KOSOVO’S CONSULTATIVE COUNCIL FOR COMMUNITIES IN 2019

A critical assessment of the functioning of Kosovo’s Consultative Council for communities in the 2019 context
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KOSOVO’S CONSULTATIVE COUNCIL FOR COMMUNITIES IN 2019

A critical assessment of the functioning of Kosovo’s Consultative Council for communities in the 2019 context
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1. INTRODUCTION

In recent years, there have been discussions about the challenges that the council has faced regarding the nature of its function within civil society. Its responsiveness to this was reflected in its new statute of the 6 December 2017. However, the usefulness of the Council in fulfilling its mandate and providing an effective link between the Government of Kosovo, Kosovo’s communities and relevant public institutions is by no means determined; the participation of Kosovo’s non-Albanian communities within the decision-making process is essential and therefore the role of the Council cannot be understated.

This research project aims to carry out an institutional assessment of the Council, looking at structural challenges to the institution, its financial administration and its fulfillment of its mandate. Following this, suggestions are made as to the improved functioning of the council in order to more effectively fulfill its mandate and act in the interests of the communities it represents. This research included thorough desk research carrying out a comprehensive review of existing research and statistics on the Council. Furthermore, interviews were carried out with both present and former members of the CCC, in addition to representatives of Kosovo’s communities, to obtain a first-hand account of the functioning of the council and its relations with the individuals it is said to represent.

2. FORMATION OF THE COUNCIL

The CCC, as an unofficial body, initially started working with the Kosovo delegation for Status Talks appointed by Kosovo Government based on the Ahtisaari plan regarding the regulation of the CCC status in 2005 and was composed of representatives from non-Albanian communities. The council provided the frame to advocate and protect the rights of the communities in Kosovo, hence making advancing the system of the constitutional acts as well as legal act in order to secure the full protection of the individual rights of non-majority communities. The frame that the council provided during the talks on the status led to the drafting of the law on advocating and protecting the rights of the communities and their representatives, which was passed in 2008.

The CCC was formed based on Article 60 of the Constitution of Kosovo, Article 12 of the Law on Communities. The law on Communities was further amended and supplemented in 2011. The council was formed officially by the President’s decree on the 15th of September 2008.

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3. ARRANGEMENT

The Consultative Council for Communities is a central-level mechanism which provides a regular exchange between communities and the Government. Moreover, it provides Kosovo’s minority communities with the opportunity to comment at an early stage on legislative or policy initiatives that may be prepared by the government, to suggest initiatives and to seek the inclusion as well as to incorporate their views in the relevant projects and programs.

The Statute of The Consultative Council for Communities regulates the organization, functioning and responsibilities of the council. Throughout its mandate, CCC acts as an independent council under the authority of the President and adopts decisions, recommendations or undertakes action; however, these are not attributed to the President of Kosovo.

The council’s mandate, which is part of the Article 60 (3) of the Constitution of Kosovo, includes:

Providing mechanisms that act as a key link between the communities and the Government; enabling the communities the opportunity to comment on legislative or policy initiatives that the Government drafts beforehand, so the Government can take in the initiatives and incorporate the views of the communities in relevant projects and programs.6

The CCC promotes and supports equality of the communities in Kosovo in areas as public life and decision-making by making recommendations regarding the communities to the Government and other relevant institutions of Kosovo. The council functions consist of assisting, organizing and articulating the views of the communities and their members regarding legislation, public policies and programs which are relevant to them; providing access to the communities in participation in the assessment of forming programs and strategies that are relevant to them; making recommendations while the Budget of Kosovo is being drafted in order to include the interests of the communities; conducting reports to the Government of Kosovo that address the international human rights mechanisms which lead to raising awareness of the concerns the communities have within the territory of Kosovo and partaking in the harmonization of relations between all communities within Kosovo.7

The council has twenty-seven (27) members whom are appointed by the President of Kosovo in accordance with the Law. The members are representatives of all communities and representatives of the Government, the Office and other relevant agencies, including:

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- Two (2) representatives of the Roma community, two (2) representatives of the Egyptian community, two (2) representatives of the Ashkali community and two (2) members of the Gorani community;
- two (2) representatives of the Montenegrin community;
- one (1) representative from each community mentioned above may be a deputy of the Assembly;
- three (3) representatives of the Bosnian community;
- three (3) representatives of the Turkish community, whom one (1) of the them may be a deputy of the Assembly;
- five (5) representatives of the Serb community, whom two (2) of them may be deputies of the Assembly.  

The council has a senior representative of the Office, as well as three (3) senior Government representatives whom are appointed by the ministry or Government agencies that are relevant and have importance to the communities.

Members of the CCC are to carry out their duties and responsibilities as defined within the mandate of the council, in addition to participating in the meetings of the council that regulate matters in accordance with the statue of the council.

The meetings of the council are arranged by the chairperson of the CCC, whom overall organizes and is responsible for the work performance of the council, and guarantees the implementation of the council’s statue itself and relevant legislation in force. The chairperson handles the communication with the public among other tasks.

The CCC’s secretariat arranges the council’s activity, handles their budget, supports the functionalization of delivering the council’s input on draft legislation and comments on policy documents that the Government drafts. Moreover, the secretariat, besides supporting the CCC through the Office of the President of Kosovo, is responsible for public relations. The council’s secretariat handles the administrative matters while responding and reporting directly to the President.

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4. THE NECESSITY OF THE COUNCIL AND CONSULTATION MECHANISMS IN THE INTERNATIONAL CONTEXT

Following the end of the Cold War and the fractionalization of European states, a perceived need for effective representation and participation of national minorities, manifesting the right to effective participation in public life, resulted in the Copenhagen document. The Copenhagen document asserts that States should regulate and arrange consultative mechanisms which ensure the involvement of organizations of minorities in the decision-making procedures of a state. These consultative bodies formed by the state within competent institutions serve as a key to the communication between governmental bodies and national minorities.

The arrangement of CCC in Kosovo can be considered as one of the three principal models for consultative bodies for European minority consultation arrangements. The Council of Europe regulates the functional mechanisms of a consultative body at a central level, one of them being consultation. The model that mirrors Kosovo’s CCC is considered the ‘second model’, in which the consultative council is placed around a high ranked government representative, often being placed with the office of the President, as is the case with Kosovo’s council. Regarding the members of the consultative mechanism, it would be composed of governmental representatives as well as minority representative groups, making it possible to provide access to influential government figures.

The consultative council for communities is based on the constitution and has governmental representation within. However, the activity in which the CCC partakes is organized and run by the members, whom are part of the minority communities. This establishment reassures that the voice of the communities living in the territory of Kosovo is heard. During the meetings there is a representative from the office of the President that acts as a constant link that assures that the government is present in the development of the work of the CCC. This working method is mentioned in the consultation Arrangements Concerning National Minorities by Mark Weller as efficient and good practice which results in adequate minority consultation. Although the work of the council is organized by the members, led by the chairperson of the CCC, having strong governmental representation present during the process will significantly provide acknowledgment towards the council’s reputation.

14. SCE Copenhagen Document of the Conference on the Human Dimension of 1990 has been signed by States of the Conference on Security and Co-operation in Europe (CSCE), Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America and Yugoslavia. https://www.osce.org/odihr/elections/14304?download=true
5. PROBLEMS

The OSCE’s report for the performance and impact of the Consultative Council for Communities highlighted some challenges faced by the OSCE in the 2015-2016 mandate; some of these challenges remain present. OSCE research showed that the members of the communities that are represented within the council have a generally low awareness towards legislation, public policy and programs relevant to the communities. Based on the research, there appeared to be a need for better outreach by the CCC and regular consultation with the members of the communities.18

Regarding links between the CCC and Kosovo institutions, the appointment and participation of the members that represent the institutions as permanent members of the council seems to be an issue. This goes to show that the awareness and the influence of the CCC in the Kosovo institutions is not at the level that it has the potential to be.19 Having these members present during the meetings and the activities of the council will help in reflecting the work in Kosovo institutions. If these particular members whom have access to the council and the institutions don’t fully participate, it affects the awareness of the council within the institutions, making it hard for the council’s work to be impactful and visible.

Although through legislation the council is neatly arranged, there are still some issues that prevent the CCC from efficiently functioning and fulfilling the potential capacity it holds. During the council’s meetings, attendance of government members is inconsistent, making it hard for the meetings to have influential power. The council’s current chairperson stated that there needs to be better management of the council, which indicates that the competences should be distributed more coherently. The lack of human resources affects the work of the council, which then puts emphasis on the budget. There needs to be better financial capability in order to fully exercise the potential that the CCC has. As for the communication of the Council with the Municipalities in Kosovo and the members of the communities that the Council targets, the communication needs to be more efficient in order for there to be awareness of concerns that the communities have. Moreover, there is a need for raising the awareness of the law on the protection for discrimination20. During interviews with the CCC, it was stated that members of the communities were often unsure of their rights as citizens of Kosovo.21

21. Interview with the chairperson of the CCC 24/04/2019
5.1 Lack of Responsiveness of Government Institutions

Under Article 7 of the Statute of the CCC, the Council is mandated to exchange information with relevant government bodies and other institutions, and make recommendations in the interests of Kosovo’s communities. The recipient public institutions of such recommendations are legally obliged to provide a reasonable answer within a period of one (1) month. However, this is not respected in practice: institutions largely fail to reply within the time period, and frequently do not reply at all.\(^\text{22}\) This is illegal\(^\text{23}\); moreover, it represents a huge obstacle to the fulfillment of the Commission’s mandate, therefore marginalizing Kosovo’s communities and their involvement within public decision-making processes.

Notwithstanding faults within the recommendations process, it has been noted by former and current members of the Council that communication and transparency between the CCC and the Office of the President of Kosovo is strong. This is to be encouraged; the Council operates under the auspices of the Office of the President but maintains autonomy. It has been informally proposed by the latter that The Council could separate from the Office of the President. This is not to be encouraged: the CCC requires the continued cooperation and authority of the Office of the President to have influence within government and with other institutions. However, despite the strong communication with the Office of the President, the Council faces substantial difficulties in communicating and gaining access to other sections of the Kosovo executive and legislative.

5.2 Financial Concerns

The Council has at times during its mandate faced severe financial difficulties. In 2017, the council obtained further funding, increasing its budget from €80,000 to €132,911\(^\text{24}\) annually.

Notwithstanding the increase of the budget, the functioning of the council is still somewhat limited by financial constraints. Particularly, the capacity of the secretariat would be improved if the council’s financial capabilities were increased. If there were to be more resources that the members of the council could use in order to access more trainings, and have better outreach to both the represented communities and to all the citizens of Kosovo, it could produce better mechanisms for implementation.

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\(^{22}\) In an interview with CCC Senior Commutation Officer, the officer stated that ninety percent (90%) of the time, Government Institutions don’t reply on the recommendations made by the CCC.

\(^{23}\) Law On The Protection And Promotion Of The Rights Of Communities And Their Members In Kosovo Law No. 03/L-047, Article 12.12 http://www.kuvendikosoves.org/common/docs/ligjet/2008_03-L047_en.pdf

5.3 Communication between Council and the Communities

The OSCE in its report on the Performance and Impact of the Consultative Council for Communities for the period 2015-2016 found a very low awareness of the CCC on the municipal level. 97 representatives of communities committees were interviewed; only one-third stated that they were aware of the mechanism and 21 (22%) identified that the CCC is a consultative body under the auspices of the office of the President. Moreover, awareness of the member representing their community in the CCC was very low.

The Council’s main source of communication with the communities is through a network of accredited NGOs concerned with community issues throughout Kosovo. Improvements have been seen in this area: whereas in 2016, there were 53 such accredited NGOs, as of present there are over 90. However, the capacity of such NGOs to communicate effectively with the CCC and therefore ensure the communities are adequately represented is somewhat underdeveloped. A lack of human resources within the Secretariat of the Council entails difficulties in effectively communicating with the communities; increased capacity building in the form of more employed staff would improve this.

The communication situation could be improved with further awareness raising activities and organization within the communities. The council has an obligation to meet with civil society representatives once a year members of the Council suggested during an interview for the purpose of this report that it would be extremely helpful to have more frequent meetings, for example at least twice a year. This would allow for more effective and dynamic action from the council in response of the evolving and changing needs of Kosovo’s minority communities.

5.4 Composition of the Council

The Council’s 27 members are selected in order to provide proper representation of the communities within Kosovo, in accordance with the Statute of the Council. Each community is assigned a number of seats roughly proportional to its actual representation within Kosovo’s population.

Gender equality reflects in the council’s composition due to the fact that the current members are fifty percent (50%) female and fifty percent (50%) male, which has significant importance since the representation of women from minority communities in the decision-making processes is essential. Having women equally represented as men, especially women whom are members of the minority communities, impacts the work of the council by focusing and including all aspects of the current situations that these communities face in the territory of Kosovo. In the recent annual week of women in Pristina on March 28, Kosovo’s first female President Atifete Jahjaga stated that “women must be at every decision-making
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Table in Kosovo...only by incorporating the perspectives of women and minorities can we...have policies that are effective and comprehensive”. This sentiment needs to be especially reflected in institutions such as the CCC: women from Kosovo’s minority communities face a _de facto_ double discrimination, as women and as members of minorities; this is reflected for instance in their increased susceptibility to gender-based violence and their particularly low employment rates.

### 5.5 Mandate of the council

The council’s mandate length is only two (2) years long. After speaking to several members of the Council, having the members, whom represent the ethnic minority communities living in the territory of Kosovo, change every two years seems to be insufficient. The members of the council have expressed throughout the interview we conducted that it takes time in order to fully get used to the functionality of the CCC. Most of the members seem to get a sense of how the work of the council unravels throughout the mandate. A legal officer from the council stated that the mandate of the council is too short and that it requires a wider length in order to grasp and utilize the work of the CCC in the potential it holds. In order to change the length of the mandate that the council has, the law needs to be amended. For a law to be amended, drafting a new law is required, which is done through many consultations. Regardless, the legal officer that we interview stated that currently it is not a priority to initiate the changing of the length of the mandate.

### 6. CONCLUSIONS AND RECOMMENDATIONS

The Communities Consultative Council is an essential mechanism within Kosovo for facilitating the input of communities into the Kosovo government and decision-making process. As suggested by its name, the CCC is inherently ‘consultative’ – it possesses no executive power. As a purely advisory body, functions must be enhanced so the Council actually produces concrete outcomes. Therefore, the Council requires effective support and inputs to properly fulfil its capacities.

At present, the Council is somewhat limited as a result of financial constraints and in its communication with the communities. Further investment into the council, in addition to external trainings and activities provided by civil society organizations present in Kosovo, will accelerate the functioning of the council, in turn supporting the voice of Kosovo’s minority communities.

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Recommendations

- Recommendations issued by the Council/CCC should be respected by recipient institutions within Kosovo’s government. The fact that recommendations are infrequently responded to within time by Kosovo’s institutions is very disappointing\(^28\); it is illegal\(^29\) and reflects a disregard for Kosovo’s minorities, in conflict with the spirit of Kosovo’s Constitution, particularly Chapter III on the Rights of Communities and their Members. Government institutions should listen and follow through with the recommendations further. Involving Kosovo’s communities within central decision-making processes is extremely important to foster the existence of Kosovo as a multi-ethnic state, and the Consultative Council for Communities is the vital mechanism for this.

- Capacity building could be undertaken to strengthen the potential of the Council, particularly the Secretariat. The secretariat currently employs 4 permanent members; it is clear that the competencies of the Council and its ability to fulfill its mandate would be improved if this number was increased. By focusing on capacity building, there would be improvement in the administrative organization of the CCC and it would resolve in more efficient communication with the communities that are represented in the council. Moreover, it would be effective for the council and its bodies to meet more frequently with the communities in order to be aware and able to address their evolving problems.

- Further trainings should be held within the Council for its members to enable them to fulfill their roles more effectively. The Council does not have executive power, but instead relies on recommendations and liaison with government institutions to bring the communities into the decision making process. As such, it is crucial that the Council knows how to draft such recommendations as effectively as possible. Trainings should have a bipartite form: firstly, they can focus on improving the capacity of the CCC to interact with the communities; secondly, they can improve the ability of the council to make recommendations and engage in dialogue with the government, through the correct forms. Trainings could also include the Office of the Prime Minister and other government institutions in how to cooperate effectively with the CCC to allow the latter to fulfill its functions. Trainings can focus on the process of drafting recommendations, increasing knowledge levels of Kosovo’s legal structures.

- The council’s mandate length of two years\(^30\) should be amended to four (4) or five (5) years. If the mandate were to be longer, there would be enough time to fully adjust to the functionalization of the council and have enough time to

\(^{28}\) In an interview with CCC Senior Commutation Officer, the officer stated that ninety percent (90%) of the time, Government Institutions don’t reply on the recommendations made by the CCC.

\(^{29}\) Law On The Protection And Promotion Of The Rights Of Communities And Their Members In Kosovo Law No. 03/L-047, Article 12.12 [http://www.kuvendikosoves.org/common/docs/ligjet/2008_03-L047_en.pdf](http://www.kuvendikosoves.org/common/docs/ligjet/2008_03-L047_en.pdf)

recommend or implement change that would benefit the communities represented in the council. Changing the length of the council would provide the opportunity to follow through with the recommendations made as well as the lobbying could be done more efficiently. Having a sense and experience which exceeds two (2) years of the process of how the council interacts with the members of the community and other institutions will develop the input of the members of the council regarding their role in the CCC.

- There should be more effort from government institutions to communicate and be present in the meetings that are arranged within the CCC. Having representatives from the institutions present in the activities of the CCC, which is required, will lead to better awareness which would affect the responsiveness of these institutions. Moreover, recommendations should always be followed through in accordance with the law.31

31 Law On The Protection And Promotion Of The Rights Of Communities And Their Members In Kosovo Law No. 03/L-047, Article 12.12 http://www.kuvendikosoves.org/common/docs/ligjet/2008_03-L047_en.pdf
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Statute of The Consultative Council For Communities