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ISSUES KOSOVO

Communities: Know Your Rights

A booklet for communities and their members

Working Towards a
Stable Multi-Ethnic Kosovo

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ECMI Kosovo is the principal non-governmental organisation engaged with minority issues in Kosovo, with the overarching aim to develop inclusive, representative, community-sensitive institutions that support a stable multi-ethnic Kosovo.

ECMI Kosovo contributes to the developing, strengthening and implementation of relevant legislation, supports the institutionalisation of communities-related governmental bodies, and enhances the capacity of civil society actors and the government to engage with one another in a constructive and sustainable way.

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LIST OF ACRONYMS AND ABBREVIATIONS

CCC	Consultative Council for Communities
CRICR	Committee on the Rights and Interests of Communities and Returns
CRO	Community Representative Organisations
CSO	Civil Society Organisations
DCC	Deputy Chairperson for Communities
DMC	Deputy Mayor for Communities
ECMI Kosovo	European Centre for Minority Issues Kosovo
EOPS	Equal Opportunity Policy Statement
IaMC	Implementation and Monitoring Council
IMC	Independent Media Commission
IOB	Independent Oversight Board
KJC	Kosovo Judicial Council
KPC	Kosovo Prosecutorial Council
MEST	Ministry of Education, Science and Technology
MHRU	Municipal Human Rights Unit
MOCR	Municipal Office for Communities and Returns
OLC	Office of the Language Commissioner
POE	Publicly Owned Enterprise
RTK	Radio Television of Kosovo
SPZ	Special Protective Zones
UNMIK	United Nations Interim Administration Mission in Kosovo

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 speak or 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, including the Law on Education in the Municipalities of the Republic of Kosovo (03/L-068), Law on Pre-university Education in the Republic of Kosovo (2011/04-L-032), the Law on the Use of Languages (02/L37), the Law on Local Self-government (03/L-040), and the Law on Special Protective Zones (03/L-039). For a comprehensive list of the most important laws in Kosovo dealing with community rights please consult chapter 4.

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?

2.1. 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
- Croats
- Montenegrins

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

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.

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

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 Amending and Supplementing of the Law No.03/L-047 on the Protection and Promotion of the Rights of Communities and Their Members in Republic of Kosovo, Article 1.

2.2. 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.

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.⁴

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.⁵

Examples of direct discrimination:

- An employer refuses to hire women to management positions. This constitutes direct discrimination based on gender.
- A shop refuses entry to people of a certain ethnicity. This constitutes direct discrimination based on ethnicity.

Example of indirect discrimination:

- A cleaning company requires their cleaning personnel to have a high school diploma and ten years of working experience. A simple cleaning job requires neither a high school diploma nor ten years of working experience. Thus, this might constitute indirect discrimination against young people (who cannot yet have ten years of working experience), as well as against communities who on average are less likely to finish high school.

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

⁴ Constitution, Article 24.2; Law on Communities (03/L-047), Article 3.3. It should be noted that the general prohibition against discrimination contained in the Anti-discrimination Law (2004/3) 2004 lists other grounds such as gender, etc (Article 2.a).

⁵ Law on Communities (03/L-047), Article 3.3; Anti-discrimination Law (2004/3), Article 2.a, 3.a, 3.b.

protect you.⁶ 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.⁷

2.3. Security and Freedom of Movement

As a member of a community, you are guaranteed both freedom of movement, and safety and security throughout Kosovo. The State is obliged to protect these rights on your behalf.⁸ This is in addition to your right as a citizen/legal resident of Kosovo to free choice of your location of residence.⁹

2.4. 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.

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.¹⁰

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.¹¹ If this occurs, you are entitled to State protection.

2.5. Culture and Religion

Community rights in Kosovo place a lot of emphasis on the right to protect and promote community culture, on assurances of religious freedom, and the protection of their religious and cultural heritage. In this context, the Serb

⁶ Constitution, Article 48.3; Law on Communities (03/L-047), Article 3.2.

⁷ Law on Communities (03/L-047), Articles 3.3, 1.2.

⁸ Law on Communities (03/L-047), Article 3.5.

⁹ Constitution, Articles 29.1, 35.

¹⁰ Constitution, Article 57.2; Law on Communities (03/L-047), Article 1.5.

¹¹ Constitution, Article 58.6; Law on Communities (03/L-047), Article 2.3.

community benefits from a particular set of rights. These rights are listed in more detail below.

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.¹² The State is under an obligation to create the conditions for you and your community to achieve this.¹³

As a community, you have the right to establish community representative organisations (CROs). These are encouraged to help manage the resources made available for the advancement of community cultural life.¹⁴ 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 Consultative Council for Communities (CCC).¹⁵ For more information on the CCC, see section 2.11.

You and your community also have the right to establish citizens' associations for culture, art, science and education and other associations.¹⁶

Note that community organisations or associations are eligible for support and financial assistance, including from the Government.¹⁷

Symbols

Your community has the right to use and display its own symbols.¹⁸

Free contact

As a member of a community, both you and your CRO 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.¹⁹

¹² Constitution, Article 59.1; Law on Communities (03/L-047), Article 5.1.

¹³ Constitution, Article 58.1; Law on Communities (03/L-047), Article 2.2.

¹⁴ Law on Communities (03/L-047), Article 11.5.

¹⁵ Law on Communities (03/L-047), Article 5.3.

¹⁶ Law on Communities (03/L-047), Article 5.2.

¹⁷ Law on Communities (03/L-047), Article 5.4.

¹⁸ Constitution, Article 59.7; Law on Communities (03/L-047), Article 5.6.

¹⁹ Constitution, Article 59.12; Law on Communities (03/L-047), Article 5.7.

Religion

The Republic of Kosovo is a secular State, has no official religion, and is neutral on questions of religious beliefs.²⁰

As all people in Kosovo, you are entitled to freedom of belief, conscience and religion.²¹ 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.²²

Both you and your community are entitled to religious freedom. The State is not only expressly prevented from interfering with this right,²³ 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.²⁴

You and your community also have the right to establish community religious organisations and institutions.²⁵

Limitations to freedom of religion:

The right to freedom of religion – as with all human rights – is not absolute; the State can put limits on the right to freedom of religion, but only when there is a compelling interest to do so, most notably when exercising this right leads to serious violations of other fundamental rights.

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.²⁶

²⁰ Constitution, Article 8; Law on Communities (03/L-047), Article 7.1.

²¹ Constitution, Article 38.1; Law on Communities (03/L-047), Article 7.2.

²² Law on Communities (03/L-047), Article 7.2.

²³ Law on Communities (03/L-047), Article 7.3.

²⁴ Law on Communities (03/L-047), Article 7.4.

²⁵ Law on Communities (03/L-047), Article 7.7.

²⁶ Law on Communities (03/L-047), Article 5.5.

Religious and cultural heritage

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 CRO, providing that organisation is both willing and capable. Funding may be provided for this purpose.²⁷

Enhanced municipal competencies

All Serb-majority municipalities²⁸ 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.²⁹

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 must be safeguarded from any development or activity which could damage its historical, cultural, 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

²⁷ Law on Communities (03/L-047), Article 5.12.

²⁸ As of October 2013, Kosovo had 10 Serb-majority municipalities: Leposavić/Leposaviq; Zvečan/Zveçan; Mitrovica/Mitrovicë North; Zubin Potok; Gračanica/Gračanicë; Ranilug/Ranillug; Parteš/Partesh; Novo Brdo/Novobërdë; Štrpce/Shtërpçë; Klokot/Kllokot.

²⁹ Law on Local Self-government (03/L-040), Article 22.1.

³⁰ Law on Communities (03/L-047), Article 7.6; Law on Special Protective Zones, Article 1.

³¹ Law on Special Protective Zones (2008/03-L039), Article 2.

Church and the Kosovo central or local authorities, the IaMC can mediate between the two.³²

Prizren

The historic centre of the municipality of Prizren, which includes cultural heritage of various communities, has a special status in Kosovo and is recognised as a property of cultural and historic heritage under permanent protection.³³ As such, it is subject to a number of protective measures, including in relation to construction activities. The 'Council for Cultural Heritage of Historic Centre of Prizren' is responsible for observing and advising on activities related to the preservation of the protected cultural heritage. This council is composed of seven members, including one representative of the Municipal Office for Communities and Returns (MOCR), and one representative each, respectively, of the Serbian Orthodox Church, the Catholic Church and the Islamic Community.³⁴

2.6. Language

The issue of language is absolutely central to the protection and promotion of community rights in Kosovo, as it impacts 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.

Use of languages at the state level

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

³² Law on Special Protective Zones (2008/03-L039), Article 4.

³³ Law on Historic Centre of Prizren (2011/04-L-066), Article 1.

³⁴ Law on Historic Centre of Prizren (2011/04-L-066), Article 14.

of these official languages. All central institutions must ensure that this is possible.³⁵

Meetings and work of the central institutions

In the central institutions, the official languages of Kosovo enjoy equal status.³⁶

All laws adopted by the Assembly of Kosovo must be issued and published in the official languages. Each version bears equal authority.³⁷ All promulgated laws (laws that have been formally proclaimed through a decree of the President of Kosovo) must also be published in the Bosnian and Turkish languages.³⁸

Official records and documents must be kept and issued in the official languages.³⁹

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 (i.e. Albanian or Serbian) 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.⁴⁰ At your request, the institution must make interpretation available in all meetings from one official language into another.⁴¹

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.⁴²
- *Assembly of Kosovo.* If you are an Assembly member and your mother tongue is not an official language, you have the right to use

³⁵ Law on the Use of Languages (02/L-37), Article 4.2.

³⁶ Law on Communities (03/L-047), Article 4.1.

³⁷ Law on the Use of Languages (02/L-37), Article 5.4.

³⁸ Law on the Use of Languages (02/L-37), Article 5.4.

³⁹ Law on the Use of Languages (02/L-37), Article 4.5.

⁴⁰ Law on the Use of Languages (02/L-37), Article 4.7.

⁴¹ Law on the Use of Languages (02/L-37), Articles 4.3, 5.1.

⁴² Law on the Use of Languages (02/L-37), Article 4.4.

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.⁴³

- *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.⁴⁴ For more details on submitting a complaint to the Ombudsperson, see section 2.12 below.

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.

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.

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.

⁴³ Law on the Use of Languages (02/L-37), Article 5.2.

⁴⁴ Law on the Use of Languages (02/L-37), Article 6.

⁴⁵ Law on the Use of Languages (02/L-37), Article 7.1.

Turkish in Prizren:

The Law on the Use of Languages (Article 2.3) awards the Turkish language the status of official languages in the municipality of Prizren, regardless of demographic factors. This article recognises the historic importance of the Turkish language in Prizren.

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

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 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.

⁴⁶ Law on the Use of Languages (02/L-37), Article 7.2.

⁴⁷ Law on the Use of Languages (02/L-37), Article 7.3.

⁴⁸ Law on the Use of Languages (02/L-37), Articles 7.6.

⁴⁹ Law on the Use of Languages (02/L-37), Article 9.

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.⁵⁰

If your community language is a language in official use at the municipal level, 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.⁵¹ 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.⁵²

Use of languages in public services

In enterprises performing public services, the official languages of Kosovo enjoy equal status.⁵³

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.⁵⁴

Use of languages in the justice system

Arrest or criminal charges

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.⁵⁵ 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.⁵⁶

Judicial proceedings: Use of official languages

Official languages must be used on an equal basis in judicial proceedings.⁵⁷

⁵⁰ Law on the Use of Languages (02/L-37), Article 2.4.

⁵¹ Law on the Use of Languages (02/L-37), Article 8.1.

⁵² Law on the Use of Languages (02/L-37), Articles 8.2 and 8.3.

⁵³ Law on the Use of Languages (02/L-37), Article, 30.1.

⁵⁴ Law on the Use of Languages (02/L-37), Articles 30.2, 30.3.

⁵⁵ Law on the Use of Languages (02/L-37), Article 15.1.

⁵⁶ Law on the Use of Languages (02/L-37), Article 15.2.

⁵⁷ Law on the Use of Languages (02/L-37), Article 12.1.

If you are participating in a criminal or other judicial procedures, the authorities involved (courts, prosecution bodies, etc.) must ensure that you can use the official language of your choice.⁵⁸ You can also request that the proceedings be simultaneously interpreted from one official language into another.⁵⁹

Judicial proceedings: 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.⁶⁰ This right extends, in particular, to the right to make submissions, testify and hear the facts of the case and any evidence.⁶¹ To this end, the judicial authorities involved are obliged to provide an interpreter free of charge.⁶²

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.⁶³

Detention

Penal and detention institutions should ensure that their staff speaks the language(s) spoken or understood by the greatest number of those 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.⁶⁴

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

⁵⁸ Law on the Use of Languages (02/L-37), Article 12.2.

⁵⁹ Law on the Use of Languages (02/L-37), Article 13.1.

⁶⁰ Law on the Use of Languages (02/L-37), Articles 16.2, 17.2.

⁶¹ Law on the Use of Languages (02/L-37), Articles 16.1, 17.1.

⁶² Law on the Use of Languages (02/L-37), Article 16.3.

⁶³ Law on the Use of Languages (02/L-37), Article 14.

⁶⁴ Law on the Use of Languages (02/L-37), Article 18.

linguistic system of your chosen language. The form you choose must be used by public officials.⁶⁵

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.⁶⁶

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.⁶⁷

2.7. 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.

General

As a member of a community, you and your community are guaranteed access to information without discrimination.⁶⁸ 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.⁶⁹ Additionally, you are guaranteed free reception of cross-border broadcasts, whether direct or by means of transmission or re-broadcasting.⁷⁰

⁶⁵ Law on the Use of Languages (02/L-37), Articles 27.1, 27.2.

⁶⁶ Law on the Use of Languages (02/L-37), Article 29.1.

⁶⁷ Law on the Use of Languages (02/L-37), Article 29.2.

⁶⁸ Law on Communities (03/L-047), Article 6.1.

⁶⁹ Law on Communities (03/L-047), Article 6.1.

⁷⁰ Law on Communities (03/L-047), Article 6.6.

However, note that all these rights are subject to regulations prohibiting incitement or spreading of racial, ethnic or religious hatred or intolerance.⁷¹

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.⁷² In relation to the Serb minority, the Government is under an obligation to take “all measures within its powers” to secure an international frequency plan that will provide the Serb community with access to a licensed, independent, Kosovo-wide, Serbian-language television channel, to operate effectively and without discrimination.⁷³ Radio Television of Kosovo (RTK), the public broadcasting institution, is required by law and has established one Albanian and one Serbian language TV channel.⁷⁴ Moreover, 10% of the overall RTK budget is allocated on an annual basis to the Serbian language RTK channel.⁷⁵

In relation to non-Serb communities, both RTK TV channels must dedicate no less than 15% of their broadcast time to programming in the languages of other communities.⁷⁶ Communities and their members are to have a leading role in generating and presenting such programmes.⁷⁷

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.⁷⁸

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

⁷¹ Law on Communities (03/L-047), Article 6.8.

⁷² Law on Communities (03/L-047), Article 6.2.

⁷³ Law on Communities (03/L-047), Article 6.5.

⁷⁴ Law on Radio Television of Kosovo (2011/04-L-046), Article 8.2

⁷⁵ Law on Radio Television of Kosovo (2011/04-L-046), Article 21.4.1

⁷⁶ Law on Radio Television of Kosovo (2011/04-L-046), Article 8.3

⁷⁷ Law on Communities (03/L-047), Article 6.3.

⁷⁸ Law on the Independent Media Commission (04/L-044), Article 9.4.

- the Media Appeals Board.

The composition of the Council is relevant to communities. At least two (2) members of the IMC shall be appointed from among the minority communities and at least two (2) members shall be of female sex.⁷⁹ All members of the IMC are appointed by the Assembly of Kosovo.⁸⁰ For details of the appointments procedure, please refer to the Law on the Independent Media Commission (Law No (4/L-044), Article 11.

If you wish to lodge a complaint with in the IMC, please follow the procedure laid out in section 2.14 below.

2.8. Education

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

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

Curriculum

The national educational curriculum of Kosovo must cover “the history, culture and other attributes of communities traditionally present in the country, with the aim of fostering a spirit of respect, understanding and tolerance among all communities in Kosovo”.⁸¹ 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”.⁸² The MEST is currently in the process of developing a new national educational curriculum which is planned to be finished by 2018.

⁷⁹ Law on the Independent Media Commission (04/L-044), Article 10.5.

⁸⁰ Law on the Independent Media Commission (04/L-044), Article 11.1.

⁸¹ Law on Communities (03/L-047), Article 8.12.

⁸² 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 20 March 2013).

It should be noted, however, that the Serb community has been reluctant to participate in the development and drafting of new teaching programs, and as of 21 March 2013, still continues to work within the framework of the old Serbian education programmes. Special provisions apply for schools teaching in the Serbian language (see below).

Language of instruction

As noted above, the education rights of communities are closely linked to language rights. While the right to basic free education is universal throughout Kosovo,⁸³ 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 2.2 above.

Therefore, Kosovo's legislative framework includes a number of provisions 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 opportunities to progress to higher education.

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.⁸⁴

If you are a pupil, you can decide, together with your parents, in which official language your school records are to be kept.⁸⁵

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.⁸⁶ In doing so, they are also entitled to cooperate with municipalities and institutions in the Republic of Serbia, including government agencies.⁸⁷

⁸³ Constitution, Article 47.

⁸⁴ Law on Communities (03/L-047), Article 8.1; Law on the Use of Languages (02/L-37), Article 19.2.

⁸⁵ Law on the Use of Languages (02/L-37), Article 24.1.

⁸⁶ Law on Education in the Municipalities of the Republic of Kosovo (03/L-068), Article 12.1.

⁸⁷ Law on Education in the Municipalities of the Republic of Kosovo (03/L-068), Article 4.3.

If a school wants to provide education in the Serbian language, it can – under certain conditions – apply the curricula or use the textbooks developed by the Ministry of Education of the Republic of Serbia.⁸⁸

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.⁸⁹

The municipality of Mitrovicë/Mitrovica North exercises responsibility for the university.⁹⁰ 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.⁹¹

However, as of April 2013, due to political obstacles, the municipality of Mitrovicë/Mitrovica North has not yet been formally established and the University of Mitrovicë/Mitrovica North continues to function within the Serbian system of education.

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 education in your mother tongue.⁹² However, you must also study an official language of your choice.⁹³ 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.⁹⁴

These community language classes or schools are to be established according to reasonable and viable thresholds, determined by the Government.

⁸⁸ Law on Education in the Municipalities of the Republic of Kosovo (03/L-068), Article 12.4.

⁸⁹ Law on Education in the Municipalities of the Republic of Kosovo (03/L-068), Article 14.

⁹⁰ Law on Education in the Municipalities of the Republic of Kosovo (03/L-068), Articles 14.d.

⁹¹ Law on Education in the Municipalities of the Republic of Kosovo (03/L-068), Articles 14.e.

⁹² Law on Communities (03/L-047), Article 8.1; Law on the Use of Languages (02/L-37), Article 20.1.

⁹³ Law on Communities (03/L-047), Article 8.10; Law on the Use of Languages (02/L-37), Article 21.

⁹⁴ Law on the Use of Languages (02/L-37), Article 24.3.

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.⁹⁵

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.⁹⁶

Establishments providing education in a community language that is not an official language can design their own school programmes. 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.⁹⁷

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.⁹⁸

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.⁹⁹

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 and higher education in that language. Furthermore, if your community expresses a need, the State must provide additional higher education and professional training programmes in the language of your community, providing it is considered financially viable to do so.¹⁰⁰

⁹⁵ Law on Communities (03/L-047), Article 8.2

⁹⁶ Law on Communities (03/L-047), Article 8.7.

⁹⁷ Law on Communities (03/L-047), Article 8.7.

⁹⁸ Law on Communities (03/L-047), Article 8.8.

⁹⁹ Law on Communities (03/L-047), Article 8.9.

¹⁰⁰ Law on Communities (03/L-047), Article 8.3.

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.¹⁰¹ Each academic year, the Ministry of Education, Science and Technology (MEST) sets aside a number of places at public universities for students from minority communities.

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 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.¹⁰²

2.9. 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.

General

In general terms, the State must adopt “adequate measures” to promote full and effective equality in economic and social life.¹⁰³ Access to employment, social protection and housing are highlighted as areas of particular importance.¹⁰⁴

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.¹⁰⁵

¹⁰¹ Law on Communities (03/L-047), Article 8.11.

¹⁰² Law on Communities (03/L-047), Article 8.4; Law on the Use of Languages (02/L-37), Article 22.

¹⁰³ Constitution, Article 58.4.

¹⁰⁴ Anti-discrimination Law (2004/3), Articles 4.a, 4.c, 4.e, 4.h.

¹⁰⁵ Law on Communities (03/L-047), 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.¹⁰⁶

Employment

The principle of non-discrimination on the grounds of association with a national community is a governing principle of the civil service.¹⁰⁷

The State must develop public employment programmes 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.¹⁰⁸

Community members are entitled to equitable representation in employment at all levels in publicly owned enterprises (POEs) 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).¹⁰⁹ Furthermore, the enhancement of community access to economic and employment opportunities must be undertaken with the full participation and consultation of CROs.¹¹⁰

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.¹¹¹

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 2.14 below.

¹⁰⁶ Law on Communities (03/L-047), Article 9.4.

¹⁰⁷ Regulation No 2001/36 on the Kosovo Civil Service, Article 2.1.g.

¹⁰⁸ Law on Communities (03/L-047), Article 9.2.

¹⁰⁹ Law on Communities (03/L-047), Article 9.5.

¹¹⁰ Law on Communities (03/L-047), Article 9.3.

¹¹¹ Regulation No 2001/36 on the Kosovo Civil Service, Articles 3.1.a-b.

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.¹¹² 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 programmes 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.¹¹³

In addition, municipalities and executive agencies are required to prepare equal opportunity policy statements (EOPs) and implementation strategies. The EOPs 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.¹¹⁴

2.10. 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, as well as equal access to health care. More advanced rights also exist in the assignment of enhanced competencies to certain municipalities in the provision of secondary health care.

¹¹² Law on Communities (03/L-047), Article 9.6.

¹¹³ Administrative Direction No 2003/2 implementing UNMIK Regulation No 2001/36 on the Kosovo Civil Service, Articles 10.1(a)-(c).

¹¹⁴ 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).

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.¹¹⁵ 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.¹¹⁶ Particular attention must be paid to ensuring that satisfactory health care services are provided for persons belonging to socially and economically vulnerable communities.¹¹⁷

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.¹¹⁸ Medical safety instructions must also be made available in your language.¹¹⁹

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.¹²⁰

Enhanced municipal competencies

The municipalities of Mitrovica/ Mitrovicë North, Gračanica/ Graçanicë, Štrpce/ Shtërpçë are awarded enhanced competencies in and consequently are responsible for secondary health care. This includes registration and licensing of health care institutions, recruitment, payment of salaries and training of health care personnel and administrators.¹²¹

2.11. 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.

¹¹⁵ Law on Communities (03/L-047), Article 10.1.

¹¹⁶ Law on Communities (03/L-047), Article 10.6.

¹¹⁷ Law on Communities (03/L-047), Article 10.2.

¹¹⁸ Law on Communities (03/L-047), Article 10.5.

¹¹⁹ Law on Communities (03/L-047), Article 10.3.

¹²⁰ Law on Communities (03/L-047), Article 10.4.

¹²¹ Law on Local Self-government (03/L-040), Article 20.

Consequently, the legislative framework in Kosovo has sought to invest communities and their members with advanced rights for 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 (e.g. education, language, religious and cultural heritage, etc).

In the central government, community participation is assured through guaranteed representation in the Kosovo Assembly, the Government, the judiciary and other bodies.¹²²

At the municipal level, communities are entitled to representation in the legislative and executive municipal bodies.

Finally, CROs are encouraged to assist their respective communities in representing their interests in a consolidated way, primarily to the Consultative Council for Communities.¹²³

Political parties

Community members have the right to form political parties and to run for elected seats and positions at all levels of government.¹²⁴

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.¹²⁵

¹²² Law on Communities (03/L-047), Article 11.1.

¹²³ Law on Communities (03/L-047), Article 11.5.

¹²⁴ Law on Communities (03/L-047), Article 11.3.

¹²⁵ Law on Communities (03/L-047), Article 11.4.

Central level

Legislative branch

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
 - One (1) additional seat for the Roma, the Ashkali or the Egyptian community with the highest overall votes.¹²⁶

Croatian and Montenegrin Representation in the Assembly:

The Croat and Montenegrin communities were only explicitly recognised through the amendment of the Law on Communities on 8 December 2011, and as a consequence are not entitled to a minimum number of seats.

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.¹²⁷

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 seat reserved for the Serb community, while one (1) must be an Assembly deputy holding a seat reserved for other non-majority communities.¹²⁸

¹²⁶ Constitution, Article 64.2.

¹²⁷ Constitution, Article 65.2.

¹²⁸ Constitution, Article 67.4.

Committee on the Rights and Interests of Communities and Returns (CRICR)

CRICR 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.¹²⁹

Its procedure is as follows:

- Any proposed law can be submitted to CRICR 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.¹³⁰
- The Committee can make recommendations regarding the proposed law, to ensure that community rights and interests are adequately addressed.¹³¹ Members may also issue individual opinions.¹³² It must decide whether or not to issue a recommendation within two weeks, by a majority vote of its members.¹³³
- Recommendations can be submitted to another relevant committee or to the Assembly.¹³⁴

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¹²⁹ Constitution, Article 78.1.

¹³⁰ Constitution, Article 78.4.

¹³¹ Constitution, Article 78.3.

¹³² Constitution, Article 78.4.

¹³³ Constitution, Article 78.2.

¹³⁴ Constitution, Article 78.3.

Legislation of vital interest

Certain issue areas are considered to be of “vital interest” to communities and their members. For this reason, laws in relation to these areas 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).¹³⁵

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 languages,
- 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.¹³⁶

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),¹³⁷
- 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).¹³⁸

¹³⁵ Constitution, Article 81.1.

¹³⁶ Constitution, Article 81.1.

¹³⁷ Constitution, Article 96.3.

¹³⁸ 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.¹³⁹

Consultative Council for Communities

The CCC, a constitutionally mandated body located within the Office of the President,¹⁴⁰ is intended to be a key mechanism to facilitate the political participation of communities at the central level. The CCC is primarily made up of representatives of all minority communities and of representatives of the Kosovo Government and other relevant public institutions. Community representatives are nominated by the CROs and appointed by the President of Kosovo. The functions of the CCC include:

- To afford the communities the opportunity to participate at an early stage on legislative or policy initiatives prepared by the Government or the Assembly, to suggest such initiatives and to have their views incorporated in the relevant projects and programmes, including the annual strategy and report;
- To enable communities to participate in the needs assessments, design, monitoring and evaluation of programmes that are aimed at their members or are of special relevance to them;
- To make recommendations during the decision-making process concerning the apportionment of funds for projects for Communities from both international funds and the domestic budget; and
- To raise awareness of community concerns within Kosovo and contribute to harmonious relations between all communities.

¹³⁹ Constitution, Article 96.5.

¹⁴⁰ The CCC's mandate is based on Article 60 of the Constitution, Article 12 of the Law on Communities (03/L-047) and the Statute of the CCC, adopted by Presidential Decree on 18 April 2012.

Become part of the CCC:

Any minority community representative can potentially become a member of the CCC. The process requires you to be nominated by a community CSO accredited by the CCC secretariat, a so-called Community Representative Organisation (CRO). Following such a nomination, the President of Kosovo appoints the nominated candidate to the CCC for a two year term. Any CSO representing the interests of a non-majority community can be accredited by the CCC secretariat, if they comply with the criteria set out in the CCC Statute. This will allow the CSO to nominate candidates to the CCC. For more information please check the CCC website: <http://www.ccc-president-ksgov.net>.

Contact Information

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Judiciary

Supreme Court and courts of appeal

In the Supreme Court, at least 15% of judges must be from non-majority communities (no fewer than three (3)).¹⁴¹

In any other court with appeal jurisdiction, at least 15% of judges must be from non-majority communities (no fewer than two (2)).¹⁴²

Constitutional Court

The proposal of 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.¹⁴³

Kosovo Judicial Council

The Kosovo Judicial Council (KJC) is responsible for recruiting candidates for appointment to the Judiciary. It is mandated to “give preference in the

¹⁴¹ Constitution, Article 103.3.

¹⁴² Constitution, Article 103.6.

¹⁴³ Constitution, Article 114.3.

appointment of judges to members of communities that are underrepresented in the judiciary as provided by law.”¹⁴⁴

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.¹⁴⁵

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 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.¹⁴⁶
- 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.¹⁴⁷

Kosovo Prosecutorial Council

The Kosovo Prosecutorial Council (KPC) 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.¹⁴⁸

Municipal level

Below are outlined some of the most important municipal mechanisms for the protection and promotion of the rights and interests of minority communities at the municipal level.

¹⁴⁴ Constitution, Article 108.1-108.3.

¹⁴⁵ Constitution, Articles 6.3, 6.44.

¹⁴⁶ Constitution, Article 108.9.

¹⁴⁷ Constitution, Article 108.10.

¹⁴⁸ Constitution, Article 110.2.

Deputy Chairperson for Communities (DCC)

See also section 2.13 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 (DCC) will be reserved in the Municipal Assembly for a representative of those communities.¹⁴⁹

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.¹⁵⁰ 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.¹⁵¹

Moreover, s/he is mandated to review all complaints by community members regarding violations of their rights through acts or decisions of the municipal assembly. The Deputy Chairperson, under specific circumstances, may submit acts or decisions considered to violate a constitutionally guaranteed right to the Constitutional Court.¹⁵²

Municipal Communities Committee

The Communities Committee is a permanent committee of each Municipal Assembly in Kosovo and is composed of representatives from communities living in the municipality and members of the Municipal Assembly. Any community residing in a given municipality should be represented by at least one representative in the Communities Committees, and representatives of minority communities should make up the majority of the members of the Committee.

The Committee is responsible to review compliance of municipal authorities with legislation and municipal policies, practices, and activities, in order to ensure that the rights and interests of communities are fully respected. The Committee also recommends measures to the Municipal Assembly to ensure the implementation of directives aiming to promote, preserve and develop

¹⁴⁹ Law on Local Self-government (03/L-040), Article 54.1.

¹⁵⁰ Constitution, Article 54.2.

¹⁵¹ Constitution, Article 55.1.

¹⁵² Constitution, Article 62.

ethnic, cultural, religious and linguistic identity and to ensure adequate protection of community rights in the municipality.¹⁵³

Deputy Mayor for Communities (DMC)

See also section 2.13 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 Communities (DMC),¹⁵⁴ elected for the same term of office as the Mayor.¹⁵⁵ S/he is charged with assisting the Mayor and providing him/her with advice and guidance on issues related to non-majority communities.¹⁵⁶

The Mayor must consult the DMC on matters related to non-majority communities.¹⁵⁷

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).¹⁵⁸

When the post becomes vacant, the Mayor must appoint a new Deputy Mayor no later than 30 days after the vacancy arises.¹⁵⁹

Municipal Office for Communities and Return (MOCR)

Every municipality in Kosovo has a Municipal Office for Communities and Return (MOCR). These offices are mandated to “protect and promote the rights of communities, the equal access of all communities to public services and the creation of conditions for sustainable return of refugees, displaced persons and repatriated persons.”¹⁶⁰ Consequently, they carry the responsibility of assisting returnees/repatriates and members of minority communities.

¹⁵³ Law on Local Self-government (03/L-040), Article 53.

¹⁵⁴ Constitution, Article 61.1

¹⁵⁵ Constitution, Article 61.2.

¹⁵⁶ Constitution, Article 61.4.

¹⁵⁷ Constitution, Article 58.1.

¹⁵⁸ Constitution, Article 61.3.

¹⁵⁹ Constitution, Article 61.5.

¹⁶⁰ Government Regulation No. 02/2010

Municipal Human Rights Unit (MHRU)

Each municipality is required by law to establish a Municipal Human Rights Unit (MHRU). These units are mandated to monitor compliance with human rights at the municipal level, specifically concerning discrimination, gender equality, children, disabled persons, the rights of communities, use of languages and human trafficking.¹⁶¹ They are also responsible for addressing the requests of residents of the relevant municipality in relation to human rights.

Enhanced competencies for municipalities

Certain Serb-majority municipalities enjoy enhanced competencies in the areas deemed of particular importance to non-majority communities. In addition to the enhanced competencies discussed above (secondary health care, university education, and culture) Serb majority-municipalities also have enhanced participatory rights in the selection of local station police commanders.¹⁶²

¹⁶¹ Administrative Instruction –MLGA- No.2008/02

¹⁶² Law on Local Self-government (03/L-040), 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.

2.12. Ombudsperson

If you feel that your human or community rights have been violated or abused by a public institution 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.

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' (see below), 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: ombudspersonkosovo@ombudspersonkosovo.org or info@ombudspersonkosovo.org.
- Open Days are held twice per month at the Prishtinë/Priština Headquarters, and every month at the Gjilan/Gnjilane, Mitrovicë/Mitrovica, Pejë/Peć, Gračanica/Graçanicë and Prizren regional offices. Open Days are also organised in other municipalities, as required.

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://ombudspersonkosovo.org/repository/docs/ComplaintFormPDF.pdf>

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.

Contact Information

Prishtinë/Priština Headquarters

Address: Str. Enver Maloku 28 (Sunny Hill Neighbourhood)

Tel: +381 (0) 38 501 401, 545 303

Fax: +381 (0) 38 545 302

Email: ombudspersonkosovo@ombudspersonkosovo.org

Gjilan/Gnjilane Field Office

Address: Str. Adem Jashari, Municipal Building II

Tel: +381 (0)280 320 843

Visiting hours: Monday and Thursday, 10.00 - 14.00

Gracanica/Gracanice Field Office

Tel: +381 (0) 38 65 118, +377 (0) 44 367 719, +381 (0) 64 37 11 137

Visiting hours: Monday and Thursday, 10.00 - 14.00

Prizren Field Office

Address: Str. Remzi Ademi nn

Tel: +381 (0)29 222 138

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)28 530 138

Visiting hours: Monday and Thursday, 10.00 - 14.00

Mitrovicë/Mitrovica Sub-Office

Address: Str. Filipa Višnjića 4, Trepca Annex,

Tel: + 377 (0)45 455 319, +381 (0)63 817 44 79

Visiting hours: Monday and Thursday, 10.00 - 14.00

Pejë/Peć Field Office

Address: Str. Mbretëresha Teutë 59, Municipal Building, 3rd Floor,
No. 3

Tel: +381 (0)39 432 931

Visiting hours: Monday and Thursday, 10.00 - 14.00

2.13. Claims against a Municipal Decision

If you wish to make a claim against a municipal decision, you can 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 relevant municipal bodies.

Direct mechanisms

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.¹⁶³

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.¹⁶⁴

The proponents must submit a draft of the proposed regulation to the Chairperson of the Municipal Assembly.¹⁶⁵

To qualify for consideration by the Municipal Assembly, the draft must be signed by 15% of registered voters.¹⁶⁶

The Municipal Assembly is obliged to consider the proposed regulation, and to take action upon it, within 60 days of receipt.¹⁶⁷

¹⁶³ Law on Local Self-government (03/L-040), Article 69.

¹⁶⁴ Law on Local Self-government (03/L-040), Article 70.1.

¹⁶⁵ Law on Local Self-government (03/L-040), Article 70.2.

¹⁶⁶ Law on Local Self-government (03/L-040), Article 70.3.

Right to referendum

The citizens of a municipality can request that a regulation adopted by the Municipal Assembly be submitted to a referendum.¹⁶⁸

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.¹⁶⁹

The Municipal Assembly must consider and act upon a valid request within 30 days of its receipt.¹⁷⁰

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).¹⁷¹ The full text of this law is available for download at: http://www.assembly-kosova.org/common/docs/ligiet/2005_02-L28_en.pdf.

Indirect mechanisms

Deputy Chairperson for Communities

In municipalities where non-majority communities make up 10% of the municipal population, as well as a number of other municipalities, individuals can have recourse to their representative in the Municipal Assembly, the Deputy Chairperson for Communities.¹⁷²

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.¹⁷³ The Deputy Chairperson is responsible for referring the matter to the municipal assembly for consideration.¹⁷⁴ 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

¹⁶⁷ Law on Local Self-government (03/L-040), Article 70.4.

¹⁶⁸ Law on Local Self-government (03/L-040), Article 71.1.

¹⁶⁹ Law on Local Self-government (03/L-040), Article 71.2.

¹⁷⁰ Law on Local Self-government (03/L-040), Article 71.3.

¹⁷¹ Law on Local Self-government (03/L-040), Article 8.

¹⁷² See also section 2.11 above.

¹⁷³ Constitution, Article 55.2.

¹⁷⁴ Constitution, Article 55.3.

submit the matter directly to the Constitutional Court, which can decide whether to accept the matter for review.¹⁷⁵

Other Municipal Mechanisms

You can also make a complaint to the Municipal Communities Committee or Municipal Office for Communities and Returns present in each municipality. In municipalities where non-majority communities make up 10% of the municipal population, as well as a number of other municipalities, 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.

2.14. Issue-based Mechanisms

Office of the Language Commissioner

The Office of the Language Commissioner (OLC) – replacing the former Language Commission – was established in April 2012 with the purpose of preserving, promoting and protecting the official languages (i.e. Albanian and Serbian) and their equal status in the Republic of Kosovo and its municipalities, while ensuring language rights to the Bosnian, Turk, Gorani, Roma, Ashkali and Egyptian communities, whose mother tongues are not an official language.

The OLC is in charge of supervising the implementation of the Law on the Use of Languages.

It is entitled to carry out investigations either:

- Following a complaint,¹⁷⁶ or
- On its own initiative.¹⁷⁷

You can make a complaint to the OLC 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.¹⁷⁸

¹⁷⁵ Constitution, Article 55.4.

¹⁷⁶ Law on the Use of Languages (02/L-37), Article 32.3.

¹⁷⁷ Law on the Use of Languages (02/L-37), Article 32.4.

¹⁷⁸ Law on the Use of Languages (02/L-37), Article 32.3.

You should make the complaint/request in writing, sign it and deliver it to the OLC at the Government Building,179 where it will be archived. You should receive a copy of your request that bears the government stamp and the date.

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

- Remedies required, and
- Possibilities for redress.¹⁸⁰

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

If the OLC'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.¹⁸¹

Contact Information

Government Building, Floor VI, No.605A
Str. Mother Theresa n.n. 10 000, Prishtinë/Priština, Kosovo
Tel: +381 38 200 14 448
Email: info-zkgj-kpj@rks-gov.net
Web: <http://www.commissioner-ks.org/>

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 (IOB).¹⁸²

Before the Board can hear your case, you must first exhaust the internal appeals procedure 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 thirty (30) days, or
- Other good cause.

¹⁷⁹ See address below.

¹⁸⁰ Law on the Use of Languages (02/L-37), Article 32.6.

¹⁸¹ Law on the Use of Languages (02/L-37), Article 32.8.

¹⁸² Law on Independent Oversight Board for Civil Service (2010/03-L-192)

Each such appeal will be heard by a panel of three (3) 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 sixty (60) 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 to the senior managing officer or the chief executive officer of the respective employing authority. S/he will then be responsible for ensuring the compliance of the employing authority within fifteen (15) days from the receipt of the decision. However, where the employing authority does not comply, the Board will report this to the Prime Minister and the immediate supervisor of the person responsible for execution.

Contact Information

Office of the Independent Media Commission
Str. Gazmend Zajmi 1, 10 000 / Prishtinë/Priština
Tel: +381 (0)38 245 031
Fax: +381 (0)38 245 034
Email: info@kpm-ks.org
Web: <http://kpm-ks.org/>

Independent Media Commission (IMC)

If you believe that a media outlet has violated its obligations towards communities, you may file a complaint with the Independent Media Commission (IMC). However, note that many complaints can be settled without involving the IMC and it is worth trying to contact the relevant media outlet first.

Contact Information

Office of the Independent Media Commission
Str. Gazmend Zajmi 1, 10 000 / Prishtinë/Priština

Tel: +381 (0)38 245 031

Fax: +381 (0)38 245 034

Email: info@kpm-ks.org

Web: <http://kpm-ks.org/>

IV. LEGISLATIVE FRAMEWORK

Below is a list of the most important laws in Kosovo relevant to community issues:

- Constitution of the Republic of Kosovo
<http://www.kuvendikosoves.org/?cid=2,100,48>
- Law on the Protection and Promotion of the Rights of Communities and their Members in Kosovo (03/L-047)
<http://gazetazyrtare.rks-gov.net/Documents/anglisht-75.pdf>
- Amendment to the Law on the Protection and Promotion of the Rights of Communities and their Members in Kosovo (04/L-020)
<http://www.assembly-kosova.org/common/docs/liqjet/Law%20on%20amending%20the%20Law%20on%20communities.pdf>
- Law on Anti-Discrimination (2004/3)
http://www.assembly-kosova.org/common/docs/liqjet/2004_3_en.pdf
- Law on Local Self Government (2008/03-L040)
<http://www.assembly-kosova.org/?cid=2,191,249>
- Law on the Use of Languages (2006/02-L37)
<http://www.assembly-kosova.org/?cid=2,191,204>
- Law on Historic Centre of Prizren (2011/04-L-066)
<http://www.assembly-kosova.org/?cid=2,191,940>
- Law on Special Protective Zones (2008/03-L039)
<http://www.assembly-kosova.org/?cid=2,191,248>
- Law on Radio Television of Kosovo (2011/04-L-046)
<http://www.assembly-kosova.org/?cid=2,191,860>
- Law on the Independent Media Commission (04/L-044)
<http://www.assembly-kosova.org/?cid=2,191,848>
- Law on Education in the Municipalities of the Republic of Kosovo (03/L-068)
<http://www.assembly-kosova.org/?cid=2,191,265>
- Law on Pre-university Education in the Republic of Kosovo (2011/04-L-032)
<http://www.assembly-kosova.org/?cid=2,191,666>

ECMI Kosovo

Str. Nëna Terezë Nr. 41, Apt. 29

10000 Prishtinë/Priština

Kosovo

Tel. +381 (0) 38 224 473

Str. Čika Jovina Nr. 3, 1st Fl

38220 Mitrovica/Mitrovicë North

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Tel. +381 (0) 64 00 55 488

Email: info@ecmikosovo.org

Web: www.ecmikosovo.org

