

SOCIAL PROTECTION SYSTEM IN KOSOVO

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Contents

1 Introduction

1. Economic and Social context in Kosovo

2. Demographic trends

3. Social assistance and social protection

3.1 Legal Framework

3.1.1 The Constitution of Kosovo

3.1.2 Law no. 2003/15 on Social Assistance Scheme and Law no. 04 / Z-096 on Amending and Supplementing Law no. 2003/15 on Social Assistance Scheme in Kosovo

3.1.3 Family Law of Kosovo no. 2004/32

3.1.4 Law no. 02 / L-17 on Social and Family Services

3.1.5 Law no. 03 / L-22 on Material Support for Families of Children with Permanent Disabilities

3.1.6 Law no. 04 / L-054 on the Status and rights of martyrs, invalids, veterans, members of the Kosovo Liberation Army, civilian victims of war and their families

3.1.7 Law no. 03 / L-212 on Labour

4. Pensions in Kosovo

4.1 Legal Framework

4.1.1 The Constitution of Kosovo

4.1.2 Law no. 04 / L-101 on Pension Funds in Kosovo

4.1.3 Basic Pension

4.1.4 Individual (mandatory) Pension Savings

4.1.5 Voluntary Pension System

4.2 Law no. 2003/23 on Disability Pensions in Kosovo

4.3 Pension schemes for special groups

5. Health Care System

5.1 Legal Framework

5.1.1 The Constitution of Kosovo

5.1.2 Law no. 04 / L-125 on Health

5.1.3 Other relevant regulations in the field of Health

Introduction

The basic elements of all European social systems are social support and social services provided to vulnerable groups and individuals in need. They contribute to social support to individuals, families and social inclusion of vulnerable groups through the protection of fundamental rights and values on which European social systems are based. Countries that have the lowest poverty rates are those that spend the largest percentage of Gross Domestic Product (GDP) on social benefits, except pensions.

European systems have different approaches in the field of social protection, depending on the tradition, standards and social context. European social protection systems can be divided into three main groups: *liberal welfare* regimes, which reflect political commitment to minimizing the role of the government, individualisation of risk and promoting market solutions to protect social risks; *social democratic welfare* regimes characterized by universalism¹, generous levels of support and the dominant role of the state and; *conservative corporate welfare* regimes with emphasis on compulsory social insurance, supplemented by ad hoc programs depending on the needs and particular emphasis on the family and the third sector².

Social protection can take various forms such as regular payment of cash benefits, providing food and other necessities, health care, housing, etc. Also, users of social benefits may be various: unemployed, people with disabilities, large families, war veterans... An effective Social Protection System should provide protection of marginalized groups and individuals who are unable to independently provide an adequate level of existence. This approach requires an organized, institutional and financial support in order to avoid and reduce social risks and differences. Social cohesion as a tendency of modern system aims to ensure the equality of all its members and reduce inequality and differences.

This study was made with the intention to present the field of social protection in Kosovo in a broader sense as an area of services provided by the competent institutions, without a critical review of their contents and efficiency in their implementation.

¹ Universalism is a concept by which the rights, including social, are guaranteed to all citizens

² More info : “ Izazovi nove socijalne politike“ ,SeConS – Development Initiative Group, Belgrade 2010

1. Economic and Social context in Kosovo

The high level of natural growth and extremely young population, armed conflict, low levels of employment and industrial production has led to a great need for social assistance in Kosovo. According to the World Bank in 2001, half of the population lived below the poverty line, while more than 12 percent are below the extreme poverty line³. According to 2007 data, 45 percent of the population (two out of five people) lived below the poverty line, while 17 percent are extremely poor (one of five citizens is not able to satisfy their essential needs). Due to lack of funding, census to achieve the right does not allow most people to exercise their right to social protection. According to the International Labor Organization in 2010, only 6.9 percent of the population in Kosovo was receiving social assistance⁴.

The unemployment rate is a huge problem in Kosovo. With the unemployment rate of 47 percent and 30,000 young people entering the labor market each year, Kosovo has the highest unemployment rate in Europe⁵. According to data of the Ministry of Labour and Social Welfare (MLSW) from 2013, which is different from the data of international organizations, 266 599 persons are without a job, which is more than 30 percent of the working-age population⁶.

Kosovo continues to receive significant funding from outside sources. Remittances of emigrants amounted up to 16.6 percent of GDP in 2008, while the financial assistance of the international community was 15 percent⁷. However, the gross income of only 6,455 billion \$⁸ and 7,600 \$⁹ per capita remains a major challenge for socio-economic inclusion of vulnerable individuals and groups. During 2008 Kosovo experienced a GDP growth of up to 5 per cent, while the World Bank estimation in 2012 was 2.7 percent¹⁰. The total growth of gross income did not lead to a significant increase in living standards neither reduced poverty.

The informal economy is a particularly complex problem. The latest macro-economic data on the informal economy in Kosovo is from the year of 2007. According to EU project¹¹ data, it is estimated that the extent of the informal economy in Kosovo during 2004-2006 was 26.67-34.75% of the GDP of Kosovo.

³ Absolute poverty is defined as the level of income or consumption of families and individuals below the defined minimum necessities of life such as food (2,228 kcal per day), clothing and footwear, housing, heating, etc. Relative poverty is defined as the minimum acceptable standard of living in a society

⁴ http://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_168772.pdf

⁵ <http://www.worldbank.org/ida/country/kosovo.html>

⁶ <https://mpms.rks-gov.net/Portals/0/Librat/0913%20Informacija%20za%20Trziste%20Rada%20ne%20Kosovo.pdf>

⁷ International Labour Organization, "Profile of the Social Security System in Kosovo (within the meaning of UNCS 1244 [1999])", 2010, page 7

⁸ <http://www.worldbank.org/en/country/kosovo>

⁹ <https://www.cia.gov/library/publications/the-world-factbook/geos/kv.html>

¹⁰ <http://www.worldbank.org/en/country/kosovo>

¹¹ Survey on the Extent and Prevention of the Illegal Economy and Money Laundering in Kosovo, EU project 05KOS01 / 03/03/001, 2007

Over half a million inhabitants is indebted. According to the Kosovo Central Bank, the largest number are commercial loans (647 million Euros) followed by individual loans (517 million Euros).¹²

2. Demographic trends

In the 1980s and 1990s Kosovo had a high natural increase rate, as a result of fertility rates and low mortality rates. This trend is gradually changing and has led to a slowdown in the rate of natural increase. The total fertility rate is about three children per woman, and life expectancy is 69 years. In recent years the natural increase is estimated in the range of 34,000 to 35,000 people annually. According to the census of 2011, Kosovo has a population of 1,739,825¹³. Kosovo's population is young, with an average of 23 years. Approximately one-third of the population is under 15 years of age, while only 6 percent are over 65. The working-age population, between 15 and 64 years of age, are with 61 percent of the total population.

3. Social Assistance and Social Protection

Establishing international mission after the armed conflict in Kosovo led to a completely different setting in the financing of social protection to the entire system. Kosovo institutions fully inherited the system set up by international organizations.

After the conflict ended, in 1999, UNMIK has reactivated Centers for Social Work (CSW). Since 2000 these centers started providing social protection. Following the adoption of the Constitutional Framework for Provisional Self-Government in Kosovo¹⁴, the Ministry of Labour and Social Welfare was established. In September 2001, the Department of Social Welfare (DSW) in the MLSW was founded. Centers for Social Work are established by the municipalities which are responsible for their work, as well as to provide funds for their operation¹⁵.

Kosovo still does not have a full range of social protection. Emphasis is placed on the working status of the help seeker, not to his social needs. For example, there is no scheme of unemployment insurance, maternity insurance scheme or schemes of family insurance for children. The social protection system does not include the 75 percent of the poor and tends to strengthen dependency and status quo¹⁶.

The Social Protection System in Kosovo is made of social assistance and social and family services. The social assistance scheme provides temporary financial assistance to families who are poor according to criteria established by the law. To be eligible for social assistance, all family members should have Kosovo documents and to fall into one

¹² <http://www.radiokim.net/vesti/drustvo/stanovnistvo-prezaduzeno.html>

¹³ 2011 Kosovo census. This number does not include the northern part of Kosovo (predominantly inhabited by Serbian community), a large part of members of the Serbian community who boycotted the census, as well as internally displaced persons and displaced persons in third countries

¹⁴ http://www.kuvendikosoves.org/common/docs/FrameworkPocket_SRB_Dec2002.pdf

¹⁵ http://www.kuvendikosoves.org/common/docs/ligjet/2005_02-L17_sr.pdf

¹⁶ UNDP Human Development Report 2010 (p. 30)

of the categories defined by law. Social assistance is reduced if the family has acquired a second income, such as remittances or pensions from abroad. Social assistance is reversed if the income of the beneficiary family exceeds the minimum level of survival ("Ranking gross monthly standard").

In exceptional cases, recipients of social assistance may be foreign nationals who are allowed to stay in Kosovo, asylum seekers, refugees and persons enjoying supplementary and temporary protection.¹⁷

The average amount that families receive in Kosovo is around 60 euros (14 euros per family member). People living in Kosovo have, on average, 0,46 euros for daily needs. Kosovo allocates only 3.7 percent of GDP on social needs¹⁸, which is the lowest in the region¹⁹.

3.1 The Legal Framework

3.1.1 The Constitution of Kosovo²⁰

Despite the fact that the preamble of the Constitution states that the society is based on social justice, The Constitution stipulates that social protection is regulated by law²¹. Exceptions are the Rights of Children as defined in Article 50²². The Right to Work is guaranteed by the Constitution and everyone is free to choose his profession and occupation²³.

3.1.2 Law on Social Assistance Scheme no. 2003/15.²⁴ and no. 04 / Z-096²⁵ Law on Amending and Supplementing Law no. 2003/15 on Social Assistance Scheme in Kosovo

The scheme provides financial assistance to families with incomes below a certain level, determined by the MLSW and the Ministry of Finance, families with members in need of social assistance. Work status of family members is a major factor in determining eligibility and the amount of social benefits. Monthly fees depend on the number of

¹⁷ Art 4.1 Law no. 04 / Z-096 on Amending and Supplementing Law no. 2003/15 on Social Assistance Scheme in Kosovo

¹⁸ For example, the amount of social assistance is 35 € for a family with one member, and € 50 for a family of two members, while for each additional family member the amount increases € 5 up to a maximum of € 75 for families with seven or more members

¹⁹ UNDP Human Development Report 2010 (p. 41)

²⁰ <http://www.kryeministri-ks.net/repository/docs/Ustav1.pdf>

²¹ Article 51 Health and Social Protection 1. Healthcare and social insurance are regulated by law. 2. Basic social insurance related to unemployment, disease, disability and old age shall be regulated by law

²² Art.50 Rights of Children 1. Children enjoy the right to protection and care necessary for their wellbeing.2. Children born out of wedlock have equal rights to those born in marriage. 3. Every child enjoys the right to be protected from violence, maltreatment and exploitation.4. All actions undertaken by public or private authorities concerning children shall be in the best interest of the children.5. Every child enjoys the right to regular personal relations and direct contact with parents, unless a competent institution determines that this is in contradiction with the best interest of the child.

²³ Article 49 Right to Work and Exercise Profession

²⁴ http://www.kuvendikosoves.org/common/docs/ligjet/2003_15_sr.pdf

²⁵ <http://www.kuvendikosoves.org/common/docs/ligjet/Zakon%20o%20izmen%20zakona%20o%20semi%20socijalne%20pomoci.pdf>

family members. There are two categories of beneficiary families based on income and the ability to work.²⁶

3.1.3 Family Law of Kosovo no. 2004/32 ²⁷

The Law sets out the basic principles of comprehensive protection for families and their members. This Law regulates engagement, marriage, relationships between parents and children, adoption, guardianship, protection of children without parental care, family, property relations and special court proceedings in disputes arising from family relationships, etc.

3.1.4 Law no. 02 / L-17 on Social and Family Services ²⁸

This Law defines the area of providing family and social services and care for persons in need. This Law regulates the provision of social and family services to persons and families in Kosovo. These services are provided in the form of: nursing care, advice and financial support. The Law also determines who can facilitate the social services, which includes homes, as well as specialized day care centers and institutions. The MLSW is managing special institutions that are providing accommodation for people with needs or providing emergency shelters for vulnerable individuals.

3.1.5 Law no. 03 / L-22 on Material Support for Families of Children with Permanent Disabilities ²⁹

This Law establishes support for families caring for children with physical and mental disabilities under the age of 18. Material support is in the form of monthly fees managed by the MLSW.

3.1.6 Law no. 04 / L-054 on the Status and rights of martyrs, invalids, veterans, members of the Kosovo Liberation Army, civilian victims of war and their families ³⁰

Separated from the Social Protection System, there is a special scheme which provides individual financial aid for those who participated in the war and became disabled and for civilians who have become disabled due to the consequences of war. According to the Kosovo Agency of Statistics, the number of beneficiaries in 2008 was 11,509 (5,035 men and 6,474 women).

²⁶ Law on Social Assistance Scheme no. 2003/15 Art 4.1, point a and b in connection with Art 2 Law 04 / Z-096 on Amending and Supplementing Law no. 2003/15 on Social Assistance Scheme in Kosovo

²⁷ http://www.gazetazyrtare.com/e-gov/index.php?option=com_content&task=view&id=22&Itemid=28&lang=bh

²⁸ http://www.kuvendikosoves.org/common/docs/ligjet/2005_02-L17_sr.pdf

²⁹ http://www.kuvendikosoves.org/common/docs/ligjet/2008_03-L022_sr.pdf

³⁰ <http://www.kuvendikosoves.org/common/docs/ligjet/Zakon%20o%20statusu%20boraca.pdf>

3.1.7 Law no. 03 / L-212 on Labour³¹

For those who are employed some benefits are provided in accordance with the provisions of the Law on Labour which gives the right to paid leave during pregnancy and while taking care of a child³². This Law also provides an obligation of the Government to establish a minimum wage for the next year³³ which has been proposed by the Socio-Economic Council. The Law provides workers with paid sick leave and compensation in case of injury at work.³⁴

4. Pensions in Kosovo

Before 1990, the employed population in Kosovo was insured by the Pension System of the former Yugoslavia. The pension amount was determined according to years of contributions and earnings. After 1992, the system moved to an unique Pension and Disability Insurance (PDI) system for the whole territory of the Republic of Serbia which is basically almost identical as the system that functioned on the territory of the former Yugoslavia.

After the establishment of the international civil presence, UNMIK promulgated a series of laws regulating this area. These regulations fundamentally alter the existing system. The main feature of the new system is the introduction of an universal linear pension for all beneficiaries older than 65 years, regardless of employment and / or investing in the fund. The introduction of an universal basic pension has significantly increased the number of pensioners. The total number of pensioners in 1998 was 82 203, which is 52 percent of the total number of pensioners in 2008.³⁵

The Pension System was established in three pillars of the system consisting of a flat rate basic pension, scheme of mandatory pension contributions and voluntary contributions scheme for companies.

Mandatory pension consists of two forms: basic pension and individual pension savings. Employers may also provide supplementary pensions for their employees. Individuals may also invest in supplementary pensions through pension funds.

In addition, the scheme is complemented by special schemes for miners, members of the Kosovo Protection Corps and the Kosovo Security Force, war invalids and disabled.

³¹ <http://www.kuvendikosoves.org/common/docs/ligjet/2010-212-ser.pdf>

³² Law no. 03 / L-212 on Labour, Article 49

³³ Law no. 03 / L-212 on Labour, Article 57

³⁴ Law no. 03 / L-212 on Labour, Article 59 and 60

³⁵ Social System Profile, page 22 http://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_168772.pdf

4.1 The Legal Framework

4.1.1 The Constitution of Kosovo

Kosovo Constitution does not determine pension insurance, and does not arrange it by a special law. Pensions are mentioned only in the context of the appointment and dismissal of judges and prosecutors.³⁶

4.1.2 Law no. 04 / L-101 on Pension Funds in Kosovo³⁷

The Law that is currently in force was adopted in 2012 and fully retains the concept established by UNMIK Regulation No. 2001/35³⁸. The Law regulates the area of pension insurance, institutional framework and functioning of the Fund.

4.1.3 Basic Pension

The basic old-age pension is paid to persons older than 65 years. This type of pension is a linear set and applies to all persons who meet the age criteria. The only base for acquisition is the age of the person, so this pension will be enjoyed by all citizens on equal terms, regardless of whether they have ever been employed.

The monthly amount of this pension in 2002 was 28 EUR, 35 euros in 2003 and remained 40 euros from 2004 till 2008. Since April 2014, the pension is 75 euros. By data from December 2013 there were 117 042 persons who are beneficiaries of basic pensions.³⁹

Since 2008, a pension system that provides an additional pension to pensioners who paid contributions to the pension system of the Republic of Serbia prior to the conflict outbreak⁴⁰ has been implemented.

4.1.4 Individual (Mandatory) Pension Savings

Mandatory pension savings system provides pensions that supplement the basic pension. Pension Savings System covers employees and other economically active persons older than 18 years. This contribution is mandatory for workers born after 1946, while for those born before 1946, the contribution is voluntary⁴¹. Every employer is obliged to pay contributions to pension savings for his employees. Employees are obliged to pay contributions to their pension savings. The obligation of the employer and the employee

³⁶ The Constitution of Kosovo, Article 15, 109 and 150

³⁷ <http://www.bqk-kos.org/repository/docs/2012/Zakon%20Penzijskim%20Fondovima.pdf>

³⁸ This Law repeals UNMIK Regulation no. 2005/20 amending UNMIK Regulation no. 2001/35 on Kosovo Pension Trust, Law no. 03/ L-084 on Amending Regulation No.2005 / 20 on Amending UNMIK Regulation no. 2001/25 on the Kosovo Pension and any other provision which is inconsistent with it

³⁹ Kosovo Agency of Statistics

⁴⁰ On the basis of The Decisions 13/277 (31.10.2007), since 2008 the so-called good scheme of social insurance is implemented. The scheme provides supplementary pensions to citizens over the age of 65, unless they can prove that they were retired or have paid contributions for at least 15 years in the former system. The monthly pension is fixed at 35 euros, and will be paid in addition to the basic old-age pension. Pension Administration Department (PAD) estimates that 28,135 pensioners - which represents almost 20 percent of all old-age pensioners received pensions of January 2009. It is estimated that the number of beneficiaries of this scheme will be increased in the future

⁴¹ Law no. 04 / L-101 on Pension Funds in Kosovo, Article 35.2

to pay contributions starts from the first day of employment and ends when the employee becomes entitled to a pension.⁴² The main sources of pension savings are mandatory contributions. Contributions are set at 10 percent of earnings, which share the employer and the employee. The maximum rate of the voluntary contribution is 15 percent. This last option is optional, if the employee or the employer decided to pay an additional 5 percent to the mandatory 10 percent. The pension level depends on the amount of paid contributions and the investment income of contributions. When the worker reaches the pension age - which is 65 years - if he collected more than 2.000 euros on the account, then the pension is paid in monthly installments. If the balance is less than 2.000, then that amount is fully paid. To provide pensions, the final balance of the individual savings account is used to purchase an annuity from an authorized insurance company⁴³, in accordance with their own selection.⁴⁴

4.1.5 Voluntary Pension System

This system is a voluntary, organized on the company level as a supplementary pension fund of the employer⁴⁵ or on an individual basis as supplemental individual pension.⁴⁶ It complements the basic pension systems that is, for now, dominant. Kosovo's Central Bank regulates and supervises the private companies that offer voluntary pension insurance.

4.2 Law no. 2003/23 on Disability Pensions in Kosovo⁴⁷

This Law establishes the eligibility criteria, procedures for determining disability, the role and responsibilities of the medical commission and the pension amount. Disability pensions are financed from the budget. A medical commission formed by the MPMS is deciding on pension entitlement. Basic pension for disability shall not be paid if the beneficiary receives a pension over the war veterans program or receives social assistance.

4.3 Pension schemes for special groups

In addition to the pension system that covers the general population, there are special schemes for members of the Kosovo Protection Corps (KPC), former employees of Trepca and other mines in Kosovo and members of the Kosovo Security Force.

Law no. 03L-100 on Pensions of the Kosovo Protection Corps Members⁴⁸, regulates the pension rights of active KPC members and successors, after the dissolution of the KSF. This scheme started in January 2009. The pension amount is 70 percent of the average

⁴² Law no. 04 / L-101 on Pension Funds in Kosovo, Article 6.1

⁴³ Law no. 04 / L-101 on Pension Funds in Kosovo, Article 12.2

⁴⁴ Law no. 04 / L-101 on Pension Funds in Kosovo, Article 12.6

⁴⁵ Law no. 04 / L-101 on Pension Funds in Kosovo, Article 14

⁴⁶ Law no. 04 / L-101 on Pension Funds in Kosovo, Article 21

⁴⁷ http://www.kuvendikosoves.org/common/docs/ligjet/2003_23_sr.pdf

⁴⁸ http://www.gazetazyrtare.com/e-gov/index.php?option=com_content&task=view&id=278&lang=sr

wage in the previous three years. Pension for early retirement is calculated as 50 percent of average net earnings.

Since 2004, a temporary scheme for miners is effective, which is primarily related to the Trepca Mining Complex, but also covers other mines in Kosovo. This scheme was set up to address social problems, resulting restructuring of companies in the Trepca Mine Complex. Conditions for obtaining these benefits are the following: the recipient must be (i) between the ages of 50 and 65 years, (ii) an employee of the company for at least 10 years, (iii) currently unemployed or self-employed, and (iv) not receiving other social assistance. Benefits cease when the recipient reaches 65 years of age.

Law no. 04 / L-084 on Pensions of Members of the Kosovo Security Force⁴⁹ regulates and sets out the conditions, criteria to guarantee pensions for members of the Kosovo Security Force and members of their families.

5 Health Care Systems

In Kosovo, there is no Law regulating the area of health insurance payments. In 2007 a Law was passed to regulate this area and anticipated funding from the income tax. This Law has never entered into force due to dysfunction of the selected model and the lack of institutional infrastructure for its implementation. According to media reports, from January 2015, all citizens in Kosovo will be insured. The Bill⁵⁰ provides that persons working in the public or private sector with revenues of more than € 50,000 per annum, will be obliged to pay 3.5% of income, while persons under the specified threshold pay 2 euros per family member per month, quarterly or annually.⁵¹

5.1 The Legal Framework

5.1.1 The Constitution of Kosovo

As in the case of Social Protection, the area of Health Care and Health Insurance is regulated by Law.⁵²

5.1.2 Law no. 04 / L-125 on Health⁵³

According to this Law the Health Care System is organized according to the system of primary, secondary and tertiary care. The local government is competent to provide primary health care and to monitoring the health status of the population. The main providers of primary health care are: Centers for Family Medicine, Ambulances, Centers for Emergency Assistance, Pharmacies and Rehabilitation Centers. Secondary health care is provided by Hospitals, Centers for Diagnosis and Treatment, Dental Centers, Mental Health Institutions, and Special Rehabilitation Centers. The basic method of financing is

⁴⁹ <http://www.kuvendikosoves.org/common/docs/ligjet/Zakon%20o%20penzujama%20za%20pripadnike%20SBK.pdf>

⁵⁰ <http://msh-ks.org/sr/legjislacioni/ligjet/>

⁵¹ <http://www.bosnjak-ks.com/clanak/vijesti/kosovo/od-2015-zdravstveno-osiguranje-za-sve-gradane-kosova/>

⁵² <http://msh-ks.org/wp-content/uploads/2013/11/Zakon-o-zdravstvu1.pdf>

⁵³ Law no. 04 / L-125 on Health

the budget of Kosovo and budgets of local governments as well as citizens' participation, donations, gifts and legacies.⁵⁴

Health services are provided free of charge in public health facilities for groups of users defined by law, and persons who have incomes below the official level of social security, with no restrictions.⁵⁵ Victims of trafficking, people living in informal settlements, forcibly displaced persons, returnees under the readmission agreement, prisoners and blood donors are entitled to free treatment, which is time-limited.⁵⁶ Other groups pay the health service in accordance with pre-established rates.

5.1.3 Other relevant legislation in the field of Health

In addition, there is another set of Laws that regulate this field: Law no. 2004/38 on The Rights and Responsibilities of Citizens in the Health Care; Law no. 2004/50 on Private Practices in Health; Law no. 02-L-50 on Medical Emergency Services; Law no. 02-L-76 on Reproductive Health; Law no. 02-L-78 on Public Health; Law no. 02-L-109 for Prevention and Control of Infectious Diseases; Law no. 02-L-150 on Chambers of Health professionals, etc.⁵⁷

⁵⁴ Law no. 04 / L-125 on Health, Article 55

⁵⁵ Law no 2004/4 on Health Article 61.1

⁵⁶ Law no 2004/4 on Health Article 61.2

⁵⁷ more info <http://msh-ks.org/sr/legislacioni/ligjet/>