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CONCEPT PAPER
FOR ADMINISTRATIVE DISPUTES

Prishtina, April 2017

Chapter 1: Introduction

The Ministry of Public Administration and the Ministry of Justice¹ have given a special and very important place to the administrative justice reform by considering the regulation of this area as a priority, given the fact that the law on administrative disputes is currently being applied in the field of administrative judiciary, which resulted in a significant number of gaps and legal uncertainties resulting in inefficiency and numerous delays in administrative court proceedings and in violation of the rights of the citizens to a fair trial within a reasonable time as foreseen under the international human rights standards. As a result, the Ministry of Public Administration and the Ministry of Justice have initiated the revision of legislation in the area of administrative justice which enables the regulation of the field and the realization of the rights of the parties involved in the process.

Well-functioning administrative justice system is a key prerequisite for ensuring the existence of an accountable and efficient public administration. Unfortunately, in Kosovo there are shortcomings in this regard. The 2016 EC Progress Report² has referred to the increasing backlog in resolving administrative disputes as the main reason for low public confidence in the court system. According to the Balkan Barometer survey only 31% of Kosovo population has confidence in the courts and the judiciary³. The backlog of administrative cases stood at 5380 unresolved cases at the end of 2015, an increase of 1341 from 2014. The EC Progress Report has urged the state to address the issue of the growing backlog of administrative cases in the Basic Court of Pristina. Also the SIGMA Baseline Measurement Report for Kosovo from 2015⁴ draws attention to the fact that access to administrative justice is undermined by the inefficiency of the court system which is able to cope with only a minority of incoming cases.

In order to improve the situation the Ministry of Public Administration and Ministry of Justice together with the support of OECD/SIGMA, have decided to put special emphasis to the reforming of the administrative justice system by first analysing the reasons for the existing problems and then addressing them with relevant policy measures, including regulatory intervention, if necessary. The activity is in alignment with the Kosovo Judiciary Strategic Plan for 2014-2019⁵, which also emphasises the need to enhance the administration of justice (pillar II) and build trust and confidence in the judiciary (pillar I).

Based on Decision No. 106/2016 dated 09.02.2016 of the Secretary General of the Ministry of Public Administration has established the Working Group for drafting Concept Paper for the Law on Administrative Disputes. The Working Group comprises of twelve members, including the representatives from Legal Departments of the Ministry of Public Administration, Ministry of Justice, Office of the Prime Minister, Kosovo Judicial Council as

¹ Regulation No 02/2011 on the areas of Administrative Responsibility of the Office of the Prime Minister and Ministries, Appendix 1

² https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_kosovo.pdf

³ http://www.rcc.int/seeds/files/RCC_BalkanBarometer_PublicOpinion_2016.pdf

⁴ http://www.sigmaweb.org/publications/Baseline_Measurement_2015_Kosovo.pdf

⁵ www.gjyqesori-rks.org/GetDocument/167

well as judges of Departments of Administrative Matters of Basic Court of Prishtina and Appeal Court.

The concept paper has been prepared based on discussions held at several meetings of the working group during spring, summer and autumn of 2016 as well as individual interviews conducted with the representatives of the judiciary, ministries, representatives of donor organisations operating in Kosovo and other key stakeholders. The aim of the concept paper is to describe the existing problems, analyse their causes and alternative options for addressing them and finally suggest the recommended option.

The regulation of the legal framework that would enable the realization of the above mentioned issues is related to the Government objective No. 2.5 - implementation of public administration reforms through qualitative and quantitative review of state agencies, including the necessary legal framework and activity 2.5.2 - regulation of legislation in the field of organization of Public Administration, Civil Service, Salaries, Administrative Disputes and for the freedom of association in NGOs.

Chapter 2: Description of the current situation and definition of the main issue/problem

2.1. Information and explanations

Introduction

The organisation of the judicial system in Kosovo is regulated by the Constitution of the Republic of Kosovo, Law on Courts and Law on Judicial Council. According to the Law on Courts there are seven (7) Basic courts of first instance in the territory of the Republic of Kosovo. The Law defines the internal organization of the Basic Courts as follows:

- 1) Department for Commercial Matters operating in the Basic Court of Pristina for the entire territory of the Republic of Kosovo;
- 2) Department for Administrative Cases operating in the Basic Court of Pristina for the entire territory of the Republic of Kosovo;
- 3) Departments for Serious Crimes operating at the principal seat of each Basic Court;
- 4) General Departments operating in each Basic Court and in each branch of the Basic Court;
- 5) Departments for Juveniles, operating within the Basic Courts.

The Law on Courts has set the Court of Appeal as the second instance court within the territorial jurisdiction throughout the Republic of Kosovo, which has the same organizational structure as Prishtina Basic Court. The Supreme Court is the highest judicial instance in Kosovo. Supreme Court includes the Panel of Appeals for the Kosovo Property Agency and the Special Chamber of the Supreme Court, the judges of which are part of the Supreme Court. Based on the law organization, supervision and proper functioning of the courts is the responsibility of the Kosovo Judicial Council. The Kosovo judicial system currently comprises of 350 judges.

According to the Law on Courts, Basic Court of Prishtina - Department for Administrative Matters is competent to adjudicate and decide on administrative matters for the entire territory of Kosovo. The Department has the total of 7 judges, out of which 2 judges deal with cases of Fiscal Division and 8 supportive staff. In the Appeal Court the Department for Administrative Matters is established as the second instance court and the Supreme Court is competent to decide on extraordinary legal remedies. Based on statistics from 1st half of 2016, the appeal court upheld the decision of the 1st instance court's judgment in 85% of administrative cases. This indicates that according to the appeal court, the quality of 1st instance judgments is good.

The administrative court procedure is regulated by the Law on Administrative Conflicts (LAC) which entered into force on November 2010, in compliance with Article 80.5 of the Constitution of Kosovo-as it was not signed by the President in accordance to the constitutional foreseen deadline.⁶

The main problems, which have surfaced in the area of administrative justice include:

- 1) Huge backlog of administrative cases and unduly long proceeding times for dealing with complaints of individuals against acts of administrative bodies;
- 2) Problems with the legal framework in the area of administrative court procedure, which can be grouped under three sub-categories:
 - a) LAC does not ensure effective protection of the rights of the individuals against the illegal acts and actions of administrative authorities;
 - b) several procedural steps are not regulated in LAC and therefore administrative judges are required to work with two procedural codes in parallel (LAC and the Law on Contested Procedure, LCP), which in addition to complicating their daily work also creates the possibility for non-uniform application of procedural rules by different judges;
 - c) the legal framework contains several internal inconsistencies (between LAC and LCP as well as between LAC and Law on General Administrative Procedure, LGAP) and ambiguities, which also do not ensure uniform and efficient application of the administrative court procedure or the protection of the rights of the individuals.

⁶ Article 80, paragraph 5 of the Constitution of Kosovo stipulates that "If the President of the Republic of Kosovo, within eight (8) days after receiving the law, does not undertake any decision for its promulgation or return, the law is considered promulgated, without his/her signature, and is published in the Official Gazette".

2.2. Backlog of administrative cases and long average proceeding times for administrative cases

With the entry into the force of the Law on Courts, all administrative cases which were not concluded as of 31.12.2012 were transferred from the Supreme Court to the Department for Administrative Matters in the Basic Court of Prishtina (DAM). The DAM became the competent court to deal with the administrative cases in the entire territory of Kosovo. A total of 1947 unsolved cases were transferred to the DAM on January 1, 2013. In consequence, the DAM has been forced to deal with the problem of solving the backlog from the time of its establishment.

As of 1 January 2016 the total number of unsolved cases in the DAM had reached 5380, so the amount had more than doubled in 3 years. This indicates serious problems with court efficiency. The calculated disposition time⁷ in administrative cases based on 2015-2016 data is approximately 818 days. In most countries in the EU the calculated disposition time is at least two times lower, for example in Slovenia it is 112 days, in Sweden 114 days⁸.

According to the Kosovo Judicial Council (KJC) Report for Year 2016, the DAM received 2216 new cases and 2404 cases had been solved⁹, which means on average 343.4 cases were solved by one judge during the reporting period. Even though during the Year of 2016, the first instance administrative judges were able to solve more cases than were submitted to court, with the current tempo of decreasing the backlog it would take 14.8 years to reach a situation where administrative disputes would be solved during one year (365 days) on average (provided that the number of incoming cases remains the same). It would still be longer than in several EU member states, but it could be considered as in compliance with the international standards.

According to an analysis conducted by KJC, the average duration for solving one case of the Fiscal Division, which is part of the DAM is 639 days. In 2015, the Fiscal Division had solved 341 cases.¹⁰ The following table provides an overview of the main statistics regarding the work of the DAM between 2013 and 2016.

Statistics on the work of the DAM	Year	Year	Year	Year
	2013	2014	2015	2016 ¹¹
Number of unsolved cases at the beginning of	1947	2560	4039	5380

⁷ Calculated disposition time is one of the key indicators used by the Council of Europe and European Commission for measuring the efficiency of courts. It indicates an estimation of the number of days it would take to solve a case in court on average. It is calculated by dividing the number of unresolved cases by the number of resolved cases at the end of a year multiplied by 365 (days). In Kosovo the number of unresolved cases in 1 January 2016 was 5380 and the administrative court is able to solve ca 2400 cases annually (based on data from 1st half of 2016).

⁸ Based on EU Justice Scoreboard 2016: http://ec.europa.eu/justice/effective-justice/files/justice_scoreboard_2016_en.pdf

⁹ KJC's Report on Courts, Year 2016

¹⁰ <http://www.gjyqesori-rks.org/en/kjc/report/list/1> Report of KJC on Duration of proceedings Mortgages, Bankruptcy, and Tax, 2015

¹¹ KJC's Report on Courts, Year 2016

reporting period				
Number of received cases	1720	2568	2300	2216
Number of ongoing cases	3667	5169	6339	7596
Number of solved cases	1107	1130	959	2404
Number of unsolved cases	2560	4039	5380	5192

Based on statistics regarding incoming cases from the first six months of 2016, the biggest number of complaints had been submitted against decisions on disabilities of people (23%), in customs matters (15%), taxes (12.5%) and civil service disputes (12.5%). These are also the categories where the backlogs are the biggest.

The DAM does not keep any statistics regarding the duration of individual proceedings, the number of hearings and the time between hearings in one administrative case, the number of postponed hearings and reasons for postponement of the hearings, etc. Because of this, a more detailed analysis regarding the management of administrative cases based on statistics in order to identify possible causes for increasing backlog is not currently possible. However, based on the information obtained through interviews one of the issues which negatively affects the efficiency of managing administrative disputes, has been the inconsistent representation of public bodies in court proceedings.

The State Advocacy Office (SAO) of the Republic of Kosovo operates under the Ministry of Justice with the obligation to represent public authorities of the Republic of Kosovo in judicial, arbitration and administrative proceedings. Based on information provided during interviews, the SAO is not able to consistently ensure effective co-operation and communication with the administrative bodies against whom a complaint has been submitted to court. As a consequence the SAO cannot provide the court with the documents and information necessary for ascertaining the facts of the case. In the absence of relevant information from the public bodies and/or in the absence of adequate representation of public bodies, hearings are postponed and default judgments are made in favour of the applicant, which do not go into the subject matter of the dispute.

According to Article 37 (3) of the LAC, the party is obligated to send all documents on the case to the court by the set deadline. If the party, even after the second request, does not present the documents on the case, or in case the indicted party declares that it cannot send them, the court may decide on the issue even in the absence of the documents on the case. As the provisions of the law do not provide any consequences for not complying with courts orders (other than a probable default judgment in favour of the applicant, which does not limit the future actions of the public body), some public bodies have decided not to participate in proceedings, which they may lose.

Other two issues which – based on the information obtained through interviews – negatively affect the duration of proceedings include problems with delivery of documents to public bodies and postponement of hearings due to non-availability of the court interpreter or the court clerk responsible for writing down the minutes of the hearing. The delivery of documents has been problematic apparently due to the recently adopted system of new street names which the postmen are still unfamiliar with. Hearings have been postponed when the

only court interpreter at the DAM is already occupied at another hearing taking place at the same time or when the court clerk supporting the particular judge of the DAM is ill or on vacation. Even though there may be other interpreters or clerks available in other departments of the Basic Court in Prishtina during the hearing, it will still be postponed as court clerks seem to be immovable within the organisation of the same court.

Finally, the number of appeal possibilities (within the judiciary and also within the administrative bodies) also negatively affects the overall duration of proceedings in administrative disputes. For example, according to the existing Law on Civil Servants there are already two appeal possibilities within the administration in the cases of recruitment, disciplinary measures and dismissals. The final instance within administration is the Independent Oversight Board of Civil Service of Kosovo whose decision can be appealed to the court (which consists of three instances). This means that together with the body which made the original decision, in total six instances may be dealing with one administrative dispute before the final decision is reached.

Specific statistics regarding the number of civil service disputes at each administrative instance was not available during the preparation of the concept paper and therefore the efficiency of each instance could not be assessed. However, as civil service related disputes are one of the most common ones in the court of the 1st instance, the effectiveness of the pre-judicial instances may not be adequate and instead of providing a final solution to a considerable number of disputes before judicial proceedings have to be undertaken, they instead simply increase the number of steps which have to be taken before a final solution is reached in court. In addition, based on statistics from 1st half of 2016, in 59% of the decisions made in civil service related disputes the 1st instance court found in favour of the applicant. This also shows that the quality of administrative decisions made in the pre-judicial stages is not adequate. The total approval rate of complaints (excluding cases which were withdrawn, dismissed or ended in agreement) regarding all categories is 58%, so it seems that in all areas the existence of pre-judicial administrative appeal possibilities is not ensuring that low quality administrative acts are overturned before reaching court.

2.3. Problems with the legal framework in the area of administrative court procedure

2.3.1. LAC does not ensure effective protection of the rights of the individuals

Inability of the administrative court to ascertain the facts of the case

According to Article 37 (3) of LAC the court can decide on the issue, even in the absence of relevant documents necessary for adjudicating the case. According to Article 43 (3) the court can, but is not obligated to, ascertain the facts of the case on its own initiative. This may be in accordance with the principles of civil procedure, where two equal parties are involved, however in administrative proceedings the possibility to make default judgments without ascertaining the facts of the case does not effectively ensure that the rights of the individual have been restored. The state body which has not provided the relevant documents and data or maybe has not been participating in the proceedings at all (see also 2.1. regarding the effectiveness of SAO), can issue another similar administrative act to the one which was contested, because the substance of the matter has not been subject to judicial scrutiny and

the court has not been able to make a well-founded decision on the legality of the contested administrative act (which could also contain guidance to the administrative body for ensuring legality of future administrative acts, if necessary). As a result, the affected individual must turn to the court again for protection against the new illegal act of the administration.

Non-enforcement of court's decisions

Article 68 of LAC describes the current enforcement mechanism of court decisions. According to the provisions, after the administrative body has failed to execute the court's decision during 30 days after the decision became final, the complainant can submit a request to the body for executing the decision. If this is not complied with within 7 days, the complainant can request the court to issue the required administrative act in the place of the administrative body. This enforcement mechanism is blurring the responsibility lines between the administration and the judiciary and as such may not be in compliance with the principle of separation of powers. In addition it definitely does not ensure efficient and timely enforcement of court's judgments. The law has created a legal alternative to enforcing the court's decision, which enables the administrative body to bypass the obligation to comply with court's judgments.

This problem, together with inconsistent representation of public bodies (as described in 2.1.) and the inability of the court to ascertain the facts of the case (as described above), enables the emergence of the phenomenon referred to as ping-pong of administrative cases between the DAM and the public bodies whose acts have been contested in court. Among others, the Ombudsperson has drawn the state's and court's attention to the existence of this phenomenon, for example in its report from August 2016 "Related to the lack of effective legal remedies", which was addressed to Ministry of Labour and Social Welfare (MLSW) and Basic Court in Prishtina¹².

Bearing the costs of proceedings

According to Article 64 of the LAC, each party to the proceedings shall bear their own costs regardless, who wins the case. As it cannot be assumed that individuals are always capable of representing themselves in court proceedings and may need professional help which costs, such a provision effectively limits access to justice. In certain cases the harm done by illegal administrative act may be smaller than the court costs (the fee together with the costs of representation as well as time spent) and therefore individuals may decide not to appeal on illegal administrative acts, thereby undermining the accountability and legality of the public administration as a whole (in addition to limiting access to justice).

2.3.2. Gaps in the LAC

According to Article 63 of LAC, in the procedural matters which are not regulated in LAC, the provisions of the LCP shall apply. For example, LAC – with the total of 72 Articles – does not contain any provisions regarding appeals procedures (except for the general

¹² [http://www.ombudspersonkosovo.org/repository/docs/\(22.8.16_\)_Ex_officio_nr._425-2015_Raport_me_rekomandime-mungesa_e_mjeteve_juridike_efektive_Eng_706228.pdf](http://www.ombudspersonkosovo.org/repository/docs/(22.8.16_)_Ex_officio_nr._425-2015_Raport_me_rekomandime-mungesa_e_mjeteve_juridike_efektive_Eng_706228.pdf)

provision in Article 23 (2), that appeals are submitted to the appeal court), the grounds for suspending or re-opening proceedings, imposition of fines in case the participants fail to follow court orders or execute decisions etc. According to rough estimates of judges, in ca 80% of procedural issues the LCP is applied.

One of the reasons for gaps in LAC is that it was adopted during the time, when administrative court procedure consisted of only one court instance in Kosovo – the Supreme Court – and it has not been properly amended for use in a 3-instance court system. As a result judges have to use two procedural codes in parallel in their everyday work instead of one; it is more time-consuming and complicates the work as the source of procedural rules may not always be clear. This in turn creates the possibility for non-uniform application of procedural rules by different judges.

2.3.3. Inconsistencies in the legal framework

The main inconsistencies appear regarding the definition of the administrative case, within the provisions of the LAC, between the provisions of the LAC and the LCP as well as between the LAC and the LGAP and the overall structure of the LAC.

The definition of the administrative case

During the analysis undertaken for the preparation of this concept paper, at least two occasions were identified when the legal framework is not consistent in defining the mandate of the DAM as the judicial organ responsible for adjudicating administrative cases.

The first occasion involves minor offence cases. According to the Law on Minor Offences which was adopted in 2016 and implemented as of 1 January 2017, there can be two competent bodies for imposing fines to individuals and legal persons in minor offence cases. Monetary sanctions up to 500 EUR for individuals and up to 1000 EUR for legal persons can be imposed by administrative bodies and non-monetary sanctions as well as monetary sanctions above the referred limit are imposed by 1st instance judges from the General Department in the Basic Court. Such a system where part of the decision-making authority has been delegated to the administrative bodies is common also in other civil law countries. However, the system of appeals in minor offence cases in Kosovo is uncommon to other countries and even more importantly in the current format affects negatively the work of administrative judges at DAM as well as the individuals submitting the appeals.

According to Article 64 of the LMO, the DAM is competent to review appeals against the 1st instance decisions of administrative bodies in imposing fines as a result of minor offence proceedings. At the same time, if the sanction in a minor offence case was imposed by the judge of the General Department at the Basic Court, the appeal is submitted to Court of Appeal. This means that there will be different appeal paths for minor offence cases, depending on the amount of the financial sanction – all appeals against fines up to 500 EUR (or 1000 EUR regarding legal persons) shall be dealt with by administrative judges and all appeals against higher fines will be dealt with by other judges.

The reason for this distinction is not clear, because the essence of both cases (imposition of a sanction for a minor offence) is the same. There are also distinctions in the mandate of the

judges in the different departments when reviewing the appeal– if the judge in the General Department of the Court of Appeal dealing with an appeal in a minor offence case finds the fine too high, he/she can amend the decision of the lower court and issue a new decision with a decreased fine. However, the judge at the Department for Administrative Matters when reviewing the appeal against the fine imposed by an administrative body can only abolish the appealed decision and send the case back to the administrative body, because he/she does not have the mandate to amend the original decision or make a new decision in the place of the administrative body. This will make the appeal procedures in cases with smaller sanctions (which make up the majority) less efficient and will prolong the time it takes for the appellant to ensure the protection of his/her rights.

In addition, based on the current appeal logic in minor offence cases, the delegation of the decision-making power to administrative bodies in the majority of minor offence cases will flood the DAM with appeals against fines imposed by administrative bodies. For example, in the first nine months of 2016, the number of incoming minor offence cases to Basic Courts was 275 544 – majority of these cases will be dealt with administrative bodies starting 1 January 2017. It is difficult to predict the exact number of appeals which will be submitted against the decisions of administrative bodies, but as during the first months after the implementation of the reform, administrative bodies may lack the competence to apply the provisions of the LMO, the number of decisions with questionable quality can be quite high. As a result, judges of the DAM who should be specialised on administrative cases, have to deal most of the time with minor offence cases, where the legal principles of criminal procedure apply instead (the question of guilt, intent, etc.). This will negatively affect their competence in dealing with administrative cases and may affect the quality of their decisions.

Another example of inconsistent definition of the administrative case according to the current legal framework in Kosovo is the judicial protection provided in competition cases. According to Article 13 (1) of the Law on Courts, disputes regarding impingement of competition, misuse of monopoly and dominant market position, and monopolistic agreements will be adjudicated by the Department on Economic Matters of the Basic Court of Prishtina. At the same time, these cases will be based on the appeal against the administrative decision of the Kosovo Competition Authority (which has been made as a result of an administrative procedure). It is difficult to understand why competition cases are not under the competence of the DAM similarly to other complaints against decisions made as a result of an administrative procedure.

Inconsistencies within LAC and between LAC and LCP

LAC foresees three extraordinary legal remedies: 1) request for extraordinary review of the court judgment; 2) request for protection of legality and, 3) request for procedural review. The provisions regulating the review against the court judgment or final decision are for the most part identical to the provisions of the LCP. However, according to Article 58 of LAC the court which delivered the final judgment is also competent to decide on the request for extraordinary review. This may have been appropriate in the one-instance judiciary which existed until 2013 whereby the Supreme Court reviewed administrative disputes as the first and final instance, but it is not in accordance with the 3-instance judiciary which has been established since. As a result, according to the current provisions, the Supreme Court has the mandate to decide of requests for revision in civil matters, but not in administrative matters.

Another inconsistency appears in the deadlines allowed for responding to the court. In contested procedure the deadline is 15 days, while in administrative disputes the deadline according to LAC is 30 days. This means that an administrative body (with a professional apparatus which has to be always operational) has more time for responding than a party – often an individual – in a civil dispute. In the end this will also negatively affect the overall duration of proceedings in administrative dispute cases and will prolong the time it takes for an individual to secure the protection of his/her rights. Furthermore, Article 37 (3) of LAC foresees that the court must attempt to deliver the complaint to the defendant (a public body) two times, if the first attempt was unsuccessful. Given that the location of the public body must be stipulated in the act which established the body and the body should be operational at least 8 hours on all working days, it is difficult to understand how an attempt to deliver a document to the public body can fail at all and why such provisions – describing rules for unsuccessful delivery attempts to public bodies – must exist in the law regulating administrative disputes. In the end, such provisions provide additional opportunities for public bodies for not complying with court orders and for prolonging the duration of proceedings or limiting the possibilities for ascertaining all relevant facts of the case.

Finally the structure of LAC is not in accordance with applicable standards for drafting normative acts¹³. Some articles have titles, some do not and articles regulating similar matters (e.g. general articles, submission of the complaint, stages of the court procedure etc.) have not been grouped into chapters in order to increase the overall clarity of the law.

Non-alignment between LAC and LGAP

The LGAP foresees the possibility to submit an administrative complaint not only against an administrative act, but also against administrative actions (including inaction) and administrative contracts (see Article 136). LAC, at the same time, ensures judicial review only regarding legality of administrative acts. As a result the extent of judicial protection in administrative proceedings is smaller than the extent of protection foreseen in LGAP.

In addition, LGAP contains provisions regulating electronic communication in administrative proceedings (article 117). LAC does not foresee such a possibility, even though it could make the communication between the court and administrative bodies much more efficient and quicker; thereby also shortening the proceeding times in administrative disputes.

2.4. Laws and bylaws

The administrative court procedure is regulated by the LAC which directly covers and regulates this field of justice, however also other laws indirectly influence this field. They are listed in Annex 2.

2.5. Bodies responsible for implementing the current policy and their budget

¹³ Administrative Instruction No 03/2013 on standards for the drafting of normative acts

The bodies responsible for the management and operation of the administrative justice sector are the following:

- 1) The Ministry of Justice is responsible for drafting the legal framework for court procedures and organization of the courts.
- 2) The Kosovo Judicial Council ensures the independence and impartiality of the judicial system. In this context, the Council functions include recruitment procedures, appointment, reappointment, transfer, disciplinary measures, evaluation, promotion on duty of judges and lay-judges; court management and administration, and development and the oversight of the budget of the judiciary.
- 3) Kosovo Academy of Justice is responsible for training of judges and for training of candidates for judges;
- 4) the Basic Court in Pristina is responsible for the management of the DAM, e.g. for the transfer of judges from other departments in order to reduce the number of backlog, hiring of support staff specifically professional associates and providing other logistical support jobs such as court interpreters, etc.
- 5) the DAM is responsible for adjudicating administrative cases in the first instance;
- 6) the Department of Administrative Matters in the Appeal Court is responsible for dealing with appeals against decisions of the DAM;
- 7) the Supreme Court is authorized to decide on extraordinary legal remedies against the decisions of the DAM;
- 8) second instance administrative bodies are responsible for the review of complaints against administrative acts within the administration.

Expenditure category	Factual expenditure in the previous year	Budget of this year	MTEF for the coming year
1. Budget of the Basic Court of Prishtina	3,907,626	4,272,592	4,272,592
2. Other budgets:			
2.1. Budget of the Appeal Court	1,126,158	1,308,398	1,308,398
2.2. Budget of the Supreme Court	1,030,317	1,106,990	1,106,990
2.3. Kosovo Judicial Council	3,480,604	2,137,259	2,254,833
2.4. Kosovo Academy of Justice	570,384	663,884	664,906

2.6. Experience of other countries in the region

Almost all countries in the region have a specialized system of administrative justice within the judiciary. Most countries (the only exception is Bosnia & Herzegovina) in the Western Balkan region have established a first-instance court called the Administrative Court which adjudicates complaints against administrative acts, administrative actions, administrative contracts and other matters regulated by law. In most countries the number of support staff for judges (including technical support and legal advisers) is 2-3 times bigger than that of administrative judges.

2.6.1. Albania

Albania adopted the Law on the Organization and Functioning of Administrative Courts and Administrative Disputes in 2012, by which it established the specialised administrative court. Prior to the law, the administrative disputes were solved in administrative sections of the District Courts, which were regulated as special trials in the Code of Civil Procedure.

Besides the establishment of administrative courts in November 2013 (6 administrative courts of first instance in Bulqizë, Dibër, Krujë, Lac, Mat and Tirana with 16 judges, the Court on administrative measures of Appeals and Administrative College on the Supreme Court), innovations were introduced to the administrative procedure as well. For example, the burden for proving the legality of administrative acts was placed on the administration; secondly the plaintiff's failure to appear is not a reason for dismissing the trial. The new law set specific deadlines for the presentation of evidence and the preparatory actions of the court procedure.

The main function of the Administrative Court is to deal with disputes arising from:

- 1) the implementation of administrative acts and administrative contracts;
- 2) disputes arising out of unlawful interference or inaction by the public body;
- 3) disputes of competences between the various administrative bodies;
- 4) disputes in the field of labour relations when the employer is a body of public administration;
- 5) as well as trials for the review of administrative offenses punishable by imprisonment up to 30 days or requirements for the replacement of this punishment.

2.6.2. Bosnia & Herzegovina

Administrative cases are handled by general courts which have jurisdiction for decisions issued by administrative bodies of the State level, the Entities and the Brcko District. The specialisation of judges in various areas of administrative cases (e.g. taxation, public

procurement, construction laws) is not ensured, because of the low number of judges in each of the general court unit.

First instance courts maintained a clearance rate of 91% in total, which means that the backlog of administrative cases is increasing slightly. Also, the number of unresolved cases per judge at the end of 2014, calculated for all courts in the country, is high (165 cases per judge). This raises concern about the length of court proceedings. The level of trust in the courts is low (35.3% in 2014). On the other hand, the share of first instance judgments quashed or changed by the appellate courts (commonly used as an indicator of the quality of court rulings) is at 22%.

2.6.3. Slovenia

Slovenia adopted a Law on Administrative Disputes in 1997. Prior to 1997, the Supreme Court was responsible for administrative disputes. A new specialized Administrative Court was established with a court seat in Ljubljana and three court units in Celje, Maribor and Nova Gorica. In 2006, a new Law on Administrative Disputes¹⁴ was adopted and several novelties were introduced.

In administrative dispute, the Court rules on the legality of final administrative acts which interfere with the legal status of the plaintiff and on the legality of other acts, only if stipulated by law. Courts adjudicate only in matters of legality of individual acts and actions. Right to appeal is limited. Appeals against the Administrative court decisions to the Supreme Court are permitted only if the Administrative court has decided in merits (in dispute of full jurisdiction).

Currently, 27 judges and 44 administrative staff are employed in the Administrative Court. In 2015 court received 5222 claims; the backlog at the beginning of the period was 1724 cases. Judges solved 5301 cases in 2015 which mean that clearance rate was more than 108%.¹⁵

2.6.4. The Former Yugoslav Republic of Macedonia (FyRoM)

FyRoM set up a new system of administrative justice in 2006 when a new Administrative Court was established. The Administrative Court and the High Administrative Court set up a two-instance system of administrative justice. The classic appeal system was established in 2010, before which time the second-instance court was a Supreme Court. The Administrative Court has 29 judges, 19 associate professionals and 48 administrative staff. Courts adjudicate claims against individual administrative acts or other individual legal acts and also in matters of minor offences. More than 11000 cases are received every year, in last two years the clearance rate of the first instance administrative court is more than 110%. Over 10000 cases

¹⁴ Zakon o upravnem sporu, Official Gazette, 105/06

¹⁵

http://www.sodisce.si/usrs/osnovne_informacije_o_sodiscu/seznam_strateskih_in_programskih_dokumentov/

are still pending in the backlog. High Administrative Court as the second instance court has 9 judges and 12 administrative staff. Almost 15% of first-instance judgments are appealed to the higher court.

Minor offences are the subject of administrative dispute. At least 40% of all cases are claims against state bodies which are competent to impose fines or other measures for minor offences.

2.6.5. Republic of Serbia

The Administrative Court started operating on January 1, 2010 and is established as a court of special jurisdiction. The Court seat is in Belgrade. Three court units outside the court seat are located in Kragujevac, Novi Sad and Niš. Internal organisation and work of the Administrative Court is regulated by the Law on Judges, Law on the Organisation of Courts and Court Rules of Procedure.

The Supreme Court of Cassation decides upon appeals against decisions issued by the Administrative Court. An administrative dispute may be initiated against any administrative act issued during the proceedings at the second-instance administrative body and against the first-instance administrative act where there is no right of appeal within the administration.

Administrative Court operates with 38 judges. Administrative Court judges are divided into panels within the court seat and court units according to the annual calendar of tasks. Judges are supported by 53 advisors and 72 administrative staff. In 2015 court received 20315 claims. The total number of unsolved cases is 44577. Clearance rate in 2015 was 92%.

2.6.6. Montenegro

In 2003 a specialized Administrative court was established and began its work on 1 January 2004. The Court started with 1200 cases which were transferred from the Supreme Court. The Administrative Court has 12 judges, 10 professional associates and 33 supporting administrative staff. The Law on Administrative Conflicts regulates almost all steps of the court procedure and in limited number of issues the Law on Civil Procedure is used. Parties do not have the right to appeal. The Supreme Court adjudicates only in cases of an extraordinary legal remedy.

At the beginning of 2015 court had 1813 unsolved cases. During 2015 court received 3689 new claims. The clearance rate was 90.5%.

2.7. Summary of current problems in Kosovo

The following problems have been identified in Kosovo as a result of the analysis. They are grouped into four main groups.

2.7.1. Capacity-related problems resulting in long duration of proceedings

- 1) Huge backlog of administrative cases in the DAM – based on the current tempo for solving cases it would take the court more than 2 years to solve all cases currently in the backlog without any new cases coming in. As a result of the backlog, the average duration of proceedings based on the calculated disposition time method is 818 days;
- 2) SAO not able to ensure that all documents and data necessary for adjudicating the case are presented to the court upon request;
- 3) Inability of the postal service to deliver documents to public bodies;
- 4) The DAM's and Basic Court's internal working methods and their inflexibility in providing technical support to judges (e.g. interpreters and court clerks) results in postponed hearings and causes delays in dealing with the cases;
- 5) Compared to other countries in the region, the judges at the DAM do not have enough support staff, as a result the judges are overburdened with administrative work and have less time for judging;

2.7.2. Legal framework does not support efficient and effective procedure

- 6) The provisions of LAC do not obligate the court to ascertain all facts of the case on its own initiative if necessary and do not ensure proper and timely execution of court's decisions, this results in the ping-pong of cases because individuals have to submit new complaints to court as the initial court decisions do not ensure effective protection of their rights;
- 7) Inconsistencies in the definitions of the administrative case regarding the disputes against Kosovo Competition Authority's administrative acts;
- 8) With the implementation of the Law on Minor Offences, the DAM will be flooded with appeals against monetary sanctions imposed by the administration even though the law does not provide them with the mandate for efficiently dealing with these appeals and appeals on other minor offence cases are dealt with the General Department of the Basic Court. This undermines the specialisation of the judges of the DAM in administrative disputes and forces them to focus on dealing with the huge number of minor offences instead of complaints against decisions made as a result of administrative procedures (which can be considered the real administrative cases);
- 9) Inconsistencies within the legal framework complicate the work of judges and increase the time it takes for adjudicating an administrative dispute – judges have to work with two procedural codes in parallel;
- 10) LAC provisions allow inefficient delivery of documents - deadlines for responding to court are longer for public bodies than for participants in civil proceedings, public bodies have the legal possibility to evade delivery of documents, electronic communication with public bodies is not allowed in law;

11) Too many mandatory appeal possibilities within the administration against administrative decisions which prolong time it takes for achieving a final decision in the case and require resources from the state and the participants of proceedings without providing good quality decisions;

2.7.3. Problems related to access to justice

12) The provisions of LAC according to which expenses of the procedure are borne by both parties themselves regardless of the results of the procedure seriously limits access to justice;

13) According to LAC no judicial protection provided against unlawful administrative actions and inaction, while the soon-to- come into effect LGAP provides administrative appeal possibilities in both cases;

2.7.4. Lack of confidence in the judiciary

14) According to the Balkan Barometer survey only 31% of Kosovo population has confidence in the courts and the judiciary.

Chapter 3: Purpose and objectives

The overall goal of this concept paper is to describe the regulative and non-regulative measures which will help establish an administrative justice system, which ensures fair treatment, is accessible, efficient and able to adjudicate cases within reasonable time. The three main objectives based on the three main groups of problems are:

- 1) Decrease the backlog of administrative cases by the end of 2020 to the level where the backlog of administrative cases (excluding appeals on minor offences as they should not be kept under the competence of the administrative judges) is not more than the number of administrative cases adjudicated annually (based on 2020 data). Thereby the calculated disposition time of administrative cases would be not more than 365 days;
- 2) Establish court's clear mandate and obligation to ascertain all facts of the case during the proceedings (on its own initiative) in order to make a substantiated judgment in all cases and 99% of court judgments will be executed by the administration within the required time period;
- 3) Remove existing financial and legal barriers which limit access to administrative justice, including non-alignment with LGAP.

Chapter 4: Summary of Options

The table in Annex 1 includes a description of the options for addressing the 14 main problems of the current situation described in chapter 2. The table will include three options for solving each problem: the do nothing option, the regulatory option and the option for providing additional resources. The preferred option(s) – in terms of the effectiveness or efficiency in solving the problem – is marked in bold.

Option 1: Option status quo (no change)

According to Option 1 there will be no change.

Problems with the efficiency of courts will continue, if not the problem will deteriorate further, due to the number of new minor offences cases which are expected to be received after 1 January 2017 by the Department for Administrative Matters. It will be impossible to clean the backlog of unsolved cases, due to the current number of judges and supportive staff.

Backlog will remain as it is; public trust in judiciary will decrease; people will not turn to court for protection against the administration, meanwhile the administration will become even less accountable, less effective and much more costly. The existing Law on Administrative Conflicts does not follow new developments and directions in the organisation of judicial protection of individuals and legal entities against unlawful actions by the administration. If we continue with this system, the main goal to increase the efficiency will not be achieved, the LAC does not have its rules, but is referred to the Law on contested procedure, application of which in most situations deteriorates and prolongs the administrative procedure. By this system, the ping-pong of cases will pursue its path, and DAM judges will have to continue to work with 2 procedural codes

Option 2: Change of the existing policy

In short, the preferred options foresee the implementation of the following 10 steps (with some sub-steps):

1. Elaboration of a new Law on Administrative Disputes, which will regulate the entire administrative procedure and refer to LCP on issues which will be applied entirely similarly in both procedures (if such issues exist). Specifically, the new law will contain the following provisions:

- 1.1. The obligation of the court to ascertain the facts of the case on its own initiative;

- 1.2. The right of judicial protection against unlawful administrative actions and inaction;

1.3. Judicial protection of the objective law against sub-laws of administrative bodies (legitimacy, competency, legal terms);

1.4. The right of the court to impose a fine against a participant if it fails to comply with court's orders during the procedure or when executing the judgment.

1.5. The court costs (fee, expenses related to representation etc.) of the complainant will be borne by the defendant, if the complaint is approved by the court (within the reasonable limit established by the law or the court in each individual case);

1.6. The obligation of the court and public bodies to communicate electronically between each other;

1.7. The possibility for legal advisers to sign court documents and intermediate procedural orders which cannot be appealed;

1.8. Maximum 15-day deadline for public bodies for responding to court's requests;

1.9. The final judgment (after all appeal possibilities have been exhausted) will be published on the web. The complainant can request the removal of his/her personal data from the judgment before publication.

2. Amendment to the Law on Courts so that complaints against administrative acts and actions of the KCA will be under the competence of the DAM;

3. Amendment to the Law on Minor Offences so that appeals against minor offence decisions will have to be submitted to the same department within basic court who deals with minor offence cases also as a 1st instance judicial body.

4. Amendment to LGAP so that administrative appeal is mandatory only in very selected areas (e.g. public procurement) where the non-judicial dispute resolution filter can function effectively and efficiently by reducing the number of complaints submitted to court and providing access to justice in a quicker manner than it would be possible through court. Other areas administrative appeal can remain only as a non-mandatory option before turning to court.

5. Create additional judge's posts in the DAM (by reallocating judicial posts from general departments of basic courts which previously dealt with minor offences) in order to achieve normalisation of the backlog of administrative cases by 2020. After the size of the backlog has been normalised (calculated disposition time is less than 365 days), it is possible to assess (based on the number of incoming cases) whether the number of judicial posts can be reduced (e.g. through not replacing retired judges with new ones) or if they have to be maintained.

6. Create posts of legal advisers – at least 1 adviser for 2 judges – in order to minimise the performance of non-judicial tasks by judges, decrease the workload of the judges and make the court function more efficiently.

7. Provide training to judges and legal advisers on the regulatory changes, mainly the new Law on Administrative Disputes.

8. Support flexibility and responsiveness to everyday requirements in the internal organisation of the DAM. Introduce a calendar for booking the resources of interpreters (based on the data available regarding participants invited to hearings) in order to avoid overlaps and postponement of hearings because of a non-available interpreter. Introduce a system for temporarily substituting support staff so that during each vacation/leave there would be a replacement appointed.

9. Provide additional resources for training and equipment of postal services so that they would be more familiar with the new street names.

10. Provide additional resources for training of administrative bodies to increase the quality of their decisions and actions.

As a result of the proposed measures, the administrative judges will be able to decide on administrative disputes in substance without taking over the responsibilities of the executive power. They will have the tools to order the public bodies to respond to the court's requests regarding data and documents which are required for ascertaining the facts of the case. With these measures – as well as with additional training - the accountability of the administration will increase as well as the efficiency.

With additional resources (including judges and legal advisers) and more efficient proceedings as well as internal organisation the backlog of administrative cases will decrease. The additional costs can at least partly be financed by reallocating resources within the judiciary (from departments which dealt with minor offences where decision-making authority was delegated to the administrative bodies) or from reallocating resources from the administrative appeal bodies which should not remain as mandatory and will have fewer cases. Administrative judges will be able to specialise on pure administrative disputes and the quality of judgments will increase.

The people will have increased access to the court as the court costs will be borne by the state, when the court decides in favour of the applicant. Also the judicial protection against unlawful acts and actions of the administration will be in line with the protection provided in administrative appeal procedures. The transparency of the judiciary will increase through publishing all final judgments in administrative cases and with that hopefully also the confidence of the public in judiciary.

Option 3: Changing only the approach of the existing law

Through this option it will only aims to change the approach in the law for administrative conflicts and the current legislation on administrative judiciary in general.

Changing only the approach of the existing law of enforcement administrative conflicts without changing the law, cannot affect the achievement of the main objective of this concept paper to increase the efficiency because it cannot be implemented the specified provisions expressed with the of current law. Moreover, the current law has a number of gaps and legal

uncertainties, which could not be applied differently in order to avoid delays in the proceedings, delays in hearings, ping-pong of cases and consequently violations of citizens' rights to a fair trial within a reasonable time and judgment.

No other alternative whether training or the budget increase can not affect the increased efficiency of the courts only by changing the existing approach to implementation.

Without changing the law on administrative conflicts they would not be able to be implemented differently the provided provisions of the current law on administrative conflicts and could not be met numerous gaps in current law.

Chapter 5: Summary of options

Included in the table of Annex 1.

Chapter 6: Analysis of options

In this part of the Concept Document we will see what are the advantages and disadvantages of the options above.

However it must be admitted that it is not possible to assess accurately all the benefits, negative consequences and cost of options, but through analysis of available information and consultation with affected parties, the main benefits and disadvantages would be identified.

Advantages

1. Regarding the first option, maintaining the status quo, the main benefit of this option is to save time at the moment, without the need to proceed with drafting and adoption of the new Law on Administrative Conflicts.
2. Regarding the second option, namely the adoption of a new law on administrative conflicts, is considered the best solution that provides lasting and sustainable solution, through which all identified issues will be addressed.
3. Regarding the third option, the benefit may be minimal, by changing of existing approach to implementation of the current law on administrative conflicts, as this option does not provide long-term sustainable solution, because it does not address most of the issues identified.

Disadvantages/ negative consequences

1. Regarding the first option, maintaining the status quo, the main negative consequences of this option is the continuation of the inefficiency of the court due to the large number of cases

and the small number of judges and administrative staff. Also failure to special rules of procedure for administrative conflicts with current law, and the need for implementation of the Law on civil procedure is causing delays of the procedure.

2. Regarding the second option, drafting and adoption of the new Law on Administrative Conflicts, the consequence will be the time that will be spent in drafting the new law.

3. Regarding the third option, a negative result will be additional budget allocation in order to address the issues identified, while the majority of these concerns cannot be addressed only by increasing the budget to change the existing approach of implementation of the current Law.

Distribution effect

Also, in terms of the distribution effect, in terms of changes to benefits and negative consequences, to the different regions, urban or rural areas, cannot be determined with certainty at this stage the distribution effect.

Summary of Financial Impact Assessment

Regarding implementation of the Law on administrative conflicts will be responsible Departments of Administrative Matters of the Basic Court of Prishtina and Court of Appeal and the Supreme Court of Kosovo.

The proposals which will influence the costs of the concerned bodies include the creation of additional judicial posts and posts of legal advisers to the DAM, costs of additional training of judges, legal advisers and court clerks as well as costs associated with the cost of training civil servants (in order to be more capable to adopt lawful administrative decisions).

The monthly salary of a judge is 1030 EUR, the annual cost of a judicial position is therefore 12 360 EUR. The annual salary of a clerk is 4200 EUR (monthly salary is 348.56 EUR). At least temporarily – in order to normalise the size of the backlog by 2020 as is the objective and to cope with the number of increasing incoming cases due to better access to justice which is achieved through the adoption of the new LAD – the number of judges in the DAM should be increased by 7 additional posts (thereby the total number of judges in the DAM will be doubled). This will also mean 7 additional clerks. In addition, 7 additional posts should be created in the DAM for legal advisers with a salary up to 75% of that of a judge.

The total annual costs associated with the creation of additional posts will be 180 810 EUR (ca 4.2% of the current budget of the Basic Court in Prishtina).

Type of the additional position	Number of additional positions	Annual salary (EUR)	Total annual cost (EUR)
Judge	7	12360	86520
Legal Adviser	7	9270	64890
Clerk/minute keepet	7	4200	29400
Total			180 810

The total annual costs associated with the creation of additional posts will be 180 810 EUR (ca 4.2% of the current budget of the Basic Court in Prishtina). Additional 60 000 EUR (ca 20% of their annual salaries) should be allocated to the training of judges and legal advisers at the DAM (for trainings on the new LAD and on principles of effective judicial protection in administrative disputes). At least 100 000 EUR should be allocated annually to KIPA for the training of civil servants on administrative procedures.

The impact on the overall state budget and the budget of the judiciary depends on how much resources can be reallocated from the Basic courts' departments dealing with minor offences (which should be able to cope with considerably fewer resources as a big portion of their work has been delegated to the administrative bodies) and from second instance administrative bodies (which do not function efficiently, do not prepare good quality decisions and are not able to considerably decrease the number of incoming cases to DAM). In order to finance the creation of additional posts (180 810 EUR) by reallocating resources from the departments dealing with minor offences, the number of judges in these departments would have to be decreased by 15 positions. This would free 185 400 EUR from the budget of these other departments solely on the basis of judicial salaries, in addition the cost associated with clerks in other departments can also be decreased. If all of these posts are currently not vacant, some of the existing judges and clerks from the departments dealing with minor offences can be reallocated to the DAM. The premises for the new positions can also be reallocated from within the court (from departments where the number of judges and clerks decreases).

This way the changes can be financed from within the budget of the judiciary. Similar reallocations can be made at the level of the appeal court, because the number of incoming cases to the appeal court can also increase, if the number of incoming cases to the first instance court dealing with administrative cases increases.

As a result, the cost for reform in the administrative justice will be carried by the budget of the Republic of Kosovo, while regarding the public awareness campaign, is expected support from the donor community of Kosovo.

Chapter 7: Consultation

From the beginning, local and international experts have been involved in drafting this concept paper. Before formally drafting this concept paper, the MPA has held two roundtables in order to discuss the issues of administrative justice with key institutions, including: the Ministry of Justice, the Kosovo Judicial Council, the Ombudsperson, IOBSCK, the Judges of the Basic Court and Appeal court (charged with administrative matters), civil society (GLPS), SIGMA/OECD experts.

7.1. Consultation with experts (outside the government)

7.2. Consultation with other ministries

7.3 Consultation with stakeholders - affected directly organizations or individuals

7.4. Consultation with the public and civil society

Related to items 7.1, 7.2, 7.3 and 7.4, please find attached the report on preliminary and public consultations.

Chapter 8: Recommendation

The Recommendation of the Ministry of Public Administration and of the Ministry of Justice is that the Concept Document should be approved by the government as soon as possible in order to avoid the difficulties and obstacles that are presented during the practical implementation of the Law on Administrative Conflicts. The recommended option in this Concept Document is option 2, the issuance of the new Law on Administrative Disputes, amendment of the Law on Courts, Law on minor offences cases, establishing of additional judge's posts in the DAM, establish additional posts of legal advisers, provide training to judges and legal advisers on the regulatory changes, provide additional resources for training of administrative bodies to increase the quality of their decisions and actions. This option allows addressing the concerns identified by courts and other relevant institutions.

Another great benefit of this recommendation will be a positive reflection of the Report of the European Commission for Kosovo after the entry into force and commencement of implementation of the law on administrative conflicts.

In case of approval of the Concept Paper, the Ministry of Public Administration and Ministry of Justice will begin preparations for the drafting of the new Law on Administrative Conflicts, which will be sent to the Government for further proceedings.

All of these changes will be achieved in twelve (12) months after the entry into the force of the new Law on Administrative Disputes.

Chapter 9: Communication

Ministry of Public Administration and Ministry of Justice will be focused on providing information about the details of the supplement and amendment process, which will take into account the consultations with experts in the relevant field and consultation with relevant stakeholders and the civil society. The communication will be realized by implementing comprehensive access to all relevant stakeholders through roundtables, various meetings, etc.

Annex 1. Summary of options for solving existing problems

Problem	Causes	Option 1: Status quo	Option 2: regulatory	Option 3: non regulatory
1. Duration of proceedings	1.1. Backlog	Do nothing: Backlog will remain as it is; public trust in judiciary will decrease; administration will become less accountable, less effective and much more costly.	Provide additional resources together with regulatory and non-regulatory changes (see under 1.2., 1.3., 1.4., 1.5., 2.1.,), which help speed up the process.	Provide additional resources: create additional posts for judges. Courts can dispose of more cases, but without the necessary regulatory changes will become less efficient, option costs more money than is reasonable. Provide additional training to judges on the regulatory amendments.
	1.2. State authorities not providing documents on request of court	Do nothing: the situation will remain as it is; public bodies provide the requested documents and appear in court at their own will.	Regulatory change: if the public body whose act or action has been challenged in court does not provide the requested data or documents, the court can impose a fine against that body (payable from the budget of the body).	Provide additional resources to SAO and make them responsible for collecting all the necessary documents for all cases: can be effective, but is not efficient and the actual body sued is not held accountable.
	1.3. Problems with delivery of documents	Do nothing: gradually postmen will learn the new street names and be able to deliver documents more	Regulatory change: establish mandatory electronic communication with public bodies (who must have e-	Provide additional resources for training and equipment (i.e. phones with Google Maps) of postal services so that they would

		efficiently	mail addresses anyway).	be more familiar the new street names
	1.4. Inflexible internal rules reallocation of staff in DAM	Do nothing: each judge will have his/her own support staff, each court department will have its own interpreters	Regulatory change: if required to introduce non-regulatory changes for creating additional flexibility within the court's internal organisation.	Introduce a calendar for booking the resources of interpreters within one court location (based on the data available regarding participants invited to hearings) in order to avoid overlaps and a temporary substitution system between support staff so that during each vacation/leave there would be a replacement appointed.
	1.5. number of support staff to judges	Do nothing: judges will continue to deal with non-judicial tasks and have less time for judging	Regulatory change: provide the mandate in the procedural law for legal advisors to sign non-appealable court orders and letters in order to decrease the workload of judges	Provide additional resources for hiring legal advisors to judges so that on average there would be at least one legal assistant supporting two judges.
2. Legal framework does not support efficient and effective procedure	2.1. No judicial mandate and obligation to ascertain the facts of the case; no mandate to ensure execution of judgments by administrative bodies	Do nothing: ping-pong of cases will continue, courts will also be responsible for executing judgments, administrative bodies will not be held accountable.	Regulatory change: court will have the obligation to ascertain the facts of the case on its own initiative, if necessary together with the mandate to impose fines on bodies which	Provide more resources to the judiciary to be able to process cases quicker (and as many times as necessary) as well as execute its decisions. The costs will increase considerably (for the state and also for individuals

			do not comply with its orders (see 1.2.) or do not execute decisions.	who have to submit the same complaint several times to the court), administrative bodies will not be held accountable.
	2.2. Inconsistencies in the judicial protection against the administrative acts of the Kosovo Competition Authority (KCA)	Do nothing: judges dealing with civil cases will be dealing with complaints against KCA, they will not have knowledge of administrative law and quality of decisions can suffer.	Regulatory change: Amend Law on Courts so that complaints against administrative acts and actions of the KCA will be under the competence of the KCA.	-
	2.3. Inconsistent and inefficient appeal procedures in minor offence cases	Do nothing: appeals on minor offence decisions will flood the DAM and the DAM will only be able to quash the decision and send it back to the administrative body for reconsideration thereby prolonging the procedures.	Regulatory change: Law on Minor Offences has to be changed so that appeals against minor offence decisions will have to be submitted to the same department within basic court who deals with minor offence cases also as a 1st instance judicial body.	Provide resources from the general departments of the basic court (judges etc.) to DAM for dealing with the increased number of appeals against minor offence decisions. This will enable the court to deal with the increased number of cases, but will not support specialisation of judges, thereby impacting the competences of judges. The appeal procedures will be less efficient due to the limited mandate of the DAM.
	2.4. Judges forced to work with two procedural codes in parallel (LAC and LCP)	Do nothing: DAM judges will have to continue to work with 2	Regulatory change: create a comprehensive law on	-

		procedural codes	administrative disputes which regulates all stages of the administrative court procedure	
	2.5. Provisions of LAC not supporting efficient proceedings	Do Nothing: Deadlines for responding to court will remain longer for public bodies than for participants in civil proceedings, public bodies continue have the legal possibility to evade delivery of documents, electronic communication with public bodies is not allowed.	Regulatory change: Shorten the deadline for responding to court to 15 days (like in LCP), do not regulate the possibility for a second delivery attempt, and establish the possibility for electronic communication with public bodies (see also 1.3.)	-
	2.6. Too many mandatory appeal possibilities within administration	Do nothing: lengthy, costly and low quality administrative appeal procedures.	Regulatory change: make administrative appeal non-mandatory (at least in these areas where the impact of having administrative appeal bodies as filters is the smallest), so that appeals against administrative acts can be submitted straight to court or alternatively through an administrative appeal body.	Provide additional resources for training of administrative appeal bodies to increase their quality and effectiveness as a prejudicial filter.
3. Problems related with access to justice	3.1. According to LAC both sides cover their own	Do nothing: access to	Regulatory change: If the	-

	<p>expenses regardless of whose argument prevails</p>	<p>justice will be limited due to potential high cost of court procedures</p>	<p>administrative body loses the case, then it has to compensate the costs of the procedure to the other party (to a reasonable extent established by law and/or court practice). If the complainant loses, then the complainant covers his/her/its own costs, but not the costs of the administrative body, because administration represents itself.</p>	
	<p>3.2. No judicial protection against unlawful administrative actions and inaction according to LAC</p>	<p>Do nothing: there will continue to be no access to administrative justice in cases of unlawful action and inaction (administrative silence)</p>	<p>Regulatory change: Establish judicial protection against illegal actions and inaction of administration (similar to administrative appeal established in LGAP).</p>	<p>-</p>
<p>4. Lack of confidence in the judiciary</p>	<p>4.1. Lack of confidence in the judiciary</p>	<p>Do nothing: confidence will remain as it is, people will not turn to court for protection against the administration, administration will become even less accountable.</p>	<p>Regulatory change: establish the obligation of the court to publish all final judgments in administrative cases on the web. If the complainant requests, his/her</p>	<p>Implement all non-regulatory measures necessary for increasing efficiency and effectiveness of the court (see 1.3., 1.4., 1.5. and 2.6.).</p>

			personal data (name, address etc.) can be removed from the published version.	
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Anex 2: Laws and bylaws

Laws :

The administrative justice is regulated by the Law on Administrative Conflict which directly covers and regulates this field of justice, however also other laws indirectly influence this field.

Law No. 03/L-202 on administrative conflicts - With this law are regulated competencies, composition of the court and rules of procedure, based on which the competent courts shall decide on lawfulness of administrative acts by which the competent authorities of public administration shall decide on rights, obligations and legal interests of legal and natural persons and other parties as well as for the lawfulness of actions of administrative authorities. The aim of this law is provision of judicial protection of rights and interests for legal and natural persons and other parties, the rights and interests that have been violated by individual decisions or by actions of public administrative authorities.

Law No. 05/L -031 on general administrative procedure - This Law aims to ensure the effective pursuance of public authority in the service of the public interest whilst guaranteeing the protection of the rights and legitimate interests of the persons. This Law will be applied whenever another public entity, or private person acting in the pursuance of public organ upon an explicit authorization by a law or based on a law.

Law No. 03/L-223 on the Kosovo Judicial Council - This law regulates the organization and functions of the Kosovo Judicial Council (KJC), including the procedures for the recruitment, appointment, reappointment, transfer, discipline, assessment, promotion and training of judges and lay judges; for the overall management and administration of the courts; for development of oversight of the budget of the judiciary; and for the establishment of new courts and new branches.

Law No. 03/L-199 on Courts (Law No. 04/L-171 on amending and supplementing the Law No. 03/L-199 on Courts, Law No. 05/L-032 on amending and supplementing the Law No. 03/L-199 on Courts, Law No. 04/L-171 on amending and supplementing the Law No. 03/L-199 on Courts) - This Law regulates the organization, functioning and jurisdiction of the courts in the Republic of Kosovo. By Article 12, paragraph 1, sub-paragraph 1.2. is regulated the Department for Administrative Matters, which operates within the Basic Court of Prishtina for the entire territory of the Republic of Kosovo.

Law No. 03/L-006 on contested procedure - By the law on contested procedure are determined the rules of procedure through which courts examine and settle civil justice

disputes of physical and legal persons, unless otherwise provided for by a particular law. The current Law on Administrative Conflicts with Article 63 has foreseen that provisions of the Law on contested procedure shall be accordingly applied, unless the LAC provides otherwise.

Law No. 05/L-087 on minor offences - This Law regulates the conditions for determining minor offences and sanctions on minor offences, parties and responsibility on minor offences, minor offence procedures, special procedures for juveniles and minor offence sanction execution procedure. Against the final decision on minor offences rendered by the body on minor offence a claim may be filed for conducting an administrative dispute. The claim may be filed by a person (natural or legal) against whom a sanction has been imposed, his legal representative, respectively the counselor, the injured party and the owner of the object confiscated/sequestered as well as minor offence proceeding.

Law No. 04/L-193 on the Bar - This Law regulates conditions to practice bar, ways and methods of work, rights, obligations and responsibilities of lawyers and law interns; organization and work of the Kosovo Chamber of Advocates (hereinafter KCA) and other important issues for the performance of bar. By Article 6 is regulated the right to practice Bar, in cases of rejection of the request to register in the Bar, against the decision of the Appeals Commission the administrative dispute can be initiated. Moreover according to Article 55 the administrative dispute can be initiated against decisions imposing disciplinary measures, revocation of the license, etc.

Law No. 05/L -019 on Ombudsperson - This Law aims to establish legal mechanism for protection, supervision and promotion of fundamental rights and freedoms of natural and legal persons from illegal actions or failures to act and improper actions of public authorities, institutions and persons or other bodies and organizations exercising public authorizations in the Republic of Kosovo.

Law No 05/L-095 on Academy of Justice - This law establishes the Academy of Justice and regulates the status, its functions and bodies, method and conditions under which the professional training of judges and prosecutors is conducted in the Republic of Kosovo, the training of judicial and prosecutorial administrative staff, and other issues in accordance with the law.

Law No. 04/L-042 on Public Procurement - The purpose of this law is to ensure the most efficient, cost-effective, transparent and fair use of public funds, public resources and any other funds and resources of contracting authorities in Kosovo by establishing the requirements and rules that shall be observed, the procedures that shall be followed, the rights that shall be respected, and the obligations that shall be performed, by persons, economic operators, undertakings, contracting authorities, works concessionaires and public bodies conducting, or involved, participating or interested in, a procurement activity involving or relating to the use of such funds and/or resources. This law also aims to ensure the integrity and accountability of public officials, civil servants and other persons conducting or involved in a procurement activity.

Law No. 03/L-048 on Public Financial Management and Accountability – The purpose of this law is to establish the fiscal policy principles and legal framework for the preparation and implementation of the Budget of the Republic of Kosovo, which shall aim to maintain debt at sustainable levels through consistency between budget balances, debt levels, and medium-term economic growth; and To vest the Minister with the authority and responsibility for the

preparation and implementation of the Budget of the Republic of Kosovo and amendments thereto to avert or to compensate an Excessive Deficit or to reinstate the Deficit Ceiling. By this Law is established the State Advocacy Office.

Law No. 04/L-157 on the State Advocacy Office - This law regulates the establishment, organization and competencies of the State Advocacy Office of the Republic of Kosovo, conditions and procedures for appointment and dismissal of the State Advocate General and State Advocates, the means of work, their competencies, rights and duties, and other issues important to its work. The State Advocacy Office shall represent, give advices and protect the public authorities of the Republic of Kosovo, defined by the Law on public financial management and accountability, in judicial, arbitration and administrative proceedings, in accordance with the Law.

Law No.03/L –149 on the Civil Service of the Republic of Kosovo - This law regulates the status of Civil Servants and the terms and conditions of their employment relationship with the institutions of the central and municipal administrations. According to this Law, Specific bodies for the settlement of grievances and employment related disputes arising within the Civil Service are established in each institution of the central and municipal administrations that employ Civil Servants. The procedures for the settlement of grievances and appeals shall be ensured by the Disputes and Grievances Appeal Committees, and Independent Oversight Board. Disputes and Grievances Appeal Committees shall be established in each institution of the central and municipal administrations that employ Civil Servants, as appellate bodies for disputes and grievances management. Decisions of the Disputes and Grievances Appeal Committees are binding for the institutions of the public administration and all concerned parties. Their decisions may be appealed in the Independent Oversight Board.

Law No 03/L-051 on civil aviation- The provisions of the present law shall apply in the field of all civil aviation activities carried out in the territory and airspace of Kosovo. Based on Article 98 of this Law A person who has been subjected to an administrative fine and/or the revocation or suspension of a certificate, license or permit pursuant to Article 96 or 97, shall be entitled to dispute such action in accordance with the general law on administrative procedures.

Law No. 04/L-217 on asylum - This Law regulates the standards and procedures for granting the status of refugee, subsidiary protection, and temporary protection, as well as the rights and obligations of asylum seekers, the persons with the refugee status and persons who are granted Subsidiary Protection and Temporary Protection. According to this Law, Department for Citizenship, Asylum and Migration within the Ministry of Internal Affairs is responsible for decision-making at the first instance about asylum whereas, the National Committee for Refugees is responsible for examining appeals lodged against decisions taken at the first instance. The competent court in accordance with the Law on Courts is responsible for examining administrative decisions.

Law No 04/L-063 on Kosovo Railways - The purpose of this law is the arrangement and development of railways, improvement of rail security system, open access and nondiscriminatory operators and offering services in the railway sector market. This Law regulates the functions and competences of the State and of the railway bodies in charge of the development of the railway sector; the follow-up of railway sector restructuring; the operations and use of the railway infrastructure, the use of the railway network and infrastructure, the safety of the railway system; the safety requirements for the railway

system; the interoperability of the railway system in Kosovo; the modernization and the construction of the railway infrastructure; the provision of rail transport services; services in the public interest offered by the rail system. A claim against the decision by the regulatory body, may be brought and a procedure before the competent Court may be initiated within thirty (30) days from the receipt of the decision.

Law No. 03/L-192 on Independent Oversight Board for Civil Service of Kosovo - This Law shall regulate the organization and the overall functioning of the Independent Oversight Board of Civil Service of Kosovo (hereinafter Board). The Board shall be an autonomous body reporting to Assembly of the Republic of Kosovo and which shall determine appeals and shall ensure compliance with all rules and principles governing the civil service in the Republic of Kosovo. According to Article 14 of this Law, The aggrieved party, alleging that a decision rendered by the Board is unlawful, may appeal the Board's decision by initiating an administrative dispute before the competent court within thirty (30) days from the day of the service of decision.

Law No 03/L-172 on the Protection of personal data - This Law determines the rights, responsibilities, principles and measures with respect to the protection of personal data and establishes the National Agency for the Protection of Personal Data, responsible for monitoring the legitimacy of data processing. By Article 49, is foreseen that against the final decision for imposing the fines by the Supervisor th appeal is not allowed, but an administrative dispute shall be permitted in the competent Court.

Law No 04/L-109 on electronics communications - The purpose of this Law is to regulate electronic communications activities based on the principle of technological neutrality and EU regulatory framework for electronic communications, by promoting competition and efficient infrastructure in electronic communications and to ensure the right and adequate services in the territory of the Republic of Kosovo. By this Law is established the Regulatory Authority of Electronic and Postal Communications. Against decisions of the Authority the administrative dispute can be initiated.

Law No. 03/L-163 on mines and minerals - The purposes of this Law are to promote the safe, environmentally acceptable exploration, extraction and processing of Minerals by regulating and monitoring Persons engaged in the mining industry, to facilitate and sustain greater private sector participation and competition in the mining industry, to maximize the Exploration and mining of Minerals, and to regulate the collection, management and archiving of geo scientific data for the benefit of Republic of Kosovo. By this Law is established the Commission for Mines and Minerals. According to Article 61, paragraph 5, the person who is negatively affected by a decision of the ICMM Board under this Article may challenge such decision in accordance with the law of Kosovo applicable to administrative disputes or – if the Person is the Director of the ICMM – the Law on the Civil Service. Based on Article 60, paragraph 3, the concerned Board member may challenge the decision of the Assembly for the suspension in accordance with the law of Kosovo applicable to administrative disputes.

Law No. 04/L-44 on the Independent Media Commission - The purpose of this Law shall be to establish the powers of the Independent Media Commission in order to promote the development of a viable market of audiovisual media services, serving all citizens of the Republic of Kosovo. According to Article 44, Decisions of the Appeals Board are final and

can be subject to the procedural review of the Supreme Court of Kosovo in accordance with the applicable Law.

Law No. 04/L-101 on Pension Funds of Kosovo - This Law defines and describes the different forms of Government and private Pension provision in Kosovo. By this Law is established Kosovo Pension Administration within the Ministry of Labour and Social Welfare. According to this Law, an administrative dispute may be initiated against a decision refusing a request for granting a pension fund to a pension fund. Against the decisions related to the pension savings of the Managing Board of the fund as a second instance, administrative dispute can be initiated.

Law No. 03/L-200 on strikes - The purpose of this Law is to guarantee freedom and rights, related to organization and participation of Kosovo employees on strike under international standards. With this Law are regulated and defined the rights of employees on strike, conditions and ways of organizing the strike and also the rights and obligations of employees and employers while being on strike. With Article 19 is foreseen that when the strike is accompanied with illegal actions, the parties will refer to the competent court, which determines the responsibilities of parties, actions that they must commit, the damage caused and the obligation of a party for compensation. In contest events regarding the strike legality, the pairs may refer to the Competent Court.

Law No 03/L-164 on housing financing specific programs - The aim of this law is to create possibilities for a sustainable housing for the families or individuals that are not in such economically state to endure the offers of free market of dwelling and determination on providing and using ways of financial means for the development of Against the decision of Municipal body, unsatisfied applicant may submit an appeal in writing to the Ministry of Environment and Spatial Planning. The Ministry shall review the complain and notifies in writing the submitter of the appeal for the taken decision, not later than thirty (30) days after receiving the appeal. The applicant unsatisfied with the decision of the Ministry, can initiate administrative dispute no later than thirty (30) days after receiving this decision.

Law No. 03/L-019 on vocational ability, rehabilitation and employment of people with disabilities - This law rules and determines the rights, conditions, forms of Vocational Ability, Rehabilitation and Employment of People with Disabilities, for their integration in open labor market according to general and special conditions laid down by applicable legislation.

Law No. 04/L-092 for blind persons - This law regulates the rights and benefits and determines the criteria for categorizing the blind persons. Blind persons are protected from all kinds of exploitation, discrimination, abuse, insult, ridicule and enjoy the rights and freedoms equally with others based on international standards for human rights.

Law No. 03/L-022 on material support for families of children with permanent disability - With this law is regulated the right to material support for families that protect and care for children with permanent disability and the realization form of this material support. According to Article 23, the Decision of Ministry of Labour and Social Welfare regarding the appeal against the Decision of the Social Work Center is a final Decision, so the unsatisfied party can initiate the administrative dispute.

Law No. 04/L-250 on the Air Navigation Services Agency - The purpose of this Law is the establishment of the Air Navigation Services Agency –ANSA in order to provide infrastructure and air navigation services in air space of the Republic of Kosovo. By Article 12 are regulated the administrative disputes. Except if the dispute relates to an alleged violation of the Law on Public Procurement, any person who has a specific interest in, and is damaged by, any procedural or substantive act or omission of the Director or of ANSA personnel, and who believes that such act or omission is contrary to the provisions of this Law or legislation into force, may contest such act or omission in accordance with the general Law on Administrative Procedure.

Law No. 04/L-011 for organizing Trade Union in Kosovo - This Law aims to regulate and determine the rights and freedom of the employees to establish and free and volunteer organizing in the Trade Union organizations in the public and private sector, with the aim of the representation and protection of economic interests, social and professional workers from work and work relation. According to this Law, unsatisfied party within 30 days after receiving the Decision of the MLSW, can initiate the administrative dispute.

Law No. 04/L-261 on Kosovo Liberation Army War Veterans - This Law shall define benefit entitlements for KLA Veterans and immediate members of their families, qualification criteria for their recognition and realizations as well as administrative procedures to realize these rights, as defined in Article 12 paragraph 2 of the Law No. 04/L-054 on the Status and the Rights of Martyrs, Invalids, Veterans, Members of Kosovo Liberation Army, Civilian Victims and their Families. Against the Commission's decision, the unsatisfied party can initiate dispute at the competent court.

Law No. 04/L-219 on foreigners - This law regulates the conditions of entry, movement, residence and employment of foreigners in the territory of the Republic of Kosovo. Against decisions of the Commission for request based on this Law, the administrative dispute can be initiated.

Law No. 04/L-013 on Cadastre - This Law shall regulate the Cadastre of immovable property, national and cadastral surveys, geodesic and cadastral works as well as acquisition, registration, keeping, maintenance and use of cadastral data. By this Law is established the Kosovo Cadastral Agency. By Article 28 is foreseen the right to initiate the administrative dispute against decisions of the Kosovo Cadastral Agency.

Law No. 05/1 – 084 on the Energy Regulator – The law defines the powers, duties and functions of the Energy Regulatory Office, including the conditions for issuing licenses to carry out energy activities, certification of transmission system operators, procedures for granting authorizations for the construction of new generating capacity, the creation and efficient functioning of competitive energy markets, and the criteria for regulating tariffs and the conditions of energy supply. As well this Law establishes the Energy Regulatory Office. According to Article 26, paragraph 3, Any individual acts issued by the Regulator pursuant to paragraph 1 of this Article shall be subject to an administrative review procedure within the Regulator. After the said review, such acts may not be appealed or disputed by any other public institution, with the exception of judicial review by the competent court in Kosovo, in accordance with the Law on Administrative Conflicts. As well by Article 49, parties not satisfied with the Decision of the Regulator in relation to regulated tariffs and tariff methodology may initiate an administrative dispute in front of the competent court, within

thirty (30) days upon receipt of such Decision. The claim-suit shall not halt the execution of the Decision.

Law No. 03/L-025 on environmental protection - This law shall harmonize economical development and social welfare with basic principles for environmental protection according to the concept of sustainable development. The purpose of this law is to promote the establishment of healthy environment for population of Kosovo by bringing gradually the standards for environment of European Union. This Law establishes the Kosovo Environmental Protection Agency. By Article 87, is foreseen that against the decisions of the Agency the administrative dispute can be initiated.

Law No. 04/L-037 on Higher Education in the Republic of Kosovo - The purpose of the Law on Higher Education is to establish a legal base for regulating, functioning, financing, providing the quality in higher education in compliance with European standards as well as the role of state and society in development of higher education in the Republic of Kosovo. This Law establishes the Kosovo Accreditation Agency. Based on this Law, against decisions of the Kosovo Accreditation Agency the administrative dispute can be initiated.

Law No. 03/L-069 on Accreditation, Law No. 04/L-007 on amending and supplementing the Law No. 03/L-069 on Accreditation - By this law is established the Accreditation Directorate and are determined rules for functionality of the system for accreditation of the competent body for conformity assessment. Unsatisfied party has the right to complain within fifteen (15) days of the receipt of the decision against the decisions of the Directorate to the Commission. If the commission does not respond or answer to the unsatisfied party within the specified date, the party can bring forth an administrative conflict in the Supreme Court of the Republic of Kosovo within thirty (30) days.

Code No. 03/L-109 on Customs and Excise of Kosovo – By this Code the Customs of Kosovo are established. By Article 291 is foreseen the initiation of the administrative dispute from unsatisfied party with the Decision of the Independent Body (as a second instance against decisions of the Customs of Kosovo).

Law No. 05/L-096 on the prevention of money laundering and combating terrorist financing - This Law stipulates measures, competent authorities and procedures for detecting and preventing money laundering and combating terrorist financing. By this Law is established the Financial Intelligence Unit. By Article 52, paragraph 1 is foreseen the initiation of the administrative conflict against decisions for administrative sanctions by the Financial Intelligence Unit, Central Bank of Kosovo and other relevant supervisory body.

Law No. 04/L-147 on waters of Kosovo - Purpose of this Law is to provide sustainable development and utilization of water resources that are necessary for public health, environmental protection and social- economic development of the Republic of Kosovo; establish procedures and guiding principles for the optimal distribution of water resources, based on the use and purpose; ensure protection of water resources from pollution, overuse and misuse; determine the institutional structures for managing the water resources. According to Article 100, Against the decision of the second level, unsatisfied party has right to submit plaint for an administrative contest to the Competent Court in a period of thirty (30) days from the date of receipt of the ruling.

Law No.03/L –231 on Police Inspectorate of Kosovo - This law establishes the mission, organization, functions, duties and responsibilities of the Police Inspectorate of Kosovo. As well by this Law is established the Police Inspectorate of Kosovo. According to Article 22, is regulated the initiation of the administrative dispute by the Police Officer against the Decision of the Ministry regarding the appeal against the Decision of the General Director of the Police on imposing the certain disciplinary measure.

Law No. 02/L-38 on Health Inspectorate – By this is established the Health Inspectorate. With Article 11, is regulated the initiation of the administrative dispute against the final decision of the Health Inspectorate.

Law No. 04/L-029 on patents and Law No. 05/L -039 on amending and supplementing the Law No. 04/L-029 on patents - This Law defines the provisions and procedures for registration of patent, the rights deriving from the registration and application of these rights. By this Law is established the Agency for Industrial Property. By Article 6 is foreseen that against decision of the Agency can be filed the claim to the Commission for Claims established by the Ministry of Trade and Industry. Against the decision of the Commission can be initiated the administrative dispute within 30 days.

Law No.2004/5 on Trade of petroleum and petroleum products in Kosovo, Law No. 02/L-089 on amending and supplementing the Law No.2004/5 on Trade of petroleum and petroleum products in Kosovo, Law No. 03/L-138 on amending and supplementing Law No.2004/5 on Trade of petroleum and petroleum products in Kosovo - The purpose of the present law is to encourage -free and fair competition in the Petroleum Sector in Kosovo; to ensure payment of full tax liabilities and fiscal duties on Petroleum and Petroleum Products; to eliminate unlawful conduct in the Petroleum Sector; and to help to ensure the quality, safety, and security of supply of Petroleum and Petroleum Products. By this Law, is established the Council within the Ministry of Trade and Industry, responsible for regulating and monitoring the Petroleum Sector in Kosovo. Against decisions of the Council, the unsatisfied party can initiate the administrative dispute.

Law No.03/L –203 on metrology, Law No. 04/L-124 on amending and supplementing Law No.03/L –203 on metrology – The objective of this law is to regulate the system of measuring units, measuring etalons, procedures for assessment of the conformity of measuring units, metrological requirements for pre-packaged products, authorization in the field of metrology, metrological observation as well as responsibilities of Metrology Department. According to Article 44, the party could submit complain against decision of metrology inspector within the term of eight (8) days, from the day of receiving the decision. Against Director's decision, the party in terms of ten (10) days the complain of the second instance can submitted to the professional commission for appeals, which shall be established upon decision of the Secretary of MTI and such decision is final. Against the final decision of the professional commission for appeals can be submitted the claim at the competent Court within terms of thirty (30) days.

Law No. 03/L-181 on Market Inspectorate and Inspective Supervision, Law No. 04/L-186 on amending and supplementing the Law No. 03/L-181 on Market Inspectorate and Inspective Supervision - With this law are designated principles, organizing, competences and procedures of inspection supervision of the market in the territory of Republic of Kosovo. As well by this Law is established the Market Inspectorate. According to Article 27, is foreseen that against Inspector's decision within the term of eight (8) days, from the day of

receiving the decision. Against the decision of the Chief Inspector as a second instance, a claim can be filed at the competent court within thirty (30) days.

Law No. 02/L-123 on business organizations, Law No. 04/L-006 on amending and supplementing the Law No. 02/L-123 on business organizations – By this Law is foreseen that, the party unsatisfied with the decision of the Head Executive of the ARBK in terms of eight (8) days, can submit complain at the Commission for Complains and Appeals. Against decision of the Commission for Complains and Appeals the unsatisfied party within thirty (30) days may initiate an administrative dispute to the Kosovo Supreme Court.

Law No.03/L –229 on protection of competition - This law defines the rules and measures for protection of free and effective competition on the market, competencies, organization of the Authority for Protection of Competition as well as the procedures concerning implementation of this law. By Article 62 is foreseen that appealing is not permitted against the decision of the Authority, which ascertains violation of this law and pronounces punitive measures as well as the decision which terminates the procedure due to previous issues, however, the party, within a period of thirty (30) days, may initiate an administrative conflict by filing a lawsuit at the Competent court of Kosovo. Moreover by Article 33 paragraph 5, Article 35 paragraph 6, Article 38 paragraph 3, Article 48 paragraph 5 is foreseen the initiation of the administrative dispute against decisions of the Authority for Protection of Competition.

Law No. 03/L-222 on Tax Administration and Procedures - the purpose of this Law is to establish a comprehensive set of rules and procedures for the administration of taxes and contribution, and the purpose of the Law No on amending and supplementing the Law No. 03/L-222 on tax Administration and Procedures is to establish the new complaint procedure against decisions of tax bodies.

By laws:

The current Law on Administrative Conflicts has not foreseen the issuance of the sublaws.