

# COMMUNITY RIGHTS ASSESSMENT REPORT

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## LIST OF ABBREVIATIONS AND ACRONYMS

**AoK:** Assembly of Kosovo

**CC:** Communities committee

**CCC:** Consultative Council for Communities

**CoE:** Council of Europe

**DCMAC:** deputy chairperson of the municipal assembly for communities

**DMC:** deputy mayor for communities

**DP:** displaced person

**FCNM:** The Council of Europe Framework Convention for the Protection of National Minorities

**IMC:** Implementation and Monitoring Council

**KPA:** Kosovo Property Agency

**KP:** Kosovo Police

**KPC:** Kosovo Prosecutorial Council

**KJC:** Kosovo Judicial Council

**MCR:** Ministry of Communities and Returns

**MCSC:** municipal community safety council

**MCYS:** Ministry of Culture, Youth and Sport

**MEST:** Ministry of Education, Science and Technology

**MLGA:** Ministry of Local Government Administration

**MOCR:** municipal office for communities and returns

**NGO:** non-governmental organization

**OCA:** Office for Community Affairs within the Office of the Prime Minister

**OGG:** Office of Good Governance within the Office of the Prime Minister

**OiK:** The Ombudsperson Institution in Kosovo

**OLC:** Office of the Language Commissioner

**OPM:** Office of the Prime Minister

**OSCE:** Organization for Security and Co-operation in Europe Mission in Kosovo

**PRTANs:** teams for prevention and response towards abandonment and non-registration in compulsory education

**RTK:** Radio Television of Kosovo

**SOC:** Serbian Orthodox Church

**SPZ:** special protective zone

**UNHCR:** United Nations High Commissioner for Refugees

**UNMIK:** United Nations Interim Administration Mission in Kosovo

## EXECUTIVE SUMMARY

The Community Rights Assessment Report Fourth Edition by the Organization for Security and Co-operation in Europe Mission in Kosovo (OSCE), as with previous OSCE community rights assessments, provides an assessment of the progress made by Kosovo institutions in addressing the recommendations of the Council of Europe (CoE) on the implementation of the Framework Convention for the Protection of National Minorities (FCNM).

The latest CoE's Third Advisory Opinion, issued on 6 March 2013, highlights the need for Kosovo institutions to address issues in the areas of inter-community dialogue, security and the justice system, language, education, socio-economic rights and participation, human rights institutions, returns and reintegration, culture and the media. The Advisory Opinion finds that while progress continued to be made by Kosovo institutions, efforts were lacking in central co-ordination and guidance and were largely sustained by international support. The report also expresses concern at the lack of interaction and dialogue among communities, as well as the limited expression of tolerance in society having a particularly negative effect on smaller communities, returnees and youth.

The OSCE Community Rights Assessment Report Fourth Edition assesses the areas of concern highlighted by the CoE Third Advisory Opinion and finds that, despite some positive trends, more efforts are needed to advance communities' rights. Key recommendations to Kosovo institutions include the need for further positive steps to promote dialogue and reconciliation and action to address disparities in accessing justice between Albanian and non-Albanian communities, and to more effectively address security incidents affecting communities, including through improved community outreach. The report highlights the need to address gaps in language knowledge to promote communication among communities, including through improved multi-lingual media broadcasting, and, crucially, through the provision of an integrated education curriculum reflective of ethnic and linguistic diversity in Kosovo. Full and consultative development and implementation of legislation to protect cultural heritage of all communities should be prioritised. The capacities and resources of the Ombudsperson Institution in Kosovo should also be increased to ensure effective implementation of its responsibilities to address discrimination. Additionally, a key recommendation concerns the need to effectively integrate Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities in social, economic and political life, and to develop and implement related policy, as well as revise and strengthen related co-ordination mechanisms. Action is still needed to support durable solutions for conflict-affected displaced persons (DPs) from Kosovo, including the resolution and enforcement of their property claims.

## INTRODUCTION

The Council of Europe Framework Convention for the Protection of National Minorities (FCNM) represents the most important international legal instrument whereby Kosovo institutions' accountability on the rights of communities is measured.<sup>1</sup> The FCNM sets out principles to be respected and goals to be achieved by institutions for the full protection of communities' rights. It has direct applicability in Kosovo<sup>2</sup> and it affords communities substantial protection by promoting equality in all areas of economic, social, political and cultural life and creating conditions to allow them to express, preserve and develop their culture, religion, language and traditions.

Legislation in Kosovo also guarantees the rights of communities through *inter alia* the Law on the Protection and Promotion of the Rights of Communities and their Members in Kosovo,<sup>3</sup> the Law on Use of Languages<sup>4</sup>, laws on education<sup>5</sup> and the Law on Cultural Heritage.<sup>6</sup> As part of its mandate to promote and protect the rights of communities and build the capacity of Kosovo institutions to comply with their obligations, the OSCE regularly monitors and reports on the steps taken by Kosovo institutions to advance communities' rights.

This Community Rights Assessment Report Fourth Edition assesses the progress made by Kosovo institutions in relation to the recommendations made in the CoE's latest set of recommendations<sup>7</sup> adopted on 26 November 2014 and informed by the Advisory Committee's Third Opinion (CoE Third Opinion) on Kosovo<sup>8</sup>. This report follows earlier OSCE community rights assessment reports, published in December 2009, December 2010 and July 2012, which summarize progress made by Kosovo institutions towards previous resolutions adopted by the CoE.

The findings of this report are based on an analysis of quantitative and qualitative data collected by the OSCE at local and central levels in the reporting period of 1 July 2014 to 30 June 2015. Additionally, a small number of significant developments of particular relevance to the Third Opinion and of concern to the OSCE which occurred before July 2014 but since the publication of the last Community Rights Assessment Report<sup>9</sup> in July 2012 are also included. Information was sourced primarily from OSCE tracking tools designed to collect data on the specific issues analysed throughout this report, as well as recently published OSCE reports.<sup>10</sup> A gender dimension was included in the analysis where such data was available.

As in previous community rights assessment reports, this report provides an update on the progress made in Kosovo in addressing each CoE Third Opinion recommendation under one of eight broad thematic topics: Inter-community dialogue, Security and Justice, Use of Languages, Education, Socio-economic rights and Participation, Human Rights Institutions, Returns and Reintegration, and, Culture and Media. For each recommendation assessed, the report reviews the current situation and remaining challenges to be addressed by Kosovo institutions. The report concludes with recommendations for all relevant institutions to improve the implementation of the FCNM.

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<sup>1</sup> For more information on the FCNM, please see: <http://www.coe.int/en/web/minorities/home> (accessed 28 October 2015).

<sup>2</sup> According to Article 22 of the constitution, the FCNM is directly applicable in Kosovo and takes precedence over domestic legal provisions.

<sup>3</sup> Law No.03/L-047 on the Protection and Promotion of the Rights of Communities and their Members in Kosovo, 13 March 2008.

<sup>4</sup> Law No. 02/L-37 Law on Use of Languages, 27 July 2006.

<sup>5</sup> Law No. 04/L-032 on Pre-University Education, 31 August 2011; Law No. 03/L-068 on Education in the Municipalities of Kosovo, 15 June 2008.

<sup>6</sup> Law No. 02/L-88 on Cultural Heritage, 9 October 2006.

<sup>7</sup> Resolution CM/ResCMN(2014)13 on the Implementation of the Framework Convention for the Protection of National Minorities in Kosovo.

<sup>8</sup> CoE Advisory Committee on the Framework Convention for National Minorities, *Third Opinion on Kosovo* ACFC/OP/III(2013)002, 6 March, 2013: [http://www.coe.int/t/dghl/monitoring/minorities/3\\_FCNMdocs/PDF\\_3rd\\_OP\\_Kosovo\\_en.pdf](http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_3rd_OP_Kosovo_en.pdf) (accessed 28 October 2015).

<sup>9</sup> OSCE Report *Community Rights Assessment Report, Third Edition* (July 2012) <http://www.osce.org/kosovo/92244?download=true> (accessed 28 October 2015).

<sup>10</sup> For example, OSCE Report, *Special Transport for Communities in Kosovo Policy Brief, 4 March, 2015* <http://www.osce.org/kosovo/143476> (accessed 28 October 2015).



# 1. INTER-COMMUNITY DIALOGUE

## Recommendation 1

*Take effective measures for the promotion of inter-+ethnic understanding and respect at all levels including a transparent cultural policy based on the appreciation of diversity and the establishment of an integrated and multilingual education system. Create adequate platforms where members of different groups, in particular young people, can meet and interact.*

## Current situation

### *Inter-ethnic dialogue and dealing with the past*

Recently published survey data<sup>11</sup> indicates that divisions between communities, between Kosovo Albanians and Kosovo Serbs in particular, persist. The last two years, notable for the progress of the European Union-facilitated dialogue between Belgrade and Prishtinë/Priština (Brussels Dialogue), have however seen a more positive climate for the promotion of tolerance and diversity among communities, and between Kosovo Serbs and Kosovo Albanians. The integration of the four Kosovo Serb-majority northern municipalities into Kosovo's institutional structures, and the accompanying increased participation of Kosovo Serbs in these institutions, are important indicators of progress in inter-ethnic relations. Despite this improved climate and the legal commitment to "promote a spirit of peace, tolerance, inter-cultural and inter-religious dialogue, and support reconciliation between communities"<sup>12</sup>, institutional efforts to promote tolerance and diversity between different communities in Kosovo remain largely donor-driven.

At the central level, the main achievement to date is the establishment of the Working Group on Dealing with the Past and Reconciliation, chaired by the Office of the Prime Minister and with membership from a range of ministries and civil society organizations. Although formally established by the government in June 2012, the working group has failed to meet regularly and made minimal progress in developing a Strategy on Transitional Justice,<sup>13</sup> as well as struggling with very limited communities' representation (Kosovo Serb participation has generally been limited to one participant). As of 30 June 2015, the Working Group had failed to agree on the timeframe the Strategy would cover despite the substantial support and encouragement provided by a United Nations Development Programme (UNDP) project tailored to support the working group.<sup>14</sup>

At the municipal level, there have been few systematic efforts to bring communities closer. Officially-supported interaction tends to be limited to the participation of community representatives with specific functions in municipal bodies with mandates relevant to communities protection at the local level, such as communities committees (CCs) which work as part of municipal assemblies. In general, despite some progress recorded by OSCE field monitoring, deputy mayors for communities (DMCs) and deputy chairpersons of municipal assemblies for communities (DCMACs) are not fully responding to their role and mandate to promote inter-ethnic dialogue through limited engagement.<sup>15</sup>

<sup>11</sup> 'Ethnic distance in Kosovo', published in 'Perspectives of a multi-ethnic society in Kosovo', p.261, Youth Initiative for Human Rights, Kosovo, May 2015.

<sup>12</sup> Article 3, *supra* note 3.

<sup>13</sup> During the reporting period, the Working Group on Dealing with the Past and Reconciliation was revived (June 2014) and formed four sub-working groups to support strategy drafting on: the right to know; the right to justice; the right to reparations; and, guarantees for non-recurrence. Despite committing to meet once a month, the Working Group met two times in 2014, and twice by the end of June 2015, although sub-groups did meet more regularly.

<sup>14</sup> For more information, please see:

[http://www.ks.undp.org/content/kosovo/en/home/operations/projects/democratic\\_governance/support-to-transitional-justice-in-kosovo.html](http://www.ks.undp.org/content/kosovo/en/home/operations/projects/democratic_governance/support-to-transitional-justice-in-kosovo.html) (accessed 28 October 2015).

<sup>15</sup> These two posts are mandated to advise the mayor and municipal assembly respectively on communities' issues. Additionally, they have a role to promote inter-ethnic dialogue (as per Article 55.1, Law No. 03/L-040 on Local Self Government, 20 February 2008, for DCMACs, and 'Deputy Mayor for Communities – Terms of Reference', endorsed by Ministry of Local Government Administration on 21 November 2014), though monitoring undertaken by the OSCE records relatively few examples of such action.

Inter-community tensions surrounding the return of displaced person (DPs) remain a recurrent issue. Receiving communities in various locations continue to express resistance to returns or integration of DPs, as well as to DPs' religious pilgrimages and visits to graveyards in several municipalities.<sup>16</sup> Monitoring undertaken by the OSCE identifies in most cases only limited municipal efforts to address these tensions and build confidence and trust. Such efforts have included political co-operation between the mayors of Mitrovica/Mitrovicë North and Mitrovicë/Mitrovica South with the aim of addressing tensions in Brdjeni/Kroi i Vitakut, a disputed and ethnically-mixed returns site located in the municipal boundary area of these two municipalities. This led to the establishment of a working group in June 2015, one of three established across Kosovo with central-level support to improve inter-community relations in difficult returns sites.<sup>17</sup>

The OSCE through its monitoring did record however a small number of independent initiatives by mayors. In May 2015, with support from the OSCE, the mayors of Štrpce/Shtërëpcë, Ferizaj/Uroševac and Klokot/Klllokot signed a joint declaration to promote inter-ethnic dialogue and appointed officials to co-operate on implementing activities in 2015 and 2016 with municipal funding. This declaration on co-operation among these three municipalities followed a first initiative, an agreement and declaration in 2013 among Gjilan/Gnjilane, Kamenicë/Kamenica, Novo Brdo/Novobërdë and Ranilug/Ranillug municipalities, which supported a number of small-scale activities, mainly targeting youth. Another positive example, albeit again following international support, was the Memorandum of Understanding concluded between Suharekë/Suva Reka municipality and the International Organization for Migration for the implementation of a returns project and related dialogue activities<sup>18</sup> in Mushtishtë/Mušutište village.

Kosovo media continues to be ethnically polarised, with often biased and incomplete reporting based on journalists' use of sources limited to their own community. Such problems are compounded by language barriers which present significant obstacles to improving inter-community perceptions and relations, an issue linked to the fact that media outlets often do not employ staff from different communities.

### *Education and dialogue*

No progress has been made in addressing the existence of two separate educational systems which inevitably perpetuates divisions between communities. Despite the recommendation of the 'Independent Commission for the Review of Serbian Language Teaching Materials' published in 2010 on the importance of a single educational system for all communities in Kosovo,<sup>19</sup> no serious efforts have been undertaken to address the separate provision of Serbian-language instruction, largely due to overall political circumstances. While the Kosovo 2011-2016 Education Strategic Plan foresees the drafting of a curriculum for education in the Serbian language together with teaching materials,<sup>20</sup> no progress on the issue has been made. Kosovo Serb students continue to learn only Serbian in schools operated by Serbian system institutions and Kosovo Albanian students learn only Albanian in

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<sup>16</sup> Opposition to return and pilgrimages by Kosovo Serbs were reported in: Mushtishtë/Mušutište village (Suharekë/Suva Reka municipality), Korishë/Koriša (Prizren), and Shtupel/Štupelj (Klinë/Klina), Nerodime e Epërme/Gornje Nerodimlje (Ferizaj/Uroševac), and Lipjan/Lipljan. Opposition to the return of Kosovo Roma, Kosovo Ashkali or Kosovo Egyptian DPs was noted in Ali Ibra settlement (Gjakovë/Djakovica municipality), and to their integration in Leposavić/Leposaviq.

<sup>17</sup> The Inter-Ministerial Working Group on Returns is comprised of representatives from the Ministry for Communities and Returns, the Office of the Prime Minister, the Ministry of Internal Affairs, the Ministry of Justice, the Ministry of Finance, the Ministry of Economic Development, the Ministry of Spatial Planning, and the Ministry of Labor and Social Welfare. The Inter-Ministerial Working Group will take decisions to be implemented by all participants. The Inter-Ministerial Working Group on Returns endorsed the establishment of Working Groups in Brdjeni/Kroi i Vitakut, in the village of Svinjare/Frashër in Mitrovicë/Mitrovica South, and in Mushtishtë/Mušutište in Suharekë/Suva Reka. (For more information, please see Recommendation 8 from the main body of this report).

<sup>18</sup> The project is run within the context of the EU Return and Reintegration in Kosovo Phase IV in partnership with the MCR.

<sup>19</sup> MEST Independent Commission for the Review of Serbian Language Teaching Material, p. 15, accessible at:

<http://www.erisee.org/sites/default/files/>

[%20Comprehensive%20Report%20of%20Independent%20Commission%20for%20the%20review%20of%20serbian%20language%20teaching%20materials.pdf](http://www.erisee.org/sites/default/files/%20Comprehensive%20Report%20of%20Independent%20Commission%20for%20the%20review%20of%20serbian%20language%20teaching%20materials.pdf) (accessed 28 October 2015).

<sup>20</sup> Kosovo Education Strategic Plan 2011–2016, page 76.

schools operated by the Kosovo system, further contributing to growing language barriers. Additionally, no opportunities exist for either Kosovo Albanian or Kosovo Serb pupils to learn the languages of the numerically smaller communities. Schools operated under the Kosovo system with Turkish- and Bosnian-language instruction offer Albanian as one of the official languages, but only as an elective subject limited to two hours per week.

Generally, ongoing Kosovo educational reform has yet to address these needs for mutual language learning education and integration. However, the Kosovo Ministry for Education, Science & Technology (MEST) has committed to integrate data on Kosovo Serb pupils, teachers and schools into the Education Management Information System in 2016.<sup>21</sup> Despite this, formal co-operation between the two education systems remains almost non-existent, with the exception of a few cases where the same school premises or compounds are shared and arrangements reached on maintenance and utilities.<sup>22</sup> However, pupils in such ‘shared’ schools usually attend school in separate shifts or separate buildings within school compounds, and no formal activities are organized for these pupils to interact.<sup>23</sup>

Opportunities for pupils attending the two separate education systems to interact are limited to scattered and infrequent initiatives undertaken by international organizations or non-governmental organizations (NGOs). Interaction among pupils from different communities even within the same education system is also limited, and while general cultural or sporting events are organized on a school-by-school basis, activities with the aim of promoting inter-ethnic dialogue and contact are only NGO-led.<sup>24</sup>

While education policy makers are yet to make clear provisions to promote inter-ethnic dialogue and contact among communities, a positive development is the reference to promotion of cultural, ethnic and linguistic diversity in the inter-ministerial Strategy on Local Self-Government 2016–2026. The Strategy anticipates municipal action plans for the promotion of ethnic and linguistic diversity, including local language teaching, curricular activities on multiculturalism and human rights, as well joint extracurricular activities to bring together pupils from different communities.

### **Remaining challenges**

The promotion of inter-ethnic relations remains sporadic at best and institutions have failed to address this problem in any systematic way. In general, relations among communities are affected by often poor and biased media coverage, and the promotion of tolerance between potential returnees and receiving communities remains particularly problematic. While education policies offer an important opportunity to promote inter-ethnic tolerance and relationship-building, this sector remains divided and problematic in Kosovo: future policies which emphasize multilingualism and regular, positive contact, as well as respect for human and communities’ rights, are crucial.

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<sup>21</sup> MEST, Aid Memoire of Joint Annual Review (JAR) for 2014 in the education sector (not dated), shared with the OSCE in April 2015.

<sup>22</sup> Monitoring undertaken by the OSCE identified 14 schools in 9 municipalities (Gjilan/Gnjilane, Novobërdë/Novo Brdo, Klokot/Klllokot; Kamenicë/Kamenica; Viti/Vitina; Fushë Kosovë/Kosovo Polje; Lipjan/Lipljan; Obiliq/Obilić; Dragash/Dragaš).

<sup>23</sup> Monitoring undertaken by the OSCE highlighted reports that pupils interact informally outside of school hours in three out of the nine municipalities with mixed schools, namely: Klokot/Klllokot, Lipjan/Lipljan and Dragash/Dragaš.

<sup>24</sup> As an example, Balkan Sunflowers, Voice of Roma, Ashkali and Egyptians, PL4Y International.

## 2. SECURITY AND JUSTICE SYSTEM

### Recommendation 2

*Condemn unequivocally, promptly and systematically at central and municipal level all acts of inter-ethnic hostility. Ensure that police investigations into security incidents affecting communities are promptly and professionally followed up by prosecutorial and judicial services to foster trust in the rule of law, take resolute measures at all levels to reassure displaced persons and returnees that their return is welcome.*

### Current situation

#### Security trends and responses

During the reporting period, the OSCE recorded a total of 479 incidents in Kosovo which had the potential to negatively affect the security perceptions of communities in a numerical minority at the municipal level.<sup>25</sup> These incidents varied from theft, verbal assault, and severe damage and illegal occupation of property (including cultural heritage sites and cemeteries) to incidents inciting hate and aggressive nationalism<sup>26</sup> and actual physical assaults or intimidation (including to religious pilgrims). More than half of these recorded incidents (310) affected the Kosovo Serb community, including returnees (affected in 22 per cent of 479 recorded cases) and the Serbian Orthodox Church. While incidents affecting communities in the reporting period of 1 July 2014 to 30 June 2015 saw a slight decrease compared to the previous 12 months,<sup>27</sup> trends remained proportionally similar, with Kosovo Serbs constituting the majority of complainants and alleged victims.<sup>28</sup> The reporting period included two ‘spikes’ in the data recorded: one in October 2014, when a number of incidents were sparked by the 2016 European Cup qualifier between Serbia and Albania in Belgrade;<sup>29</sup> and the second in May and June 2015, when there was a notable increase of incidents affecting returnees in Klinë/Klina and Pejë/Peć municipalities, including thefts and stoning of property.

In general, tensions between receiving communities and returnees have persisted since the last Community Rights Assessment Report in several difficult returns sites, with receiving communities expressing strong opposition to the return of DPs in a number of locations.<sup>30</sup> This has included opposition to Go-and-See or Go-and-Inform Visits,<sup>31</sup> and active petitioning against returns and related security concerns in six municipalities.<sup>32</sup> In the majority of difficult returns locations, municipalities took no action to mediate with receiving communities in support of the returns process.

In terms of the security of other communities in a numerical minority at the municipal level, progress was noted for Kosovo Albanian communities in remote areas<sup>33</sup> from the four northern municipalities and their increased ease of travel to the south. The roadblocks/barricades placed in the north

<sup>25</sup> Incidents are assessed on a number of factors, including context, and in most cases the alleged perpetrator and victim/complainant were from different ethnic backgrounds.

<sup>26</sup> Incidents including graffiti with hateful and nationalistic messages, verbal assaults, or burning of Serbian flags in public places were recorded by the OSCE.

<sup>27</sup> 556 incidents were recorded in the previous period of 1 July 2013 to 30 June 2014.

<sup>28</sup> In the year prior to the reporting period, 297 out of a total 556 incidents, recorded by the OSCE, affected the Kosovo Serb community.

<sup>29</sup> The match was interrupted after a drone carrying a flag of ‘greater Albania’ and images of two Albanian historic figures landed on the pitch, causing clashes among players of both teams, spreading to the audience: a number of ‘spill-over’ incidents were recorded in Kosovo during the following period.

<sup>30</sup> See OSCE Report *An Assessment of the Voluntary Returns Process* (October 2014), which identifies a number of difficult returns locations and notes opposition to returns, pg. 18–19: <http://www.osce.org/kosovo/129321> (accessed 28 October 2015).

<sup>31</sup> Go-and-See and Go-and-Inform visits are organized visits of displaced persons to their prospective return site or original home to assist in their decision-making on options for durable solutions. Such visits are usually organized through UNHCR, IOM or other such agencies, and in co-ordination with the relevant authorities. In the reporting period the OSCE recorded opposition to such visits in: Mushtishtë/Mušutište village (Suharekë/Suva Reka municipality), Nerodime e Epërme/Gornje Nerodimlje (Ferizaj/Uroševac municipality), and Brđani/Kroi Vitakut (Mitrovica/Mitrovicë North municipality).

<sup>32</sup> In the reporting period petitions were noted by the OSCE in Istog/Istok town, Istog/Istok (Muzhevinë/Muževine), Gjakovë/Đakovica, Pejë/Peć, Obiliq/Obilić (Plementinë/Plementina), and Klinë/Klina (Dresnik) municipalities.

<sup>33</sup> This mainly concerned Kosovo Albanian communities in Zvečan/Zveçan and Leposavić/Leposaviq travelling south.

throughout 2012 have been removed, with the exception<sup>34</sup> of the main bridge between Mitrovicë/Mitrovica South and Mitrovica/Mitrovicë North, where improvised barriers of concrete flowerbeds (the so-called ‘peace park’) on the north-side of the bridge still limit vehicle access. Notably, a ceremony to re-inter the Kosovo Albanian historic figure, Isa Boletini, in Zvečan/Zveçan municipality, an event previously postponed due to security concerns, was held in June 2015 without any security issues. A key factor that allowed the re-interment to take place was the separation of the massive Kosovo Albanian commemoration, which took place in Mitrovicë/Mitrovica South, and a much smaller re-burial ceremony in Boletin/Boljetin village in Zvečan/Zveçan. The dual events avoided the potential for inter-ethnic incidents that might have resulted from a large Kosovo Albanian presence in an otherwise Kosovo Serb-majority municipality.

Generally, local institutional responses to security improved during the reporting period, and public condemnations of relevant incidents affecting community security perceptions were issued by several municipalities,<sup>35</sup> mainly by the mayors. In terms of the functioning of local-level mechanisms mandated to promote security, by the end of the reporting period municipal community safety Councils (MCSCs)<sup>36</sup> had been established in 34 out of 38 municipalities in Kosovo.<sup>37</sup> Through its monitoring, the OSCE has identified improvements in MCSC functioning and performance compared to 2012-2013, including more frequent meetings and an increased focus on the security concerns of communities in numerical minority at the municipal level, including returnees.<sup>38</sup> One third of MCSCs (11)<sup>39</sup> failed to include representatives of communities with a significant presence in the municipality, and five MCSCs<sup>40</sup> had not included relevant religious representatives by the end of June 2015. Monitoring undertaken by the OSCE also records that Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities are often treated as one ‘RAE’ community with only one representative for all three communities appointed as an MCSC member. Seventeen MCSCs<sup>41</sup> fail to pay compensation to communities’ members, resulting in their discouragement to attend and inadequate engagement on security concerns affecting their communities. Local public safety committees (LPSCs)<sup>42</sup> are an additional mechanism communities can use, and the committees often refer concerns to MCSCs. MCSCs in Gjilan/Gnjilane, Parteš/Partesh, and Klinë/Klina established the positive practice of convening extraordinary meetings and issuing condemnations in response to specific incidents, which has proved effective in reducing tensions and highlighting such incidents for the mayor.

In terms of central institutions’ responses to incidents, the Ministry for Communities and Returns (MCR) issued over 30 condemnations during the reporting period, and visited affected areas on

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<sup>34</sup> The eastern entrance to Mitrovica/Mitrovicë North is also partially blocked by an old barrier, usually avoided by vehicles using the pavement.

<sup>35</sup> Namely, Klinë/Klina, Pejë/Peć, Mitrovicë/Mitrovica South, Gjakovë/Đakovica, and Rahovec/Orahovac. Mayors of other Kosovo Serb majority municipalities such as Gračanica/Gračanicë, Ranilug/Ranillug, Mitrovica/Mitrovicë North, Novo Brdo/Novobërdë, and Parteš/Partesh also issued public condemnations on incidents affecting Kosovo Serbs as alleged victims.

<sup>36</sup> As required by Administrative Instruction No. 27/2012 MIA – 03/2012 MLGA For Municipal Community Safety Councils, 22 August 2012.

<sup>37</sup> As of 30 June 2015 there were still no MCSCs established in the four northern Kosovo municipalities (Mitrovica/Mitrovicë North, Zvečan/Zveçan, Leposavić/Leposaviq and Zubin Potok), as these municipalities are still in the process of transition to Kosovo administrative structures, following progress in the Belgrade-Prishtinë/Priština Dialogue.

<sup>38</sup> Throughout 2014 and to end June 2015, 15 MCSCs discussed topics relevant for communities in a numerical minority in their municipality, and three issued condemnations of relevant incidents.

<sup>39</sup> Serious inconsistencies with membership compliance are observed in Gjakovë/Đakovica and Ferizaj/Uroševac, where there are no Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian representatives. Further, the need to appoint Kosovo Ashkali members is necessary in Istog/Istok, Pejë/Peć, Obiliq/Obilić and Prizren. Also, a Kosovo Roma representative is missing in Rahovec/Orahovac, and a Kosovo Egyptian and a Kosovo Serb are missing in Prizren. Kosovo Turks need to be nominated in Fushë Kosovë/Kosovo Polje and Dragash/Dragaš. Kosovo Bosniaks and Kosovo Gorani need to become members of Prishtinë/Priština and Gjilan/Gnjilane MCSCs.

<sup>40</sup> The Protestant community is still not included in Ferizaj/Uroševac, Gjilan/Gnjilane, Vushtrri/Vučitrn and Prishtinë/Priština. The Malishevë/Mališevo MCSC needs to include a representative of the Catholic community.

<sup>41</sup> Klokot/Kllokot, Novo Brdo/Novobërdë, Kačanik/Kaçanik, Gjakovë/Đakovica, Lipjan/Lipljan, Prizren, Mitrovicë/Mitrovica South, Klinë/Klina, Prishtinë/Priština, Ferizaj/Uroševac, Parteš/Partesh, Ranilug/Ranillug, Skenderaj/Srbica, Vushtrri/Vučitrn, Deçan/Deçane, Istog/Istok, and Gračanica/Gračanicë.

<sup>42</sup> Local public safety committees were established in 2006 aiming to bring the police closer to the different communities in Kosovo and make it more responsive to their needs, enhance trust and ultimately provide increased security to these communities. They are forums for communities and the KP to identify and address issues of security and community safety in their areas and to give communities a voice in local policing. See *Standard Operation Procedure on Local Public Safety Committees*, UNMIK Police, 2006.

numerous occasions. A number of other central institutions have also issued condemnations, mostly in relation to relatively more serious incidents. The Kosovo Police (KP) responses to communities' security concerns have included monitoring, community policing liaison and recruitment efforts. With regard to central-level monitoring of incidents, the KP have developed a centralised electronic database to record crime, including inter-ethnic incidents. While this database does provide for disaggregation by community affiliation of victim for all types of crime, it continues to lack any option to register a case as including a bias motivation, and, for only some cases, the KP create and use paper-based records to maintain files with motivation information to supplement the electronic database records. As such, the police are unable to systematically produce statistics on potentially bias-motivated crimes ('hate crimes'), including ethnically-motivated incidents.<sup>43</sup> Without clear disaggregated data on ethnically-motivated incidents the ability of the Kosovo intuitions to establish policies to prevent such incidents will remain limited. Although the database cannot support full recording and analysis, the KP's records in 2014 registered 19 'ethnically-motivated' incidents, as compared to 20 in 2013.

Since the last Communities Right Assessment Report, the KP developed its first Community Policing Strategy and Action Plan (2012–2016) which aims to improve co-operation between the KP and communities. The KP uses community liaison officers to maintain regular contact with communities, and continues to regularly patrol and use surveillance equipment in particularly problematic locations. Increased numbers of police patrols were noted in areas where multiple security incidents were reported against non-Albanian communities, and surveillance cameras were placed in frequently-targeted areas in Klinë/Klina, Pejë/Peć and Gračanica/Gračanicë municipalities.

With regard to non-Albanian communities' representation within the KP, which, as noted in the Advisory Opinion, is important to increase victims' trust in investigations, and which can also be expected to increase reporting by communities, KP data records that of a total of 7,635 police officers, 16 per cent were non-Albanian officers: 967 Kosovo Serbs, 65 Kosovo Turks, 181 Kosovo Bosniaks, 13 Kosovo Roma, 17 Kosovo Ashkali, 37 Kosovo Gorani and 9 Kosovo Egyptians<sup>44</sup>. These statistics include changes following the Brussels Dialogue<sup>45</sup> to incorporate 338 former Serbian officers in Kosovo structures, which led to 284 new staff members transferring to the KP Mitrovica/Mitrovicë North Regional Directorate.

### *Rule of Law*

A 2014 OSCE public survey<sup>46</sup> recorded 67 per cent of non-Albanian respondents stating that lack of trust in Kosovo judicial institutions was a serious obstacle in realizing their rights. Of non-Albanian respondents surveyed who had a legal issue in the last two years, 42 per cent (15 out of 35 such respondents) took no action on their case, compared to 19 per cent (37 out of 193) of Kosovo Albanian respondents. Access to justice challenges and problems with enforcement of cases by the authorities appear to drive this lack of trust, at least in part. The lack of equality in the justice system when cases do reach the court was cited by 68 per cent of non-Albanian respondents as a serious obstacle, and monitoring undertaken by the OSCE identified significant disparities in access to justice between Kosovo Albanian and non-Albanian communities. As an example, in 42 per cent (37 out of 87 cases) of the cases observed by the OSCE in 2014 involving only non-Albanian parties, no party had a lawyer, compared to 32 per cent (218 out of 676 cases) in cases involving only Kosovo

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<sup>43</sup> Bias-motivation for crime can include: religion, race, ethnicity, sexual orientation, language, etc.

<sup>44</sup> Information from KP Director of Administration, shared with the OSCE in June 2015.

<sup>45</sup> With facilitation of the European Union and as foreseen in United Nations General Assembly Resolution 64/298 of 2010, the Brussels-based process of dialogue between Belgrade and Prishtinë/Priština has been ongoing through periodical technical and high-level meetings since 2011. The overarching aim is normalization of relations, whereby the landmark First Agreement of principles governing normalisation of relations was initialled in April 2013. Other topics have been related to civil registry, cadastre, trade, freedom of movement, energy, telecommunications, and more.

<sup>46</sup> The survey was conducted in November 2014 by the research company Regional Enterprise Agency (Prishtina REA) and Centre for Legal Aid and Regional Development (CLARD), supported by the OSCE Mission in Kosovo. The survey included a total of 1,300 respondents, of which 184 were non-Albanian.

Albanians.<sup>47</sup> A lack of non-Albanian lawyers could be a contributing factor: only 5 per cent of the lawyers registered with the Kosovo Bar Association belong to non-Albanian communities.<sup>48</sup> Similarly, a lack of translation services could also be a hindrance, in 61 per cent of OSCE-monitored cases involving non-Albanians where translation was required, translation was either not provided or was of poor quality.<sup>49</sup> Moreover, while the Serbian language is an official language in Kosovo it is rarely used as a language of proceedings. In 105 criminal cases involving only a Kosovo Serb defendant monitored by the OSCE in 2014, not a single case was heard in the Serbian language. Finally, communities in northern Kosovo, primarily Kosovo Serbs, are completely cut off from justice institutions as the Kosovo justice system (with the exception of that run by the European Union Rule of Law Mission in Kosovo) has yet to effectively exercise jurisdiction over this region.<sup>50</sup>

Negligence and delay in dealing with cases by relevant justice institutions was considered to be a major obstacle in the realization of rights by the great majority of non-Albanian and Albanian respondents to the OSCE survey (87 out of 184 non-Albanian respondents and 843 out of 1116 Albanian respondents).<sup>51</sup> Monitoring undertaken by the OSCE does appear to indicate that in certain cases of particular importance to members of non-Albanian communities matters are not being dealt with the maximum efficiency and efficacy. As an example, in January 2015 the OSCE published a report on illegal re-occupation cases in Kosovo<sup>52</sup> which highlighted that such cases were not being properly handled by the judicial and/or prosecutorial services. These cases were not investigated swiftly, prosecuted appropriately, or dealt with by the courts in a timely fashion, and the sanctions provided were not sufficient to provide an adequate remedy or deterrent.<sup>53</sup> Similarly, monitoring undertaken by the OSCE indicates significant deficiencies in the enforcement of potential hate crimes. Such cases rarely reach the courts and are often found stuck between the police and prosecutors – designated as having “unknown perpetrators” – without adequate follow-up being conducted by either the police or prosecutors to determine the perpetrators.<sup>54</sup> As an example, in 2014 the OSCE monitored 27 cases with strong grounds to believe that a hate crime had been committed. Not one of these cases had reached the court by 30 June 2015, and potential perpetrators have been identified in only three cases, with the other 24 appearing to be shuffled back and forth between the KP and prosecutors, each seeking more information from the other in order to be able to move forward.

## Remaining challenges

Security incidents affecting inter-community trust and relations, including returnee and receiving communities, remain regular and a significant challenge. Kosovo institutions have yet to develop and implement consistent practices to condemn inter-ethnic security incidents, and to ensure that public condemnations reach the majority population and affected communities. At the local level, MCSCs do not yet function consistently and effectively to support communities’ security issues, and ensure the proper representation of all communities and religions. The four northern municipalities have yet to

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<sup>47</sup> See OSCE *Justice Monitor: Access to Justice* available at: <http://www.osce.org/kosovo/125242> (accessed 28 October 2015).

<sup>48</sup> 28 out of 570 lawyers registered with the Kosovo Bar Association belong to non-Albanian communities. The average age of these lawyers is 63 years old. Thus, the problem is likely to be exacerbated in the coming years as these lawyers retire if steps are not taken to increase the number of lawyers from non-Albanian communities. Purported steps within the government to issue an administrative instruction allowing graduates from the University of Mitrovica/Mitrovicë North to take the bar examination would be a major step in this direction if they are successfully followed through.

<sup>49</sup> *Supra* note 46.

<sup>50</sup> Recent developments in this regard within the framework of the agreements reached through the Brussels Dialogue indicate that the justice system will soon be re-established in northern Kosovo.

<sup>51</sup> *Supra* note 46.

<sup>52</sup> See OSCE Report *Review of Illegal Re-Occupation Cases in Kosovo* (January 2015), <http://www.osce.org/kosovo/141131> (accessed 28 October 2015). The cases that the OSCE examined as part of this report concerned all those administered by the Kosovo Property Agency, which dealt with properties south of the Ibër/Ibar River only. As such, the cases involved a Kosovo-Serb victim and a Kosovo-Albanian occupier.

<sup>53</sup> See for instance, Chart 6 Status of cases with the Basic Courts, Chart 7 Months taken to dispose of cases by the Basic Courts vs unresolved cases per judge in each Basic Court, or Chart 8 Sentences imposed after guilty verdicts, as presented in the 2015 OSCE report *Review of Illegal Re-Occupation Cases in Kosovo*, *supra* note 52.

<sup>54</sup> Changes within Code No. 04/L-12 on Criminal Procedure, 1 January 2013, granting KP more authority to investigate without prosecutor intervention appear to be one cause of these problems, with confusion persisting over whose responsibility it is to investigate in certain instances.

establish MCSCs, and will need to ensure active participation of all communities residing in their area. A durable, acceptable solution to ensure freedom of movement across the main bridge on the Ibër/Ibar River should be addressed by institutions on both sides of the river, and any barriers to freedom of movement removed. Detailed analysis and tracking of bias- or hate-motivated crime is not possible with the current KP crime database system, and progress on recruitment of police officers from non-Albanian communities has not yet led to proportional representation of smaller non-Albanian communities.

#### **Recommendation 9**

*Take active measures to reduce the continued backlog of cases including related to property and improve access to justice for minority communities through continued training of judges and the targeted recruitment of legal professionals with minority background, provide all necessary support to the national property rights co-ordinator.*

#### **Current situation**

##### *Property rights and reduction of backlog*

Following the adoption of Kosovo's Backlog Reduction Strategy of August 2013, the backlog of basic court cases did see a slight decrease, the first since 1999, from 224,586 cases in January 2014 to 213,237 in January 2015.<sup>55</sup> However, no progress has been made in the reduction of this backlog at the Supreme Court or the Court of Appeals. The property rights co-ordinator appointed in 2011 to address the high number of pending property cases was unsuccessful, and the post remains vacant since January 2015. As of 2 June 2015, the Kosovo Property Agency (KPA) had adjudicated almost all remaining conflict-related property claims, 42,749 cases. However, approximately 540 cases are still to be decided in the appeal procedure before the KPA Appellate Panel of the Supreme Court of Kosovo.<sup>56</sup> Nevertheless, little progress was seen in the ability of the KPA, KP and judiciary to enforce these decisions and many properties are quickly illegally re-occupied. DPs with limited physical access to their properties are particularly affected, and are still obliged to pay accumulated property taxes<sup>57</sup> for illegally occupied properties not in their possession.

The agreements reached in the framework of the Brussels Dialogue brought some developments during the reporting period, including the exchange of cadastral records, expected to contribute to the protection of property rights for all communities. A draft law on the establishment of the Kosovo Property Comparison and Verification Agency, whose main task is envisaged as comparing cadastral data with records in Prishtinë/Priština and in Belgrade, was submitted to the Assembly of Kosovo (AoK) in February 2015.<sup>58</sup>

##### *Access to Justice*

As noted under Recommendation 2 above, trust in the justice sector amongst non-Albanian communities remained weak throughout the reporting period. The closure of the UNDP-funded Legal Aid offices in Mitrovica/Mitrovicë North and Gračanica/Graçanicë in May 2014 raised significant access to justice concerns for non-Albanian communities in these areas, whose options for legal aid, particularly in the Serbian-language, were greatly reduced.<sup>59</sup> Some progress was noted on physical access to justice for non-Albanian communities with the inauguration of a new courthouse in

<sup>55</sup> For more information please see: Kosovo Judicial Council 2014 Annual Report, pg. 25 at <http://kgjk-ks.org/?cid=1,1> (accessed 28 October 2015).

<sup>56</sup> OSCE interview with Acting Director of the Kosovo Property Agency, 2 June 2015.

<sup>57</sup> Article 1.11, Law No.03/L-204 on Taxes on Immovable Property, 7 October 2010, foresees that the owner or user of the property is the taxpayer of the immovable property tax.

<sup>58</sup> The draft Law was approved by Kosovo institutions on 5 February 2015, and submitted to the AoK on 25 February 2015.

<sup>59</sup> These two offices, and offices in six other municipalities (Klokot/Kllokot, Ferizaj/Uroševac, Skenderaj/Srbica, Klinë/Klina, Gjakovë/Đakovica and Dragash/Dragaš), were re-opened through a Norwegian Embassy Project in January 2015. However, this was only a six-month project and these offices were again closed at the end of June 2015.



Štrpce/Shtërpçë municipality in September 2014, and the appointment of a new Kosovo Serb judge in May 2015 to the Gračanica/Gračanicë Branch Court (largely without a judge for over 9 months<sup>60</sup>) and advertisement for two further judge posts.<sup>61</sup> In Novo Brdo/Novobërde municipality, home to substantial numbers of Kosovo Serbs, the Branch Court only employs a Kosovo Albanian judge and continues to be located in a private residence in the Kosovo Albanian-majority village of Llabjan/Labjane, without adequate public transportation services.<sup>62</sup> According to the Kosovo Judicial Council (KJC), there are five non-Albanian<sup>63</sup> prosecutors in Kosovo, none from the Kosovo Gorani, Kosovo Roma, Kosovo Egyptian, Kosovo Ashkali, Kosovo Montenegrin, or Kosovo Croat communities.<sup>64</sup> The KJC and Kosovo Prosecutorial Council (KPC) did take action aimed at addressing this in March 2015, announcing vacancies for filling 48 judicial posts and 15 prosecutorial posts from non-Albanian communities.<sup>65</sup>

In May 2015, the Assembly of Kosovo adopted amendments to the: Law on Courts,<sup>66</sup> Law on the Kosovo Judicial Council,<sup>67</sup> Law on the Kosovo Prosecutorial Council<sup>68</sup> and the Law on State Prosecution<sup>69</sup>. These amendments addressed and strengthened training requirements, procedures for appointment of judges and prosecutors, and responsibilities of both the judicial and prosecutorial councils. Although Article 5 of the Law on Courts stipulates that the composition of the judiciary shall reflect the ethnic composition of Kosovo as well as the ethnic composition of the territorial jurisdiction of each respective court,<sup>70</sup> these laws do not make specific reference to judges and prosecutors, or candidates for judges and prosecutors, from non-Albanian communities.

At the policy level, the KJC's Strategic 2014-2019 Plan notes that the judiciary shall encourage non-Albanian communities to be part of the judicial system, specifying increased outreach activities, and steps to ensure that adequate skilled interpreters and translators are available.<sup>71</sup> The KPC's 2015 Annual Plan<sup>72</sup> also lists the ethnic composition of prosecution offices as an issue to be addressed and regularly reviewed. During the reporting period the number of non-Albanian lawyers was 23,<sup>73</sup> only five per cent of the total Kosovo Chamber of Advocates membership: the Chamber has established a permanent *Committee for Non-majority Communities* with a key goal to increase the number of non-Albanian lawyers. None of these three institutions have reported any concrete actions to address these shortcomings in their 2014 annual reports, indicating that action remains weak. The Kosovo Judicial Institute's specialized training programmes focusing on protection of non-Albanian communities' rights were not included in the 2014 and 2015 work plan and there is no available information on the number of non-Albanian participants who attended these trainings during 2014 and 2015 (the attendance figure for 2013 was extremely low, only 0.7 per cent).<sup>74</sup>

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<sup>60</sup> A judge was temporarily appointed to the branch court in Gračanica/Gračanicë between August 2014 and the end of January 2015, but dealt with civil cases only. From January onwards there was no judge until the appointment in May 2015.

<sup>61</sup> Kosovo Judicial Council (KJC) announcement for vacancies for judges March 2015, closed on 25 May 2015 (link no longer available).

<sup>62</sup> The court only hears criminal cases and those cases are only served by one prosecutor located in Gjilan/Gnjilane, who visits the court once a week.

<sup>63</sup> Two Kosovo Serbs, two Kosovo Bosniaks, one Kosovo Turk.

<sup>64</sup> As per the list of prosecutors provided to OSCE on 25 June 2015 (the list was updated 1 June 2015). The KJC does not have available updated data on the ethnic breakdown of prosecutors.

<sup>65</sup> The closing date for applications was 25 May 2015, with interviews for Kosovo Serb judges and prosecutors held in June and July. The list of successful candidates remained pending a presidential decree in October 2015.

<sup>66</sup> Law No. 05/L-032 on Amending and Supplementing the Law No. 03/1-199 on Courts, 30 June 2015.

<sup>67</sup> Law No. 05/L-033 on Amending and Supplementing the Law No. 03/1-223 on the Kosovo Judicial Council, 30 June 2015.

<sup>68</sup> Law No. 05/L-035 on Amending and Supplementing the Law No. 03/1-224 on Kosovo Prosecutorial Council, 30 June 2015.

<sup>69</sup> Law No. 05/L-034 on Amending and Supplementing the Law No. 03/1-225 on State Prosecutor, 30 June 2015.

<sup>70</sup> Law No. 03/L-199 on Courts, 22 July 2010.

<sup>71</sup> *Kosovo Judicial Strategic Plan 2014-2019*, Strategic Goal 3.1.1: [http://www.kgjk-ks.org/repository/docs/KOSOVO\\_JUDICIARY\\_STRATEGIC\\_PLAN\\_2014\\_2019\\_803582.pdf](http://www.kgjk-ks.org/repository/docs/KOSOVO_JUDICIARY_STRATEGIC_PLAN_2014_2019_803582.pdf) (accessed 28 October 2015).

<sup>72</sup> KPC Annual Plan for 2015: [http://www.psh-ks.net/repository/docs/KPC\\_Annual\\_Action\\_Plan\\_2015.pdf](http://www.psh-ks.net/repository/docs/KPC_Annual_Action_Plan_2015.pdf) (accessed 28 October 2015).

<sup>73</sup> Kosovo Bar Association, *2014 Annual Report*, pg. 163.

<sup>74</sup> Kosovo Judicial Institute, *2013 Annual Report*, page 15: [https://igjk.rks-gov.net/Uploads/Documents/RapVj2013ang\\_.pdf](https://igjk.rks-gov.net/Uploads/Documents/RapVj2013ang_.pdf) (accessed 28 October 2015).

## Remaining challenges

Challenges remain in decreasing the backlog of cases, in particular Supreme Court cases. By the end of June 2015, no progress had been made on the appointment and proper resourcing of the property rights co-ordinator post which can serve to support communities' property rights. KPA decisions suffer from weak enforcement, and the issue of illegal occupancy and re-occupancy remains a serious challenge which particularly affects DPs.<sup>75</sup> In addition to implementation challenges for the KP and judiciary, the upcoming comparison of cadastral data will present potential challenges in ensuring that adequate safeguards for DPs are established, particularly given the termination of the KPA's mandate.

The proper implementation of the Law on Use of Languages<sup>76</sup> is still lacking in court procedures, the translation process in court cases, and the sustainability of free legal aid, all of which currently depend on donor support. The 2014–2019 KJC Strategic Plan and KPC Annual Plan include a number of important steps for integration of communities in the Kosovo judicial system, but are yet to be fully implemented. Representation of communities in the judicial system, including lawyers and prosecutors, is of particular concern, especially for the numerically smaller communities. Furthermore, the planning and implementation of judicial training programmes on protection of non-Albanian communities' rights have not yet been prioritized.

## 3. USE OF LANGUAGES

### Recommendation 3

*Enhance the implementation of the language legislation at central and municipal level. Support the Language Commissioner in the exercise of his functions through adequate financial and human resources and prioritize the creation of an overall environment that actively encourages multilingualism in the public sphere.*

### Current situation

#### *Implementation of Law on Use of Languages*

The OSCE observed some positive developments in the implementation of Kosovo legislation on the use of languages. Since December 2013, the Ministry of Internal Affairs began to issue identity cards in Turkish upon applicants' request, and in July 2015 introduced new software allowing municipalities to issue civil registry forms and templates in Bosnian and Turkish languages and in the Cyrillic alphabet.<sup>77</sup> However, monitoring undertaken by the OSCE during the 1 September 2014 to 31 March 2015 period highlights a continued lack of progress in municipalities' compliance with their language obligations, including the provision of services and documents to the public and translation and interpretation in all official languages.<sup>78</sup> Communities reported problems with various municipal services failing to issue documents in their language, including the cadastre, tax offices, civil and vehicle registration offices, as well as health clinics operated by Kosovo institutions.<sup>79</sup> Communities and municipal representatives also reported to the OSCE problems with communication and the provision of services in the Turkish language.<sup>80</sup> Difficulties in recruitment of language-skilled staff

<sup>75</sup> For more detailed discussion of this problem, please see the relevant OSCE report, *supra* note 52.

<sup>76</sup> *Supra* note 4.

<sup>77</sup> This is in addition to the already available Albanian, Serbian and English languages. The Cyrillic alphabet is available in all Kosovo municipalities, and the software should automatically upload the Turkish and Bosnian languages in municipalities where the relevant community representation is more than five per cent.

<sup>78</sup> Many issues highlighted in the 2014 OSCE report on language compliance persist, please see *Municipal Language Compliance in Kosovo* (June 2014), <http://www.osce.org/Kosovo/120010> (accessed 28 October 2015).

<sup>79</sup> *Ibid*, Chapter 4.3.

<sup>80</sup> As an example, the Turkish language is official in Prizren, yet problems were reported in the office for building permits where communication with the public is conducted through a translator. In Gjilan/Gnjilane, Mitrovicë/Mitrovica South and Vushtrri/Vučitrn,

persisted, with only older-generation employees able to communicate effectively in both Serbian and Albanian. Currently, the only language training provided in Albanian and Serbian for Kosovo civil servants is offered by the OSCE High Commissioner on National Minorities in co-operation with the Office of the Language Commissioner (OLC).<sup>81</sup>

At the central level, all committee meetings and plenary sessions in the Assembly of Kosovo (AoK) have interpretation available in both official languages and in Turkish, and all documents are disseminated in a timely manner in both official languages. At the local level, monitoring undertaken by the OSCE does indicate some improvement in the provision of interpretation during municipal assembly sessions,<sup>82</sup> now provided in 28 multi-ethnic municipalities. Nonetheless, access to interpretation and translation in all official languages remains problematic due to an inadequate number of translators/interpreters hired at the municipal level, and poor quality translation negatively affects communities in a number of ways.<sup>83</sup> OSCE review of the signs displayed in municipal public buildings in official languages revealed a mixed picture.<sup>84</sup> In the majority of municipalities, legal provisions on language were fully respected; however, nine municipalities<sup>85</sup> were only partially compliant (for example, signs outside municipal buildings are marked in official languages but only in one language inside the premises), and four municipalities<sup>86</sup> (in addition to the four municipalities in northern Kosovo) displayed signs only in the majority language. Notable progress has been made in the display of signs of names of municipalities, villages, streets and municipal roads in official languages, the majority of which comply with obligations,<sup>87</sup> although incorrect spelling and/or damage remains a problem. Seven municipalities<sup>88</sup> (in addition to the four northern municipalities) remain non-compliant.

Another very significant area of non-compliance, as noted above, is justice and translation of laws. Many examples have been identified where the Serbian version of the law does not reflect the Albanian or English versions, leading to legal clarity problems and violations of linguistic and rule of law standards as provided in the Kosovo domestic and international legal frameworks. Here again, the lack of educational structures, weak skills, limited numbers of personnel and the absence of quality assurance mechanisms contribute to the significant problems experienced.

### *Language Commissioner and related structures*

The OLC has made significant progress in the implementation of its mandate. Progress includes the successful recruitment of staff,<sup>89</sup> the launch of a website<sup>90</sup> including an online complaint form, and a media campaign to promote the OLC's mandate and visibility.<sup>91</sup> Monitoring undertaken by the OSCE indicates that improved public awareness has contributed to an increase in reporting of complaints,<sup>92</sup> allowing OLC resolution of an increasing number of cases. Another positive development includes

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where Turkish is in official use, the majority of civil servants working in the MOCR, the office for building permits, the civil registry office, the social welfare offices, the legal aid office and the employment centre do not speak Turkish.

<sup>81</sup> The project is implemented by the European Centre for Minority Issues, and as of June 2015 covered 13 mixed municipalities. For more information see: <http://www.ecmikosovo.org/?p=6232>.

<sup>82</sup> Article 7.3 of the Law on the Use of Languages, *supra* note 4.

<sup>83</sup> While five municipalities have no translators, the other 33 municipalities employ only one or two translators, with the exception of Prizren which employs four.

<sup>84</sup> The OSCE looked at interior and exterior signage of municipal public offices, municipal office doors and primary health care centres.

<sup>85</sup> Dragash/Dragaš, Fushë Kosovë/Kosovo Polje, Lipjan/Lipljan, Mamuşa/Mamushë/Mamuşa, Podujevë/Podujevo, Prishtinë/Priştina, Prizren, Shtime/Štimlje and Suharekë/Suva Reka.

<sup>86</sup> Gračanica/Gračanicë, Hani i Elezit/Elez Han, Malishevë/Mališevo and Partëš/Partesh.

<sup>87</sup> This is largely the result of the unified address system and digitalization project implemented by the Kosovo Cadastral Agency as part of the EU project "Support to the Civil Registration Agency and unified address system".

<sup>88</sup> Gjilan/Gnjilane, Hani i Elezit/Elez Han, Malishevë/Mališevo, Mamuşa/Mamushë/Mamuşa, Partëš/Partesh, Rahovec/Orahovac, and Ranilug/Ranillug.

<sup>89</sup> As of June 2015, the OLC works with six office staff, with one post remaining unfilled.

<sup>90</sup> Available in Albanian at <http://www.komisioneri-ks.org>; and in Serbian at <http://www.poverenik-ks.org>. The website has also been available in Bosnian and Turkish languages since April 2014.

<sup>91</sup> Awareness-raising campaigns on language rights have gradually increased throughout 2013–2014, including distribution of information material, TV and radio spots, activities which were supported by international partners, including the OSCE and UNDP.

<sup>92</sup> The OLC inherited four complaints from the Language Commission in 2012, received 12 complaints in 2013 and a total of 54 by the end of 2014. All complaints were solved, apart from five that have remained in the process and have been transferred into 2015.

the appointment of municipal language focal points in 32 municipalities.<sup>93</sup> The OLC has also been the primary advocate for the inclusion of both Turkish and Bosnian languages in civil registry forms and templates (as noted above). In March 2015, the OLC presented its key findings on the status of the implementation of the Law on the Use of Languages in Kosovo,<sup>94</sup> concluding that limited financial, technical and human resources, and weak awareness of legal obligations, continue to hinder compliance in public institutions, and highlighting the concerning trend towards mono-lingualism among Kosovo civil servants. In 2015, the OLC initiated the process for the drafting of a mid-term strategy (2016–2020) for the systematic implementation of the aforementioned law, expected to be finalized by the end of 2015.

### **Remaining challenges**

Kosovo central and local-level institutions continue to fail in full compliance with language obligations, institutions remain under-informed of their responsibilities, and the general public has a similarly low level of awareness of their linguistic rights. All Kosovo institutions require capacity building on language-related services and functions, and it should be noted that such capacity building will require some lead-in time before widespread results can be expected. Three key areas remain largely unaddressed thus far: the education and certification of translators and interpreters to ensure the employment of competent staff; the development of modern online dictionaries and other translation tools; and, the development of quality assurance systems, particularly for legal texts through the development and engagement of multi-lingual legislative drafting.

## **4. EDUCATION**

### **Recommendation 4**

*Improve the quality of education in the languages of numerically smaller communities and identify appropriate solutions to the remaining obstacles to access to education for children belonging to the Gorani, Roma, Ashkali and Egyptian Communities. Review teaching materials and methodology to render them appropriate for a multi-ethnic society.*

### **Current situation**

With no progress made on the establishment of an integrated education system, education institutions in Kosovo continue to be run through two parallel systems operated by Prishtinë/Priština and Belgrade institutions respectively. These systems provide different mother tongue education opportunities for members of numerically smaller communities. Members of communities tend to choose either system depending mainly on their location and, to a lesser extent, on their language and/or religion. Kosovo institutions offer education instruction in Albanian, Turkish and Bosnian languages. The Serbia-run system offers education in Serbian, while Romani-language classes are provided in some schools under both education systems.

Under the system operated by Kosovo institutions, instruction in the Turkish and Bosnian languages is generally available to communities in their municipalities of residence, with municipalities offering classes even when numbers of pupils are less than the required minimum.<sup>95</sup> However, Kosovo Turkish

<sup>93</sup> The appointment of municipal language focal points is regulated by Article 15 of Regulation No. 07/2012 ‘Establishing the Office of the Language Commissioner’. Municipalities are legally obliged to appoint a focal point on the use of languages, mandated to assist the OLC in the implementation of its mandate. The majority of these focal points do not have managerial positions and have not received adequate training on their role and functions. Municipal language focal points have not been appointed in the four municipalities in the north (Mitrovica/Mitrovicë North, Leposavić/Leposaviq, Zubin Potok and Zvečan/Zveçan), and Suharekë/Suva Reka and Rahovec/Orahovac municipalities have also failed to establish focal points.

<sup>94</sup> OLC report *Monitoring and evaluation of language rights in Kosovo* [http://www.komisioneri-ks.org/repository/docs/Anglisht\\_Finale\\_160315.pdf](http://www.komisioneri-ks.org/repository/docs/Anglisht_Finale_160315.pdf) (accessed 28 October 2015).

<sup>95</sup> Although there is a lack of clarity on the required minimum (Administrative Instruction no. 22/2013 on the maximal number of students in class and the report student-teacher, available at <http://masht.rks-gov.net/uploads/2015/05/22-2013-ua.pdf>), most municipalities do offer

and Kosovo Bosniak representatives continue to complain that there is a general lack of textbooks, especially for upper secondary education pupils, meaning that in practice teachers often rely on imported textbooks.<sup>96</sup>

The Kosovo Gorani, Kosovo Croat, Kosovo Ashkali, Kosovo Egyptian, and Kosovo Montenegrin communities have no access to community-specific educational subjects to enable them to preserve their identity. Physical access to education continues to be a problem for some smaller communities, including for Kosovo Gorani students living in remote areas and Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian pupils from Mitrovicë/Mitrovica South who continue to have difficulties traveling to schools in Mitrovica/Mitrovicë North.

Some positive developments were noted during the reporting period on the availability of classes in Romani, which encompassed elements of Roma culture and history, with the MEST developing and publishing a Romani language textbook on 7 April 2014.<sup>97</sup> Prizren municipality introduced Romani language classes in four schools (expanding to one further school since the last Community Rights Assessment Report), secured a teacher's salary, and there are plans to expand such classes to five additional municipalities in the 2015–2016 school year.<sup>98</sup> However, Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian children continue to face challenges in accessing quality education, and are disproportionately affected by non-enrolment, dropouts, high illiteracy and low education achievement.<sup>99</sup> In October 2012, the MEST issued an Administrative Instruction giving local institutions responsibility to establish and operate 'teams for prevention and response towards abandonment and non-registration in compulsory education' (PRTANS).<sup>100</sup> MEST followed this by developing and endorsing in October 2014 terms of reference to assist the operation of the PRTAN teams. Mandatory at school and municipal level, these PRTANS aim to co-ordinate action to address drop-outs and combat low enrolment and could be expected to provide particular support to children from the three communities. However, assessments undertaken by the OSCE in March 2014 indicated that only a fifth of the required PRTANS had been established, with many still failing to meet regularly and lacking understanding of their role. In another step to support the educational needs of children from Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities, the MEST with international partners provided 500 secondary school and 33 university scholarships during the 2014-2015 school year. However, education mediators and learning centres which provide important support to children from the three communities continue to be operated by NGOs, and efforts to institutionalize these centres and the role of mediators have thus far been without success. An additional concern is discriminatory practices, including bullying, in both Serbia and Kosovo system schools, as well as cases of segregation of students from the three communities,<sup>101</sup> which have been the subject of an ongoing lawsuit against the municipality of Gjakovë/Đakovica.<sup>102</sup>

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classes with fewer students than the understood minimum (e.g. Gjilan/Gnjilane and Mitrovicë/Mitrovica South in the Turkish language, Dragash/Dragaš in Bosnian, and Prizren in both languages). However, education in Turkish is not available in the municipality of Vushtrri/Vučitrn, as no formal request has been made. Education in Bosnian is not available in Mitrovica/Mitrovicë North and Leposavić/Leposaviq municipalities, where Kosovo Bosniak communities attend education in Serbian through Belgrade-run institutions.

<sup>96</sup> Meeting of the Consultative Council for Communities (CCC), an advisory body under the Kosovo President, on 27 February 2015; Meeting of the CCC Working Group on Education on 14 May 2015; interviews with community representatives, school directors and municipal education directors undertaken in May and June 2015.

<sup>97</sup> *Romani Chib 1* (Romani Language 1) by Latif Demiri; a second textbook is currently under development.

<sup>98</sup> Supported by the European Union/Council of Europe project "Supporting Access to Education and Intercultural Understanding", Romani classes will start also in Pejë/Peć, Gjakovë/Đakovica, Ferizaj/Uroševac, Obiliq/Obilić and Fushë Kosovë/Kosovo Polje. MEST committed to cover the teachers' salaries until the end of 2015, envisaging municipalities taking financial responsibility in 2016.

<sup>99</sup> Pedagogical Institute of Kosovo, *Out-of school children in Kosovo: A baseline study on the practices of prevention and response to dropout and non-enrolment in school* (2014), <https://masht.rks-gov.net/uploads/2015/06/shqip-small-quality.pdf> (English language report not currently available on the internet).

<sup>100</sup> Administrative Instruction No. 19/2012 on Establishment and Enforcement of Teams for Prevention and Response Toward Abandonment and Non-enrolment in Compulsory Education, <http://masht.rks-gov.net/uploads/2015/05/ua-19-2012-new.pdf> (accessed 28 October 2015).

<sup>101</sup> Interviews with Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities' representatives conducted by OSCE in May and June 2015.

<sup>102</sup> See: [http://www.ecmikosovo.org/wp-content/Publications/Press\\_releases\\_and\\_information\\_bulletin/2013-01\\_ECMI\\_Kosovo\\_\\_Information\\_Bulletin\\_Segregation\\_in\\_Education\\_in\\_Gjakova/eng.pdf](http://www.ecmikosovo.org/wp-content/Publications/Press_releases_and_information_bulletin/2013-01_ECMI_Kosovo__Information_Bulletin_Segregation_in_Education_in_Gjakova/eng.pdf) (accessed 28 October 2015).

Higher education opportunities in the languages of less numerous communities remain limited, obliging them to pursue further education elsewhere. Non-recognition of diplomas and certificates, particularly for those hoping to shift from the Serbia or Kosovo system to the other, continues to pose problems which affect students' ability to access the job market. Despite some initiatives, little substantial progress has been made during the reporting period on this important issue. While the Brussels Dialogue initiated a diploma-recognition process,<sup>103</sup> the expiry of the intermediary NGO SPARK's funding has led to uncertainty over the recognition mechanism.<sup>104</sup> Kosovo institutions also began to explore options to address the problem of recognizing diplomas issued by the university located in Mitrovica/Mitrovicë North, an important factor for employment of Kosovo Serb and other communities. Norwegian funding through the Office of the Prime Minister's Office for Community Affairs (OCA) and NGO European Centre for Minority Issues Kosovo led to the April 2015 concept note on job application procedures in public institutions for members of communities possessing degrees issued by the university in Mitrovica/Mitrovicë North, and an officially-appointed team is currently drafting a normative act to establish procedures.

Albanian as a non-mother tongue is taught as a voluntary subject in the MEST-operated schools which provide Bosnian or Turkish instruction. However, the schools are without specialized teachers or materials for teaching Albanian as a non-mother tongue. Further, pupils in Kosovo still do not have the option of learning Serbian as the second official language, as no curriculum for this subject exists.<sup>105</sup> Kosovo has made progress in reforming the educational system by developing new curricula for seven curriculum areas, incorporating multi-ethnic and inclusive teaching methods. The MEST reported that community representatives were consulted in the process of this curriculum development. Monitoring undertaken by the OSCE records the new curriculum having been piloted in 94 schools in 2014/2015, including Turkish- and Bosnian-language schools. However, full roll-out of the new curriculum is not likely before 2016 and the MEST has yet to begin reviewing school textbooks to reflect this new curriculum.

### **Remaining challenges**

Pupils being instructed in communities' languages are without the choice of learning one of the two official languages in Kosovo. No specific efforts have been made to date to support the teaching of the two official languages to non-native speakers: teaching of Serbian as a non-mother tongue has yet to be introduced, and no specialized teacher training programmes are available for teachers of Albanian as a non-mother tongue. Teachers of, and in, the Romani language also lack training. Issues related to the availability and distribution of copies of Bosnian- and Turkish-language textbooks have yet to be resolved, and the oversight of quality and standards of instruction in Bosnian and Turkish languages needs enhancement. Very limited moves have been taken, nor has wider consultation with communities begun, to develop community-specific educational modules concerning the culture, history and traditions of the numerically smaller Kosovo communities to enable the preservation of their identity and/or language. Obstacles to education of children from Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities remain, including inconsistent application of measures to combat drop-outs, and the absence of effective policy and budgetary support for measures which have proven beneficial in Kosovo, including learning centres and school mediators.

The existence of two school systems with separate textbooks and curricula, including conflicting historical representations, continues to hamper the development of a multi-ethnic society and requires commitment and action by both Prishtinë/Priština and Belgrade institutions. Remaining challenges for institutions include developing, in consultation with communities, potential modalities for co-

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<sup>103</sup> MEST Administrative Instruction No. 09/2015 recognizes diplomas issued by Serbian universities through the process initiated by the Brussels Dialogue.

<sup>104</sup> The NGO SPARK worked as an intermediary, accepting requests for diploma recognition from affected Kosovo and Serbian graduates and forwarding them to the European University Association for international validation.

<sup>105</sup> In the Belgrade-run education system, Albanian language classes as a non-mother tongue are offered only in three primary schools in Dragash/Dragaš municipality attended by the Kosovo Gorani community.

operation between the two systems on issues that affect communities' access to education, such as the recognition of diplomas/certificates at all levels of education and the sharing of premises.

## 5. SOCIO-ECONOMIC RIGHTS AND PARTICIPATION

### Recommendation 5

*Guarantee the effective representation of minority communities, including the Croat and Montenegrin communities, traditionally present on the territory of Kosovo, in the Assembly through the allocation of an adequate number of guaranteed seats. Provide effective opportunities for persons belonging to all minority communities, including numerically smaller ones, to participate in relevant decision-making processes at central and local level while ensuring that all efforts enhance integration rather than the development of separate structures.*

### Current situation

In the Assembly of Kosovo (AoK), communities' representation is safeguarded by 20 seats guaranteed by the constitution, and in this election cycle the political entities representing non-Albanian communities did not win any seats beyond this quota, which was filled by seven women and 13 men. The AoK was dissolved on 7 May 2014, and the establishment of the new legislature was not completed until early December 2014 due to a prolonged political process of coalition and consensus-building. Of the 10 seats guaranteed for the Kosovo Serb community, the Civic Initiative *Srpska* won nine seats (four women and five men), and the Progressive Democratic Party won one (a man). The other ten communities' seats were won by the Turkish Democratic Party of Kosovo with two seats (one woman, one man), the Kosovo Bosniak Coalition *Vakat* with two seats (one woman, one man), and the following parties winning one seat each: the New Democratic Party (a woman), the Democratic Party of the Ashkali of Kosovo (a man), the Liberal Egyptian Party (a man), the Ashkali Party for Integration (a man), the Coalition for Gora (a man), and the Kosovo New Romani Party (a man). Despite the official recognition of Croat and Montenegrin communities in the December 2011 Law on Protection and Promotion of the Rights of Communities<sup>106</sup>, there has been no corresponding constitutional amendment to provide them with reserved AoK seats.

As during previous legislatures, the AoK implemented required mechanisms relevant for the protection and promotion of non-Albanian communities<sup>107</sup>, namely, two Deputy Presidents of the Assembly Presidency from these communities<sup>108</sup> and the standing Committee on the Rights and Interests of Communities and Return. In addition, all 13 permanent and functional committees of the AoK have appointed the required second vice-chairs from non-Albanian communities. Language compliance in the AoK's work was assessed as generally good, though problems remain with the quality of legislation translation<sup>109</sup>. In May 2014 the AoK adopted a declaration on partnership with civil society organizations, a new initiative. Civil society organizations registered in the AoK database of civil society organizations were invited to apply for membership of a working group to support their participation in AoK activities, including draft legislation review and public hearings, with the aim of contributing expertise and feedback from a civil society perspective. Of the nine working group members from civil society organizations only one, a man, is affiliated with non-Albanian communities, namely the Kosovo Bosniak community. Failure to apply for membership by the published deadline prevented greater participation of other civil society organizations, although

<sup>106</sup> *Supra* note 3.

<sup>107</sup> As stipulated by AoK Rules of Procedure: Article 69, Main and Functional Committees.

<sup>108</sup> One Deputy Assembly President is reserved for the Kosovo Serb community, and the other for another non-Albanian community: in this legislature the two posts are filled by a Kosovo Serb and a Kosovo Bosniak.

<sup>109</sup> Please see Recommendation 9 and Recommendation 3 for further discussion of this problem.

efforts were made to include a wider spectrum of eligible civil society organizations in the AoK database<sup>110</sup>.

Independent institutions reporting to the AoK and/or Kosovo institutions, of which there are 33<sup>111</sup>, have also made progress on their composition and complied with requirements for appointing non-Albanian board members. By 30 June 2015, 14 such institutions had established compliant boards, appointing either one or two members from non-Albanian communities, usually Kosovo Serbs, but also Kosovo Turks or Kosovo Bosniaks.

At the central level, a key mechanism for ensuring regular exchange between communities' representatives and Kosovo institutions positioned under the presidency, the Consultative Council for Communities (CCC), appointed new members for a term of two years in September 2014 and has been meeting on a regular basis. The CCC is constituted of 25 members representing nine communities; of these 25, only five are women. Since the minor increase in the CCC's budget in 2013, the CCC's Secretariat has increased from two to four staff (three men, and one woman who heads the Secretariat)<sup>112</sup>. During the reporting period, the CCC issued recommendations to institutions on issues of relevance to communities and reviewed three draft laws. However systematic consultation with the CCC in the early stages of legislation and policy development is still lacking.<sup>113</sup> According to monitoring undertaken by the OSCE, the CCC also still fails to report to international human rights mechanisms as foreseen in both the law and the constitution, and took no substantive consultation or outreach activities to support its work in effectively representing non-Albanian communities' interests. While CCC members are increasingly being invited to participate in different government working groups, this is often only at the prompting of international organizations. Similarly, Kosovo ministries and departments have supported community consultations prior to the amendment of relevant laws or development of strategies, but again such consultations are often initiated by international organizations.<sup>114</sup> Lastly, the CCC still lacks adequate gender representation, with only four female members out of the 24 communities' representatives currently appointed.<sup>115</sup>

In terms of leadership-level appointments in Kosovo institutions: one of the three Deputy Prime Ministers is non-Albanian, a Kosovo Serb; of the 19 ministers appointed four are from non-Albanian communities, one more than the required quota (two Kosovo Serbs, appointed as Ministers for Communities and Return and Local Government Administration, one Kosovo Turk, appointed as Minister of Public Administration, and one Kosovo Bosniak without portfolio). Of the deputy ministers appointed as of end June 2015, three were non-Albanian, less than the six required by the constitution, notably: one Kosovo Roma in the MCR, one Kosovo Ashkali in the Ministry for Culture, Youth and Sports (MCYS), and one Kosovo Bosniak in the Ministry of Diaspora.<sup>116</sup> Notably, the post of Director of the OCA remained unfilled from December 2014 to August 2015. Of all these

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<sup>110</sup> For example, the AoK extended the deadline for application twice, and (with OSCE support) published relevant registration and application information in online news portals, including in the Serbian language, in April 2015.

<sup>111</sup> For example, the Privatization Agency of Kosovo, the Kosovo Property Agency, the Anti-Corruption Agency, the Ombudsperson Institution, the Independent Media Commission, the Central Bank, the Kosovo Judicial Council, etc.

<sup>112</sup> The CCC secretariat comprises a general secretary, two legal officers and one public relations officer. The CCC 2012 budget was 78,785 EUR, increasing by 8,600EUR to 87,385 EUR in 2013.

<sup>113</sup> The CCC discussed the proposed amendments of the Law on Ombudsperson, the Law on Gender Equality and the Law on Protection and Promotion of Communities. However, it was not consulted or did not review or provide comments to other relevant legislation and policy initiatives developed or adopted during the reporting period, such as the government concept paper on job application procedures in public institutions for members of communities possessing degrees issued by the University of Mitrovica/Mitrovicë North, the draft Law on Cultural Heritage, or the Law on Publicly Owned Enterprises.

<sup>114</sup> As an example, in April 2015 OSCE supported the Ministry for Local Government Administration to hold a consultative workshop with communities' participation mechanisms to provide their suggestions for amendment of the Law on Local Self-Government planned for 2015. Similarly, OSCE also supported the Prime Minister's Office of Good Governance in May 2015 on consultation with community representatives on post-2015 integration policies for Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities.

<sup>115</sup> The CCC's statute requires gender representation for both candidate and voting lists, but not of its members; it also foresees the President's power to refuse to appoint nominees if necessary for equal gender participation.

<sup>116</sup> Since the end of the period covered by this report, seven further appointments were made in September 2015 leading to more non-Albanian deputy ministers than legally required, including: one more Kosovo Bosniak in the MEST, five Kosovo Serbs in the Ministries of Labour and Social Welfare, Internal Affairs, Environment and Spatial Planning, Agriculture, Forestry and Rural Development, and Finance, and one Kosovo Gorani in the Ministry of Justice.



leadership-level posts, only one appointee is a woman, the Deputy Minister of the MCYS, from the Kosovo Ashkali community.

At the municipal level, there are four mechanisms with a specific mandate to provide for communities' participation in public affairs on decisions affecting them: CCs, municipal offices for communities and returns (MOCRs), and the posts of DMC and DCMAC.<sup>117</sup> Monitoring undertaken by the OSCE identified progress and improvements since the publication of the last Community Rights Assessment Report in 2012. Notably, the CCs and MOCRs have now been established throughout Kosovo, with a few exceptions.<sup>118</sup> DCMACs have been appointed in all municipalities requiring the post, except one.<sup>119</sup> DMCs have been appointed in six out of the seven municipalities where the post is required, with an additional seven municipalities appointing DMCs as an optional post due to having fewer than the required ten per cent of communities at a numerical minority in the municipality. While these mechanisms benefited from new legislation and policy guidance during the reporting period<sup>120</sup>, the legal framework regulating the mechanisms should be strengthened to ensure their effective functioning in enabling communities' meaningful participation in public affairs. Equally, increased monitoring, support and guidance for the mechanisms from the Ministry of Local Government Administration (MLGA) is needed. Meaningful participation of communities in relevant decision-making is still lacking, as many of the mechanisms fail to implement substantial duties. Factors such as the political situation and post-electoral changes in representation continue to significantly impact on these mechanisms' functioning.<sup>121</sup> Additionally, although the reporting period saw an increased appointment of members of Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities following the 2013 local elections<sup>122</sup>, monitoring undertaken by the OSCE identified weak contacts between municipalities and communities in a numerical minority at the municipal level<sup>123</sup>, as well as rural communities, as a concern – indicating the continuing relevance of the recommendation from the last Community Rights Assessment Report that particular attention needs to be paid to representation of such communities. The representation of women from communities remains a concern: only 80 CC members are women out of a total of 266 CC members appointed across Kosovo; only 45 staff are women out of 154 municipal officials employed in MOCRs across Kosovo; and only one DMC out of 13 appointed, and one DCMAC out of 10, are women.

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<sup>117</sup> Law No. 03/L-040 on Local Self-Government, 20 February 2008, and Regulation No. 02/2010 for the Municipal Offices for Communities and Return, 27 August 2010.

<sup>118</sup> CCs have been established in every municipality in Kosovo, including the four northern municipalities. MOCRs are established in all municipalities throughout Kosovo excluding the northern municipalities, even though some MOCRs remain short-staffed.

<sup>119</sup> No DCMAC has been appointed in Gračanica/Graçanicë as no member of communities in a numerical minority at the municipal level was elected to the municipal assembly.

<sup>120</sup> The Ministry of Local Government Administration (MLGA) developed new secondary legislation and policy guidance documents to support the functioning of the four mechanisms. Namely: Administrative Instruction No. 03/2014 on the procedure of establishment, composition and competences of standing committees in municipality, 7 July 2014; AI No. 2014/01 On The Procedure of Appointment of Deputy Mayors in Municipalities, 28 January 2014; 'Terms of Reference for Deputy Mayor for Communities' endorsed by MLGA on 21 November 2014, and, 'Terms of Reference for Deputy Chairperson of the Municipal Assembly for Communities', expected to be formally endorsed by the MLGA in December 2015.

<sup>121</sup> As an example, although monitoring undertaken by the OSCE noted that just under a third of CCs had issued recommendations on specific issues relating to communities rights by May 2014, this had increased to nearly half of CCs by November 2014, but was still far from the nine CCs which were undertaking this in the pre-local election mandate; however, no significant progress was made on the number of CCs reporting to the MA on implementation of communities projects, which only four have CCs performed effectively in 2014. Equally, monitoring assessed that 90 per cent of MOCRs have established contacts with all communities, but only half actually undertake needs assessments, and fewer monitored policies relevant to communities rights in the second half of 2014 (nine) than did this in the first half of 2014 (13): a higher number of MOCRs were undertaking both these duties in the period before the 2013 local elections. Capacity-building to strengthen mechanisms is needed, particularly following elections where membership/ staff tend to change. For more detail, please see OSCE *An Assessment of Local-level Mechanisms for the Protection and Promotion of Communities' Rights and Interests in Kosovo*, June 2014, <http://www.osce.org/kosovo/120343> (accessed 28 October 2015).

<sup>122</sup> One Kosovo Ashkali and one Kosovo Roma were appointed as DMCs in Fushë Kosovë/Kosovo Polje and Gračanica/Graçanicë respectively, representing an increase from no representative of any of the three communities appointed in the previous legislative period, whereas one Kosovo Egyptian and one Kosovo Ashkali were elected as DCMACs in Pejë/Peć and Fushë Kosovë/Kosovo Polje respectively, marking a decrease from three posts belonging to Kosovo Egyptian community in the previous period, partly as a result of MLGA challenging decisions to establish the post where not required by law.

<sup>123</sup> While the CCs provide an opportunity for participation to all communities living in a municipality, smaller communities remain underrepresented in many CCs. Kosovo Roma representatives are missing in five CCs that are required to have such representation, Kosovo Ashkali in ten CCs, Kosovo Egyptians in 12, Kosovo Gorani in 14, Kosovo Turkish in 20 and Kosovo Bosniak representation is missing in 21 CCs.

While the MLGA discussed the completion of the de-centralization process as envisaged in the 2008 Law on Local Self-Government in a report published in 2012,<sup>124</sup> political agreement led to an important development in the November 2013 municipal elections, which saw the incorporation within Kosovo government structures of the four northern Kosovo municipalities (Zvečan/Zvečan, Leposavić/Leposaviq, Zubin Potok, Mitrovica/Mitrovicë North), all of which are continuing to work on harmonizing their systems, staffing and municipal administration in line with other Kosovo municipalities. Kosovo Serb representatives from the northern municipalities are also now participating in central government structures in a number of ways, including as CCC and AoK members.

### Remaining challenges

Notably lacking was any significant initiative during the reporting period to amend the constitution as per the former prime minister's commitments, to reflect the allocation of guaranteed AoK seats to the Kosovo Montenegrin and Kosovo Croat communities following their inclusion and recognition in the Law on Protection and Promotion of Communities and their Members and their inclusion in the composition of the CCC<sup>125</sup>. The CCC's role in reviewing and commenting on legislative initiatives and in promoting understanding and tolerance among communities remains limited. Women and numerically smaller communities continue to be underrepresented in the four local government communities' mechanisms (the CC, MOCR, DMC and DCMAC), and monitoring undertaken by the OSCE indicates that political support for the mechanisms often remains low and non-prioritized by municipal leadership. The mechanisms frequently lack the necessary resources to undertake meaningful outreach and communication with communities. There remains a lack of targeted efforts by Kosovo institutions to ensure greater ownership and consultation of communities in legislative and policy initiatives that directly affect them.

### Recommendation 12

*Expand efforts to provide equal access of persons belonging to minority communities to socio-economic rights such as health services, employment and business opportunities, including within the ongoing privatisation process.*

### Current situation

#### *Socio-economic rights and access to services*

Access to services, including employment opportunities, public utilities and health services, remains a major challenge for communities across Kosovo, particularly Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities.<sup>126</sup> Kosovo institutions have shown little progress in this area, indicating the need for concerted action to provide equal access to socio-economic rights, encompassing both employment opportunities and removing barriers to self-employment, including agricultural work.<sup>127</sup> The OSCE report published in 2013<sup>128</sup> assessed that key provisions of the Law

<sup>124</sup> MLGA "Progress report on implementation of decentralization in Kosovo", issued August 2012, <http://mapl.rks-gov.net/getattachment/3cf94334-1267-4e0e-ae69-6dbb77848a1a/PROGRESS-REPORT-ON-IMPLEMENTATION-OF-DECENTRALIZAT.aspx> (accessed 28 October 2015).

<sup>125</sup> Article 12.6 on CCC composition, Law No.03/L-047 on the Protection and Promotion of the Rights of Communities and their Members in Kosovo, *supra* note 3.

<sup>126</sup> OSCE assessments published in 2013 noted issues with under-representation in the civil service as predominantly affecting the Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities due to the lack of education qualifications, but also the Kosovo Serb and Kosovo Gorani communities largely due to the non-recognition of certificates and diplomas issued by institutions following the Serbian curriculum. See OSCE report *Representation of Communities in the Civil Service in Kosovo, February 2013*, <http://www.osce.org/kosovo/99601> (accessed 28 October 2015).

<sup>127</sup> With regard to access to agricultural land, illegal land usurpation remains a continuing problem, affecting primarily the Kosovo Serb community and restricting their economic opportunities: the OSCE recorded 12 such cases during the reporting period.

<sup>128</sup> See OSCE report, *supra* note 126.

on Civil Service<sup>129</sup> are not being fully implemented. In December 2013 the OCA published a report on access to employment for non-Albanian communities<sup>130</sup> containing twelve recommendations, including those targeting Kosovo Roma, Kosovo Ashkali, Kosovo Gorani and Kosovo Egyptian communities, gender-balanced hiring and punitive measures for institutions that perform poorly in employing communities. While political stalemate<sup>131</sup> prevented formal endorsement of these recommendations, the OCA implemented at least some of these by running an internship programme for certain communities.<sup>132</sup>

An assessment of communities' access to services was undertaken by the OSCE covering the period January 2014 to May 2015: following consultations with municipal officials and communities' representatives at the local level, the assessment concluded that communities had faced problems in accessing utilities in 23 out of 38 municipalities. The most common issue reported to OSCE field monitors was the non-functioning of street lighting in non-Albanian community neighbourhoods, linked to security concerns.<sup>133</sup> The assessment also recorded reports of cuts in water supply and problems with the sewage system in around a third of municipalities; however, this issue did not affect communities disproportionately. In the northern municipalities, bills issued by Serbia-run utility companies continued not to be recognized by Kosovo Albanians, leading to payment failure and disconnection.<sup>134</sup>

Since the publication of the last Community Rights Assessment Report, the Kosovo Serb community have continued to prefer using Serbia-run health facilities,<sup>135</sup> though medical supplies and medicines within the Serbia-run system remain a problem as Kosovo institutions have only issued licenses to one Serbia-licensed pharmacy in Kosovo.<sup>136</sup> The absence of licensed pharmacies and the selection of medications on the Kosovo government-approved list of licensed drugs can limit the supply of medicines to medical facilities used by Kosovo Serbs.<sup>137</sup>

Alongside smaller, more isolated communities, including Kosovo Serb returnee communities in the Pejë/Peć region and Ferizaj/Uroševac municipality, Kosovo Albanian communities in the northern municipalities were also affected by the reduction of humanitarian bus transportation lines during the period from summer 2014 to June 2015: special transportation for communities, particularly where no

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<sup>129</sup> Law No.03/L-149 on the Civil Service, 26 June 2010. The Law mandates that a minimum of 10 per cent of the workforce must be represented by members of communities at the central level, and that local-level representation must be proportionate to the demographic composition of each municipality. The legal framework requires that employing institutions implement a range of positive action measures aimed at enhancing the recruitment and promotion of members of communities.

<sup>130</sup> The OCA report ([http://www.zck-ks.net/repository/docs/Assessment\\_on\\_Employment.pdf](http://www.zck-ks.net/repository/docs/Assessment_on_Employment.pdf), accessed 28 October 2015) concluded that communities' representation was 7.7 per cent within central- and local-level institutions, with Kosovo Ashkali, Kosovo Egyptian, Kosovo Gorani and Kosovo Roma communities relatively underrepresented, although Kosovo Bosniak, Kosovo Serb and Kosovo Turkish communities' representation was close to their proportionate census levels. The report highlighted that one of the primary problems for communities' employment relates to non-recognition of candidates' education qualifications.

<sup>131</sup> The early parliamentary elections on 8 June 2014 were followed by six months of political stalemate until the election of Isa Mustafa as Prime Minister on 9 December 2014.

<sup>132</sup> In September 2014 the OCA launched a Norwegian-funded internship programme supporting the placement of 100 non-Albanian interns in different central and local level institutions for a six-month period, and the OCA plans to repeat the initiative. However, as the majority of interns hold diplomas from the University in Mitrovica/Mitrovicë North, any future public service employment will be dependent on successful diploma recognition or certification.

<sup>133</sup> Problems with street lighting during the January 2014 to May 2015 period were reported to OSCE monitors in 13 municipalities, and as affecting non-Albanian communities in ten of these 13 (Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities in six municipalities, and Kosovo Serbs in four municipalities). For example in Skenderaj/Srbica, interlocutors noted that Kosovo Serbs in Banja/Banjë feel uncomfortable walking around the village when dark due to the lack of street lighting; similar security concerns were raised in Fushë Kosovë/Kosovo Polje regarding young children returning from school during the winter.

<sup>134</sup> Many Kosovo Albanians in these municipalities claimed their non-payment was due to uncertainty over electricity supply management, a topic of the Brussels Dialogue which is expected to resolve pending issues in the energy sector; see "Conclusions of the EU facilitator on the implementation of the 2013 Energy Agreement", 25 August 2015; for additional detail <http://www.kim.gov.rs/eng/pregovaracki-proces.php> (accessed 28 October 2015).

<sup>135</sup> Nineteen Kosovo municipalities have at least one pharmacy licensed by the Belgrade-run healthcare system.

<sup>136</sup> Only Istog/Istok municipality has a Belgrade- and Prishtinë/Priština-licensed pharmacy. A Belgrade-licensed pharmacy in Leposavić/Leposaviq applied for a Kosovo licence on 10 March 2015 but has not received any response or further information regarding the progress of the application.

<sup>137</sup> Problems were reported in Pejë/Peć, Leposavić/Leposaviq, Zubin Potok, Zvečan/Zvečan, Mitrovica/Mitrovicë North, Kamenicë/Kamenica, Ranilug/Ranillug, Novo Brdo/Novobërdë, Lipjan/Lipljan, Gračanica/Gračanicë, Fushë Kosovë/Kosovo Polje and Obiliq/Obilić.

commercial services exist, remains a key consideration in communities' access to a range of basic services.<sup>138</sup> While the main bridge connecting Mitrovica/Mitrovicë North and Mitrovicë/Mitrovica South remains blocked to vehicular traffic, and vehicular access is limited to the eastern entrance to Mitrovica/Mitrovicë North town centre, demonstrable progress was made in the area of freedom of movement during the reporting period. Restrictions on freedom of movement due to roadblocks in northern Kosovo, which negatively affected some communities' travel to urban centres in 2012 and 2013, have now been dismantled and are no longer a major issue

### *Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities*

Kosovo institutions have failed to achieve co-ordinated and systematic implementation of the *Strategy and Action Plan for the Integration of Roma, Ashkali and Egyptian communities in Kosovo, 2009-2015*. In January 2014, an attempt was made by the Inter-Institutional Steering Committee, then headed by the Ministry for European Integration and now led by the Deputy Prime Minister, to oversee and co-ordinate priority actions.<sup>139</sup> However, gaps in communication and co-ordination between and among central and local-level institutions continued to be problematic, exacerbated by a dearth of political will. The Prime Minister's Office of Good Governance (OGG), in charge of the Technical Working Group responsible for the monitoring and reporting of the implementation of the aforementioned strategy, failed to gather adequate data, provide accurate reports, or to meaningfully include members from the three communities in implementation or reporting. In May 2015, the OGG began moving ahead with developing a new integration strategy for 2016-2020, with limited systematic consultation thus far. Aside from sporadic efforts<sup>140</sup> by some institutions to improve the three communities' integration, no notable progress has been made. Arguably, most progress was achieved at the local level, as several municipalities drafted and adopted Local Action Plans (LAPs) for the integration of the three communities, including the involvement of relevant civil society.<sup>141</sup>

DPs from Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities were affected in the past due to their residence in temporary camps located on lead-contaminated ground: these camps have now been closed, and concerns over increased blood lead levels have subsided. In the Mitrovicë/Mitrovica South Roma Mahalla settlement, where most of the DPs from the lead-contaminated camps in Mitrovica/Mitrovicë North and Zvečan/Zveçan have settled, monitoring undertaken by the OSCE indicates that in general, adequate specialised healthcare support is provided (although some concerns remain regarding its continued future provision).<sup>142</sup>

Kosovo institutions have implemented several measures aimed at increasing civil registration of the three communities and reducing the number of those unregistered and facing additional difficulties to access services. In 2015, the MLGA and the MIA issued instructions to municipalities,<sup>143</sup> repeating similar instructions over the past years, to encourage a month of fee-free registration for Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities and the waiver of registration late fees for

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<sup>138</sup> As of end of June 2015, four lines ending in Mitrovicë/Mitrovica South and/or Zvečan/Zveçan municipality were not operational. For more discussion, please see OSCE report *Special Transportation for Communities in Kosovo*, March 2015, <http://www.osce.org/kosovo/143476> (accessed 28 October 2015).

<sup>139</sup> 'Setting Priority Actions foreseen in the Action Plan for implementation of the Strategy for integration of Roma, Ashkali and Egyptians', February 2014, Ministry of European Integration, which outlines priority measures and activities stemming from the *Strategy and Action Plan for the Integration of Roma, Ashkali and Egyptian communities in Kosovo, 2009-2015*, mainly in the sectors of education, employment, social welfare health and housing, and foresees their implementation by the end of 2015.

<sup>140</sup> For example, MEST's promotion of Romani language teaching, as noted above under Recommendation 4.

<sup>141</sup> By end June 2015, LAPs had been adopted in ten municipalities (Prizren, Obiliq/Obilić, Shtime/Štimlje, Suharekë/Suva Reka, Rahovec/Orahovac, Ferizaj/Uroševac, Vuštrri/Vučitrn, Gjakovë/Đakovica, Istog/Istok, and Klinë/Klina). Additionally, three municipalities initiated the drafting of LAPs during the reporting period (Gračanica/Gračanicë, Fushe Kosovë/Kosovo Polje and Deçan/Deçani), and three more have drafted and finalized LAPs which remained pending formal adoption by end June 2015 (Mitrovicë/Mitrovica South, Kamenicë/Kamenica and Gjilan/Gnjilane). Two LAPs expired during the reporting period (Lipjan/Lipljan and Novo Brdo/Novobërdë); it is unclear whether new plans are anticipated.

<sup>142</sup> Blood tests conducted in early 2015 indicated that there is only one case with concerning lead levels above 45mg/dL. However, depleting donor funds mean adequate medical treatment is no longer available and many persons still remain with levels above the lower level of 10mg/dL.

<sup>143</sup> Respectively, the MLGA letter of 20 January 2015 to municipalities, and, the Civil Registration Agency letter issued on the 26 March 2014, ref. 02/426.

a period of one year, respectively. The MIA's Registration Agency also established a Working Group to map unregistered persons in Kosovo on 14 November 2014.

Little however has been done by Kosovo institutions to address the high level of illiteracy amongst the Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities,<sup>144</sup> and efforts to promote sustainable employment opportunities for the communities were also limited to seasonal employment and business start-up training for some repatriated community members. The municipalities of Ferizaj/Uroševac and Rahovec/Orahovac assisted a number of the three communities with specific initiatives<sup>145</sup>, but other municipalities provided limited opportunities for temporary employment, usually for menial roles<sup>146</sup>.

An introduction of stricter criteria for families to benefit from social assistance<sup>147</sup>, which includes a narrow definition of 'families who live in a single household', has been unfavourable to Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian families, often living in multi-generational families, and has led to many community members' removal from beneficiary lists. OSCE assessments conducted between January 2014 and May 2015 indicated that municipal centres for social welfare estimates of affected community members varied from municipality to municipality, with Prishtinë/Priština, Gjakovë/Đakovica and Mitrovicë/Mitrovica South assessed as having the highest number of affected beneficiaries.<sup>148</sup> In 21 municipalities, respondents to the OSCE assessment from social welfare centres, municipalities and communities reported a number of appeals against negative decisions on eligibility submitted by those who lost their access to social assistance due to the new criteria: respondents' feedback indicated that while a small number of these appeals resulted in social assistance being reinstated, most were unsuccessful.

Finally, interviews of municipal officials and community representatives conducted by the OSCE assessed the impact on communities in a numerical minority at the municipal level of the 2014–2015 migration wave from Kosovo to European Union countries<sup>149</sup>. In a number of municipalities, communities' representatives expressed concerns that many Kosovo Roma, Kosovo Ashkali and Kosovo Egyptians migrated, identifying primary reasons for this as poverty, a lack of social welfare, health coverage and employment opportunities.<sup>150</sup>

## Remaining challenges

Communities' access to employment continues to be hindered by the incomplete implementation of the Law on Civil Service<sup>151</sup>, the lack of progress on diploma recognition, and the absence of sufficient targeted employment policies for the most vulnerable. Administrative barriers on medication and pharmacy licensing continue to obstruct some communities' access to healthcare. The remaining persons without civil registration continue to face serious obstacles in accessing a range of rights.

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<sup>144</sup> A recent report published by the Kosovo Agency of Statistics shows that 72.8 per cent of young women from the three communities between 15 and 24 are able to read a short simple statement about everyday life, while 86.5 per cent young men in the same age category are able to do it. *Multiple Indicator Cluster Survey 2013-2014, Key Findings*, October 2014, Kosovo Agency of Statistics, available at: [https://ask.rks-gov.net/ENG/images/files/MICS20Key20Findings20Report20-20Roma20-20English\\_20150525.pdf](https://ask.rks-gov.net/ENG/images/files/MICS20Key20Findings20Report20-20Roma20-20English_20150525.pdf).

<sup>145</sup> Ferizaj/Uroševac municipality employed 77 Kosovo Ashkali in the public waste disposal company. Rahovec/Orahovac municipality started a project co-funded by EU, providing vocational training for nine members of the three communities (including five females), assisting them with business start-up.

<sup>146</sup> As an example, in Klinë/Klina eight Kosovo Egyptians and Kosovo Roma received daily allowances for a two-week period to collect waste in public areas through the initiative "Let's clean Klinë/Klina".

<sup>147</sup> Law No. 04/L-096 amending and supplementing the Law No. 2003/15 on Social Assistance Scheme in Kosovo, 13 June 2012.

<sup>148</sup> Estimates from communities and local authority sources are that in Prishtinë/Priština approximately 400 families were affected, in Gjakovë/Đakovica 300 people and in Mitrovicë/Mitrovica South 400 people.

<sup>149</sup> OSCE internal report, *An Assessment of Irregular Migration*, 29 April 2015.

<sup>150</sup> The reporting period for this assessment was 1 July 2014 to 28 February 2015. While this phenomenon affected all Kosovo communities, in at least 14 municipalities, communities in a numerical minority at the municipal level saw more cases of migration than the majority community because of their more difficult living conditions. More specifically, in 13 municipalities, communities respondents interviewed reported that more migrants came from the Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities than the majority communities due to their poor living conditions and lack of social support.

<sup>151</sup> *Supra* note 129.

Indirect discrimination against Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities in decision-making on eligibility for social assistance remains a potential concern.

Central-level institutions have yet to critically revisit the structures responsible for the *Strategy and Action Plan for the Integration of Roma, Ashkali and Egyptian communities in Kosovo, 2009–2015*, in order to ensure that substantial improvements, including in the management and co-ordination structures responsible for the strategy, and the genuine inclusion of the three communities in planning and implementation, can be incorporated into post-2015 integration policies. Given its responsibilities in a large number of cross-government areas (including human rights, child rights, rights of persons with disabilities, good governance, civil society engagement, etc.), and weak performance to date, the capacities of the OGG to effectively perform in relation to integration policies for the three communities need serious re-examination.

## 6. HUMAN RIGHTS INSTITUTIONS

### **Recommendation 6**

*Provide the Ombudsperson Institution with adequate human and financial resources, including with regard to relevant awareness-raising and training activities, and consistently implement the Ombudsperson's recommendations at central and local level.*

### **Current situation**

The Ombudsperson Institution in Kosovo (OiK) received a total of 2,224 complaints in 2014<sup>152</sup>, a 10 per cent increase on the previous year. The majority of these cases, 75 per cent, were inadmissible, as most complaints were still under administrative review or had not exhausted all relevant legal remedies.<sup>153</sup> In terms of Kosovo institutions' responses to the OiK, less than 35 per cent of requests and recommendations were complied with in 2014<sup>154</sup>. Despite this increase of requests and limited institutional responsiveness, the OiK was given further responsibilities through the 2015 Law on the Ombudsperson which establishes a preventive mechanism for the prevention of torture and other cruel, inhuman and degrading treatment, and the Law on Protection from Discrimination which gives the OiK the role of an equality body.<sup>155</sup> The OiK functions through one central and eight regional offices, facing challenges due to inadequate office space, which impacts on recruitment of staff with disabilities and proper space for interviewing complainants.<sup>156</sup>

Monitoring undertaken by the OSCE identified other problems, including OiK organizational weaknesses: inadequate internal management and communication structures; lack of annual planning procedures; inadequate outreach or community outreach by regional offices<sup>157</sup>; and, lack of co-operation with civil society. External communication with communities remains a particular challenge.<sup>158</sup> All these problems continue to limit the capacity of the OiK to effectively address the needs of vulnerable and marginalized persons.

<sup>152</sup> See OiK, 2014 Annual Report [http://www.ombudpersonkosovo.org/repository/docs/RAPORTI\\_2014\\_-\\_anglisht\\_21841.pdf](http://www.ombudpersonkosovo.org/repository/docs/RAPORTI_2014_-_anglisht_21841.pdf) (accessed 28 October 2015).

<sup>153</sup> Page 23, *supra* note 152.

<sup>154</sup> Pages 93-100, *supra* note 152.

<sup>155</sup> See Article 17, Law No. 05/L-019 on the Ombudsperson, and, Article 12, Law No 05/L-021 on Protection from Discrimination, 28 May 2015.

<sup>156</sup> Currently the central OiK office is a rented private house. OiK regional offices are established in Prizren, Pejë/Peć, Gjakovë/Đakovica Gjilan/Gnjilane, Ferizaj/Uroševac Štrpce/Shtërpçë, Mitrovicë/Mitrovica South and Mitrovica/Mitrovicë North.

<sup>157</sup> OiK-implemented 'Open Days' provide a monthly opportunity to meet with the Ombudsperson or his deputies in different municipalities. Despite OiK reports that these are well publicised, monitoring undertaken by the OSCE indicates that these activities are not very successful in terms of reaching out to sufficient numbers of people. Apart from 'Open Days', most outreach initiatives are limited to OiK participation in activities organized by civil society or international organizations (for example, the OiK participated in UNICEF- or civil society-supported activities).

<sup>158</sup> For example, the Regional Ombudsperson Office (ROO) in Gračanica/Gračanicë did not have staff speaking Albanian, while the ROO in Prizren does not have capacity to communicate in Serbian, Bosnian or Turkish.

The mandate of the Ombudsperson and his deputies expired in June 2014 and October 2014 respectively. In the interim period, the OiK was run by a temporarily appointed Ombudsperson, supported by five deputies, through a technical mandate without the possibility for re-appointment.<sup>159</sup> The recruitment procedure for the Ombudsperson has been ongoing since the publication of the first job vacancy in January 2014, followed by two unsuccessful attempts by the AoK to elect an individual, before the appointment of Mr Hilmi Jashari in July 2015.<sup>160</sup>

### Remaining challenges

While it is positive that new responsibilities have been given to the OiK, practical challenges may be exacerbated by the increased workload of the office. As expressed by the Ombudsperson on a number of occasions, although the OiK has sufficient budgetary resources for its regular work, an increase of staff and capacity-building for both existing and new staff<sup>161</sup>, as well as improved internal management and communication, will be required with the assumption of the additional functions. Partly as a result of problems with office space and limited opportunities for discussions with claimants, there were a very high number of inadmissible complaints submitted during 2014, approximately 75 per cent of the total cases received.<sup>162</sup>

### Recommendation 7

*Take all necessary steps to render the anti-discrimination legislation more applicable and ensure that municipal authorities are suitably trained and instructed to deal with related complaints; establish a comprehensive system in line with relevant data protection standards, to gather disaggregated information on complaints related to discrimination to facilitate the development of targeted measures to promote full and effective equality of persons belonging to minority communities.*

### Current situation

The 2004 Law on Anti-discrimination<sup>163</sup> has been assessed as comprehensive in defining all forms of discrimination<sup>164</sup> and grounds for protecting and promoting equality, equal treatment and tolerance. However it has been assessed as poor in prescribing enforcement mechanisms, rendering its implementation weak. During the reporting period, the Office of the Prime Minister made further progress by developing a draft package of human rights laws, including the Law on the Ombudsperson, the revised Law on Protection from Discrimination,<sup>165</sup> and the Law on Gender Equality<sup>166</sup>, which were approved by the AoK on 28 May 2015.

The new Law on Protection from Discrimination provides more comprehensive definitions concerning enforcement mechanisms and remedies, especially related to the OiK and courts, and prescribes sanctions.<sup>167</sup> In addition to the Ombudsperson's function of monitoring discrimination cases,<sup>168</sup> the aforementioned law bestows upon the Ombudsperson the responsibility to act as an

<sup>159</sup> One of the appointed deputies, Mr. Bogoljub Staletović, from the Kosovo Serb community, was suspended in June 2014 and not replaced during the reporting period; his mandate expired in October 2014.

<sup>160</sup> Failed attempts at election were made in March 2014 and in April 2015. On 2 July 2015, Mr. Hilmi Jashari was elected by the AoK as Ombudsperson to succeed Mr. Sami Kurteshi, who has been the appointed interim Ombudsperson since June 2014.

<sup>161</sup> While the staffing table envisages 63, there are 54 OiK employees, including non-Albanian staff.

<sup>162</sup> *Supra* note 152.

<sup>163</sup> Law No. 2004/3 on Anti-discrimination in Kosovo, 19 February 2004.

<sup>164</sup> This includes direct discrimination, indirect discrimination, harassment, instruction to discriminate, victimization and segregation.

<sup>165</sup> *Supra* note 155.

<sup>166</sup> Law No. 05/L -020 on Gender Equality, 28 May 2015.

<sup>167</sup> Article 12 of the Law on Protection from Discrimination (*supra* note 155) includes a complaints mechanism where persons can file their claims with the OiK, Article 9.2.12 obliges the OiK to submit annual reports on the Law's implementation to the AoK, and Articles 13 to 17 refer to the courts.

<sup>168</sup> In practice, the OiK, among other functions, monitors discrimination cases. One of the five deputies leads the Anti-discrimination Department, which is divided into six units covering children's rights, gender equality, rights of people with disabilities, human trafficking and domestic violence, communities' rights and social issues and rights of lesbian, gay, bisexual and transgender persons.

equality body,<sup>169</sup> but does not foresee the establishment of a centre for equal treatment or similar enforcement measure, leaving an important gap that needs addressing for effective implementation.<sup>170</sup> The development of internal management structures within the OiK is not completed however, and the new Law on Protection from Discrimination anticipates secondary legislation within six months of its adoption.<sup>171</sup>

Monitoring undertaken by the OSCE has not identified any substantive progress in implementation despite these important normative developments, recording no cases filed in the courts directly referring to discrimination. Cases that reached the courts on various other grounds (such as domestic violence and employment) and which may have contained elements of discrimination were not treated as discrimination cases by those responsible for processing and ruling on them. Furthermore, awareness of anti-discrimination legislation and obligations among the judiciary, Kosovo institutions and the general public was assessed by the OSCE as limited during the reporting period, despite institutional obligations to promote equality and draft, promote and launch a programme on public awareness.<sup>172</sup>

### **Remaining challenges**

Monitoring undertaken by the OSCE points to important capacity gaps in judicial institutions to effectively deal with discrimination cases once they occur. Key areas for capacity-building and training identified by OSCE assessments include strategic litigation, identification and pursuance of discrimination cases, awareness-raising and reporting. Key stakeholders, including the OiK and other Kosovo institutions, face capacity limitations in implementing their responsibilities and mandates in relation to the promotion of equality and the prevention of discrimination. The implementation of the 2015 Law on Protection from Discrimination will largely depend on awareness of the public of the remedies available: serious challenges remain in Kosovo institutions' implementation of their obligation to promote equality through raising public awareness.

## **7. RETURNS AND REINTEGRATION**

### **Recommendation 8**

*Improve the central co-ordination of return assistance through targeted supervision and instruction and ensure that municipal officials are suitable trained; pursue efforts to promote sustainable return through targeted grants and other measures aimed at creating employment and business opportunities in remote locations.*

### **Current situation**

According to data from the United Nations High Commissioner for Refugees (UNHCR), of the 220,000 persons displaced outside of Kosovo, only 26,098 have returned since the 1999 conflict and the 2004 riots.<sup>173</sup> UNHCR also estimates that 17,227 persons are internally displaced, with 579 individuals still living in 32 collective centres across Kosovo.<sup>174</sup> During the reporting period of June 2014 to July 2015 there was a slight increase in voluntary returns of DPs to Kosovo, with 769 DPs having returned, in comparison to 682 returns during the preceding June 2013 to July 2014 period.<sup>175</sup>

<sup>169</sup> An equality body is a mechanism for promoting, monitoring and supporting equal treatment without discrimination on grounds protected by the Law on Gender Equality and the Anti-Discrimination Law.

<sup>170</sup> Please see Recommendation 6 from the main body of this report.

<sup>171</sup> Article 26, of the Law on Protection from Discrimination, *supra* note 155.

<sup>172</sup> Both the previous and the new Law include the positive obligation to promote provisions in the Law (for example, Article 25 on Public Awareness, the 2015 Law on Protection from Discrimination, *supra* note 155).

<sup>173</sup> UNHCR quarterly statistical overview, June 2015.

<sup>174</sup> *Supra* note 173.

<sup>175</sup> *Supra* note 173. It should be noted that this small increase could be attributed to the fact that the implementation of the EU Return and Reintegration Phase IV project took place during this period, providing support for persons to reintegrate.



However, OSCE and UNHCR assessments are that in general terms interest to return has decreased considerably over the past few years.<sup>176</sup>

Monitoring undertaken by the OSCE assessed that out of the 479 security incidents affecting communities members recorded in the reporting period (as discussed under Recommendation 2), approximately 22 per cent affected returnees, with Kosovo Serbs the most commonly affected community.<sup>177</sup> As noted above (under Recommendation 2), relatively little has been done by municipal and central institutions to discourage such incidents, which inevitably have an impact on the sustainability of return and future interest in return.

The establishment of MOCRs in most municipalities across Kosovo is positive.<sup>178</sup> However, monitoring undertaken by the OSCE identifies generally weak compliance with their obligation to engage in outreach activities to inform and assess the needs of returnees, or to identify and implement projects benefiting returnees. Within the reporting period, only 11 MOCRs undertook outreach visits, none frequently.<sup>179</sup> Task forces on returns and municipal working groups on returns, the municipal mechanisms mandated to support MOCR work, were not established in all municipalities and continue to under-perform.<sup>180</sup> Due to the lack of a legal framework on displacement and returns, MOCRs and local institutions continue to follow procedures based on an outdated UNMIK policy manual and incomplete policy guidelines<sup>181</sup>, leading to practical problems in co-ordination and implementation of support for returnees, including accountability. Central institutions failed to provide training for MOCRs during the reporting period, or to address the urgent need for a centralized database to inform and track assistance.

The MCR partially addressed the gaps in the legal framework on displacement in March 2014 with an inconclusive initiative on internally displaced persons<sup>182</sup>, but has made important progress since then in beginning the drafting of a regulation on displacement.<sup>183</sup> In May 2015, the MCR established an Inter-Ministerial Working Group on Returns<sup>184</sup> to encourage returns, close remaining collective centres, support regional co-operation on returns and endorse the establishment of three local-level groups in particularly difficult locations.<sup>185</sup> Unresolved property issues continued to prevent DPs from enjoying their property rights<sup>186</sup>, and ten municipalities took steps to allocate land for returns-related projects<sup>187</sup>, while others were unable to grant such allocations due to obstacles, including incomplete records of municipal land, unclear legal procedures on the reinstatement of socially owned enterprise

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<sup>176</sup> See OSCE Report on Voluntary Returns Process, *supra* note 30.

<sup>177</sup> Generally these incidents affecting returns sites are concentrated in the Pejë/Peć region, with smaller numbers of incidents also being recorded in Prizren, Mitrovicë/Mitrovica and Ferizaj/Uroševac regions. More information on security affecting *inter alia* return can be found under Recommendation 2 of this report.

<sup>178</sup> *Supra* note 121.

<sup>179</sup> Skenderaj/Srbica, Gjilan/Gnjilane, Kamenicë/Kamenica, Novo Brdo/Novobërdë, Parteš/Partesh, Ranilug/Ranillug, Deçan/Deçane, Gjakovë/Đakovica, Istog/Istok, Klinë/Klina and Pejë/Peć MOCRs undertook outreach, with only four municipalities undertaking over four visits during the reporting period.

<sup>180</sup> Within the reporting period municipal working groups on returns were established in 24 out of the 38 municipalities and only 16 of those established were functioning. Furthermore, the functioning of these municipal working groups on returns in all but two municipalities (Fushë Kosovo/Kosovo Polje and Novo Brdo/Novobërdë) was exclusively tied to the implementation of EU-funded Return and Reintegration (RRK) phase II and phase IV projects.

<sup>181</sup> *Protocol on Voluntary Return and Sustainable Return* (between UNMIK and Provisional Institutions of Self-Government in Kosovo and Government of Serbia, 2006), encompassed in the *Revised Manual for Sustainable Return* (2006), complemented by the *Guidelines for Implementation of Returns Support* (2012).

<sup>182</sup> This initiative on IDPs was to begin with an assessment, but activities did not progress due to lack of funds and data collection problems in northern municipalities.

<sup>183</sup> The MCR convened a technical-level group for the drafting of a regulation on returns and reintegration in September 2015, with the aim of finalizing it in 2015.

<sup>184</sup> Established on 3 June 2015, the Working Group's strategic objectives are available at: <http://www.mkk-ks.org/?page=2,6>.

<sup>185</sup> Brđani/Kroi i Vitakut (Mitrovica/Mitrovicë North) Svinjare/Frashër (Mitrovicë/Mitrovica South), and Mushtishtë/Mušutište (Suharekë/Suha Reka).

<sup>186</sup> The main challenges are cases of unresolved compensation claims (approximately 22,000), problems with evictions and re-evictions, illegal (re)-occupation, and payment of property taxes. In addition, sustainable housing solutions are limited by problems with municipalities allocating land. DPs have also been affected by shortcomings in the implementation of expropriation and legalization of unpermitted construction.

<sup>187</sup> Gjilan/Gnjilane, Kamenicë/Kamenica, Ranilug/Ranillug, Istog/Istok, Parteš/Partesh, Lipjan/Lipljan, Klinë/Klina, Pejë/Peć, Štrpce/Shtërpçë, Graçanica/Graçanicë.

land and land exchanges with the Privatization Agency of Kosovo. Petitions filed by potential receiving communities to protest against return were another barrier to returns in six municipalities during the reporting period.<sup>188</sup> Some positive action was taken by Kosovo institutions to notify DPs of expropriation procedures<sup>189</sup>, and, with international support, DPs from Kosovo currently living in several locations throughout Serbia benefited from information campaigns to raise awareness on procedures and application deadlines for legalization of unlicensed constructions.<sup>190</sup>

The MCR's revised 'Strategy for Communities and Returns'<sup>191</sup> represents progress in that it develops concrete strategic objectives for the sustainable return and empowerment of communities, tackling issues such as the sustainability of returns, land allocation, selection processes, collective centre closure, as well as institutional co-ordination and data management. Since the adoption of the strategy in January 2014, UNHCR figures show that the number of persons residing in collective centres had dropped from 663 to 585 in June 2015. As the MCR has not produced any progress reports, it is unclear if this reduction is due to institutional action or personal solutions found by former collective centre residents. The last temporary collective centre in Leposavić/Leposaviq for displaced Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian families officially closed in December 2013.<sup>192</sup> However, three families refused to be relocated because of security concerns, and the non-governmental organization Mercy Corps continues to search for alternatives for their durable settlement. So far Mercy Corps has faced reluctance from the municipality and nearby receiving communities for land allocation or property renovation for these families. Monitoring undertaken by the OSCE indicated that during the reporting period MOCRs and the MCR provided support to returning DPs mostly through housing projects and the provision of emergency packages.<sup>193</sup>

### Remaining challenges

Without a comprehensive legal framework for DPs, and standardised processes and mechanisms to assist and support persons wishing to return, including a central database, the implementation of returns-related assistance will remain problematic. Streamlining co-ordination between central- and local-level bodies and the functioning of responsible mechanisms will be an important step. Unresolved property issues have a serious impact on returns and DPs remain disadvantaged in terms of access to information: obstacles to land allocation have *de facto* blocked or significantly reduced the return of several families displaced outside of Kosovo that would otherwise have proceeded. Full and effective institutional action on returns-related programmes at local and central levels continues to be hindered by a lack of strategic support from the range of Kosovo institutions involved, not only the MCR, but also MLGA, MEST, MIA, KP, et cetera.

## 8. CULTURE AND MEDIA

### Recommendation 10

<sup>188</sup> *Supra* note 32.

<sup>189</sup> Regulated by the Law No 03/L-139 on Expropriation of Immovable Property, 28 October 2010. As per Article 7.3.4.1, three public hearings were organized in February 2015 and attended by non-Albanian property owners who had the opportunity to raise concerns and request additional clarification. The notification for expropriation was delivered to the affected owners in both official languages Albanian and Serbian as required by the Article 7.2 of the Law No. 02/L-37 on Use of Languages, 27 July 2006.

<sup>190</sup> Law No. 04/L-188 on Treatment of Constructions without Permit, 26 December 2013, foresees the registration of all such constructions by 5 February 2015, subsequently extended until 11 June 2015.

<sup>191</sup> The *Strategy for Communities and Return (2014–2018)* has four strategic objectives: the sustainable return of DPs within Kosovo and in the region; the empowerment and stabilization of communities in Kosovo; the drafting and amendment of the legal framework of the MCR relating to communities, return and reintegration; and the advancement of the MCR's internal management.

<sup>192</sup> Families from the camp have been relocated to Roma Mahalla in Mitrovicë/Mitrovica South as part of an EU/IPA-funded project implemented by Mercy Corps.

<sup>193</sup> As an example, Novo Brdo/Novobërdë municipality provided temporary shelter to one returnee family, while Lipjan/Lipljan MOCR supported a returnee Kosovo Ashkali family with fire wood and other food and non-food items, similarly to Ferizaj/Uroševac municipality's distribution of food and non-food items to 18 Kosovo Serb returnee families at Orthodox Easter. Obiliq/Obilić and Klinë/Klina municipalities allocated land and supported construction for significant numbers of returnees, notably for 52 houses in Plemetin/Plemetina as part of a donor-funded project.

*Devise a transparent mechanism, based on objective criteria and clear application procedures, for the allocation of support for cultural activities of all minority communities; pursue efforts to complete the outstanding works required due to the violence of March 2004, and provide due security to the cultural and religious sites of all minority communities, including their special protected zones.*

## **Current situation**

The Ministry for Culture, Youth and Sport (MCYS) sought to revise the Law on Cultural Heritage, but failed to consult communities and religious groups. However, the law was withdrawn for further consultation shortly after its submission to the AoK in May 2015. In early 2015, the MCYS initiated the drafting of a strategy on cultural heritage, expected to provide policy guidelines in this area. The MCYS launched a cultural heritage database in July 2014, thus far listing approximately 200 of the 1,441 cultural heritage monuments<sup>194</sup> under temporary protection. The MCYS implemented an emergency intervention project involving urgent protection work on 36 out of 50 prioritised buildings. The MCYS also announced a project on the visualisation of monuments<sup>195</sup> in 2013, continuing work during 2014, with the aim of supporting the documentation and digital promotion of cultural heritage sites<sup>196</sup>.

Monitoring undertaken by the OSCE identified important progress in addressing normative gaps on cultural heritage issues since the last Community Rights Assessment Report. The Law on the Historic Centre of Prizren and the Law on the Village of Velika Hoča/Hoçë e Madhe were both endorsed<sup>197</sup>, defining limited or prohibited activities within the two areas. These laws were followed with two administrative instructions, regulating the establishment and functioning of the two respective councils and were adopted in April 2014.<sup>198</sup> Monitoring undertaken by the OSCE recorded that the Prizren Council held monthly meetings throughout the reporting period (exceeding the required quarterly frequency), discussing and reviewing activities in the special protective zone (SPZ)<sup>199</sup>. Prizren municipality also appointed an administrator in 2014 and in 2015 allocated office space for the Council as required. The Council for the Velika Hoča/Hoçë e Madhe SPZ was established in January 2015, and in October 2015 budgets had been secured for the year for both Councils.

However, according to KP annual statistics on 2014, 87 attacks were directed at religious heritage sites during that year, namely 42 attacks targeting Orthodox sites, 40 targeting Muslim sites, and 5 targeting Catholic sites; this total reflects the same number of attacks recorded by the KP in the previous year, with no decrease since the publication of the last Community Rights Assessment Report.<sup>200</sup> Monitoring undertaken by the OSCE during the reporting period of June 2014 to July 2015 also recorded cases of intimidation and threats to persons belonging to religious minority communities, such as nuns and priests: these incidents included the stoning of parish houses and attempts to obstruct or target pilgrims travelling to religious sites.<sup>201</sup> Illegal construction in SPZs also

<sup>194</sup> These include architectural, archaeological and moveable heritage.

<sup>195</sup> The initiative enables use of new digitalization techniques, including: i) panoramic photos, ii) conservation of cultural heritage, iii) story/narrative (virtual walking). The project is based on the UNESCO-supported "Google Wonders Project".

<sup>196</sup> The Digital Promotion of Heritage "Wiki Loves Monuments" global project aims to promote and document cultural heritage, now implemented for the first time in Kosovo, with institutional and civil society support.

<sup>197</sup> Law no. 04/L-066 on Historic Centre of Prizren, 18 July 2012 and Law No. 04/L-062 on the Village of Hoçë e Madhe /Velika Hoča, 18 July 2012, were adopted as foreseen by the Law No. 03/L-039 on Special Protective Zones, 04 June 2008, Article 7 (m) and Article 8. These two laws determine the rules on protection, administration and sustainable development of the two areas.

<sup>198</sup> Administrative Instruction No. 12/2014 on Establishment, Selection and Responsibilities on Operation of the Council for Cultural Heritage and the Office of Historic Centre of Prizren, 29 April 2014; Administrative Instruction No. 11/2014 on the Establishment, Selection, Responsibilities and the Operation of Council on Hoçë e Madhe /Velika Hoča Village, 29 April 2014.

<sup>199</sup> Article 16, Law No. 04/L-066 on Historic Centre of Prizren, 18 July 2012, provides that the Council has to deliver opinions on requests for construction permits, to demolish, modify or change the use of buildings, conduct temporary activities or any other developments within the Historic Centre of Prizren.

<sup>200</sup> According to KP annual statistics for 2013, there were again 87 attacks directed at religious heritage sites, specifically, 41 directed at Serbian Orthodox sites, 31 at Muslim sites, 9 at Catholic sites and 6 at other sites. The KP does not disaggregate this data with reference to whether the sites targeted are those of communities in a numerical minority at municipal level (e.g. Kosovo Albanian Catholic or Muslim sites in a Serb-majority municipality, e.g. Kosovo Bosniak Muslim sites in a Kosovo Albanian-majority municipality, etc.).

<sup>201</sup> There were seven such cases recorded during the reporting period, including several telephone threats to nuns in the Gorioč Convent, threats to Serbian Orthodox priests in Istog/Istok and Prishtinë/Priština, stoning of parish houses in Rahovec/Orahovac and Vushtrri/Vučitrn,

continues to be an issue, with several incidents recorded during the reporting period.<sup>202</sup> Despite this, co-operation and relations between Kosovo institutions and the Serbian Orthodox Church (SOC) improved through *inter alia* the Implementation and Monitoring Council (IMC).<sup>203</sup> The SOC has been consulted more frequently by Kosovo institutions during the reporting period, through the IMC and municipal bodies, than in the past, especially in cases related to decisions affecting SPZ areas. Other positive steps have included relationship-building between the SOC and municipal leaders through visits and discussions on local issues.<sup>204</sup> The relations between the SOC and Kosovo institutions have, however, been challenged in the context of the late 2015 UNESCO membership bid by Kosovo institutions.

Institutional support to promote the culture and tradition of the Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities was largely limited to celebrations of Roma Day. While many municipalities did not mark this day, six municipalities gave significant support, including funding, to these activities. Monitoring undertaken by the OSCE indicates that such activities are no longer limited to music or dance, and have now begun to include discussions of the community's social situation and events in the Romani language.<sup>205</sup>

### Remaining challenges

The number of incidents affecting communities' cultural and religious heritage sites remains very concerning, negatively affecting both inter-ethnic relations and communities' rights to enjoy and benefit from their heritage. Illegal construction in SPZs remains problematic, and Kosovo institutions are yet to ensure adequate and timely responses, including preventive measures and regular site visits: the role and competencies of inspectors remain without the required level of guidance. Addressing deficiencies by central institutions on cultural heritage remains a challenge given the withdrawal of the proposed Law on Cultural Heritage; consultations on the draft law will need to be held with *inter alia* representatives from all communities, including religious communities, if their concerns and needs are to be reflected. Financial resources remain limited and despite the implementation of several positive projects supported by the MCYS it is essential that communities are able to access opportunities and funds to promote and protect their cultural heritage in Kosovo.

### Recommendation 11

*Enhance the presence of minority community languages in public broadcast and print media and ensure that the concerns of communities, including the numerically smaller ones, are adequately and objectively reflected; take resolute measures to enhance the effective participation of representatives*

and the throwing of eggs at the Catholic student dormitory in Prishtinë/Priština. Additionally, pilgrims were prevented from reaching the monastery in Gjakova/Đakovica town and the destroyed monastery in Mushtishtë/Mušutište, Suva Reka/Suharekë.

<sup>202</sup> As an example: the Visoki Dečani Monastery SPZ, where a fish farm and restaurant were constructed, and the Peć Patriarchate SPZ, where wooden huts for cafes and an improvised wooden bridge were constructed.

<sup>203</sup> Law No. 03/L-039 on Special Protective Zones, 4 June 2008, foresees the establishment of the IMC which is responsible for monitoring and facilitating the SPZs. The first meeting of the IMC took place on 26 February 2013, and to the end of June 2015 the IMC had resolved several cases regarding illegal constructions in the SPZs, as well as providing other solutions for related problems.

<sup>204</sup> For example: the long-term rental agreement on a residential property owned by Devič Monastery, signed with Skenderaj/Srbica municipality, and the September 2014 introductory visit of Skenderaj/Srbica municipal officials to Devič Monastery; the meeting between the Pejë/Peć mayor and with the Patriarchate of Pejë/Peć; and, the re-establishment of relations between the Dečan/Dečani mayor and Visoki Dečani Monastery through a municipal visit to the monastery in March 2015 to discuss road maintenance, followed by the mayor's visit at Orthodox Easter.

<sup>205</sup> Gračanica/Gračaničë municipality hosted International Roma Day celebrations with performances by folklore groups and poetry reading, including €5,485 of funding for a documentary. Pejë/Peć and Prizren/Prizren municipalities supported exhibitions of paintings, photographs, traditional clothing and craftwork, and roundtables discussing the achievements and challenges of the Kosovo Roma community. Prizren/Prizren supported a theatre play in Romani language with €1,000, Pejë/Peć allocated €400 for cultural activities, and Ferizaj/Uroševac saw a performance of Roma national music and dance. In Gjakovë/Đakovica a local NGO organized a youth artwork exhibition as part of a 'Roma week' between 5 and 10 April, as did Dečan/Dečane's Kosovo Roma community, both of which also organised roundtable discussions.

## Current situation

Monitoring undertaken by the OSCE in 2013 indicated some progress on access to broadcast and print media in the languages of numerically smaller communities. Public broadcasting in Serbian by Radio Television of Kosovo 2 (RTK2), which began in June 2013, allocates 15 per cent of air time for other communities' language programmes.<sup>206</sup> In addition, improvements were noted by the OSCE in the quality of reporting and availability of information for communities. Progress was also made on the request of Kosovo Ashkali and Kosovo Egyptian representatives to Radio Television of Kosovo 1 (RTK1) for Albanian-language programming dedicated to their communities,<sup>207</sup> with the reporting period seeing the first broadcast of a public television programme dedicated to the two communities in early 2014. RTK1 marked 'Ashkali Day' in February 2014 by introducing a monthly programme dedicated to the community, following this in June 2015 with the launch of the Kosovo Egyptian dedicated monthly programme "Spektri Egjiptian" (*Egyptian Spectrum*). RTK1 also continues to broadcast a weekly 45-minute Romani language programme as well as a 15-minute daily news broadcast.<sup>208</sup> Nevertheless, RTK1 as a whole still fails to comply with the required programming in communities' languages, for example, programming in the Bosnian language has yet to start. Communities are however represented in the management board, with all 'set aside' seats for communities filled correctly.<sup>209</sup> Private media also support broadcasting for communities: Prizren and Gjakovë/Đakovica private radio stations broadcast programmes targeting Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities, and an NGO-run magazine on Roma culture is published in Romani and Albanian with international funding.<sup>210</sup>

However, monitoring undertaken by the OSCE continues to point to ethnic bias in media reporting and their ability to reflect the concerns and issues of the other communities. Such monitoring of broadcast and print media indicates that information used to report issues, particularly in relation to political developments and inter-ethnic incidents, still often comes from single community sources which in many cases are unsubstantiated. Regular monitoring activities undertaken by the OSCE identify that media reporting of security incidents often makes reference to the ethnicity of the confirmed or alleged perpetrator, even when the incident is not ethnically- or politically-motivated. The Press Council of Kosovo continued to receive complaints of unsatisfactory professional ethical practice during the reporting period.<sup>211</sup> Furthermore, despite the broadcast media code of conduct and enforcement mechanism<sup>212</sup>, OSCE information-gathering notes this mechanism is rarely used, and online media, a source of significant inflammatory reporting, remains unregulated even though a number of news portals are included in the Press Council of Kosovo. The OSCE has seen insufficient progress in the establishment of bi-lingual media to reach a wider audience.

## Remaining challenges

<sup>206</sup> Note that RTK2 is transmitted only via the cable network due to the lack of available terrestrial frequencies in Kosovo. Eighty-five per cent of RTK2 broadcasting is in the Serbian language, while the remaining 15 per cent is allocated to other non-Albanian/Serbian languages.

<sup>207</sup> Prior to this new development, this request from the Kosovo Ashkali and Kosovo Egyptian representatives had been unanswered since 2012 (as noted in the Third Opinion, pages 31–32).

<sup>208</sup> Monitoring undertaken by the OSCE notes the weekly programme as beginning in 2011, and the daily as beginning in 2003.

<sup>209</sup> Out of 11 RTK1 board members, two are reserved for Kosovo Serb representatives and a further seat reserved for a representative of another non-Albanian community: during the reporting period this representation was secured by non-Albanian communities.

<sup>210</sup> 'Romano Avazo' Radio broadcasts in Romani in Prizren (since 2007), and 'Prosperiteti' in Gjakovë/Đakovica. 'Yekhipë' (*Union*) magazine is published by the NGO Sakuntala, with the last edition in May 2015 funded by the Embassy of the Netherlands in Kosovo.

<sup>211</sup> In Kosovo, self-regulation of the media is the responsibility of the Press Council of Kosovo, established in 2005 for self-regulation of the print media. Although it has achieved progress in applying professional standards through reporting mechanisms where all persons in Kosovo can file a complaint against perceived inaccurate reporting by the press, its role is limited to the print media outlets who are its members, and it has yet to achieve all-encompassing membership. For more information on complaints in particular, please see: <http://presscouncil-ks.org/decisions/?lang=en>.

<sup>212</sup> The Independent Media Commission is an independent Kosovo institution responsible for the regulation, management and oversight of the broadcasting frequency spectrum, including the code of conduct; it faces a number of challenges, including limited staff for Kosovo-wide monitoring.

Progress on media broadcasting in communities' languages and for communities has been made, but should continue. The need for action to ensure that inter-ethnic relations are not harmed through irresponsible reporting remains a challenge that is yet to be addressed by Kosovo institutions. Kosovo media regulatory and self-regulatory agencies' systems and processes for monitoring and sanctioning the professional conduct of media outlets remain in need of further strengthening, including for online media, and media outlets in northern Kosovo are yet to be fully brought into such systems through professional associations and bodies.

## CONCLUSIONS AND RECOMMENDATIONS

Within the reporting period and since the last Community Rights Assessment Report, Kosovo institutions have taken some positive steps in promoting and protecting the rights of communities as prescribed in the FCNM, and the sections above have highlighted such steps as they relate to each recommendation. An additional development since the last report is the establishment of the Technical Working Group to co-ordinate implementation of the FCNM, which has met once under OGG chairmanship since the original decision in November 2014<sup>213</sup>: it is hoped that the group will meet more regularly, and also that the OCA will play a strong role given their communities-centred mandate and focus. In Resolution CM/Res/CMN(2014)13, the CoE Committee of Ministers also highlighted areas of concern through the twelve recommendations which this report has assessed, concluding that many of these concerns remain relevant. Kosovo institutions need to make further progress to ensure that the society and structures are reflective of the needs of all its communities and to promote tolerance and peace.

The OSCE review notes a number of positive developments in relation to the Resolution's identified areas of concern, not least progress on political dialogue between Prishtinë/Priština and Belgrade, as well as in terms of local-level initiatives to promote culture and dialogue and improve inter-community relations. Recent efforts by the MCR to address difficult returns and engage in regional co-operation for durable solutions for those displaced from Kosovo are also noteworthy. Freedom of movement for Kosovo Albanians living in the northern municipalities has improved, and general responses to security were strengthened through increased condemnations, wider establishment and more inclusive membership of MCSCs and Local Public Safety Committees in a number of municipalities. The availability of identity cards in Turkish and civil registration documents in Bosnian, Turkish and Serbian in Cyrillic script represents progress on language rights, as does the increasing engagement of the OLC. Legislation endorsement and the establishment of councils in Prizren and Velika Hoča/Hoçë e Madhe have supported cultural heritage protection. Increased availability of Romani language teaching in Prizren, and expanded media programming in communities languages all represent progress.

Despite this progress, many challenges remain and require committed action from Kosovo institutions, and it should be underlined that many of the recommendations presented below echo those of the last Community Rights Assessment Report, published three years ago. Efforts to promote dialogue, reconciliation, tolerance and diversity remain weak, ad hoc and mostly donor-driven. Persistent security incidents targeting non-Albanian communities, particularly returnees, continue to affect communities' perceptions of security. A significant number of incidents targeting communities' religious and cultural heritage continue to undermine inter-community relations, even if not all are necessarily hate crimes or ethnically-motivated crimes. Media reporting remains biased, with inadequate broadcasting of multilingual and multicultural content. The continued operation of two separate education systems and limited opportunities for learning other communities' languages or

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<sup>213</sup> The working group was established by the Office of the Prime Minister's Decision 140/2014 on 10 November 2014, subsequently amended on 10 March 2015 to include three additional institutional members to comprise representatives of: the OGG (chairing), the MCR, Office of Community Affairs within the Office of the Prime Minister, MEST, Ministry for Labour and Social Welfare, Ministry of Health, Ministry of European Integration, MIA, OiK, OLC, MCYS and MLGA.

cultures perpetuates divisions among future generations. Language barriers also affect access to justice, often limited for communities, particularly given the lack of legal aid services, and unresolved property issues continue to pose a range of problems, including for DPs. Non-Albanian communities continue to be under-represented in the civil service and face obstacles to employment and difficulties in accessing services. Among those most affected in this sphere are the Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities, where poor institutional leadership and co-ordination have left important policy commitments unfulfilled. The OiK needs proper staffing and funding if it is to be able to implement responsibilities on anti-discrimination, including public awareness-raising. Finally, numerically smaller communities continue to be under-represented in local government protection mechanisms, and AoK seats have yet to be reserved for the Kosovo Croat and Kosovo Montenegrin communities. A series of targeted recommendations for Kosovo institutions follow.

#### **To all relevant Kosovo institutions**

- Take positive steps to bridge divides between communities and promote reconciliation at central and local levels, including between receiving and returning communities. Steps should include efforts to mainstream tolerance and cross-community relationship-building through the education system, and to build the capacity of key stakeholders to support inter-community dialogue, including DMCs and DCMACs.
- Take steps to address biased and unilateral reporting through training of journalists and improved regulation, including of online media.
- Increase the capacity and resources of the OiK to effectively fulfil anti-discrimination responsibilities, including through the recruitment and training of staff.
- Ensure that a new policy for the integration of Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities is developed on the basis of genuine consultation, properly funded, and envisages substantially improved institutional co-ordination and accountability structures which include members of all three communities.
- Take strategic and comprehensive steps to improve human capacities for language compliance and quality in official translation, including study, training and certification programmes for linguists, incorporating legal expertise.
- Protect the property rights of DPs by prioritising unresolved conflict-related cases, enforcing decisions, and ensuring information on legalization and expropriation procedures reaches those affected. Additionally, amend legislation to address the issue of accumulated property tax for owners lacking access to their properties, and introduce effective mechanisms and procedures on land allocation for returnees.
- Ensure that communities in a numerical minority at the municipal level are represented in municipal communities-specific protection mechanisms, and receive the necessary resources and guidance to perform their duties more effectively.
- Strengthen responses to illegal constructions and activities in SPZs by addressing gaps in the legal and policy framework, including by providing clear guidelines to relevant institutions and inspectorates on their competences with regard to SPZs.

#### **To the Ministry for Communities and Returns**

- Develop a comprehensive legal framework for DPs, and standardise processes and mechanisms to assist sustainable returns, including a central database.
- Improve co-ordination with central- and local-level institutions, and with relevant institutions in the region, to support durable solutions for DPs.

#### **To the Ministry of Justice, the Kosovo Prosecutorial Council and the Kosovo Judicial Council**

- Address disparities in access to justice between Kosovo Albanian and non-Albanian communities through *inter alia* the increase of non-Albanian lawyers.

- Raise non-Albanian communities' awareness of their legal rights and ensure that adequate funds are allocated to legal aid services.
- Ensure that criminal cases are investigated swiftly and prosecuted effectively, that potential hate crimes receive priority attention, and ensure that all remaining conflict-related property decisions are implemented and adjudicated.

#### **To Kosovo Police**

- Improve responses to hate crimes, employ a more victim-oriented approach, and strengthen monitoring and analysis of cases potentially motivated or aggravated by religion, race, ethnicity and language, including through expanding the existing KP database.
- Increase efforts to recruit and train police officers from all communities, and prioritize policing efforts in areas where non-Albanian or returnee communities are especially vulnerable and have experienced persistent security problems.

#### **To the Ministry of Education, Science and Technology**

- Take steps towards offering all students in Kosovo an integrated curriculum, including instruction in the Serbian language and modules supporting the preservation of identity, language and culture developed in consultation with communities.
- Provide opportunities for all communities to learn the two official languages of Kosovo, including developing a curriculum for learning Serbian as a non-mother tongue, and teacher training for learning Albanian as a non-mother tongue.
- Develop training for Romani language teachers and ensure that Bosnian and Turkish language textbooks are available, particularly for upper secondary education.
- Develop solutions or mechanisms to overcome education issues affecting communities' rights, including diploma recognition and the sharing of school premises.
- Strengthen action on school dropouts and non-enrolment, and undertake particular efforts to address the needs of Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian pupils through institutionalizing learning centres and mediators.

#### **To the Ministry of Labour and Social Welfare**

- Launch targeted employment programmes and policies for men and women from non-Albanian communities, paying particular attention to the needs of Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities.

#### **To the Ministry of Culture, Youth and Sport**

- Consult closely with all communities in drafting the Law on Cultural Heritage.
- Work with municipalities to establish standard and transparent fund allocation mechanisms and provide equitable opportunities for non-Albanian communities to promote their culture and heritage.

#### **To the Language Commissioner**

- Raise awareness of institutions' obligations and communities' linguistic rights.
- Initiate and promote cross-institutional reforms to address crucial and growing capacity gaps in language knowledge and services, including in the judicial system.

#### **To Radio Television Kosovo**

- Increase multilingual and multicultural programmes, including the allocation of sufficient air time to numerically smaller communities.

#### **To municipalities**



- Establish regular practices for municipal leaders and MCSCs, including full representation of communities on councils, regular compensation for members, and public condemnations of inter-ethnic incidents that reach the affected communities and the majority population.
- Where inter-community tensions are identified or emerging, or affect vulnerable communities such as returnees, undertake increased and proactive outreach and communication with communities, including through engagement of key officials (such as DMCs or DCMACs) to support improved inter-community relations.
- Improve the work of MOCRs and CCs in outreach, needs assessment, and the identification and implementation of projects benefitting communities and returnees.



## COMMUNITY RIGHTS ASSESSMENT REPORT