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**Ministria e Punëve të Brendshme / Ministarstvo unutrašnjih poslova / Ministry of Internal Affairs**

## **CONCEPT DOCUMENT ON FOREIGNERS**

**Drafted by the Ministry of Internal Affairs**

**December, 2021**

## TABLE OF CONTENTS

<b>Summary of the Concept Document</b> .....	4
<b>Introduction</b> .....	6
<b>CHAPTER 1: PROBLEM DEFINITION</b> .....	8
1.1. Institutional and legislative framework of the Republic of Kosovo in the field of foreigners.....	9
1.2. Non-regulatory interventions (Projects, Capacity Building, Campaigns, Investments and the like).....	15
1.3. The main problem .....	17
<b>CHAPTER 2: OBJECTIVES</b> .....	24
<b>CHAPTER 3: OPTIONS</b> .....	26
3.1: <i>Status quo</i> option (no change).....	26
3.2: Option to improve the implementation of the current legal framework without legislative changes .....	26
3.3: Third option, with legislative changes .....	27
<b>Chapter 4: Identification and assessment of future impacts</b> .....	32
4.1. Identification of economic impacts:.....	33
4.2. Identification of social impacts .....	35
4.3. Identification of environmental impacts .....	35
4.4. Impacts on fundamental rights .....	35
4.5. Gender impact assessment .....	36
4.6. Youth Impact Assessment.....	36
4.7. Vulnerable groups impact assessment.....	36
4.8. Data protection .....	36
4.9. Data collection challenges.....	38
<b>Chapter 5: Communication and consultation</b> .....	38
<b>Chapter 6: Comparison of options</b> .....	39
6.1: Implementation plans for different options.....	39
6.2: Comparison table with all three options.....	48
<b>Chapter 7: Conclusions and next steps</b> .....	49
Chapter 7.1: Provisions for monitoring and assessment .....	50
<b>Annex 1: Assessment Form of Economic Impact</b> .....	51

Annex 2: Assessment Form of Social Impact..... 55  
Annex 3: Assessment Form of Environmental Impact ..... 59  
Annex 4: Assessment Form for the impact of fundamental rights ..... 61

## Summary of the Concept Document

General information	
Title	Concept Document on Foreigners
Lead Ministry	Prepared by the Ministry of Internal Affairs, Department of Citizenship, Asylum and Migration, Foreigners Division
Contact person	Kushtrim Haliti Head of the Detention Center 038-200-19-022
GAWP	AFSQ 2021 (after approval)
Strategic priority	Migration Strategy 2021-2025, Specific Objective 3.5.

Decision	
Main issue	Based on the analysis of the current situation, the problem can be defined in terms of legal and procedural uncertainties, which is then reflected in the decision-making procedure, setting criteria and deadlines, defining institutional responsibilities, lack of effective oversight and control of the implementation of the law, and lack of satisfactorily completed and disaggregated statistics.
Consultation summary	Preliminary consultation on the Concept Paper for Foreigners was conducted in November 2021
	Public consultation through the public consultation platform was conducted during the period November-December 2021.
Proposed option	The option considered and recommended is to change the current legislative framework, namely <b>Option 3</b> . This option means drafting a new law, which would regulate the legal gaps encountered during implementation and would regulate the new challenges created as a result of recent changes in European Union legislation and would address the problems identified during implementation.

Expected main impacts	
Budget impact	Implemented within current budget limits
Economic impact	In principle, the economic impacts will be positive. Admission of foreigners, especially highly qualified categories will have an impact on the completion of the labor market, respectively in the strategic economic sectors and will directly contribute to the economic development of the country. Also, the economic integration of foreigners will have a positive impact on the creation of new jobs for young people and will also have a positive impact on tax increases.

Social impact	The new Law on Foreigners, regarding the integration of foreigners, will have a beneficial social impact and will reduce the opportunities for negative social impact at the local level due to effective cultural integration; moreover, job creation due to the increase in the number of foreign investments in the local economy will have contribute to the improvmenet of the employability of vulnerable groups, namely young people and women. In general, it will have a positive social impact.
Environmental impact	In general, the proposed measures will have no environmental impacts, with the exception of the case management system of applications for admission of foreigners, which will have a positive impact in terms of lower paper consumption, while the centralized system will contribute to reducing the number of interviews with applicants and hence there will be fewer trips.
Crosscutting impact	The proposed measures are expected to have crosscutting impacts including the field of security, rule of law, labor market, and various economic sectors of the country.
Administrative burdens for companies	The Concept Document recommends the development of a long-term strategy for processing cases based on Information Technology, including the creation of an e-register of population, as well as the recording and tracking of all processes about migration and foreigners. The implementation of this information technology-based policy is expected to have an impact on the administrative burden by providing more efficiency and accountability in reviewing cases and related decision making.
SME test	Given the scope of treatment of this Concept Document, conducting the SME test is considered unnecessary.

<b>Future steps</b>	
Short Term	Drafting of the new Draft Law on Foreigners
Medium Term	Drafting of secondary legislation upon the adoption of the law; Advancement and interconnection of databases, as well as measures that are foreseen in the implementation of the preferred option.

## Introduction

Figure 1: Table with general information about the concept document

Title	Concept Document on Foreigners
Responsible Ministry	Ministry of Internal Affairs, Department of Citizenship, Asylum and Migration, Division of Foreigners
Contact person	<b>Kushtrim Haliti</b> Head of the Detention Center 038-200-19-022
GAWP	List of Concept Documents for 2021
Strategic priority	
Working group	<ul style="list-style-type: none"> <li>• Kushtrim Haliti - Department of Citizenship, Asylum and Migration, Ministry of Internal Affairs - Chairperson;</li> <li>• Meliza Qorraj - Legal Department, Ministry of Internal Affairs - Deputy Chairperson;</li> <li>• Gazmend Camaj - Department for Citizenship, Asylum and Migration, Ministry of Internal Affairs - member;</li> <li>• Qendrim Bytyqi - Department for European Integration and Policy Coordination, Ministry of Internal Affairs - member;</li> <li>• Drita Xheladini - Department of Budget and Finance, Ministry of Internal Affairs - member;</li> <li>• Rroksana Qarri - Public Information Office, Ministry of Internal Affairs - member;</li> <li>• Venera Dibra - Human Resources Management Unit, Ministry of Internal Affairs - member;</li> <li>• Marigona Ramaj - Department for European Integration and Policy Coordination, Ministry of Internal Affairs - member;</li> <li>• Fitore Metbala - Cabinet of the Minister, Ministry of Internal Affairs - member;</li> <li>• Rrahman Sylejmani - Kosovo Police, member;</li> <li>• Fitim Zariqi - Department of Citizenship, Asylum and Migration, Ministry of Internal Affairs - member;</li> <li>• Basrie Beka - Department for Reintegration of Repatriated Persons, Ministry of Internal Affairs - member;</li> <li>• Nehat Pllana - Legal Office, Office of the Prime Minister, member;</li> <li>• Artife Gashi - Coordination Secretariat of the Government, Office of the Prime Minister, member;</li> <li>• Albert Kurtulaj - Ministry of Culture, Youth and Sports, member;</li> <li>• Semra Mecihan - Ministry of Health, member;</li> <li>• Dardan Nalbani - Ministry of Industry, Entrepreneurship and Trade, member;</li> </ul>

	<ul style="list-style-type: none"> <li>• Agim Krasniqi - Ministry of Education, Science and Technology - member;</li> <li>• Teuta Bllacaku - member,</li> <li>• Representative of the Ministry of Foreign Affairs and Diaspora, member;</li> <li>• Representative from the Labour Inspectorate, member;</li> <li>• Representative from the Tax Administration of Kosovo, member;</li> </ul> <p>External member:</p> <ul style="list-style-type: none"> <li>• Drita Perezic - ICITAP;</li> <li>• Isah Maloku - ICITAP;</li> <li>• Bujar Prebeza - UNHCR;</li> <li>• Memli Ymeri - CRPK;</li> <li>• Habib Habibi – IOM;</li> <li>• Arife Muji – IOM.</li> </ul>
Additional information	The drafting of the concept document on foreigners was preceded by an assessment of the gaps in the approximation of domestic legislation with the EU Acquis for Chapter 24.

## CHAPTER 1: PROBLEM DEFINITION

The Concept Document on Foreigners aims to identify shortcomings and gaps in the existing Law on Foreigners as well as full harmonization with relevant European Union directives.

Current Law No. 04/L-219 on Foreigners was published in the Official Gazette of the Republic of Kosovo, on 05.09.2013, and was amended and supplemented by Law No. 06/L-036, published in the Official Gazette of the Republic of Kosovo on 03.05.2018. The laws in force have transposed Directive 2014/66/EU of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals in the framework of of an intra- corporate transfer; Directive 2014/36/EU of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purpose of employment as seasonal workers, Directive 2016/801 EU of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and *au pairing*, as well as Regulation (EU) No. 610/2013 of the European Parliament and of the Council, of 26 June 2013, amending Regulation (EC) No. 562/2006 of the European Parliament and of the Council on the Rules of Procedure of the Community governing the movement of persons across borders (Schengen Borders Code), Convention on the Implementation of the Schengen Agreement, Council Regulations (EC), No. 1683/95 and (EC) No. 539/2001 and Regulations (EC) No. 767/2008 and (EC) No. 810/2009 of the European Parliament and of the Council.

Problems identification under the current Law on Foreigners was preceded by a chronological analysis of developments in the field of foreigners. The process of drafting this Concept Document has started as a way to address the issues as well as to improve the framework and local legislation in the field of foreigners. In addition to being part of the strategic policies of the Government of the Republic of Kosovo (Migration Strategy 2021-2025), this concept document is also related to the implementation of the EU Acquis, specifically to Chapter 24, respectively, to the field related to migration, as noted in the assessment of gaps prepared by the Ministry of Internal Affairs in 2020.

The EU legislation that should be further transposed into the Law on Foreigners and the bylaws are as follows:

- Council Directive No. 2003/86/EEC of 22 September 2003 on the right to family reunification; Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents;
- Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (EU Blue Card Directive);
- Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State;
- Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and residence of third-country nationals for the purpose of employment as seasonal workers;



- Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intracorporate transfer;
- Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing;
- Draft Regulation of the European Parliament and of the Council amending Regulation (EC) No 862/2007 of the European Parliament and of the Council on Community statistics on migration and international protection.

In the framework of this concept document the shortcomings in the field of foreigners will be analyzed, starting from the gaps and legal uncertainties, lack of effective oversight of implementation of the law, setting deadlines in the implementation of procedures, uncertainties in decision-making by institutions and different stakeholders. For all these issues, measures have been recommended to address them over a period of 3-5 years.

### **1.1. Institutional and legislative framework of the Republic of Kosovo in the field of foreigners**

During the preparation of this Concept Document, the Ministry of Internal Affairs has considered a number of international instruments related to the field of foreigners. The legal domain that regulates the status of foreigners in relation to their entry, residence and exit from Kosovo is a complex field that falls in the field of the Law on Foreigners; it is governed and regulated by the principles enshrined in the Constitution of Kosovo, which in Article 35 stipulates that the entry and residence of foreigners is regulated by law. Furthermore, the Constitution sets out the values, among which the rule of law and respect for human rights and non-discrimination are key values also important for issues related to foreigners. Fundamental rights and freedoms, as defined by the conventions and essential instruments of international law provided for in Article 22 of the Constitution are guarantees that the state accepts an obligation to protect the status and rights of foreigners even with their direct applicability in case of violation of the law on foreigners or other laws that affect decisions on the status of a foreigner. These treaties are:

1. Universal Declaration of Human Rights.
2. European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols.
3. International Covenant on Civil and Political Rights and its Protocols.
4. Council of Europe Framework Convention for the Protection of National Minorities.
5. Convention on the Elimination of All Forms of Racial Discrimination.
6. Convention on the Elimination of All Forms of Discrimination against Women.
7. Convention on the Rights of the Child.
8. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
9. Council of Europe Convention on preventing and combating violence against women and domestic violence.

Application of the law of international treaties also provides the impact of the case law of the European Court of Human Rights as an important source of customary international law for the institutions of the Republic of Kosovo, namely the Ministry of Internal Affairs, and when appropriate, also the judiciary of the Republic of Kosovo, in particular in the case of violations of fundamental and human rights, as guaranteed by international treaty law specifically mentioned in the Constitution of Kosovo as its highest legal act.

The correlation of procedural guarantees of the constitution that have an impact in the field of legal framework on foreigners, is important for Article 32 - the right to legal remedy also against administrative decisions and Article 36 - The right to privacy including family life and data protection, as well as Article 41 the right of access to public documents.

In terms of institutional structure, the following key institutions are responsible for implementing the legal provisions as defined in the current Law on Foreigners;

- Department of Citizenship, Asylum and Migration
- Ministry of Foreign Affairs and Diaspora
- Kosovo Police.
- Employment Agency of the Republic of Kosovo.

Each law enforcement institution has its responsibility in its field, as follows:

**Department of Citizenship, Asylum and Migration**, specifically the Division for Foreigners is responsible for reviewing and deciding on residence permits for foreigners and stateless persons.

**Ministry of Foreign Affairs and Diaspora** is responsible for reviewing and deciding on visa application requirements for foreign nationals.

**Kosovo Police**, the Border Police, through its organizational units, has the obligation to control and supervise the state border at the border crossing points and the green belt, to control and supervise the entry and stay of foreign citizens in Kosovo, the departure and deportation of foreign citizens with illegal stay from the territory of the Republic of Kosovo and the prohibition of their entry when the legal conditions are met, and cooperate closely with the Division for Foreigners and the MFAD for the verification of applications for entry and stay in the territory of the Republic of Kosovo.

**Employment Agency of the Republic of Kosovo**, which operates within the Ministry of Finance, Labour and Transfers, and is responsible for issuing short-term work permits for foreigners, with a duration of 30 days, 60 days and 90 days, within a period of 180 days, during a (1) year.

The general legislative framework, thus, represents a strong set of principles and rules, transposed mainly from the EU legislative framework on migration which requires a high level of knowledge of the various disciplines of law, and to this end requires from the staff engaged in the decision-making process and the formulation of various policies to have high level of practical experience in sensitive aspects related to the status of foreigners under guarantees, also defined as mandatory obligations deriving from international law.

Figure 2: Relevant policy documents, laws and bylaws

Policy document, law or sub-legal act	Correlation to the policy or planning document via the Internet or legal acts in the Official Gazette	State institution (s) responsible for implementation	Role and tasks of the Institution (s)
Law No. 04/L-219 on Foreigners	<a href="https://gzk.rks-gov.net/ActDetail.aspx?ActID=8876">https://gzk.rks-gov.net/ActDetail.aspx?ActID=8876</a>	Ministry of Internal Affairs	Regulates the conditions of entry, movement, residence and employment of foreigners in the territory of the Republic of Kosovo.
Law No. 06/L-036 on amending and supplementing the Law No. 04/L-219 on Foreigners	<a href="https://gzk.rks-gov.net/ActDetail.aspx?ActID=8876">https://gzk.rks-gov.net/ActDetail.aspx?ActID=8876</a>	Ministry of Internal Affairs	The purpose of this law is to amend and supplement Law No. 04/L-219 on Foreigners
Administrative Instruction (MIA) No. 04/2020 on Refusal of Entry into the Republic of Kosovo	<a href="https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=30997">https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=30997</a>	Ministry of Internal Affairs	Regulates the modality for refusal of entry into Republic of Kosovo of foreigners who do not meet the conditions set forth in the Law on Foreigners

<p>Administrative Instruction (MIA) No. 09/2019 on the Procedure and Criteria for Issuing Residence Permits for Foreigners</p>	<p><a href="https://gzk.rks.gov.net/ActDocumentDetail.aspx?ActID=23314">https://gzk.rks.gov.net/ActDocumentDetail.aspx?ActID=23314</a></p>	<p>Ministry of Internal Affairs</p>	<p>Regulates the procedure and criteria for applying, issuing, refusing and revoking residence permit for foreigners, short-term work permit for foreigners, temporary residence permit, permanent residence, and the form and content of the residence permit for foreigners.</p>
<p>Administrative Instruction (MIA) No. 09/2019 on the Procedure and Criteria for Issuing Residence Permits for Foreigners and a Work Registration Certificate</p>	<p><a href="https://gzk.rks.gov.net/ActDocumentDetail.aspx?ActID=23314">https://gzk.rks.gov.net/ActDocumentDetail.aspx?ActID=23314</a></p>	<p>Ministry of Internal Affairs</p>	<p>Regulates the procedure and criteria for applying, issuing, refusing and revoking residence permit for foreigners, short-term work permit for foreigners, temporary residence permit, permanent residence,</p>

			and the form and content of the residence permit for foreigners.
Administrative Instruction (MIA) No. 02/2014 on Foreigners Travel Documents	<a href="https://gzk.rks.gov.net/ActDocumentDetail.aspx?ActID=9842">https://gzk.rks.gov.net/ActDocumentDetail.aspx?ActID=9842</a>	Ministry of Internal Affairs	Defines the procedures for the issuance, form and content of the traveling documents for foreigners
Administrative Instruction (MIA) No. 08/2014 on Conditions and Procedures for the Issuance of the Visas at Border Crossing Points	<a href="https://gzk.rks.gov.net/ActDocumentDetail.aspx?ActID=35940">https://gzk.rks.gov.net/ActDocumentDetail.aspx?ActID=35940</a>	Ministry of Internal Affairs	Defines the conditions and procedures for the issuance of visas at the border crossing points by the Border Police
Administrative Instruction (MIA) No. 09/2020 on Conditions and Procedures of the Visa Extension	<a href="https://gzk.rks.gov.net/ActDetail.aspx?ActID=35835">https://gzk.rks.gov.net/ActDetail.aspx?ActID=35835</a>	Ministry of Internal Affairs	Defines the conditions and procedures for visa extension
Administrative Instruction MFA/No. 01/2014 on Procedures for the Issuance of Visas to Foreigners by the Diplomatic	<a href="https://gzk.rks.gov.net/ActDetail.aspx?ActID=10166">https://gzk.rks.gov.net/ActDetail.aspx?ActID=10166</a>	Ministry of Foreign Affairs and Diaspora	Defines and regulates the procedures and conditions for the issuance of visas to foreigners

<p>and Consular Missions of the Republic of Kosovo</p>			<p>by the Diplomatic and Consular Missions or authorized bodies by the Government of the Republic of Kosovo to citizens of the states to whom the Republic of Kosovo applies a visa regime.</p>
<p>Regulation (QRK) No. 09/2019 for the Integration of Foreigners</p>	<p><a href="https://gzk.rks-gov.net/ActDetail.aspx?ActID=21006">https://gzk.rks-gov.net/ActDetail.aspx?ActID=21006</a></p>	<p>Ministry of Internal Affairs</p>	<p>Defines the procedures, criteria and institutions responsible for the integration of foreigners into social, economic and cultural life in the Republic of Kosovo.</p>

LAW NO. 05/L-020 ON GENDER EQUALITY	<a href="https://gzk.rks.gov.net/ActDocumentDetail.aspx?ActID=10923">https://gzk.rks- gov.net/ActDocumentDetail.aspx?ActID=10923</a>	OPM	This Law shall guarantee, protect and promote equality between genders as a basic value of democratic development of society

### **1.2. Non-regulatory interventions (Projects, Capacity Building, Campaigns, Investments and the like)**

In terms of capacity building and technical assistance projects, from the country's independence onwards, there were various migration-related projects aimed mainly at contributing to the capacities of the Ministry of Internal Affairs, namely DCAM, to transfer the knowledge that a young state needs to manage the challenges associated with migration under its mandate.

Figures related to general migration trends, taken from the Light Migration Profile 2019, the Extended Migration Profile, the draft Strategy on Migration 2019-2023 and the EC Progress

Report on Kosovo of 6 October 2020 demonstrate the need for interventions and campaigns mainly in the area of irregular movement.

In addition to the twinning project launched in 2010-2012, to strengthen the rule of law in Kosovo, funded by the EU and implemented by Austria, which provided the basic principles for migration management in general, there were other projects that aim to strengthen the capacities in migration management. One such project was Strengthening Migration Management Authorities in Kosovo (MIMAK)<sup>1</sup>-2017-2021, which aimed to strengthen the work of the National Coordinator on Migration and the Government Authority on Migration (GAM) by supporting the restructuring of migration management structures in Kosovo, by facilitating improved data collection and analysis, training of members of the GAM and the support of government officials in public, by aiming to improve migration information.. The project also contributed to the creation of an expanded Kosovo migration profile and light migration profiles on an annual basis. The project was funded by the Swiss State Secretariat for Migration through the Swiss Cooperation Office in Kosovo and implemented by ICMPD in partnership with the University of Maastricht.

In this regard, the draft State Strategy on Migration 2019-2023 of Kosovo underlines the continued support of the Swiss Agency for Development and Cooperation in the framework agreement of the Partnership for migration between Kosovo and Switzerland that provides opportunities for training, thematic campaigns on visa rules in Schengen area, about the consequences of irregular migration.

Another EU-funded project and implemented by the Immigration and Naturalization Service of the Dutch Ministry of Security and Justice; in partnership with the Swedish Migration Agency and the Austrian Federal Ministry of Interior, is the project 'Strengthening Kosovo's institutions in effective management of migration (twinning project)'. The overall objective of this Twinning project was to increase the efficiency and effectiveness in migration management, in line with the best practices of the EU acquis and the overall development priorities of Kosovo, as well as to strengthen the capacity of existing institutions and to ensure harmonization with EU standards in the management of migration and asylum. This project started on 1 March 2016 and ended on 28 February 2019.

The Federal Ministry for Economic Cooperation and Development (ECD) through GIZ is active in Kosovo through the 'Migration and Development Program'. This program, among others, supports the institutions of Kosovo in strengthening internal governance structures of migration. A number of capacity building measures and trainings have been developed for the Government Migration Authority as well as for the target institutional actors.

Given the fact that the irregular movement of Kosovo citizens to States in the Schengen area poses a challenge to the Kosovo migration/reintegration authorities from independence onwards (and before it), return and reintegration still has a high priority for the Kosovo migration authorities. In addition to irregular migrants from Kosovo who reside contradictory to the applicable norms of migration law in the Schengen area and the EU, Kosovo is also a transit territory for irregular movements of foreigners passing through the territory of Kosovo as part of the Western Balkans route which enables transit through the Eastern Mediterranean Route to the EU. Joint report of

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<sup>1</sup> <https://www.icmpd.org/news-centre/news-detail/project-news-launching-of-the-main-phase-of-mimak/>



Europol, Frontex and EASO, "Tackling Migrant Smuggling in the Western Balkans (2018-2019)", clearly shows that organization for smuggling of migrants is still a lucrative business for international organized crime. To this end, Kosovo migration authorities with law enforcement participate in the fight against this form of international organized crime.

Knowledge transfer projects, that aim to strengthen the capacities of the state to be successful in overcoming the challenges related to irregular migration, are one of the measures that contribute to the overall capacity in migration management.

The Austrian Agency for European Integration and Economic Development in cooperation with the EU has also contributed to the project for Strengthening readmission and reintegration in Kosovo between 2013 and 2015<sup>2</sup> with the objective of supporting integrated border management and implementation of readmission by aligning it with the EU Acquis, which project also aimed to facilitate the sustainable reintegration of returnees in Kosovo, including strengthening the administrative and institutional capacities of relevant institutions.

Positive impact on the overall reintegration of returnees in Kosovo is played by the EU-IOM multiannual program on return and reintegration<sup>3</sup> based on the long-term partnership between IOM, the EU Office in Kosovo and the Ministry of Communities and Returns that helps the returnees to integrate into Kosovo society. Currently, Phase V is underway, launched in November 2017 with duration of 42 months. In the context of readmission and reintegration, the contribution of the IOM Assisted Voluntary Return and Reintegration program should be emphasized<sup>4</sup> (AVRR).

However, the Ministry of Internal Affairs and IOM have signed a Memorandum of Understanding regarding cooperation in the assisted voluntary return and voluntary reintegration program in 2019, targeting foreigners with irregular status in Kosovo and who are subject to return to their country of origin.

Given the fact that for the period 2019-2020 Kosovo had an important role as Presidency<sup>5</sup> of the regional migration processes under MARRI RC in Skopje, so, the only regional intergovernmental organization established for cooperation in the Western Balkans, it is important to emphasize the priorities for this year as follows: Integrated border management cooperation, cooperation in combating trafficking in human beings and smuggling of migrants, harmonization of regional asylum standards, implementation of readmission agreements. In this role, Kosovo also supported the implementation of the regional project "Preventing and Combating THB in the Western Balkans", implemented by GIZ.

### **1.3. The main problem**

In the Republic of Kosovo, especially in the trends of recent years, there is a large number of foreigners who have a legal residence in the Republic of Kosovo for various reasons, such as

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<sup>2</sup> <https://www.aei.at/strengthening-readmission-and-sustainable-reintegration-in-kosovo-kos-ii/?lang=en>

<sup>3</sup> <http://kosovo.iom.int/eu-return-reintegration-kosovo>

<sup>4</sup> <https://kosovo.iom.int/assisted-voluntary-return-and-reintegration-programmes>

<sup>5</sup> <http://marri-rc.org.mk/wp-content/uploads/2019/08/Priorities-of-Kosovo-Presidency-in-Office.pdf>

living, studying or even for tourism purposes. Their residence in the Republic of Kosovo is accompanied by various activities that necessitates legal regulation, which means that the law on foreigners should be such so as to address the various situations that arise in practice. The Law on Foreigners, in terms of the object of legal and social relations that it regulates, is an element and indicator of a long-term impact on socio-economic developments in the territory of the Republic of Kosovo.

There is a generally shared view by relevant stakeholders that Law No. 04/L-219 on foreigners and Law No. 06/L-036 on amending and supplementing law No. 04/L-219 on foreigners is considered to be fully aligned or advanced with the EU *acquis* on legal migration, respectively about 33% of the domestic legislation is fully aligned with the EU Acquis while 77% have advanced alignment with the EU Acquis on legal migration. In order for the Law, as well as the bylaws deriving from it, to be in even higher compliance with the EU *acquis*, they are required to comply with certain elements of Council Directive 2003/86/EC of 22 September 2003 on family reunification right (FRD) such as: procedural safeguards, entry visas for family members, who are granted a residence permit and temporary family reunification. The same applies to their compliance with Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (LTRD), i.e. elements such as: procedural safeguards, validity of identity cards of permanent residence, the rules for equal treatment should be transposed into local legislation<sup>6</sup>Consequently, this concept document arose after identifying the need for continuous improvement of the legal migration policy framework in the country, further aligning migration legislation with the EU *acquis* and international conventions in the framework of the EU integration process, as well as the parallel adoption of international norms in this field.

One of the issues identified during the analysis is related to the legal uncertainties in Law No. 04/L-219 on Foreigners, respectively between Article 6 and Article 59, point 1.3. Relevant stakeholders have identified the need for a detailed procedure for implementing these two provisions of the law which are currently unclear. Such an uncertainty was also confirmed by the report of the Parliamentary Commission of Inquiry, established ad-hoc to investigate the revocation of residence permits and deportation of six (6) Turkish citizens on March 29, 2018. The problem according to this report arises especially in the revocation of residence permits.

Some of the identified violations have resulted at least in part from shortcomings in the laws in force in the Republic of Kosovo. Therefore, the Commission has recommended, inter alia:

- To amend and supplement Law No. 04/L-219 on Foreigners, in order to prevent the deportation or extradition of foreigners to countries where they may be subjected to torture or to inhuman or degrading treatment or punishment, in accordance with the principle of international law, non-refoulement.
- To establish an institutional mechanism, or task an existing institution, with the responsibility to assess whether foreigners, in the event of deportation or extradition to a particular country, may be subjected to torture or to inhuman or degrading treatment or punishment in that country.

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<sup>6</sup> Refer to the LAGA assessment for legal migration for further details.

- To amend and supplement Law No. 04/L-219 on Foreigners, in order to oblige the Department for Citizenship, Asylum and Migration, within the Ministry of Internal Affairs, to communicate to foreigners the factual grounds for decisions on revocation or refusal of residence permits, without exception.
- To amend and supplement Law No. 04/L-219 on Foreigners, in order to prevent the deportation of foreigners before exercising their right to appeal against their deportation to an independent authority.

Furthermore, the situation created by the legal uncertainties and the authorization for revocation when considered that national security has been breached, also shows the following problems:

- Kosovo unilaterally stated in its Constitution that it is bound by international agreements and treaties, including the European Convention on Human Rights (ECHR) and its protocols, as well as the International Covenant on Civil and Political Rights (ICCPR), as well as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT): all instruments have a binding nature on decisions that may have serious consequences for the life of the person concerned if procedural guarantees are not applied.
- CAT, Article 3, defines a general principle of nonrefoulement of a foreigner to the country of origin, the same norm is provided in the ECHR, Article 3 (Prohibition of torture: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment), whereas Article 13 of the ICCPR provides that “An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority”.

There is a legal uncertainty in the middle of Law No. 04/L-219 on foreigners (for the integration of foreigners in economic, social and cultural life) and Regulation (GRK) No. 09/2019 for the integration of foreigners. There is a common understanding that this problem needs to be addressed so that competencies are clarified.

Another challenge is the lack of adequate implementation of legislation on foreigners. These challenges are mainly related to insufficient inter-institutional cooperation and coordination, lack of interaction and interconnection between different databases and Information Technology systems, unclear decision-making competencies.

Furthermore, the thirty (30) day deadline for reviewing and making decisions on applying for a residence permit has been identified as problematic, because it is estimated that this deadline is too short in relation to the importance and complexity of the cases, therefore the need to extend the deadline has also been assessed.

Furthermore, the interaction of Information Technology databases and systems regarding the entry and residence of foreigners remains among the main challenges for the implementation of legislation on foreigners. It has been identified that the Kosovo Visa Information System (KVIS) is not automatically linked to the foreigner database in DCAM. Similar shortcomings are reported

regarding the link between the DCAM database and other databases such as those of the Kosovo Police, Employment Agency of the Republic of Kosovo, Ministry of Industry, Entrepreneurship and Trade, Civil Registration Agency, etc.

MIA, specifically DCAM is responsible for issuing residence permits for all categories, including for employment purposes in the absence of an 'annual employment quota for foreigners'. Even if the 'annual employment quota' is not approved by the Government, EARK must have a final confirmation of employment permit applications based on labor market analysis and foreign labor demand. The same applies to other institutions, such as the Ministry of Trade and Industry, when a foreigner applies for a residence permit based on the established business in Kosovo, or to the Ministry of Education regarding the enrollment of foreign students in universities in Kosovo.

Another problem identified is that of overlapping responsibilities between institutions in decision-making, which present difficulties in generating accurate statistics. A concrete example is the procedure when decisions are made for forced deportation. At present, decisions for forced deportation are made by two (2) bodies that make such decisions. In accordance with the current legal framework, it is the competence of DCAM within the MIA to take such a decision in cases of return of foreigners whose residence permit has been revoked, while on the other hand the Directorate for Migration and Foreigners within the Kosovo Police is responsible to take a decision on forced deportation in cases of foreigners who are staying illegally in the territory of the Republic of Kosovo. Such a division of competence has presented ongoing problems in practice and has therefore been identified as one of the reasons why the current Law has difficulties in adequate implementation.

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

Effects	<p>Impact on the private sector that employs foreigners, especially those with high qualifications and demanded from the labor market.</p> <p>Violation of the rights of foreigners</p> <p>Violation of public and national security</p>
The main problem	<p>Uncertainties about Decision-making procedures, setting criteria and deadlines, competencies, ineffective monitoring of law enforcement in the field, lack of complete statistics, poor inter-institutional coordination.</p>
Causes	<p>Lack of automatic interconnections of systems for data exchange for the field related to the entry and residence of foreigners in the Republic of Kosovo</p>

	Article 6 and Article 59 define the issue but do not regulate the procedure
	Duration of residence permits for certain categories
	Uncertainties regarding the annual employment quota according to the Provisions of Articles 69 and 70 of the Law on Foreigners
	Lack of punitive measures by the Labor Inspectorate against businesses that employ foreigners staying illegally in Kosovo

*Figure 4: Overview of stakeholders based on the problem definition*

Name of the stakeholder	The cause and/or effect (s) to which the stakeholder is linked	The way in which the stakeholder is linked to the cause(s) or effect(s)
Department of Citizenship, Asylum and Migration	<p>Violation of the rights of foreigners</p> <p>Violation of public and national security</p>	<p>The Foreigners Division is responsible for reviewing and deciding on residence permit applications as well as for revoking residence permits for foreigners. Procedural uncertainties in cases of revocation of residence permits for foreigners as well as unsatisfactory coordination in cases of decision-making for the issuance of residence permits for different categories of foreigners. This situation contributes to the integrity and credibility of the process and consequently the Department of Citizenship, Asylum and Migration itself, as a competent body, responsible for the implementation of legislation in the field of foreigners.</p>
Directorate for Migration and Foreigners (DMF), Kosovo Police	<p>Violation of the rights of foreigners</p> <p>Violation of public and national security</p>	<p>The Directorate for Migration and Foreigners within the Kosovo Police is responsible for the control and supervision of foreigners with irregular residence in the territory of the Republic of Kosovo, the issuance of a decision for forced deportation and the deportation of foreigners. Under current legislation, DMF issues a forced deportation order to foreigners staying illegally in the territory of Kosovo, while DCAM issues a decision of deportation in cases of revocation and rejection of a foreigner's residence permit for various reasons. This causes procedural uncertainties and mix of competencies and contributes to the lack of a harmonized system for generating statistics for these categories.</p>
Employment Agency of the Republic of Kosovo (EARK)	Lack of competencies and decision-making in cases of issuing residence permits for foreigners	<p>The Ministry of Labor and Social Welfare and the Employment Agency of the Republic of Kosovo are responsible for drafting and implementing employment policies in the Republic of Kosovo, including the employment of foreigners. Under current legislation on foreigners, EARK's powers in reviewing applications</p>

		<p>for residence permits for employment purposes are limited to issuing short-term employment permits. Considering that even in the absence of a decision of the Government to determine the 'annual quota' for the employment of foreigners in the Republic of Kosovo, the decision to issue this category of residence permit should be based on labor market analyses made by EARK. This is for the purpose of drafting policies for the employment of foreigners based on the needs of the labor market and that would contribute to the economic development of the country.</p>
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## CHAPTER 2: OBJECTIVES

The main goal is defined in the implementation of the obligations arising from the Stabilization and Association Agreement between the European Union and the Republic of Kosovo, respectively in the provisions of this agreement related to the alignment of domestic legislation with that of the EU in the field of migration. This goal is also reflected in the National Program for the implementation of the SAA.

While, in terms of strategic objective, this Concept Document aims to further harmonize local legislation with Chapter 24 of European legislation, namely the sub-chapter on migration (regarding the entry and residence of foreigners in the Republic of Kosovo), as well as its implementation.

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

- 1) Strengthening the control mechanism and supervision of the implementation of the legal provisions of the Law on Foreigners;
- 2) Advancing and interconnecting of databases and collection of complete data for all categories covering the field of foreigners (all categories of residence permits, visas, work permits);
- 3) Reviewing procedures in order to strengthen criteria and increase efficiency.

These objectives are foreseen in the strategic planning documents of the Government of the Republic of Kosovo, respectively in the State Strategy on Migration 2013-2018 as well as in the National Strategy for Integrated Border Management 2013-2018. Similar objectives are included in the draft State Strategy on Migration 2021-2025.

*Figure 5: Relevant Government Objectives*

The purpose of the policy	Name of relevant planning document (source)
Purpose: Implementation of obligations under the SAA in the field of migration	National Program for the implementation of the SAA
Strategic objective: Alignment of local legislation with Chapter 24 of European legislation, respectively sub-chapter on migration (regarding the entry and residence of foreigners in the Republic of Kosovo) and its implementation	Migration Strategy 2021-2025



<p>Specific objectives:</p> <ol style="list-style-type: none"> <li>1) Strengthening the control mechanism and oversight of the implementation of the legal provisions of the Law on Foreigners;</li>   <li>2) Advancement and interconnection of databases and collection of complete data for all categories covering the field of foreigners (all categories of residence permits, visas, work permits);</li>   <li>3) Review of procedures in order to strengthen the criteria and increase efficiency</li> </ol>	<p>According to this concept document</p>
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## CHAPTER 3: OPTIONS

Based on the identification of problems, including causes and consequences, this Concept Document treated and elaborated various options which aim to address the shortcomings that have been identified in the situation analysis and which can be processed in the field of foreigners.

Consequently, this Concept Document addresses three (3) main options:

1. The *status quo* option (no change) according to which the current situation, consequently the existing problems will continue to exist;
2. The second option is the change option to improve the implementation of the current legal framework but without legislative changes, which tends to address some of the issues that have been identified but it is impossible to provide a new legal basis; and
3. The third option is the one with legislative changes, specifically with the drafting of a new law which envisages addressing all the elaborated problems and the approximation of local legislation with the EU *acquis*.

In this sense, the comparative analysis between the three (3) proposed options is elaborated in Chapter 6 of this Concept Document.

### 3.1: *Status quo* option (no change)

The first option, the *status quo* (no change) option provides for the continuation of the current situation in the field of foreigners. In this field, despite the achievements with the amendment of the Law on Foreigners in 2018 which had as its main goal the harmonization with some parts of the European legislation, its implementation in practice is not at the right level and has revealed a considerable number of problems. Continuation with the no change option will influence to continue facing the current challenges related to the conditions of entry and residence of foreigners in the territory of the Republic of Kosovo.

The no change option would pose major challenges for relevant actors involved in the field of foreigners, as identified in Chapter 1 of this Concept Document. These challenges, to some extent, could lead to delays in the implementation of recommendations and best practices, and would have an unsatisfactory effect on the implementation of legislation on foreigners in the Republic of Kosovo.

In this context, the 'no change option' is not an option which enjoys the support of institutional actors involved in the field of foreigners. Also, the working group has expressed the view that with the selection of the first option no progress will be achieved in the field of foreigners, so the current situation in this field would continue, therefore this proposal does not enjoy the support of the working group.

### 3.2: Option to improve the implementation of the current legal framework without legislative changes

The second option examines the possibility of improving the implementation of the current legal framework without concrete legislative changes. This option, similarly, would leave in force the

current Law as a basic pillar of the field of foreigners, with some small systematic changes which aim to improve the implementation of current norms.

As elaborated above in the framework of this Concept Document, the legal framework governing the field of foreigners in Kosovo is not fully aligned with the EU *acquis*, but there are also contradictions with other laws and bylaws. Moreover, if this option is adopted, then it will be possible to achieve professional capacity building in the field of implementation of legislation on foreigners. This means increasing the number of employees especially in decision-making. The option to improve the implementation of the current legal framework without legislative changes proposed by this concept document suggests a number of measures in order to implement the Law on Foreigners and other bylaws and which are mainly related to the following activities:

- Professional capacity building;
- Strengthening professional capacities to implement the amended Law on Foreigners of 2018;
- Digitization of services in order to increase efficiency and interconnection of various databases that will result in better generation of statistical data for policy making in the field related to foreigners.

The proposed measures will certainly have financial implications; however this cost could be economized by increasing the number of foreigners residing in the Republic of Kosovo who would contribute to the economic development of Kosovo. However, considering that even this option would not properly serve to improve the situation and legal gaps identified, therefore the working group does not recommend this option.

### **3.3: Third option, with legislative changes (recommended)**

The third option examines the possibility of legal changes through the adoption of a new law which will regulate the field of foreigners. This option means drafting a new law which would address the legal gaps encountered, and address the new challenges created as a result of the latest technological developments. This would be done based on best practices as well as in line with the *acquis* of the European Union.

Despite the fact that the legislation in the field of migration, respectively on foreigners was changed in 2018, as migration movements are dynamic, the legal regulations in this field are also constantly updated, both at EU and global level. In this regard, in order to harmonize and align local legislation in the field of migration with these changes, it is necessary that the amended Law on Foreigners of 2018 be adopted as a new law. This is also due to the recommendations issued from the 'Assessment of gaps in the field of migration' of 2020 and to address the report with recommendations from the Parliamentary Report of June 24, 2019, regarding the deportation of some foreign nationals from the territory of Republic of Kosovo. In this spirit, the working group in consultation with other stakeholders has concluded that the most preferred option is to draft a new law on foreigners.

This option examines the possibility of adopting a new law on foreigners, which would also harmonize with other applicable laws governing the field of foreigners within the territory of the Republic of Kosovo. This law would be drafted on the basis of best practices of other countries in

the region as well as European Union countries. The adoption of the 3rd option would provide the most appropriate and fair regulation of a field of special importance, such as the field of foreigners.

The adoption of the new Law, inter alia, would transpose some elements of the Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification which are not currently fully regulated by the current framework. This will define a set of rules that define the procedure for reviewing and handling applications for family reunification and entry and residence in the territory of Kosovo. In this regard, the procedures will be more effective and manageable, taking into account the burden that the administration faces, and at the same time this change would serve to provide proper legal certainty for stakeholders. This, in turn, would clarify the procedure and criteria for exercising the right of family reunification by foreign nationals with legal residence in the Republic of Kosovo.

Currently, the current legal framework recognizes several categories of residence permits, as follows:

1. Temporary residence permit for the purpose of:

- 1.1. family reunification;
- 1.2. autonomous;
- 1.3. pre-university or higher education;
- 1.4. scientific research;
- 1.5. humanitarian grounds including refugees, persons under subsidiary protection and victims of human trafficking or victims of smuggling of migrants and foreigners who have expressed a willingness to cooperate with the competent authorities;
- 1.6. labour;
- 1.7. employment of the systematic worker; and
- 1.8. other purposes.

2. Permanent residence permit.

Some problems have been identified that are related to some of the purposes for which a person can obtain a residence permit in the Republic of Kosovo. Initially, the temporary residence permit for humanitarian reasons creates uncertainty in the implementation, specifically taking into account the categories under which the humanitarian reasons fall, and consequently in its implementation. It is considered that with the adoption of the new law, the provisions related to the issuance of residence permits for humanitarian cases would be reformulated; initially by creating a greater clarity as to what is considered humanitarian. The current law is deficient, because although it specifies which categories also enjoy the right to a residence permit for humanitarian reasons, it regulates only victims of human trafficking across the norms, by creating uncertainties for other categories. Also, the new law would create the possibility for adding new categories arising from the Law on Asylum, which are not subject to the regulation of this law, so it would provide for obtaining a residence permit for persons with temporary protection.

In terms of defining the categories of temporary residence permits, this law would also distinguish between residence permits for humanitarian purposes versus the issue of health emergencies.

Also, in the case of temporary residence permits, the category of residence permit for other reasons, according to the current framework is somewhat unclear. The adoption of the option with

legislative changes would create the possibility for this category to gain the right to a temporary residence permit through the request of the institutions of the Republic of Kosovo. Thus, the manner of submitting the request for other reasons by the relevant institution would be regulated.

On the other hand, a permanent residence permit is a specific form of a legal residence permit within the territory of the Republic of Kosovo. However, there are certain cases where persons who have a permanent residence permit in Kosovo also have the opportunity to possess a residence permit in another country. According to the norms in force in the current law on foreigners, the permanent residence permit has an unlimited validity, however it can be revoked for certain specific reasons. However, the current legal framework does not provide for the possibility of revoking a permanent residence permit if a foreigner has or obtains another residence permit in another country. The new law in this regard would provide for the possibility of revocation and would be in line with relevant EU directives.

Further to be addressed through the new law on the issue of permanent residence permit is also the issue of the language test. EU directives do not provide for a test to obtain a permanent residence permit, but they do not have provisions prohibiting a foreign national from taking a language test in order to obtain a permanent residence permit. Therefore, through the new draft law, the Ministry of Internal Affairs will analyze the best practices of EU countries and will address this issue.

In the part of residence permits, through the new law, the deadline for issuing residence permits for all categories will also be reviewed, in order to transpose the deadlines set in the relevant EU Directives. It is considered that the deadline for the residence permit procedure as defined is a relatively short deadline. Given the number of applications for a residence permit, mainly for reasons of family reunification or employment, the deadline of twenty (20) days for the procedure of issuing a residence permit for foreigners and proof of work registration is not reasonable. In this regard, it is recommended to extend the deadline to at least sixty (60) days, as the maximum deadline for issuing the decision. During this time, a temporary permit will be issued which will serve the foreigner to prove that he/she has applied for a residence permit.

During the review of the problem it was also identified that there is a contradiction between the Law on Foreigners and Regulation (GRK) No. 09/2019 on the integration of foreigners. This conflict exists mainly in the competencies that these two legal acts give to the relevant institutions. To give a clear instruction on the competencies related to the cultural integration of a foreigner and to harmonize Regulation No. 09/2019, the Law would create clear legal authorizations, and the Regulation will be amended.

In this regard, it is useful to reflect the general spirit of the need for integration measures as well as tests for cultural integration:

- LAMI booklet of the Council of Europe on the Language Test for Access, Integration and Citizenship<sup>7</sup>.

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<sup>7</sup> <https://www.alte.org/LAMI-SIG>

- The EC recently published the Action Plan for Integration and Inclusion (2021-2027) - EU integration is not a thematic field in itself, embodied in directives or regulations, the competence is still held by the Member States: however the need for a common approach is a necessity that requires the approval of this mechanism<sup>8</sup> - fields of intervention: inclusive education, promotion of access to health, adequate and affordable housing, improvement of employment opportunities are elements that would better integrate migrants into society.

According to the current legal framework, but also in accordance with the Report of the Parliamentary Commission of Inquiry in terms of resolving the case of Deportation of six Turkish Citizens on March 29, 2018, the refusal or revocation of the residence permit for state security circumstances should also be addressed.

Refusal or revocation of the residence permit for state security circumstances as regulated by the current Law on Foreigners, authorizes DCAM to revoke or reject a applications for a residence permit even in case of threat to state security (security control in relation to the circumstances related to security is under the Kosovo Intelligence Agency) where through the provisions of the Law in force, the exception to the general rule set out in the Law on General Administrative Procedure is determined- thus excludes the requirement of this law to specify the reasons of making a decision that denies a right - this includes the competent body that in such cases the residence permit is revoked to a foreigner without justification in relation to the circumstances for which such a decision is issued. This rule applies to all legal grounds for admission, including permits for humanitarian reasons. Indeed, the current regulation of the deportation of a foreigner with legal residence in the Republic of Kosovo, i.e. who has been issued a residence permit (including humanitarian reasons), according to the current Law on Foreigners in case of existence of a security threat, should be changed.

With the approval of the 3rd Option, the procedural actions would be clear, the procedures would be correct, and the staff processing the applications would have clear, law-based instructions on how to process the decision. On the other hand, the rights of the person in question, i.e. whose residence permit is revoked for reasons of state security, will be protected from possible arbitrary or unfounded reasons for the decision. However, the state has the right to deport foreigners or to reject the application for residence, but procedural safeguards must be respected.

Protocol 7 of the Council of Europe, Article 1 on procedural safeguards with its explanatory report<sup>9</sup> sets out in Article 1 the minimum set of procedural safeguards to be met:

*“1. An alien lawfully resident in the territory of a State shall not be expelled therefrom except in pursuance of a decision reached in accordance with the law and shall be allowed: (a) to submit reasons against his expulsion, (b) to have his case reviewed, and (c) to be represented for these purposes before the competent authority or a person or persons designated by that authority.*

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<sup>8</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_20\\_2178](https://ec.europa.eu/commission/presscorner/detail/en/ip_20_2178)

<sup>9</sup> <https://rm.coe.int/16800c96fd>

*2; An alien may be expelled before the exercise of his rights under paragraph 1.a, b and c of this Article, when such expulsion is necessary in the interests of public order or is grounded on reasons of national security ”).*

To assist countries for the proper application of guarantees in various and complex cases, the Council of Europe in April 2020 published the Manual to Immigration Court Practice (deportation and Protocol 7, Article 1, page 24)<sup>10</sup> and in August 2020 the Manual to Article 8 of the ECHR<sup>11</sup> (Article 8 of the ECHR is also one of the basic Council Directives 2003/86 EC of 22 September 2003 on the right to family reunification)<sup>12</sup>, case law in this field, which is a source of customary law used when the law needs to be changed (see the case *Ljatifi v. Former Yugoslav Republic of Macedonia* of 8 October 2018<sup>13</sup>) An additional source of state practice in the event of a violation of international procedural safeguards as set out in Article 13 of the ICCPR may be the exhaustive explanation of the case analysis<sup>14</sup>International law and procedural safeguards in deportation proceedings: Ahani k. Canada). Consequently, when drafting the Law on Foreigners, the reasoning should be added, at least in case of a threat to security.

Based on the relevant international instruments, but also on the recommendations of the report of the parliamentary committee, the new law will prohibit the deportation of foreigners before exercising their right to appeal against their deportation to an independent authority.

As a general issue regarding procedural safeguards in case of security threats related to the right of residence and deportation from Kosovo, it is recommended to adopt a bylaw which specifically covers the procedural standards that should be respected during the decision-making process (including the right to be heard).

Also, the new law would clarify when the measure of prohibition of entry into the Republic of Kosovo should be applied in case of refusal and/or revocation of the residence permit. According to the current Law in force, it is determined that such a measure can be imposed for a period of up to five (5) years, but does not specify on the grounds of what criteria the responsible official determines the validity of the detention measure at the entrance of the territory of the Republic of Kosovo. The new law will define some aggravating circumstances on the ground of which it would be decided to impose a measure of prohibition of entry into the Republic of Kosovo, and thus would not be left entirely at the discretion of the official.

Migrants are particularly vulnerable to deprivation of liberty. Irregular migrants are often subject to penalties in detention centres for illegal crossing of the state border, crossing the border with false documents, illegal residence and the like.

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<sup>10</sup> [https://www.echr.coe.int/Documents/Guide\\_Immigration\\_ENG.pdf](https://www.echr.coe.int/Documents/Guide_Immigration_ENG.pdf)

<sup>11</sup> [https://www.echr.coe.int/Documents/Guide\\_Art\\_8\\_ENG.pdf](https://www.echr.coe.int/Documents/Guide_Art_8_ENG.pdf)

<sup>12</sup> <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32003L0086>

<sup>13</sup> [https://hudoc.echr.coe.int/eng/#{"itemid":\["001-182871"\]}](https://hudoc.echr.coe.int/eng/#{)

<sup>14</sup>International law and procedural safeguards in deportation proceedings: Ahani k. Canada [article]

The Republic of Kosovo has established a Detention Centre which operates within the Ministry of Internal Affairs. According to the current situation, the decision for detention in the Detention Centre is taken by the Border Police. This decision is not subject to review by the judiciary and migrants subject to this Decision are held for up to twelve (12) months in the Detention Center. It was discussed by the group that it would be appropriate for the decision of the competent body, 72 hours after its issuance, to be sent for review to the Court which will decide on the case.

On the other hand, a large number of states already make distinctions in the Migrant Detention Center, which also recognizes the practice of administrative detention for irregular migrants related to violations of migration laws and regulations, including residing after the permit expires, not possessing identification documents, using someone else's travel documents, not leaving the country after the deadline has passed, etc. The objective of the administrative detention is to guarantee the proportionate and fair implementation of the measures.

The new Law would strengthen inter-institutional cooperation, especially in the exchange of information. According to the identified problem that the Kosovo Visa Information System (KVIS) is not automatically linked to the DCAM database on foreigners, similar shortcomings are reported regarding the interconnection between the DCAM database and other databases such as those of the Kosovo Police, the Employment Agency of the Republic of Kosovo, the Ministry of Industry, Entrepreneurship and Trade (MIET), the Agency of Civil Registration and other relevant institutions. Therefore, the new law would create a proper legal basis for the exchange and interconnection of these bases, between the relevant institutions, respecting the legislation in force for the protection of personal data.

#### **Chapter 4: Identification and assessment of future impacts**

The expected impacts have been identified and elaborated within this Chapter, based on the option which has found support from the working group, namely the option of the new Law on Foreigners.



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

#### **4.1. Identification of economic impacts:**

Following globalization, migration became a global phenomenon where no State has been left behind.

For all States, immigration and emigration policy is one of the most sacred areas of national jurisdiction. When regulating the governance and management of migration, the sovereignty of the State is limited by the obligations of the State arising from binding international treaties and agreements entered into with other States or international organizations, as well as customary international law.

Migration has an impact on various policy areas, but above all on economic policies with labour market, employment, demographic policy, integration, social and health policies, education policy, security, defence.

However, States that articulate their national interest by adopting national migration strategies strive to achieve two main goals:

- 1) preserve national identity in accordance with international standards
- 2) ensure economic prosperity for the general population.

Kosovo is no exception, the State has adopted the State Strategy on Migration 2019-2023, which is subject to change. The Action Plan, as an executive instrument, lists concrete ways and measures to meet the objectives, which primarily aim at controlling regular as well as irregular movements.

Kosovo's normative framework, in the first place the Law on Foreigners that was last amended in March 2018, generally meets the conditions set out mainly in the EU framework for migration, and for this purpose, the amendment of 2018 is the one that should have the most direct economic impact, towards faster economic processes, contributing to taxes and sustainable economic growth at the local or state level. The merging of two separate administrative decisions, such as the BlueCard in the EU for qualified employees, (first: residence permit, second: work permit for applicants wishing to be admitted for work purposes) should lead to faster processing of applications, under one authority (DCAM - Ministry of Internal Affairs).

As the DCAM staff is not adequately trained - the Act does not contain any norms that would require the State Authority and employees to provide professional training on the innovations introduced by the Act, the result of such a practice may not meet the results expected.

Immigrants contribute to economic growth. According to the OECD Migration Policy Debates<sup>15</sup> as of May 2014, “Over the past ten years, immigrants represented 47% of the increase in the workforce in the United States, and 70% in Europe - although only a relatively small part of these workforce entrances came through managed labour migration, and more came through other channels, including family, humanitarian and free-movement migration”, and it is clear that they

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<sup>15</sup> <https://www.oecd.org/migration/OECD%20Migration%20Policy%20Debates%20Numero%202.pdf>

contribute to economic growth, but this is the case in countries with well-developed capacity building, as a support system for the rapid integration of immigrants into the host society.

Kosovo's economic growth, before the COVID-19 pandemic, was a steady economic growth. The amendments to the Law on Foreigners, *inter alia*, envisage one of the measures to support the economic and structural reforms of the country by providing a system of rapid processing of applications for admission of foreigners to the labour market. A qualified workforce, if not local, then foreign workforce, is one of the conditions to meet economic competitiveness. Number of temporary residence permits for employment purposes<sup>16</sup> (in 2017: 2865, in 2018: 2809, in 2019: 2473) show that the admission of foreigners in Kosovo is an ongoing process, which requires constant monitoring, especially in the circumstances after COVID-19 when the economy is expected to grow rapidly again.

Proposed measures in the Concept Document:

1. Capacity building for curriculum development for in-service training on migration (with the possibility of curriculum for the academic community) - for staff of all agencies involved in migration-related procedures (including Police, Consular Service, Civil Registry...) will provide professional knowledge that will contribute to the regular processing of applications, as well as to well-documented and evidence-based proposals regarding the necessary changes to the migration strategy or legislation. It will also have a direct impact on the governance and rule of law, i.e. on the environment which is a prerequisite for long-term investment in the national economy.
2. Capacity building for migration statistics - will provide the basic tools to quantify and qualify trends in the admission of foreigners, however, to also contribute to better net migration figures, i.e. an important indicator for the economy of the country.
3. The development of an electronic population register - as a measure - in synergy with other reforms, in particular public administration reform - would contribute to better overall government services at the central as well as local level - and would contribute to the role of DCAM in controlling the legality of movement within the country - thus reducing anomalies related to the legal rights of residence at a given address. The *status quo* of the current situation is essential to introduce reforms in this area, as well as for the purposes of tax liabilities in the country.
4. The introduction of a case management system, together with other proposed measures, will enable the rapid tracking system in this area as well, and will economize time, as well as the functionalization of the work in DCAM to the extent until it becomes a modern service in accordance with the trends of digitalization and the necessary interoperability (horizontal and vertical). The faster service performed by a professional staff, comparing the practice of other countries that have introduced such a system, will be beneficial for the faster economic development of the country.

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<sup>16</sup> Republic of Kosovo, Migration Profile Light 2019 - Government Authority on Migration

5. Amending the Law on Foreigners with procedural safeguards in cases of deportation of foreigners is a matter of rule of law and therefore has a direct impact on the overall influence of the Republic of Kosovo in the field of good governance and international relations.

6. Well-developed measures for the integration of foreigners in the local society are an investment in society, which consequently contribute to the better economic integration of a foreigner in the labour market: the proposal to eliminate legal contradictions in the Law on Foreigners regarding the responsibility for the cultural integration of foreigners will provide transparent conditions, which will not be presented as an obstacle to obtaining a residence permit.

Developing knowledge capacity on migration in the Ministry of Internal Affairs, DCAM, by introducing multidisciplinary professional training in the field of migration, accompanied by the introduction of case management for admission applications will be an asset for public administration - will reduce bureaucratic obstacles, which will demonstrate high economic potential. The economic integration of foreigners will have a positive impact on creating new jobs for young people and will also have a positive impact on tax increases.

#### **4.2. Identification of social impacts**

Amendments to the Law on Foreigners (elimination of legal contradictions) regarding the integration of foreigners will have a beneficial social impact and reduce the chances of negative social impact at the local level, due to effective cultural integration; moreover, job creation due to the increase in the number of foreign investments in the local economy will have an impact on improving employability of vulnerable groups, namely, young people and women. In general, it will have a positive social impact.

#### **4.3. Identification of environmental impacts**

In general, the proposed measures will not have an environmental impact, with the exception of the case management system for the admission of foreigners, which will have a positive impact in terms of lower paper consumption, while the centralized system will contribute to reducing the number of interviews with applicants, hence, fewer trips.

#### **4.4. Impacts on fundamental rights**

The Constitution of the Republic of Kosovo and the commitments from international treaties according to the Constitution set high legal standards regarding the protection of the fundamental rights of both citizens and foreigners. Proposed measure: amending the Law on Foreigners (Article 6 and Article 59/5.3) in order to introduce procedural safeguards and provide basic reasoning and a safe right to be heard in cases of deportation due to security reasons is necessary because of compliance with the rule of law.

The integration measures in the field of culture envisaged by the proposal (due to contradictions over responsibilities) also aim to provide the basis for equal treatment of foreigners at the local level, and their integration into cultural, economic, social life in the environment where they live. Furthermore, the proposed measure to introduce mandatory staff training should provide for the part of the curriculum that covers fundamental rights: in this way, the protection of fundamental rights, including the right to privacy and the protection of data, as well as to family life, will be provided to the highest degree.

The proposed measure for the establishment of the Professional Association of Civil Servants (it may be with colleagues from the Department of Citizenship and the Civil Registration Agency) as an NGO could mainly contribute to the better exchange of information with sister associations throughout Europe, as well as the possibility of considering membership or observer status of civil registrars in the European network, which also covers the field of migration. In this way, knowledge on new trends or national court rulings on fundamental rights issues will be shared.

#### **4.5. Gender impact assessment**

The proposed measures will have a direct impact on the gender equality of treatment of foreigners, be it their applications or integration measures: the mandatory training foreseen on the basis of the curriculum should also provide for the section on fundamental rights related to processing of applications and handling of vulnerable groups, including e.g. victims of trafficking in human beings - legislation, as well as a national referral mechanism and inter-institutional cooperation would be an added value to such a system.

#### **4.6. Youth Impact Assessment**

The measures proposed in the concept document do not have a direct impact on young people, with the exception of cultural integration measures for minor foreigners in cases of family reunification; a negative practice regarding possible discrimination against young people of foreign origin, according to available sources, has not been identified.

#### **4.7. Vulnerable groups impact assessment**

If the Ministry of Internal Affairs were to introduce compulsory training on migration and areas related to it (citizenship ...), the curriculum for such training should also include a section on the socio-economic integration of vulnerable groups in society - these may be foreigners-returned to Kosovo, who otherwise have ties to Kosovo but (still) do not have Kosovo citizenship. In the case of envisaged integration, knowledge of social justice is essential - and the proposed measure is intended to provide appropriate knowledge about it.

#### **4.8. Data protection**

Data collection for the purpose of processing, storage, exchange, is regulated by the Law on Data Protection, and, in part, by the Law on Foreigners – is protected by the Constitution, and also foreigners enjoy such protection. Given that personal data of foreigners are subject to high legal protection, specific knowledge of staff should be provided - the proposed mandatory training should cover this topic in the curriculum as well.

Indirectly, if the capacity of migration statistics is to be increased and reliable statistics are to be provided, consideration of a possible change in the Law will most likely be necessary. The legal

basis that will determine the specification of personal details needed for specially articulated purposes.

*Figure 6: The most significant impacts identified for the impact category*

Categories of impacts	Relevant impacts identified
Economic impacts	Admission of foreigners, especially highly qualified categories, will have an impact on the completion of the labour market, respectively in the strategic economic sectors and will directly affect the economic development of the country. Also, the economic integration of foreigners will have a positive impact on job creation for young people and will also have a positive impact on tax increases.
Social impacts	Amendments to the Law on Foreigners (elimination of legal contradictions) regarding the integration of foreigners will have a beneficial social impact and reduce the chances of negative social impact at the local level due to effective cultural integration; moreover, job creation, due to the increase in the number of foreign investments in the local economy, will have an impact on improving employability of vulnerable groups, namely young people and women. In general, it will have a positive social impact.
Environmental impacts	In general, the proposed measures will not have an environmental impact, with the exception of the case management system for the admission of foreigners, which will have a positive impact in terms of lower paper consumption, while the centralized system will contribute to reducing the number of interviews with applicants, hence, fewer trips.
Impacts on fundamental rights	<p>The proposed measures will have the effect of guaranteeing procedural safeguards and providing the basic reasoning and secure right to be heard in cases of deportation for security reasons, are necessary due to compliance with the rule of law.</p> <p>The integration measures in the field of culture envisaged by the proposal (due to contradictions over responsibilities) also aim to provide the basis for equal treatment of foreigners at the local level, and their integration into cultural, economic, social life in the environment where they live.</p>
Gender impact	The proposed measures will have a direct impact on the gender equality of treatment of foreigners, be it their applications or integration measures: the mandatory training foreseen on the basis of the curriculum should also provide for the section on fundamental rights related to processing of applications and handling of vulnerable groups, including e.g. victims of trafficking in human beings -

	legislation, as well as a national referral mechanism and inter-institutional cooperation would be an added value to such a system.
Impacts of social equality	Through the proper process of integration of foreigners in the socio-economic and cultural sphere, a proper system of social equality is enabled.
Impacts on youth	The measures proposed in the concept document do not have a direct impact on young people, with the exception of cultural integration measures for minor foreigners in cases of family reunification; a negative practice regarding possible discrimination against young people of foreign origin, according to available sources, has not been identified.
Impacts on administrative burden	The measures proposed in this concept paper are not expected to have an impact on the administrative burden.
Impact of SMEs	None

#### **4.9. Data collection challenges**

Considering that the data related to foreigners and migration are part of the databases managed by DCAM, Kosovo Police, Ministry of Foreign Affairs and Diaspora and the Employment Agency of the Republic of Kosovo, the Working Group has not had difficulties in generating and analysing them for the purpose of drafting this Concept Document.

### **Chapter 5: Communication and consultation**

This chapter includes the realized plan of communication and consultation activities for this Concept Paper. Most of the relevant actors have been part of the working group. The members are listed in Table 1 of this Decision.

During the drafting of this Concept Paper, several meetings of the working group were held, during which the purpose and content of this Concept Paper were discussed. The problems that have emerged in the implementation of the current law as well as the recommendations of the institutions involved in the implementation of the law have been addressed.

According to the Rules of Procedure of the Government, the Concept Paper was sent for preliminary consultations on 10.11.2021.

This Concept Paper was also published on the public consultation platform from 19.11.2021 to 09.12.2021.

The comments received were addressed by the working group in a joint meeting held on 13.12.2021.

Comments during the preliminary and public consultation phase were received from CRP/K and UNHCR; from the Directorate for Migration and Foreigners, IOM, Agency for Gender Equality and the Employment Agency of the Republic of Kosovo.

In the meeting held on 13.12.2021 the working group reviewed these comments, and when accepted they were integrated in the text of this Concept Paper.

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

The consultation process aims at: Consulting the stakeholders on the content of the Concept Paper; Transparency when drafting of the Concept Paper for foreigners						
Main purpose	Target group	Activity	Communication / notification	Indicative deadlines	Required budget	Responsible person
Open meeting for all stakeholders	All stakeholders	Working group meetings	Physical presence at meetings	September 2021	/	Kushtrim Haliti, DCAM, MIA
Preliminary written consultation	Institutions of the Republic of Kosovo	Internal Communication	By official e-mail	10.11.2021 to 13.11.2021	/	Meliza Qorraj, LD, MIA
Public written consultation	All stakeholders	Publication of the consultation on the portal for public consultation	By official e-mail	19.11.2021 to 09.12.2021	/	Meliza Qorraj, LD, MIA

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

## **Chapter 6: Comparison of options**

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

### **6.1: Implementation plans for different options**

As elaborated under Chapter III, Option 2 aims to address the main problem including causes and effects, without legal interference, but through more effective implementation of existing legislation.

Figure 8: Implementation plan for Option 2

Purpose of the policy	<b>Implementation of obligations from the SAA in the field of migration</b>							Expected cost figure
Strategic objective	Harmonization of domestic legislation with Chapter 24 of European legislation, respectively sub-chapter on migration (regarding the entry and residence of foreigners in the Republic of Kosovo)							
	Output, activities, year and responsible organization/department							
Specific Objective 1: Strengthen the control mechanism and oversight of the implementation of the legal provisions of the Law on Foreigners	Output 1.1:		Year 1	Year 2	Year 3	Year 4	Year 5	Responsible institution/department
	Accountability management in the field of migration, strengthened							
	Activity 1.1.1: Increasing the number of joint inspections between the Inspectorate and KP 1.1.2 Inspections by the official of the Division for Foreigners, in cases of family reunification? Or even common inspections	x						KP  Labour Inspectorate,  MIA/D CAM



		in other cases, such as employment, education, etc.?							
		Activity 1.1.2: Assessment of the needs for staff growth based on the volume of work, respectively on the requirements for issuing residence permits, visas, etc.		x					Division for Foreigners/DCA M  KP,  Labour Inspectorate
		Activity 1.1.3: Increasing the role of EARK in deciding on applications for residence permits for employment purposes based on labour market analysis		x					EARK, DCAM
Specific Objective 2: Advancement and	Output 2.2: Database		Year 1	Year 2	Year 3	Year 4	Year 5	Responsible institution	

interconnection of databases and collection of complete data for all categories covering the field of foreigners (all categories of residence permits, visas, work permits);	interoperability							n/department	
		Activity 2.2.1: Development of the central electronic population register			x			KAS, MIA	
		Activity 2.2.2: Establishment of a case management system for the application of foreigners of all categories		x				MIA	
		Activity 2.2.3: Development of procedures for the functioning of the case management system and training of relevant staff			x			MIA	
		Activity 2.2.4: Processing and standardized publication of statistics in the field			x			MIA	

		of migration								
Specific Objective 3: Advancement of professional capacities for the implementation of legal provisions for foreigners	Output 3.1: Capacities in the field of foreigner management, advanced		Year 1	Year 2	Year 3	Year 4	Year 5	Responsible institution/department		
		Activity 3.1.1: Assessing the capacity building needs of officials involved in the implementation of legislation on foreigners	x						MIA	
		Activity 3.1.2: Development of a capacity building program based on needs assessment	x						MIA	
		Activity 3.1.3: Organizing specialized trainings for officials involved in the implementation of legislation on foreigners		x				MIA		

Figure 9: Implementation Plan for Option 3

Purpose of Policy	Implementation of obligations from the SAA in the field of migration								Expected cost figure
Strategic objective	Harmonization of domestic legislation with Chapter 24 of European legislation, respectively sub-chapter on migration (regarding the entry and residence of foreigners in the Republic of Kosovo)								
	Output, activities, year and responsible organization/department								
Strategic Objective 1  Strengthen the mechanism of control and supervision over the implementation of the legal provisions of the Law on Foreigners	Output 1.1: Clear legal provisions that strengthen control, supervision and accountability in the field of foreigners		Year 1	Year 2	Year 3	Year 4	Year 5	Responsible institution/department	
		Activity 1.1.1 Drafting the new Law on Foreigners	x					MIA	
		Activity 1.1.2: Consultation with civil society and stakeholders	x					MIA	
		Activity 1.1.3: Adoption of the Law on	x					Assembly	

		Foreigners							
		Activity 1.1.3: Drafting and approval of secondary legislation for the implementation of the supplemented Law on Foreigners		x					MIA
		Activity 1.1.4: Review of legal rules and procedures in order to strengthen the criteria and increase efficiency							
Specific Objective 2: Advancement and interconnection of databases and	Output 2.1: Decision making based on standardized and real-time data								
			Year 1	Year 2	Year 3	Year 4	Year 5	Responsible institution/department	
		Activity 2.2.1:			x			KAS, MIA	

collection of complete data for all categories covering the field of foreigners (all categories of residence permits, visas, work permits);	Development of the central electronic population register							
	Activity 2.2.2: Establishment of a case management system for the application of foreigners of all categorical		x					MIA
	Activity 2.2.3: Development of procedures for the functioning of the case management system and training of relevant staff			x				MIA

		Activity 2.2.4: Processing and standardized publication of statistics in the field of migration			x			MIA	
Specific Objective 3: Advancement of professional capacities for the implementation of legal provisions for foreigners	Output 3.1: Capacities in the field of foreign management, advanced	Activity 3.1.1: Assessing the capacity building needs of officials involved in the implementation of legislation on foreigners	x					MIA	
		Activity 3.1.2: Development of a capacity building program based on	x					MIA	

		needs assessment							
		Activity 3.1.3: Organizing specialized trainings for officials involved in the implementation of legislation on foreigners		x				MIA	

## 6.2: Comparison table with all three options

Various options have been elaborated under Chapter 3 and sub-Chapter 6.1 in order to address the main problem including causes and consequences. While this chapter presents the comparative analysis of the three options elaborated in this Concept Document in a tabular form, respectively 1). Option to maintain the status quo; 2). Option to strengthen implementation through institutional, policy, investment in technology and capacity building measures, without legal intervention; 3). The option which complements the second option for strengthening the implementation but goes one step further by proposing the amendment and supplementation of the Law on Foreigners, to harmonize it with the EU legislation as well as with the recommendations from the report of the Parliamentary Committee. Beyond the narrative part presented in sub-Chapter 6.1, the multi-criteria analysis model was used in the analysis of options, based on the following elements: 1). Cost; 2). Implementation efficiency; 3). Degree of harmonization with international standards; 4). Impact on the socio-economic development of the country.



In terms of cost, the Working Group has concluded that, in the first option, respectively, if the state of taking no action continues, it would not imply additional costs, unlike Options 2 and 3, which provide for implementation measures, technological advancements and legal changes which implicate financial costs.

Undoubtedly, the efficiency of implementation would be improved if the proposed legal changes and investments in information technology are made, which enable the development of online procedures in a more efficient but transparent form. Also, Option 3 ensures the harmonization of the Law on Foreigners with EU legislation and standards that affect the advancement of the migration system in general, as well as the entry and residence of foreigners in the territory of the Republic of Kosovo with case law and European standards, with a focus on the EU Pact on Asylum and Migration 2020.

*Figure 10: Comparison of options*

Comparison tool: Multi-criteria analysis									
	Option 1: No change			Option 2: Improvement of implementation and execution			Option 3: Drafting the Law on Foreigners		
Cost	-			++			++		
Implementation efficiency	-			+			++		
Impact on socio-economic development	+			+			++		
Harmonization with EU legislation	-			-			+		
Assessment of the expected budgetary impact (to be completed by the Department of Budget and Finance, MIA)	Year 1	Year 2	Year 3	Year 1	Year 2	Year 3	Year 1	Year 2	Year 3
Conclusion									

## Chapter 7: Conclusions and next steps

Taking into account the problem definition, causes and consequences, as well as based on the elaboration and comparative analysis of the options presented in this Concept Document, the

Working Group has recommended drafting of a Law on Foreigners. At the same time, this Option does not exclude but is complementary to the implementation measures recommended in Option 2. In this regard, the Plan for the implementation of the preferred option includes activities which focus on amending the Law on Foreigners as well as some of the main activities which are targeted towards capacity building, interconnection of different information technology systems, review of legal procedures and rules aimed at advancing control, supervision and accountability in the field of migration and foreigners in particular.

Additionally, the Working Group will ensure that there is a synergy and coherence between the activities proposed in this Plan with other planning documents of the Government and institutions responsible for the implementation of migration policies and those related to foreigners.

### **Chapter 7.1: Provisions for monitoring and assessment**

The implementation of the recommended option according to the plan presented in this Concept Document will be carried out in a regular and structured manner according to the Manual and Guidelines approved by the Government of the Republic of Kosovo. Whereas, 5 years after drafting of the Law on Foreigners, the ex-post assessment of the Law on Foreigners will be conducted.

Annex 1: Assessment Form of Economic Impact

Economic impact category	Key impact	Is this impact expected to occur?		Number of organizations, companies and/or individuals affected	Expected benefit or cost of impact	Preferred level of analysis
		Yes	No	High/Low	High/Low	
Jobs <sup>17</sup>	Will the number of available jobs increase?	X		L	L	L
	Will the number of available jobs decrease?		X	L	L	L
	Will there be an effect on the level of payment?		X	L	L	L
	Will there be an effect on the ease of finding a job?		X	L	L	L
Conducting business	Will there be an effect on the access to finance for business?		X	L	L	L
	Will certain products be removed from the market?		X	L	L	L
	Will certain products be allowed on the market?		X	L	L	L
	Will businesses have to be closed down?		X	L	L	L
	Will new businesses be created?	X		L	L	L

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<sup>17</sup> When there is an impact on jobs, there will be economic impacts as well.

Administrative burdens	Will businesses have to comply with new information obligations?	X		L	L	L
	Are information obligations for businesses simplified?		X	L	L	L
Trade	Are the current import flows expected to change?		X	L	L	L
	Are the current export flows expected to change?		X	L	L	L
Transport	Will there be an effect on how passengers and/or goods are going to be transported?		X	L	L	L
	Will there be a change in time that is needed to transport passengers and/or goods?		X	L	L	L
Investment	Are companies expected to invest in new activities?		X	L	L	L
	Are companies expected to cancel or postpone investments?		X	L	L	L
	Will investments by the diaspora increase?	X		L	L	L
	Will investments by the diaspora decrease?		X	L	L	L
	Will Foreign Direct Investment increase?	X		L	L	L
	Will Foreign Direct Investment decrease?	X		L	L	L
Competitiveness	Will the price of business inputs, such as electricity, increase?		X	L	L	L

	Will the business input price, such as electricity, decrease?		X	L	L	L
	Are innovations and research likely to be promoted?		X	L	L	L
	Are innovations and research likely to be hampered?		X	L	L	L
Impact on SMEs	Are the companies affected mainly SMEs?	X		L	L	L
Prices and competition	Will the number of goods and services available for business or consumers increase?		X	L	L	L
	Will the number of goods and services available for business or consumers decrease?		X	L	L	L
	Will prices of existing goods and services increase?		X	L	L	L
	Will prices of existing goods and services decrease?		X	L	L	L
Regional economic impacts	Will a specific business sector be affected?	X		L	L	L
	Is this sector concentrated in a certain region?		X	L	L	L
Overall economic development	Will future economic growth be affected?	X		L	L	L
	Could there be an effect on the inflation rate?		X	L	L	L



Annex 2: Assessment Form of Social Impact

Social impacts category	Key impact	Is this impact expected to occur?		Number of organizations, companies and/or individuals affected	Expected benefit or cost of impact	Preferred level of analysis
		Yes	No			
Jobs <sup>18</sup>	Will the number of available jobs increase?	X		L	L	L
	Will the number of available jobs decrease?		X	L	L	L
	Are jobs in a specific business sector affected?	X		L	L	L
	Will there be an effect on the level of payment?		X	L	L	L
	Will there be an effect on the ease of finding a job?	X		L	L	L
Regional social impacts	Are the social impacts concentrated in a certain region or specific cities?		X	L	L	L
Working conditions	Are the rights of workers affected?		X	L	L	L
	Are standards for working under dangerous conditions introduced or abolished?		X	L	L	L

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<sup>18</sup> When there is an impact on jobs, there will be economic impacts as well.

	Will there be an effect on how the social dialogue between employees and employers takes place?		X	L	L	L
Social inclusion	Will there be an impact on poverty?	X		L	L	L
	Is access to social protection schemes affected?	X		L	L	L
	Will the price of basic goods and services change?		X	L	L	L
	Will there be an impact on the financing or organisation of social protection schemes?		X	L	L	L
Education	Will there be an effect on primary education?	X		L	L	L
	Will there be an effect on secondary education?	X		L	L	L
	Will there be an effect on tertiary education?	X		L	L	L
	Will there be an effect on vocational training?	X		L	L	L
	Will there be an effect on education of workers and lifelong learning?	X		L	L	L
	Will there be an effect on the organisation or structure of the educational system?	X		L	L	L
	Will it have an impact on academic freedom and self-governance?		X	L	L	L



Culture	Does the option affect the cultural diversity?	X		L	L	L
	Does the option affect the funding of cultural organisations?		X	L	L	L
	Does the option influence opportunities for people to enjoy cultural activities or participate in them?	X		L	L	L
	Does the option affect the preservation of cultural heritage?		X	L	L	L
Governance	Does the option affect citizens' ability to participate in the democratic process?		X	L	L	L
	Is every person treated equally?	X		L	L	L
	Will the public be better informed about certain issues?	X		L	L	L
	Does the option affect the way that political parties operate?		X	L	L	L
	Will there be an impact on civil society?		X	L	L	L
Public health and safety <sup>19</sup>	Will there be an effect on the lives of people, such as life expectancy or mortality rates?		X	L	L	L
	Will there be an effect on the quality of food?		X	L	L	L
	Will the health risk increase or decrease due to harmful substances?		X	L	L	L

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<sup>19</sup> When there are public health and safety impacts, there regularly are environmental impacts as well.

	Will there be health effects due to changes in noise levels or the quality of air, water and/or soil?		X	L	L	L
	Will there be health effects due to changes in the use of energy?		X	L	L	L
	Will there be health effects due to changes in waste disposal?		X	L	L	L
	Will there be an effect on the lifestyle of people, such as take-up levels for sports, diet changes, or changes in the use of tobacco or alcohol?		X	L	L	L
	Are there specific groups that face much higher risks than others (determined by factors such as age, gender, disability, social group or region)?		X	L	L	L
Crime and security	Are the chances that criminals get caught affected?	X		L	L	L
	Is the potential gain from crime affected?	X		L	L	L
	Is there an effect on corruption levels?	X		L	L	L
	Is the capacity of law enforcement affected?	X		L	L	L
	Is there an effect on the rights and security of victims of crime?	X		L	L	L

Annex 3: Assessment Form of Environmental Impact

Environmental impact category	Key impact	Is this impact expected to occur?		Number of organizations, companies and/or individuals affected	Expected benefit or cost of impact	Preferred level of analysis
		Yes	No	High/Low	High/Low	
Climate and sustainable environment	Will there be an effect on the emission of greenhouse gases (carbon dioxide, methane etc.)?		X	L	L	L
	Will fuel consumption be affected?		X	L	L	L
	Will the mix of resources that are used for energy production change?		X	L	L	L
	Will there be a change in price for environmentally friendly products?		X	L	L	L
	Will certain activities become less polluting?		X	L	L	L
Air quality	Will there be an effect on the emission of air pollutants?		X	L	L	L
Water quality	Does the option affect the quality of freshwater?		X	L	L	L
	Does the option affect the quality of groundwater?		X	L	L	L
	Does the option affect drinking water resources?		X	L	L	L
Soil quality and soil use	Will there be an effect on the quality of soil (related to acidification, contamination, use of pesticides or herbicides)?		X	L	L	L

	Will there be an effect on soil erosion?		X	L	L	L
	Will soil be lost (through construction, etc.)?		X	L	L	L
	Will soil be gained (through decontamination, etc.)?		X	L	L	L
	Will there be a change in land use (e.g. from forest to agricultural or urban use)?		X	L	L	L
Waste and recycling	Will the amount of waste that is generated change?		X	L	L	L
	Will the ways in which waste is treated change?		X	L	L	L
	Will there be an effect on the recycling possibilities for waste?		X	L	L	L
Use of resources	Does the option affect the use of renewable resources (fish stocks, hydropower, solar power etc.)?		X	L	L	L
	Does the option affect the use of resources that are not renewable (groundwater, minerals, coal, etc.)?		X	L	L	L
Scale of environmental risks	Will there be an effect on the chances of risks such as fires, explosions or accidents?		X	L	L	L
	Will there be an effect on the readiness when natural disasters occur?		X	L	L	L
	Is the protection of society against natural disasters affected?		X	L	L	L

Biodiversity, flora and fauna	Will it have an impact on protected or endangered species or the areas where they live?		X	L	L	L
	Will the size of or the connections between nature zones be affected?		X	L	L	L
	Will there be an effect on the number of species in a given area?		X	L	L	L
Animal welfare	Will there be an effect on the treatment of animals?		X	L	L	L
	Will there be an effect on the health of animals?		X	L	L	L
	Will there be an effect on the quality and safety of animal feed?		X	L	L	L

Annex 4: Assessment Form for the impact of fundamental rights

Fundamental rights impact category	Key impact	Is this impact expected to occur?		Number of organizations, companies and/or individuals affected	Expected benefit or cost of impact	Preferred level of analysis
		Yes	No	High/Low	High/Low	
Dignity	Does the option affect the dignity of humans, their right to life or the integrity of a person?	X		L	L	L
Freedom	Does the option affect the right to liberty of individuals?	X		L	L	L
	Does the option affect a person's right to privacy?	X		L	L	L
	Does the option affect the right to marry or start a family?	X		L	L	L

	Does the option affect the legal, economic or social protection of individuals or the family?	X		L	L	L
	Does the option affect freedom of thought, conscience or religion?	X		L	L	L
	Does the option affect freedom of expression?	X		L	L	L
	Does the option affect freedom of assembly or association?	X		L	L	L
Personal data	Does the option involve the processing of personal data?	X		L	L	L
	Are the individual's right to access, rectification and objection guaranteed?	X		L	L	L
	Is the way in which personal data is processed clear and well-protected?	X		L	L	L
Asylum	Does the option affect the right of asylum?		X	L	L	L
Property rights	Will property rights be affected?	X		L	L	L
	Does the option safeguard the freedom to conduct business?	X		L	L	L
Equal treatment <sup>20</sup>	Does the option safeguard the principle of equality before the law?	X		L	L	L

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<sup>20</sup> Gender equality is addressed in the *Gender Impact Assessment*

	Are there chances that certain groups would suffer directly or indirectly from discrimination (e.g. any discrimination based on any ground such as sex, race, color, ethnicity, national minority, political or any other opinion, age or sexual orientation)?	X		L	L	L
	Does the option affect the rights of people with a disability?		X	L	L	L
Children's rights	Does the option affect the rights of children?	X		L	L	L
Good administration	Will administrative procedures become more burdensome?		X	L	L	L
	Is the way in which the administration makes decisions affected (transparency, procedural deadline, right of access to a file, etc.)?	X		L	L	L
	For criminal law and envisioned sanctions: are the rights of the accused affected?	X		L	L	L
	Is access to justice affected?	X		L	L	L