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Strengthening the Institutional System for Communities in Post-Independence Kosovo

Report

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European Centre for Minority Issues – Kosovo
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ABOUT ECMI Kosovo

The European Centre for Minority Issues – Kosovo (ECMI Kosovo) is both a non-governmental organisation registered and located in Kosovo, and a branch office of the European Centre for Minority Issues (ECMI).

ECMI was created in 1996 by the Governments of the Kingdom of Denmark, the Federal Republic of Germany, and the German State of Schleswig-Holstein. It was established in Flensburg, at the heart of the Danish-German border region, in order to draw from the encouraging example of peaceful coexistence between minorities and majorities achieved there.

ECMI Kosovo is a project-based organisation. It has a local office in Prishtinë/Priština which has been operating since 2000. ECMI Kosovo advances majority-minority relations in Kosovo through the protection and promotion of minorities and their interests. It supports the peaceful transition period in Kosovo in areas of human and minority rights protection, contributes to the strengthening of relevant legislation and best practices in governance, and enhances the capacity of civil society actors and Government to engage with each other in a sustainable and constructive way.

The following comments are provided in the context of ECMI Kosovo's cooperation with the Government of Kosovo. The comments aim at providing technical and expert support to the Kosovo institutions to enhance and build their competencies in relation to human and minority rights, and ensure the long-term commitment and capacities of the Government in addressing the concerns of the minority communities within the Kosovo institutions.

The comments made represent the expert opinion of the author alone, and do not constitute an official ECMI position. They are based on the *Constitution of the Republic of Kosovo*, legislation and regulations, as well as work plans and activity reports of the relevant institutional structures.

European Centre for Minority Issues – Kosovo (ECMI Kosovo)
Adrian Zeqiri, Director

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LIST OF ABBREVIATIONS AND TERMS

Ahtisaari Proposal	Comprehensive Proposal for Kosovo Status Settlement (dated 26 March 2007)
AOCA	Advisory Office on Community Affairs
AOGG	Advisory Office on Good Governance, Human Rights, Equal Opportunities and Gender
CCC	Consultative Council for Communities
Constitutional Framework	Constitutional Framework for Provisional Self-Government
CRIC	Committee on the Rights and Interests of Communities
ECMI	European Centre for Minority Issues
Framework Convention	Framework Convention for the Protection of National Minorities, Council of Europe
HRC	Human Rights Coordinator
HRSAP	Kosovo National Human Rights Strategy and Action Plan: 2009-2010
HRU	Human Rights Unit
MCR	Ministry for Communities and Returns
MEST	Ministry of Education, Science and Technology
MLSW	Ministry of Labour and Social Welfare
MPS	Ministry of Public Services
Law on Communities	Law on the Protection and Promotion of the Rights of Communities and their Members in Kosovo
NDT	Ombudsperson's Non-Discrimination Team
OCA	Prime Minister's Office of Community Affairs
OCRM	Office of Communities, Returns and Minority Affairs
OP	Office of the President
OPM	Office of the Prime Minister
OSCE	Organisation for Security and Cooperation in Europe
PISG	Provisional Institutions of Self-Government
RAE	Roma, Ashkali, Egyptian Communities
UNDP	United Nations Development Programme
UNMIK	United Nations Interim Administration Mission in Kosovo

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The European Centre for Minority Issues – Kosovo (ECMI Kosovo) would like to thank Switzerland’s Federal Department of Foreign Affairs for providing the funding that enabled us to conduct research on the institutional structures available for communities in Kosovo. We would also like to acknowledge their support in the legislative drafting process of the provisions related to the protection of communities in the *Constitution* and other legislation. The Swiss Government also supported the Office of the Prime Minister (OPM) in initiating implementation of the commitments contained in the *Comprehensive Proposal for Kosovo Status Settlement (Ahtisaari Proposal)*.

In addition, ECMI Kosovo would like to thank the Advisory Office on Good Governance, Human Rights, Equal Opportunities and Gender (AOGG), the Prime Minister’s Office for Community Affairs (OCA), the Ombudsperson and Mr. Fernando Mora, Prime Minister’s Advisor, for their enlightened comments and suggestions on the content and recommendations provided in this report.

AIMS OF THE REPORT

As the Kosovo Government assumes full executive power post-independence, ensuring its ability to effectively protect and promote the rights and interests of communities is a key concern for Kosovo's long-term stability. In order to achieve this goal, a functional institutional system addressing the rights and interests of communities is necessary.

While several central-level institutions were already established under the Provisional Institutions of Self-Government (PISG), the overall institutional system for communities is currently undergoing a significant transition as new institutions are becoming operational. These institutions aim to specifically address communities' concerns, fill gaps in the existing structures and put in place a comprehensive system for community rights protection and promotion. However, with the inclusion of new structures comes the additional risk of overlaps in mandates and competencies, which can lead to duplications of efforts and may undermine the efficiency of the system.

The objective of this report is to survey and assess central-level structures for Kosovo's communities, including all existing and developing institutions. It will analyse how the system has functioned and how it is projected to function. A second objective of this report is to identify any potential overlaps within the developing institutional system and offer recommendations to ensure that there is synergy among all relevant institutions. The report aims to ensure that there is synergy among all relevant institutions to build a comprehensive and fully functional institutional system.

In particular, the report aims to:

- Assess the existing structures of institutions involved with communities and human rights. This will include an assessment of their mandates, capacities and activities.
- Evaluate the mandates and planned capacities of developing institutions involved with human and community rights.
- Identify potential overlaps between the mandates and activities of key institutions dealing with communities.
- Highlight areas of potential synergy between institutions in addressing the needs of communities.
- Make recommendations to ensure that a comprehensive and effective institutional structure is in place for community rights protection and promotion in post-status Kosovo.

The recommendations outlined in this report are intended to guide the introduction of new institutions into the current institutional system. The current suggestions provide guidelines on the distribution of competencies to high-level officials in these institutions and aim to ensure synergy within the institutional system for communities.

In an attempt to assess the institutions in programmatic and concrete terms, the report attempts to go beyond the written mandate of any institution. As such, the report is based on an analysis of documents, including legislation that impact community rights, instruments that establish ministries and the mandates of governmental authorities. The report does not include evaluations of municipal level institutions.

EXECUTIVE SUMMARY

ECMI has conducted a review of the mandates and activities of existing central level institutions that deal with the protection of community rights. The review assesses the new institutions currently being developed to protect community rights. The review shows that within the existing institutions developed under the PISG, the Government's approach to communities has been *ad hoc* and fragmented, with the protection of community rights largely subsumed within the broader human rights agenda or limited to return. As a result, institutions with responsibilities for protecting community rights have failed to fully meet the needs of Kosovo communities.

With Kosovo's independence, these inadequacies are supposed to be addressed in the creation of two new institutions specifically mandated with the protection of community rights; the Consultative Council for Communities (CCC) and the OCA. ECMI has assessed the introduction of these bodies into the current institutional system and finds that, when fully functional, they will make the overall Government approach to communities more comprehensive and effective. At the same time, by adding institutions into the existing framework, there is an increased potential for overlaps between mandates and activities which may undermine the effectiveness of the system overall. Such overlaps should be addressed to ensure positive synergy in the protection of communities.

In order to allow the developing institutions to fulfil their purposes and to endow Kosovo's communities with a comprehensive and conducive governmental system for the protection and promotion of their rights, ECMI recommends that the mandates of government institutions dealing with communities are reviewed as follows:

- The OCA takes over the responsibility for the development, coordination and monitoring of the implementation, of legislation and policies related to communities from the Ministry for Communities and Returns (MCR) and the AOGG.
- The responsibility of the AOGG regarding community rights is removed from its mandate.
- The MCR develops and manages programmes and projects for communities, beyond the issue of returns. The OCA complements the MCR's activities in developing small-scale targeted projects.
- The OCA, in collaboration with the Human Rights Coordinator (HRC), manages the activities of the Human Rights Units' (HRUs) community specialists with regard to the implementation of international and national legislation pertaining to communities, allowing the OCA to dispose of a focal point in each relevant ministry.
- The OCA, the CCC and the MCR form a Steering Group to coordinate the allocation of funding of Community-related projects.
- The OCA acts as the primary distributor of public information for communities, in coordination with the MCR and the HRUs' community specialists.
- The CCC builds cooperation with all relevant institutions, especially the OCA, to ensure communities concerns are reflected throughout the Government approach.

ECMI recommends the signing of Memorandums of Understanding between the OCA and the MCR and the AOGG respectively, in order to clearly separate the responsibilities of each institution with regards to communities.

In addition, ECMI recommends the Prime Minister to pass an Administrative Instruction to allow the OCA to coordinate the activities of the HRUs' community specialists with regards to the implementation of international and national legislation, as well as governmental policies pertaining to communities.

Once the mandates are clarified to remove areas of overlap between different institutions, ECMI recommends that efforts be concentrated towards making the new institutions, the OCA and the CCC, fully operational. The OCA should develop an action plan setting up clear and measurable steps it needs to undertake to fulfil its mandate. Regarding the CCC, the focus must be on capacity building to ensure that all community representatives can articulate the views of their communities and that Government representatives, in particular of the MCR, are then able to integrate these views into the work of their respective institution.

ECMI also recommends that the OCA, take the lead in developing a comprehensive strategy for the implementation of all community-related legislation. The OCA should not neglect the fact that the CCC and the OCA must be operational and that their mandates be clarified before undertaking the drafting of this strategy.

In addition, the report has identified areas for improvement within existing institutions to maximise their impact in protecting communities. ECMI accordingly recommends the following measures:

- A comprehensive review on the establishment and operations of all HRUs, in coordination with the HRC, which should be used to redesign their mandates and structures within the ministries.
- An information campaign conducted for communities to raise awareness of the Ombudsperson.
- The MRC develops an annual plan for communities to expand its work beyond returns.

ECMI finds that these measures will improve the effectiveness of each institution by clarifying their specific roles within the institutional approach to communities. By taking such measures, the Government will build synergy throughout the institutional system for the benefit of minority communities' members and Kosovo society as a whole.

I. Background on Communities in Kosovo

1.1 ‘Communities’ in Kosovo

The term ‘community’ operates on two levels in Kosovo. On the one hand, it has the standard meaning of a group of people that shares a distinct awareness of common characteristics, such as ethnicity, language or religion. Within this meaning, ‘communities’ would refer to all ethnic groups in Kosovo, regardless of whether they are in the numerical majority or minority. On the other hand, the term ‘community’ is also specifically used in reference to Kosovo’s minorities – ethnically non-Albanian communities including Serbs, Turks, Bosniaks, Gorani, and Roma, Ashkali, Egyptians (RAE).

Both meanings of the term often operate in the same document. For example, while the United Nations Interim Administration Mission in Kosovo (UNMIK) *Standards for Kosovo* uses the first broader meaning of ‘communities’ throughout the document, the meaning of ‘communities’ in Standard IV *Sustainable Returns and the Rights of Communities and their Members* is interpreted in practice as dealing with the protection of minorities.¹ Similarly, in the *Abtisaari Proposal*, ‘communities’ is used throughout to mean all ethnic groups. The term ‘communities’ is specifically defined in Annex II as “inhabitants belonging to the same national, ethnic, linguistic or religious group traditionally present on the territory of Kosovo”.² This definition appears to be the broader definition, which would mean that the rights outlined in Annex II could be exercised by the majority, as well as minority, ethnic groups. However, Annex II is intended to grant additional rights and protections to ‘communities and their members’ that go beyond the basic human rights and fundamental freedoms provided throughout the document. This provides an additional layer of protection to communities and their members, thus suggesting that ‘communities’ are distinct from the majority population and require special protections due to particular vulnerabilities. The structure of the *Abtisaari Proposal*, with the additional Annex for ‘communities and their members’ therefore suggests that the narrower meaning of communities applies – that is, ‘communities’ means ‘minorities’ requiring specific protection. Furthermore, in the context of settlement discussions and the historical tensions between majority and minority ethnic groups in Kosovo, it is clear that the intended interpretation of the word ‘communities’ would be ‘minorities’ in the context of Annex II. Furthermore, the *Constitution of the Republic of Kosovo* adopts the same formulation as the *Abtisaari Proposal*, including a chapter on the *Rights of Communities and their Members* that is understood to provide additional rights to minority communities.

In Kosovo, the practice of using the term ‘communities’ instead of ‘minorities’ is commonly understood. For example, the MCR is mandated to promote and protect the rights of communities and their members, including the right of return.³ While the term ‘communities’ is not defined anywhere in the regulation establishing the MCR itself, the work of the MCR is based largely on the

¹ *Standards for Kosovo*, UNMIK/PISG, January 2004, Prishtinë/Priština.

http://www.unmikonline.org/standards/docs/leaflet_stand_eng.pdf

² *Comprehensive Proposal for the Kosovo Status Settlement*, UN Security Council Document S/2007/168/Add.1, UN Security Council, March 2007. (Annex II, Article 1) http://www.unosek.org/docref/Comprehensive_proposal-english.pdf

³ *UNMIK Regulation 2005/15*, UNMIK, March 2005, Prishtinë/Priština.

http://www.unmikonline.org/regulations/2005/RE2005_15.pdf

Council of Europe's *Framework Convention for the Protection of National Minorities (Framework Convention)*. The MCR is, accordingly, understood as the ministry with responsibility for the protection of minorities.

This usage of the term 'community' as 'minority' has become common currency in Kosovo. Accordingly, it is this meaning of the term 'community' that will be used for the purpose of this report.

1.2 Key Issues of Communities' Concern

All citizens of Kosovo are entitled to the rights and protections provided for by the *Constitution of the Republic of Kosovo* and other state legislation, including fundamental human rights and equal opportunities. However, communities, as minority populations, face additional challenges to the majority in exercising their rights as equal citizens. This necessitates an additional layer of rights for members of communities, which the institutional structures of Kosovo must have the capacity to address.

In late 2007, ECMI conducted needs-assessment workshops with Kosovo's communities to identify the primary problems they face in their daily lives.⁴ For most communities, but especially for Kosovo's Serbs, issues relating to security and freedom of movement were their core concerns.⁵ Aided by the institutional structures addressing security, such as KFOR, UNMIK, the UN Police and Kosovo Police Service, the security situation in Kosovo has greatly improved since the 1999 conflict. However, there is still a general perception of fear among the Kosovo Serb population which has affected not just the security sector but also conditions for sustainable returns, as well as the other areas of concerns outlined below.

Beyond security, communities' main concerns include language, education, culture, political participation, public employment, media, public services and the justice system. Language is especially important for all communities as it impacts the majority of their other concerns. Kosovo Serbs, whose language is an official language of Kosovo along with Albanian, identified problems such as limited access to university education in Serbian, lack of media resources in the Serbian language and accession to public services because staff will not or cannot speak Serbian. The Bosniak, Gorani, Turkish and RAE communities also identified concerns regarding the use of their languages such as insufficient primary-level education in their respective languages and lack of print media and broadcasting. The quality of education available, ranging from school facilities to textbooks, curricula and language education also pose a major problem for most communities. Access to public services, such as health facilities, is a key concern of all communities, as well as negative perceptions of insecurity and poor transportation connections.

Kosovo's institutional structure for communities addresses these issues at all levels of Government. At the central level, drafting of legislation and its subsequent implementation has a wide-reaching effect on communities. This has been reflected in the drafting of the *Constitution*, which includes a

⁴ *Community Needs Assessment Workshop with Serbian, Bosniak/Gorani, Turkish and RAE Communities Non-Governmental Organisations Report*, ECMI Kosovo, November 2007, Prishtinë/Priština.

⁵ *Ibid.*

specific chapter on community rights, as well as in subsequent laws aimed directly at the protection of communities. The implementation of such laws then falls to the relevant ministries, as well as municipal levels of government. Moreover, Kosovo is currently undergoing a process of decentralisation, which foresees the creation of new Serb-majority municipalities with increased competencies in education, health care, cultural affairs and policing.⁶ Decentralisation is intended to improve communities' access to public services within their municipalities, as well as to facilitate greater political participation. The Kosovo Government addresses communities' concerns directly in other ways, such as specific programmes aimed at improving the lives of communities, including returns, the allocation of funds and cooperation with NGOs and international organisations, which should all be integrated into the governmental institutional structures for communities.

⁶ *Background Report: Human Rights, Ethnic Relations and Democracy in Kosovo (Summer 2007- Summer 2008)* OSCE Mission in Kosovo, September 2008, Prishtinë/Priština. (Page 9) http://www.osce.org/documents/mik/2008/09/32879_en.pdf

II. Evolution of Institutions for Communities

2.1 Institutions for Communities under UNMIK

Kosovo came under the administration of UNMIK in 1999, following *UN Security Council Resolution 1244*. UNMIK had the wide-reaching mandate to provide “transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo.”⁷ Towards that end, UNMIK established the *Constitutional Framework for Provisional Self-Government (Constitutional Framework)* in 2001, which paved the way for the gradual transfer of responsibilities from UNMIK to the PISG. Within the *Constitutional Framework*, Chapter 3 on *Human Rights* established universal human rights standards, including the right to return, based on European and international norms. Furthermore, Chapter 4 on the *Rights of Communities and their Members* provided an additional range of social and cultural rights specifically for communities. The *Constitutional Framework* and supplementary regulations also outlined the institutional structures of PISG, including several key institutions for human rights (the AOGG and the Ombudsperson) and communities (Committee on the Rights and Interests of Communities within the Kosovo Assembly (CRIC), Advisory Office on Community Affairs (AOCA) and, in 2005, the MCR).

In 2003, UNMIK introduced a policy of *Standards for Kosovo*, which placed priority on measures that would create a sustainable, multi-ethnic Kosovo.⁸ The *Standards* were intended to build the capacity of Kosovo’s PISG, while reassuring Kosovo’s communities, especially Serbs, that their interests were a priority of the international community and a condition for any increase in self-governance.⁹ Standard IV on *Sustainable Returns and Rights of Communities and their Members* specifically addressed communities in Kosovo, with a particular focus on the issue of returns and rights-based protections for minorities. Meeting the standards was established as condition for commencing discussions on Kosovo’s future status and, as such, the PISG made significant efforts to meet them. However, the implementation of Standard IV and the protection of communities in general were, in practice, largely subsumed within the wider human rights and democratisation process. While many legal rights were afforded to communities through legislation, the implementation of these rights was often uneven and a comprehensive approach to community rights was not established. The institutional structure developed in a mostly *ad hoc* manner, as a response to political demands, and institutions were quickly created without sufficient planning or integration into the existing structures. Moreover, institutions were often formed before resources were allocated. At the same time, the *Standards* policy was successful in improving the capacity of the PISG and paved the way for status negotiations to officially start in 2006, which were to result in a political settlement that would determine the future status of Kosovo.

During the status negotiations, UN Special Envoy for Kosovo, Mr. Martti Ahtisaari, developed the *Comprehensive Proposal for the Kosovo Status Settlement*. It was conveyed to the UN Security Council by the Secretary General on 26 March 2007 together with Ahtisaari’s report on the future status. The report

⁷ *UN Security Council Resolution 1244 (1999)*, UNSC, June 1999. (Annex II, Article 5)
<http://daccessdds.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf>

⁸ *Standards for Kosovo*, UNMIK, March 2003, Prishtinë/Priština. <http://www.unmikonline.org/standards/priorities.htm>

⁹ *Ibid.*

recommended independence supervised jointly by the international community as the only viable solution. This would ensure the growing responsibility and accountability of Kosovo's institutions while providing international supervision on minority protection and other vital issues.¹⁰ The status proposal defined the provisions necessary for a democratic future Kosovo, including detailed measures to ensure the promotion and protection of the rights of communities and their members.

2.2 Institutions for Communities in Post-Status Kosovo

On 17 February 2008, Kosovo declared independence, followed by a 120-day transition period as the PISG prepared to assume full executive powers. Throughout this transition, the protection of the rights and interests of Kosovo's communities has been a central concern. The Assembly passed 41 new laws to comply with the *Abtisaari Proposal* and put into place the legal framework for when the Constitution would come in force. This included the drafting of community-oriented legislation to enable decentralisation and create special protective zones (e.g. *Law on Protection and Promotion of the Rights and Interests of Communities and their Members in the Republic of Kosovo*, thereafter *Law on Communities*). Community rights are firmly safeguarded by the *Constitution*, which also provides the framework for establishment of institutions responsible for addressing the needs of communities. Moreover, the Kosovo Government has specific responsibilities with regards to communities through the international commitments outlined in the PISG (i.e. to the *Framework Convention*) and as a condition for European integration.

The *Constitution of the Republic of Kosovo*, which was adopted on 9 April 2008 and promulgated on 15 June 2008, incorporates many of the provisions of the *Abtisaari Proposal's* Annex XII. It provides guarantees for the protection of fundamental rights and freedoms of all citizens of Kosovo and establishes a multi-level and interlocking system of protections for communities and their members. Specifically, Article 58, Chapter III, of the *Constitution* stipulates the responsibilities of the State towards communities. Under these provisions, the Government must:

1. Ensure appropriate conditions that will enable communities and their members to preserve protect and develop their identities.
2. Promote a spirit of tolerance, dialogue and support reconciliation among communities.
3. Take all necessary measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence because of their national, ethnic, cultural, linguistic or religious identity.
4. Adopt adequate measures as may be necessary to promote full and effective equality among members of communities in all areas of life.
5. Promote the preservation of cultural and religious heritage.¹¹

The *Constitution's* provisions on communities were further elaborated in the *Law on Communities* that came into force alongside the *Constitution*. The *Law on Communities* established that "Kosovo shall take special measures to ensure the full and effective equality of communities and their members".¹² The

¹⁰ *Report of the Special Envoy of the Secretary-General on Kosovo's Future Status*, 26 March 2007 <http://www.unosek.org>

¹¹ *Constitution of the Republic of Kosovo*, February 2008, Prishtinë/Priština (Chapter III, Article 78). <http://www.assembly-kosova.org/common/docs/Constitution1%20of%20the%20Republic%20of%20Kosovo.pdf>

¹² *Law on the Promotion and Protection of the Rights and Interests of Communities and their Members in the Republic of Kosovo*, February 2008, Prishtinë/Priština (Article 1, Sections 1.1, 1.2).

articles of the *Law* provide a range of non-discrimination and promotion-based rights, covering: identity, full and effective equality, language, culture, media, religion, education, economic and social opportunities, health and political participation. This *Law*, and the *Constitution*, have established a system of community protections that should meet Kosovo's international commitments and requirements for European integration, as long as they are effectively implemented. The focus has accordingly shifted to the development of institutions charged with the implementation and oversight of community rights and their integration into an effective overall institutional structure in Kosovo.

With the increased responsibilities of the Kosovo institutions after independence, two new institutions dealing explicitly with the rights and interests of communities were established. Article 60 of the *Constitution* outlines the establishment of the CCC within the Office of the President (OP). The CCC is intended to be the primary mechanism for consultation with communities, including representatives from all communities and members of Government. The mandate of the CCC is further outlined in Article 12 of the *Law on Communities*, including consultation on legislation, the appropriation of funding and awareness-raising. The CCC was formally established on 15 September 2008 by Presidential Decree and is now being made operational. The second new institution, the OCA within the OPM, goes beyond the constitutional requirements. The OCA is intended, above all, to coordinate all initiatives within the Government regarding communities. The creation of this institution is being led by the OPM's initiative, with the support of international organisations, to address a significant gap in the Government's approach to communities. The Terms of Reference for the OCA have now been adopted and the Office should soon be functional. Once the CCC and the OCA are fully operational, the Government should have an institutional structure in place to address the needs of communities in a comprehensive way. The Government should then shift its focus to making sure each institution for communities is effectively fulfilling its individual mandate and that all institutions are successfully working together.

III. Existing Institutional Mechanisms

This chapter aims to review the existing institutions dealing broadly with human rights, as well as those particularly focused on community issues, that were established under PISG and continue to function as Kosovo institutions. Through an assessment of each institution's mandate and activities, the chapter will consider the extent to which each institution addresses the needs of communities. Based on this evaluation, recommendations will then be provided on how to adjust their mandates to best meet the needs of communities within the new conditions in Kosovo.

3.1 Advisory Office on Good Governance, Human Rights, Equal Opportunities and Gender

The AOGG has been operational within the OPM since March 2002. According to legislation, the main functions of the AOGG include:

- o Oversee and advise the ministries in the areas of good governance, human rights, equal opportunity and gender;
- o Develop policy and issue guidelines in the areas of good governance, human rights, equal opportunity and gender equality.¹³

The AOGG is responsible for reviewing legislation, as well as policies, procedures and practices, for compliance with applicable human rights standards and practices of good governance and for making recommendations to the Prime Minister and relevant ministries accordingly.¹⁴ Its mandate is broadly formulated and the AOGG is not an institution explicitly dedicated to the protection and promotion of rights and interests of communities. However, it is expressly mandated to “consult with community representatives and develop consultative bodies as needed to address good governance, human rights and equal opportunity and gender issues”.¹⁵ This means that while the AOGG does not have the specific obligation to protect the rights of communities, the AOGG must engage with communities in the context of its obligations to protect human rights, encourage equal opportunity, address gender issues and uphold good governance.

Moreover, the AOGG originally supported the work of the AOCA within the OPM, an institution created simultaneously as the AOGG by *UNMIK Regulation 2001/19*. The AOCA had the mandate to “monitor the state of community rights and interests and recommend to the Government measures to address community issues”.¹⁶ The AOCA was mandated to review draft legislation and executive branch policies for compliance with community rights, assist the distribution of public information on communities and liaison with municipalities and non-governmental organisations on issues of community rights.¹⁷ While the AOCA did begin functioning and played an active role within the OPM, it was moved to the MRC with its establishment in 2005, as its communities-based mandate seemed to fall within the responsibilities of the MRC (see §3.4 of this report). This removed any explicit responsibilities for communities from the OPM. However, with the AOGG's duty to

¹³ *UNMIK Regulation 2001/19*, UNMIK, September 2001, Prishtinë/Priština. (Annex I, Section C) <http://www.unmikonline.org/regulations/2001/reg19-01.pdf>

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *UNMIK Regulation 2001/19*, UNMIK, September 2001, Prishtinë/Priština. (Annex I, Section D) <http://www.unmikonline.org/regulations/2001/reg19-01.pdf>

¹⁷ *Ibid.*

consult communities mentioned above, together with its broader human rights mandate, the protection of community rights is placed within the AOGG's responsibilities. This is further illustrated by the fact that, among the AOGG's staff, an officer is dedicated to the protection and promotion of community rights.

In practice, the AOGG's own perception of its mandate emphasises human rights issues in general over explicitly community-based concerns. According to the statement of aims published on its website in November 2007, the AOGG's responsibilities include:

- Protection and promotion of human rights in general, with special emphasis on rights of women, children and disabled persons.
- Awareness of Government officers to respect international standards on human rights.
- Combating fraud and corruption.
- Initiation, drafting and supervision of the implementation of policies, action plans and strategies in the sphere of Good Governance, Human Rights, Equal Opportunities and Gender Issues.¹⁸

The concentration of the AOGG's work around human rights was reinforced in June 2007, when the Government launched the *Kosovo's National Human Rights Strategy and Action Plan (HRSAP)*.¹⁹ The AOGG has been the lead Government agency in the development of the *HRSAP*, which maps out a comprehensive and integrated strategy to address all aspects of human rights protection including community rights. Moreover, the *HRSAP* sets out concrete steps and programmatic measures for the implementation of human rights protections. While community rights have been included in the overall plan, they are only a chapter of the larger *Strategy*.

Recommendations

Within the institutional framework for communities, the promotion of fundamental human rights is an essential component. Not only does the protection of human rights have a trickle-down effect to the protection of community rights, but communities are often more vulnerable to human rights abuses and therefore in greater need of such protection. The AOGG, as high-level office with core responsibilities for human rights, therefore does greatly contribute to the protection and promotion of communities.

At the same time, the AOGG has a very broad mandate and over-stretched resources. It provides insufficient monitoring on the implementation of policies that impact communities within its work on human rights. Moreover, the AOGG cannot generate initiatives for communities or actively advise the Government on community-specific issues. The AOGG already has many areas of competencies and it is not possible for the AOGG to adequately address community rights. This leaves a gap in the monitoring of community rights within the Government's approach to communities, which is intended to be filled by the OCA as outlined in §4.2.

¹⁸ *AOGG Website*, <http://www.ks-gov.net/pm/?menuid=3&subid=1&subs=81&lingo=2> [Accessed 21 November 2007]

¹⁹ The *HRSAP* is based on two legal documents: the 2003 *Standards for Kosovo* and the July 2005 *Prime Minister's Decision on the establishment of the Human Rights Units in all ministries within the Government of Kosovo*. *Kosovo's National Human Rights Strategy and Action Plan 2009-2011*, Government of Kosovo, 3 December 2008, Prishtinë/Priština. (p.8)

ECMI recommends that the AOGG retains its governmental watch-dog functions on human rights but that its mandate should be reviewed to transfer its competencies on community rights to the OCA. This will give the Government a clear focus on the protection of communities beyond fundamental human rights. At the same time, the work of the AOGG and the OCA, as well as other institutions for communities, are inherently linked by the relationship between community and human rights. As such, these institutions will benefit greatly from cooperation on specific areas of overlapping interest, which is further discussed in Chapter IV.

3.2 Ministerial Human Rights Units

The HRUs²⁰ were officially created in March 2007²¹ to monitor the compliance of each ministry's policies, legislation and activities with human rights standards.²² While this does not explicitly mandate HRUs to address community rights, these rights are, in practice, considered part of human rights standards. Moreover, each HRU is required to have an official covering the area of community rights,²³ who should monitor the impact of ministerial policies, legislation and activities on communities.

In legal terms, each HRU has a high-level mandate to monitor the work of the respective ministry and provide advice to the ministry in relation to human and community rights policies. In practice, the HRUs tend to be focused more narrowly on internal compliance issues, such as the level of employment of community members within each ministry. The reluctance of HRUs to take a proactive and leadership role in human and community rights protection stems from several problems.

First of all, there is a lack of resources, both budgetary and personnel, for all HRUs. In some cases, this means that the HRU does not have enough funding to employ full-time staff. For example, at the Ministry of Public Services (MPS), the HRU has one coordinator and three part-time staff who are allocated to HRU for 30% of their working hours.²⁴ Second, the HRUs seem to have a poor understanding of their mandate and are isolated from each other, leading to a lack of a broader, contextual understanding of their own role. Third, while the HRUs have a degree of independence because they report directly to the ministry's Permanent Secretary, this also leads to their marginalisation from the overall work of the ministry itself. This limits the HRUs' capacity to advise on the policies, legislation and activities of the ministry and their human rights implications. As a

²⁰ HRUs are sometimes called Human Rights Cells (see *AOGG Report January-July 2007*).

²¹ *Administrative Instruction 4/2007*, Office of the Prime Minister, Government of Kosovo, 2007, Prishtinë/Priština.

http://www.ks-gov.net/mmph/document/shqip/UA_%20042007.pdf

Amending *Administrative Instruction 8/2005*, Office of the Prime Minister, Government of Kosovo, 2005,

Prishtinë/Priština. [http://www.ks-](http://www.ks-gov.net/mem/index.php?option=com_docman&task=doc_download&gid=167&Itemid=90)

[gov.net/mem/index.php?option=com_docman&task=doc_download&gid=167&Itemid=90](http://www.ks-gov.net/mem/index.php?option=com_docman&task=doc_download&gid=167&Itemid=90)

²² *Administrative Instruction 8/2005*, Office of the Prime Minister, Government of Kosovo, 2005, Prishtinë/Priština.

(Article 7.1) [http://www.ks-](http://www.ks-gov.net/mem/index.php?option=com_docman&task=doc_download&gid=167&Itemid=90)

[gov.net/mem/index.php?option=com_docman&task=doc_download&gid=167&Itemid=90](http://www.ks-gov.net/mem/index.php?option=com_docman&task=doc_download&gid=167&Itemid=90)

²³ *Administrative Instruction 8/2005*, Office of the Prime Minister, Government of Kosovo, 2005, Prishtinë/Priština.

(Article 4.1) [http://www.ks-](http://www.ks-gov.net/mem/index.php?option=com_docman&task=doc_download&gid=167&Itemid=90)

[gov.net/mem/index.php?option=com_docman&task=doc_download&gid=167&Itemid=90](http://www.ks-gov.net/mem/index.php?option=com_docman&task=doc_download&gid=167&Itemid=90)

²⁴ Interview with Mr. Armend Rugova, Coordinator of Human Rights Unit, Ministry of Public Services, 12 September 2007, Prishtinë/Priština.

result, where HRUs do function, they tend to emphasise monitoring internal compliance rather than the ministries wider impact on human rights.

Moreover, there is insufficient understanding of community issues among HRU staff, resulting in a general lack of awareness of the particularities and special character of community rights and a tendency to subsume the protection of community rights within human rights concerns. In practice this means that the HRUs tend to equate measures for non-discrimination with community rights protection. For example, the Ministry of Labour and Social Welfare (MLSW) highlighted the fact that social employment centres are available and under obligation to assist community members. Beyond this statement of non-discrimination, however, there was no consideration of issues such as the accessibility of these centres to community members. This lack of understanding in relation to conditions faced by communities and their members was prevalent throughout the HRUs. In some respects, however, HRUs' staff at the MCR and Ministry for Education, Science and Technology (MEST) were exceptions. These two Ministries have more explicit mandates in relation to community protection, and, as such, the MCR's HRU and the MEST's Community and Equal Opportunities Department demonstrate a better grasp of community issues. Nonetheless, there is a significant need in improving the HRUs' staff knowledge on community rights and issues, with a particular focus on the HRUs' community specialists, to ensure that communities' needs are reflected in their application of human rights standards.

Recommendations

The HRUs have the potential to serve an important role in ensuring human rights are considered and respected by all ministries. However, the current status of the ministerial HRUs is inconsistent, with some operating while others have no resources and no functioning offices. They are completely unsystematic and generally operating outside of the main operations of their respective ministries. As a result the HRUs have insufficient access to information to effectively assess their respective ministries' work regarding human and community rights. As such, the HRUs are generally viewed as outsiders with their ministries, which limits their abilities to effectively fulfil their mandates.

ECMI recommends, as a first step, that a comprehensive review on the establishment and operations of all HRUs is undertaken, in coordination with the HRC, to determine the current status of each ministry's HRU. Based on this information, ECMI would recommend taking affirmative action to enable the HRUs to be linked to the overall work of the ministries. This is necessary to ensure that the HRUs are able to have a real impact on the work of their respective ministries.

With regards to community issues, the HRUs' staff have demonstrated a lack of understanding of their roles, as well as a lack of knowledge of community's issues, that would influence the work of their ministries beyond equal hiring practices. ECMI accordingly recommends establishing a standardised training programme for all HRU personnel to ensure a consistent standard of knowledge on community issues, especially for the community specialists. ECMI recommends that such training is developed as part of an induction to the HRUs and that all existing personnel undergo training on inter-institutional cooperation, reporting, monitoring, programme development and other key skills. This will guarantee that all HRU staff are sufficiently aware of community issues, which is necessary to successfully complete their work. In addition, the HRUs' community specialists have the potential to contribute to the creation of a comprehensive institutional system for the

protection and promotion of community rights. Consistent with the recommendation provided in §3.1 to transfer the coordination of government activities and implementation of legislation and policies related to communities from the AOGG to the OCA, ECMI recommends that the activities of the community specialists with regards to implementation of legislation should be coordinated by the OCA. The HRUs' community specialists could serve as the OCA's focal point within each ministry. This measure would enable to the OCA to monitor the implementation of community-related legislation and policies by each concerned ministry.

3.3 Human Rights Coordinator

In May 2007, the Prime Minister created the position of Human Rights Coordinator of the Government of Kosovo (HRC) and appointed Mr. Habit Hajredini, who is also the Director of the AOGG. The HRC, within the OPM, has the mandate to:

- o Coordinate the work of the HRUs in the ministries of the Government of Kosovo, with the aim to promote and protect the human rights in Kosovo (see §3.2).
- o Coordinate activities concerning reporting to the mechanisms of the Government of Kosovo for Human Rights.²⁵

The scope of the HRC work is very broadly defined. Consistent with the tendency to treat community rights as a part of human rights, there is also no express mention in the HRC's mandate of the rights of communities and their members and issues relevant to them. However, as community rights are a component of human rights, they are therefore considered to be implicitly part of the HRC mandate.²⁶

The appointment of the current AOGG Director to the position of HRC indicates the priority that human rights take within the work of the AOGG. Moreover, this links the work of the OPM, through the AOGG, and the work of the ministerial HRUs in addressing the human rights agenda. However, the mandate of both the AOGG and the HRC are broad and the appointment of one person to both positions could to over-stretch an individual's capacity, especially considering the disparate status of the HRUs being coordinated.

Recommendations

The HRC fulfils an important role in coordinating the ministerial HRUs to ensure that each HRU understands its mandate and operates effectively. However, the HRC's position will be dependent on a complex review and subsequent redesign of the HRUs recommended in §3.2. In a revised HRU system in which the HRUs are more integrated into the work of ministries, the HRC may need to be a fully dedicated position to manage the increased functions of the HRUs.

In addition, consistent with the recommendation provided in §3.2, the HRC should collaborate with the OCA to coordinate the work of the HRUs with regards to compliance community rights.

²⁵ *Prime Minister's Decision 131*, Office of the Prime Minister, Government of Kosovo, May 2007, Prishtinë/Priština.

²⁶ Workshops with the Human Rights Coordinator/OPM and Human Rights Units, ECMI Kosovo, August 2007, Prishtinë/Priština.

3.4 Ministry of Communities and Returns

The MCR was established in 2005.²⁷ It is the key ministry tasked with the protection and promotion of communities and their members. Annex XII of *UNMIK Regulation 2005/15* sets out the mandate for MCR, which includes to:

- Develop policies and promote and implement legislation for the promotion and protection of the rights of communities and their members, including the right to return.
- Promote the establishment of conditions conducive for return and ensure a rights-based approach to return.
- Provide the lead in confidence building, dialogue and reconciliation activities among communities and support the implementation of these activities.
- Develop and oversee implementation of a Government outreach strategy relating to communities and returns and support the development and implementation of such strategies in all municipalities.²⁸

The AOCA was moved from the OPM to the MCR when it was established, becoming the Department of Communities (see §3.1). However, while the Office was relocated, its original staff stayed within the OPM and the MCR never fully took over the functions of the office. The role of the AOCA/Department of Communities in community affairs diminished, becoming far less active once moved from the OPM to the MRC. While the Department of Communities still officially exists, it only plays a limited role in the Ministry's activities.

Despite the broad and powerful mandate given to the MCR, in operational terms the Ministry has worked mainly on returns issues. Activities in relation to communities have been generally limited to monitoring and reporting under international instruments, such as the *Framework Convention*. The MCR is grossly understaffed in respect to its Department of Communities. The MCR has implemented very few programmes directed at the promotion and protection of communities except those specifically addressing returns.²⁹ There have not been any programmes by the MCR directed at reconciliation between communities, inter-community dialogue, or the promotion of community culture. Furthermore, the MCR has not been an effective leader in the Government's approach to community rights. It has not taken any proactive initiatives itself or made any attempts to coordinate other governmental agencies' initiatives.

One of the major challenges the MCR faces is its legitimacy among communities and their members. This is partly because there is a sense of suspicion and fear between the Albanian-dominated Government and communities, which limits the Ministry's ability to directly engage communities. Moreover, non-Serb communities perceive the MCR as an institution that only assists Serbs, which partly stems from the predominantly Serb leadership of the MCR. This limits the Ministry's effectiveness in its work with communities, which is a significant challenge to the Government's overall approach to communities because of the central role of the MCR.

²⁷ *UNMIK Regulation 2005/15*, UNMIK, March 2005, Prishtinë/Priština. (Annex II)
http://www.unmikonline.org/regulations/2005/RE2005_15.pdf

²⁸ Ibid.

²⁹ *Annual Report 2006*, Ministry of Communities and Returns, October 2007, Prishtinë/Priština.

Recommendations

The MCR is in principle the existing institution concerned with the protection of communities and will continue to play a central role in the Government's approach to communities within the developing system. However, while returns remain a core issue in Kosovo, the MCR needs to widen its focus to address its full mandate on communities and build legitimacy with communities by being seen to be concerned with their full range of concerns. ECMI accordingly recommends that the Ministry develops an annual action plan for communities to focus efforts towards the protection and promotion of communities and to expand its activities beyond the issue of returns. The annual action plan should also help to allocate the MCR budget and resources to specific activities for communities and that have concrete and measurable results. This should help to improve trust in the MCR among communities and increase its ability to engage with communities.

In addition, ECMI recommends that the responsibilities for developing policies and coordinating and monitoring the implementation of legislation of the MCR be transferred to the OCA (see §4.2), along with the mandate to develop a Government strategy relating to communities. The MRC is a key actor in implementing governmental policies and programmes for communities and there is potential risk of conflicting interests between its implementation and monitoring roles, especially when the ministry may be required to assess its own performance. The OCA, as a non-ministerial body dedicated to monitoring and coordination, will be better able to assess the work of the Government. More information on this transfer of competencies will be provided in §5.1 and 5.2.

3.5 Ombudsperson

The Ombudsperson, established in June 2000, is an independent body mandated to address alleged human rights violations or abuses of authority by public institutions in Kosovo.³⁰ Although developed under UNMIK, the role and competencies of the Ombudsperson were reaffirmed in the *Kosovo Constitution*. According to Article 132, "the Ombudsperson monitors, defends and protects the rights and freedoms of individuals from unlawful or improper acts or failures to act of public authorities."³¹ The Ombudsperson was initially under international leadership, but the institution was restructured in 2006 to incorporate greater local control, including the transfer of the Ombudsperson position from international to local appointment. One of the Deputy Ombudspersons, Mr. Hilmi Jashari, was then appointed Acting Ombudsperson, while the Kosovo Assembly selects and nominates the new Ombudsperson. While several nominations have been made, the appointment proceedings have been postponed several times by the Assembly and the acting Ombudsperson will remain in place until the next Ombudsperson is appointed.³²

The Ombudsperson is mandated to "accept and investigate complaints from anyone in Kosovo who believes that his/her human rights have been violated by a local public authority in Kosovo".³³ It

³⁰ UNMIK Regulation 2000/38, UNMIK, June 2000, Prishtinë/Priština, <http://www.unmikonline.org/regulations/2000/reg38-00.htm>

³¹ *Constitution of the Republic of Kosovo*, Kosovo Assembly, February 2008, Prishtinë/Priština. (Article 132, Paragraph 1), <http://www.assembly-kosova.org/common/docs/Constitution1%20of%20the%20Republic%20of%20Kosovo.pdf>

³² *Eighth Annual Report 2007-2008*, Republic of Kosovo Ombudsperson, July 2008, Prishtinë/Priština. <http://www.ombudspersonkosovo.org/?cid=2,74>

³³ *Ibid.*

conducts investigations, issues reports and provides legal services and public advocacy. If the Ombudsperson finds that a general practice or situation affecting the public as a whole has violated international human rights' standards (not only one person or group of persons but, for example, an entire community) it can issue a special report with recommendations to the Kosovo Assembly. Within the Ombudsperson, three teams have been formed to focus on the special concerns of vulnerable groups of people: Children's Rights Team, Gender Equality Unit and the Non-Discrimination Team (NDT).

Within the Ombudsperson, communities' issues are included within the work of the NDT. While non-discrimination has a strong legal foundation in Kosovo, discrimination is widespread and few complaints have been brought to the Ombudsperson.³⁴ To address this, the NDT has been conducting awareness-raising campaigns throughout Kosovo, with Ombudsperson officials informing Kosovo citizens about discrimination and about the procedures to lodge a complaint. Moreover, while the Ombudsperson's work does not explicitly address community rights, it does include a section in its annual reports that specifically addresses the human rights concerns impacting minority communities. For example, in its 2008 report, the Ombudsperson identified, among others, concerns regarding: incidents of violence between Albanians and Serbs, the use of languages among communities, education, the lack of safe transportation for communities, the continuing lack of employment and economic sustainability, and attacks on religious and cultural monuments of communities.

The main office of the Ombudsperson is located in Prishtinë/Priština, supported by five field offices and two sub-offices throughout Kosovo. Moreover, the lawyers of the Ombudsperson regularly visit municipalities, enclaves and areas with substantial non-Albanian populations that have a harder time accessing the Ombudsperson. While the Ombudsperson has undertaken public awareness-raising campaigns through private television broadcasting in three languages, according to the *Community Needs Assessment Workshop* organised by ECMI in November 2007, there remains insufficient awareness among communities about the Ombudsperson and its field offices. For example, the Bosniak, Gorani and Turkish communities have raised concerns about the accessibility of the Ombudsperson's office and its effectiveness in relation to protection of community rights.³⁵ As such, the ability of the Ombudsperson to support the human rights of communities is limited by their lack of access, as well as a lack of confidence in the institution.

Recommendations

The Ombudsperson is a key component to the governmental approach to communities in providing external oversight of human rights implications of the Government's activities. Such protections are especially significant to communities, who are particularly vulnerable, but communities can only benefit from the Ombudsperson if they are aware of its functions and have access to its offices. ECMI accordingly recommends the launching of a publicity campaign specifically targeting members of communities and efforts made to increase the accessibility of the Ombudsperson. Although the

³⁴ Ibid.

³⁵ *Community Needs Assessment Workshop with Serbian, Bosniak/Gorani, Turkish and RAE Community Non-Governmental Organisations Report*, ECMI Kosovo, November 2007, Prishtinë/Priština.

Ombudsperson has existing offices in municipalities, communities are not aware of these and thus find the institution difficult to access.

3.6 Committee on the Rights and Interests of Communities

The CRIC is a permanent committee of the Kosovo Assembly, the legislative organ of the Republic of Kosovo. The Committee's placement within the Assembly is mandated for in the *Constitution*, confirming its exceptional role within the legislative process.

According to Article 65 of the *Constitution*, the Assembly:

- Adopts laws, resolutions and other general acts.
- Approves the budget of the Republic of Kosovo.
- Elects and may dismiss the President of the Republic of Kosovo in accordance with the *Constitution*.
- Oversees the work of the Government and other public institutions that report to the Assembly, in accordance with the *Constitution*.
- Oversees foreign and security policy.³⁶

The Assembly is comprised of one hundred and twenty (120) deputies, with guarantees for representation of non-majority communities, including a minimum of ten (10) seats reserved for the Kosovo Serb community, one (1) seat for the Roma community, one (1) seat for the Ashkali community, one (1) seat for the Egyptian community, plus one (1) additional seat to either the Roma, Ashkali or Egyptian community with the highest overall votes, three (3) seats for the Bosniak community, two (2) seats for the Turkish community, and one (1) seat for the Gorani community. This ensures minimum representatives of all Kosovo's communities within the Assembly, though their number can increase based on the elections results. Moreover, Article 81 of the *Constitution* on *Legislation of Vital Interest* requires that the adoption, amendment or repeal of certain laws, such as Laws on the use of language, Laws on protection of cultural heritage, and Laws on education, as well as changes to municipal boundaries, have not only the majority vote of the Assembly, but also a majority among those in seats guaranteed for non-majority communities. This provision strengthens the voices of communities within the Assembly and ensures they have influence on the legislation that most affects them.

In addition to these general considerations for communities, the CRIC has been given special rights within the Assembly. The CRIC was first mandated for under the *Constitutional Framework* in 2001 and was elaborated in detail in the *Rules of Procedure of the Kosovo Assembly*³⁷ in 2005. According to Rule 48 of the *Rules of Procedure*, the CRIC is one of two main committees within the Assembly, which has the provision to, by majority vote, give representations on proposed laws based on considerations of community rights.³⁸ The CRIC was further included under article 78 of the *Constitution* in 2008 as one

³⁶ *Constitution of the Republic of Kosovo*, Kosovo Assembly, February 2008, Prishtinë/Priština. (Article 65), <http://www.assembly-kosova.org/common/docs/Constitution1%20of%20the%20Republic%20of%20Kosovo.pdf>

³⁷ *Rules of Procedure of the Assembly of Kosovo*, 20 May 2005, Amended on 1 June 2006, Prishtinë/Priština. <http://www.assembly-kosova.org/common/docs/Z-Rregullore%20e%20punes-anglisht-20%20maj%202005-me%20ndryshime.pdf>

³⁸ *Rules of Procedure of the Assembly of Kosovo*, 20 May 2005, Amended on 1 June 2006, Prishtinë/Priština. (Rule 52, 3). <http://www.assembly-kosova.org/common/docs/Z-Rregullore%20e%20punes-anglisht-20%20maj%202005-me%20ndryshime.pdf>

of the two institutions expressly dedicated to communities (alongside the CCC). The CRIC is composed of one-third (1/3) of members holding seats reserved for the Kosovo Serb community, one-third (1/3) of members holding seats reserved for other non-majority communities, and one-third (1/3) of members from the majority community. According to article 78 of the *Constitution*, “any proposed law shall be submitted to the Committee on Rights and Interests of Communities”³⁹ and the CRIC is tasked to make recommendation to “ensure that community rights and interests are adequately addressed”⁴⁰ by the proposed law. As specified in *CRIC’s 2008 Work Plan*, the Committee has the additional objectives to:

- Organise round-table meetings, public hearings and other means of cooperation in order to gain information on its areas of competence and better process draft-laws.
- To establish working groups as necessary to increase its working effectiveness.
- To oversee the implementation of laws adopted by the Kosovo Assembly and draft reports upon examination.
- To regularly cooperate with all other institutions of the Republic of Kosovo, as well as all relevant international organisations.
- To review financial reports and the Kosovo Consolidated Budget.
- To improve the communication approach of the Committee towards the public.

The CRIC has been functioning since 2004, meeting regularly and evaluating numerous draft-laws and amendments. It has made one recommendation regarding the draft *Cultural Heritage Law*, which was accepted by the Kosovo Assembly, and drafted a report with recommendations to the Assembly. The Committee has monitored the implementation of the adopted laws concerning the protection of the rights and interests of communities with field trips to all of Kosovo’s municipalities, with the exception of Leposavič, Zubin Potok and Mitrovica. In these activities, it has cooperated with the Kosovo Government and international institutions such as UNMIK and the OSCE. Moreover, in order to gain further expertise, the Committee has held consultative meetings and work visits with international institutions, such as the European Parliament and the Council of Europe.

According to its *2004-2007 Committee Report*, the main obstacle to the CRIC’s ability to fully and effectively address the needs of communities has been the insufficient cooperation between CRIC and the MCR. The CRIC has not, in general, been sufficiently active within the institutional system, failing to use its authority in order to engage in constructive discussions concerning legislative initiatives. There is also lack of expertise on the issues of human and community rights among the members of the CRIC, who are also overburdened and unable to sufficiently work on improving their own knowledge. Operational inadequacies have also undermined the CRIC’s efficiency, such as a lack in email communication among members.

Recommendations

ECMI recommends that further trainings are conducted with the CRIC’s members, both on community specific issues and on the wider operations of the Assembly. Such trainings should ensure that the CRIC’s members sufficiently understand the procedural mechanisms operating

³⁹ *Constitution of the Republic of Kosovo*, Kosovo Assembly, February 2008, Prishtinë/Priština. (Article 78), <http://www.assembly-kosova.org/common/docs/Constitution1%20of%20the%20Republic%20of%20Kosovo.pdf>

⁴⁰ *Ibid.*

within the Assembly, in order to oversee the Government, develop legislative initiatives based on real problems affecting communities, examine the passing laws on issues of community concern, and utilise new legislative tools for communities, such as the *Legislation of Vital Interest*. This will improve the CRIC's capacity to fulfil its mandate and improve its effectiveness.

ECMI further recommends that informal channels of communication be cultivated, not just with the MCR, but most importantly with the developing OCA within the OPM, to allow the CRIC to fulfil its Government oversight function. As described in §4.2 below, the OCA will be the primary body supporting the implementation of the legal framework for communities and coordinating the Government's approach in this respect. As such, the OCA will be a key source of information for the CRIC on community issues.

IV. Developing Institutional Mechanisms

The chapter aims to review the new institutions that are being created to specifically address the needs of communities within the post-status institutional structure. Through an assessment of each institution's mandate and proposed activities, the chapter will consider how these institutions will fit into the institutional approach to communities. Based on this evaluation, recommendations will then be provided on how to implement the new institutions and integrate them into the overall system to best meet the needs of communities.

4.1 Consultative Council for Communities

The CCC is a new institution called for in the *Constitution* to facilitate the political participation of communities at the central level. Formally established by Presidential Decree on 15 September 2008, the CCC is now being made operational within the OP. It will include representatives from all of Kosovo's communities, as well as representatives of the Government, and will be the primary mechanism for consultation with communities on the policies, legislation and programmes that impact their lives. With no such consultative mechanisms currently operating at the central level, the CCC will fill a major gap in the governmental approach to communities.

The mandate and planned operations of the CCC have been largely fixed by legislation. Article 60 of the *Constitution* outlines the mandate of the CCC as follows:

- (1) Provide a mechanism for regular exchange between the Communities and the Government of Kosovo.
- (2) Afford to the Communities the opportunity to comment at an early stage on legislative or policy initiatives that may be prepared by the Government, to suggest such initiatives, and to seek to have their views incorporated in the relevant projects and programs.⁴¹

The *Law on Communities* adopted by the Kosovo Assembly in February 2008 and signed into Law on 15 June 2008 further elaborates the functions of the CCC. These include:

- To assist in the organisation and the articulation of the views of communities and their members in relation to legislation, public policy and programs of special relevance to them.
- To provide a forum for coordination and consultation amongst communities.
- To provide a mechanism for regular exchange between communities and state institutions
- To enable communities to participate in the needs assessments, design, monitoring and evaluation of programs that are aimed at their members.
- To raise awareness of community concerns within Kosovo and contribute to harmonious relations between all communities.⁴²

The CCC will be supported by umbrella community representative organisations, which will coordinate among community organisations currently operating in Kosovo on the nomination of representative candidates. Currently the first round of nominations is underway to select community

⁴¹ *Constitution of the Republic of Kosovo*, Kosovo Assembly, February 2008, Prishtinë/Priština. (Article 60), <http://www.assembly-kosova.org/common/docs/Constitution1%20of%20the%20Republic%20of%20Kosovo.pdf>

⁴² *Law on the Promotion and Protection of the Rights of Communities and their Members in Kosovo*, Kosovo Assembly, February 2008, Prishtinë/Priština. (Article 12)

representatives to the Council, which will constitute two-thirds of the Council's membership. This will include the following: five (5) representatives from the Serb community, three (3) representatives from the Bosniak and Turk communities respectively, and two (2) from the Roma, Ashkali, Egyptian and Gorani communities respectively. In addition, other communities may request to join the Council with one representative. The remainder of the membership of the Council consists of members of the Government or related public agencies addressing issues of special concern for minorities.

The Council shall hold monthly meetings, including semi-annual extraordinary sessions chaired by the President of Kosovo to conduct a thorough review of the work of the Council and the Government in addressing the concerns of communities. In addition, the Council may form specialised working groups that can meet more often. The activities of the Council will be guided by an annual work plan that it will adopt, which will be assessed at the extraordinary sessions. As outlined in the *Presidential Decree*, the Council will influence the Government's approach to communities by providing comments and recommendations on legislation and policies during the early stages of development. The Council will also advise the Government on programming for communities, including the evaluation of programmes, disseminate information on communities' issues on Kosovo, support the work of community organisations and contribute to Kosovo's reporting to international human rights mechanisms.⁴³

Recommendations

The next stages in the development of the CCC are crucial to its successful integration into the institutional system for communities. Once representatives have been nominated, focus must be shifted to building the capacity of CCC members to fill the full mandate of the CCC, including consultation on all aspects of the Government's approach to communities. This includes building the capacity of the members of Government participating in the Council to understand and address the needs of communities and to integrate to views of the Council into the work of their respective institutions. Moreover, essential to the success for the CCC will be building direct positive cooperation with other governmental institutions involved with communities to ensure the Council's recommendations are effectively addressed. The impact that the CCC has for communities depends entirely on the Government's ability to utilise consultation with the Council and, as such, it is vital to raise awareness of the CCC throughout the Government and promote cooperation at all levels.

4.2 Office of Community Affairs

The OCA is currently being established within the OPM to coordinate and support the implementation of the legal framework for communities, as well as the Government's approach to communities. While a similar body existed as the AOCA starting in 2002 (see §3.1, 3.4), the decision to move the Office to the MCR undermined its work. The AOCA, which became the Department of Communities in the MCR, no longer took an active role in coordinating the Government's approach to communities, largely due to its limited access to the overall institutional structure while being located within a ministry. While the idea for such a coordinating body re-appeared in 2006 in the

⁴³ *Presidential Decree: The Communities Council for Communities in Kosovo*, President of the Republic of Kosovo, September 2008, Prishtinë/Priština.

early drafts of the *Kosovo Framework Document on the Protection of the Rights of Communities*, it was dropped from the final version of the *Framework Document* that was submitted to Martti Ahtisaari. The OCA was subsequently absent in *Ahtisaari's Proposal* and *Kosovo's Constitution*. However, this lack of coordination remained an inadequacy in the Government's protection of communities and ECMI continued to encourage the establishment of such a body within the OPM. On 16 February 2008, the day before Kosovo's Declaration of Independence, the Prime Minister pledged to create an office dedicated exclusively to community affairs. This announcement re-energised the proposal to establish a coordinating office within the OPM and has led to the establishment of the OCA on 15 July 2008.

The OCA is intended to remedy the serious lack in the implementation of legislation relating to community rights and coordination in the Government's approach to the protection of communities. Since the establishment of PISG, each ministry, governmental agency and institution has followed its own disparate strategy towards communities. This has often created confusion and left gaps in the delivery of services, leading to frustration for members of communities. The OCA should directly address this problem by overseeing all central level activities relating to communities to ensure the Government has a comprehensive and effective system of community protection in place.

The mandate of the OCA has recently been adopted and the OCA should soon be fully operational. Its mandate includes responsibilities for the following:

1. Advise the Prime Minister on all communities' related issues.
2. Coordinate on communities related issues, including:
 - a. Coordination of governmental bodies, independent agencies and institutions / ministry and municipal level.
 - b. Coordination of donors and international organisations to ensure that communities' issues are being effectively addressed throughout Kosovo.
3. Pursue policy on community related issues, including:
 - a. Contribute to, analyse and provide advice regarding governmental policy affecting communities' rights and interests.
 - b. Develop and monitor the implementation of Government strategies related to communities.
 - c. Monitor the implementation of laws and policies on a community level.
4. Address Practical Community needs though:
 - a. Use available funds strategically to positively impact and create change in people's lives.
 - b. Become directly involved as needed in resolving high profile minority related cases.⁴⁴

Determining the OCA's mandate has been marked by competition and rivalry between existing offices. For example, the AOGG has argued that the OCA should function as a sub-office within its own structure. As mentioned in §3.1, the AOGG currently coordinates the work of the ministerial HRUs, which each have community specialists. However, the AOGG is already over-burdened by its broad and ambitious mandate and not prepared to take on the responsibilities of the OCA. As such, it has been determined that the OCA will function independently within the OPM, which should

⁴⁴ *Prime Minister's Office for Community Affairs Briefing Document, August 2008, Prishtinë/Priština.*

allow focus to shift to making the body fully operational and building cooperation with other institutions involved with communities.

Recommendations

The OCA addresses one of the main deficiencies in the Government's approach to communities and, when fully functional, should make institutional structure for communities comprehensive. As such, making the OCA operational and ensuring it fulfils its intended role should be a priority for the OPM. ECMI envisions the primary function of the OCA as that of a coordination body, working across the other Government's institutions, as discussed above, to ensure the implementation of legislation and policies for communities. To allow the OCA to coordinate effectively and monitor the work of relevant ministries, the work of the HRUs' community specialists should be coordinated by the OCA, in collaboration with the HRC, endowing the OCA with focal points within each ministry. The OCA's key contribution to communities will be to ensure that the Government on whole is addressing their needs in a comprehensive and effective way.

At the same time, the OCA's functions have the potential to overlap with the mandate and activities of existing institutions. Alongside its development, the OCA will need to coordinate with existing institutions and take over some of their competencies to avoid duplications of efforts that would make the institutions less effective. Moreover, both the OCA and the CCC, as new institutions, will need to cultivate cooperation with existing institutions to ensure synergy in key areas of mutual concern while ensuring not to create duplications between their respective activities.

Now that the OCA's mandate has been adopted, the focus should be on building the capacities of the OCA's staff, to allow the OCA to fulfil its ambitious mandate, and on raising awareness on the OCA's role among communities' members. These measures will contribute to build confidence among members of communities.

V. Degrees of Duplication and Synergy between Institutions

This chapter aims to review the overall institutional system for communities, focusing on how the institutions will work together to meet the needs of communities. Through a comprehensive assessment of each institutions mandate and activities, this chapter will outline key areas where there is a potential for overlap or a duplication of efforts that can undermine the efficiency of the institutions in addressing communities. In addition, potential areas for synergy will be identified that can improve the overall effectiveness of the institutional system. Based on these findings, recommendations will then be provided that aim at clarifying the roles of each institution to avoid overlaps while improving the potential for overall synergy in the integrated institutional system.

5.1 Development and Review of Policies and Legislation relating to Communities

ECMI has identified institutional overlap in the development and review of policies and legislation relating to communities. This is a key area of concern for communities because of the impact that policies and legislation have on their daily lives, including issues such as use of language, protection of culture heritage, employment opportunities, property rights and education. As such, the institutional structure for communities must allow for the ongoing development of communities-specific policies and legislation, as well as the review of all policies and legislation for their impact on communities. Based on their current mandates, the MCR, the AOGG, the CRIC and the OCA have areas of overlapping responsibilities for the development and review of policies, which could lead to a duplication of efforts, while there is the potential for synergy with the CCC.

Ministry for Communities and Returns

According to section (i) of its mandate, the MCR has the primary responsibility “to develop policies [...] for the promotion and protection of the rights of Communities and their members, including the right to return”.⁴⁵ Moreover, the MCR has the mandate, in section (vi), to “ensure that policy at the central and municipal level includes provisions for the protection of community rights, human rights and the interests of returnees, including in the areas of freedom of movement, use of languages, freedom of expression, fair representation, education, employment, and equitable access to justice, housing, and public utilities and services”.⁴⁶ This establishes the MCR a central body responsible for developing policies that directly relate to communities, as well as for ensuring that all policies reflect the needs and interests of communities.

However, to date, the MCR has been primarily concerned with issues of returns and has not had the capacity to fully take on its responsibilities for developing community-related policies. According to the MCR budget review of the past three years, as well as its activity reports, the only area where the Ministry has taken a role in policy formulation has been in the returns sector. However, even with returns, the two versions of the *Manual for Sustainable Returns* of 2001-2005 and 2005-2008 have been largely drafted by Office of Communities, Returns and Minority Affairs (OCRM) within UNMIK and the United Nations Development Programme (UNDP) Offices in Kosovo, and the contributions of the MCR have been minimal.

⁴⁵ UNMIK Regulation 2005/15, UNMIK, March 2005, Prishtinë/Priština. (Annex XII, Section I) http://www.unmikonline.org/regulations/2005/RE2005_15.pdf

⁴⁶ Ibid. (Annex XII, Section VI)

Advisory Office on Good Governance, Human Rights, Equal Opportunities and Gender

The AOGG has responsibilities regarding policy development within its mandate on human rights. According to section (ii) of its mandate, the AOGG shall “develop policy and issue guidelines in the areas of good governance, human rights, equal opportunity and gender equality”.⁴⁷ While such guidelines are more general in nature, this does create a potential overlap for policy initiatives on areas of general human rights that may have a special impact on communities, especially with human rights included in the MCR’s mandate. Moreover, the AOGG, according to section (iii) of its mandate, shall “review draft legislation prepared by the executive branch for compliance with applicable human rights standards [...] and advise and make recommendations to the Prime Minister and relevant ministers accordingly”.⁴⁸ This gives the AOGG the responsibility to review legislation according to human rights standards, which can also overlap with reviews undertaken to ensure communities’ needs are represented. As such, the AOGG’s work on policy development and legislation review based on human rights standards can overlap with the work of the institutions included in this section.

Office of Community Affairs

According to its *Terms of Reference*, one of the OCA’s main activities will be to “pursue policy on community related issues”.⁴⁹ This includes to: “contribute to policy formation, in cooperation with the MCR and other relevant stakeholders, to develop communities’ related policy as needed” and “regularly analyse existing and proposed legislation and policies effectiveness in addressing communities’ rights, priorities and needs”.⁵⁰ These terms establish the role of the OCA in overseeing the development of policies that affect communities and in reviewing policies and legislation to ensure sufficient consideration of community concerns. The OCA is intended to take the lead in the development of policies relating to communities within the Government, which generally develops policies that the line ministries are then responsible to implement. At the same time, this maintains an overlap with the mandate of the MCR, which shares this responsibility, and the exact relationship between the two bodies remains unclear.

Committee on the Rights and Interests of Communities

According to Article 78 of the *Constitution*, CRIC may “on its own initiative, propose laws and such other measures within the responsibilities of the Assembly as it deems appropriate to address the concerns of communities”.⁵¹ This gives the CRIC the mandate to draft legislation specific to community-related issues. Moreover, the committee is mandated to review proposed legislation and give recommendations to ensure that the rights of communities are addressed.⁵² This is a core competency of the CRIC, as outlined in its *2008 Annual Work Plan*, which includes review each draft-law as well as each requested amendment of the laws, and drafting recommendations based on its findings. As part of the Kosovo Assembly, the CRIC is best positioned to ensure that the protection and promotion of communities is reflected in all legislation. At the same time, this could overlap

⁴⁷ Ibid. (Annex I, E, Section II)

⁴⁸ Ibid. (Annex I, E, Section III)

⁴⁹ *Prime Minister’s Office for Community Affairs Briefing Document, August 2008, Prishtinë/Priština.*

⁵⁰ Ibid.

⁵¹ *Constitution of the Republic of Kosovo*, Kosovo Assembly, February 2008, Prishtinë/Priština. (Article 78, Section 4), <http://www.assembly-kosova.org/common/docs/Constitution1%20of%20the%20Republic%20of%20Kosovo.pdf>

⁵² *CRIC Work Plan 2008*, Committee on the Rights and Interests of Communities, 2008, Prishtinë/Priština.

with the competencies of the AOGG to review legislation based on human rights standards and, more significantly, overlaps with the mandate of the OCA as outlined below.

Consultative Council for Communities

Where as the MCR, the AOGG, the CRIC and the OCA have mandates relating to policy and legislation development and review that could lead to duplications, the role of the CCC is that of an active contributor to these activities. The CCC does not develop policies or legislation, but is consulted by the Government during their development. According to sections (1a) and (1d) of its mandate, the CCC will “assist in the organisation and mobilisation of the views of minority communities in relation to legislation, public policy and programmes of special relevance to them” and “afford to the Kosovo communities the opportunity to comment at an early stage on legislative of policy initiatives that may be prepared by the Government”.⁵³ The CCC is designed to be the primary body of consultation with communities and as such is the central mechanism for the inclusion of community views into the policy and legislation development process, as well as for community review of policies and legislation. Moreover, it shall “meet twice a year to conduct a major review of community policy and concerns for Kosovo”.⁵⁴ This establishes the process for bringing direct input from communities into the policy development and review process on a regular basis.

Within the mandate of the OCA, cooperation and consultation with the CCC, as well as the MCR, is repeatedly established. For example, regarding the pursuit of policies, the OCA “in cooperation with the CCC and the MCR brings relevant issues and concerns to [...] the Committee on the Rights and Interests of Communities in the Assembly”.⁵⁵ Such stipulations create a synergy in policy development between the OCA and the CCC, with the CCC fulfilling its consultative role. It also signifies the need for the OCA to coordinate its activities with the MCR and support the activities of CRIC. However, while the CCC will involve members of Government, including Deputy Ministers from ministries of special relevance including the MCR, consultation with the CCC is not included in the MCR’s mandate, which was written before the CCC was formed. The CRIC also includes in its working objectives the need to cooperate with all the relevant institutions of the Government to improve its own work, which would include cooperation with the CCC to ensure their recommendations are representative of communities.

Recommendations

Based on these identified areas of overlap, ECMI suggests the following clarifications and adjustments regarding the roles of these institutions in the development and review of policies and legislation.

The OCA shall take on the responsibility of developing policies that impact communities within the OPM’s larger policy development, as well as reviewing policies related to communities and recommend any necessary adjustments. The line ministries shall then implement these policies,

⁵³ *Law on the Promotion and Protection of the Rights of Communities and their Members in Kosovo*, Kosovo Assembly, February 2008, Prishtinë/Priština. (Article 12, Section 1A and 1D)

⁵⁴ *Ibid.* (Article 12, Section 2)

⁵⁵ *Prime Minister’s Office for Community Affairs Briefing Document, August 2008, Prishtinë/Priština.*

including the MCR. The OCA should take the lead, within the Government, in the drafting and proposing legislation relating to communities to the Assembly of Kosovo. The contribution of the OCA on the review of legislation should take place in the early stages of development, before the measures are sent to the Assembly.

The MCR shall act as an active contributor to the policy development process, but not a primary one. It shall instead focus on policy implementation, along with other concerned ministries. This corresponds with the traditional responsibilities of the line ministries and should avoid overlap or a duplication of efforts.

The CRIC shall also take initiatives to develop new legislation relating to communities, and should fulfil its role as primary actor, within the Assembly, tasked with the review of legislation that may impact communities.

Regarding the AOGG, ECMI recommends that its responsibilities in the area of community rights are clearly separated from the AOGG's mandate and transferred to the OCA. As a result, the potential for overlap in the development and review of policies and legislation relating to communities will be less substantial. Nonetheless, collaboration within the OPM between the AOGG and the OCA on areas of mutual concern is a primary requirement to avoid any duplication.

Ensuring effective consultation and cooperation between the OCA and the CCC regarding policy development and review shall play an important role in the institutionalisation of both bodies. The fulfilment of their mandates enables a synergy in policy development and review that guarantees communities having direct input and that policies are reflective of the community needs that they address. Effectively use the MCR permanent membership in the CCC and ensure that the MCR incorporate the Council's view in its work is of great importance, but the primary concern shall be the embracing of cooperation with the OCA. The same applies to the development and review of legislation, with the CRIC needing to formalise consultation and cooperation with the CCC to ensure its legislative work is reflective of communities concerns.

5.2 Monitoring of the Implementation of Community Policies and Legislation

ECMI has identified potential overlap regarding monitoring the implementation of policies and laws that impact communities. This is also a key area of community concern, as the development of policies and legislation for communities can only be effective if subsequently implemented fully on the ground. This includes both implementation and long-term compliance, as well as to oversee the impact of such policies and laws on the communities themselves. Based on their current mandates, the MCR and the OCA have areas of overlapping responsibilities for monitoring the implementation of policies and legislation for communities, while the AOGG and the ministerial HRUs have related responsibilities for monitoring compliance with human rights standards. The CRIC has the duty to oversee the work of the Government in relation to community issues. In addition, the Ombudsperson, as an independent institution mandated "to address human rights violations or abuses of authority by public institutions,"⁵⁶ fulfils an indirect but important role in monitoring of the implementation of communities policies and legislation.

⁵⁶ *Ombudsperson website*, <http://www.ombudspersonkosovo.org/?cid=2,54> [Accessed on 18 December 2008]

Ministry for Communities and Returns

According to section (vii) of its mandate, the MCR shall “monitor the activities of ministries, municipalities and other authorities in respect of the promotion and protection of the rights and interests of communities and their members.”⁵⁷ Moreover, in section (xiii) of its mandate, the MCR shall “monitor compliance of the legislative acts and policies of other ministries and local authorities with the Standards of Kosovo”.⁵⁸ This gives the MCR the responsibility to ensure all legislation and policies comply with UNMIK’s *Standards for Kosovo*, which emphasise the protection of communities, and to monitor all ministries on their community activities to ensure communities’ needs are considered in the implementation of policies and other activities. This monitoring role, however, has not yet been reflected in the activities of the MCR. There has been a lack of coordination between ministries, making the MCR an insufficient monitoring body and leaving a gap in the Government’s approach to communities.

Office of Community Affairs

The OCA is designed to fill this gap in monitoring policies and implementation of community-related legislation. As identified in the *OCA Briefing Document*, “no central effective monitoring mechanism for community related issues currently exists to ensure that these issues are being successfully addressed.”⁵⁹ The OCA will address this deficiency by “monitor(ing) (the) implementation of communities’ laws and policies and their impact at the community level” and “monitor(ing) (the) implementation of Government’s strategies related to communities”.⁶⁰ Accordingly, the OCA should be the primary body responsible for the monitoring the implementation of policies and laws for communities. However, this continues to overlap with the MCR’s monitoring mandate, even if is not currently overlapping in practice.

Committee on the Rights and Interests of Communities

According to its *2008 Work Plan*, the CRIC has the working objective to oversee the implementation of laws adopted by the Assembly and draft reports based on its examination.⁶¹ The CRIC, as body of the Assembly, plays an essential role in overseeing the work of the Government. The CRIC’s capacities should be strengthened to ensure that it can effectively act as a counter power.

Advisory Office on Good Governance, Human Rights, Equal Opportunities and Gender

According to section (iv) of its mandate, the AOGG shall “review executive branch policies, procedures and practices for consistency with applicable human rights standards [...] and advise and make recommendations to the Prime Minister and relevant Ministers accordingly”.⁶² This requires the AOGG to monitor the compliance of policies with human rights standards, which would include policies aimed specifically communities.

⁵⁷ Ibid. (Annex XII, Section I)

⁵⁸ Ibid.

⁵⁹ *Prime Minister’s Office for Community Affairs Briefing Document, August 2008, Prishtinë/Priština.*

⁶⁰ Ibid.

⁶¹ *CRIC Work Plan 2008, Committee on the Rights and Interests of Communities, 2008, Prishtinë/Priština.*

⁶² *UNMIK Regulation 2005/15, UNMIK, March 2005, Prishtinë/Priština. (Annex I, E, Section IV)* http://www.unmikonline.org/regulations/2005/RE2005_15.pdf

Human Rights Units

The HRU for each ministry, according to section (iv) of the mandate, shall “undertake effective measures for assessing the compliance of policies, legislation and activities within the ministry with relevant international high standards”.⁶³ For each ministry, it is therefore the HRU’s responsibility to monitor its policies to ensure they are in compliance with human rights standards, including rights of minority communities. This creates an overlap, primarily with the AOGG, which also monitors compliance with human rights standards, but could also overlap with the monitoring work of the OCA, as the primary monitoring body for community rights.

Ombudsperson

The Ombudsperson has the mandate to “monitor the policies and laws adopted by local authorities to ensure that they respect human rights standards and the requirements of good governance.”⁶⁴ As an independent body, the Ombudsperson is accordingly an external watch-dog for the implementation of policies at the local level to ensure they adequately address human rights, including the rights of communities. Moreover, the Ombudsperson shall “ensure that all persons in Kosovo are able to exercise effectively the human rights and fundamental freedoms safeguarded by international human rights standards.”⁶⁵ This indirectly gives the Ombudsperson responsibilities to monitor the implementation of legislation on human rights standards by assessing individual’s ability to exercise these rights.

Recommendations

Despite the institutional overlaps identified above, there has been an overall lack of monitoring of the implementation of legislation rather than a duplication of efforts. Although the monitoring of policies and legislation is central to the mandate of the MCR, it has not been able to carry out this function. This is due to both structural difficulties with a line ministry monitoring the functions of other line ministries and to the MCR neglecting to build its internal capacities to meet the task.

The AOGG is primarily focused on the compliance of policies and legislation with international human rights standards, which benefits communities, but does not address the specific need to monitor the implementation of policies and legislations for communities. Moreover, the HRUs focus primarily on internal compliance to human rights standards, which benefits communities through non-discriminatory hiring practices, but also neglects the need to monitor the impact of the ministries’ activities on communities.

As a result, monitoring of policy and legislation has remained one of the main areas in the institutional structures for communities that has not yet been filled. This function has to be fully taken over by the OCA, which should become the primary body in monitoring the implementation of community-related policies and legislation. This removes the responsibility from the MCR, which

⁶³ *Administrative Instruction 8/2005*, Office of the Prime Minister, Government of Kosovo, 2007, Prishtinë/Priština. (Article 7.1, Section III)

⁶⁴ ‘Our Mandate’, *Ombudsperson in Kosovo Website* <http://www.ombudspersonkosovo.org/?cid=2,54> [Accessed 10 November 2008]

⁶⁵ *UNMIK Regulation 2000/38*, UNMIK, June 2000, Prishtinë/Priština (Section 2) http://www.unmikonline.org/regulations/unmikgazette/02english/E2000regs/RE2000_38.htm

will be the primary body for the implementation of policies and laws for communities, as well as from the AOGG, which mandate should be reviewed to remove responsibilities concerning community rights. The OCA will provide an external monitoring function to ensure the full implementation of policies and laws throughout the Government. ECMI therefore recommends the full institutionalisation of the monitoring functions of the OCA and the clarification that the MCR no longer has this responsibility. Moreover, CRIC should maintain and reinforce its oversight function on the implementation of community legislation.

The AOGG should continue to monitor the compliance of policies and laws with international human rights standards, while the OCA takes the lead in monitoring for communities issues. The HRUs should also maintain responsibility for compliance within their ministries according to human rights standards. ECMI therefore recommends establishing cooperation and collaboration between the OCA, the AOGG and the HRUs during the development of the OCA to avoid duplicated efforts between monitoring of community-related policies and human rights.

The Ombudsperson will contribute to the monitoring of the implementation of communities policies and legislations through its independent assessments of human rights at the local level. This will provide the necessary external oversight to ensure that members of communities are able to exercise their rights outlined in legislation.

5.3 Development and Implementation of Programmes for Communities

ECMI has identified institutional overlap regarding programmes designed to support communities. Programmes are a key component in promoting the integration of communities into Kosovo society, such as the promotion of reconciliation, sustainable return, confidence-building and professional development. As such, a coordinated approach to community programmes is needed to ensure that the specific needs of all communities are addressed. Based on their current mandates, ECMI has identified institutional overlaps between the MCR and the OCA, with the potential for synergy with the CCC.

Ministry for Communities and Returns

The MCR's mandate establishes the ministry's primary role in the design and implementation of community-based programmes. According to section (iii) of its mandate, the MCR shall "provide the lead in confidence building, dialogue and reconciliation activities among communities and support the implementation of these activities".⁶⁶ Moreover, according to section (v), the MCR shall "develop and/or manage programmes and mechanisms to facilitate equitable integration of all communities and their members currently residing in Kosovo, as well as to ensure the sustainable return of the displaced and refugees".⁶⁷ This positions the MCR as the central body establishing programmes that support communities, but in practice the programmes of the MCR have focussed on returns and not addressed wider community issues.

⁶⁶ UNMIK Regulation 2005/15, UNMIK, March 2005, Prishtinë/Priština. (Annex XII, Section III) http://www.unmikonline.org/regulations/2005/RE2005_15.pdf

⁶⁷ Ibid. (Annex XII, Section IV)

Office of Community Affairs

The OCA includes in its mandate to “use available funds strategically to positively impact and create change in people’s lives with a particular emphasis on the most vulnerable.”⁶⁸ While this does not implicitly relate to programmes, it gives the OCA a responsibility in working directly with communities. The OCA will accordingly “directly support projects that positively impact and create change in people’s lives”.⁶⁹ As such, the OCA has the further responsibility to engage with communities by developing small-scale and targeted programmes that meet their specific needs. This creates a potential overlap with the mandate of the MCR on the development and implementation of community programmes.

Consultative Council for Communities

The CCC mandate includes assistance and involvement with programmes that affect communities, which establishes the CCC as an active contributor to community programmes. Section (1a) of the mandate specifies that the CCC shall “assist in the organisation and mobilisation of the views of minority communities in relation to [...] programmes of special relevance to them”.⁷⁰ Moreover, in section (1f), the CCC also has the mandate to “enable communities to participate in the needs assessment, design, monitoring and evaluation of programmes that are aimed at their members or are of special relevance to them”.⁷¹ This secures the involvement of the CCC with community-based programmes at all stages, from design to implementation, creating the opportunity for positive cooperation with the work of the MCR and the OCA.

Recommendations

Based on these identified overlaps, ECMI recommends that the MCR should expand its activities beyond the issue of returns, and developing programmes on other issues of foremost importance for communities, such as professional development, confidence building measures, dialogue and reconciliation, as foreseen in its mandate. The OCA should support the MCR in expending its activities through developing policies on community issues, and monitoring the concrete impact of the MCR’s programmes on the beneficiaries of these policies. In addition, the OCA should punctually develop and manage small-scale targeted programmes to meet specific needs.

Also central to the success of programmes for communities is cooperation by both the MCR and the OCA with the CCC. The CCC shall contribute to the development of programmes by both bodies as providing a mechanism, which would ensure that communities views are reflect in Government’s programmes and guarantee a sense of ownership among communities. As previously discussed, consultation with the CCC is incorporated into the OCA mandate and should be cultivated in the early stages of development of both bodies. Cooperation with the MCR is also essential in enabling the CCC to embrace its function regarding programmes and to ensure that programmes reflect the needs and concerns of the communities they impact. As such, consultation with the CCC by both

⁶⁸ *Prime Minister’s Office for Community Affairs Briefing Document*, August 2008, Prishtinë/Priština.

⁶⁹ *Ibid.*

⁷⁰ *Law on the Promotion and Protection of the Rights of Communities and their Members in Kosovo*, Kosovo Assembly, February 2008, Prishtinë/Priština. (Article 12, Section 1A)

⁷¹ *Ibid.* (Article 12, Section 1F)

institutions will improve the overall effectiveness of the Government's programmes for communities.

5.4 Fund Distribution among Communities

Related to programmes, ECMI has also identified an institutional overlap regarding the distribution of funds for communities. Funding is central to the success of programmes for communities and the effective distribution of funds from donors and the Government is integral to the Government's approach to communities, having the greatest impact to improve individual's lives. Based on their current mandates, ECMI has identified institutional overlap between the MCR and the OCA, with the potential for synergy with the CCC.

Ministry for Communities and Returns

The MCR has its own budget, a substantial portion of which is dedicated to programmes and activities aimed at improving the lives of communities. However, to date, the distribution of such funds has focused on support for returns and has not taking a wider communities approach. This leaves a gap in funding for other programmes and the Government lacks a coordinated approach to the distribution of funds.

Office of Community Affairs

The OCA has the mandate to "use available funds strategically to positively impact and create change in peoples lives with particular emphasis on the most vulnerable" by "developing a multi-tiered funding approach to allow for flexibility in addressing community needs; to either directly address an identified community issue or work in cooperation with other donors to highlight and resolve identified needs".⁷² This is meant to address the current lack of a coordinated strategic approach to allocate available funds. The OCA is therefore posed to take the lead on the allocation of funds for community programmes. Moreover, the OCA is responsible for the "coordination of donors and international organisations to ensure communities issues are being effectively addressed throughout Kosovo; eliminate duplication efforts; and ensure effective use and equity of fund distribution".⁷³ The OCA therefore has the additional task beyond its own funding to ensure that funds from donors and international organisations are being fully utilised to positively impact communities, without unnecessary duplications. However, there is no clear coordination on the allocation of funds between the OCA and the MCR. This could lead to duplication on funding for community-based programmes or allow important areas of programming to be neglected for funding.

Consultative Council for Communities

According to section (1f), of its mandate, the CCC "enables communities to participate in decisions concerning the apportionment of funds, both international and raised from the Kosovo budget, for projects aimed at communities or their specific concern".⁷⁴ This establishes the CCC as the voice of communities regarding the distribution of funds. As such, there is the potential for positive synergy with the OCA and MCR, if both institutions utilise the CCC for community consultation.

⁷² *Prime Minister's Office for Community Affairs Briefing Document, August 2008, Prishtinë/Priština.*

⁷³ *Ibid.*

⁷⁴ *Law on the Promotion and Protection of the Rights of Communities and their Members in Kosovo*, Kosovo Assembly, February 2008, Prishtinë/Priština. (Article 12, Section 1G)

Recommendations

ECMI considers the distribution of funding, both from the MCR and OCA budgets and from international donors, to be a primary area of concern. In principle, the more funding available, the more programmes that can be pursued, which will greatly benefit communities. However, there is a significant overlap between the MCR, with its substantial budget, and the OCA. Both are executive governmental agencies governing the funding of community programmes and both have involvement with international donors. Finding a resolution to this overlap is very important and must be prioritised.

While the role of the CCC could be sidelined, it is also very important the CCC is able to fulfil its mandate in bringing community participation into the allocation of funds. This will help build communities trust and confidence in the institutions of the Government and ensure funds are used to meet their needs. The CCC must therefore be incorporated to any resolution on this issue.

ECMI therefore recommends the establishment of a Steering Group for the Funding of Community Related Projects, involving the MCR, the OCA and the CCC to ensure effective cooperation on funding. The Steering Group will develop a coordinated approach to funding to ensure all funds are used in the most effective ways possible. This will be further elaborated on in §6.2.

5.5 Awareness-Raising and Public Information with Communities

ECMI has identified institutional overlap regarding awareness-raising and the spread of public information on policies to members of communities. This is an important part of the Government's approach to communities, as it informs members of communities of their rights within Kosovo, as well as spreads information on programmes available that would benefit members of communities. Moreover, it demonstrates the Government's commitment to the rights and interests of communities, which can help to build communities' confidence in the Government. Based on their current mandates, ECMI has identified institutional overlap regarding awareness-raising and the spread of public information involving the MCR, the OCA, the AOGG and the HRUs.

Ministry for Communities and Returns

The MCR has the mandate, in section (xiv), to “assist in the development and implementation of measures in the field of public information and other promotional projects for increasing public awareness of the rights and interests of communities and their members, including the right to return”.⁷⁵ While this only requires the MCR to assist in public information, the MCR is specifically mandated to inform communities on their rights. However, this has not taken the form of a universal public information process, which the OCA is intended to address.

Office of Community Affairs

The OCA, according to its mandate, shall “act as clearing house for the wide-spread distribution of community related policy and laws and raising awareness of all community members in

⁷⁵ UNMIK Regulation 2005/15, UNMIK, March 2005, Prishtinë/Priština. (Annex XII, Section XIV)
http://www.unmikonline.org/regulations/2005/RE2005_15.pdf

understanding their rights”.⁷⁶ The specification of “clearing house” establishes the OCA as the primary body responsible for the distribution of public information to communities regarding rights and policies. As the coordinating body on community issues, the OCA is best posed to provide universal information on the Government’s activities, which will require collaboration with other bodies. However, no clear relationship with the MCR has been established leaving a lingering overlap in mandates.

Advisory Office on Good Governance, Human Rights, Equal Opportunities and Gender

The AOGG has the mandate, in section (v), to “assist in the development and implementation of public information campaigns and other promotional schemes to promote public awareness of international human rights standards”.⁷⁷ While this mandate is wider than community-specific rights and policies, it can lead to an overlap on public information campaigns that involve community rights that are also part of international human rights standards.

Human Rights Units

According to article (13) the HRUs have the mandate to “provide to the public information regarding specific activities of the ministry related to human rights, according to the Law on Access to Public Documents, and Administrative Instruction for implementation of the Law on Access to Official Documents”.⁷⁸ This activity is not directed specifically to members of communities, but relates more generally to transparency and reporting on the ministry’s activities. However, this can also lead to an overlap regarding new policies or programmes undertaken at ministries that impact communities.

Ombudsperson

The Ombudsperson, while not mandated to raise-awareness on community issues in general, has the implicit responsibility to publicise information on its work and its offices to ensure the general public is aware of their right to complain about human rights abuses and of the procedure to follow. As recommended in §3.5, an awareness-raising campaign is especially needed targeting members of communities, who are especially vulnerable to human rights abuses. Such outreach would create synergy with the OCA, with the OCA informing communities on their rights in general and the Ombudsperson informing communities on its complaint’s procedure.

Recommendations

Based on these overlaps, ECMI recommends solidifying the position of the OCA as the primary distributor of public information to communities. Given its intended coordination role with all ministries and its role in policy development, the OCA should be best prepared to effectively distribute comprehensive information to communities. The OCA should therefore coordinate with the MCR to avoid duplications of efforts, with the MCR contributing information on its programmes. Regarding the AOGG and the HRUs, the potential for overlap is less substantial. With

⁷⁶ *Prime Minister’s Office for Community Affairs Briefing Document, August 2008, Prishtinë/Priština.*

⁷⁷ UNMIK Regulation 2005/15, UNMIK, March 2005, Prishtinë/Priština. (Annex I, E, Section V)
http://www.unmikonline.org/regulations/2005/RE2005_15.pdf

⁷⁸ *Administrative Instruction No. xx/2007 for Human Rights Units in the Kosovo*, Provisional Institutions of Self-Government, Government of Kosovo, 2007, Prishtinë/Priština. (Article 13)

the AOGG publicising international human rights standards, there is only a small overlap with community-specific information, which can be addressed through coordination. In addition, the HRUs are only reporting on their own activities related to human rights, which creates only a small potential for overlap. Regarding the Ombudsperson, it should undertake an outreach campaign with communities highlighting its independent position to investigate human rights violations, which ensures communities are not only aware of their rights from the OCA, but have the means to take action when they are violated.

5.6 Consultation with Members of Communities

ECMI has identified the potential for positive synergy regarding consultation with communities. Bringing communities' views into the Government's decision-making process is central to ensuring the Government's approach to communities is representative of real communities' needs, while also building communities' confidence in central level institutions. With the introduction of the CCC into the institutional system, there is now a body dedicated solely to this purpose. This creates the potential for synergy with all institutions that address communities concerns, but there is an especially significant potential synergy between the CCC and the OCA.

Office of Community Affairs

The OCA has the mandate to “monitor [Government bodies and institutions] to ensure that they are effectively carrying out their defined work in determined locations at a high level”.⁷⁹ This is achieved by reviewing the Government's impact on communities “through various identified channels including community umbrella organisations developed by the CCC, regularly obtaining feedback from communities on the effectiveness of policy implementation and programming in addressing their needs.”⁸⁰ Within this mandate, coordination with the CCC is already established as the primary, though not the only, resource for consultation with community representatives, especially the community umbrella organisations that are integral to the CCC.

Consultative Council for Communities

The CCC is designed to be the central body for consultation with communities. It has the mandate, in section (b), to “provide a forum for coordination and consultation amongst the communities” and, in section (c), to “provide a mechanism for regular exchange between the communities and the Kosovo Government”.⁸¹ The CCC includes representatives from each of Kosovo's communities, nominated by community representative organisations. As such, it is a forum for consultation with all of Kosovo's communities on all areas of community concern. The CCC should therefore be the primary institution for the OCA, as well as other relevant institutions, to utilise for its consultation mandate.

Advisory Office on Good Governance, Human Rights, Equal Opportunities and Gender

The AOGG has the mandate, in section (vi), to “consult with community representatives, and develop consultative bodies as needed, to address good governance, human rights, equal opportunity

⁷⁹ *Prime Minister's Office for Community Affairs Briefing Document, August 2008, Prishtinë/Priština.*

⁸⁰ *Ibid.*

⁸¹ *Law on the Promotion and Protection of the Rights of Communities and their Members in Kosovo*, Kosovo Assembly, February 2008, Prishtinë/Priština. (Article 12, Sections B and C)

and gender issues”.⁸² With community concerns relating directly to most of these issues, there is the potential for duplication with the CCC and OCA on the creation of consultative bodies and on consultation with community representatives. However, ECMI recommends that any responsibilities with regards to communities’ issues should be transferred to the OCA, removing the need for consultation with community representatives.

Recommendations

ECMI considers the structural synergy between the OCA and the CCC to be a good example for potential cooperation within the institutional system for communities. The use of the CCC and related structures for consultation by the OCA will greatly contribute to the relevance of its activities. As such, the OCA, as well as all institutions dealing with communities, should prioritise cooperation with the CCC as it becomes operational. Such cooperation is also possible with the AOGG on areas of overlapping interest and should be encouraged. Institutionalising this synergy will maximise the effectiveness of the CCC, while building community confidence in the CCC’s influence on the Government’s activities. Moreover, it will guide the Government’s approach to communities to meet their ongoing needs within Kosovo. In addition, the MCR, through no express mention of the need to consult with communities’ representatives, has permanent membership in the CCC⁸³ and should use this opportunity to incorporate the views of the communities in its programmes.

⁸² UNMIK Regulation 2005/15, UNMIK, March 2005, Prishtinë/Priština. (Annex I, E, Section VI)
http://www.unmikonline.org/regulations/2005/RE2005_15.pdf

⁸³ Presidential Decree: *The Communities Council for Communities in Kosovo*, President of the Republic of Kosovo, September 2008, Prishtinë/Priština. (Article 3§2)

VI. Towards an Effective Institutional System for Communities

Any institution must have the capacity to evolve and adapt to the changing needs of the communities it seeks to serve. As Kosovo develops as a new state, and as the circumstances of the communities change, institutions will have to change as well. The proposals contained in this report aim to develop a holistic and integrated institutional system that can accommodate the needs of communities, provide consistency and stability over time, and also be flexible enough to adapt. As Kosovo moves forward post-independence, the central Government will need to address the inadequacies of existing institutions to develop a fully integrated, comprehensive institutional structure for the protection of the rights and interests of communities.

The first steps of this ongoing process are currently underway, with the establishment of the CCC and the OCA filling the remaining gaps in the Government's approach. As these institutions become operational, the success of the institutional system will depend on the capacity of each institution to fill its specific role. The proposals contained in chapters III and IV of this report aim to maximise the efficiency of each existing and developing institution by clarifying and refining individual mandates relating to communities. In doing so, the proposals concentrate responsibilities for communities within one institution in each major body of the Government. This encompasses the institutional system for communities, as follows:

OP	CCC	Articulation of communities' views through coordination and consultation		Incorporation of communities' views in on legislative or policy initiatives, as well as projects and programmes		Awareness raising of community concerns
OPM	OCA	Coordination and monitoring of the implementation of laws and policies related to communities	Development and review of policies impacting communities	Development and monitoring the implementation of government strategies on communities	Punctually development and management of small-scale targeted projects, complementing the MCR's activities	Distribution information on community rights and the activities of the government in this respect
Ministries	MCR	Development and implementation of programmes and projects for communities, beyond the issue of returns			Allocation of a substantial part of its budget to programmes and projects	
	HRUs' community specialists	The OCA's focal point within ministries allowing it to effectively monitor the implementation community policies and legislation				
Assembly	CRIC	Exam of draft laws to determine if they adequately address the rights and interests of the communities	Monitoring of the implementation of the laws that affects communities through consideration of yearly report issues by the relevant ministry		Introduction of draft laws to address a lack of legislation in a area of communities' concern	
Ombuds-person	NDT	Independent oversight of public institutions through addressing cases of discrimination		Information campaigns on the Ombudsperson's mandate with regards to non-discrimination, and of the complaint's procedure		

6.1 Inter-Institutional Relationships

While each institution has an important individual function for communities, as outlined in this report, the success of the Government's approach to the protection of communities depends on the relationships built between these institutions. The proposals contained chapter V of this report aim to build such positive synergy between these institutions in their responsibilities to communities. The institutions presented in this report have specific and complementary functions:

- The **CCC** is a **consultative** mechanism that provides a forum of exchange between the Government and the communities. It facilitates the political participation of communities at the highest political level.
- The **MRC** will **implement** Government policies in relation to the protection of communities and pursue programmes on communities' issues, beyond returns.
- The **community specialists** of the **HRUs** will **monitor compliance** with and **advocate** for community rights within the ministries activities and act as the **OCA's focal point** in ministries.
- The **OCA** will **coordinate** the Government's approach to communities across all relevant agencies, monitor the implementation of legislation related to communities and take the lead in **developing** the Government policy initiatives.
- The **CRIC** will ensure community interests are represented in **legislative actions** and **develop legislation** to meet the needs of communities.
- The **NDT** of the Ombudsperson will perform a **quasi-judicial function** to investigate complaints as the watchdog of Government's actions towards communities.

The MRC, the CCC and the OCA will be the three most important institutions in developing, coordinating and implementing the Government's approach to communities. Together, they will formulate policies and set the agenda for community protection, oversee programmes and allocate funding, monitor the progress of initiatives, and inform communities about their rights and the Government's activities. As such, building complementary relationships between these bodies is crucial to their individual successes and to the Government's entire approach to communities.

6.2 Steering Group for the Funding of Community Related Projects

In addition to the relationships described above, ECMI recommends the establishment of a Steering Group for the Funding of Community Related Projects to institutionalise cooperation on the allocations of funds for communities. Historically, the MRC had responsibility for funding projects for the benefit of communities. However, it has appropriated funds from the Kosovo Consolidated Budget primarily for returns issues, which were jointly managed by UNDP, UNMIK's OCRM and the MRC. Only recently has the MRC started setting up procedures for funding of projects and project management. In the past four years, the MRC has failed to generate effective projects for communities and has failed to encourage communities to develop projects for their own benefit.

In the new institutional regime, ECMI considers that the CCC and the OCA should also have input into the way in which funds are allocated for the benefit of communities. The CCC will bring the views of communities into the decision-making process and the OCA will ensure that projects are funded in a consistent way. To allow for cooperation between these institutions on the allocation of funding, ECMI recommends that all funds designated for projects for communities should be put in a Trust Fund. The MRC will still be primarily responsible for appropriating funds from the Kosovo Consolidated Budget for community projects, which will be included in the Trust Fund. Funding may also come from the CCC's budget under the *Law on Communities*, as well as from international donors.

ECMI recommends that a Steering Group for the management of funds be set up, made up of representatives from the CCC, the OCA and the MRC. The Steering Group will determine and publish criteria for the funding of projects, based on the *Annual Strategy for Communities* as required by the *Law on Communities*. As these projects will benefit of communities, ECMI is of the view that the CCC should have a leading role in decisions on funding in the Steering Group. The OCA will administer and manage the Trust Fund, with cooperation from the Secretariat of the CCC. The Steering Group should also report regularly to the Kosovo Assembly and the CCC in relation to the disbursement of funds. Grantees of funding should also submit regular reports to the Steering Group.

The establishment of the Steering Group for the Funding of Community Related Projects will ensure effective cooperation between the three key institutions for communities, the MCR, the CCC and the OCA. It will ensure that all three institutions have access to the financial resources to support their projects, which will support the success of the Government's approach for communities and the central level.

6.3 Next Steps in Institutional Development

The proposals outlined in this report are the starting point for what will be an ongoing period of development for the institutional system for communities. As the OCA and the CCC, both central in the Government's approach to communities, are becoming functional, these proposals should guide their integration into the institutional system. Priority should first be placed on making these bodies fully operational, followed by proactive coordination between the MCR, the CCC and the OCA.

As the majority of overlaps and synergies outlined in this report involve these three key institutions, ECMI recommends that representatives of each come together as soon as possible to address their individual mandates and roles within the institutional structure. Moreover, this will allow for the development of the Steering Group outlined above. Once these institutions have coordinated their efforts, cooperation with the CRIC, the AOGG, and the HRUs can be more easily addressed.

Furthermore, ECMI recommends that a follow-up review of all the institutions included in the report be conducted, ideally a year after the CCC and the OCA begin to function. This will allow for a thorough review of the institutional system on whole, with each component in operation. Moreover, it will permit an in depth assessment of the activities of each institution after the transition period in Kosovo has ended and the institutional structure has been solidified.