



# Community Rights Assessment Report

5<sup>th</sup> Edition

June 2021



Organization for Security and  
Co-operation in Europe  
Mission in Kosovo





# **Community Rights**

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## List of Abbreviations

<b>ALMM</b>	Active Labour Market Measures
<b>CC</b>	Communities Committee
<b>CCC</b>	Consultative Council for Communities
<b>CCK</b>	Criminal Code of Kosovo
<b>CoE</b>	Council of Europe
<b>CRAR</b>	Communities Rights Assessment Report
<b>CRIC</b>	Committee on the Rights and Interests of Communities and Return of the Assembly of Kosovo
<b>DCMAC</b>	Deputy Chairperson of the Municipal Assembly for Communities
<b>DMC</b>	Deputy Mayor for Communities
<b>EQUINET</b>	European Network of Equality Bodies
<b>FCNM</b>	Framework Convention for the Protection of National Minorities
<b>GSV</b>	"Go and See" Visit
<b>HPD</b>	Housing and Property Directorate
<b>IMC</b>	Implementation and Monitoring Council
<b>IMCom</b>	Independent Media Commission
<b>IMWG</b>	Inter-ministerial Working Group
<b>IPA</b>	EU Instrument for Pre-Accession Assistance
<b>KBA</b>	Kosovo Bar Association
<b>KEEN</b>	Kosovo Education and Employment Network
<b>KFOR</b>	Kosovo Force
<b>KJC</b>	Kosovo Judicial Council
<b>KP</b>	Kosovo Police
<b>KPCVA</b>	Kosovo Property Comparison and Verification Agency
<b>LAP</b>	Local Action Plan
<b>LCS</b>	Law on the Civil Service
<b>LPPRC</b>	Law on the Protection and Promotion of the Rights of Communities and their Members
<b>LPSC</b>	Local Public Safety Committee
<b>MAC</b>	Municipal Action Committee
<b>MCoR</b>	Municipal Commission on Returns
<b>MCR</b>	Ministry for Communities and Return
<b>MCSC</b>	Municipal Community Safety Council
<b>MCYS</b>	Ministry of Culture, Youth and Sports
<b>MES</b>	Ministry of Education and Science
<b>MESTD</b>	Ministry of Education, Science and Technological Development
<b>MIA</b>	former Ministry of Internal Affairs
<b>MLGA</b>	former Ministry of Local Government Administration
<b>MLSW</b>	Ministry of Labour and Social Welfare
<b>MOCR</b>	Municipal Office for Communities and Return
<b>MWGR</b>	Municipal Working Group on Return
<b>OGG</b>	Office of Good Governance
<b>OIK</b>	Ombudsperson Institution in Kosovo

<b>OKiM</b>	Serbian Office for Kosovo and Metohija
<b>OLC</b>	Office of the Language Commissioner
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>RROGRAEK</b>	Network of Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian Women's Organizations
<b>RTK</b>	Radio and Television of Kosovo
<b>SOC</b>	Serbian Orthodox Church
<b>SPZ</b>	Special Protective Zone
<b>TRC</b>	Truth and Reconciliation Commission
<b>UMN</b>	University of Mitrovica/Mitrovicë North
<b>UNDP</b>	United Nations Development Programme
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>VoRAE</b>	NGO "Voice of Roma, Ashkali and Egyptians"
<b>YIHR</b>	NGO "Youth Initiative for Human Rights"



# Introduction

The implementation of the Council of Europe (CoE) Framework Convention for the Protection of National Minorities (FCNM) in Kosovo has been monitored since 2004. A first progress report was submitted to the FCNM Advisory Committee in June 2005. The Advisory Committee adopted its First Opinion on Kosovo<sup>1</sup> in November 2005, followed by the CoE Committee of Ministers' First Resolution on Kosovo<sup>2</sup> in June 2006. Four monitoring cycles have taken place since this time and the latest resolution on Kosovo was issued in July 2019.

Each monitoring cycle begins with the submission of a progress report to the FCNM Advisory Committee, which then produces an opinion, followed by comments from the monitored party. The CoE Committee of Ministers then issues a resolution with recommendations for improvement of the FCNM implementation. Monitoring cycles are finalized with a follow-up dialogue visit to the monitored party.

The OSCE Mission in Kosovo (OSCE) periodically publishes Community Rights Assessment Reports (CRAR) to measure progress achieved by institutions in Kosovo in implementing the CoE Committee of Ministers' recommendations. Four editions of CRAR preceded the current publication: in 2009<sup>3</sup>, 2010<sup>4</sup>, 2012<sup>5</sup> and 2015<sup>6</sup>. CRARs have been used as progress reports for the FCNM monitoring in Kosovo.

The current, fifth, edition of CRAR provides an assessment of the situation as of December 2019, for each area of monitoring defined by the latest Opinion of the FCNM Advisory Committee (March 2017)<sup>7</sup> and the subsequent Resolution's recommendations (July 2019)<sup>8</sup>. Significant developments since June 2015, when the fourth CRAR's reporting period ended, are included in the current edition. The findings presented in this report have been gathered through the OSCE's regular monitoring of institutional compliance

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<sup>1</sup> The Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities, *First Opinion on the implementation of the Framework Convention for the Protection of National Minorities in Kosovo*, 2 March 2006

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008c06b> (accessed on 15 May 2020).

<sup>2</sup> The Council of Europe Committee of Ministers, *Resolution ResCMN(2006)9 on the implementation of the Framework Convention for the Protection of National Minorities in Kosovo*, 21 June 2006

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016805d7dec](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805d7dec) (accessed on 15 May 2020).

<sup>3</sup> OSCE Mission in Kosovo, *Communities Rights Assessment Report*, December 2009, available at:

<https://www.osce.org/kosovo/40779?download=true> (accessed on 15 May 2020).

<sup>4</sup> OSCE Mission in Kosovo, *Communities Rights Assessment Report – 2<sup>nd</sup> Edition*, December 2010, available at:

<https://www.osce.org/kosovo/74597?download=true> (accessed on 15 May 2020).

<sup>5</sup> OSCE Mission in Kosovo, *Communities Rights Assessment Report – 3<sup>rd</sup> Edition*, July 2012, available at:

<https://www.osce.org/kosovo/92244?download=true> (accessed on 15 May 2020).

<sup>6</sup> OSCE Mission in Kosovo, *Communities Rights Assessment Report – 4<sup>th</sup> Edition*, November 2015, available at:

<https://www.osce.org/kosovo/209956?download=true> (accessed on 15 May 2020).

<sup>7</sup> The Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities, *Fourth Opinion on Kosovo*, 8 March 2017, available at: <https://rm.coe.int/fourth-opinion-on-kosovo-adopted-on-8-march-2017/1680779af8> (accessed on 15 May 2020).

<sup>8</sup> The Council of Europe Committee of Ministers, *Resolution CM/ResCMN(2019)11 on the on the implementation of the Framework Convention for the Protection of National Minorities in Kosovo*, 3 July 2019, available at:

[https://search.coe.int/cm/pages/result\\_details.aspx?objectId=090000168095da70](https://search.coe.int/cm/pages/result_details.aspx?objectId=090000168095da70) (accessed on 15 May 2020).



with community protection legislation and the situation of communities in all municipalities in Kosovo. A complementary desk research of relevant reports issued during the reporting period by international stakeholders, civil society organizations and government institutions was conducted as part of data collection for this report. The data collected is both quantitative and qualitative, and basic descriptive statistics is used to present the situation of communities' rights in Kosovo and institutional performance in protecting, promoting and fulfilling these rights.

The report intends to assess the situation in respective thematic areas vis-à-vis the recommendations stemming from the CoE Resolution in the form of a situational analysis. The report does not issue any additional recommendations to Kosovo institutions.

The thematic areas of assessment in the report reflect the recommendations from the CoE Committee of Ministers' latest Resolution. The following thematic areas are analysed in the report:

- 1) Inter-community dialogue, reconciliation, security and law enforcement;
- 2) Community protection and participation mechanisms;
- 3) The use of languages;
- 4) Access to justice, performance of the justice sector, communities' representation in the justice sector;
- 5) Human rights institutions (*i.e.* Ombudsperson Institution);
- 6) Religious and cultural heritage;
- 7) Media in non-majority languages;
- 8) Return and property rights of displaced persons;
- 9) Communities' education in official and community languages;
- 10) Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities;
- 11) Socio-economic rights of vulnerable communities.

The FCNM is directly applicable in Kosovo, where legislation on community rights is based on the FCNM provisions.<sup>9</sup> The laws relevant to community rights include:

- The Law No. 02/L-037 On the Use of Languages, 27 July 2006;
- The Law No. 03/L-047 On the Rights and Interests of Communities and Their Members in Kosovo, 13 March 2008;
- The Law No. 03/L-040 On Local Self-Government, 20 February 2008;
- The Law No. 03/L-068 On Education in the Municipalities of Kosovo, 21 May 2008;
- The Law No. 03/L-039 On Special Protective Zones, 20 February 2008.

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<sup>9</sup> Article 22 of the Constitution lists the FCNM as one of the international human rights instruments directly applicable in Kosovo.

## Section One: Inter-Community Dialogue, Reconciliation, Security and Law Enforcement

*Recommendations from the CoE Resolution:*

*“Prioritise comprehensive and concrete efforts to promote interethnic dialogue and tolerance at central and local level in order to bridge divides between communities and promote reconciliation while taking into account that the Kosovo Albanian majority has a special responsibility in this regard; build intercommunity relationships through initiatives targeting in particular young people, integrating the education system and applying consistently the language legislation.*

*Condemn all ethnically motivated attacks and ensure that these acts are effectively investigated and the perpetrators prosecuted and sanctioned, including through the improvement of the performance of law enforcement institutions in processing, investigating, prosecuting and adjudicating potential ethnically motivated hate crimes through application of the existing legal framework, training, and the collection of reliable data; continue condemning all expressions of ethnically hostile public discourse.”*

### **Truth and reconciliation initiatives**

Inter-ethnic relations have improved since the last reporting period. Significant divisions continue to exist between the Kosovo Albanian and Kosovo Serb community, but social and institutional interaction has been enhanced and no cases of collective or major inter-ethnic violence has occurred. Relations among the majority Kosovo Albanian community and other non-majority communities have remained functional and positive. Between its establishment in June 2012 and the expiration of its mandate in June 2017, the Kosovo Inter-Ministerial Working Group (IMWG) on Dealing with the Past, did not achieve its stated objectives, especially with regard to producing a Kosovo Transitional Justice Strategy. Among the issues leading to its failure were “deficiencies related to leadership and management, political ownership, representation and participation of Kosovo’s [non-majority] communities, and engagement of the public.”<sup>10</sup> The consultants evaluating the IMWG’s work concluded that future truth and reconciliation activities must, in order to be successful, garner sufficient political support and effectively include all relevant stakeholders, including non-majority communities.<sup>11</sup>

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<sup>10</sup> Nora Ahmetaj and Thomas Unger, *Kosovo’s Framework for Dealing With the Past at a Turning Point: Civil Society Review of Progress Towards a Strategy on Transitional Justice*, April 2017, available at: <http://kosovomemory.org/wp-content/uploads/2018/10/Civil-society-review-of-progress-toward-a-National-Strategy-on-Transitional-Justice.pdf> (accessed on 15 June 2020).

<sup>11</sup> Ibid.

Political and symbolic steps were taken to further truth and reconciliation initiatives in the region. In 2016, the Office of the President sent four letters to judicial actors requesting that they shed light on the crimes committed during the 1998-1999 Kosovo conflict and the post-conflict period.<sup>12</sup> The crimes specified, included those committed against Kosovo Serbs and their property. On 3 November 2016, relatives of Kosovo Serb missing persons were invited to the President's office to discuss ways to clarify their fate as a "prerequisite for justice and sincere reconciliation between people."<sup>13</sup> The family representatives agreed that the issue of the missing should be one of the topics in the Brussels dialogue between Prishtinë/Priština and Belgrade.<sup>14</sup> On 15 August 2016, the president laid wreaths at the memorial plaque in Gorazhdec/Goraždevac, Pejë/Peć municipality, which commemorates the 2003 killing of two Kosovo Serb teenagers, and on 20 July 2016, in the village of Grackë e Vjetër/Staro Gracko, where 14 Kosovo Serbs were executed after the conflict.<sup>15</sup>

In late 2016 and early 2017, the OSCE participated in several preparatory meetings for the establishment of a Kosovo Truth and Reconciliation Commission. The process is supported by all relevant actors, including civil society, whereby notably the key missing persons' associations representing both Kosovo Albanians and Kosovo Serbs have expressed support and are actively participating in the process.

In mid-2017, a Preparatory Team for the establishment of the Truth and Reconciliation Commission (TRC), consisting mostly of civil society actors was established.<sup>16</sup> The initiative envisaged preparatory work that would lay the basis for the TRC. The OSCE has been a strong supporter of this initiative from the outset, as the reconciliation process is deeply ingrained in the OSCE's mandate. Furthermore, OSCE's work is guided by the importance of bringing about mutual respect and reconciliation among communities in Kosovo.

In 2019, the OSCE supported 15 public consultation meetings with key stakeholders in the reconciliation process: associations of family members of those killed and missing in the conflict, human rights activists, women's organizations, students and youth organizations, journalists, legal professionals, artists, historians, veterans, political prisoners, all representing Kosovo's diverse communities.<sup>17</sup> The public consultations resulted with the Draft Normative Act for the Establishment of the TRC<sup>18</sup>, and the Preparatory Team is currently in the process of finalizing the public

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<sup>12</sup> See at: <http://www.president-ksgov.net/?page=2,6,4606#.WAW59tV96JA>.

<sup>13</sup> Balkan Insight, *Kosovo to Take Missing Persons Issue to Brussels*, 4 November 2016, available at <https://balkaninsight.com/2016/11/04/kosovo-president-meets-families-of-serb-missing-11-04-2016/> (accessed on 15 June 2020).

<sup>14</sup> See at: <http://www.president-ksgov.net/?page=2,6,4627#.WCBS5NL2aJA>.

<sup>15</sup> Balkan Insight, *Kosovo President Lays Wreath at Serbs' Memorial*, 21 July 2016, available at: <http://www.balkaninsight.com/en/article/kosovo-president-lays-wreath-at-serbs-memorial-07-21-2016> (accessed on 15 June 2020).

<sup>16</sup> See in Albanian at: [https://president-ksgov.net/repository/docs/2019\\_10\\_16\\_125739\\_VENDIM\\_PER\\_EMERIMIN\\_E\\_EKIPIT\\_15102019.pdf](https://president-ksgov.net/repository/docs/2019_10_16_125739_VENDIM_PER_EMERIMIN_E_EKIPIT_15102019.pdf)

<sup>17</sup> A total of 327 participants and five meetings with religious community representatives (26 participants) since February 2019.

<sup>18</sup> See at: [https://president-ksgov.net/repository/docs/2020\\_02\\_13\\_154715\\_Projekt\\_Akti\\_Normativ\\_shq\\_shkurt\\_2020.pdf](https://president-ksgov.net/repository/docs/2020_02_13_154715_Projekt_Akti_Normativ_shq_shkurt_2020.pdf).

information/awareness raising campaign. The OSCE will also continue to provide support to the Preparatory Team.

## Inter-community tensions

Inter-community tensions surrounding the return of displaced persons remain an ongoing and recurring issue. Receiving communities in various locations continue to express resistance to returns or integration of displaced persons. For example, a number of incidents, including protests and the installation of anti-Serb billboards<sup>19</sup> occurred at the return site in Mushtishtë/Mušutište, Suharekë/Suva Reka municipality. On 28 August 2015, an explosive device was found at the site of the destroyed Serbian Orthodox Holy Trinity monastery in the village, and around 500 Kosovo Albanians blocked the road to prevent Kosovo Serb pilgrims (including potential returnees) from visiting the destroyed monastery. A similar blockade occurred on 28 August 2016. In April 2017, around 300 Kosovo Albanians protested in Lubozhdë/Ljubožda village, Istog/Istok municipality, against the return of 13 Kosovo Serb returnees.<sup>20</sup>

Receiving communities also resisted displaced persons' religious pilgrimages and visits to graveyards in several municipalities.<sup>21</sup>

War crime allegations occurred on a number of occasions. In Uçë/Ukçe, Istog/Istok municipality, a Kosovo Albanian resident verbally harassed a displaced person, accusing him of committing war crimes during the 1999 conflict. Similarly, in Reçak/Račak, Shtime/Štimlje municipality, the village council sent a protest letter to the municipal office for communities and return (MOCR) containing war crime allegations against the return of the only Kosovo Serb family that had submitted an application.<sup>22</sup> In February 2016, the prosecution filed an indictment for war crimes against 14 Kosovo Serbs from Klinë/Klina,

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<sup>19</sup> On 21 August 2016, a billboard was erected with the statement "This is what the local Serbs of Mushtishtë left behind when they left" in Albanian and English languages. It also contained pictures of conflict atrocities and destruction.

<sup>20</sup> The protesters were especially dissatisfied with the return of a Kosovo Serb former police commander, who they alleged was involved in war crimes during the 1999 conflict. The Istog/Istok mayor's adviser on Kosovo Serb matters issued a statement saying that all returnees passed background checks conducted by Prishtinë/Priština and Belgrade institutions, and that none of them had been indicted or were facing trial for war crimes.

<sup>21</sup> On 28 August 2017, a potential Kosovo Serb returnee, a member of the working group for return to Mushtishtë/Mušutište, had been arrested on war crime charges following a pilgrims' visit. He was released and freed of all charges after spending five months in jail. In January 2015, approximately 100 persons, including residents and Self-Determination (Vetëvendosje) Movement activists, protested against the visit of Serbian pilgrims in Gjakovë/Đakovica. Around 30 Kosovo Albanians attempted to break the Kosovo Police (KP) cordon securing the visit at the local Orthodox Church. One protester was arrested and two KP officers were injured. The protesters dispersed without interrupting the pilgrims. On 5 January 2018, a group of Kosovo Serbs from Gjakovë/Đakovica, displaced in Serbia, cancelled their Orthodox Christmas visit to Gjakovë/Đakovica planned for 6 January due to security concerns and alleged threats published on social media. On 28 May 2018, a group of between 50 and 60 Kosovo Albanians gathered at the remains of the Serbian Orthodox "Holy Trinity" church in Poterq i Ultë/Donji Petrič, Klinë/Klina, to protest against and to prevent pilgrims' visit. On 21 October 2018, stones were thrown at two buses carrying pilgrims, including displaced Kosovo Serbs, to the remains of the SOC Bogorodica Hvostanska in Studenicë/Studenica, Istog/Istok municipality.

<sup>22</sup> The letter alleged that one of the family members was involved in a massacre in Reçak/Račak, Shtime/Štimlje, in 1999.



some of them potential returnees to villages in the municipality.<sup>23</sup> There have also been arrests of three potential returnees from Prizren and two from Klinë/Klina based on war crime allegations.<sup>24</sup>

## Security trends

OSCE monitors and records incidents affecting communities' security in Kosovo.<sup>25</sup> Between July 2015 and December 2019, OSCE recorded 1,621 security incidents that potentially affected the security perceptions of communities in a numerical minority at the municipal level.<sup>26</sup> This included incidents targeting religious and burial sites, as well as cultural heritage of communities in a numerical minority in a given municipality.<sup>27</sup> According to KP (Kosovo Police) statistics, there were eight such cases in 2016, 17 in 2017, ten in 2018, and 12 in 2019.

Of the OSCE-recorded security incidents, 20.79 per cent affected return sites and mainly Kosovo Serb returnees.<sup>28</sup> The majority of incidents were burglaries of uninhabited Kosovo Serb houses, repeated petty theft of returnees' moveable property,<sup>29</sup> property damage

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<sup>23</sup> The indictment was filed by the Basic Court in co-operation with the War Crime Department of the Special Prosecution of Kosovo. Arrest warrants were issued against the accused and distributed to all police stations in Kosovo, at the border crossing points and at the airport.

<sup>24</sup> Two returnees, including one woman, were released, while one is still in detention.

<sup>25</sup> The OSCE monitors and records incidents that are considered to potentially affect communities in a numerical minority at the municipal level, including Kosovo Albanian community in municipalities where they do not constitute a majority. Information is collected from various sources, such as Kosovo Police reports, OSCE staff interviews with community members and municipal officials, reports from other international organizations, and media reports.

<sup>26</sup> All types of incidents in which the victim is a member of a community in numerical minority in a given municipality.

<sup>27</sup> In 2015, 2016, 2017 and 2018 anti-Serb graffiti were written on the walls of the Serbian Orthodox Church (SOC) of the Holy Virgin monastery in Gjakovë/Đakovica. Graffiti was also written on the yard walls of the SOC of the Presentation of Holy Virgin church in Lipjan/Lipljan, SOC of St. Peter in Brod village, Štrpce/Shtërpçë municipality, on the walls of Serbian Orthodox cemetery in Prizren and the SOC of St Nikola in Prishtinë/Priština. During the reporting period, five thefts occurred at the SOC St. Nicola Miraculous Gorioč/Gorioç monastery, Istog/Istok municipality, and three at SOC Monastery St. Kozma and Damjan in Zočište/Zoqishtë, Rahovec/Orahovac municipality. In 2019, there were break-in cases in Kačanik/Kaçanik and thefts in Srbicë e Ulët/Donja Srbica, Prizren municipality and Banjskë/Banjska village in Vushtrri/Vuçitrn. Four cases of stoning were reported: of the parish house in Vushtrri/Vuçitrn; of the parish house in Rahovec/Orahovac; of the SOC of St Peter and Paul in Talinoc/Talinovac, in Ferizaj/Uroševac municipality. The SOC of St Trinity in Babllak/Bablak in Ferizaj/Uroševac municipality was stoned for the 17<sup>th</sup> time in the last ten years. Damage to tombstones was reported in Vidanje/Videjë and Deiq/Deiç, Klinë/Klina municipality, and in Brestovik/Brestovik, Pejë/Peç municipality. In 2019 damage to tombstones were reported in Berivojce/Berivojcë in Kamenicë/Kamenica municipality, Dush/Duësh in Klinë/Klina, Ferizaj/Uroševac. Graveyard in Lipjan/Lipljan was desecrated twice and each time around 20 tombstones were damaged or destroyed. Verbal harassment was reported against monks from Draganac/Dragancë monastery and against a priest in Stanishor/Stanišor in Novo Brdo/Novobërdë/ municipality. In 2019, illegal woodcutting was reported in Draganac/Dragancë monastery and a road sign leading to the monastery was destroyed for the fifth time.

<sup>28</sup> This translates to a total of 337 cases, which included damage to doors and windows, as well as stolen household appliances, furniture and food supplies. On a few occasions, the destruction of wells, yard fences and other objects in the vicinity of houses were reported. In 2019, cases of stoning and setting returnees' property on fire were reported in Klinë/Klina town. In many cases, the targets of thefts are elderly Kosovo Serb women returnees who live alone and are usually the only Kosovo Serb in a village. One case of obstruction to freedom of movement was reported when a Kosovo Serb woman was obstructed from entering her part of a forest.

<sup>29</sup> For example, an elderly Kosovo Serb woman, a returnee to Pjeterq i Poshtëm/Donji Petrić, Klinë/Klina municipality, was targeted six times during the reporting period. A total of 26 chickens were stolen from her and, during one attack, she was slightly injured while trying to protect her property.

and illegal logging in forests owned by returnees.<sup>30</sup> Incidents occurred most often at locations where more substantial rate of returns was recorded, such as Pejë/Peć, Istog/Istok and Klinë/Klina municipalities. One of the most serious incidents during the reporting period was a verbal assault on eight elderly displaced persons during a “go and see” visit (GSV) to Deçan/Dečane in December 2016. The KP had to evacuate the displaced persons.<sup>31</sup> In July 2016, an elderly Kosovo Serb returnee in Deçan/Dečane was also physically assaulted by a Kosovo Albanian in a barber shop.<sup>32</sup>

## Institutional responses

During the reporting period, the KP continued to proactively respond to incidents affecting communities, both in terms of investigations and outreach. Furthermore, the KP prepared for Serb orthodox pilgrims’ visits, which includes devising operational plans, providing escorts when requested, and increasing patrols in the area. Finally, the KP actively participated in security forums, such as municipal community safety councils<sup>33</sup> (MCSCs) and local public safety committees<sup>34</sup> (LPSCs), and addressed relevant security concerns.

Municipalities are required to ensure conditions for sustainable return and community stabilization.<sup>35</sup> In some cases, municipalities have taken positive steps and made important progress in addressing opposition to returns. For example, in March 2016, Klinë/Klina municipality organized a sports event to promote the message of peaceful co-existence between communities.<sup>36</sup> In other cases, municipalities compensated victims of security incidents.<sup>37</sup> In some instances, the municipal office for communities and return (MOCR), alongside mayors and deputy mayors for communities, engaged in confidence-building initiatives and facilitated mediation between receiving communities and potential returnees, such as in Lubozhdë/Ljubožda village, Istog/Istok municipality.

However, municipalities’ responses to receiving communities’ opposition to returns vary greatly from case to case. In the majority of sensitive returns locations, municipalities did

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<sup>30</sup> Reports usually involved the areas around Lëvoshë/Ljevoša and Brestovik/Brestovik villages in Pejë/Peć municipality, and Tuqep/Tučep, Kosh/Koš and Osojan/Osojane villages in Istog/Istok municipality. In October 2016, an elderly returnee was physically assaulted in Osojane/Osojan while protecting his forest from illegal woodcutting.

<sup>31</sup> The municipal employee accused the displaced persons of involvement in war crimes and threatened their return unless they revealed the location of missing Kosovo Albanians.

<sup>32</sup> The perpetrator was charged with “breach of public peace and order,” despite the victim stating in court that, during the assault, the perpetrator used ethnically derogatory statements against him and the Kosovo Serb community.

<sup>33</sup> MCSCs are established in municipalities in order to institutionalize co-operation between municipal institutions, communities and the police.

<sup>34</sup> LPSCs exist in a number of smaller areas within municipalities, such as remote and multi-ethnic villages, where it is in the interest of effective policing and good relations with all communities that they exist. LPSCs are composed of local community representatives who are selected by the local community. The Kosovo Police consults these committees on safety and security matters in the areas they cover.

<sup>35</sup> Article 1.1, Regulation 02/2010 for the Municipal Offices for Communities and Return, 12 August 2010.

<sup>36</sup> On 12 March 2016, a football tournament took place under the motto “Building future together” with the participation of Klinë/Klina’s municipal administration, Slovenian KFOR, and Kosovo Serb community members from the municipality.

<sup>37</sup> Klinë/Klina municipality paid 300 Euro to a Kosovo Serb returnee as a compensation for 1,000 of bales of hay. Istog/Istok municipality financially compensated a Kosovo Serb family from the Sinajë/Sinaje returnee village in the value of 300 Euro, for the 1,000 bales of hay, which were set on fire by unknown person(s).

not undertake mediation in support of the returns process. Furthermore, not all relevant interlocutors were involved in municipal initiatives. For example, the municipal working group on return (MWGR), the deputy chairperson of the municipal assembly for communities (DCMAC), the communities committee (CC) and the MCSC were often not involved, despite communities' integration forming part of their respective mandates.

Despite some examples of positive initiatives, municipal responses to receiving communities' opposition to returns are mostly *ad hoc*, inconsistent and do not represent a serious effort by Kosovo institutions to holistically address the issue. OSCE monitoring has identified only limited municipal efforts to address inter-community tensions surrounding the return of displaced persons and to build confidence and trust.

In most cases, returnees report incidents at return sites and incidents affecting religious sites to the KP. Prior to 2019, community members were claiming that they felt discouraged to report incidents because previous cases had shown that the perpetrator(s) are unlikely to be identified. This might have affected returnees' perception of security and hindered the return process.<sup>38</sup> Furthermore, only a few Kosovo Serb KP officers are deployed in municipalities with the highest numbers of Kosovo Serb returnees, such as Istog/Istok, Klinë/Klina, and Pejë/Peć. However, in 2019 the situation changed significantly as Kosovo Serb returnees stated on a number of occasions that they were satisfied with the KP's work and prompt responses.

In 2017, under the auspices of the Skopje Process sub-implementation working group for security, dialogue and reintegration, the Ministry for Communities and Return (MCR), former-Ministry of Internal Affairs (MIA) and former-Ministry of Local Government Administration (MLGA) drafted "Guidelines for responses by local level mechanisms to incidents affecting communities" (the Guidelines). The Guidelines set out steps for municipal institutions (mainly mayors, MCSCs and MOCRs) to follow to ensure effective and consistent responses to security issues affecting communities, including returnees.<sup>39</sup> The Guidelines were disseminated to mayors and MOCRs on 18 January 2018.

As per the Guidelines, mayors and other senior municipal officials tend to condemn serious incidents such as arson, shootings, or assaults.<sup>40</sup> The Minister of Communities and Return also regularly issues timely public condemnations of such incidents and in some cases undertakes outreach visits. In general, prompt condemnation and outreach visits by senior officials are crucial in addressing the negative impact of security incidents on communities' perceptions of security. However, OSCE field monitoring indicates that not all condemnations reach the affected communities or majority population in the area. Condemnations are usually published on municipal websites or information billboards, and not through local media.

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<sup>38</sup> According to regular OSCE field monitoring.

<sup>39</sup> MCR, MIA and MLGA drafted the Guidelines with support from the OSCE and United Nations High Commissioner for Refugees (UNHCR).

<sup>40</sup> There were a total of 25 condemnations in 2015, 23 in 2016, 21 in 2017, 18 in 2018, and 33 in 2019.

Through its programmatic efforts, OSCE has supported MCSCs which “play a significant role in promoting inter-community tolerance and implementing confidence and trust-building measures, as well as forming a link between communities and other municipal institutions”.<sup>41</sup> However, there are still challenges in how MCSCs exercise their role and responsibilities in addressing community concerns, incidents affecting vulnerable groups and implementing proactive crime prevention and community outreach measures.

## Tackling hate crimes

As first responders, the KP has recognized its duty to identify, investigate and respond appropriately to potential hate crimes. The KP policy on hate and ethnic crimes provides detailed procedures for the investigation of, and response to, hate crimes,<sup>42</sup> including: specific steps the KP must take when they first respond to the scene, duties of the supervisor and investigators, measures to prevent the recurrence of hate crimes, and outreach to affected communities.

Currently, the KP uses a database to record inter-ethnic incidents, but such incidents may or may not have a bias motivation. The database does not include disaggregated data to identify potential hate crimes based on protected characteristics other than ethnicity. However, in 2018, the KP modified the initial incident report and added a hate crime motivation box, in addition to the inter-ethnic box.

In February 2018, MIA, the KP, the Prosecution and the Kosovo Judicial Council (KJC) signed a Co-operation Agreement on Treating Hate Crime (the Agreement) in Kosovo. The Agreement sets out requirements for each institution with the aim of improving hate crime recording. Between 20 September and 29 October 2018, OSCE facilitated meetings between the KP and eight regional networks comprising police investigators, community police officers and prosecutors, in line with Article 5 of the Agreement. Participants made recommendations to support the regional networks in fulfilling their duty to identify and record hate crimes.

On 14 January 2019, the new Criminal Code of Kosovo (CCK) was published in the Official Gazette and entered into force three months thereafter. OSCE provided a recommendation during the drafting process, that an offence committed with bias motivation should constitute an aggravated offence is now reflected in Article 70(2)(12), CCK.<sup>43</sup> As a result of this provision, light bodily injury, grievous bodily injury, destruction or damage to property, murder and assault committed with bias motivation on the

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<sup>41</sup> OSCE Mission in Kosovo, *Municipal Responses to Security Incidents Affecting Communities in Kosovo and the role of Municipal Community Safety Councils*. December 2011, available at: <https://www.osce.org/kosovo/86766?download=true> (accessed 15 May 2020).

<sup>42</sup> Kosovo Police, *Policies and Procedures, Hate Crimes and Ethnic Crimes*, July 2002, revised in October 2009.

<sup>43</sup> Article 70, paragraph 2, item 2.12: “when determining the punishment the court shall consider, but not be limited by, the following aggravating circumstances [...] if the criminal offense is a hate act, which is any crime committed against a person, group of persons, or property, motivated upon the race, colour, gender, gender identity, language, religion, national or social origin, relation to any community, property, economic condition, sexual orientation, birth, disability or other personal status, or because of their affinity with persons who have the aforementioned characteristics, except if one of the enumerated characteristics constitutes an element of a criminal offense.”



grounds of the CCK's protected characteristics are considered aggravated forms of the offence. Such offences carry more severe punishments.

### **Communities Representation in Kosovo Police**

With regard to non-majority communities' representation within the KP, official statistics communicated to the OSCE showed that, in 2019, out of a total 7,959 police officers, 12.16 per cent were Kosovo Serbs, 2.45 per cent were Kosovo Bosniaks, 0.84 per cent were Kosovo Turks, 0.45 per cent were Kosovo Gorani, 0.23 per cent were Kosovo Ashkali, 0.19 per cent were Kosovo Roma, 0.10 per cent were Kosovo Egyptian, 0.04 per cent were Kosovo Croat, 0.04 per cent were Kosovo Montenegrin, and 0.09 per cent belonged to communities which are not officially recognized in the legal framework.

### **Fostering Inter-Municipal Co-operation in Kosovo**

Since 2013, clusters of municipal mayors have been signing inter-municipal declarations for the promotion of inter-community dialogue and co-operation, supported by the OSCE Mission in Kosovo. The first cluster comprised of four municipalities: Gjilan/Gnjilane, Kamenicë/Kamenica, Novo Brdo/Novobërdë and Ranilug/Ranillug. A further five clusters have since signed declarations:

- Ferizaj/Uroševac, Klokot/Klllokot and Štrpce/Shtërpçë (May 2015);
- Fushë Kosovë/Kosovo Polje, Gračanica/Gračanicë, Lipjan/Lipljan, Obiliq/Obilić, Prishtinë/Priština, Shtime/Štimlje (April 2016);
- Dragaš/Dragash, Malishevë/Mališevo, Mamuša/Mamushë/Mamuša, Prizren, Suharekë/Suva Reka, Rahovec/Orahovac (June 2017);
- Deçan/Deçane, Gjakovë/Đakovica, Istog/Istok, Junik, Klinë/Klina, Pejë/Peć (May 2018);
- Mitrovicë/Mitrovica South, Podujevë/Podujevo, Skenderaj/Srbica, Vushtrri/Vučitrn (July 2019).

Following the signing of declarations, municipalities have implemented numerous youth inter-community activities, including youth camps, sports tournaments, inter-faith cultural exchanges and initiatives for learning both official languages.

## Section Two: Community Protection and Participation Mechanisms

*Recommendations from the CoE Resolution:*

*“Take steps to ensure that the existing legal framework pertaining to national minorities is correctly implemented by strengthening mechanisms for the co-ordination, ownership and monitoring of strategies and action plans at central level, and by improving the distribution of responsibilities of the central government and its accountability, and continuing to enhance its capacity for communication at local level.*

*Guarantee the effective representation of minority communities, including the Croat and Montenegrin communities, traditionally present on the territory of Kosovo, in the Assembly of Kosovo through the allocation of an adequate number of reserved 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.*

*Consult effectively the Consultative Council for Communities (CCC) on all issues of relevance to minority communities and ensure that municipal community-specific protection mechanisms fulfil effectively their role as enablers for all minorities to participate in decision making; enhance the recruitment of persons belonging to minority communities in the public administration; make efforts to ensure the acceptance of returnees by the majority community.”*

### **Strategies**

The previous Strategy for Communities and Return expired at the end of 2018. As of December 2019, a new Strategy has not been drafted nor adopted. The responsibility for drafting, and monitoring the implementation of the Strategy for the Inclusion of Kosovo Roma and Kosovo Ashkali Communities lies with the Office of Good Governance (OGG) within the Office of the Prime Minister, while the Ministry for Communities and Return is responsible for the Strategy for Communities and Return. The role of other government-level communities’ protection and participation mechanisms in the drafting, implementing and monitoring of non-majority communities-related strategic documents is unclear. The Office for Strategic Planning within the Office of the Prime Minister proposed developing an overarching strategy covering human rights, community rights and related matters; no progress on this was noted during the reporting period.

### **Assembly of Kosovo**

Since the publication of the previous edition of CRAR, no efforts have been made to include the Kosovo Croat and Kosovo Montenegrin communities in the Assembly of Kosovo. Representation of other non-majority communities in the Assembly of Kosovo remains ensured by the 20 seats guaranteed by the Constitution.<sup>44</sup> The most recent Assembly elections were held on 6 October 2019. *Srpska Lista* won all ten seats guaranteed for the Kosovo Serb community (three women, seven men). The three seats guaranteed for the Kosovo Bosniak community were split between *Koalicija Vakati* (one woman,<sup>45</sup> one man) and *Nova Demokratska Stranka* (one woman). *Kosova Demokratik Türk Partisi* won both seats guaranteed for the Kosovo Turk community (one woman, one man). A man from *Jedinstvena Goranska Partija* won the seat reserved for the Kosovo Gorani community. A man from *Partia Rome e Bashkuar e Kosovës* won the Kosovo Roma community seat, a man from *Partia e Ashkalinjëve Për Integrim* the Kosovo Ashkali seat, and a man from *Partia Liberale Egjiptiane* the Kosovo Egyptian seat. A man from *Iniciativa e Re Demokratike e Kosovës*, a Kosovo Egyptian party, won the fourth seat guaranteed for the candidate representing a Kosovo Roma, Kosovo Ashkali or Kosovo Egyptian party with the fourth largest number of votes.<sup>46</sup> Of note, in previous legislatures this seat traditionally went to the Kosovo Ashkali community. Two Kosovo Serb men and one Kosovo Turkish man were appointed as ministers in the most recent Kosovo government.<sup>47</sup>

### Committee on the Rights and Interests of Communities and Return

The Constitution foresees the formation of an Assembly Committee on the Rights and Interests of Communities and Return (CRIC).<sup>48</sup> CRIC is mandated with reviewing draft legislation to ensure that community rights and interests are adequately addressed. It is composed of one third Kosovo Serb Assembly members, one third majority community (Kosovo Albanian) Assembly members, and one third Assembly members representing other communities. In the current Assembly composition, CRIC is composed of 18 Assembly members, i.e. six per each “community group”. The Kosovo Serb community is represented by five men and one woman (the chairperson) and the Kosovo Albanian community by six men from various political parties. The remaining six members are a Kosovo Bosniak woman, a Kosovo Turk woman, as well as four men representing, respectively, the Kosovo Roma, Kosovo Ashkali, Kosovo Egyptian and Kosovo Gorani communities.

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<sup>44</sup> Art. 64.2 Constitution.

<sup>45</sup> The woman, Duda Balje, subsequently left *Koalicija Vakati* to establish a new party – Social Democratic Union, and later joined the LDK caucus in the Assembly.

<sup>46</sup> The Assembly member, Elbert Krasniqi, joined the *Vetëvendosje* caucus in the Assembly.

<sup>47</sup> Minister for Communities and Return, Minister for Local Government, and Minister for Regional Development, respectively.

<sup>48</sup> Art. 78 Constitution.

## Consultative Council for Communities

The Consultative Council for Communities (CCC) within the Office of the President remains a key government-level stakeholder that guarantees, at least in theory, that communities' perspectives are incorporated in high-level decision making. The existence and role of the CCC is guaranteed in both the Constitution and the Law on the Protection and Promotion of the Rights of Communities and Their Members.<sup>49</sup> The 2017 OSCE report on the performance of the CCC noted several issues:

- Lack of awareness of the existence and role of the CCC among members of non-majority communities;
- Poor gender balance;
- Insufficient collaboration with other government-level institutions, particularly the Office of the Prime Minister and the Ministry for Communities and Return;
- Limited impact, as the CCC only provides comments on a small number of draft laws and strategies it receives for review and issues only a small number of recommendations to institutions.<sup>50</sup>

The CCC has not improved its performance significantly since the 2017 assessment. As of December 2019, under its 2018 – 2020 mandate, it reviewed 11 draft laws and strategies, and provided comments on five of them. However, a positive development has been made in the CCC's gender balance. Kosovo Ashkali, Kosovo Egyptian, Kosovo Gorani and Kosovo Montenegrin communities are represented by one woman and one man each, the Kosovo Turk community by one woman and two men, the Kosovo Bosniak community by two women and one man, and the Kosovo Serb community by two women and three men. Only the Kosovo Roma community (represented by two men) and the Kosovo Croat community (represented by two women) do not comply with the gender representation requirement as prescribed by the CCC statute.<sup>51</sup>

The short duration of CCC members' term<sup>52</sup> leads to frequent turnover, and new members often require capacity building before they are able to effectively carry out their mandate. In addition to improving collaboration with other institutions and outreach visits to non-majority communities at the municipal level, lengthening the duration of CCC members' mandate would arguably improve the CCC's effectiveness.

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<sup>49</sup> Art. 60 Constitution.

<sup>50</sup> OSCE Mission in Kosovo, *Performance and Impact of the Consultative Council for Communities*, 2017, available at: <https://www.osce.org/mission-in-kosovo/362846?download=true> (accessed 15 May 2020), p. 17-18.

<sup>51</sup> Art. 24 in conjunction with Art 34 Statute of the Consultative Council for Communities, December 2017, available at: [https://president-ksgov.net/repository/docs/2017\\_12\\_26\\_154720\\_STATUTE\\_OF\\_THE\\_CONSULTATIVE\\_COUNCIL\\_FOR\\_COMMUNITIES\\_1.pdf](https://president-ksgov.net/repository/docs/2017_12_26_154720_STATUTE_OF_THE_CONSULTATIVE_COUNCIL_FOR_COMMUNITIES_1.pdf) (accessed 15 May 2020).

<sup>52</sup> Two years with the possibility of re-election; Art. 12.8 Law No. 03/L-047 On the Protection and Promotion of the Rights of Communities and their Members, 13 March 2008 (LPPRC).



## Non-Majority Communities' Representation in Public Administration

A 2017 OSCE report noted a slight improvement in the overall representation of communities in the government-level civil service since the publication of the previous CRAR.<sup>53</sup> The figure rose from 7.85 per cent in January 2013 to 9.63 per cent in December 2015, falling just short of the ten per cent requirement prescribed by the Law on Civil Service.<sup>54</sup> The Kosovo Gorani, Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities generally remain under-represented. At the municipal level, numerically smaller communities tend to be under-represented and “employees from Kosovo Roma and Kosovo Ashkali communities are more likely to hold lower-level positions compared with employees from other communities.”<sup>55</sup> Some exceptions were noted during the reporting period. For example, the Kamenicë/Kamenica mayor appointed a Kosovo Roma man as the director of finance in 2019.

## Municipal Level Communities' Participation Mechanisms

Four municipal communities' participation mechanisms exist in Kosovo:

- Communities Committees (CCs)<sup>56</sup>

Since the publication of the 4<sup>th</sup> edition of CRAR report and following the municipal elections in 2017, improvements have been noted regarding the representation of all communities in the CCs, including numerically smaller communities. This can be observed in the 28 municipalities where census data is available and where non-majority communities reside. Out of these municipalities, 17 have CCs comprising members of all communities living in the municipality.<sup>57</sup> The gender composition of CCs has also improved, with women constituting 41.75 per cent of CC members, compared to 31.03 per cent in the 2013–2017 mandate.<sup>58</sup>

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<sup>53</sup> OSCE Mission in Kosovo, *Representation of Communities in the Civil Service in Kosovo*, 2017, available at: <https://www.osce.org/mission-in-kosovo/320496?download=true> (accessed 15 May 2020), p.5.

<sup>54</sup> Art. 11, Law No. 03/L-149 On the Civil Service, 13 May 2010 (LCS).

<sup>55</sup> See supra footnote 53, p.5.

<sup>56</sup> CCs are a standing committee of the municipal assembly mandated to ensure that the rights and interests of non-majority communities are respected. They do so through the review of municipal policies and actions and provision of advice and recommendations to the municipality. CC establishment is mandatory in all municipalities.

<sup>57</sup> OSCE field monitoring.

<sup>58</sup> Ibid.

- Deputy Mayor for Communities (DMC)<sup>59</sup>

As of December 2019, 13 municipalities had a DMC in office,<sup>60</sup> including six of the seven municipalities where the mechanism is mandatory.<sup>61</sup> Positively, three DMC belonged to the Kosovo Ashkali community,<sup>62</sup> and three DMCs were women.<sup>63</sup>

- Deputy Chairperson of the Municipal Assembly for Communities (DCMAC)<sup>64</sup>

As of December 2019, nine municipalities had a DCMAC in office, including six of seven where the mechanism is mandatory.<sup>65</sup> Leposavić/Leposaviq, Mitrovica/Mitrovicë North and Zubin Potok established the DCMAC post in the absence of official census data. Conversely, Gračanica/Graçanicë, where the post is mandatory, has not appointed a DCMAC. All ten DCMACs in office are men.

- Municipal Offices for Communities and Return (MOCRs)<sup>66</sup>

As of December 2019, MOCRs were established in 35 municipalities. In Mitrovica/Mitrovicë North, Leposavić/Leposaviq, and Zubin Potok, municipal communities offices established under UNMIK administration *de facto* serve the role of MOCRs.

As noted in the 4<sup>th</sup> edition of CRAR, the lack of a more detailed legal framework governing their functioning and better regulating their relationship with other municipal institutions remains a key obstacle to improved functioning of municipal communities' participation mechanisms. Currently the mechanisms are generally based on several paragraphs in primary legislation, and most of the guidance for their work is found in non-binding policy documents, such as Terms of Reference or Guidelines. Despite the deficient legal framework, these mechanisms have shown they can be important advocates for the rights and interests of non-majority communities.

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<sup>59</sup> The DMC is mandated to advise the mayor on issues related to communities. The post is mandatory in municipalities where members of non-majority communities constitute more than ten per cent of the population; it could, however, also be established by a municipal assembly decision in municipalities where the population of non-majority communities falls below this threshold.

<sup>60</sup> Dragash/Dragaş, Ferizaj/Uroševac, Fushë Kosovë/Kosovo Polje, Kamenicë/Kamenica, Klokot/Kllokot, Lipjan/Lipljan, Mamuşa/Mamushë/Mamuşa, Novo Brdo/Novobërdë, Obiliq/Obilić Prizren, Štrpce/Shtërpçë, Zubin Potok, Zvečan/Zveçan.

<sup>61</sup> Dragash/Dragaş, Fushë Kosovë/Kosovo Polje, Klokot/Kllokot, Novo Brdo/Novobërdë, Prizren, Štrpce/Shtërpçë. Gračanica/Graçanicë did not appoint a DMC despite it being mandatory.

<sup>62</sup> Ferizaj/Uroševac, Fushë Kosovë/Kosovo Polje, Lipjan/Lipljan.

<sup>63</sup> Klokot/Kllokot, Mamuşa/Mamushë/Mamuşa, Prizren.

<sup>64</sup> The DCMAC is mandated to review complaints from non-majority community members alleging that acts or decisions of the municipal assembly have violated their rights. Under specific circumstances the DCMAC can refer the contented decision directly to the Constitutional Court. The post is mandatory in municipalities where non-majority communities constitute more than ten per cent of the population, and cannot be legally established in municipalities where the non-majority communities' population does not meet the threshold.

<sup>65</sup> Dragash/Dragaş, Fushë Kosovë/Kosovo Polje, Klokot/Kllokot, Leposavić/Leposaviq, Mitrovica/Mitrovicë North, Novo Brdo/Novobërdë, Prizren, Štrpce/Shtërpçë, Zubin Potok.

<sup>66</sup> MOCRs are a municipal office mandated to protect communities' rights, ensure equal access to services and create conditions for sustainable return. MOCRs should be established in all Kosovo municipalities.

## Section Three: The Use of Languages

### *Recommendations from the CoE Resolution:*

*“Prioritise comprehensive and concrete efforts to promote interethnic dialogue and tolerance at central and local level in order to bridge divides between communities and promote reconciliation while taking into account that the Kosovo Albanian majority has a special responsibility in this regard; build intercommunity relationships through initiatives targeting in particular young people, integrating the education system and applying consistently the language legislation.”*

*Adopt all necessary measures to ensure full, equal and adequate implementation of the Law on the Use of Languages; address central and local level capacity gaps in language knowledge, quality of official translation and provision of services in minority languages, including in the judicial system; create a favourable environment conducive to the learning of the official and minority languages;*

*Address disparities in access to justice between the K/Albanian majority and minorities; align the use of the Serbian language in judicial and administrative proceedings with the provisions of the relevant legislation governing the use of languages in the proceedings involving members of non-majority communities; further increase the presence of non-Albanian judges, lawyers and support staff.”*

### **Overall implementation**

Albanian and Serbian are recognized as the two official languages in Kosovo.<sup>67</sup> Bosnian, Turkish and Romani can be recognized as official languages or languages in official use at municipal level.<sup>68</sup> The Law on the Use of Languages further regulates the status and management of languages including in municipalities.<sup>69</sup>

The Office of the Language Commissioner (OLC) was established in 2012 and mandated with overseeing the implementation of the Law on the Use of Languages by all institutions under the OLC’s jurisdiction.<sup>70</sup> The protection and promotion of communities’ language rights are a core part of the OLC’s mandate. The two supportive mechanisms of the OLC are the Language Policy Board and Language Policy Network.<sup>71</sup> The Language Commissioner was reappointed for his second six-year term in January 2019. The strategy for the promotion and protection of language rights, while drafted by the OLC in 2016, is still not adopted.

<sup>67</sup> See Article 5.1 Constitution.

<sup>68</sup> Ibid., Article 5.2.

<sup>69</sup> Law No. 02/L-037 On the Use of Languages, 27 July 2006.

<sup>70</sup> See Article 16 of the government Regulation No. 07/2012 On the Office of the Language Commissioner, 4 April 2012.

<sup>71</sup> Ibid., Article 5.

In September 2018, OSCE published the report *"Bilingual Legislation in Kosovo"*.<sup>72</sup> The report provided insight into the current bilingual legislative drafting process at the government and assembly levels, in order to highlight procedural and practical shortcomings and to provide recommendations to improve the bilingual drafting and translation processes and strengthen the implementation of the Law on the Use of Languages. The report found that there is no systematic proofreading of draft laws or regular involvement of lawyers in the process of finalizing the two official language versions. Moreover, while there are some mechanisms in place requiring consistent drafting and oversight, in practice these are not followed and need to be strengthened. Further, responsibilities of the government and the Assembly need to be clarified and implemented. Shortcomings at the government level include the lack of capacity, resources and training of existing translators, and the inefficient distribution of those translators throughout the government is a major impediment to achieving correct translations. Shortcomings at the Assembly level exacerbate the absence of clear responsibilities and co-ordination within the government. There is a lack of proofreading, quality control, and quality assurance at the Assembly level. The report was preceded by the *Forum on Language Compliance in Kosovo*<sup>73</sup> organized in November 2017 jointly by the OLC and OSCE to raise awareness among institutions about the importance of language compliance, particularly during the legislative process.

In its latest annual report on language compliance in municipalities published in 2019,<sup>74</sup> the OLC noted either very limited or zero progress regarding municipal language compliance compared to previous years. The translation/interpreting capacities of municipalities remain weak. Challenges related to a lack of human resources, equipment and financing persist. The development of a monitoring system used for data collection for OLC report was supported by the OSCE.

In May 2019, the government adopted the *Concept Document on Reform of Translation Procedures* within the Government of Kosovo – *Towards a Harmonized Multilingual Legislation*. This document paves the way for establishing a unit for translation, language control and harmonization under the auspices of the Office of the Prime Minister. The OLC will have a crucial role in establishing and co-ordinating the unit.

During the reporting period, the Legal Office of the Prime Minister has been developing the draft Law on Legal Acts. It has been included in the 2020 Legislative Agenda of the government. The draft law aims, *inter alia*, to create a legal basis for the hierarchy of laws

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<sup>72</sup> The OSCE Mission in Kosovo, *Bilingual Legislation in Kosovo*, September 2018, available at: <https://www.osce.org/mission-in-kosovo/396836?download=true> (accessed on 27 April 2020).

<sup>73</sup> The aim of the Forum was to provide a platform where high-level participants and experts from bilingual or multilingual jurisdictions can share their experience and promote language compliance. The OSCE High Commissioner on National Minorities Ambassador Lamberto Zannier addressed the Forum, along with the Austrian Ambassador (on behalf of OSCE Chairmanship), the Prime Minister and Deputy Prime Minister of Kosovo, and the Head of OSCE Mission in Kosovo. The Forum was organized at the expert level to share experience concerning bilingualism. Participants such as the Ambassadors of Switzerland, Finland and Belgium, as well as the Assistant Deputy Minister and Head of Legislative Services at Public Law and Legislative Services, Justice Canada shared their models, experiences and views on the importance of language compliance in their respective jurisdictions.

<sup>74</sup> Office of the Language Commissioner, *Annual Report on Language Compliance in Municipalities*, March 2019, available at: [http://www.komisioneri-ks.org/repository/docs/ENG-MT\\_Raport-Municipalities.pdf](http://www.komisioneri-ks.org/repository/docs/ENG-MT_Raport-Municipalities.pdf) (accessed on 27 April 2020).

and for the administrative correction of linguistic errors in the legislation in force and the consolidation of legal texts. The eventual adoption of the draft Law would significantly contribute to the quality of legislation in Kosovo, including from a linguistic perspective.

## Judicial system

In September 2019, the KJC adopted the Regulation No. 07/2019 *On Certification of Court Interpreters and Translators*, thus ensuring that court translators and interpreters for official languages and other languages would be certified by the KJC. In December 2019, the KJC announced an open call for applications for language professionals/experts who would be part of the KJC's Evaluation Commission to certify as court translators and interpreters between Albanian and Serbian and between Serbian and English. In December 2019, the Kosovo Bar Association (KBA), with OSCE support, translated its Statute and the Lawyers' Code of Professional Ethics from Albanian into the Serbian language, thus enabling access to the KBA's main internal documents for Serbian-speaking lawyers.

## Trial monitoring

The OSCE conducted trial monitoring of the justice system throughout the reporting period. It has observed deficiencies in the provision of competent and professional translation services in the prosecutorial and judicial system. Engaged court interpreters were often not able to satisfy the demand for written translation. As a consequence, parties from non-Albanian communities received notices, summonses, minutes of hearings and judgments only in the Albanian language. Public notice boards and case calendars within courts were not always posted in all required languages.

The improper recording of trial hearings is another language-related concern. Within the Serious Crimes Department, many hearings monitored were not properly recorded. Translations were required for a significant number of these improperly recorded hearings. Without a properly recorded hearing, difficulties may arise in verifying if the translation services were accurate or whether communication errors limited a party's full access to the court and their ability to effectively present their case, or if there were egregious breaches of the right to a fair trial.

## Kosovo Police

The latest OSCE report on language compliance in KP<sup>75</sup> found that the Law on the Use of Languages was still not fully implemented in all areas by the KP. Due to the time pressure and lack of effective translation system, documents such as operational plans were not translated in a timely manner. Communication between the KP regional directorates and

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<sup>75</sup> OSCE Mission in Kosovo, *Language Compliance in Kosovo Police*, September 2018, available at: <https://www.osce.org/mission-in-kosovo/396821?download=true> (accessed on 27 April 2020).

the General Directorate was found to be challenging, particularly within the KP Region in Mitrovica/Mitrovicë North predominantly staffed with Serbian-speaking officers as opposed to the KP General Directorate staffed mainly with Albanian-speaking officers.

The report found that the level of language compliance of KP had significantly improved compared to previous assessments, with a few areas requiring further analysis and remedial action by the KP's management. Recommendations for KP contained in the report include: improve current written translation practices and procedures; organize Albanian and Serbian language courses for new generations of police officers; increase funds to hire more interpreters; ensure internal door signs are in both official languages; translate all written documents into official languages and ensure they are distributed to subordinate offices; create a pool of interpreters to address translation needs more efficiently; and increase the number of women interpreters.

In June 2019, the OSCE reassessed the situation in all eight KP regions regarding language compliance and concluded that no significant improvements have occurred since the publication of the 2018 report.



## Section Four: Access to justice, performance of the justice sector and communities' representation in the justice sector

*Recommendations from the CoE Resolution:*

"Address disparities in access to justice between the K/Albanian majority and minorities; align the use of the Serbian language in judicial and administrative proceedings with the provisions of the relevant legislation governing the use of languages in the proceedings involving members of non-majority communities; further increase the presence of non-Albanian judges, lawyers and support staff.

*Take new steps to ensure that property restitution cases, in particular illegal reoccupation, are investigated swiftly, prosecuted appropriately and dealt with by courts in a timely fashion and sanctioned adequately enough to be an effective remedy and a deterrent."*

### **Ethnic composition of the judiciary**

The 4th edition of CRAR emphasized non-majority communities' lack of trust in the justice system and recommended the recruitment of judicial and prosecutorial staff from non-majority communities. The ethnic composition of the justice system is now significantly different due to the integration of the judiciary as per the Brussels Agreement on Justice.<sup>76</sup>

On 24 October 2017, through a decree, the President appointed 40 judges and 13 prosecutors who were to be integrated into the Kosovo justice system. Five of the integrated judges were assigned to the Gjilan/Gnjilane Basic Court, including the Kamenicë/Kamenica and Viti/Vitina Branch Courts, and one was assigned to the Štrpce/Shtërpçë Branch Court of the Ferizaj/Uroševac Basic Court.<sup>77</sup> The remaining judges were assigned to the Mitrovica/Mitrovicë North Basic Court. Simultaneously, the Kosovo Serb judicial support staff signed their contracts at the Mitrovica/Mitrovicë North Basic Court. On 31 October 2017, the KJC elected Mr. Nikola Kabašić, a Kosovo Serb judge, as the new President of the Mitrovicë/Mitrovica Basic Court.

In December 2017, members of the judiciary, Kosovo Police and the Chamber of Advocates organized a 'Bench-Bar' meeting in Mitrovica/Mitrovicë North. This was the first meeting of its kind since the integration of the judiciary. Participants discussed

<sup>76</sup> The First Agreement of Principles reached between Prishtinë/Priština and Belgrade on 19 April 2013 under the facilitation of the European Union-facilitated. Point ten of the Agreement emphasizes that "The judicial authorities will be integrated and operate within the Kosovo legal framework".

<sup>77</sup> All five judges assigned to the Gjilan/Gnjilane Basic Court are Kosovo Serbs; the judge assigned to the Ferizaj/Uroševac Basic Court is a Kosovo Gorani.

access to justice for all and the appointment of *ex officio* lawyers for parties who cannot afford defence counsel.<sup>78</sup>

In 2018, to promote the sustainability of the integration, the Kosovo Chamber of Advocates organized an internship programme, supported by the OSCE, for Kosovo Serb law graduates in lawyers' offices in northern Kosovo. In April 2018, six graduates completed the programme, fulfilling the requirements to sit the Bar Exam. In May 2018, the Kosovo Chamber of Advocates announced a second call for interns. Seven recent law graduates from northern Kosovo were admitted for the second cycle of the internship programme. The third generation comprising eight law graduates will complete their internships in October 2020. Until the end of the reporting period, four alumni out of the 13 sat the Bar Exam, and three (all women) passed it on the first attempt.

The integration of the judiciary proceeds smoothly and many of the barriers to accessing justice have been removed. At the end of 2019, there were 422 judges: 369 Kosovo Albanians, 43 Kosovo Serbs, eight Kosovo Bosniaks, one Kosovo Roma and one Kosovo Gorani.

### **Backlog of cases**

The 4th edition of CRAR also noted that the significant number of backlogged cases had led to delays in adjudicating cases, especially those related to property. OSCE notes that in 2018, the judiciary had in process 425,614 cases, of which 307,513 had been inherited from 2017 as uncompleted cases. During 2018, courts received 118,401 cases and concluded 180,290 cases. With regard to backlogged cases in the judiciary in 2019, statistics show a decrease of 10.44 per cent. During 2019, the caseload amounted to 360,806: 245,477 cases were inherited from previous years, while 115,359 were newly submitted cases. In 2019, courts resolved 143,650 cases, whereas 216,899 cases remain to be processed.<sup>79</sup> The recommendation from the 4th edition of CRAR to “take active measures to reduce the continued backlog of cases” remains valid. Despite gradual but steady progress in reducing the number of pending cases, the judiciary should employ a more effective and timely case management system in order to swiftly reduce the number of incomplete cases.

### **Language issues**

The justice system continues to face difficulties in fully implementing the Law on Use of Languages.<sup>80</sup> OSCE court monitoring has observed a lack of, or sub-standard,

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<sup>78</sup> *Ex officio* appointments in criminal cases are administered by the Kosovo Chamber of Advocates, in co-operation with the Kosovo Judicial and Prosecutorial Councils and Kosovo Police, while the Free Legal Aid Agency, under the Law on Free Legal Aid is responsible for the organization and provision of free legal aid across Kosovo.

<sup>79</sup> Kosovo Judicial Council, *Annual Report on Court Statistics*, 2019, available at <https://www.gjyqesori-rks.org/raportet/> (accessed on 10 June 2020).

<sup>80</sup> See *supra* footnote 69.

interpretation during some court cases, in violation of domestic law<sup>81</sup> and international human rights standards.<sup>82</sup> On a number of occasions, court monitors reported that in cases with a Kosovo Albanian judge and a Kosovo Serb party, the minutes are in the Albanian language, and vice versa. In such situations, the parties sign the minutes in a language that they may not understand. Furthermore, translation of legislation into both official languages remains a challenge, impacting both access to justice and the full functionality of the integrated judiciary. In November 2018, the Office of the Language Commissioner and the Legal Office of the Prime Minister organized a conference to discuss recommendations from OSCE report on “Bilingual Legislation in Kosovo”.<sup>83</sup>

### Fraudulent property transactions

Finally, regarding communities’ property rights, criminal and civil fraudulent property transactions have been recorded throughout Kosovo courts and are particularly endemic in Pejë/Peć region.<sup>84</sup> Between 2010 and 2019, 1,516 criminal cases of fraudulent property transactions were heard before courts in Pejë/Peć region. The high number of cases heard indicates that access to justice has improved; however, it also demonstrates the persistence of the issue, which is troubling for reconciliation and the returns process. Analysis of OSCE court monitoring of around 400 cases of civil and criminal property usurpation revealed common concerns that mainly relate to improper summoning practices, deficient translation services,<sup>85</sup> frequent absence of parties, failure to meet legal deadlines and poor performance of lawyers and/or temporary representatives assigned to the case.

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<sup>81</sup> The right to equality of official languages, Albanian and Serbian, is a constitutional right guaranteed in Article 5 of the constitution.

<sup>82</sup> Article 6(3)(e) of the European Convention of Human Rights. See also the European Charter for Regional or Minority Languages, adopted by the Council of Europe on 5 November 1992.

<sup>83</sup> OSCE Mission in Kosovo, *Bilingual Legislation in Kosovo*, September 2018, available at: <https://www.osce.org/mission-in-kosovo/396836> (accessed on 15 May 2020). The report provides an insight into the current bilingual legislative drafting process at the Government and Assembly levels in order to highlight procedural and practical shortcomings and to provide recommendations to improve the bilingual drafting and translation process and strength the implementation of the Law on the Use of Languages.

<sup>84</sup> Offences include unlawful occupation of property, fraud, breach of trust, falsifying documents, special cases of falsifying documents and legalisation of false content.

<sup>85</sup> Provision of language services is one of the most pressing concerns in illegal property transaction cases, especially those involving Kosovo Serb parties.

## Section Five: National human rights institutions (Ombudsperson Institution)

*Recommendation from the CoE Resolution:*

*"Enable the Ombudsperson Institution to function properly by providing it with adequate human and financial resources to carry out its mandate, including awareness raising, and by ensuring an effective follow-up to its recommendations."*

### Structure and functioning

In June 2015, the Assembly of Kosovo approved a package of human rights legislation, namely the Law on Protection from Discrimination, Law on Ombudsperson and Law on Gender Equality.<sup>86</sup> Following this, the Ombudsperson Institution in Kosovo (OIK) approved secondary legislation governing its internal rules and organization in line with the Law on Ombudsperson.<sup>87</sup> In 2016, the OIK underwent restructuring and established seven departments<sup>88</sup>: Department of Admission and Administration of Complaints, Department of Investigation of Complaints, Department on Protection from Discrimination, Department on Protection of the Rights of the Child, Department on Prevention of Torture, Department of Legal Affairs and Department on Co-operation, Reporting and Promotion of Human Rights.<sup>89</sup>

The mandate of the outgoing deputy Ombudspersons expired in October 2014; they however remained in office until new deputy Ombudspersons were selected. Five new deputies (one Kosovo Serb woman, three Kosovo Albanian women and one Kosovo Albanian man) were appointed by the Assembly of Kosovo<sup>90</sup> in January 2018. The Institution is currently fully staffed.

Since the publication of the 4<sup>th</sup> edition of CRAR, the OIK moved from rented premises to a government-managed building, thus solving the issue of the central office's premises. The OIK's annual budget has increased since 2016<sup>91</sup> based on needs and budget planning. It has remained at around 1.3 million Euro annually since 2018.<sup>92</sup> The OIK also receives external support in implementing various activities, including a two-year project

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<sup>86</sup> Law No. 05/L -019 on Ombudsperson, Law No. 05/L -020 on Gender Equality and Law No. 05/L-021 on Protection from Discrimination.

<sup>87</sup> On 25 March 2016, it has approved Regulation No. 01/2016 on Internal Organization and Systematization of Job Positions in the Ombudsperson Institution; on 26 May 2016, it has approved Regulation No. 02/2016 on Rules of the Procedures of the Ombudsperson Institution.

<sup>88</sup> List of all departments and their duties can be found under <https://www.oik-rks.org/en/>.

<sup>89</sup> Ombudsperson Institution, *Annual report for 2016, 2017*, available at: [https://oik-rks.org/wp-content/uploads/old\\_doc/Raporti\\_Vjetor\\_2016\\_ANG\\_no16\\_me\\_kopertine\\_per\\_web\\_338158.pdf](https://oik-rks.org/wp-content/uploads/old_doc/Raporti_Vjetor_2016_ANG_no16_me_kopertine_per_web_338158.pdf). (accessed on 15 May 2020).

<sup>90</sup> In accordance with Article 10 of the Law on Ombudsperson.

<sup>91</sup> Annual OIK budget for 2016 was 996,389.98 Euro and 932.147.02 Euro for 2015, *see* supra note 89.

<sup>92</sup> In the last three years annual OIK budgets is between 1,373,167.00 (2018) and 1,373,815.00 in 2020 (<https://mf.rks-gov.net/page.aspx?id=2,16>).

supported by the Council of Europe on strengthening the National Preventive Mechanism against Torture<sup>93</sup> and a three-and-a-half-year project funded by the European Union titled “Support to the Ombudsperson Institution in Kosovo”.<sup>94</sup>

## Investigations, recommendations, activities

Investigating alleged human rights violations based on individual complaints and *ex officio* reports remain OIK’s main responsibility. Between 2016 and 2018, the OIK received an increased number of complaints each year.<sup>95</sup> The number of inadmissible complaints decreased from 75 per cent in 2015 to 51 per cent in 2019<sup>96</sup> due to the OIK’s better engagement, outreach and increased visibility. The complaints were deemed inadmissible because 1) all available legal remedies were not exhausted; 2) no violation was identified; or 3) the complaint fell outside of OIK jurisdiction.

In 2018, the OIK doubled the number of recommendations it made to various municipal and government institutions, including various ministries, municipalities, universities and courts, as compared to 2017.<sup>97</sup> However, implementation of said recommendations remains a challenge. In 2017, 41 (30.8 per cent) recommendations were fully implemented, 40 (30.07 per cent) were not implemented at all and 52 (39 per cent) were pending implementation. In 2018, 99 (37.64 per cent) recommendations were fully implemented, 29 (11.02 per cent) were not implemented at all and 135 (51.33 per cent) were pending implementation. In 2019, the OIK issued 225 recommendations to various institutions, out of which 55 recommendations (24.45 per cent) were implemented, 12 (or 5.33 per cent) were not implemented and 158 (70.22 per cent) pending implementation. Implementation of OIK recommendations is an indicator to measure progress of the Sector Reform Contract on Public Administration Reform within the EU Instrument for Pre-Accession Assistance (IPA). One of the IPA indicators requires that at least 70 per cent

<sup>93</sup> Strengthening the Kosovo Preventive Mechanism supported by the Council of Europe, the Swiss Government and Norwegian Government, implemented by the Council of Europe was implemented from 1 May 2017 until 30 April 2019.

<sup>94</sup> The aim of the project, which started on 4 March 2019, is to strengthen capacities of the OIK to effectively protect and promote human rights and fundamental freedoms of people in Kosovo.

<sup>95</sup> In 2016, the OIK received 1,694 complaints, of which 87.4 per cent (1,481) were initiated by the Kosovo Albanian community and 12.6 per cent by communities in numerical minority (101 by Kosovo Serbs, 27 by Kosovo Ashkali, 23 by Kosovo Bosniaks, 21 by Kosovo Egyptian, 19 by Kosovo Roma, 16 by Kosovo Turks and six by others). In 2017, the OIK received 1,863 complaints, of which 87.4 per cent (1,628) were initiated by the Kosovo Albanian community and 12.6 per cent by communities in numerical minority (101 by Kosovo Serbs, 26 by Kosovo Bosniaks, 25 by Kosovo Turks, 25 by Kosovo Ashkali, 24 by Kosovo Egyptian, 22 by Kosovo Roma and 12 by others). In 2018, the OIK received 1,986 complaints, of which 89 per cent (1,767) were initiated by the Kosovo Albanian community and 11 per cent by communities in numerical minority (112 by Kosovo Serbs, 28 by Kosovo Roma, 28 by Kosovo Bosniaks, 17 by Kosovo Ashkali, 14 by Kosovo Egyptians, 11 by Kosovo Turks and 9 by others). In 2019, the OIK received 2014 complaints, out of which 89.87 per cent by Kosovo Albanians and 10.13 per cent by communities in numerical minority (91 by Kosovo Serbs, 28 by Kosovo Bosniaks, 24 by Ashkali, 21 by Roma, 20 by Egyptians, 12 by Kosovo Turks and 8 by others). Source: Ombudsperson Institution, *Annual reports* for 2016, 2017, 2018 and 2019.

<sup>96</sup> Ombudsperson Institution, *Annual report 2019, April 2020*. Available at: <https://www.oik-rks.org/en/2020/04/02/godisnji-izvestaj-2019/> (accessed on 10 June 2020).

<sup>97</sup> The OIK issued 133 recommendations in 2017 and 263 recommendations in 2018. Ombudsperson Institution, *Annual Report 2018, 2019*, available at: <https://www.oik-rks.org/wp-content/uploads/2019/04/Annual-report2018.pdf> (accessed on 15 May 2020).

of recommendations addressed to government institutions receive a written answer within 30 days.<sup>98</sup> However, the OIK only receives answers in 35 per cent of cases.<sup>99</sup>

The OIK is taking a more pro-active role in organizing promotional activities either independently or with the support of international stakeholders and civil society organizations. In 2018, the OIK organized ten outreach events supported by OSCE and targeting youth in Kosovo. Three of the events targeted specifically youth from non-majority communities: Kosovo Serbs, Kosovo Roma, Kosovo Ashkali and Kosovo Egyptians in Gračanica/Graçanicë, Kosovo Bosniaks and Kosovo Gorani in Dragash/Dragaš, and Kosovo Turks in Prizren. Following the Prizren workshop, the OIK initiated an investigation into the use of the Turkish language in textbooks. The problem has not been solved within the reporting period.<sup>100</sup>

In 2018, the OIK launched two publications, "*Manual on Protection from Discrimination*" and "*Good administration principles – Summary by the Ombudsperson*",<sup>101</sup> and a series of promotional videos on the rights of different vulnerable groups, including women, youth, children, persons with disabilities and non-majority communities. The OIK productively co-operated with civil society organizations on drafting an action plan for joint responses towards discrimination and intolerance and creating a joint platform on the OIK website to share human rights publications.

## Remaining challenges

The OIK still faces some challenges in reaching out to non-majority communities, despite having regional offices in Mitrovica/Mitrovicë North and Gračanica/Graçanicë that employ Kosovo Serbs.

Dealing with discrimination cases, including discrimination in the private sector, remains a challenge for the Institution. The OIK provides recommendations to relevant institutions and *amicus curie* legal opinions to the courts on potential human rights violations. However, only a few discrimination cases were initiated in the last couple of years. There is an ongoing need to raise residents' awareness of discrimination and to build the capacities of judges and prosecutors, ministerial and municipal non-discrimination officers, civil society organizations and other related stakeholders to address instances of discrimination.

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<sup>98</sup> *Financial Agreement for IPA 2016, Part Two, Between Kosovo and the European Union, 2017*, available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=15707> (accessed on 10 June 2020), p. 46. The obligation to respond within 30 days is also prescribed by Art 28, Law on Ombudsperson.

<sup>99</sup> Ombudsperson Institution, *Annual Report 2019*, supra note 96, p.183.

<sup>100</sup> Ibid, p. 87: "There are still no results in solving the problem of quality textbooks in Bosnian and Turkish, so this problem is still present at all levels of education. This has to do with the poor translation of textbooks or the unavailability of textbooks for upper primary and secondary education classes. Members of the Turkish and Bosniak communities continue to complain about learning Albanian in primary and secondary education because students during the education in their mother tongue are not receiving sufficient knowledge of Albanian language."

<sup>101</sup> Not available online.



The location of some regional offices remains a challenge. For example, in August 2019, Gjilan/Gnjilane municipality temporarily removed the OIK office from the municipal building while renovating the building. OIK staff had been working from home and meeting counterparts and complainants in cafés and restaurants until the renovation finished in January 2020 and the office in the municipal building was usable again. In Mitrovicë/Mitrovica South, the regional office is located on the second floor of the municipal building without an elevator, limiting access for the elderly or people with disabilities.

## Section Six: Religious and Cultural Heritage

*Recommendation from the CoE Resolution:*

*“Continue to strengthen the protection of cultural heritage in consultation with all communities, in particular Serbian cultural and religious heritage in order to prevent any attempt at its misappropriation; also strengthen the response to illegal constructions and activities by addressing gaps in the legal and policy framework; protect and respect cultural diversity and enable minority communities to express, preserve and develop their identity, including through establishing a transparent fund allocation mechanism for the preservation of minority cultures and identities”*

### Legal and policy framework advancement

During the reporting period the government endorsed the Strategy for Cultural Heritage Protection (2017 – 2027),<sup>102</sup> introducing a new policy document in this field. The Strategy aims to further protect cultural heritage of all communities and to serve as a key tool to strengthen the normative and institutional framework. The Strategy's goals intend to develop an integrated approach to cultural heritage protection by promoting public participation and education in the decision-making process. This, for example, was observed in the drafting process of the Management Plan for Prizren Historic Centre. On 6 July 2018, the government approved the Concept Document for Cultural Heritage, thereby completing the policy framework. The Concept Document provides the legal basis to amend and supplement the existing Law on Cultural Heritage.<sup>103</sup> Its approval was a positive development for the possible future amendment of the Law.

OSCE monitoring also identified progress in the consolidation of the institutional framework. For example, in 2018, the Ministry of Culture, Youth and Sports (MCYS) established the Cultural Heritage Inspectorate - a mechanism that had been missing since the promulgation of the Law on Cultural Heritage. The institutional framework has thereby gained an operational asset to conduct visits and monitor cultural heritage sites. The Inspectorate is meant to take appropriate measures to protect heritage sites. However, the number of inspectors currently deployed is not sufficient to address all issues.<sup>104</sup>

The adoption of the Law on the Historic Center of Prizren and the Law on the Village of Velika Hoča/Hoçë e Madhe has bridged a normative gap in cultural heritage legislation. Furthermore, the mechanisms established to facilitate the implementation of various cultural heritage laws have witnessed significant progress. In May 2019, the Prizren municipal assembly voted in favour of establishing the Office of Prizren Historic Centre.

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<sup>102</sup> Ministry of Culture, Youth and Sports, *Strategy for Cultural Heritage 2017 – 2027*, 2016, available at: [https://mkrs-ks.org/repository/docs/eng\\_strategy\\_for\\_heritage.pdf](https://mkrs-ks.org/repository/docs/eng_strategy_for_heritage.pdf) (accessed on 15 May 2020).

<sup>103</sup> Law No. 02/L-88 on Cultural Heritage, 6 November 2006.

<sup>104</sup> There are currently only two Cultural Heritage Inspectors.

Furthermore, the local councils for Prizren Historic Centre and Velika Hoča/Hoçë e Madhe have continued to convene regular and active meetings, indicating a positive trend of coordinating the management of the two zones.<sup>105</sup>

## Special Protective Zones

On a further positive note, after almost two years of inactivity, the Implementation and Monitoring Council (IMC) started to meet regularly in 2018.<sup>106</sup> During its meetings, the IMC discussed delicate issues that had severely hampered relations between the Serbian Orthodox Church (SOC) and Kosovo institutions. This included the contentious plan to construct a regional road between Deçan/Deçane municipality and Plav (Montenegro), affecting the Visoki Deçani Monastery Special Protective Zone (SPZ), and Deçan/Deçane municipality's continuous refusal to enforce the Constitutional Court decision affirming land ownership rights in favour of the Monastery.<sup>107</sup> Nevertheless, the OSCE Mission in Kosovo noted progress in other municipalities, where the SOC was consulted in a timely manner.<sup>108</sup> Such instances illustrate positive examples of institutional compliance with the SPZ legislation.<sup>109</sup> However, given the fragile political setting, Kosovo institutions' unilateral *ad hoc* actions related to SPZ sites have negatively influenced the overall situation.

Finally, MCYS has continued updating the annual list of cultural heritage sites under temporary and permanent protection. However, OSCE monitoring has identified several repeated incidents that have severely affected some of the heritage assets under temporary protection, including owners demolishing heritage assets.<sup>110</sup> In this context, monitoring developments in the SPZ sites remains crucial.

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<sup>105</sup> The two councils are established under Law No. 2011/04-L-062 on Velika Hoča/Hoçë e Madhe, 18 July 2012, and Law No. 2011/04-L-066 on Historic Centre of Prizren, 18 July 2012, as local mechanisms to protect the interests of all communities in the management of these two important historic and cultural heritage zones and safeguard them from adverse developments.

<sup>106</sup> Law No. 03/L-039 on Special Protective Zones, 4 June 2008, establishes the IMC as a body mandated to monitor and facilitate the implementation of said Law. During the reporting period, the IMC met 11 times, with the last meeting held on 10 April 2019.

<sup>107</sup> In May 2016, the Constitutional Court issued a decision affirming the Visoki Decani Monastery's ownership rights over 24 hectares of land in its vicinity.

<sup>108</sup> For example, in February 2017, Lipjan/Lipljan municipality informed the SOC about a request from the Islamic Community Council in Lipjan/Lipljan to build administrative offices. The planned construction would affect the Church of Presentation of the Virgin SPZ in Lipjan/Lipljan. The SOC disagreed with the construction and the case is currently being discussed with the IMC.

<sup>109</sup> Law No. 03/L-039 on Special Protective Zones, 4 June 2008.

<sup>110</sup> Unlawful demolition of Mullaafazliu guesthouse (protected monument) in Prizren Historic Center SPZ, took place in 2015. Unlawful demolition of Myftiu family house (protected monument) in Prizren Historic Center SPZ took place in December 2017. On 11 July 2019, the Prizren Basic Court pronounced the owner guilty. Following his guilty plea, the court sentenced him with a fine of EUR 700. Unlawful demolition of Hisari house in Prizren Historic Center SPZ took place in March 2018. The Court hearing was held before Prizren Basic Court on 30 January 2019. The owner entered a guilty plea and was sentenced with monetary fine amounting to 300 Euros. On 15 April 2018, the staff from Regional Centre for Cultural Heritage (RCCH) in Pejë/Peć noted that the "Ramiz Sadiku" house, within the MCYS list of sites under temporary protection, was completely demolished. The case was referred to the court for further proceedings and adjudicated in 2020; the court found the defendant guilty and was sentenced with monetary fine of EUR 300. On 06 February 2019, a "Kulla" (old traditional stone house) within the MCYS list of sites under temporary protection and subject to public partial restoration in 2011, located in the Pejë/Peć town, was demolished by the owner. According to the RCCH director, the demolition occurred without any notification to the RCCH.

## **Remaining challenges**

As any possible future amendments to the Law on Cultural Heritage will directly affect both inter-ethnic relations and communities' rights to enjoy and benefit from their heritage, this process must ensure the consultation of all communities and religious groups. Municipal and government institutions should continue to effectively communicate with the SOC prior to undertaking any public work within the SPZ sites. The issue of illegal construction and demolition of protected monuments has not been completely tackled. More preventive measures and tools are still required to ensure effective protection of all cultural heritage sites across Kosovo. Municipal and government institutions should increase monitoring and site visits, alongside an improved level of guidance from the government level to tackle observed deficiencies. The justice system must continue to investigate, prosecute and adjudicate cases related to the damage and destruction of cultural heritage sites, to ensure the protection of heritage assets through effective enforcement of cultural heritage legislation.

## Section Seven: Media in Non-Majority Languages

*Recommendation from the CoE Resolution:*

*“Ensure adequate financial support for the development of media dedicated to all minority communities; engage with media outlets and regulatory bodies to promote a more nuanced understanding and reporting of facts to avoid fuelling intercommunity tensions and further polarisation, including online, and enhance the training of journalists”.*

### Media landscape

A high number of media outlets operate in a limited advertising market in Kosovo. The sources of income are further complicated by the lack of transparency regarding ultimate ownership.<sup>111</sup> This is especially acute for regional media outlets, including media in non-majority languages.<sup>112</sup> There is no available data on the effect of reported interference by media owners into editorial autonomy, and of self-censorship by journalists, on media pluralism – both within the media outlet and across the media landscape. The Independent Media Commission (IMCom), the broadcasting regulatory authority, is mandated to, *inter alia*, implement legal provisions on balanced political coverage.<sup>113</sup> However, the IMCom only monitors content provision during elections.<sup>114</sup> There is therefore limited data on the political inclinations of audio-visual media, including the public broadcaster, Radio and Television of Kosovo (RTK), and regional outlets.

<sup>111</sup> See also Freedom House, *Freedom in the World 2019 - Kosovo*, available at: <https://freedomhouse.org/country/kosovo/freedom-world/2019> (accessed on 15 May 2020); IREX, *Media Sustainability Index 2019 Kosovo*, available at: <https://www.irex.org/sites/default/files/pdf/media-sustainability-index-europe-eurasia-2019-kosovo.pdf> (accessed on 15 May 2020), p. 8, South East European Media Observatory, *Media integrity report: Media ownership and financing in Kosovo*, 30 November 2015, available at: <https://web.archive.org/web/20190624135227/https://mediaobservatory.net/radar/media-integrity-report-media-ownership-and-financing-kosovo>, (accessed on 15 May 2020).

<sup>112</sup> “There are particular concerns regarding freedom of expression in the north of Kosovo, including self-censorship.” European Commission, *Kosovo 2019 Report* 29 May 2019, available at: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-kosovo-report.pdf> (accessed on 15 May 2020), p. 25.

<sup>113</sup> The Law No. 04/L-044 On the Independent Media Commission, 2 March 2012, sets forth the mandate of the IMCom. The legally binding Code of Ethics for Media Service Providers in Kosovo stipulates “balanced coverage of issues of public interest and issues of political controversy” in order “to ensure a pluralistic representation of views, without any privilege for a political party, political view or any group or individual” (Independent Media Commission, *Code of Ethics for Media Service Providers in Kosovo*, IMC-2016/03, available at: <http://www.kpm-ks.org/assets/cms/uploads/files/Legjislacioni/1493714855.8029.docx> (accessed on 15 May 2020), Art 6).

<sup>114</sup> The IMCom monitors the implementation of Article 48 of the Law No. 03/L-073 On General Elections, 5 June 2008, which stipulates fair and equitable coverage of political entities by all media. However, the IMCom does not monitor the implementation of below mentioned Article 6 of the Code of Ethics for Media Service Providers in Kosovo.

## Media consumption

Television is Kosovo residents' main source of information. Approximately 73 per cent watch TV everyday whereas only 15 per cent listen to the radio daily.<sup>115</sup> Approximately 87 per cent of Kosovo residents "never" or "almost never" read newspapers.<sup>116</sup> During prime time (6:30 – 8:30pm), 48 per cent of viewers watch the news.<sup>117</sup> Various communities show significant differences in their TV consumption. For example, 85 per cent of Kosovo Egyptians watch TV daily as compared to 36 per cent of Kosovo Roma.<sup>118</sup> The duration of daily TV consumption also differs. Kosovo Egyptian community members watch an average of two hours and five minutes, whereas Kosovo Gorani community members watch an average of 30 minutes.<sup>119</sup> Various communities also show significant differences in visiting online portals, ranging from an average of 53 minutes a day among Kosovo Egyptians to five minutes a day among Kosovo Gorani.<sup>120</sup>

A media audience measurement survey conducted in November 2019 confirms that Kosovo Serb community members mainly watch TV stations based in Serbia or regional media outlets considered to be financed from Serbia.<sup>121</sup> <sup>122</sup> The assessment concluded that the Kosovo Serb community considers media outlets based in Serbia to be the most trustworthy. Furthermore, the survey shows that the Kosovo Bosniaks and Kosovo Gorani tend to watch Serbia-based TV,<sup>123</sup> while the Kosovo Roma, Kosovo Ashkali and Kosovo

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<sup>115</sup> Data from a media audience measurement survey conducted in November 2019 comprising over 4,000 residents.

<sup>116</sup> Ibid.

<sup>117</sup> Followed by TV shows and soap operas (19 per cent), other current affairs programmes like debates, interviews, discussion programmes (13 per cent), sports (5 per cent), movies (4 per cent), cultural programmes (4 per cent), educative programmes (3 per cent), and music (3 per cent) (Ibid).

<sup>118</sup> Daily average of TV consumption: Kosovo Egyptians – 85 per cent; Kosovo Albanians – 74 per cent; Kosovo Turks – 68 per cent; Kosovo Serbs – 65 per cent; Kosovo Ashkali – 65 per cent; Kosovo Bosniaks – 56 per cent; Kosovo Gorani – 39 per cent; Kosovo Roma – 36 per cent (Ibid).

<sup>119</sup> Daily average duration of TV consumption: Kosovo Egyptians - 2 hours 5 minutes; Kosovo Serbs - 1 hour 47 minutes; Kosovo Turks – 1 hour 25 minutes; Kosovo Albanians - 1 hour 7 minutes; Kosovo Ashkali - 53 minutes; Kosovo Roma - 43 minutes; Kosovo Bosniak - 41 minutes; Kosovo Gorani - 30 minutes (Ibid).

<sup>120</sup> Average amount of time visiting online portals daily: Kosovo Egyptians – 53 minutes; Kosovo Albanians – 37 minutes; Kosovo Serbs – 34 minutes; Kosovo Turks – 33 minutes; Kosovo Bosniaks – 31 minutes; Kosovo Roma – 18 minutes; Kosovo Ashkali – 16 minutes; Kosovo Gorani – 5 minutes (Ibid).

<sup>121</sup> In total, 59.20 per cent of those interviewed said that they watch Belgrade-based TV stations "every day", while 64.10 per cent stated that they never watch RTK2. The sample size was 1,507 residents across Kosovo and the Kosovo Serb community was oversampled. Results were not disaggregated by other non-majority communities.

<sup>122</sup> The IMCom requires licensees only to indicate a nominal owner. The information available on the IMCom website does not reveal ultimate sources of financing. The public company "Mreža Most" comprising 6 media outlets in Kosovo is founded and financed by the Serbian Government. The media outlets are *TV Most*, *Radio i TV Puls*, *Radio Kosovska Mitrovica* and *Radio i TV Gračanica*. Furthermore, the decree on foundation of the public company (available at:

[http://demo.paragraf.rs/demo/combined/Old/t/t2013\\_08/t08\\_0154.htm?fbclid=IwAR3VrrlUp7y56y0FgQS2xaLkIWb7UwRC4lGmxYSCZKNijFE76sv37j38v0l](http://demo.paragraf.rs/demo/combined/Old/t/t2013_08/t08_0154.htm?fbclid=IwAR3VrrlUp7y56y0FgQS2xaLkIWb7UwRC4lGmxYSCZKNijFE76sv37j38v0l)) defines its activities as providing logistic, technical and professional support to (any) Serbian-language media outlet in Kosovo. Media monitoring conducted by recent EU Election Observation Missions in Kosovo reveal strong support for *Srpska Lista*, a political party closely linked to the governing party in Serbia by *TV Most* and *Radio i TV Puls*. During the 6 October Early Assembly of Kosovo Elections, between 25 September and 4 October 2019 *TV Most* and *Radio i TV Puls* devoted 87 and 89 per cent of its news coverage respectively to *Srpska Lista* (European Union Election Observation Mission Kosovo 2019, *Final Report – Early Legislative Elections*, p. 32. Available at: [https://eeas.europa.eu/sites/eeas/files/eueomkosovo2019\\_finalreport\\_en\\_withcover.pdf](https://eeas.europa.eu/sites/eeas/files/eueomkosovo2019_finalreport_en_withcover.pdf) (accessed 15 May 2020).

<sup>123</sup> The Kosovo Bosniak community most frequently watches PRVA TV (26 per cent), Pink TV (25 per cent), RTS1 (24 per cent) and RTK (10 per cent). The Kosovo Gorani community most frequently watches RTS1 (26 per cent), Pink TV (16 per cent), RTK (16 per cent), KTV (11 per cent) and "other channels" (9 per cent) (data from the media audience measurement survey conducted in November 2019).



Egyptians tend to watch Kosovo-based TV.<sup>124</sup> The Kosovo Turk community predominately watches Turkey-based TV.<sup>125</sup>

## Community programming

RTK broadcasts special community programmes for the following non-majority communities: Kosovo Serbs, Kosovo Bosniaks, Kosovo Turks, Kosovo Roma, Kosovo Ashkali, Kosovo Egyptians and Kosovo Gorani.<sup>126</sup> The Serbian, Bosnian, Romani and Turkish language desk also broadcasts a daily 15-minute news cast. RTK, like all broadcasters in Kosovo, does not generate official viewer ratings. Therefore, there is no available information on how many people watch programmes intended for non-majority communities and on their impact. However, journalists working with the Romani language RTK programme reported in 2019 that the news is shared on social media and that they receive positive feedback from the community.

On 7 June 2019, during a public hearing on the draft Law on the Public Service Broadcaster of Kosovo, journalists working with the Serbian language RTK programme expressed concern that the draft Law does not determine a fixed percentage of the annual budget for programmes in non-majority languages and for non-majority communities and that this could jeopardize their existence. To date, the draft law has not been adopted. Journalists working on the non-majority programmes also reported difficult working conditions as compared to other RTK editorial offices.<sup>127</sup> Furthermore, journalists would prefer to broadcast more news produced by and for the communities.

## Media literacy

Education and training on media literacy, as supported by the OSCE in several activities, offer long-term strategies to overcome existing narratives within majority and non-majorities communities. This is especially pertinent given the lack of transparency regarding media ownership and the potential for disguised bias in reporting. Such education and training enable residents to critically assess news sources and potential hidden interests, and thereby gather more impartial information.

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<sup>124</sup> The Kosovo Roma community most frequently watches RTK (25 per cent), followed by KTV (17 per cent), RTV21 (16 per cent) and Rrokum TV (13 per cent). The Kosovo Egyptian community watches RTV21 (35 per cent), followed by Klan Kosova (20 per cent), RTK (20 per cent), KTV (11 per cent) and Alsat M (6 per cent). The Kosovo Ashkali community most frequently chooses RTV21 (29 per cent), RTK (14 per cent), KTV (16 per cent), Alsat M (7 per cent) and Klan Kosova (7 per cent) (Ibid.).

<sup>125</sup> Almost one third of Kosovo Turks watch “other Turkish channels” (28 per cent) before turning to RTK (17 per cent), followed by Turkey-based TV stations Kanal D (12 per cent) and TRT (9 per cent) (Ibid.).

<sup>126</sup> RTK reported in 2020 that its programme schedule is as follows: A 45 minute programme “Nedeljni Kolaž” in Serbian language on Monday from 15:15 to 16:00; a 45 minute programme “Mosaic” in Turkish language on Tuesday from 15:15 to 16:00; a 45 minute programme by Serbian journalist Budimir Ničić on Wednesday from the Serbian language media center; a 45 minutes programme “Yekiphe” in Romani language on Thursday; the “Mostovi” programme in Bosnian language on Friday; a programme for Ashkali and Egyptian communities on Saturday from 16:45 to 17:15; a 15 minute programme in Gorani language once a month. The “community programs” are broadcast on RTK1 and available via satellite. Neither the programme schedule nor the programme content is available online.

<sup>127</sup> For example, the air conditioning and a small printer are reportedly not maintained.

## Section Eight: Return and Property Rights of Displaced Persons

*Recommendations from the CoE Resolution:*

*“Develop a comprehensive legal framework for returnees, standardise processes and mechanisms, including the setting up of a central database, prioritise the resolution of property restitution cases, as well as improve co-ordination between institutions at central and local level and support the latter to assist in sustainable and safe returns;*

*Consult effectively the Consultative Council for Communities (CCC) on all issues of relevance to minority communities and ensure that municipal community-specific protection mechanisms fulfil effectively their role as enablers for all minorities to participate in decision making; enhance the recruitment of persons belonging to minority communities in the public administration; make efforts to ensure the acceptance of returnees by the majority community.”*

### Statistics

According to the United Nations High Commissioner for Refugees (UNHCR), as of December 2019, 28,302 displaced persons have returned to/within Kosovo since 2000.<sup>128</sup> The majority of returnees have been Kosovo Serbs.<sup>129</sup> The rate of return is decreasing in each successive year, representing a declining trend since the 4<sup>th</sup> edition of CRAR.<sup>130</sup> UNHCR estimates that 16,151 displaced persons are located within Kosovo, 412 of whom are living in 22 temporary collective shelters.<sup>131</sup>

### Institutional framework

The most notable development in the legal framework governing returns was the adoption of Regulation No. 01/2018 on the Return of Displaced Persons and Durable Solutions,<sup>132</sup> which came into force in January 2018. Replacing the previous policy framework, the Regulation has altered the mechanism for processing displaced persons' applications for return. Municipal Commissions on Returns (MCoRs) have been instated as the main recommending body at the municipal level. As of December 2019, 32 municipalities had established MCoRs.<sup>133</sup> The Central Review Commission maintains its role as the deciding body on the selection of beneficiaries. Regional co-ordinators have

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<sup>128</sup> UNHCR Office of Chief of Mission Kosovo, *Statistical Overview*, December 2019.

<sup>129</sup> Ibid.

<sup>130</sup> OSCE Mission in Kosovo, *Community Right Assessment Report, Fourth Edition* (supra note 6); UNHCR Office of Chief of Mission Kosovo, *Statistical Overview*, December 2019.

<sup>131</sup> Ibid.

<sup>132</sup> Regulation No. 01/2018 on the Return of Displaced Persons and Durable Solutions, 4 January 2018.

<sup>133</sup> Municipalities without an MCoR: Glogoc/Glogovac, Leposavić/Leposaviq, Mitrovica/Mitrovicë North, Zubin Potok, Zvečan/Zveçan and Junik.

been appointed to improve the line of communication between the Ministry for Communities and Returns (MCR) and Municipal Office for Communities and Returns (MOCR), but their role still needs to be consolidated. These changes aim to increase the oversight and accountability of the MCR. Although stipulated by the Regulation, the MCR has not yet implemented a case management system for displaced persons and voluntary returns.

On 25 May 2015, the MCR-led Inter-Ministerial Working Group on Returns (the Working Group) was established to solve return-related issues for displaced Kosovo Albanians in the Kroi i Vitakut/Brđani neighbourhood, Mitrovica/Mitrovicë North. The Working Group comprises the Minister for Communities and Returns, the Minister of Local Government Administration, the mayors of Mitrovica/Mitrovicë North and Mitrovicë/Mitrovica South, two representatives of Kosovo Albanian returnees, two representatives of Kosovo Serb residents of Kroi i Vitakut/Brđani, and representatives of the international community.<sup>134</sup> However, the Working Group only met once during the reporting period.

### Regional co-operation

Another significant advancement was the development of a regional initiative to find durable solutions for displaced persons from Kosovo, thereby achieving one of the objectives identified under the 2014-2018 MCR Strategy for Communities and Returns. The “Inter-institutional Initiative on Displaced Persons from Kosovo”, known as the Skopje Process, was initiated in November 2014. High-level representatives from Prishtinë/Priština, Belgrade, Skopje and Podgorica agreed to work on durable solutions at the regional level through a *joint communiqué*.<sup>135</sup> The delegations developed a joint action framework for five thematic areas: property rights; security, dialogue and reintegration; personal documentation; data management; solutions planning.

### Security of returnees

A high proportion of security incidents continue to occur at return sites.<sup>136</sup> According to OSCE monitoring, these crimes can range from petty theft to arson and assault. The most prevalent are burglaries of uninhabited Kosovo Serb homes.<sup>137</sup> Although many of these crimes may have a predominantly economic motive and are reported to the Kosovo Police (KP), a negative security perception has grown among returnees because many perpetrators have eluded justice. This, in combination with communities’ perceptions of crimes against returnees, has contributed to a negative perception of security for

<sup>134</sup> See Ministry for Communities and Return, *Annual Bulletin (January–December 2015)*, available at: [http://mzps.rks.org/bilten/bilten\\_en.pdf](http://mzps.rks.org/bilten/bilten_en.pdf) (accessed on 15 May 2020).

<sup>135</sup> *Joint Communiqué* from the High-Level Conference on Displacement from Kosovo, 27–28 November 2014, Skopje, available at <https://www.osce.org/kosovo/129376> (accessed on 15 May 2020).

<sup>136</sup> OSCE Mission in Kosovo, *An Assessment of the Voluntary Returns in Kosovo*, December 2019, available at: <https://www.osce.org/mission-in-kosovo/440726>, (accessed on 15 May 2020), pp. 24-25.

<sup>137</sup> *Ibid.*

returnees, hindering the returns process.<sup>138</sup> Indeed, OSCE monitoring has found that such incidents discourage potential returnees. At the municipal level, perceived security threats are not always publicly condemned by municipalities. When the cases are condemned, the message does not always reach the affected communities.

## Property rights of displaced persons

During the reporting period, certain progress was made regarding the protection of non-majority communities and displaced persons' property rights. On 18 January 2017, the government approved the Kosovo Strategy on Property Rights,<sup>139</sup> a key policy document on the matter. The Strategy contains a chapter on displaced persons' property rights, outlining institutions' obligation to comply with international human rights standards. It also lists major issues of concern pertaining to displaced persons' enjoyment of property rights and policy guidance to address them. Examples include illegal occupation, implementation of the Housing and Property Directorate compensation scheme,<sup>140</sup> expropriation, legalization of unpermitted construction, third party construction, fraudulent property transactions, property tax, land allocation for returns-related projects, informal settlements and social housing.

Positive developments deriving directly from the Strategy were noted in relation to addressing taxation of displaced persons' immovable properties. The Law on Immovable Property Tax was promulgated in October 2018,<sup>141</sup> stipulating that displaced persons are exempt from all property tax liability for the period that their property was illegally occupied.<sup>142</sup> Furthermore, on 23 July 2018, the Assembly adopted the Law on Treatment of Constructions without Permit.<sup>143</sup> The Law provides property rights safeguards for displaced persons on whose properties illegal construction occurred. Under the Law, a party that has constructed a building cannot legalize it unless they prove property rights over the land.<sup>144</sup>

A number of impediments to displaced persons' access to property rights and peaceful enjoyment of property remain. Although improvements have occurred in notifying parties in Kosovo affected by expropriation, notification of displaced persons remains a challenge. Furthermore, issues with ensuring adequate access to courts for the affected

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<sup>138</sup> Ibid.

<sup>139</sup> Ministry of Justice, *Kosovo Strategy on Property Rights*, October 2016, available at: [http://www.kryeministri-ks.net/repository/docs/SKDP\\_17\\_10\\_2016\\_ENG.pdf](http://www.kryeministri-ks.net/repository/docs/SKDP_17_10_2016_ENG.pdf) (accessed on 15 May 2020).

<sup>140</sup> Category "A" claims pertain to Kosovo Albanians whose employment was terminated under discriminatory legislation enacted by the former regime, thereby losing their rights to socially owned apartments. Typically, the apartment was then allocated to a Kosovo Serb who was subsequently displaced, category "C". Under the legislation governing the Housing and Property Directorate (HPD), claimant "A" could be restituted in the apartment and claimant "C" would receive compensation for the rights lost in the apartment. The KPCVA recently estimated that the cost of the compensation scheme would be €1.7 million. According to information provided by KPCVA management in May 2019, the Kosovo Government has so far allocated €1.2 million for the scheme.

<sup>141</sup> Law No. 06/L-005 on Immovable Property Tax, 15 February 2018.

<sup>142</sup> Based on a final decision issued by a public institution in Kosovo competent to review cases of illegal occupation.

<sup>143</sup> Law No. 06/L-024 on Treatment of Construction without Permit, 2 December 2014.

<sup>144</sup> Ibid. Article 10(2).

parties to challenge expropriation decisions still persist.<sup>145</sup> According to information available to OSCE, the resolution of property cases in Kosovo courts take between one and five years, delaying timely access to successful claimants' property rights.<sup>146</sup> In addition, the newly approved Law on Allocation for Use and Exchange of Immovable Property of the Municipality does not include returnees as a specific category that can benefit from municipal land allocation,<sup>147</sup> presenting a challenge to return. OSCE monitoring has noted that social housing schemes often favour certain groups of society, such as conflict veterans, to the detriment of those who are the most socially vulnerable, often from the Kosovo Roma community.

Furthermore, the Kosovo Property Comparison and Verification Agency (KPCVA),<sup>148</sup> a mass-claim mechanism established to resolve specific categories of conflict-related property claims, is not effectively fulfilling the following aspects of its mandate: eviction of illegal occupants from properties belonging to non-majority communities and displaced persons, demolition of illegal structures,<sup>149</sup> and the implementation of 143 issued compensation decisions.<sup>150</sup> Such issues present serious obstacles to affected parties' enjoyment of their property rights.

Amendments to the Law on the KPCVA to make multiple evictions in illegal occupation cases possible are yet to be approved, as are amendments to extend the KPCVA administration scheme for properties belonging to non-majority communities and displaced persons. Moreover, the responsibility KPCVA inherited from the Housing and Property Directorate to financially compensate parties who lost their right to property because of discriminatory practices in the 1990s is still not implemented and the Agency has not been demolishing illegal structures built on displaced persons' properties. Responsible Kosovo institutions are yet to tackle issues related to the enforcement of the Law on Financing Specific Housing Programs to provide adequate housing to vulnerable communities and women,<sup>151</sup> approve the Strategy on Informal Settlements to formalize these settlements and the property titles, and resolve cases of fraudulent property transactions. Courts remain generally inefficient when dealing with property-related cases. Finally, the KPCVA is not able to compare and verify property titles because the Government of Serbia has not yet handed over the cadastral records to the Kosovo institutions.<sup>152</sup>

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<sup>145</sup> On 26 February 2019, the Ministry of Environment and Spatial Planning initiated an amendment to the Law on Expropriation to address these concerns.

<sup>146</sup> Assessment based on selected property cases filed in the Kosovo courts involving non-majority communities and displaced persons that served for a "compilation of Kosovo courts on property cases" by the OSCE Mission in Kosovo in 2018.

<sup>147</sup> Law No. 06/L-092 on Allocation for Use and Exchange of Immovable Property of the Municipality, 4 April 2019.

<sup>148</sup> The Kosovo Property Agency ceased to exist with the establishment of KPCVA as an independent institution under the Law on the Kosovo Property Comparison and Verification Agency, adopted on 9 June 2016.

<sup>149</sup> According to information provided by KPCVA management in May 2019, the Kosovo Government has allocated 30,000 EUR for demolition and the KPCVA has engaged a demolition company. However, none of the 55 illegal constructions built on displaced persons' property have been demolished yet.

<sup>150</sup> The KPCVA has issued 93 decisions on compensation, out of the total 143 cases, that are pending implementation.

<sup>151</sup> Law No. 03/L-164 on Financing Specific Housing Programs, 25 February 2010.

<sup>152</sup> Brussels Agreement between Pristina and Belgrade on cadastral records, 21 October 2011.

## Section Nine: Education

Recommendations from the CoE Resolution:

*“Prioritise comprehensive and concrete efforts to promote interethnic dialogue and tolerance at central and local level in order to bridge divides between communities and promote reconciliation while taking into account that the Kosovo Albanian majority has a special responsibility in this regard; build intercommunity relationships through initiatives targeting in particular young people, integrating the education system and applying consistently the language legislation;*

*Adopt all necessary measures to ensure full, equal and adequate implementation of the Law on the Use of Languages; address central and local level capacity gaps in language knowledge, quality of official translation and provision of services in minority languages, including in the judicial system; create a favourable environment conducive to the learning of the official and minority languages.*

*Prioritise the development of an integrated curriculum in the Serbian language, of adequate first language education opportunities for members of numerically smaller communities, as well as of opportunities for learning official and other minority languages; develop quality teaching and learning materials in all minority languages free from stereotypes or other harmful representations, as well as modules supporting the preservation of the identity, language and culture of the communities in consultation with their representatives; enhance teacher training programmes to accommodate diversity in the classroom and promote intercultural dialogue, respect and understanding.”*

### Education in the Serbian language

As in previous reporting cycles, sustainable provision of education in the Serbian language in Kosovo remains unresolved. Kosovo-curriculum schools run by the Ministry of Education and Science (MES) provide education in the Albanian, Bosnian and Turkish languages. Education in the Serbian language in Kosovo is provided by Serbian Ministry of Education, Science and Technological Development (MESTD). Approximately 130 Serbian-language schools operate in 24 municipalities in Kosovo.<sup>153</sup>

Most municipalities somewhat support the Serbian-curriculum schools, by providing firewood, maintenance, utility cost payment, pupil transport and school staff salary payment.<sup>154</sup>

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<sup>153</sup> OSCE Mission in Kosovo, *Communities' Access to Pre-University Education in Kosovo*, December 2018, available at: <https://www.osce.org/mission-in-kosovo/406952?download=true> (accessed on 8 April 2020).

<sup>154</sup> Ibid.



The sustainable provision of education in the Serbian language in Kosovo has not been a subject of the European Union-facilitated Agreement on the Normalization of Relations between Prishtinë/Priština and Belgrade. The only exception is mutual diploma recognition.<sup>155</sup>

The latest (2016) technical agreement between Prishtinë/Priština and Belgrade on mutual recognition of diplomas has never been implemented.<sup>156</sup> Degrees issued by the Serbian-curriculum educational institutions in Kosovo post-1999 including the University of Mitrovica/Mitrovicë North (UMN) are not a subject of the reached agreement.

In 2015, Kosovo government issued the Regulation No. 21/2015 for verification of the post-2001 UMN-issued degrees for the purposes of job applications, taking professional licences and exams in public institutions.<sup>157</sup> The Regulation has eased access to employment in Kosovo for numerous UMN graduates from different communities.<sup>158</sup> The government has taken steps to expand the mandate of the Regulation to include all-level degrees issued by all other Serbian-curriculum educational institutions in Kosovo.

Despite the existing legal provisions enabling the Serbian-curriculum schools in Kosovo to use their MESTD-designed textbooks upon MES's review and approval,<sup>159</sup> there have been no cases of curriculum or textbook submission by any of those schools to MES for review. On the other hand, MES has not developed its own curriculum in Serbian language, even though it is an official language with equal status to Albanian. Pupils from different communities who wish to pursue education in Serbian can only do so in the Serbian-curriculum schools.

Fourteen "mixed" schools hosting both Kosovo and Serbian curricula under one roof operate in nine municipalities.<sup>160</sup> The two curricula either share one building, or two school buildings - each hosting one curriculum - share a schoolyard within one compound. Even in those schools, interaction between pupils and staff from the two curricula is generally limited. Initiatives to bring them together have only been taken by

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<sup>155</sup> See Office of the Prime Minister, *Conclusions on mutual diploma recognition based on the original agreements from 2011*, 19 January 2016 [http://www.kryeministri-ks.net/repository/docs/Conclusions\\_on\\_mutual\\_diploma\\_recognition\\_based\\_on\\_the\\_original\\_agreements\\_from\\_2011.pdf](http://www.kryeministri-ks.net/repository/docs/Conclusions_on_mutual_diploma_recognition_based_on_the_original_agreements_from_2011.pdf); Office of the Prime Minister, *Operational conclusion of the working group on Diplomas*, Brussels, 21 March 2016 [https://kryeministri-ks.net/wp-content/uploads/docs/Operational\\_conclusion\\_of\\_the\\_working\\_group\\_on\\_Diplomas\\_Brussels,21\\_March\\_2016.pdf](https://kryeministri-ks.net/wp-content/uploads/docs/Operational_conclusion_of_the_working_group_on_Diplomas_Brussels,21_March_2016.pdf).

<sup>156</sup> See Ministry for Dialogue progress report on the implementation of agreements (page 2), 7 July 2017 [https://kryeministri-ks.net/wp-content/uploads/docs/REPORT\\_-\\_Brussels\\_Agreements\\_Pending\\_Implementation\\_060717.pdf](https://kryeministri-ks.net/wp-content/uploads/docs/REPORT_-_Brussels_Agreements_Pending_Implementation_060717.pdf).

<sup>157</sup> Regulation (GoK) No. 21/2015, "On procedures and criteria for the issuance of certificates to citizens of Kosovo who have obtained degrees from the University of Mitrovica/Mitrovicë North, for the purpose of applications for jobs, obtaining professional licences and taking professional examinations with public institutions." [http://www.kryeministri-ks.net/repository/docs/RREGULLORE\\_\(QRK\)\\_NR\\_212015\\_PER\\_PROCEDURAT\\_DHE\\_KRITERET\\_PER\\_LESHIMIN\\_E\\_CERTIFIKATAVE\\_SHTETASVE\\_TE\\_REPUBLIKES\\_SE\\_KOSOVES\\_TE\\_CILET\\_KANE\\_MARR.pdf](http://www.kryeministri-ks.net/repository/docs/RREGULLORE_(QRK)_NR_212015_PER_PROCEDURAT_DHE_KRITERET_PER_LESHIMIN_E_CERTIFIKATAVE_SHTETASVE_TE_REPUBLIKES_SE_KOSOVES_TE_CILET_KANE_MARR.pdf).

<sup>158</sup> As of 15 July 2020, the situation is as follows: 1,732 total applications received by the commission; 1,678 applications accepted and certified by the commission; 41 applications are pending/under review of the commission; 40 negative decisions issued by the commission; 10 incomplete applications received by the commission.

<sup>159</sup> See Article 12.2 of the Law no. 03/L-068 on Education in the Municipalities, 21 May 2008 and Article 8.5, LPPRC (supra note 52).

<sup>160</sup> Supra note 153.

non-institutional actors such as civil society and international organizations. Such initiatives are confined to merely extracurricular activities.

### **Teaching of official languages**

The Albanian language is not taught in the Serbian-curriculum schools. Similarly, Serbian is not offered to pupils as an official language subject by the Kosovo-curriculum schools. Various international organizations have organized and funded extracurricular Albanian and Serbian language courses for pupils and teachers from the two separate curricula in some schools and municipalities.

### **Content of teaching materials**

In 2017, a report<sup>161</sup> published by the NGO “Youth Initiative for Human Rights” (YIHR) found that the Kosovo-curriculum textbooks for upper-secondary level contained discriminatory language about ethnicity, gender and marginalized groups. According to the report, the analysed textbooks perpetuated stereotypes and used derogatory terms to describe different ethnic and religious communities, gender roles (e.g. how increased employment of women has negative consequences for family), mental illnesses, etc.

### **Education in community languages**

Education in Bosnian and Turkish as community languages in Kosovo has generally been available.<sup>162</sup> However, the availability of textbooks in the two languages remains an issue. The translation of textbooks in Bosnian and Turkish has not been completed for all levels and grades of pre-university education since the rollout of the current curriculum framework in 2011.

Pupils who receive education in either of the two languages lack a number of textbooks, some of which are imported from Bosnia and Herzegovina and Turkey, respectively, and are not adapted to the context. Albanian is provided as an official language subject to pupils instructed in Bosnian or Turkish. MES has still not developed textbooks for learning Albanian for pupils whose first language is not Albanian.

With the exception of language, history, arts and culture subjects in the Bosnian and Turkish languages, no other community-specific subjects have been developed for pupils from numerically smaller communities to learn about their cultures and preserve their identities. Communities’ representatives have not made any requests to MES for the development of such subjects. Extracurricular Romani language classes are organized in

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<sup>161</sup> Youth Initiative for Human Rights Kosovo (YIHR KS), *Discriminatory Languages in School Textbooks, An Analysis of Upper Secondary Level School Textbooks in Kosovo*, November 2017, available at: <https://advocacy-center.org/wp-content/uploads/2018/09/Discriminatory-language-in-school-textbooks.pdf> (accessed on 8 April 2020).

<sup>162</sup> See supra note 153.

Prizren. *(Please see the section on Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities for more details.)*

Teacher-training study programmes in Bosnian and Turkish have continued to face difficulties regarding their sustainability. In 2016, the only such programmes were discredited due to the lack of sufficient teaching staff with PhD degrees at the host University of Prizren. A temporary measure was subsequently introduced by MES and Kosovo Accreditation Agency to enable running of study programmes taught in community languages, including teacher-training, in parallel with programmes taught in the Albanian language for the duration of five years.<sup>163</sup> In 2019, the University of Prizren lost its accreditation both at the level of study programmes and as an institution. This development has brought into question the overall sustainability of higher education in community languages in Kosovo. The government is required by law to provide teacher-training study programmes in community languages.<sup>164</sup>

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<sup>163</sup> See Article 26.5.3.10 of MES AI No. 15/2018 on Accreditation of Higher Education Institutions in Kosovo.

<sup>164</sup> See Article 8.8, LPPRC (supra note 52).

## Section Ten: Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian Communities

*Recommendation from the CoE Resolution:*

*“Implement the Strategy and Action Plan for Inclusion of Roma and Ashkali communities in the Kosovo Society 2017-2021 to improve access to education, including from a gender equality perspective, through the institutionalisation of learning centres and mediators and find without delay alternative ways for persons belonging to the Egyptian community to benefit from similar measures to those provided for in the strategy; immediately discontinue any form of segregation in schools; promote effective access of persons belonging to these communities to employment and social services.”*

### Strategy and Action Plan

Following the expiration of the previous government inclusion strategy in 2015, a lengthy and complicated drafting process delayed the adoption of a new strategic document. The drafting process was spearheaded by the Office of Good Governance (OGG) within the Office of the Prime Minister with the support of an EU-funded project “Kosovo Education and Employment Network” (KEEN), implemented by the non-governmental organization “Kosovo Education Centre”. The process itself was inclusive, with broad participation of government institutions, civil society organizations,<sup>165</sup> and international stakeholders. The draft document, however, required extensive reworking before a viable version was produced. Discussions over the inclusion of the Kosovo Egyptian community within the scope of the new Strategy further delayed its approval. On 8 April 2017, the Kosovo Government finally approved and adopted the “Strategy for Inclusion of Roma and Ashkali Communities in the Kosovo Society 2017 – 2021” (the Strategy).<sup>166</sup>

Of note, upon the community’s political leaders’ request, the Kosovo Egyptian community was not included within the 2017–2021 Strategy. As of December 2019, the Kosovo Government had not prepared a separate strategic document for the community.

The Strategy is a comprehensive document targeting four key sectors: education, employment and social welfare, health and housing. Three additional cross-cutting issues are identified: gender equality, security and civil registration. Strategic objectives are set

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<sup>165</sup> Several leading NGOs active in the field of Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities’ inclusion created an informal “Platform” and played an integral role in the drafting process: Voice of Roma, Ashkali and Egyptians; Balkan Sunflowers; Kosovo Agency for Advocacy and Development; Roma and Ashkali Documentation Centre; The Ideas Partnership; European Centre for Minority Issues Kosovo; Health for All. One notable omission was the Network of Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian Women’s Organizations (RROGRAEK), whose involvement would have enhanced the gender dimension of the Strategy.

<sup>166</sup> Office of Good Governance, *Strategy for Inclusion of Roma and Ashkali Communities in the Kosovo Society 2017 – 2021*, available at: [http://kryeministri-ks.net/wp-content/uploads/docs/ANG-STRATEGJIA\\_P%C3%8BR\\_P%C3%8BRFSHIRIEN\\_E\\_KOMUNITETEVE\\_ROM\\_DHE\\_ASHKALI\\_N%C3%8B\\_SHOO%C3%8BRIN\\_%C3%8B\\_KOSOVARE\\_2017-2021.pdf](http://kryeministri-ks.net/wp-content/uploads/docs/ANG-STRATEGJIA_P%C3%8BR_P%C3%8BRFSHIRIEN_E_KOMUNITETEVE_ROM_DHE_ASHKALI_N%C3%8B_SHOO%C3%8BRIN_%C3%8B_KOSOVARE_2017-2021.pdf) (accessed on 15 May 2020).

for each key sector, with a list of expected results, activities foreseen to deliver the results, and viable indicators, targets and baselines. All activities are listed in a detailed action plan with multi-year steps, expected costs, expected sources of funding and the institutions responsible for co-ordination. For the first three years of its implementation (2017–2019), the Strategy foresees a total budget of 8,684,758 EUR. Student scholarships and social welfare payments represent the largest part of the allocated budget. Donor sources are anticipated for nearly two thirds (64.4 per cent) of the foreseen budget, while municipal budgets are expected to cover 2.3 per cent of the total.

The Strategy's detailed action plan allows for a relatively simple annual implementation review. The latest available review, covering 2018, was published in 2019.<sup>167</sup> It shows that, in 2018, the responsible institutions spent 5,049,311 EUR on implementing the Strategy. Social assistance payments from the Ministry of Labour and Social Welfare (MLSW) constituted nearly three quarters of the total spend (73.4 per cent).<sup>168</sup> However, data on the achievement of many indicators for 2018 was not available.<sup>169</sup>

## Municipal institutional mechanisms

The Strategy foresees the establishment of municipal-level bodies, called “municipal action committees” (MACs), to facilitate the implementation of strategy objectives. On 4 October 2017, the OGG, through the Ministry of Local Government Administration, communicated a request to mayors to establish MACs. Municipalities have been supportive of MAC establishment and, as of December 2019, 15 municipalities had established a MAC,<sup>170</sup> often with the support of OGG, KEEN, Voice of Roma, Ashkali and Egyptians (VoRAE) and OSCE. As of December 2019, 14 municipalities<sup>171</sup> had adopted Local Action Plans (LAPs) for the inclusion of Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities.<sup>172</sup> The LAPs provide tailored, localized plans to stimulate greater inclusion of members of the three communities.

<sup>167</sup> Office of Good Governance, *Second Report on the Implementation of the Strategy and Action Plan for Inclusion of Roma and Ashkali Communities in the Kosovo Society 2017 – 2021*, 2019, available at <https://zqm.rks-gov.net/assets/cms/uploads/files/ENG%20-%20Final%20Raporti%20p%20p%20C3%ABr%202018%20p%20p%20C3%ABr%20zbatimin%20e%20Strategjis%20dhe%20Planit%20t%20C3%AB%20ve....pdf> (accessed on 15 May 2020).

<sup>168</sup> The amount spent was 3,706,932.50 EUR.

<sup>169</sup> Office of Good Governance, *Report on the Implementation of Roma Integration Public Policy in Kosovo for 2018*, 2019, available at: <https://zqm.rks-gov.net/assets/cms/uploads/files/Monitoring%20Report%20on%20Policy%20Implementation%20for%20Roma%20C%20Ashkali%20and%20Egyptian%20Communities%20in%20Kosovo.pdf> (accessed on 15 May 2020).

<sup>170</sup> Fushë Kosovë/Kosovo Polje, Lipjan/Lipljan, Obiliq/Obilić, Prishtinë/Priština, Shtime/Štimlje, Ferizaj/Uroševac, Prizren, Rahovec/Orahovac, Suharekë/Suva Reka, Gjakovë/Đakovica, Istog/Istok, Klinë/Klina, Mitrovicë/Mitrovica South, Skenderaj/Srbica, Vushtrri/Vučitrn.

<sup>171</sup> Fushë Kosovë/Kosovo Polje, Gračanica/Gračanicë, Lipjan/Lipljan, Obiliq/Obilić, Prishtinë/Priština, Shtime/Štimlje, Ferizaj/Uroševac, Gjakovë/Đakovica, Istog/Istok, Klinë/Klina, Podujevë/Podujevo, Prizren, Rahovec/Orahovac, Vushtrri/Vučitrn.

<sup>172</sup> While the Kosovo Egyptian community is not included in the government Strategy, it is generally included within the scope of LAPs.

Furthermore, eight municipalities with large populations of members of the three communities<sup>173</sup> are currently included in the joint Council of Europe and European Commission project ROMACTED.<sup>174</sup> The project supports community-driven participation in decision-making processes at the municipal level and creates two bodies, a community action group and an institutional working group.

The robust institutional framework comprising MACs, LAPs and ROMACTED bodies has been instrumental in a number of municipal initiatives for the benefit of the three communities, most of which are infrastructural improvements.<sup>175</sup> In terms of non-infrastructural projects, Ferizaj/Uroševac municipality has taken a proactive approach to addressing school drop outs.

## Education issues

In the 2018/2019 school year, 261 Kosovo Ashkali, 161 Kosovo Roma and 160 Kosovo Egyptians were enrolled in upper secondary education. The Ministry of Education, Science and Technology (MEST) in partnership with VoRAE, Roma Education Fund, Swiss Agency for Development and Co-operation and Kosovo Foundation for Open Society offered 600 scholarships annually for secondary school students from the three communities. Over 50 students from the three communities are also enrolled at public universities.

There were significant delays in the adoption of guidelines for the implementation of MEST Administrative Instruction No. 19/2018 on Learning Centres. A large number of learning centres encountered financial difficulties or ceased operating altogether. This may have a sizeable negative impact as learning centres play a significant role in the educational attainment and preventing dropouts of members of Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities.

Romani language, culture and history classes have been offered in schools in Prizren since 2011. During the reporting period, MEST attempted to expand the classes to Ferizaj/Uroševac, Fushë Kosovë/Kosovo Polje, Gjakovë/Đakovica, Obiliq/Obilić and Pejë/Peć. However, following issues with the selection of schools and lack of funding, the classes either never started or only ran for a limited period.<sup>176</sup> As of December 2019, the classes were offered only in Kosovo curriculum schools in Prizren and in some Serbian curriculum schools in Gjilan/Gnjilane, Kamenicë/Kamenica and Mitrovicë/Mitrovica North.<sup>177</sup>

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<sup>173</sup> Gjakovë/Đakovica, Gračanica/Gračanice, Mitrovicë/Mitrovica South, Lipjan/Lipljan, Fushë Kosovë/Kosovo Polje, Ferizaj/Uroševac, Istog/Istok and Obiliq/Obilić.

<sup>174</sup> More information available at: <https://rm.coe.int/romacted-at-a-glance-kosovo-january-2020/16809991a9>.

<sup>175</sup> Examples include the construction of sewage systems in Sërbobrane/Srbobran village in Istog/Istok, Ali Ibra neighbourhood in Gjakovë/Đakovica and Kristali neighbourhood in Pejë/Peć, installation of street lights in Medvec/Medvece village in Lipjan/Lipljan and paving the road in 2 Korriku/Sitničko naselje neighbourhood in Mitrovicë/Mitrovica South.

<sup>176</sup> See supra note 153, p. 16.

<sup>177</sup> Long-term OSCE field teams' monitoring.

## Public representation

Members of the three communities are represented in decision making. Following the early Assembly of Kosovo elections in October 2019, one Kosovo Roma, one Kosovo Ashkali and two Kosovo Egyptians became members of the Assembly.<sup>178</sup> As of December 2019, three municipalities had Kosovo Ashkali deputy mayors for communities.<sup>179</sup> Representation of the three communities in the civil service also remains a challenge. Furthermore, few members of the three communities are KP officers. Out of a total of 7,959 police officers, 0.23 per cent are Kosovo Ashkali, 0.19 per cent are Kosovo Roma and 0.10 per cent are Kosovo Egyptian.<sup>180</sup> Only one judge in the Kosovo justice system is from one of the three communities (a Kosovo Roma).

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<sup>178</sup> Albert Kinolli for the Kosovo Roma community, Etem Arifi for the Kosovo Ashkali community, Veton Berisha and Elbert Krasniqi for the Kosovo Egyptian community.

<sup>179</sup> Ferizaj/Uroševac: Florim Bajrami; Fushë Kosovë/Kosovo Polje: Qerim Gara; Lipjan/Lipljan: Lulzim Qerimi.

<sup>180</sup> Eighteen Kosovo Ashkali police officers; 15 Kosovo Roma police officers and eight Kosovo Egyptian police officers.



## Section Eleven: Socio-economic integration

Recommendation from the CoE Resolution:

*“Prioritise targeted employment programmes and activities to promote the economic integration of women and men from non-Albanian communities, paying particular attention to the needs of the Roma, Ashkali and Egyptian communities.”*

### Employment statistics

Unemployment in Kosovo has remained one of the major challenges throughout the years. In 2018, unemployment rate was 29.6 per cent, while long-term unemployment and youth unemployment was higher, 58.4 per cent and 55.4 per cent respectively.<sup>181</sup> High unemployment impacts all levels of the population; however, it disproportionately affects non-majority communities and exacerbates their often difficult social-economic situation, especially with regards to Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities.

According to UNDP, European Commission and World Bank 2017 data,<sup>182</sup> 49 per cent of Kosovo Roma, Kosovo Ashkali and Kosovo Egyptians between the age of 15 and 64 were unemployed, as opposed to 32 per cent of members of other communities at the time. However, the European Commission’s Kosovo 2019 Report estimated the unemployment rates at above 90 per cent in Kosovo Roma and Kosovo Ashkali communities and asserts that members of these communities usually work in the informal sector, holding insecure, low-skill and low-status jobs,<sup>183</sup> such as seasonal construction or agricultural work, woodcutting, and collection of scrap metals and recyclable materials.<sup>184</sup> Securing a job in the private sector remains a challenge, while only a few are engaged in the public sector. Interestingly, the unemployment rate among women from the three communities is practically equal to the unemployment rate among women from other communities.<sup>185</sup> However, men from the three communities are nearly twice as likely to be unemployed than their counterparts from other communities.<sup>186</sup> Furthermore, 78 per cent of young people aged 18–24 from the three communities (88 per cent of young women and 70 per cent of young men) are classified as not in education, employment or training, compared to 47 per cent of members of other communities.

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<sup>181</sup> Kosovo Agency of Statistics, Statistical yearbook of Kosovo 2019, available at: [https://ask.rks.gov.net/media/5082/vjetari-2019\\_ang-final.pdf](https://ask.rks.gov.net/media/5082/vjetari-2019_ang-final.pdf) (accessed on 15 May 2020).

<sup>182</sup> UNDP, European Commission and World Bank, *Roma at a Glance*, April 2018, available at: [https://www.undp.org/content/dam/kosovo/docs/factsheets/Factsheet\\_KOSOVO\\_V05\\_print.pdf](https://www.undp.org/content/dam/kosovo/docs/factsheets/Factsheet_KOSOVO_V05_print.pdf) (accessed 15 May 2020).

<sup>183</sup> See supra note 112.

<sup>184</sup> OSCE Mission in Kosovo, *Overview of Roma, Ashkali and Egyptian Communities in Kosovo*, January 2020, available at: <https://www.osce.org/mission-in-kosovo/443587> (accessed on 15 May 2020).

<sup>185</sup> 53 per cent and 52 per cent respectively.

<sup>186</sup> 48 per cent and 27 per cent respectively.

In 2018, 95,890 persons from all communities were registered as unemployed, with Kosovo Albanians constituting the largest share (83.6 per cent), followed by Kosovo Serbs (7.7 per cent); while Kosovo Roma (1.8 per cent), Kosovo Ashkali (2.8 per cent) and Kosovo Egyptian communities (0.9 per cent) represented a small share of the total number of registered unemployed.<sup>187</sup> Put into perspective, however, these figures indicate that 20 per cent of the total Kosovo Roma population, 17 per cent of the total Kosovo Ashkali and 7 per cent of the total Kosovo Egyptian population (based on the 2011 census) were registered unemployed; in contrast, 5 per cent of the total Kosovo Albanian population were registered unemployed. When only working age (15– 64) individuals are considered, the figures rise to 34 per cent for Kosovo Roma, 30 per cent for Kosovo Ashkali and 12 per cent for Kosovo Egyptians, while the figure for Kosovo Albanians is 8 per cent. For the Kosovo Bosniak community, the figures are 6 and 9 per cent, respectively, and for the Kosovo Turk community 3 and 4 per cent.<sup>188</sup> Based on data provided by Employment Offices from 16 municipalities,<sup>189</sup> overall 3,191 Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian persons were registered as active job seekers by the end of 2018; where available, ethnicity breakdown was the following – 1,409 Kosovo Ashkali; 1,269 Kosovo Roma; and 248 Kosovo Egyptian.<sup>190</sup>

Lack of information on employment offices and vocational training centres, coupled with ineffective public information campaigns, jeopardise Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities' access to the job market.<sup>191</sup> Although Active Labour Market Measures (ALMM) aim to foster employment, participation of the three communities in ALMM remained very low in 2018, with only 99 beneficiaries in total. Out of the 3,764 regular employment mediations carried out, in 91.1 per cent of cases Kosovo Albanian community members were the beneficiaries, while members of each non-majority community constituted less than two per cent of the overall number of beneficiaries.<sup>192</sup> Overall, 5,497 persons undertook vocational trainings, Kosovo Albanians constituting 95.8 per cent of those, while the participation of members of non-majority communities was extremely low.<sup>193</sup>

## Social welfare

With the high unemployment rate, many Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian households depend on social assistance provided by the MLSW. In March 2019,

<sup>187</sup> Ministry of Labour and Social Welfare of Kosovo, Labour and Employment in Kosovo, *Annual report 2018*, p. 19.

<sup>188</sup> Similar analysis could not be performed for other communities as the 2011 census does not include the Kosovo Montenegrins and Kosovo Croats as separate communities, while the MLSW Annual Report does not mention the Kosovo Gorani. Furthermore, the 2011 census does not have reliable data for the Kosovo Serb community.

<sup>189</sup> Deçan/Deçane; Ferizaj/Uroševac; Fushë Kosovë/Kosovo Polje; Gračanica/Graçanicë; Istog/Istok; Kamericë/Kamenica; Klinë/Klina; Mamusa/Mamushë/Mamusa; Novo Brdo/Novobërdë; Mitrovicë/Mitrovica; Obiliq/Obilić; Podujevë/Podujevo; Shtime/Štimlje; Rahovec/Orahovac; Prizren; Vushtrri/Vučitrn.

<sup>190</sup> See supra note 184.

<sup>191</sup> *Implementation of the Strategy for inclusion of Roma and Ashkali Communities in Kosovo Society in 2017, Evaluation report*, available at: [https://www.keen-ks.net/site/assets/files/1405/raporti\\_i\\_monitorimit\\_per\\_komunitete\\_eng.pdf](https://www.keen-ks.net/site/assets/files/1405/raporti_i_monitorimit_per_komunitete_eng.pdf), (accessed on 15 May 2020), p. 46.

<sup>192</sup> See supra note 187, p. 34.

<sup>193</sup> *Ibid*, p. 41.

205 Kosovo Roma households,<sup>194</sup> 833 Kosovo Ashkali households,<sup>195</sup> and 430 Kosovo Egyptian households<sup>196</sup> were receiving social assistance. Social assistance payments in Kosovo range from 60 EUR per month for a single person household to 180 EUR per month for a 15-person household.<sup>197</sup> Larger households thus receive less financial assistance per member, which has a negative impact on Kosovo Roma households in particular. In 2019, the MLSW initiated a reform of the social assistance legislation,<sup>198</sup> which should, once approved, make social assistance payments more equitable.

## Employment programmes

Non-governmental organizations, launched several successful initiatives for the advancement of the socio-economic situation of Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities in particular. NGO “The Ideas Partnership” established a social enterprise “Sa-pune” to support Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian families in generating income. In total, 18 women (five Kosovo Ashkali, four Kosovo Roma and nine Kosovo Egyptian) were trained and afterwards employed in three operating centers<sup>199</sup>, to produce organic soaps, lavender bags and filigree cards, as well as sewing environmental friendly products and bags.<sup>200</sup> Through the work of the NGO “Voice of Roma, Ashkali and Egyptians (VoRAE)” 194 job placements have been mediated with public and private institutions, 234 young individuals have completed professional training, and 73 families have profited from a micro-credit and small grants system, which has allowed them to develop their own small businesses.<sup>201</sup> Several NGOs have also created internship programmes enabling young people from non-majority communities to obtain professional work experience. NGO VoRAE runs internship programmes for young Kosovo Roma, Kosovo Ashkali and Kosovo Egyptians within its “Equally Engage II” project,<sup>202</sup> while NGO “Center for Peace and Tolerance” has engaged Kosovo Serb and Kosovo Roma interns in its programme run in Kosovo Serb-majority municipalities. NGO “Roma Versitas” is launching a programme placing Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian university students and graduates in government institutions. In addition to internship programmes facilitated by civil society organizations, the Office for

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<sup>194</sup> Comprising 2,000 individuals, or on average 9.76 household members.

<sup>195</sup> Comprising 3,581 individuals, or on average 4.30 household members.

<sup>196</sup> Comprising 947 individuals, or on average 2.20 household members.

<sup>197</sup> Figures available in World Bank, *Kosovo Social Assistance Scheme Study*, 2019, available at: <http://documents.worldbank.org/curated/en/994991557470271998/pdf/Kosovo-Social-Assistance-Scheme-Study-Assessment-and-Reform-Options.pdf> (accessed on 15 May 2020), p. 23. The methodology for calculating the benefit amount is detailed in MLSW Administrative Instruction No. 15/2012 On the Calculation of Monthly Social Assistance Amount, available at: <https://mpms.rks-gov.net/en/wpdm-package/udhezimi-administrativ-nr-15-2012-pdf/> (accessed 15 May 2020).

<sup>198</sup> Press release available at: <https://mpms.rks-gov.net/en/ministri-recica-lanson-ne-konsultime-publike-koncept-dokumentin-per-skemen-e-ndihmes-sociale/> (accessed 15 May 2020).

<sup>199</sup> Fushë Kosovë/Kosovo Polje, Janjevë/Janjevo (Lipjan/Lipljan) and Sërbobranë/Srbobran (Istog/Istok).

<sup>200</sup> International Labour Organisation, *Promoting decent work opportunities for Roma, Ashkali and Egyptian Youth in Kosovo*, available at: [https://www.ilo.org/budapest/what-we-do/publications/WCMS\\_619034/lang--en/index.htm](https://www.ilo.org/budapest/what-we-do/publications/WCMS_619034/lang--en/index.htm) (accessed 15 May 2020), p. 78.

<sup>201</sup> NGO “Voice of Roma, Ashkali and Egyptians”, *Employment Program*, available at: <https://vora.org/programs/3> (accessed 7 April 2020).

<sup>202</sup> It has recently launched a 2020 Internship programme for young Kosovo Roma, Kosovo Ashkali and Kosovo Egyptians. The selection process is ongoing and as a result 52 individuals will be chosen.

Communities Affairs within the Office of the Prime Minister has traditionally organized an internship programme for members of non-majority communities.

At the municipal level, several municipalities<sup>203</sup> where members of Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities reside in significant numbers have adopted LAPs. Some LAPs contain activities aiming to enhance Kosovo Roma, Kosovo Ashkali and Kosovo Egyptians' presence in the labour market and to improve their socio-economic conditions. The activities range from information campaigns and job fairs to allocation of subsidies for business owners.<sup>204</sup> Despite some proactive steps, the number of initiatives is low and largely limited to informational activities, which do not ensure alleviation of unemployment. Some activities which are envisaged in the LAPs are carried out by civil society organizations or development partners,<sup>205</sup> which show the dependence on donor support. More concrete measures to implement LAPs should be taken; however, the lack of political will and insufficient financial and human resources<sup>206</sup> are restraining factors for some municipalities.

Positive actions and targeted programmes to address the unemployment of non-majority communities are hindered by the non-existence of ethnically disaggregated data in the government-level statistics. In the absence of targeted measures, the lack of qualification and skills remain unresolved, which coupled with other factors, hampers the access to job opportunities and amplifies socio-economic exclusion, particularly for members of Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities.

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<sup>203</sup> See supra note 171.

<sup>204</sup> Kosovo Education and Employment Network, *Situation of Roma, Ashkali and Egyptian Communities in the Municipalities of Kosovo – Monitoring report on the implementation of local action plans in the field of education and employment in six municipalities of Kosovo: Prizren, Gjakova, Ferizaj, Fushe Kosova, Gračanica and Lipjan*, available at: [http://keen-ks.net/site/assets/files/1475/raporti\\_i\\_monitorimit\\_per\\_komunitetet\\_eng.pdf](http://keen-ks.net/site/assets/files/1475/raporti_i_monitorimit_per_komunitetet_eng.pdf), (accessed 31 March 2020), pp. 30, 42, 85.

<sup>205</sup> Ibid p. 30.

<sup>206</sup> Ibid, pp. 30, 72 and 85.

## Conclusion

Within the reporting period (January 2016 – December 2019), Kosovo institutions have achieved some progress in promoting and protecting the rights of non-majority communities and their members in line with the FCNM obligations. Despite the progress in some areas, the recommendations from the Council of Europe Committee of Ministers Resolution on Kosovo from July 2019 remain valid. Particularly in light of unfolding and fluid political events, Kosovo institutions should ensure continued progress and increase their focus on advancing the rights of non-majority communities, a cornerstone in building a truly inclusive, peaceful and stable society.

Important positive developments in the four-year reporting period, included the integration of the judiciary, adoption of a legally binding Regulation on the Return of Displaced Persons, and adoption of several key policy documents in the area of cultural heritage. The effectiveness of the Ombudsperson's Institution has also improved, and the government has created a comprehensive institutional framework to facilitate full inclusion of the Kosovo Roma and Kosovo Ashkali communities and their members in the society.

In other areas, however, the situation has not changed significantly since the publication of the previous edition of CRAR in December 2015. Issues persist concerning the full implementation of the legislation on the use of languages. Education in the Serbian language remains unavailable within the Kosovo institutional framework, and access to higher education in Bosnian and Turkish languages remains a challenge. Institutional mechanisms mandated with the protection and promotion of communities' rights remain underused, despite slight improvements in their performance. Fewer displaced persons return to Kosovo each year despite institutional advances. Domestically produced media content for non-majority communities continues to be scarce. Unemployment rates among members of most non-majority communities, particularly Kosovo Roma, Kosovo Ashkali and Kosovo Egyptians, remain disproportionately high, although some communities, such as Kosovo Turks, show very low unemployment rates. Crucially, security incidents affecting members of non-majority communities continue to occur and inter-ethnic tensions persist. Efforts to establish truth and reconciliation mechanisms are yet to yield any tangible results. Co-ordination of strategic planning in the area of non-majority communities' rights remains a challenge, and the Kosovo Croat and Kosovo Montenegrin communities still do not have guaranteed seats in the Assembly.



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