain drain" of the youngest, highly qualified citizens who emigrate for economic reasons is a permanent loss of human capital, unless progressive measures are envisaged to curb the trend and provide employment opportunities in the country.

**Proposed cooperation of DCAM experts in preparing the Public Administration reform** would lead to better synergies and efficiency of work processes, reduce the administrative burden and could contribute to the introduction of the case management system. In this way the general processes under the competence of the Citizenship Division/DCAM/Ministry of Internal Affairs, including possible cases if the proposal of this document would expand the acquisition of citizenship for new categories of applicants, could be standardized and are economized, so the economic impact would be a less costly administration and higher efficiency and effectiveness of the services provided.

**Training capacity building around permanent knowledge** for staff dealing with citizenship issues, not only in DCAM would have an impact on better professional knowledge, structured and organized by a detailed curriculum and the introduction of professional exams. Such an approach would have an impact on the higher quality of services rendered, fewer "lost" cases in court hearings and higher public trust in institutions. The costs of developing staff training will be saved by the highest degree of professional efficiency.

Changing organizational measures, strengthening the DCAM/ Division for Citizenship by transferring control and oversight of the processing of all applications in the field of citizenship submitted to municipal

offices by the Civil Registration Agency would contribute to the proper legal subordination to the organizational unit of the Ministry of Internal Affairs, which implements the Law on Citizenship. These measures would control the accountability and responsibility for eventual omissions and possible wrongdoings, or even the misuse of the legal mandate under the Law on Citizenship at the local level. The economic impact of such a measure would be measured against the smallest number of errors, and control against misuse, including possible corruption at the municipal level.

## **2. Identification of social impacts**

Improving the legalization of citizenship, accompanied by policy and organizational reforms, while also introducing multidisciplinary professional training in the field of citizenship, will also have a positive impact in order to determine in quantitative and qualitative terms the impact of citizenship on the social sphere.

Currently, such a methodology has not been identified, but it should be developed and integrated into Strategic Policies in the field of Migration. The impact of the economic integration of naturalized persons by creating new jobs can have a social impact, respectively in reducing the unemployment rate of young people, which would otherwise be determined for – legal or illegal – emigration abroad, or reducing the flight of citizens for the purpose of physical work abroad and consequently the loss of investment in education with a university degree.

## **3. Identification of environmental impacts**

Citizenship as a legal status has no direct impact on the environment. However, the processing of cases under the jurisdiction of the Division for Citizenship and municipal civil status offices - applications for naturalization with supporting documents, loss of citizenship applications, applications for citizenship registration and issuance of citizenship certificates, have an impact on the environment in terms of paper consumption. Application processing is based on the alphanumeric system which is based on paper.

Second, the participation in traffic, the travel of the population from the place of residence to the municipal or even central authority responsible for citizenship, has a correlation because either public or private transport is used. In both cases, traffic has an impact on the environment, the effect of which may not be measured without a concise analysis (how many applicants apply for citizenship documents and related applications within the year).

This impact will remain unchanged until the case management system according to the processing processes becomes operational, and e-Governance replaces the current approach by also introducing the central e-Population system. Such a system actually operates throughout the State and enables access to databases from all access points in the State. Amending and supplementing the Law on Administrative Procedure which will oblige all competent authorities of the State that decide in administrative procedure on rights, legal interest or obligations, to use mandatory data on citizenship from the official database, of course under conditions of strict adherence to data protection, it would drastically change the routine and also have a positive impact on reducing the environmental impact due to the rationalization of procedures

## **4. Impacts on fundamental rights**

As already pointed out in the section on economic impact, the amendment of citizenship legislation, intervention of citizenship policies in the framework of strategic policies in the field of migration, compulsory on-the-job training of staff that also covers aspects of fundamental rights and change of structure organizational (transfer of control and oversight competencies for citizenship from CRA to the Department of Citizenship, Asylum and Migration) have an impact on fundamental rights. Harmonization of the law with the applied standards of succession for citizenship - whether developed by international treaty law or customary international law after 2000, (the new Article proposed for the naturalization of persons born in Kosovo between 1.1.1981 and 1.1.1998 - who did not have a regular residence on 1.1.1998), as well as the proposal for registration of citizenship ex officio (Article 27) and not only by application, will approximate the legislation in accordance with the latest developments. In part, this will facilitate some procedures for the reintegration of vulnerable groups, namely Roma and Ashkali citizens who could not be naturalized due to non-registration of residence in Kosovo, even though they had in fact been resident in the territory of Kosovo. Measures for the introduction of compulsory training, developed as a curriculum for all public administration employees with citizenship-related competencies, will have a direct impact on fundamental rights and their protection - the exam training module, including fundamental human rights, will contribute to increasing the level of professionalism and will contribute to strengthening the rule of law.

Citizenship (nationality) status is not part of the EU Acquis, but becomes relevant for the Acquis, the part referring to foreigners, in particular in case of forced departure from the territory of the State when the citizenship is revoked or lost due to security reasons, as well as due to non-fulfilment of the conditions for naturalization. Procedural protective measures and their observance also play an important role in the field of fundamental rights (e.g., family reunification, child rights). And in this regard, the training capacity with the provision of appropriate knowledge on fundamental rights has a significant impact.

## **5. Gender impact assessment**

The improvement of legislation, as proposed, together with the part of citizenship within the Strategic Policies in the field of Migration and measures/changes at the institutional and organizational level, have not been identified to have a gender impact. The employment policy of the Ministry of Internal Affairs, as well as at the municipal level, does not provide evidence of discrimination in relation to the employment of women in the citizenship sector. Also, the practice of the competent authority regarding the discriminatory gender practice related to the applications submitted in the field of citizenship has not been identified.

## **6. Impact assessment on young people**

The improvement of legislation, as proposed together with the part of citizenship within the Strategic Policies in the field of Migration and measures/changes at the institutional and organizational level, are not expected to have an overall impact on young people. In part, if involved in promoting new opportunities under the Law on Citizenship, they can actively contribute to the general public better understanding the target groups that will benefit from the changes. On the other hand, a part of the young people who can be employed in the business sector or the services created by the newly naturalized citizens who invested in the local economy, can benefit from the proposed measures, and the same applies to young people involved in scholarship schemes for study at foreign universities, with support from Kosovo emigrants who want to naturalize in Kosovo as members of the Kosovo Diaspora. In this

regard, their usefulness for the Kosovo society after returning from studies can be a further impetus for the economy and development of the country.

### **7. Impact assessment on vulnerable groups**

The proposal to improve the legislation with other measures will have a beneficial impact on vulnerable groups, especially members of ethnic groups, namely Roma and Ashkali, as well as others. The proposed reform, including training on an adequate knowledge base, will provide standardized mechanisms and procedures for issues related to equal opportunities even for individuals who do not enjoy rights and who want to materialize their legal right in the field of citizenship (illiterates, people with physical disabilities, inability to use Internet services or mobile phone applications, etc.).

### **8. Data protection**

Data protection, due to its legal nature, is a right related to the right to privacy. In this regard, the competent authorities are obliged to comply with the standards set out in the Law on Protection of Personal Data. Municipal civil status offices should have clarity as to which internal unit is responsible for management, collection, processing, including control. Consequently, the control of the legality of the authority of the first instance, as well as the definition of competencies between CRA and DCAM in overseeing citizenship data, respectively the need for organizational changes by transferring oversight responsibilities from CRA to DCAM is precisely justified by data protection standards.

#### Chapter 4.1: Challenges with data collection

Given that all data related to the field of citizenship are reflected within the database, in the first place the state register of citizens, then also within the DCAM Database, the Working Group and the experts engaged in the development of the Concept Document had full access to the data. Also, the cooperation with relevant actors in providing information has been at a satisfactory level, especially in the phase of defining the problem and elaborating the most appropriate options for advancing the legal and institutional framework in the field of citizenship.

#### Chapter 5: Communication and consultation

During the drafting phase of this Concept Paper, all relevant actors in the field of citizenship were included in the working group and contributed to the drafting of the concept paper. After the finalisation, the draft concept paper was sent for preliminary consultations to all relevant institutions. Comments on the preliminary consultations were sent only by the Coordination Secretariat of the Government within the Office of the Prime Minister. Also, this concept paper was sent for public consultation on the Consultation Platform from 26.11.2021 to 17.12.2021, no comments were received.

*Figure 7: Summary of communication and consultation activities performed for a concept document*

The consultation process aims to involve all relevant institutions and other stakeholders in the process of legal regulation of the field of citizenship. For this reason, since the beginning of drafting of this CP, the working group has included relevant institutions in the field of citizenship, and the CP has been sent for preliminary consultations and public consultations so that all stakeholders, including citizens, give their comments on this draft.

The main goal	Target group	Activity	Communication/notification	Timeline	Required budget	The person in charge
Preliminary written consultations	All stakeholders	Sending the CP to the e-mail of the relevant institutions for preliminary consultations.	Comments were received from the Coordination Secretariat of the Government, and were incorporated in the draft of CP.	18.11.2021-25.11.2021		
Public written consultation	All stakeholders	Publication of the consultation on the portal for public consultation		26.11.2021-17.12.2021		Liridon Neziri

[List, if relevant, the presentations of the CD in media and activities in which the ministry was not directly responsible. This may include newspaper articles, conferences organized by third parties, etc. In addition, list the main communication activities that will follow after the approval of the Concept Document, e.g., leaflets, brochures, op-eds in the mainstream media, lectures in schools, etc.]

## Chapter 6: Comparing Options

Within this chapter are presented the plans for the implementation of the options and a comparative analysis between the options through which it is intended to justify the selection of the preferred option which will more effectively address the main problem, causes and effects identified.

### Chapter 6.1: Implementation plans for different options

As elaborated under Chapter III, Option 2 aims to address the main problem including causes and effects, without legal interference, but through more effective implementation of existing legislation. In this regard, within this option, it is proposed to develop a program for capacity building for officials who deal with the implementation of legal provisions in the field of citizenship, functional review of responsible institutions by transferring responsibility to the competent authority (DCAM) in controlling and supervising the implementation of the law at the local level, providing administrative facilities for registration of births, organizing awareness campaigns for the realization of rights for vulnerable categories, etc. The implementation of this option has budgetary and administrative implications but provides faster dynamics of implementation of the proposed measures, respectively addressing the identified defects, especially in terms of control and supervision, professional capacity at the local level, etc.

Furthermore, in the framework of this option are presented the following recommendations which would affect the improvement of implementation through non-regulatory measures:

- 1. Capacity building to develop knowledge base on citizenship issues** - the complexity of laws and sub-legal acts on citizenship, together with international law and treaties, case law, liaison with data protection standards, statistics, security, intergovernmental cooperation with other institutions, imply the need for high level knowledge required by professional staff. Well-trained staff is a prerequisite for the state's capacity in this area and also provides additional protection for citizen service. Especially in the sense of the era of future digitalization in public administration, the professional knowledge of employees benefits to find innovative solutions to improve the service in a transparent way.
- 2. Training curriculum development**, in close cooperation with academia, should be treated as a priority in the context of developments related to the field of citizenship. Furthermore, given the models of Justice Institutions, which are usually supported by the UNHCR (mainly targeting only statelessness, refugees and IDPs), it can also be an opportunity to attract students to current areas related to citizenship: a pilot model could be developed, for example in cooperation with the Ombudsperson and the Faculty of Law, based on the Memorandum of Cooperation by offering students practical cases that can provide an overview of the multiple dimension of citizenship. The curriculum program should be developed in the form of a regulation approved by the Minister of Internal Affairs. The program, if extended also for example in the Administrative Law Procedure that can be developed together with the Institute of Public Administration, the inclusion of issues related to migration in the general training curriculum could also be considered.
- 3. Migration Policies:** migration is about emigration and immigration: according to statistics, emigration seems to be a necessity for Kosovo society for a long time. It is highly recommended that a section covering citizenship be added to the strategic policy documents in the field of migration. Given the size of the country and the fact that a large part of the population lives abroad, it is recommended to cover this part with measures on how to strengthen contacts, to have quality statistics, to plan adequate policies in this area also regarding return strategies. On the other hand, immigration also deserves measures to monitor the trend with accurate statistics, as well as by developing appropriate integration measures that will contribute to a well-informed and responsible citizenship in case of becoming a citizen. Strong inter-institutional cooperation with the Ministry of Foreign Affairs and Diaspora is recommended. For example, if meetings with Kosovo emigrants are supposed to be held in the countries where they work, a representative of the Division for Citizenship should travel to the delegation in order to provide appropriate counselling (conditions for naturalization of the foreign spouse in case of return, conditions for registration of citizenship of children at home, release from citizenship, etc.) A special project tailored to advise immigrants abroad can be drafted based on the action plan for the implementation of the Migration Strategy 2021-2025.
- 4. Organizational measures:** The Division for Citizenship within the Department of Citizenship, Asylum and Migration should have clear responsibilities regarding the supervision of the work of officials in the civil status offices at the municipal level, also in terms of making decisions regarding administrative procedures initiated by purpose of registration of citizenship in the Central Registry of Civil Status (which so far is the competence of the Civil Registration Agency). A long-term strategy can envisage the development of processes based on Information Technology, therefore Kosovo should have in the near future the e-Population register, including the identification and tracking of all processes related to citizenship (gaining citizenship through naturalism, loss of citizenship, as well as registration based on transitional provisions which is not limited by any deadline), which of course should be based on data protection principles. In this regard, the competent authority responsible for

the field of citizenship, following the principle of legality, should also have the mandate to supervise and control all stages of the process in relation to any way of gaining, losing or registering citizenship.

5. The Government of Kosovo is preparing the Public Administration Reform, which is based on the principle of accountability and higher efficiency of services, for public purposes, as well as to serve the citizens with a modern system, also using information technology. Given the fact that MIA- DCAM, and municipal civil status offices issue and process most administrative documents for various purposes (public administration, civil law purposes, state security, issuance of identity documents, passports, etc.), it is highly recommended to strengthen cooperation and coordination at the work level in order to determine measures tailored to the needs of the sector.

Figure 8: Implementation Plan for Option 2

The purpose of policy	Facilitation of procedures for special legal categories and prevention of statelessness							Expected cost figure
Strategic objective	Further harmonization of legislation and advancement of institutional capacities in the field of control, supervision and implementation of legislation in the area of citizenship							
	Output, activities, year and responsible organization/department.							
Specific Objective 1	Output 1.1							
Strengthen control and oversight of the implementation of legislation in the field of citizenship;	Efficient control and oversight mechanism at the central level		Year 1	Year 2	Year 3	Year 4	Year 5	Responsible institution/d department
		Activity 1.1.1. Functional review at the vertical and horizontal level of the responsible institutions in the field of citizenship.	x					DCAM, CRA
		Activity 1.1.2. Approval of findings and recommendations from the functional review process.		x				DCAM
		Activity 1.1.3. Institutional reorganizatio		x				DCAM, LD, CRA

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		n at the central level in relation to the oversight of the Municipal Offices of Civil Status regarding the responsibilities in the field of citizenship.							
		Activity 1.1.4. Organization of awareness campaigns for the realization of the rights of vulnerable categories.		x	x			DCAM, ZIP	
		Activity 1.1.5. Providing administrative facilities for birth registration.	X					CRA, DCAM	
Specific Objective 2	Output 2.1		Year 1	Year 2	Year 3	Year 4	Year 5	Responsible institution/department	
Capacity building to develop the professional knowledge base in the implementation of legal provisions in the field of citizenship	Developed professional capacities	Activity 2.1.1 Assessment of staff needs at central and local level in the field of citizenship.	x					DCAM, CRA, KIPA	
		Activity 2.1.2 Development of a Capacity Building Program for officials	x					DCAM, CRA, KIPA	

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		responsible for implementing legal provisions in the field of citizenship.							
		Activity 2.1.3 Organization of trainings, workshops and programs for the exchange of experiences and knowledge in the field of citizenship.		x				DCAM, CRA, KIPA	
		Activity 2.1.4 Development of training curriculum in the field of citizenship.			x			DCAM, CRA, KIPA	
		Activity 2.1.5 Implementation of a pilot project through which students are provided with practical cases that can provide an overview of the multiple dimensions of citizenship.			x			MIA, UP, Ombudsper son	
Specific Objective 3	Outputs 3.1 Credible, advanced		Year 1	Year 2	Year 3	Year 4	Year 5	Responsible institution/d epartment	
		Activity 3.1.1	x					CRA	

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Advancing the central system of citizens and developing procedures based on Information Technology	and secure Central Register of Citizens,	Review of current procedures and modalities for entering data in the Central Register of Citizens.						
		Activity 3.1.2 Audit of all Municipal Offices for Civil Status in matters related to the field of citizenship.		x				CRA
		3.1.3 Drafting a Strategy to develop all procedures in the field of citizenship through Information Technology.			x			MIA
		Activity 3.1.4 Development of e-Population register including identification and tracking of all processes related to citizenship.			x			MIA, KAS

On the other hand, Option 3 is in principle complementary to Option 2, addressing all the causes that affect the main problem, at the same time proposing a new Law on Citizenship which aims to harmonize the legislation in the field of citizenship with the practice and standards that have been developed during the last 12 years, with a focus on accurately defining the Diaspora in the context of the field of citizenship, the avoidance of statelessness including minority rights, and procedural rules that seek to simplify

bureaucratic procedures, as well as to ensure high professional standards in the implementation of the duties of the competent authority (DCAM, etc.). At the same time, this is the preferred option which is supported by the Working Group and is based entirely on the analysis of the situation and the findings from the diagnosis of the main problem, the factors that trigger it and the effects it causes. Regarding the legal provisions which are considered to be amended, it is recommended to amend the following provisions:

- Article 2/1- the definition of citizenship at the end of the wording ending with obligations is recommended to be changed by adding the text "and does not indicate the person's ethnic origin"; (in accordance with the definition in Article 2/a of ECN);
- Article 1.8 The definition of Diaspora should be replaced by: every person with lawful residence outside the Republic of Kosovo who proves that has been born in the current territory of the Republic of Kosovo, as well as their heirs limited to the first generation, who have maintained cultural, family and economic ties with the Republic of Kosovo are members of the Kosovo Diaspora;
- Article 16 - Naturalization of a member of the Republic of Kosovo Diaspora: consideration of the public debate supported by a comparative practice on which States are giving their citizenship to immigrants living permanently abroad, who already hold the citizenship of another country. Laws usually restrict access to the 3rd generation, while the decision is a matter of specific interest of the state, while in order to avoid possible arbitrary and non-transparent decisions, the criteria for the existence of a national interest and the activity of the individual that demonstrates the level of genuine connection with the country are defined. It is therefore recommended that the wording of paragraph 2 of Article 16 be amended: A member of the Republic of Kosovo Diaspora shall be every person with lawful residence outside the Republic of Kosovo and who can prove that he/she was born in the current territory of the Republic of Kosovo, as well as their heirs, limited to the first generation, who maintain cultural, family and economic ties with the Republic of Kosovo;
- Add a special Article to facilitate the naturalization of persons who have immigrated since 1999 from the cities of Presheva, Medvegja and Bujanovc, *upon request, if he/she meets the requirements set out in Article 9 and Article 10, paragraph 1, sub -paragraphs 1.3, 1.4 and 1.5 and their stay in the territory of the Republic of Kosovo is considered legal;*
- After Article 17, a new Article should be added with the title "Naturalization of persons born in the territory of the Republic of Kosovo from 1 January 1988 to 1 January 1998". With the wording:
- *A person who proves that he/she was born in Kosovo between 1 January 1981 and 1 January 1998, who was not a permanent resident of Kosovo on 1 January 1998, may acquire the citizenship of the Republic of Kosovo upon request, if he/she meets the requirements set out in Article 9 and Article 10, paragraph 1, sub-paragraphs 1.3, 1.4 and 1.5;*
- *The adult child of the person mentioned in paragraph 1 of this Article may acquire the citizenship of the Republic of Kosovo if he meets the requirements set out in Article 9 and Article 10, paragraph 1, sub-paragraphs 1.3, 1.4 and 1.5;*
- *The minor child of the person referred to in sub-paragraph 1 may acquire citizenship if both parents agree on naturalization: in case the child is older than 14 years, the written consent of the child must be submitted together with the request;*
- Article 23 - The guarantee: paragraph 1 should be amended and the wording at the beginning of the sentence "Upon the request of the citizen who applies for release from citizenship" should be deleted - the guarantee by its nature is a special procedural decision that supports the final decisions until the condition of presenting the evidence of obtaining foreign citizenship is met and *exofficio* must be issued: the purpose of issuing a guarantee is to avoid statelessness, which is a matter of public interest and not a matter of personal interest;

- Article 27: Register of citizens: after paragraph 5 a new paragraph 6 should be added with the following wording: Registration of citizenship in the register of citizens is subject to the supervision of the competent authority (DCAM/MIA). Data on citizenship can be registered by an official who has completed professional training on citizenship, training provided by the program developed by the competent authority (DCAM/MIA) and has passed the exam; the training program is defined in a sub-legal act by the competent authority. Such training may be part of the general in-service training curriculum for all officials mandated to perform any work related to citizenship;
- Article 27: Considering that the law determines the registration of citizenship only at the request of the individual, and not *ex officio*, it is recommended that the MIA consider the possibility of registration of citizenship with *ex lege* effect, adding a paragraph to the existing Article 27- this would strengthen the competencies of MIA respectively DCAM regarding the mandate, also related to the declaration *ex officio* in case of readmission, and for this purpose, the registration of citizenship in cases where citizenship is presumed under the Law on Readmission. Such a solution would be in line with the principle of legality under the Law on Protection of Personal Data.
- Consider amending the **Law on Readmission** - Given that the Law on Readmission entered into force in 2010, before the amendment of the Law on Citizenship and its approximation to the Constitution, Article 4 (which still defines the enumeration of Articles with the Law on Citizenship from 2008), should be regulated by the enumeration in the current law: Article 31 and Article 32.
- Sub-legal act according to Article 16/paragraph 4 "Administrative Instruction on Criteria for Determining the Close Family and Economic Relationship for Members of the Diaspora of the Republic of Kosovo". As this Administrative Instruction has not yet been approved, a possible option would be:
- Article 1 - In determining the fulfilment of the conditions of close family and economic ties, the competent authority applies the criteria for the existence of cultural, family and economic ties set out in this Administrative Instruction, when deciding on the procedure for naturalization of members of the Kosovo Diaspora.
- Article 2 (1) A member of the Diaspora of the Republic of Kosovo or his/her descendant raised up to the first generation in a direct line, can apply for naturalization, and must prove the existence of cultural, family and economic ties with the Republic of Kosovo;
- (2) Cultural relations: Naturalization is possible if the applicant referred to in the above paragraph demonstrates long-term active personal ties with the Republic of Kosovo and at least five years of active ties with Diaspora Associations or compatriot organizations of the Republic of Kosovo, or with Institutions operating in this field for preservation of culture and traditions in Kosovo operating under the Ministry of Culture of Kosovo and the Ministry of Foreign Affairs and Diaspora;
- (2.1) The applicant, together with the application, shall attach the evidence confirming his/her active connection referred to in paragraph 2 of this Article and the evidence with which the relevant organizations confirm at least five years of active operation referred to in the second paragraph of this Article;
- (2.2) The opinion on the fulfilment of the criteria mentioned in the second paragraph of this Article for the right to accept the citizenship of the Republic of Kosovo is provided by the state body responsible for cooperation with the Kosovo Diaspora abroad, and the Ministry of Culture, if the applicant cooperates with the cultural institutions of the Republic of Kosovo. If the competent body for the Diaspora (MFAD) or the Ministry of Culture needs additional information about the applicant, they request it from the competent diplomatic and consular mission of the Republic of Kosovo through the internal consular service of the ministry responsible for foreign affairs with jurisdiction over the applicant's place of residence, or communicates the need for additional information to the applicant's legal representative if such representative has been appointed in accordance with the provisions of the Administrative Law Procedure.

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- (3) Family relations (3.1) Naturalization is possible if the applicant proves to have direct contact with family members of the direct line: spouse, parents and children living in Kosovo;
- (3.2) The applicant must attach to the application proof of the existence of a family relationship, must submit a certificate issued by the competent authority of the Republic of Kosovo for the issuance of civil status certificates.
- (3.3) The applicant must submit proof of maintaining ties with family members as referred to in paragraph 1 of this sub-paragraph, proving that he/she fulfils the legal obligations to family members residing in the Republic of Kosovo as defined by the *Obligations of family law* and to be confirmed by the Office for Social Work of the Ministry of Labour and Social Welfare;
- (4) Economic relations: (4.1) Naturalization is possible if the applicant, by submitting an application for naturalization, proves the evidence for active economic cooperation with companies in the Republic of Kosovo, either by establishing a company operating in Kosovo registered in the business register within the Ministry of Trade and Industry, providing employment opportunities for the population and investments in the economy, or providing funds for the tuition fee for education (scholarship) of students from the Republic of Kosovo in foreign universities.
- (4.2) The range of investments in economic cooperation as referred to in the previous Article must be confirmed by the Ministry responsible for Economy in the form of a written statement. Proof of tuition fee covered by the applicant for Kosovo students at foreign universities is the bank transfer to the account of the foreign University with legalized translation.

Figure 9: Implementation plan for Option 3

The purpose of policy	Facilitation of procedures for special legal categories and prevention of statelessness.							Expected cost figure
Strategic objective	Harmonization of legislation and advancement of institutional capacities in the field of control, oversight and implementation of legislation in the field of citizenship.							
	Output, activities, year and responsible organization/department.							
Specific Objective 1	Output 1.1							
Strengthen control and oversight of the implementation of legislation in the field of citizenship	Efficient oversight mechanism at central level		Year 1	Year 2	Year 3	Year 4	Year 5	Responsible institution/department
		Activity 1.1.1 New Law on Citizenship.	x					DCAM, LD
		Activity 1.1.2 Consultation with civil society and the public on the new Law on Citizenship.	x					DCAM, LD

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		<p>Activity 1.1.3</p> <p>Drafting and approval of the Administrative Instruction on the criteria for determining the close family and economic connection for the members of the diaspora of the Republic of Kosovo.</p>		x				DCAM, LD	
		<p>Activity 1.1.4</p> <p>Harmonization of secondary legislation with the new Law on Citizenship.</p>		x				DCAM, LD	
		<p>Activity 1.1.5</p> <p>Amendment of the Regulation on Internal Organization of the MIA to reflect the reorganization in relation to the oversight of the</p>		x				LD	

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		Municipal Offices of Civil Status regarding the responsibilities in the field of citizenship.							
Specific Objective 2	Output 2.1		Year 1	Year 2	Year 3	Year 4	Year 5	Responsible institution/d epartment	
Capacity building to develop the professional knowledge base in the implementation of legal provisions in the field of citizenship	Citizenship officials at central and local level trained to implement new provisions of the Law on Citizenship	Activity 2.1.1  Training and certification of officials who handle citizenship cases at central and local level regarding the implementation of new provisions of the Law on Citizenship.		x				DCAM, CRA, KIPA	
		Activity 2.1.2  Drafting and approval of the Code of Ethics for officials at central and local level who deal with the implementation of Citizenship Legislation.		x				DCAM, ARC	

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		Activity 2.1.4  Drafting the Regulation through which the training curriculum in the field of citizenship is approved.			x				DCAM, CRA, KIPA
Specific Objective 3	Output 3.1		Year 1	Year 2	Year 3	Year 4	Year 5	Responsible institution/d epartment	
Advancing the central system of citizens and developing procedures based on Information Technology	Increasing the efficiency of case review	Activity 3.1.1  Feasibility study for the suitability of the system to enable the development of procedures based on Information Technology.  Activity 3.1.2  Drafting of the Administrative Instruction/ Regulation through which the procedures for the developmen		x	x			CRA, DIT, DCAM	

		t of procedures based on Information Technology are defined.						
		Activity 3.1.3  Developme nt of the e-population register.			x			CRA, DIT KAS
		Activity 3.1.4 Training in the field of personal data protection during the developmen t of procedures based on information technology.			x			CRA, DCAM

## Chapter 6.2: Comparison table with all three options

Various options have been elaborated under Chapter 3 and sub-Chapter 6.1 in order to address the main problem including causes and effects. While in this chapter, in tabular form is presented a comparative analysis of the three options elaborated in this Concept Document, respectively 1. Option to maintain the status quo; 2) Option to strengthen implementation through institutional measures, policy measures, investment in technology and capacity building, without legal intervention; 3) The option which complements the second option for strengthening the implementation but goes one step further by proposing amendments to the Law to harmonize with the practices developed in the last 12 years, the definition of the Diaspora, institutional reorganization for the purpose of effective oversight, etc. Beyond the narrative part presented in sub-Chapter 6.1, in the analysis of options, the multi-criteria analysis model was used based on the following elements: 1). Cost; 2). Implementation efficiency; 3). Degree of harmonization with international standards; 4). Impact on the socio-economic development of the country.

In terms of cost, the Working Group concluded that in the first option, respectively, if no action continues to be taken, it would not imply additional costs, unlike Options 2 and 3, which provide for implementation measures, technological advancements and legal changes which carry financial costs. However, the cost of Options 2 and 3 would be saved in the near future as a result of addressing current deficiencies in the

system either as a result of benefiting from social and pension schemes of those who did not meet the criteria but were naturalized and now enjoy these rights, either from the inclusion of certain legal categories which would have an impact on the development of the country.

Undoubtedly, the efficiency of implementation would be improved if the proposed legal changes and investments in information technology were made, which enable the development of online procedures and in a more efficient but transparent form. Also, Option 3 ensures the harmonization of the Law on Citizenship with the case law and international standards recently developed with a focus on issues of succession of states, prevention of statelessness, protection of vulnerable categories, etc.

Finally, if the recommendations presented in this Concept Document are included in the legal provisions of the amended Law on Citizenship, it will undoubtedly have an impact on the socio-economic development of the country, especially in terms of defining and facilitating the naturalization of the Diaspora and the use of their human potential and investment capital in the socio-economic development of the country.

Consequently, based on the comparative analysis presented in the narrative and tabular part of this Concept Document, the Working Group considers that Option 3, which complements the implementation measures of Option 2 and goes beyond making legal interventions or amending the Law on Citizenship, is the preferred option to improve the situation and address the problems identified in the area of citizenship. In this regard, the Working Group recommends the Government of the Republic of Kosovo to approve this Concept Document based on Option 3.

Figure 10: Comparing options

<b>Tool of comparison: Multi-criteria analysis</b>									
	Option 1: No change			Option 2: Improve implementation and execution			Option 3: Amendment of the Law		
Cost	-			+			+		
Implementation efficiency	-			+			++		
Harmonization with international standards	-			-			+		
Impact on the socio-economic development of the country	-			+			++		
<b>Expected budgetary impact assessment</b>	Year 1	Year 2	Year 3	Year 1	Year 2	Year 3	Year 1	Year 2	Year 3
							494,300	495,400	496,505
<b>Conclusion</b>							It does not create additional budget costs, as all foreseen activities will be covered by budget allocations.		

## Chapter 7: Conclusions and next steps

Taking into account the definition of the problem, causes and consequences, as well as based on the elaboration and comparative analysis of the options presented in this Concept Document, the Working Group has recommended the new Law on Citizenship. At the same time, this Option does not exclude but is complementary to the implementation measures recommended in Option 2. In this regard, the Plan for the implementation of the preferred option includes activities that focus on amending the Law on Citizenship, as well as some of the main activities which are oriented towards capacity building, technology advancement and institutional reorganization in order to strengthening control, oversight and accountability in the field of citizenship.

Also, the Working Group will ensure that there is a synergy and coherence between the activities proposed in this Plan with other planning documents of the Government, respectively the Ministry of Internal Affairs.

Figure 11: Preferred option implementation plan

The purpose of policy	Facilitation of procedures for special legal categories and prevention of statelessness.								Expected cost figure
Strategic objective	Harmonization of legislation and advancement of institutional capacities in the field of control, oversight and implementation of legislation in the field of citizenship.								
	Output, activities, year and responsible organization/department.								
Specific Objective 1	Output 1.1								
Strengthen control and oversight of the implementation of legislation in the field of citizenship	Efficient oversight mechanism at central level		Year 1	Year 2	Year 3	Year 4	Year 5	Responsible institution/department	
		Activity 1.1.1 New Law on Citizenship.	x					DCAM, LD	
		Activity 1.1.2 Consultation with civil society and the public regarding drafting the new Law on Citizenship.	x					DCAM, LD	
		Activity 1.1.3 Drafting and approval of the Administrative		x				DCAM, LD	

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		e Instruction on the criteria for determining the close family and economic connection for the members of the diaspora of the Republic of Kosovo.							
		Activity 1.1.4 Harmonization of secondary legislation with the new Law on Citizenship.		x				DCAM, LD	
		Activity 1.1.5 Amendment of the Regulation on the Internal Organization of the MIA to reflect the reorganization in relation to the oversight of the Municipal Offices of Civil Status regarding the responsibilities in the field of citizenship.		x				LD	
Specific Objective 2	Output 2.1		Year 1	Year 2	Year 3	Year 4	Year 5	Responsible institution/department	

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Capacity building to develop the professional knowledge base in the implementation of legal provisions in the field of citizenship	Citizenship officials at central and local level trained to implement new provisions of citizenship law	Activity 2.1.1  Training and certification of officials who handle citizenship cases at central and local level regarding the implementation of the new provisions of the Citizenship Law.		x				DCAM, CRA, KIPA	
		Activity 2.1.2  Drafting and approval of the Code of Ethics for officials at central and local level who deal with the implementation of Citizenship Legislation.		x				DCAM, CRA	
		Activity 2.1.4  Drafting the Regulation through which the training curriculum in the field of citizenship is approved.			x			DCAM, CRA, KIPA	

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Specific Objective 3	Output 3.1		Year 1	Year 2	Year 3	Year 4	Year 5	Responsible institution/d epartment	
Advancing the central system of citizens and developing procedures based on Information Technology	Increasing the efficiency of case review	Activity 3.1.1 Feasibility study for the suitability of the system to enable the development of procedures based on Information Technology.		x	x			CRA, DIT, DCAM	
		Activity 3.1.2 Drafting of the Administrative Instruction/Regulation through which the procedures for the development of procedures based on Information Technology are defined.							
		Activity 3.1.3 Development of the e-population register.			x			CRA, DIT KAS	
		Activity 3.1.4 Training in the field of personal data protection			x			CRA, DCAM	

		during the development of procedures based on information technology.							
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## Chapter 7.1: Provisions for monitoring and evaluation

The implementation of the recommended option according to the plan presented in this Concept Document will be done in a regular and structured manner according to the Manual and Instructions approved by the Government of the Republic of Kosovo. Whereas, 5 years after the amendment of the Law on Citizenship, the ex-post evaluation of the Law on Citizenship will take place

### Annex 1: Form of evaluation for economic impact

Category of economic impacts	The main impact	Is this impact expected to occur?		Number of organizations, companies and/or individuals affected	Expected benefit or cost of impact	Preferred level of analysis
		Yes	No			
Jobs <sup>41</sup>	Will the current number of jobs increase?	x				
	Will the current number of jobs decrease?		x			
	Will it affect the level of payment?		x			
	Will it affect the ease of finding a job?		x			
Doing business	Will it have an impact on access to finance for business?		x			
	Will certain products be removed from the market?		x			
	Will certain products be allowed on the market?		x			
	Will businesses be forced to close?		x			
	Will new businesses be created?	x				
Administrative charge	Will businesses be forced to meet the obligations of providing new information?		x			
	Have the obligations to provide information to businesses been simplified?		x			
Trade	Are current import flows expected to change?		x			
	Are current export flows expected to change?		x			

<sup>41</sup>When it affects jobs, there will also be social impacts.

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Transportation	Will it have an effect on the mode of transport of passengers and/or goods?		x	l	l	l
	Will there be any change in the time required to transport passengers and/or goods?		x	l	l	l
investments	Are companies expected to invest in new activities?	x		l	l	l
	Are companies expected to cancel investments or postpone them for later?		x	l	l	l
	Will investments from the diaspora increase?	x		h	h	h
	Will investments from the diaspora decrease?		x	l	l	l
	Will foreign direct investments increase?	x		h	h	h
	Will foreign direct investments decrease?		x	l	l	l
Competitiveness	Will the business price of products, such as electricity, increase?		x	l	l	l
	Will the price of business inputs, such as electricity, decrease?		x	l	l	l
	Are innovations and research likely to be promoted?		x	l	l	l
	Are innovations and research likely to be hampered?		x	l	l	l
Impact on SMEs	Are the companies mainly affected SMEs?		x	l	l	l
Prices and competition	Will the number of goods and services available to the business or consumers increase?		x	l	l	l
	Will the number of goods and services available to the business or consumers decrease?		x	l	l	l
	Will prices for existing goods and services increase?		x	l	l	l
	Will prices for existing goods and services decrease?		x	l	l	l
Regional economic impacts	Will any particular business sector be affected?		x	l	l	l
	Is this sector concentrated in a certain region?		x	l	l	l
General economic development	Will future economic growth be affected?	x		h	h	h
	Can it have any effect on the inflation rate?		x	l	l	l

## Annex 2: Form of evaluation for social impacts

Category of social influences	The main impact	Is this impact expected to occur?		Number of organizations, companies and/or individuals affected	Expected benefit or cost of impact	Preferred level of analysis
		Yes	No			
Jobs <sup>42</sup>	Will the current number of jobs increase?	x				
	Will the current number of jobs decrease?		x			
	Are jobs affected in a particular business sector?		x			
	Will there be any impact on the level of payment?		x			
	Will it have an impact on making it easier to find a job?		x			
Regional social impacts	Are social impacts concentrated in a particular region or city?		x			
Work conditions	Are workers' rights affected?		x			
	Are standards for working in hazardous conditions foreseen or repealed?		x			
	Will it have an impact on how social dialogue is developed between employees and employers?		x			
Social inclusion	Will it have an impact on poverty?		x			
	Is access to social protection schemes affected?		x			
	Will the price of basic goods and services change?		x			
	Will it have an impact on the financing or organization of social protection schemes?	x				
Education	Will it have an impact on primary education?		x			
	Will it have an impact on secondary education?		x			
	Will it have an impact on higher education?	x				
	Will it have an impact on vocational training?		x			
	Will it have an impact on worker education and lifelong learning?		x			
	Will it have an impact on the organization or structure of the education system?		x			
	Will it have an impact on academic freedom and self-government?		x			

<sup>42</sup>When it affects jobs, there will also be economic impacts.

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Culture	Does the option have an impact on cultural diversity?	x		l	l	l
	Does the option have an impact on the funding of cultural organizations?		x	l	l	l
	Does the option have an impact on the opportunities for people to benefit from or participate in cultural activities?		x	l	l	l
	Does the option have an impact on the preservation of cultural heritage?		x	l	l	l
Governance	Does the option have an impact on the ability of citizens to participate in the democratic process?	x		l	l	l
	Is every person treated equally?	x		l	l	l
	Will the public be better informed about certain issues?	x		h	h	h
	Does the option have an impact on the way political parties operate?		x	l	l	l
	Will it have any impact on civil society?		x	l		l
Public health and safety <sup>43</sup>	Will it have any impact on people's lives, such as life expectancy or mortality rate?		x	l	l	l
	Will it have an impact on food quality?		x	l	l	l
	Will the health risk increase or decrease due to harmful substances?		x	l	l	l
	Will there be health effects due to changes in noise levels or air, water and/or soil quality?		x	l	l	l
	Will there be health effects due to changes in energy use?		x	l	l	l
	Will there be health effects due to changes in waste disposal?		x	l	l	l
	Will it have an impact on people's lifestyles, such as levels of interest in sports, changes in nutrition, or changes in tobacco or alcohol use?		x	l	l	l
	Are there specific groups that face much higher risks than others (determined by factors, such as age, gender, disability, social group or region)?		x	l	l	l
Crime and security	Is the likelihood of criminals being caught affected?	x		l	l	l
	Is the potential gain from the crime affected?	x		l	l	l
	Does it have any impact on levels of corruption?	x		h	h	h
	Is law enforcement capacity affected?	x		h	h	h

<sup>43</sup>When there is an impact on public health and safety, then there are regular environmental impacts.

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	Is there any effect on the rights and safety of victims of crime?		x			
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### Annex 3: Form of evaluation for environmental impact

Category of environmental impacts	The main impact	Is this impact expected to occur?		Number of organizations, companies and/or individuals affected	Expected benefit or cost of impact	Preferred level of analysis
		Yes	No			
Stable climate and environment	Will it have an impact on greenhouse gas emissions (carbon dioxide, methane, etc.)?		x			
	Will fuel consumption be affected?		x			
	Will the variety of resources used for energy production change?		x			
	Will there be any price changes for environmentally friendly products?		x			
	Will certain activities become less polluting?		x			
Air quality	Will it have an impact on the emission of air pollutants?		x			
Water quality	Does the option have an impact on freshwater quality?		x			
	Does the option have an impact on groundwater quality?		x			
	Does the option have an impact on drinking water sources?		x			
Land quality and land use	Will it have an impact on soil quality (in relation to acidification, pollution, use of pesticides or herbicides)?		x			
	Will it have an impact on soil erosion?		x			
	Will land be lost (through construction, etc.)?		x			
	Will land be acquired (through decontamination, etc.)?		x			
	Will there be any change in land use (e.g., from forest use to agricultural or urban use)?		x			
Waste and recycling	Will the amount of waste generated change?		x			
	Will the ways in which waste is treated change?		x			
	Will there be an impact on waste recycling opportunities?		x			
Use of resources	Does the option have an impact on the use of renewable resources (fish stocks, hydropower plants, solar energy, etc.)?		x			

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	Does the option have an impact on the use of resources that are not renewable (groundwater, minerals, coal, etc.)?		x			
The degree of environmental risks	Will there be any effect on the likelihood of hazards, such as fires, explosions or accidents?		x			
	Will it have an impact on preparedness in case of natural disasters?		x			
	Is the protection of society from natural disasters affected?		x			
Biodiversity, flora and fauna	Will it have an impact on protected or endangered species or the areas where they live?		x			
	Will the size or connections between nature areas be affected?		x			
	Will there be any effect on the number of species in a given area?		x			
Animal welfare	Will animal treatment be affected?		X			
	Will animal health be affected?		X			
	Will the quality and safety of animal feed be affected?		x			

Annex 4: Form of evaluation for the impact of fundamental rights

Category of influence on fundamental rights	The main impact	Is this impact expected to occur?		Number of organizations, companies and/or individuals affected	Expected benefit or cost of impact	Preferred level of analysis
		Yes	No	High/low	High/low	
Dignity	Does the option have an impact on people's dignity, their right to life or a person's integrity?	x				
Freedom	Does the option have an impact on the right to freedom of individuals?	x				
	Does the option have an impact on a person's right to privacy?	x				
	Does the option have an impact on the right to marry or start a family?	x				
	Does the option have an impact on the legal, economic or social protection of individuals or the family?	x				
	Does the option have an impact on the freedom of thought, conscience or religion?		x			
	Does the option have an impact on the freedom of expression?		x			

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	Does the option have an impact on the freedom of assembly or association?		x	l	l	l
Personal data	Does the option include the processing of personal data?	x		h	h	h
	Are the individual's rights of access, redress and objection guaranteed?	x		h	h	h
	Is the way in which personal data is processed clear and well protected?	x		l	l	l
Asylum	Does this option have an impact on the right to asylum?	X		l	l	l
Property rights	Will property rights be affected?	X		l	l	l
	Does the option have an impact on the freedom to do business?		x	l	l	l
Equal treatment <sup>44</sup>	Does the option protect the principle of equality before the law?	x		l	l	l
	Are certain groups likely to be harmed directly or indirectly from discrimination (e.g., discrimination based on gender, race, colour, ethnicity, political or other opinion, age or sexual orientation)?		x	h	h	h
	Does the option have an impact on the rights of people with disabilities?		x	l	l	l
Children's rights	Does the option have an impact on children's rights?	x		h	h	h
Good administration	Will administrative procedures become more complicated?		x	h	h	h
	Is the way in which the administration makes decisions affected (transparency, procedural deadline, the right of access to a file, etc.)?	x		h	h	h
	On criminal law and the penalties provided: are the rights of the defendant affected?		x	l	l	l
	Is access to justice affected?		x	l	l	l

<sup>44</sup>Gender equality is addressed in the *Gender Impact Assessment*