



EUROPEAN CENTRE
FOR
MINORITY ISSUES



Communities: Know Your Rights

A booklet for communities and their members

European Centre for Minority Issues Kosovo
(ECMI Kosovo)

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I. INTRODUCTION

All individuals in the Republic of Kosovo are equally entitled to protection of their fundamental human rights. These include, for example, a general protection against discrimination, an inherent right to life, freedom of expression and assembly, and many more.

However, members of minority communities in Kosovo might not be able to enjoy these fundamental rights in the same way as the majority population. For instance, although freedom of expression is a universal right, it becomes meaningless if members of a community are only entitled to express themselves in a language they do not understand. Therefore, communities require *additional* rights to 'level the playing field'. This second layer of protection for communities ensures that their members can take full advantage of their fundamental rights.

Community rights in Kosovo are guaranteed in a range of primary and secondary legislation, notably, the Constitution of the Republic of Kosovo and the overarching Law on the Protection and Promotion of the Rights of Communities and their Members in Kosovo (03/L-047)¹, both of which cover community rights in broad terms. In addition, specialised laws have been passed to deal with particular issues at a more detailed level, notably, the Law on Education in the Municipalities of the Republic of Kosovo (03/L-068), the Law on the Use of Languages (02/L37), the Law on Local Self-government (03/L-040), the Cultural Heritage Law (02/L-88) and the Law on Special Protective Zones (03/L-039).

This booklet aims to provide communities and their members with a clear and thorough overview of their legal rights. The first section lists these rights on an issue-by-issue basis, highlighting the most important provisions. The second section explains what to do if these rights have been violated, and provides step-by-step instructions for lodging formal complaints with a range of institutions.

¹ Hereafter, Law on Communities.

II. WHAT ARE YOUR RIGHTS?

A. What are 'Communities' In Kosovo and Who is a Member?

The term 'community' operates on two levels in Kosovo. In the first place, it has the standard meaning of a group of people who share common characteristics, for example, ethnicity, language or religion. In this sense it can be used to refer to *all* groups in Kosovo, regardless of whether they are in a minority or a majority.

However, in a legal sense, it is also used to refer to Kosovo's minority groups.² In Kosovo law, "communities" are defined as "national, ethnic, cultural, linguistic or religious groups traditionally present in Kosovo that are not in the majority".³ These include, explicitly:

- Serbs
- Turkish
- Bosnian
- Roma
- Ashkali
- Egyptian
- Gorani

However, this list is not exhaustive and "other communities" can also benefit from these rights.⁴

It is important to note that members of the majority (Albanian) community who are in a minority in a given municipality also fall under the definition of "community", and are therefore entitled to community rights.

N.B. Note that community rights can never be exercised in violation of the laws of Kosovo or international legal standards.

B. Anti-Discrimination: On What Grounds?

All people in Kosovo are guaranteed state protection from discrimination. Where such discrimination prevents community members from enjoying their fundamental rights, the state must take special measures to redress this.

² European Centre for Minority Issues (ECMI) Kosovo, "Strengthening the Institutional Framework for Communities in Post-Independence Kosovo", Report, January 2009, p. 11.

³ Law on Communities, Article 1.4.

⁴ There is evidence to suggest that the Montenegrin community may have become a recognised community in this context. ECMI Kosovo, "The Protection of Rights of Communities in Kosovo", Report 2009, p. 5

1. Prohibited Grounds of Discrimination

Discrimination is prohibited on a number of grounds. Of particular relevance to communities are those of national, ethnic, cultural, linguistic or religious identity.⁵

2. Direct and Indirect Discrimination

Discrimination includes both 'direct' and 'indirect' discrimination.

- 'Direct' discrimination occurs where one person is treated less favourably than another in a comparable situation.
- 'Indirect' discrimination occurs where a seemingly neutral provision or practice actually disadvantages a particular group of people due to their national, ethnic, cultural, linguistic or religious identity.⁶

If you are subject to threats or acts of discrimination – including intimidation, hostility or violence – as a result of membership of, or association with, a particular community, the state is obliged to take all necessary measures to protect you.⁷ Similarly, if you are unable to exercise your fundamental rights for the same reasons, the state must take "special measures" to remedy this.

[Note that these measures are not themselves considered to be discriminatory, but should only be applied until their purpose has been fulfilled.⁸]

C. Security and Freedom of Movement

As a member of a community, you are guaranteed both freedom of movement, and safety and security throughout the country. The state is obliged to protect these rights on your behalf.⁹ This is in addition to your rights as a citizen/legal resident of Kosovo to free choice of your location of residence.¹⁰

D. Identity Rights

This section focuses on broad identity rights, such as the right to voluntarily associate yourself with a particular community, and the prohibition of forced assimilation.

⁵ Law on Communities, Article 3.3. It should be noted that the general prohibition against discrimination contained in the Anti-discrimination Law 2004 lists other grounds such as gender, etc (Article 2.a).

⁶ Law on Communities, Article 3.3; Anti-discrimination Law, Article 2.a, 3.a, 3.b.

⁷ Law on Communities, Article 3.2.

⁸ Law on Communities, Articles 3.3, 1.2.

⁹ Law on Communities, Article 3.5.

¹⁰ Constitution, Articles 29.1, 35.

1. Right of voluntary association

If you belong to a community, you are free to choose whether or not to be treated as a member of that community, and whether or not to exercise your community rights. Any disadvantage or discrimination you face as a result of that choice is illegal.¹¹

2. Prohibition of forced assimilation

If you are a member of a community, you cannot be subjected to policies or practices that try to assimilate you against your will.¹² If this occurs, you are entitled to state protection.

E. Culture and Religion

Community rights in Kosovo place a lot of emphasis on the right to protect and promote community culture, and on assurances of religious freedom. These are listed in more detail in sections 1 and 2 below.

Of great importance to many communities in Kosovo is the protection of their religious and cultural heritage. These rights are listed in section 4. In this context, the Serb Community benefits from a particular set of rights.

1. Culture

If you are a member of a community in Kosovo, you have the constitutional right to express, maintain and develop your culture and traditions. You also have the right to administer your own cultural affairs.¹³ The state is under an obligation to create the conditions for you and your community to achieve this.¹⁴

a. Community representative organisations and associations

As a community, you have the right to establish community representative organisations. These are encouraged to help manage the resources made available for the advancement of community cultural life.¹⁵ However, their main function is to act as umbrella organisations for your community, and to represent it to the Community Consultative Council (CCC).¹⁶

The CCC, located within the Office of the President, was established by Presidential Decree on the 15 September 2008. It includes representatives from all the communities in Kosovo, organised through the umbrella

¹¹ Law on Communities, Article 1.5.

¹² Law on Communities, Article 2.3.

¹³ Constitution, Article 59.1; Law on Communities, Article 5.1.

¹⁴ Law on Communities, Article 2.2.

¹⁵ Law on Communities, Article 11.5.

¹⁶ Law on Communities, Article 5.3.

community representative organisations described above, as well as Government representatives. It is designed to facilitate the political participation of communities at the central level by acting as a mechanism for regular exchange between the communities and the Government. It also aims to provide communities with an opportunity to comment on laws and policy initiatives at an early stage.

You and your community also have the right to establish citizens' associations for culture, art, science and education and other associations.¹⁷ These must comply with a code of conduct regarding representativeness, democratic functioning, efficiency and financial transparency, which should be adopted by your representative organisation through the CCC.¹⁸

Note that community organisations or associations are eligible for support and financial assistance, including from the Government.¹⁹

b. Symbols

Your community, and your representative community organisation, have the right to use and display your own symbols.²⁰

c. Free contact

As a member of a community, both you and your representative organisations have the right to maintain contacts with people – either in Kosovo or in another state – on the basis of common ethnic, cultural, religious or linguistic identity, or cultural heritage.²¹

2. Religion

The Republic of Kosovo is a secular state, has no official religion, and is neutral on questions of religious beliefs.²²

As with all people in Kosovo, you are entitled to freedom of belief, conscience and religion are guaranteed for all persons in Kosovo²³. This includes the freedom to have, not to have, to retain or to change religion or belief. It also includes the freedom to manifest your religion or beliefs (in worship, teaching, practice and observance), either alone or in community with others, in public or in private.²⁴

¹⁷ Law on Communities, Article 5.2.

¹⁸ Law on Communities, Article 5.3.

¹⁹ Law on Communities, Article 5.4.

²⁰ Law on Communities, Article 5.6.

²¹ Law on Communities, Article 5.7.

²² Constitution, Article 8; Law on Communities, Article 7.1.

²³ Constitution, Article 38.1 ; Law on Communities, Article 7.2.

²⁴ Law on Communities, Article 7.2.

Both you and your community are entitled to religious freedom. The state is not only expressly prevented from interfering with this right²⁵, but is obliged to protect the practice of religious rites, traditional forms of religious life, including monastic life, and religious education, along with church property.²⁶

You and your community have the right to establish community religious organisations and institutions.²⁷

3. Traditional and religious holidays

You and your community have the right to celebrate your traditional and religious holidays freely and publicly, in accordance with the law.²⁸

4. Religious and cultural heritage

a. General

The Republic of Kosovo is under a legal obligation to preserve the cultural and religious heritage of all communities. If your community believes certain sites or monuments to be of cultural and religious significance, the state is obliged to protect them.

The Government can delegate the task of maintaining such sites to your community organisation, providing that organisation is both willing and capable. Funding may be provided for this purpose.²⁹

b. Serbian Orthodox Church

If you are a member of the Serb Community in Kosovo, you and your community are entitled to additional protection of your religious, historical and cultural sites, notably the Serbian Orthodox Monasteries.³⁰

“Special Protective Zones” (SPZ) have been established around monuments, groups of buildings, villages or historic town centres of special significance to the Serb Community. If an area has been designated a SPZ, it is safeguarded from any development or activity which could damage its historical, cultural,

²⁵ Law on Communities, Article 7.3.

²⁶ Law on Communities, Article 7.4.

²⁷ Law on Communities, Article 7.7.

²⁸ Law on Communities, Article 5.5.

²⁹ Law on Communities, Article 5.12.

³⁰ Law on Communities, Article 7.6; Law on the Establishment of Special Protective Zones, Article 1.

architectural or archaeological context, natural environment or aesthetic setting.³¹

This process is monitored and facilitated by an Implementation and Monitoring Council (IaMC). If a dispute arises between the Serbian Orthodox Church and the Kosovo central or local authorities, the IaMC can mediate between the two.³²

F. Language

The issue of language is absolutely central to the protection and promotion of community rights in Kosovo, as it impacts on many other areas of particular importance for communities, such as education, political participation, media, and equal access to employment opportunities, among others.

This section will examine provisions relating to the use of languages in the public sphere, both at the central and municipal levels; in public services; within the justice system; and in the private sphere. The issue of language in the context of education and the media will be dealt with separately below, in sections G and H respectively.

1. Use of languages at the state level

a. Official languages of the Republic of Kosovo

The official languages of the Republic of Kosovo are the Albanian and Serbian languages, along with their respective alphabets.

Every person in Kosovo has the right to communicate with the central institutions, and to receive available services and public documents, in either of these official languages. All central institutions must ensure that this is possible.³³

b. Meetings and work of the central institutions

In the central institutions, the official languages of Kosovo enjoy equal status.³⁴

All laws adopted by the Assembly of Kosovo must be issued and published in the official languages. Each version bears equal authority.³⁵ All "promulgated

³¹ Law on the Establishment of Special Protective Zones, Article 2.

³² Law on the Establishment of Special Protective Zones, Article 4.

³³ Law on the Use of Languages, Article 4.2.

³⁴ Law on Communities, Article 4.1.

³⁵ Law on the Use of Languages, Article 5.4.

laws" (laws that have been formally proclaimed) must also be published in the Bosnian and Turkish languages.³⁶

Official records and documents must be kept and issued in the official languages.³⁷

If you are an officer or an employee in any of the central institutions, you have the right to use either of the official languages in your work. This right must be accommodated by the institution, notably in their debates, proceedings and meetings, as well as any public meetings they organise.³⁸ At your request, the institution must make interpretation available in all meetings from one official language into another.³⁹

If your mother tongue is *not* one of the official languages of Kosovo, special provisions apply to you in the context of the central institutions:

- *Government.* If you are a member of the Government and your mother tongue is not one of the official languages, you have the right to use your mother tongue in the meetings of the central institutions, as well as in any public meetings they organise. At your request, the central institutions must provide interpretation.⁴⁰
- *Assembly of Kosovo.* If you are an Assembly member and your mother tongue is not an official language, you have the right to use your mother tongue in the work, debates or other proceedings of the Assembly and its Committees, as well as in any public meetings it organises. At your request, facilities will be made available to ensure interpretation from and into your mother tongue. Any document you submit in your mother tongue must be translated into the official languages, and all responses must be made to you in your mother tongue.⁴¹
- *Ombudsperson.* If your mother tongue is not one of the official languages of Kosovo and you wish to lodge a complaint with the office of the Ombudsperson, you have the right to present your oral or written submissions to the Ombudsperson in your mother tongue. You are also entitled to receive a reply in your mother tongue.⁴² For more details on submitting a complaint to the Ombudsperson, see section III.A below.

³⁶ Law on the Use of Languages, Article 5.4.

³⁷ Law on the Use of Languages, Article 4.5.

³⁸ Law on the Use of Languages, Article 4.7.

³⁹ Law on the Use of Languages, Articles 4.3, 5.1.

⁴⁰ Law on the Use of Languages, Article 4.4.

⁴¹ Law on the Use of Languages, Article 5.2.

⁴² Law on the Use of Languages, Article 6.

2. *Use of languages at the municipal level*

As noted above, the Albanian and Serbian languages enjoy official status throughout Kosovo and at all levels of government. However, other community languages can also be elevated to the status of official languages at the municipal level, providing certain demographic conditions are fulfilled.

a. Languages with official status at the municipal level

If you are a member of a community whose language is not an official language, *and your community constitutes at least 5% of the municipal population*, your language can be accorded the status of an official language at the municipal level.

[There is one notable exception to this rule: if you are a member of the Turkish Community, your language is accorded official status in the Prizren Municipality regardless of demographic factors.⁴³]

b. Languages in official use at the municipal level

If you are a member of a community whose language is not an official language, *and your community constitutes between 3% and 5% of the municipal population*, your language can become a language “in official use” at the municipal level.

In addition, if your community’s language has traditionally been spoken in a municipality, it will also be considered a language in official use within that municipality.⁴⁴

c. Meetings and work of the municipal institutions

Official languages at the municipal level

In municipal institutions, the official languages of the municipality enjoy equal status.⁴⁵ Note that ‘official languages’ here refers to both the Albanian and Serbian languages, and any other community language which is elevated to official status at the municipal level (see section II.F.2.a above).

If your community language enjoys official status at the municipal level, you have the right to communicate with municipal institutions and officials in that language. This includes the right to receive available services and public documents in that language. Every municipal representative and executive body has a duty to ensure that this is possible.⁴⁶

⁴³ Law on Communities, Article 2.3.

⁴⁴ Law on the Use of Languages, Article 2.4.

⁴⁵ Law on the Use of Languages, Article 7.1.

⁴⁶ Law on the Use of Languages, Article 7.2.

All official municipal languages are accorded equal status in the meetings and work of the municipal institutions. At your request, municipal institutions must make interpretation available from one official language into another for municipal meetings, as well as for public meetings organised by the municipality.⁴⁷

Regulations and subsidiary acts must be printed and published in the official languages of the municipality. All versions are equally authoritative.⁴⁸

Official documents must be kept and issued in all official languages of the municipality. These include records of meetings, the official records of municipal representative and executive bodies, public registers and so on.

The official names of municipal institutions and organs must be displayed in the official languages of the municipality, as must official signs indicating the names of municipalities, villages, roads, streets and other public places.⁴⁹

Languages in official use at the municipal level

If your community language is a language in official use at the municipal level (see section II.F.2.b above), you have the right to present municipal institutions and officials with oral or written submissions and documents in that language. At your request, the institutions must reply in that language.⁵⁰ Similarly, at your request, the municipal representative and/or executive body must ensure that municipal regulations and subsidiary acts are issued and published in that language.⁵¹

3. Use of languages in public services

In enterprises performing public services, the official languages of Kosovo enjoy equal status.⁵²

You have the right to communicate with enterprises performing public services in any of the official languages of Kosovo, including official municipal languages and languages in official use in a given municipality. This extends to services and documents received from such enterprises. Every such enterprise has a duty to ensure that this is possible.⁵³

⁴⁷ Law on the Use of Languages, Article 7.3.

⁴⁸ Law on the Use of Languages, Articles 7.6.

⁴⁹ Law on the Use of Languages, Article 9.

⁵⁰ Law on the Use of Languages, Article 8.1.

⁵¹ Law on the Use of Languages, Articles 8.2 and 8.3.

⁵² Law on the Use of Languages, Article, 30.1.

⁵³ Law on the Use of Languages, Articles 30.2, 30.3.

4. *Use of languages in the justice system*

a. Arrest

If you are arrested or charged with a criminal offence, you have the right to be informed promptly and in a language you understand of the reasons for your arrest and of any charges brought against you.⁵⁴ If you are a member of a community whose mother tongue is not one of the official languages, that language will be your mother tongue.⁵⁵

b. Judicial proceedings

Use of official languages

Official languages must be used on an equal basis in judicial proceedings.⁵⁶

If you are participating in a criminal procedure, the authorities involved (courts, prosecution bodies, etc) must ensure that you can use the official language of your choice.⁵⁷ You can also request that the proceedings be simultaneously interpreted from one official language into another.⁵⁸

Use of other languages

If you are participating in judicial proceedings and do not speak and understand the language(s) being used, you have the right to use your own language. If you belong to a community whose mother tongue is not one of the official languages, that language will be your mother tongue.⁵⁹ This right extends, in particular, to the right to make submissions, testify and hear the facts of the case and any evidence.⁶⁰ To this end, the judicial authorities involved are obliged to provide an interpreter free of charge.⁶¹

Courts must issue documents related to proceedings in the official language(s) chosen for the proceedings. However, if you are a party to the proceedings you can also request that the documents be issued in other official languages.⁶²

⁵⁴ Law on the Use of Languages, Article 15.1.

⁵⁵ Law on the Use of Languages, Article 15.2.

⁵⁶ Law on the Use of Languages, Article 12.1.

⁵⁷ Law on the Use of Languages, Article 12.2.

⁵⁸ Law on the Use of Languages, Article 13.1.

⁵⁹ Law on the Use of Languages, Articles 16.2, 17.2.

⁶⁰ Law on the Use of Languages, Articles 16.1, 17.1.

⁶¹ Law on the Use of Languages, Article 16.3.

⁶² Law on the Use of Languages, Article 14.

c. Detention

Penal and detention institutions should ensure that their staff speak the language(s) spoken or understood by the greatest number of the incarcerated.

If you are incarcerated, and you can show that there is a need, you have a right to be provided with interpretation into a language you understand.⁶³

5. *Personal names*

Your name and surname must be entered into official documents (public registers, personal identification, etc) in the official language of your choice. Any such entry must be in the script, and in accordance with the tradition and linguistic system of your chosen language. The form you choose must be used by public officials.⁶⁴

6. *Use of languages in the private sphere*

In private enterprises, private institutions, association or organisations, or in self-employed activities, you have the right to employ the language(s) of your choice.⁶⁵

However, where that language is not an official language and the activities in question affect legitimate public interests (public order, public safety, health or the rights of other persons) the Kosovo institutions will require that you also use one of the official languages.⁶⁶

G. Media

An open and independent media is of central importance to any democratic and diverse society. The importance of information and its accessibility to a wide audience is vital for the related rights of freedom of expression and political participation.

The media rights of communities in Kosovo are primarily concerned with state obligations in public broadcasting, which seeks to mainstream communities' perspectives within domestic news broadcasting, and special provisions for Serbian-language television.

⁶³ Law on the Use of Languages, Article 18.

⁶⁴ Law on the Use of Languages, Articles 27.1, 27.2.

⁶⁵ Law on the Use of Languages, Article 29.1.

⁶⁶ Law on the Use of Languages, Article 29.2.

1. General

As a member of a community, you and your community are guaranteed access to information without discrimination.⁶⁷ You are entitled to create and use your own language media. This includes daily newspapers and wire services. You are also entitled to a reserved number of frequencies for electronic media.⁶⁸ You are also guaranteed free reception of cross-border broadcasts, whether direct or by means of transmission or re-broadcasting.⁶⁹

However, note that all these rights are subject to regulations prohibiting incitement or spreading of racial, ethnic or religious hatred or intolerance.⁷⁰

2. Public broadcast media

All communities in Kosovo are entitled to equitable representation in public broadcast media, and are allocated time for community programming on public broadcasting channels.⁷¹ Specifically, Radio Television of Kosovo, the public broadcasting institution, must dedicate no less than 10% of its programming budget and no less than 15% of its program time – including prime-time news coverage – to non-majority communities on a proportionate basis. These broadcasts must be in the respective community languages.⁷² Communities and their members are to have a leading role in generating and presenting such programs.⁷³

Public broadcasting policy in Kosovo is designed to promote local media production, as well as a diverse range of quality broadcasting services. It is also to encourage the widest possible geographic distribution, with the aim of serving all communities in Kosovo. The allocation of broadcasting frequencies must take account of community needs and market capacity, and all programming must reflect the equality of citizens and communities.⁷⁴

The Independent Media Commission (IMC) is a politically neutral body responsible for implementing this policy. It is composed of three separate bodies:

- the Council,
- the Office of the Executive Chief, and
- the Media Appeals Board.

⁶⁷ Law on Communities, Article 6.1.

⁶⁸ Law on Communities, Article 6.1.

⁶⁹ Law on Communities, Article 6.6.

⁷⁰ Law on Communities, Article 6.8.

⁷¹ Law on Communities, Article 6.2.

⁷² Law on Radio Television of Kosovo, Article 6.6.

⁷³ Law on Communities, Article 6.3.

⁷⁴ Law on the Independent Media Commission and Broadcasting, Articles 3.3, 8.5.

The composition of the Council is relevant to communities. Five (5) of the Council's seven (7) members must be residents of Kosovo ('civil society members'), *and must respect representation of ethnic communities in Kosovo*.⁷⁵ One (1) resident member is appointed by the Assembly of Kosovo, while the other four (4) are nominated by individuals and organizations with legal residence in Kosovo. These include, for example,

- Registered journalist associations,
- Broadcasting associations,
- Non-governmental organizations involved with the media, protection of freedom of speech and human rights,
- Representatives from academic circles
- Representative from the legal community, and
- Any others of relevance.

For details of the appointments procedure, please refer to the Law on the Independent Media Commission and Broadcasting (Law No 02/L-015). The full text of this law is available for download at:

http://www.imc-ko.org/IMG/pdf/IMC_Law_ENG_FINAL.pdf.

If you wish to lodge a complaint with in the IMC, please follow the procedure laid out in section III.D.4 below.

3. Serbian-language television

If you are a member of the Kosovo Serb Community, the Government is under an obligation to take "all measures within its powers" to secure an international frequency plan that will provide your community with access to a licensed, independent, Kosovo-wide, Serbian-language television channel, to operate effectively and without discrimination.⁷⁶

H. Education

Education is crucially important to communities in Kosovo, not only because it constitutes the primary source of ideas and knowledge for a new generation, but because it has huge practical implications for equal access to employment and social opportunities.

In addition to provisions relating to the national curriculum, community education rights in Kosovo are inextricably tied up with language rights, and notably with the language of instruction.

1. Curriculum

The national educational curriculum of Kosovo must cover "the history, culture and other attributes of communities traditionally present in the

⁷⁵ Law on Communities, Article 6.7.

⁷⁶ Law on Communities, Article 6.5.

country, with the aim of fostering a spirit of respect, understanding and tolerance among all communities in Kosovo".⁷⁷ In line with this aim, the stated goal of the Ministry of Education, Science and Technology (MEST) is "a unified education system in Kosovo which respects the differences in language, culture, history, art and traditions through which national identity is cultivated".⁷⁸ To ensure maximum community input, it was declared that the national curriculum of Kosovo would be developed in consultation with community representative organisations.⁷⁹

Although the community representative organisations have yet to be established, the MEST has developed a strategic plan for pre-university education, spanning from 2007 to 2017, which is designed to present communities with the opportunity to participate in the reform and development of the Kosovo education system. To date, the Bosnian, Turkish and Roma, Ashkali and Egyptian (RAE) communities have formed expert groups to assist in the drafting of programs for national courses in native language, history, music, arts and culture. These groups have also cooperated and participated in developing teaching programs.

It should be noted, however, that the Serb community has been reluctant to participate in the development and drafting of new teaching programs, and has continued to work within the framework of the old Serbian education programs. Special provisions apply for schools teaching in the Serbian language (see section II.H.2.a.i below).

2. Language of instruction

As noted above, the education rights of communities are closely linked to language rights. For while the right to basic free education is universal throughout Kosovo⁸⁰, if you belong to a community whose mother tongue is not a national language of instruction you will not be able to take full advantage of this fundamental right. This would constitute indirect discrimination, as described in section II.B.2 above.

A great effort has been made, therefore, to ensure that all students have access to education in their mother tongue at pre-school, primary and secondary school levels. Furthermore, all students who are educated in a language that is not one of the official languages of Kosovo are obliged to learn an official language of Kosovo, so that they have equal opportunity to progress to higher education.

⁷⁷ Law on Communities, Article 8.12.

⁷⁸ Kosovo Ministry of Science, Education and Technology (MEST), 'Education and the Integration of Communities', official website of the MEST, available at <http://www.masht-gov.net/advCms/#id=106> (accessed 1 July 2009).

⁷⁹ Law on Communities, Article 8.12.

⁸⁰ Constitution, Article 47.

a. Right to education in one of the official languages of Kosovo

At all levels of education you have the right to choose, and to choose for your children, your preferred official language of instruction.⁸¹

If you are a pupil, you can decide, together with your parents, in which official language your school records are to be kept.⁸²

Teaching in the Serbian language

There are special provisions for teaching in the Serbian language, and municipalities are permitted to create the conditions for providing such education.⁸³ In doing so, they are also entitled to cooperate with municipalities and institutions in the Republic of Serbia, including government agencies.⁸⁴

Schools that teach in the Serbian language can apply the curricula or use the textbooks developed by the Ministry of Education of the Republic of Serbia.⁸⁵ For guidance on how to do this, refer to section III.D.2 below.

Enhanced competencies in higher education

The municipality of Mitrovicë/Mitrovica North has enhanced competencies in the area of higher education, and the University of Mitrovicë/Mitrovica North is declared an autonomous public institution of higher learning in the Serbian language.⁸⁶

The municipality of Mitrovicë/Mitrovica North exercises responsibility for the university.⁸⁷ It must ensure that it receives adequate premises and funding for its operations from the Kosovo budget and other institutional sources. The university may also receive funding from the Government of the Republic of Serbia, provided this is transparent, public, and in accordance with the laws of Kosovo.⁸⁸

b. Education in community languages that are not an official language

Pre-school, primary and secondary public education

If you are a member of a community whose language is not an official language, you are entitled to pre-school, primary and secondary public

⁸¹ Law on Communities, Article 8.1; Law on the Use of Languages, Article 19.2.

⁸² Law on the Use of Languages, Article 24.1.

⁸³ Law on Education in the Municipalities of the Republic of Kosovo, Article 12.1.

⁸⁴ Law on Education in the Municipalities of the Republic of Kosovo, Article 4.3.

⁸⁵ Law on Education in the Municipalities of the Republic of Kosovo, Article 12.4.

⁸⁶ Law on Education in the Municipalities of the Republic of Kosovo, Article 14.

⁸⁷ Law on Education in the Municipalities of the Republic of Kosovo, Articles 14.d.

⁸⁸ Law on Education in the Municipalities of the Republic of Kosovo, Articles 14.e.

education in your mother tongue.⁸⁹ However, at these primary and secondary schools, you must also study an official language of your choice.⁹⁰ If you are receiving education in a community language that is not an official language, you are entitled to have your reports and certificates issued, and your records kept, in your mother tongue.⁹¹

These community language classes or schools are to be established according to reasonable and viable thresholds, determined by the Government. However, where these thresholds are not met, the Government has an obligation to offer alternatives. These include:

- Subsidized transport to an area where such schooling is being offered,
- Distance learning,
- Roving teaching arrangements, or
- Offers of boarding.⁹²

Where education occurs in a community language that is not an official language, the Government is responsible for establishing integrated curricula, and for monitoring and enforcing the quality of education delivered.⁹³

Establishments providing education in a community language that is not an official language can design their own school programs. However, these must comply with the integrated curriculum established by the Government and must meet its stated standards of achievement. Similarly, communities are entitled to generate educational modules concerning their own culture, history and traditions, in cooperation with the Government.⁹⁴

The Government is responsible for ensuring that sufficient qualified personnel are available. Teacher training must be conducted in the relevant languages for those seeking to teach in community language schools.⁹⁵

The Government must ensure that heads and teachers of public educational institutions operating in community languages are mainly representatives of such communities and are fully familiar with their identity.⁹⁶

Higher education and training

If you belong to a community whose language is not an official language, the state has an obligation to guarantee *existing* facilities for professional training

⁸⁹ Law on Communities, Article 8.1; Law on the Use of Languages, Article 20.1.

⁹⁰ Law on Communities, Article 8.10; Law on the Use of Languages, Article 21.

⁹¹ Law on the Use of Languages, Article 24.3.

⁹² Law on Communities, Article 8.2.

⁹³ Law on Communities, Article 8.7.

⁹⁴ Law on Communities, Article 8.7.

⁹⁵ Law on Communities, Article 8.8.

⁹⁶ Law on Communities, Article 8.9.

and higher education in that language. Furthermore, if your community expresses a need, the state must provide additional higher education and professional training programs in the language of your community, providing it is considered financially viable to do so.⁹⁷

Members of communities are guaranteed equal access to higher education by the Government, which is under an obligation to establish "special measures" to ensure the admission of candidates from community schools to higher and university educational institutions.⁹⁸

c. Private educational and training facilities in community languages

If you are a member of a community, you and your community have the right to establish and manage your own private educational and training establishments, for which you may be granted public financial assistance.

Such establishments can apply for accreditation by the Ministry of Education, Science and Technology (MEST), providing they comply with the general educational standards of the Kosovo general curriculum. The MEST is then responsible for monitoring the quality of education delivered.⁹⁹

I. Economic and Social Opportunities

Although direct and indirect discrimination against persons belonging to communities persists in economic and social life, the legislative provisions on economic and social opportunities remain comparatively underdeveloped. Aside from general obligations on the state to promote full and effective equality, attention is focused primarily on employment.

1. General

In general terms, the state must adopt "adequate measures" to promote full and effective equality in economic and social life.¹⁰⁰ Access to employment, social protection and housing are highlighted as areas of particular importance.¹⁰¹

As a member of a community, you have a specific right to enjoy your property, and to work for just and equitable compensation, without discrimination.¹⁰²

⁹⁷ Law on Communities, Article 8.3.

⁹⁸ Law on Communities, Article 8.11.

⁹⁹ Law on Communities, Article 8.4; Law on the Use of Languages, Article 22.

¹⁰⁰ Constitution, Article 58.4.

¹⁰¹ Anti-discrimination Law, Articles 4.a, 4.c, 4.e, 4.h.

¹⁰² Law on Communities, Article 9.1.

If you are both a member of a community *and* a woman, be aware of the risk of 'double discrimination' on the dual grounds of gender and association with a community. The state is under an obligation to adopt special measures to counter such discrimination.¹⁰³

2. *Employment*

The principle of non-discrimination on the grounds of association with a national community is a governing principle of the Civil Service.¹⁰⁴

The state must develop public employment programs and other specially targeted employment measures. If you are a member of the Roma, Ashkali and Egyptian communities, you are entitled to special consideration in this respect.¹⁰⁵

Community members are entitled to equitable representation in employment at all levels in publicly owned enterprises and public institutions (including the security sector, the judiciary, the prosecution service, government agencies relating to the administration of justice and correctional facilities, defence, security, and intelligence).¹⁰⁶ Furthermore, the enhancement of community access to economic and employment opportunities must be undertaken with the full participation and consultation of community representative organisations.¹⁰⁷

With regard to recruitment, available positions must be widely advertised in the Albanian and Serbian languages. Employing authorities must establish panels of three (3) or more persons, with equitable representation of communities in Kosovo, to review applications for positions, and short-list, interview and select candidates.¹⁰⁸

An Independent Oversight Board has been created to deal with situations where employers have (allegedly) breached the principle of non-discrimination on the grounds of association with a national minority. For details of how to make such a complaint, please refer to section III.D.3 below.

If you are a member of a community and are finding it difficult to meet the standards of admission to positions in public services, and to higher-level positions in particular, you might be entitled to certain special measures.¹⁰⁹

¹⁰³ Law on Communities, Article 9.4.

¹⁰⁴ Regulation No 2001/36 on the Kosovo Civil Service, Article 2.1.g.

¹⁰⁵ Law on Communities, Article 9.2.

¹⁰⁶ Law on Communities, Article 9.5.

¹⁰⁷ Law on Communities, Article 9.3.

¹⁰⁸ Regulation No 2001/36 on the Kosovo Civil Service, Articles 3.1.a-b.

¹⁰⁹ Law on Communities, Article 9.6.

For example, all employing authorities can use the following affirmative action measures, as needed:

- *Active recruitment.* The employer can make a special effort to identify and solicit job applications from under-represented populations, especially internally displaced persons and refugees.
- *Addressing the results of long-term discrimination.* The employer can develop on-the-job training programs for commonly disadvantaged populations, to enhance their ability to apply and compete for promotions. Training must be offered equally to civil servants of all ethnicity and both genders.
- *Addressing discrimination through training and proper mechanisms for redress.* The employer should ensure that personnel understand anti-discrimination policies and have access to adequate grievance procedures.¹¹⁰

In addition, municipalities and executive agencies are required to prepare equal opportunity policy statements (EOPSs) and implementation strategies. The EOPSs should achieve certain objectives, for example:

- Encouraging applications from under-represented sections of Kosovo society, including members of minority communities;
- Promoting understanding and the use by employees of both the official languages of Kosovo; and
- Ensuring that all citizens are offered the same high quality of civil services.¹¹¹

J. Health

Health care rights for communities and their members are mainly concerned with recognition of medical qualifications and the translation of medical information into community languages. More advanced rights also exist in the assignment of enhanced competencies to certain municipalities in the provision of secondary health care.

1. General

If you are a member of a community, you are entitled to equal access to health care, without discrimination. The state must take the “necessary measures” to ensure this.¹¹² In particular, it must establish effective, transparent, participatory and accessible procedures for monitoring access to and delivery of health care services for members of communities.¹¹³ Particular

¹¹⁰ Administrative Direction No 2003/2 implementing UNMIK Regulation No 2001/36 on the Kosovo Civil Service, Articles 10.1(a)-(c).

¹¹¹ MPS DCSA AI 2003/12 on Equal Opportunity Procedures, available at <http://www.ks-gov.net/mshp/Documents/No.MPS-DCSA-2003-12.pdf> (accessed 1 July 2009).

¹¹² Law on Communities, Article 10.1.

¹¹³ Law on Communities, Article 10.6.

attention must be paid to ensuring that satisfactory health care services are provided for persons belonging to socially and economically vulnerable communities.¹¹⁴

If you are a member of a community, you have the right for information related to health care education, including information about your rights and obligations, to be provided and displayed in your community language.¹¹⁵ Medical safety instructions must also be made available in your language.¹¹⁶

The Republic of Kosovo must recognise medical qualifications attained abroad, notably those of persons speaking community languages, provided that these are in conformity with international standards of accreditation.¹¹⁷

2. Enhanced municipal competencies

The municipalities of Mitrovicë/Mitrovica North, Graçanicë/Graçanica, Shtërpcë/Štrpce are responsible for the provision of secondary health care. This includes registration and licensing of health care institutions, recruitment, payment of salaries and training of health care personnel and administrators.¹¹⁸

K. Political Participation

Provisions for the effective political participation of communities are central to the proper functioning of a multi-ethnic society. Only through effective political representation can the diverse interests of different communities be given proper consideration in political decision-making and in the development of laws and government programmes.

Consequently, the legislative framework in Kosovo has sought to invest communities and their members with advanced rights of effective participation. These include the right to form political parties, and guaranteed representation at all levels of government.

In the institutions of Kosovo, community participation extends both 'vertically' and 'horizontally':

- Vertically, from the highest level of central government to the lower municipal and local levels; and
- Horizontally, across all policy areas of particular relevance to communities (eg, education, language, religious and cultural heritage, etc).

¹¹⁴ Law on Communities, Article 10.2.

¹¹⁵ Law on Communities, Article 10.5.

¹¹⁶ Law on Communities, Article 10.3.

¹¹⁷ Law on Communities, Article 10.4.

¹¹⁸ Law on Local Self-government, Article 20.

In the central government, community participation is assured through guaranteed representation in the Kosovo Assembly, the Government, the judiciary and other bodies.¹¹⁹

At the municipal level, communities are entitled to guaranteed representation in the legislative and executive municipal bodies, providing that at least 10% of municipal citizens belong to minority communities.

Finally, community representative organisations are encouraged to assist the respective communities in representing their interests in a consolidated way, primarily to the Community Consultative Council.¹²⁰ The Council, in turn, will represent these interests at the central level (see section II.E.1.a above).

1. Political parties

Community members have the right to form political parties and to run for elected seats and positions at all levels of government.¹²¹

As a general rule, political parties may not exclude persons on the grounds of their belonging to communities. However, an important exception exists for members of communities who wish to establish a party with the aim of representing their community.¹²²

2. Central level

a. Assembly of Kosovo

Twenty (20) out of the one hundred and twenty (120) seats of the Assembly of Kosovo are guaranteed for representation of communities that are not in the majority in Kosovo. These are distributed as follows:

- The Kosovo Serb Community is entitled to a minimum of ten (10) guaranteed seats (even if the number of seats won in an open election is less than ten (10));
- Other communities are also entitled to a minimum number of seats, as follows:
 - Three (3) seats for the Bosnian community,
 - Two (2) seats for the Turkish community,
 - One (1) seat for the Gorani community,
 - One (1) seat for the Roma community,
 - One (1) seat for the Ashkali community,
 - One (1) seat for the Egyptian community, and

¹¹⁹ Law on Communities, Article 11.1.

¹²⁰ Law on Communities, Article 11.5.

¹²¹ Law on Communities, Article 11.3.

¹²² Law on Communities, Article 11.4.

- One (1) additional seat for the Roma, the Ashkali or the Egyptian community with the highest overall votes.¹²³

The Constitution can only be amended by a vote of two thirds (2/3) of all its deputies. This includes two thirds (2/3) of all deputies holding seats reserved and guaranteed for representatives of minority communities.¹²⁴

Two (2) of the deputy presidents of the Assembly must represent non-majority communities. Elected by a majority vote of all deputies of the Assembly, one (1) must be an Assembly deputy holding a seats reserved for the Serb Community, while one (1) must be an Assembly deputy holding a seat reserved for other non-majority communities.¹²⁵

b. Committee on the Rights and Interests of Communities (CRIC)

CRIC is a permanent committee of the Assembly, charged with assessing the compatibility of proposed legislation with the rights and interests of communities.

Its composition is as follows:

- One third (1/3) of members holding seats reserved for the Serbian Community,
- One third (1/3/) of members holding seats reserved for other minority communities, and
- One third (1/3) of members from the majority community.¹²⁶

Its procedure is as follows:

- Any proposed law can be submitted to CRIC for an advisory opinion by any member of the Presidency of the Assembly, another committee, or a group comprising at least ten (10) Assembly deputies. The Committee may also propose laws and such other measures on its own initiative, within the remit of the Assembly.¹²⁷
- The Committee can make recommendations regarding the proposed law, to ensure that community rights and interests are adequately addressed.¹²⁸ Members may also issue individual opinions.¹²⁹ It must decide whether or not to issue a recommendation within two weeks, by a majority vote of its members.¹³⁰

¹²³ Constitution, Article 64.2.

¹²⁴ Constitution, Article 65.2.

¹²⁵ Constitution, Article 67.4.

¹²⁶ Constitution, Article 78.1.

¹²⁷ Constitution, Article 78.4.

¹²⁸ Constitution, Article 78.3.

¹²⁹ Constitution, Article 78.4.

¹³⁰ Constitution, Article 78.2.

- Recommendations can be submitted to another relevant committee or to the Assembly.¹³¹

c. Legislation of vital interest

Certain issue areas are considered to be of “vital interest” to communities and their members. For this reason, they require a ‘double majority’ for their adoption, amendment or repeal. This means:

- The majority of votes of all Assembly deputies (present and voting), *in addition to*
- The majority of votes of Assembly deputies holding seats reserved for minority community representatives (present and voting).¹³²

These areas of vital interest are specified as follows:

- Laws changing municipal boundaries, establishing or abolishing municipalities, defining the scope of powers of municipalities,
- Laws implementing the rights of communities and their members, other than those set forth in the Constitution,
- Laws on the use of language,
- Laws on local elections,
- Laws on protection of cultural heritage,
- Laws on religious freedom or on agreements with religious communities,
- Laws on education, and
- Laws on the use of symbols, including community symbols and on public holidays.¹³³

d. Government of Kosovo

Within the Government, there must be:

- At least one (1) minister from the Kosovo Serb Community and one (1) minister from another non-majority community (if there are more than twelve (12) ministers, the Government must have a third minister representing a non-majority community)¹³⁴,
- At least two (2) deputy ministers from the Kosovo Serb Community and two (2) deputy ministers from other non-majority communities (if there are more than twelve (12) Ministers, the Government must have a third Deputy Minister representing the Kosovo Serb Community and a third deputy minister representing another non-majority community).¹³⁵

¹³¹ Constitution, Article 78.3.

¹³² Constitution, Article 81.1.

¹³³ Constitution, Article 81.1.

¹³⁴ Constitution, Article 96.3.

¹³⁵ Constitution, Article 96.4.

The selection of these ministers and deputy ministers must be determined after consultation with parties, coalitions or groups representing non-majority communities. If appointed from outside the Kosovo Assembly, they require formal endorsement by the majority of Assembly deputies declaring to represent the community concerned.¹³⁶

d. Judiciary

Supreme Court and courts of appeal

In the Supreme Court, at least 15% judges must be from non-majority communities (no fewer than three (3)).¹³⁷

In any other court with appeal jurisdiction, at least 15% judges must be from non-majority communities (no fewer than two (2)).¹³⁸

Constitutional Court

The decision to propose two (2) out of the nine (9) Constitutional Court judges requires a two thirds (2/3) majority of Assembly deputies (present and voting) and the additional consent of the majority of Assembly deputies holding seats reserved for non-majority community representatives.¹³⁹

e. Kosovo Judicial Council

The Kosovo Judicial Council is responsible for recruiting candidates for appointment to the Judiciary. It is mandated to "give preference in the appointment of judges to members of Communities that are underrepresented in the judiciary as provided by law".¹⁴⁰

Its composition is as follows:

- Two (2) of its thirteen (13) members must be elected by Assembly deputies holding seats reserved for the Kosovo Serb community, and
- Two (2) other members must be elected by Assembly deputies holding seats reserved for other non-majority communities.¹⁴¹

Its appointment procedure is as follows:

- Appointments to judicial positions reserved for non-majority community members can only be recommended by the majority of Council members elected by Assembly deputies holding seats

¹³⁶ Constitution, Article 96.5.

¹³⁷ Constitution, Article 103.3.

¹³⁸ Constitution, Article 103.6.

¹³⁹ Constitution, Article 114.3.

¹⁴⁰ Constitution, Article 108.1-108.3.

¹⁴¹ Constitution, Articles 6.3, 6.44.

reserved for non-majority community members. However, if this group does not recommend a candidate for a particular position over two consecutive sessions, any Council member may do so.¹⁴²

- There are special procedures for basic courts that have exclusive jurisdiction over one or more municipalities in which the Serb Community is in the majority. Appointment of judicial candidates in these areas can only be recommended by the two (2) members of the Council elected by Assembly deputies holding seats reserved for the Serb Community (acting jointly and unanimously). However, if these members fail to recommend a candidate over two consecutive sessions, any Council member may do so.¹⁴³

f. Kosovo Prosecutorial Council

The Kosovo Prosecutorial Council is a body designed to recruit, propose, promote, transfer, reappoint and discipline state prosecutors. In its recruitment policy, the Council is bound to give preference to appointment of members of under-represented communities.¹⁴⁴

5. *Municipal level*

At the municipal level, the posts of Deputy Chairperson of Municipal Assembly for Communities and Deputy Mayor for Communities are of particular important to communities.¹⁴⁵

a. Deputy Chairperson for Communities (DCC)

See also section III.C.2 below.

In municipalities where at least 10% of municipal citizens belong to communities not in the majority in that municipality, a post of Deputy Chairperson for Communities will be reserved in the Municipal Assembly for a representative of those communities.¹⁴⁶

The post will be held by the non-majority community candidate who receives the most votes on the open list of candidates for the Municipal Assembly.¹⁴⁷ S/he will be charged with promoting inter-community dialogue, and will serve as the formal focal point for addressing the concerns and interests of non-majority communities in the work and meetings of the Municipal Assembly.¹⁴⁸

¹⁴² Constitution, Article 108.9.

¹⁴³ Constitution, Article 108.10.

¹⁴⁴ Constitution, Article 110.2

¹⁴⁵ Law on Communities, Article 11.2.

¹⁴⁶ Law on Local Self-government, Article 54.1.

¹⁴⁷ Constitution, Article 54.2.

¹⁴⁸ Constitution, Article 55.1.

b. Deputy Mayor for Communities (DMC)

See also section III.C.2 below.

In those municipalities where at least 10% of municipal citizens belong to communities not in the majority in that municipality, there must be a Deputy Mayor for Communities¹⁴⁹, elected for the same term of office as the Mayor.¹⁵⁰ S/he is charged with assisting the Mayor and providing him/her with advice and guidance on issues related to non-majority communities.¹⁵¹

The Mayor must consult the DMC on matters related to non-majority communities.¹⁵²

The appointment and dismissal of the DMC must be proposed by the Mayor and approved by a double majority of Municipal Assembly members (present and voting) and of members belonging to the non-majority communities (present and voting).¹⁵³

When the post becomes vacant, the Mayor must appoint a new Deputy Mayor no later than 30 days after the vacancy arises.¹⁵⁴

c. Enhanced competencies for municipalities

Certain municipalities enjoy enhanced competencies in areas deemed of particular importance to non-majority communities. These include health, education, cultural affairs and policing.¹⁵⁵

Secondary health care

The municipalities of Mitrovicë/Mitrovica North, Graçanicë/Gračanica, Shtërpçë/Štrpce are responsible for the provision of secondary health care, including registration and licensing of health care institutions, recruitment, payment of salaries and training of health care personnel and administrators (see also section II.J.2 above).¹⁵⁶

University education

The municipality of Mitrovicë/ Mitrovica North is responsible for the provision of higher education, including registration and licensing of educational

¹⁴⁹ Constitution, Article 61.1

¹⁵⁰ Constitution, Article 61.2.

¹⁵¹ Constitution, Article 61.4.

¹⁵² Constitution, Article 58.1.

¹⁵³ Constitution, Article 61.3.

¹⁵⁴ Constitution, Article 61.5.

¹⁵⁵ Law on Local Self-government, Article 19.

¹⁵⁶ Law on Local Self-government, Article 20.

institutions, recruitment, payment of salaries and training of education instructors and administrators (see also section II.H.2.a.ii above).

Culture

All Serb-majority municipalities can exercise responsibility for cultural affairs, including protection and promotion of Serbian and other religious and cultural heritage within the municipal territory, as well as support for local religious communities (see also section II.E.4.b above).¹⁵⁷

Policing

Serb-majority municipalities have enhanced participatory rights in the selection of local station police commanders.¹⁵⁸

¹⁵⁷ Law on Local Self-government, Article 22.1.

¹⁵⁸ Law on Local Self-government, Article 23.

III. WHAT TO DO IF YOUR RIGHTS HAVE BEEN VIOLATED

If you believe that your individual or community rights have been violated, it is of course possible to pursue your claim before the courts. However, this can be expensive and time consuming, and there are a number of other options that you can try first.

A. Ombudsperson

If you feel that your human or community rights have been violated or abused by a public institutions or authority, you are strongly encouraged to lodge a complaint with the office of the Ombudsperson.

Established in June 2000, the Ombudsperson is an independent body mandated to address alleged human rights violations or abuses of authority by public institutions in Kosovo. The Ombudsperson can investigate complaints from anyone in Kosovo.

Within the office of the Ombudsperson, three teams have been formed to deal with areas of particular concern: children's rights, gender equality and discrimination. Community issues fall within the remit of the Non-Discrimination Team (NDT). However, although discrimination remains widespread in Kosovo, very few complaints have been brought before the Ombudsperson. To address this, the NDT has been conducting awareness-raising campaigns throughout the country on discrimination and complaints procedures, and has sought to reach out physically to members of communities with limited access to the Ombudsperson.

If you wish to lodge a complaint with the Ombudsperson, you can either:

- Meet the Ombudsperson or a representative in person, at an 'Open Day', or
- Complete and send in a complaints form to one of the Ombudsperson offices.

During Open Days, you can meet the Ombudsperson or a Deputy Ombudsperson in person, by appointment. These appointments can be made by contacting one of the offices of the Ombudsperson (full details listed at the end of this section) or by sending an email to:

ombudsperson@ombudspersonkosovo.org.

These Open Days are held at the Prishtinë/Priština Headquarters every two weeks, and every month at the Gjilan/Gnjilane, Mitrovicë/Mitrovica, Pejë/Peć, Gračanica/Gračanicë and Prizren field offices, as well as the Vidanje/Videja sub-office. Open Days are also held monthly at the municipal offices in Gjakovë/Đakovica and, as required, at the municipal offices in Lipjan/Lipljan.

You can also lodge a complaint remotely, by filling in a complaints form and delivering it (by mail or in person) to one of the offices of the Ombudsperson. This form can either be requested from one of the offices of the Ombudsperson, or downloaded at:

<http://www.ombudspersonkosovo.org/repository/docs/ComplaintFormPDF.pdf>

As noted in section II.F.1.b above, if your mother tongue is not one of the official languages, you have the right to present oral or written submissions to the Ombudsperson Institution in your mother tongue. You are also entitled to receive a reply in your mother tongue

Addresses of the Ombudsperson offices are as follows:

Prishtinë/Priština Headquarters

Address: Agim Ramadani St, nn. (formerly "Kosovodrvo" building, nn)
Tel: +381 (0) 38 501 401, 545 303
Fax: +381 (0) 38 545 302
Email: ombudsperson@ombudspersonkosovo.org

Gjilan/Gnjilane Field Office

Address: "28 November" St, Municipal Building II
Tel: +381 (0) 280 20 843
Visiting hrs: Mon and Thurs, 10.00 - 14.00

Gracanica/Gracanice Field Office

Tel: +381(0) 38 64 606
Visiting hrs: Monday and Thursday, 10.00 - 14.00

Prizren Field Office

Address: Str.Remzi Ademi nn, OSCE RC, II, no.20
Tel: +381 (0) 29 44 200 ext. 109
Visiting hours: Monday and Wednesday, 10.00 - 14.00

Mitrovicë/Mitrovica Field Office

Address: Agim Hajrizi Square, nn, Regional Tax Administration Building
Tel: +381 (0) 28 30 138
Visiting hrs: Monday and Thursday, 10.00 - 14.00

Mitrovicë/Mitrovica Sub-Office

Address: Trepca Annex, Filipa Visnjica 4
Tel: +381 (0) 63 817 44 79, +377 (0) 44 393 181
Visiting hrs: Monday and Thursday 10.00 - 14.00

Peja/Pec Field Office

Address: "Queen Teuta" no.59, Municipal Building, 3rd Floor, No. 3

Tel: +381 (0) 39 32 931
Visiting hrs: Monday and Thursday, 10.00 - 14.00

B. Community Representative Organisations and Associations

If you have a complaint, you can also make it known to the relevant community representative organisation (see section II.E.1.a above) as these bodies might, over time, be able to bring the issues to the attention of the central government, via the mechanism of the Communities Consultative Council (CCC).

Note that the community representative organisations have yet to be established, although this is anticipated for December 2009.

C. Claims against a Municipal Decision

If you wish to make a claim against a municipal decision, you do this either directly, through mechanisms such as the right of petition or citizens' initiative, or indirectly, by bringing your claim before the Deputy Chairperson for Communities (or even the Deputy Mayor for Communities).

1. Direct mechanisms

a. Right of petition

Any person or organisation with an interest in the municipality can present a petition to the Municipal Assembly concerning matters related to the responsibilities and powers of that municipality.

The Municipal Assembly must consider the petition in accordance with its particular statute and rules of procedure.¹⁵⁹

b. Right to citizens' initiative

Citizens may take the initiative to propose regulations, within the competencies of the municipality, for adoption by the assembly or by a vote of the citizens in accordance with the applicable law.¹⁶⁰

The proponents must submit a draft of the proposed regulation to the Chairperson of the Municipal Assembly.¹⁶¹

¹⁵⁹ Law on Local Self-government, Article 69.

¹⁶⁰ Law on Local Self-government, Article 70.1.

¹⁶¹ Law on Local Self-government, Article 70.2.

To qualify for consideration by the Municipal Assembly, the draft must be signed by 15% of registered voters.¹⁶²

The Municipal Assembly is obliged to consider the proposed regulation, and to take action upon it, within 60 days of receipt.¹⁶³

c. Right to referendum

The citizens of a municipality can request that a regulation adopted by the Municipal Assembly be submitted to a referendum.¹⁶⁴

The request must be submitted to the Chairperson of the Municipal Assembly within 30 days of the adoption of the regulation, and must be signed by 10% of registered voters.¹⁶⁵

The Municipal Assembly must consider and act upon a valid request within 30 days of its receipt.¹⁶⁶

d. Citizen complaints

Citizen complaints against an administrative act of the municipal organs must be reviewed in accordance with the Law on Administrative Procedure (Law No 02/L-28).¹⁶⁷ This full text of this law is available for download at: http://www.assembly-kosova.org/common/docs/liqjet/2005_02-L28_en.pdf.

1. Indirect mechanisms

In municipalities where non-majority communities make up 10% of the municipal population, individuals can have recourse to their representative in the municipal assembly, the Deputy Chairperson for Communities.¹⁶⁸

If you believe that an act or a decision of your municipal assembly has violated your community rights, you can lodge a complaint with the Deputy Chairperson for Communities, who is then obliged to review it.¹⁶⁹ The Deputy Chairperson is responsible for referring the matter to the municipal assembly for consideration.¹⁷⁰ If the assembly chooses not to reconsider its act or decision, or if the Deputy Chairperson deems that, even after reconsideration, the act or decision still violates a constitutionally guaranteed right, s/he may

¹⁶² Law on Local Self-government, Article 70.3.

¹⁶³ Law on Local Self-government, Article 70.4.

¹⁶⁴ Law on Local Self-government, Article 71.1.

¹⁶⁵ Law on Local Self-government, Article 71.2.

¹⁶⁶ Law on Local Self-government, Article 71.3.

¹⁶⁷ Law on Local Self-government, Article 8.

¹⁶⁸ See also section XXX above.

¹⁶⁹ Constitution, Article 55.2.

¹⁷⁰ Constitution, Article 55.3.

submit the matter directly to the Constitutional Court, which can decide whether to accept the matter for review.¹⁷¹

In municipalities where non-majority communities make up 10% of the municipal population, there is also nothing to prevent you from making your complaint known to the office of the Deputy Mayor for Communities. However, no formal mechanism is currently in place for doing so.

D. Issue-based Mechanisms

1. Language Commission

In the context of language rights, a Language Commission was established on 8 April 2009 by Administrative Decision 03/2009, in accordance with the Law on the Use of Languages (No 02/L-037). Its mandate is "to preserve, promote and protect the official languages and their equal status in Kosovo, as well as to ensure protection of the languages of communities whose mother tongue is not an official language".¹⁷²

The Language Commission is entitled to carry out investigations either:

- Following a complaint¹⁷³, or
- On its own initiative¹⁷⁴.

You can make a complaint to the Language Commission on the grounds that, either by act or omission:

- The equal status of the official languages is not being recognised, or
- Any law or regulation relating to the use of the official languages, or languages of communities whose mother tongue is not an official language, is not being complied with.¹⁷⁵

You should make the complaint/request in writing, sign it and deliver it to the Language Commission at the Government Building,¹⁷⁶ where it will be archived. You should receive a copy of your request, stamped that bears the government stamp and the date. From that date, the Language Commission has a period of 15 days to present you with an official answer.

On conclusion of an investigation, the Language Commission can issue recommendations on:

- Remedies required, and

¹⁷¹ Constitution, Article 55.4.

¹⁷² Law on the Use of Languages, Article 32.1.

¹⁷³ Law on the Use of Languages, Article 32.3.

¹⁷⁴ Law on the Use of Languages, Article 32.4.

¹⁷⁵ Law on the Use of Languages, Article 32.3.

¹⁷⁶ See address below.

- Possibilities for redress.¹⁷⁷

Where its recommendations have not been implemented within a reasonable period, as determined by the Commission, it can issue a written warning.

If the Commission's recommendations have still not been implemented within a reasonable period after it has issued a written warning, this is to be cited in its annual report to the Government and Assembly of Kosovo.¹⁷⁸

The Language Commission may review, and make recommendations on:

- Any regulations or administrative instruction made under the Law on the Use of Languages, and
- Any other regulations or administrative instructions that affect (or may affect) the status or use of the official languages, or languages of communities in Kosovo.

Contact details for the Commission are as follows:

Mr Fehmi Stublla, Chairman of the Language Commission

Email: fehmi.stublla@ks-gov.net

Tel: +381 (0)38 200 14 827

Address: Language Commission
Office of the Prime Minister of the Republic of Kosovo
Government Building
Mother Teresa Str.
10000 Pristina
Republic of Kosovo

Website: Under construction

1. The MEST and the Independent Commission charged with reviewing Serbian-language teaching materials

Section II.H.2.i noted that schools that teach in the Serbian language have the right to apply the curricula or use the textbooks developed by the Ministry of Education of the Republic of Serbia.

To do this, they must first notify the Kosovo Ministry of Education Science and Technology (MEST). The MEST then has three months to raise an objection. If it fails to raise an objection during that time, the material in question may be used.¹⁷⁹

If the MEST does raise an objection, the matter is referred to the Independent Commission charged with reviewing Serbian-language teaching materials. The Commission will check the material for conformity with the

¹⁷⁷ Law on the Use of Languages, Article 32.6.

¹⁷⁸ Law on the Use of Languages, Article 32.8.

¹⁷⁹ Law on Education in the Municipalities of the Republic of Kosovo, Articles 12.2, 12.3.

Kosovo Constitution and other relevant legislation. Until the material has been approved by the Commission, it cannot be used.

2. Independent Oversight Board (IOB) for the Kosovo Civil Service

If you feel that a public employer has breached the principle of non-discrimination on the grounds of association with a national minority, either in its recruitment procedure or in a decision it has made, you may lodge an appeal with the Independent Oversight Board.

Before the Board can hear your case, you must first exhaust the internal appeals procedures of the employing authority concerned. However, this initial procedure may be bypassed if the Board finds evidence of:

- Reasonable fear of retaliation,
- Failure by the employing authority to resolve such internal appeal within sixty (60) days, or
- Other good cause.

Each such appeal will be heard by a panel of three Board members. When presenting your case to the Board, both you and the employing authority concerned will have the opportunity to present your positions in writing, and these documents will be made available to the opposing parties.

In cases involving disputes of material fact, both parties must have the opportunity to appear together at a hearing before the Board, at which they may present evidence and witnesses for direct and cross-examination.

Within ninety days of the end of proceedings for each appeal brought before it, the Board must issue a written decision setting forth its decision, containing the legal and factual basis therefore.

Where the Board finds the employing authority to be in breach, it must order an appropriate remedy by written decision, directed to the Permanent Secretary or chief executive officer of the employing authority concerned. S/he will then be responsible for ensuring the compliance of the employing authority. However, where the employing authority does not comply, the Board will report this to the Prime Minister and the Special Representative of the Secretary-General.

3. Independent Media Commission (IMC)

a. Lodging a complaint

If you believe that a media outlet has violated its obligations to communities, you may file a complaint with the Independent Media Commission.

However, note that many complaints can be settled without involving the IMC and it is worth trying to contact the relevant media outlet first. The best method is to telephone them and explain your issue, and then follow this up with a formal letter reiterating your complaint. You should request that the media outlet issue its own correction or clarification. A clarification should be simple, factual and short. Give the media outlet a reasonable amount of time to review your complaint and/or request. If it does not agree to an adequate remedy within a reasonable period of time (for example, 48 hours), inform it that you will be filing a complaint with the IMC.

Should you then wish to pursue action through the IMC, you should write, fax or e-mail your complaint to the Commission (all contact details are listed at the end of this section).

You will need to provide them with the following information:

- The name of the media,
- The date of the relevant broadcast, and the time it was transmitted, and
- A clear and specific statement of what violations you believe to have been committed.

If possible, this should be accompanied by any documentation of the offence.

You should file your complaint *as soon as possible, or within 21 days of the relevant broadcast*. IMC regulations require broadcasters to keep recordings of all their programming for 21 days, unless otherwise requested by the IMC. It is important for your complaint to reach the Commission in time for it to be processed; if it arrives too late, the documentation may already have been dropped from the broadcaster's archive, making the case much more difficult to pursue.

Note that the IMC complaints process is not designed to deal with commentaries or statements with which you simply disagree. Their goal is to resolve issues of fairness and factual accuracy, not to engage in censorship.

b. What will the IMC do with a complaint?

First, the IMC will register and review the complaint for completeness. It will contact the media outlet in question to discuss the complaint and it may also contact you for further information.

The IMC will request relevant archive tapes from the media outlet. If the broadcaster does not maintain an archive it may be difficult to pursue the complaint, but the IMC can also impose sanctions merely for the lack of an archive.

Once the preliminary evidence has been assembled, the IMC legal division will review the complaint to determine if the IMC Law or any of its regulations have been violated and will make recommendations to the IMC Council. If the IMC concludes that a regulation has been violated, it will first seek to work out a remedy or settlement that satisfies both the media and the person or organisation who filed the complaint, without the need for formal sanctions.

c. What potential remedies can the IMC issue?

Potential remedies include:

- A clarification or correction from the media,
- A Right of Reply granted to the complaining citizen, and
- A public apology from the media.

If no suitable remedy can be found, the IMC will issue the media with an official Notice of Violation, outlining the violations of which it is accused and explaining that the IMC may impose sanctions to punish the violation. After the Notice of Violation has been issued, the media outlet has seven days to respond. If its response is unsatisfactory, the IMC will either issue the media outlet with a formal warning or will initiate legal proceedings to pursue sanctions. Unless it is very serious, a first violation by a media outlet will generally receive only a warning. The IMC may sanction broadcast media if it is proven that the broadcast media has committed any violation.

Note that, in general, the IMC prefers to avoid these time-consuming legal proceedings by negotiating out-of-court settlements. It also prefers constructive remedies (such as investment in journalists' training) to fines. For this reason, the IMC is open to discussing the possibility of a settlement at any time during the investigation of a formal complaint.

d. The Media Appeals Board (MAB)

The Media Appeals Board consists of one Kosovo and two international judges appointed by the head of UNMIK, the Special Representative of the Secretary General of the UN. The decision of the MAB is binding and final for both the IMC and the media outlet.

The new Media Appeals Board is in the process of being appointed in accordance with the IMC Law.

e. Contact information

Office of the Independent Media Commission
Gazmend Zajmi Str
No.1 / Pristina
Republic of Kosovo

Tel: +381 (0)38 245 031

Fax: +381 (0)38 245 034
Email: info@imc-ko.org