

The Beginning of Implementation of the *Law on  
the Promotion and Protection of Rights of  
Communities and Their Members  
in the Republic of Kosovo*

**Report by HLC - Kosovo**

December 2008



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## **Introductory Notes**

In the period from September until December 2008, the Humanitarian Law Center – Kosovo (HLC-Kosovo) conducted a research on the implementation of the *Law on the Promotion and Protection of Rights of Communities and Their Members in the Republic of Kosovo*, with special focus on the creation of the Consultative Council for Communities within the Kosovo President’s Cabinet. This law was passed on 13 March 2008 and entered into force on 15 June 2008, while the decree of the President of Kosovo, on establishment of the Consultative Council, was made on 15 September 2008. The consultation process for nominating and electing the Council members lasted from the end of October until early November 2008. HLC-Kosovo has conducted a research in order to find out whether the consultation process was conducted in a transparent and democratic manner, whether all relevant actors from ethnic communities were involved, what are the opinions of their representatives and representatives of institutions with regard to the establishment of the Consultative Council, i.e. whether they been informed about the law and the mandate of the Consultative Council at all. Finally, HLC-Kosovo also investigated which media and professional associations of journalists have a mandate to create conditions in order for minorities to be able to receive information on events in Kosovo in their mother tongues as prescribed by the law mentioned herein.

With this regard, HLC-Kosovo has interviewed members of minority communities in Kosovo, representatives of international organizations, and representatives of Kosovo institutions and media. HLC-Kosovo has conducted a total of 41 interviews.

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Since the law entered into force only in June 2008 and the consultation process for nominations and election of the Council members was completed only in November 2008, it is still too early to record the practice and make conclusions on whether or not the institutions of Kosovo are ready to implement the provisions of this law. As far as the Consultative Council for Communities is concerned, members of the Council have not yet been appointed and the Council has not yet become operational. However, HLC-Kosovo managed to identify activities, which have been undertaken in the direction of the implementation of the law, and key challenges the Consultative Council will have to face during its future work and mandate, which will be the focus of the HLC-Kosovo research during the following period of time. Because of this, HLC-Kosovo will not step up with its recommendations.

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## Summary

### Consultative Council for Communities

Three months after the *Law on Promotion and Protection of Rights of Communities and Their Members* was passed, the President of Kosovo, Fatmir Sejdiu, announced a decree on 15 September 2008, by which the Consultative Council for Communities was established within the President's Cabinet. In early November, the consultation process, during which members of the Council from minority communities were nominated, was completed. The European Centre for Minority Issues (ECMI) led the consultation process.

HLC-Kosovo obtained information from members of the minority communities, mainly from Serbs, Turks, and Bosniaks, that the consultation process was not transparent enough and that some of the relevant minority communities' civil society organizations were not invited to take part in it.

There is an impression that Kosovo institutions are more concerned with establishing the Consultative Council and completing the nomination process as soon as possible, than with organizing broad consultation in which all relevant minority organizations would take part. This is mainly the opinion of Serbs, Turks, and Bosniaks, while on the other hand, Roma, Ashkalies, and Egyptians emphasize

much more the significance of such a body, than to stress the shortcomings or the importance of the consultation process. However, all minority communities' civil society organizations share the same opinion that the consultation process was too short and that there was no time for broad and quality consultation on the candidates.

Since the consultation process was short, the first members of the Council will be appointed to the one-year mandates instead of being granted two-year mandates. All the collocutors of the HLC-Kosovo highlighted that one year is not enough to properly evaluate the work of such an institution and its members.

Minorities also raise reservations in view of establishing the Consultative Council for Minorities, which relates to the operation, real support of institutions and independence, since this institution is envisaged to be part of the president's cabinet.

### **Kosovo Prime Minister's Office for Communities**

Kosovo Prime Minister's Office for Communities was established in February 2008. However, it remained unacknowledged in the public. All activities it undertook were related to the resolution of issues pertaining to authority of this body and other administrative issues. In addition, the coordination with other ministries on the issue of improving the status of minorities has not been visible or successful. The Prime Minister initiated that the Strategy for Minority Rights be composed within his office. However, the writing of this document has not yet begun.

### **Law on the Promotion and Protection of Rights of Communities and *Their Members* and the work of the ministries**

Institutions that are very important for integration and daily social life of members of minority communities, like the Ministry for Return and Communities, Ministry for Education, Science, and Technology (MONT), Ministry for Culture, Youth, and Sport (MKOS), and Ministry of Health mostly have not been introduced to this law. MONT is one of the examples. This ministry has not yet provided all textbooks for nine-year elementary education of minority members, who obtain their education in Turkish and Bosnian language, while textbooks for high schools for members of these communities still do not exist. Still, MONT has prepared curricula for education in Bosnian and Turkish and this part of education is mainly conducted without major problems. As far as the situation with Serbs is concerned, Article 8.5. of the Law on Promotion and Protection of the Rights of

Communities and Their Members in Kosovo grants students from this community to obtain education according to the curricula prescribed by the Government of Serbia, after schools inform MONT of this education in a relevant procedure. Finally, the curricula for students who would like to obtain their education in the Roma language has not yet been composed.

MONT has begun preparing a strategy for the integration of the Roma, Ashkalia, and Egyptian communities. In late October 2008, the process of standardization of the Roma language began.

MONT has provided for a certain number of members of the minority communities, Bosniaks and Turks in particular, to obtain education at the University of Prishtinë/Priština in the Albanian language. In order to stimulate students to apply, minority members are exempted from taking the entrance exam. Even though MONT has assured that minority members can attend this university, its decision did not include Serbs and Roma, who might also want to apply to the University of Prishtinë/Priština studies and it has not provided for students from the minority communities to obtain education in their mother tongue. The only exception is the Oriental Department where education is obtained in the Turkish language.

There are still no Serbs in the Kosovo educational institutions and there are no Albanians in schools and universities that are in the jurisdiction of the Serbian Government.

### Language Commission

The Language Commission has been established on the basis of the *Law on the Use of Languages* and it has a mandate to supervise whether institutions in the jurisdiction of the Kosovo Government apply the provisions on the Kosovo official languages,<sup>1</sup> i.e. the provisions on official languages in municipalities.<sup>2</sup> However, this institution is still not operating in its full capacity. Even though the commission is legally bound to start inquiries in order to see whether provisions of this law are respected, it still exclusively relies on complaints submitted by citi-

1 Pursuant to Article 4 of the Constitution of Kosovo and Article 2.1 of the law mentioned herein, official languages in Kosovo are Serbian and Albanian.

2 Law on the Use of Languages, Article 2.3: *In municipalities inhabited by a community whose mother tongue is not an official language, and which constitutes at least five (5) percent of the total population of the municipality, the language of the community shall have the status of an official language in the municipality and shall be in equal use with the official languages. Notwithstanding the foregoing, exceptionally, in Prizren Municipality the Turkish language shall have the status of an official language.*

zens. The fact that the members of the commission regard their activities in the commission as an additional duty and their primary duty is in some other institutions additionally burdens the operation of this institution. Finally, the willingness of institutions to respond to the information coming from the commission is also doubtful.

As far as central institutions are concerned, the Language Commission has determined that the Law is the least applied in the Ministry of Health and in certain municipal authorities. The success of the Language Commission's work can be noted in a particular case in the municipality of Prishtinë/Priština with regard to the problem related to the issuing of documents in Serbian where the mistakes reported have been mended.

## Media

HLC-Kosovo has noted that minorities in Kosovo are not satisfied with information, which they receive over the programmes broadcasted in the languages of minorities. RTK public broadcasting service still does not cover the entire territory of Kosovo, but only 78%. Actually, RTK does not have signal in the north of Kosovo where Serbs live or in the southern parts of Kosovo where a major part of Goranis and Bosniaks live. However, they are still obliged to pay for the public broadcasting service fee even though they are unable to follow the RTK programme. RTK also has an obligation to designate 15% of the complete programme for broadcasts in the languages of minorities. In practice, this percent is below 15%. The *Law on the Public Broadcasting* also prescribes that 5% of the fees collected should be allocated as support for the minority media houses. However, this provision is still not implemented in practice. Finally, Kosovo has not developed an adequate system of monitoring the quality and quantity of the programmes, whether it is the programme in Albanian or in the languages of minorities.

## 1. Consultative Council for Communities

*The Law on the Promotion and Protection of the Rights of the Communities and Their Members in Republic of Kosovo* prescribes the establishment of the Consultative Council for Communities, its mandate, and operation.<sup>3</sup> This Council operates within the cabinet of the President of Kosovo.<sup>4</sup>

3 *Law on the Protection and Promotion of the Rights of Communities and Their Members in Republic of Kosovo*, Article 12 of the Law, the Law was passed in the Kosovo Parliament on 13 March 2008.  
<http://www.assembly-kosova.org/common/docs/>

4 Article 60(1) of the Constitution of Kosovo. <http://www.assembly-kosova.org/common/docs/>

In accordance with its constitutional authorities<sup>5</sup> and Article 12 of the Law, the President of Kosovo, Fatmir Sejdiu, announced a decision on 15 September 2008 by which he established the Consultative Council for Communities and approved the Statute of the Council, which represents an integral part of the decision.<sup>6</sup>

The purpose of establishing the Council is to enable all the minority communities in Kosovo to participate in the decision making process important for each community, and at the same time to support the organizations founded by members of minority communities for the promotion of their interests. As regulated by the law and the decision, the communities will be represented in the Council by members of minority communities who are members of recognized associations and who are respected within their communities.

ECMI office in Prishtinë/Priština, provided its expert help during the process of drafting the Law on the Protection and Promotion of the Rights of the Communities and Their Members and supported the creation of the Council through its activities aimed at the organization of the process of nominations for potential members from the minority communities and defining the Statute of the Consultative Council.

### **1.1. Composition of the Consultative Council**

As regulated by the Law and the Statute of the Consultative Council, two thirds of the Council members will be representatives of minority communities. The President shall appoint members of the Council for a term of two (2) years, renewable once. Members will be representatives of renowned minority civil society organizations on the one hand, and on the other, political representatives of communities who hold a mandate in the Kosovo Parliament. President of Kosovo elects all the members coming from minority communities.<sup>7</sup>

The remaining one third of the members shall be composed of representatives of the Kosovo institutions directly involved in issues of special relevance for minorities. There are representatives of the Office of the Kosovo President, Office of the Kosovo Prime Minister, Ministry for Return and Communities, and a representative of the Office of the Kosovo Parliament President.<sup>8</sup>

5 Article 84 and Article 60(1) of the Constitution of Kosovo, <http://www.assembly-kosova.org/common/docs/>

6 President's decision DL-013-2008 announced on 15 September 2008.

7 Article 3 of the Statute.

8 Article 4 of the Statute; Article 12 of the Law.

Should the Consultative Council discuss issues under the jurisdiction of some other ministries within the Kosovo Government, such as the Ministry of Local Self-Government, MKOS, MONT, etc, the Council can make a decision to invite their representatives to participate in the work of the Council.

As defined in Article 12.6 of the Law and Article 3(6) of the Statute, *the Serb community shall have five (5) representatives, up to two (2) of whom may be members of the Assembly of Kosovo. The Roma, Egyptian and Ashkali communities shall have two (2) representatives respectively, up to one (1) of each of whom may be a member of the Assembly of Kosovo. The Bosniak and Turkish communities shall have three (3) representatives respectively, up to one (1) of each of whom may be a member of the Assembly of Kosovo.*

### **1.1.1. Election of Council Members Coming from Minority Communities**

In the period from late October until early November 2008, ECMI, in cooperation with the Office of the Kosovo President, organized a series of consultations with representatives of organizations representing all minority communities in Kosovo.<sup>9</sup> The aim of the consultations was to provide information on the Consultative Council and its role in order to obtain support for its creation and to make sure that members of the Council are renowned representatives of communities. In these meetings, representatives of civil society organizations from the lines of minority communities nominated individuals for whom they believed would be the best representatives. They also had an open discussion on these nominations. Two groups of consultations of this kind were organized: a) with all the minorities together and b) special meetings with each minority communities separately. Three rounds of consultations with all ethnic groups together were held, as well as two meetings separately with each of the following groups: Bosniaks, Roma, Ashkalies, and Egyptians. Only one meeting has been organized with Turks, Goranis, and Serbs. ECMI also held informal meetings with Montenegrins and Croats.

On the other hand, Office of the President organized a separate consultation with political representatives of all the communities in order to fill in the places in

<sup>9</sup> The first roundtable was organized on 23 October in Priština/Prishtine with Bosniaks. After this meeting Bosniaks asked for another meeting to be organized in order to harmonize opinions. This meeting was organized in Prizren/Prizren on 8 November. Roma, Ashkalies, and Egyptians elected their representatives also during two meetings. Both meetings were held in Priština/Prishtine: the first one was held on 29 October and the second on 3 November. Turkish community nominated its candidates during a roundtable, which was organized on 27 October 2008 in Rečan/Reqan. Serbs organized a roundtable on 6 November in Priština/Prishtine and Goranis organized a roundtable on 8 November in Prizren/Prizren.

the Consultative Council designated for the members of the Kosovo Parliament coming from the minority communities.

As ECMI claims, after intensive consultation with representatives of civil society organizations from minority communities, i.e. with relevant political parties representing minority communities, as well as with representatives of Kosovo institutions is finished, the President will come out with the proposal for the composition of the Council and by 12 December he will be able to appoint its members.<sup>10</sup>

*The greatest concern of ECMI in Kosovo is for the rights of all minorities to be respected and that they take active part in the political life of Kosovo. In order to achieve this, we need interethnic dialogue.*

**A.Z. Head of ECMI-Kosovo**

HLC interview, 5 November 2008

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*Every community had an opportunity to negotiate, decide, and nominate candidates from their own community. Each nominated candidate should submit his/her biography and a statement with reasons for nomination. The President of Kosovo appoints the Council members who come from minority communities. Minority political parties in Kosovo have also completed the process of nominating their candidates.*

**Dž.T, Advisor in the Office of the Kosovo President**

HL interview, 27 November 2008

## **1.2. Mandate of the Consultative Council for Communities**

As prescribed by Article 1.3 of the Statute and Article 12 of the Law, the Consultative Council for Communities represents an advisory body, which functions under the authority of the Office of the Kosovo President, but is independent when it comes to decision making.

The task of this body is to raise awareness regarding the position of minorities in Kosovo and to articulate opinions of minorities regarding issues that are of special relevance for them. The Consultative Council makes comments and proposes draft laws and strategies, provides suggestions for allocation of budgetary funds and funds from donations that are dedicated for the development of civil society organizations of minority communities and gives its contribution for drafting

10 ECMI Newsletter, November 2008.

reports on human rights in Kosovo that the Government of Kosovo will submit to relevant international institutions. This body will be responsible for providing efficient influence of minority organizations on Kosovo institutions.

### **1.3. Opinions of minorities' civil society organizations about the transparency in election of their representatives in the Consultative Council**

#### **1.3.1. Serbs**

Representatives of Serb civil society organizations believe that the nomination process for members of the Council from the Serb community was not transparent. They also stressed that some relevant Serb organizations, primarily from the north of Kosovo, were not invited to attend the consultation.

Non-transparency of the process diminishes the validity of the nomination of Serb representatives who are respected within their community. However, Serbs believe that in the tensed political and interethnic situation in Kosovo, accepting nomination for a seat in the Consultative Council represents bravery.

*As far as we know, the consultation in the north of Kosovo did not take place, which could be justified by the fact that Serbs from the north of Kosovo would see this consultation as a provocation because of their firm opinion regarding the nominations of Serbs into the Consultative Council. However, we believe that the consultation should be implemented in this part of Kosovo as well, in order to enable the Serb civil society in this part of Kosovo to speak their mind about the Consultative Council whether it is positive or negative. I am not able to understand the entire process a bit more because it is not transparent.*

**M.A. a representative of a Serb NGO**

HLC interview, 5 December 2008

#### **1.3.2. Turks**

Opinions of representatives of the Turk civil society organizations regarding the transparency of the process of nominations of candidates for membership in the Consultative Council differ. Some believe that the process was transparent. This is mainly the opinion of Turks from Prizren/Prizren whose representatives were nominated. They emphasized that it is positive that minorities finally have an opportunity to elect their own representatives in a democratic procedure. They added that now it is possible for the representatives of institutions to be completely informed about the problems of communities. Turks from Prishtinë/Priština do not agree with this claim. They believe that Turks from Prizren/Prizren cannot

represent the entire Turkish community in Kosovo. Members of this community in Prishtinë/Priština doubt that the work of this council will be successful.

Both groups of Turks agree that the most important issues for their community are the non-existence of textbooks for students who attend school in the Turkish language and the failure to implement the Law on the Use of Languages.

*Only NGOs from Prizren and Mamuša were invited to attend the last meeting. Earlier, NGOs from Priština, Mitrovica, and Gnjilane also attended the meetings. We informed them after the meeting and told them that they could propose their own people. There will be no politics involved in the work of this council. People from civil society will speak of the problems the Turkish community is facing. I believe that politicians will benefit from us because we will bring them information from the centre.*

**F.D. a representative of a Turkish NGO**

HLC interview, 4 December 2008

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*Nominees in this meeting were Ferhat Derviš and Tahir Luma, both from Prizren. I believe these nominations were not proper because Turks live in other places besides Prizren. The nomination process itself was not well prepared and it was not serious at all. We were not timely informed and we had no time for consultation. I, personally, and some other people did not take this seriously and we did not accept our nominations that came from representatives of other NGOs that participated in the meeting. I do not believe this Council will be successful at all.*

**R.K. a representative of a Turkish NGO**

HLC interview, 3 December 2008

### **1.3.3. Bosniaks**

Bosniaks believe that the establishment of the Consultative Council represents a positive step because civil society is provided with an opportunity to inform institutions about the problems members of the Bosniak community are facing. These problems include a large number of missing persons, the departure of young Bosniaks from Kosovo due to unemployment, the non application of the *Law on the Use of Languages*, and a lack of textbooks for students who attend school in Bosnian language, etc.

Representatives of organizations founded by Bosniaks believe that the temporary mandates of prospective members of the Council, which is one year, is not enough to point out all of the problems and for the programme of one assembly to

be implemented. However, Bosniaks are primarily dissatisfied because nothing essential has been undertaken in order for the Consultative Council to be established and it was supposed to be established on 15 November.

As far as the nominations of the member of this community are concerned, they are not satisfied with the transparency of the process and they are not satisfied with the endorsement of Bosniak organizations that have been recently founded instead of those that have existed for years. They also highlighted that some of the Bosniaks who were candidates put pressure on other Bosniaks in order to get their votes and obtain the position within the Consultative Council. One part of the members of this community has an impression that ECMI supported nominations of certain candidates.

*As far as the process itself is concerned, there were some irregularities during the consultation held in Prizren on 8 November. We feel that it was the fault of people from ECMI. As far as the consultation that ECMI organized is concerned, I personally believe that it could have been organized in a much better way. People are suspecting that ECMI favoured some of the candidates. I think they had their own candidate.*

**Ç.B. a member of a Bosniak NGO**

HLC interview, 4 December 2008

*I did not like the nomination process of individuals from Bosniak NGOs in Kosovo because no one took care about which nongovernmental organizations could take part in the nominations. There are nongovernmental organizations that were founded a month ago and that have exactly the same status as NGOs that have been operating for 7 or 8 years. That is a great shortcoming. Even though this was all conducted in a very short period of time, there were individuals in our NGOs who did not understand the purpose and objective of the Consultative Council. Some see it as an employment opportunity. ECMI told us that the Consultative Council will be operational as of 15 November. A month has passed since that date and the Consultative Council is not yet assembled.*

**M.B.-a Bosniak community NGO**

HLC interview, 3 December 2008

#### **1.3.4. Goranis**

Representatives of Goranis NGOs are satisfied with the way ECMI organized the nominations process for the members of the Consultative Council. They believe it was transparent and democratic. They also believe that the Consultative Council

should be open for problems, such as the problem of education for Goranis. Gorani NGOs are not satisfied with their political representatives who might also be in the Consultative Council as members of the Kosovo Parliament.

*Our community has problems with education, with staff. There are children who obtain education according to the Kosovo educational system, but there are also children who attend schools according to the curricula of the Republic of Serbia Government. In Gora, families whose children attend schools in Serbian are placed under the pressure of the current government of Vakat and Democratic Party of Kosovo. It is high time that we spoke openly because education can never do any harm to anyone.*

**V.S. a representative of a Gorani NGO**

HLC interview, 4 December 2008

### **1.3.5. Roma**

Roma community is generally affirmative of the future work of the Consultative Council and it expects to have an opportunity to publicly express its problems, mainly the ones relating to assimilation and discrimination. Roma are satisfied with the proposed candidates and believe that the entire process is transparent and democratic. They are especially satisfied because Roma were in this process separated from Ashkalies and Egyptians and they were observed as a separate ethnic community.

*I personally believe that the participation of politicians and representatives of civil society side by side will have a negative impact since the majority of representatives of political parties is part of the civil society and there may be tensions and conflicts of interest. I think the candidates from the civil society are good enough to represent the interests of the community. It is good that Roma, Ashkalies, and Egyptians were not put in the same group, but we do not understand how it was decided that the number of Roma, Ashkali, and Egyptian representatives should be different than the number of representatives of Serb, Turkish, and Bosniak communities.*

**K.P. a representative of a Roma NGO**

HLC interview, 1 December 2008

### **1.3.6. Ashkalies**

Ashkalies were very reserved regarding the entire process at the very beginning because they believed that it was already decided who would represent Ashkalies in the Consultative Council. However, later on they changed their mind and were satisfied because they would have an opportunity to discuss their problems like poverty and difficult situation in which some Ashkalies who are returning from

the EU countries in the readmission process are. Still, Ashkalies believe that communities are not proportionately represented in this Council.

*Before the meeting I heard that a representative from our community has already been elected. I was upset, but after the first and the second meeting we elected our representative ourselves. However, ECMI thought that only one meeting would be enough. However, it was not like that. The problem is that President's and ECMI's representatives stayed for only one hour in the meeting. We did not have anyone we could pose questions to. In the beginning people did not understand what the mandate of this Council was. The greatest problem of the Council's operation will be the disproportional representation of communities.*

**B.S. a representative of an Ashkali NGO**

HLC interview, 9 December 2008

### **1.3.7. Egyptians**

Egyptians are satisfied how the nominations process for positions within the Consultative Council has developed by now. This institution could be of great help for Egyptians for the resolution of problems this community is facing, including unemployment, problems concerning education, and poverty.

*Consultative Council should be under the authority of communities and not the Office of the President. Roma, Ashkali, and Egyptian communities have mutual problems, but they also have problems specific for each of these groups. For Roma people, for example, the problem is that they cannot obtain education in their own language. Egyptians don't have problems with this. The Consultative Council is a big step forward. Communities can discuss problems and resolve them ... Roma, Ashkalies, and Egyptians should be perceived as three different communities and not as one for we are different.*

**B.V. a representative of an Egyptian NGO**

HLC interview, 3 December 2008

## **1.4. Challenges**

### **1.4.1. Minority Representatives in the Consultative Council**

Representatives of certain communities, Serbian and Turkish in particular, are not satisfied with the process of nomination of their possible representatives in the Council. They also have doubts regarding their authority. International Civil Office (ICO), which, as a monitor, observed the consultation process, also raised similar reservations.

In order for communities to have trust in their representatives, it is necessary for all of the relevant organizations to participate in the consultation. However, this has not happened. The consultation with the Serbian community could be given as an example. In this sense, the question will arise whether the nominated communities' representatives in these circumstances will be considered valid representatives of their communities, i.e. whether they will be trusted. According to Serbs HLC-Kosovo researchers have spoken to, Serb organizations from the north of Kosovo have not participated in the consultation and they have the greatest authority. Even though two respected individuals from the Serb community have been nominated,<sup>11</sup> there is a question how will Serbs perceive this candidacy, mainly because of the growing negative stance of the Serbian Government towards institutional integration of Serbs, which was pointed out on several occasions, for example as propaganda calling for the boycott of the last local elections or through a request for leaving Kosovo institutions after it declared independence. The point is that the most of the Serbs will act in accordance with requests of the Government of Serbia and they trust the Government of Serbia, hence they would reject all of the proposals that are opposing official Serbian stance. It is assumed that the membership in the Consultative Council, as far as Serbs are concerned, will be accepted by individuals who do not agree with stances of the Serbian Government. However, they are minority among Serbs and therefore the Consultative Council will probably have limited authority in the Serbian community.

#### **1.4.2. Independence of the Consultative Council**

Since the President of Kosovo plays a significant role in the process of electing and dismissing members of the Council and since the Council will operate under the authority of the Office of the President, the question of its independence is raised, as well as the question of what influence the President will have on this body. Also, is there a possibility for the Council to oppose the President's stances and what will be the President's position towards this body should such a situation arise? Will the President chair the sessions of the Council like it is prescribed by the Law?<sup>12</sup>

11 Nenad Rikalo and Nenad Radosavljević.

12 Article 12.4 of the Law and the Statute of the Council, Article 7, Meetings: *The Council shall hold two annual meetings per year. These extraordinary meetings shall be used for a major review of progress of the work of the Council and of community policy and community concerns in the Republic of Kosovo in general. These meetings shall be chaired by the President of Kosovo.*

### 1.4.3. Functioning of the Consultative Council, Decision Making, and Impact

It is impossible to assess the impact the Consultative Council will have on future policies of Kosovo institutions with regard to the protection of the rights of minorities and their full integration into the Kosovo society. It is also not predictable whether the institutions, which are permanent members of the Council, will take active part in the work of the Council since the Law does not oblige them to attend sessions of the Council. Namely, Article 8 (1) and (2) of the Statute prescribes that the quorum for meetings of the Council shall be attended by at least one-half (1/2 or 50%+1) of its members, two-thirds (2/3) of whom must be representatives of communities. The decisions will be legitimate if they have majority vote of the present members of the Council. Practically, this means that the members from communities can adopt decisions alone. Doubts that certain institutions, permanent members of the Consultative Council, will take active part in the work of the Council are additionally supported by the opinion of the Head of Kosovo Prime Minister's Office for Communities that the Office of the Prime Minister should not participate in the work of the Council on regular basis even though according to the Law it should be its permanent member.<sup>13</sup>

Even though the Law granted broad powers to the Consultative Council, the mechanism for the Government and the ministries to take into consideration decisions adopted by the Council has not been designated: for example, decisions on allocation of funds to minority communities' organizations, decisions relating to amendments of laws, or directives relating to the position of the minority rights. The question which is particularly raised here is whether the permanent members of this body will vote for these proposals and what will happen if they do not vote for certain proposals. Will, in such cases, stances of the Consultative Council be relevant as well? And also, could certain decision be perceived as relevant if representatives of a certain minority community do not agree with it? Is the simple majority vote an adequate decision making model or there should be a consensus in a situation when a level of minority integration into the Kosovo society varies, whereas Turks, Ashkalies, Bosniaks, a part of Roma, Goranis and Egyptians are completely integrated and Serbs, and a part of Goranis and Roma are not?

The list of questions and challenges is far from being exhausted here. In any event, the following time period, after the Council is founded and starts operating, will provide answers to these questions.

13 For more information see chapter *Establishing Office for Communities Within Office of the Kosovo Prime Minister*.

## 2. Establishing Office for Communities within Office of the Kosovo Prime Minister

Office for Communities under the authority of the Office of the Kosovo Prime Minister was founded in February 2008. The President of this office used to be the Prime Minister of Kosovo.<sup>14</sup> As of November 2008 the president of the Office is Srđan Sentić, a former Advisor for Minorities to the Special Representative of the Secretary General for Kosovo. One of the duties of the President of this Office is to report to the Head of the Prime Minister's Office on activities undertaken.

The Office is composed of three separate departments: Department for Strategy and Legislative, Department for Coordination and the Outreach Department. The task of the first department is to prepare programme documents and strategies and draft laws on the basis of strategies. The second department should implement the coordination tasks between the Office of the Prime Minister and ministries and other Kosovo institutions implementing activities for the respect of the rights of the minorities. The third department should inform the public about the strategies of the Office of the Prime Minister and Government with regard to the implementation of the minority rights.

However, even though it was founded almost a year ago, this office is not fully operational yet and it undertook only several activities. These activities were of administrative nature and related to the resolution of the issue of jurisdiction, mainly between the Office of the Prime Minister and the Ministry for Return and Communities, which plays a crucial role in the implementation of activities related to minorities. The coordination with other ministries with regard to the improvement of the position of minorities has not been very successful either. The Prime Minister initiated the writing of the strategy for the rights of minorities. The objective of this document was supposed to be the harmonization of activities of the Office of the Prime Minister and activities of ministries. However, this document has not been written to date.

*The Office for Communities has been mainly focused on defining the mandate and functions and therefore it turned out to be not so successful and it did not communicate with other ministries in order to resolve various problems minority communities in Kosovo are facing.*

**F.M. Advisor to the Kosovo Prime Minister**

HLC interview, 6 November 2008

14 B.I., a member of the Roma community was appointed Deputy President in May 2008.

*We have wasted too much time on the coordination of efforts with this ministry and all other relevant partners in defining the mandate of our office. We also had difficulties in determining institutional position of this office and its future plans and actions. The Head of the Office has been appointed now. I am aware that we have a lot of work ahead of us and I hope that we will be more efficient.*

**B.I. Deputy President of the Prime Minister's Office for Communities**

HLC interview, 21 November 2008

As prescribed by the *Law on the Protection and Promotion of the Rights of Communities and Their Members* and the Statute of the Consultative Council, the Prime Minister's Office for Communities is also a permanent member of the Consultative Council for Communities. The President of the Prime Minister's Office for Communities does not agree with this scenario.

*I believe that it is not necessary for our office to have a permanent seat in this body since the government should be the one to implement its policy and laws. I see the role of our office more in the process of monitoring the Consultative Council than to be involved in the process itself, as a permanent body.*

**S.S. President of the Kosovo Prime Minister's Office for Communities**

HLC interview, 3 December 2008

### **3. Implementing the *Law on the Promotion and Protection of the Rights of the Communities and Their Members* and the *Law on the Use of Languages* With Regard to Respecting Official Languages in Kosovo**

Article 4 of the *Law on the Promotion and Protection of the Rights of the Communities and Their Members* directly calls upon the provisions of the *Law on the Use of Languages* and confirms that Serbian and Albanian are official languages in Kosovo, that official municipal languages will be the ones used by at least 5% of the total number of inhabitants in a municipality and Turkish will be an official language in Prizren/Prizren, regardless of the number of Turks.

In accordance with these laws, the use of official languages of Kosovo is guaranteed at all levels of government, from municipal to the central level, public companies, schools, and all other social environments. In order to secure the application of these laws, the *Law on the Use of Languages* prescribed that the Commission

for Languages should be established.<sup>15</sup> The Commission was officially founded on 21 March 2007. It is a multiethnic body composed of representatives of the Office of the Prime Minister, Kosovo Parliament, MONT, Ministry of Justice, Ministry of Administration and Local Self-Government, and Ministry for Communities and Return. This body has not showed to be very successful and numerous domestic and international nongovernmental organizations have serious complaints about its work.

There are several reasons for insufficient activity of the Commission. Members of the Commission for Languages underline that citizens are generally not well informed about the existence of the Commission and the way of its operation because the commission acts upon complaints as prescribed by Article 32.3 of the *Law on the Use of Languages*. However, Article 32.4 of the *Law on the Use of Languages* authorizes the commission to self initiatively start inquiries. Therefore, the remarks raised by the members of the commission regarding citizens not being informed are not entirely true. On the other hand, there are doubts regarding the willingness of the Kosovo institutions to adopt the commission's remarks.

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The non-functioning of the Commission is additionally impacted by the fact that the members take their position in the commission as an additional activity, which they undertake when they reach an opportunity. They are primarily engaged in some other duties. *The Law on the Use of Languages* also did not include a provision prescribing that the function in the commission should be permanent.

The reconfiguration of the Commission for Languages is currently being prepared and it will contribute to its more efficient work. The suggestions are that the current number of members, which is seven, should be reduced to four or five, and that they should be appointed for mandates of one year. It is also necessary to have the Commission's Rules of Procedure changed. This request should be submitted to the Prime Minister of Kosovo for adoption according to Article 32.10 of the *Law on the Use of Languages*. However, preparation of documents outlining structural changes will take time that the commission would otherwise devote to the implementation of its primary mandate, which is to monitor the implementation of the *Law on the Use of Languages*.

15 *Law on the Use of Languages*, Article 32.1: *In order to preserve, promote and protect the official languages and their equal status in Kosovo, as well as to ensure protection of the languages of communities whose mother tongue is not an official language, the Kosovo Government shall establish a Language Commission to supervise the implementation of this Law.*

*I know that we have been criticized a lot, but it should be stressed that the latest political developments in Kosovo affected the work of the Commission a lot because people were preoccupied with politics and no one is interested in addressing the Commission. People are not well informed about the work of the Commission and that also might be one of the reasons why we have not yet received any complaints from members of minority communities. It should also be stressed that the implementation of the Law on the Use of Languages is only possible when political situation is peaceful ... All members of the Commission are engaged in other activities at the same time, including me. I work as a Legal Officer in the Prime Minister's Office and that is my primary job, and the Commission comes in second. I was asking for 2 or 3 additional officers that would be employed in the commission full time. Maybe the mistake was made in the very beginning. Maybe the Commission should have had a separate office and have its members exclusively focused on the work of the commission. I am waiting for the reconfiguration of the Commission and then I am planning to quit my position in it.*

**I.C, President of the Commission for Languages**

HLC interview, 26 November 2008

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#### **4. Implementing the *Law on the Promotion and Protection of the Rights of Communities and Their Members in fields that are in the jurisdiction of certain ministries within the Kosovo Government***

##### **4.1. Ministry for Culture, Youth, and Sport (MKOS)**

MKOS has a mandate to implement Article 5 of the *Law on the Promotion and Protection of the Rights of Communities*. The essence of this Article is the preservation of tradition and protection of the cultural legacy of minority communities.

This ministry is composed of three departments, which cover the fields of culture, youth, and sports. The department for culture is the one most directly engaged in the implementation of Article 5 of the Law. It consists of two sub-departments: sub-department for promotion (promotion of multiculturalism, interethnic dialogue, and integration of communities) and sub-department for the protection of cultural legacy. The department for culture had a budget of 32,000 Euros in 2008. 20% of this amount was allocated to the sub-department for promotion.

A part of this ministry's budget was used for the reconstruction of Orthodox religious buildings and for organizing campaigns, trainings, gatherings that would

promote multiculturalism, and gatherings aimed at raising awareness of the need to protect cultural legacy. During 2008, MKOS sponsored the reconstruction of 12 Orthodox religious buildings. The reconstruction was partially sponsored from the budget and partially from foreign donations.

MKOS allocated the greatest amount of money to the department of sports, a total of 750,000 Euros, 80,000 of which was allocated for the integration of minority communities and development of sports clubs. A total of 250,000 Euros was allocated to the department of youth. In this way the ministry wants to include the sports clubs of minority communities into the Kosovo sports associations, i.e. to involve the minority communities' youth into the life of Kosovo with aim to ultimately integrate them into the Kosovo society.

The ministry undertook activities with regard to the respect of Article 5 of the *Law on the Promotion and Protection of the Rights of Communities*, however, officers of this ministry, who are administratively in charge of implementing this Article, are not informed of the existence of the law and they do not know how to apply its provisions. Due to the lack of information, MKOS has not undertaken any measures to include minorities' cultural organization into the discussion about structuring the Consultative Council for Communities.

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*One of the conditions for issuing licenses to sports federations of Kosovo is the representation of minority communities in the committee of a sports federation. There are also 27 sports clubs of minority communities within the federation, which have been provided with financial support for purchasing sports equipment. Most of the clubs who were approved for funding in this project are youth from the Serb community in Gračanica, Priluzje, Zubin Potok, Rečan, and Orahovac.*

**F.S. Coordinator of the Human Rights Office in MKOS**

HLC interview, 5 November 2008

As far as the employees of MKOS are concerned, 291 out of the total number of 316 employees are Albanians, 12 are Serbs, and 10 are Turks, while seven are members of other minority communities. There are no Roma, Ashkalies, or Egyptians employed in the ministry. The percent of employees, who are members of minority communities, has dropped from 12% in 2006, to 9.18% in 2008. The representatives of the ministry believe that the main reason for the drop of this percentage lies in the fact that salaries in MKOS are small and employees who are members of minority communities were forced to quit.

## 4.2. MONT

The law prescribes that all members of the minority communities have right to education in their languages, starting with the kindergarten education all the way to the university education level. Kosovo MONT has prepared a unique curriculum for Albanians and all minority communities, except for Serbs. However, Article 8.12 of the Law prescribes that MONT will prepare curricula for subjects pertaining to the preservation and protection of national identity, such as subjects pertaining to language, history and art, in cooperation with cultural organizations of these communities. The Law also prescribes that MONT has to provide the same quality of lectures for majority population and students obtaining education in languages of minority communities.<sup>16</sup> The Law provides for the opening of private schools in the languages of minorities.<sup>17</sup>

As far as the Serb community is concerned, Article 8.5 of the Law prescribes the following: „[S]chools that teach in the Serbian Language may apply curricula or textbooks developed by the Ministry of Education of the Republic of Serbia upon notification to the Kosovo Ministry of Education, Science and Technology according to procedures established in the *Law on Local Education*.<sup>18</sup> Pursuant to Article 8.6 of the *Law on the Promotion and Protection of the Rights of the Communities and Their Members* The University of the Mitrovicë/Mitrovica North shall be an autonomous public institution of higher learning. The municipality of Mitrovicë/Mitrovica North shall have authority to exercise responsibility for this Serbian language university as governed by law.

*The Law on Education in Municipalities* sets certain thresholds, in particular the minimum number of students necessary for education in minority languages to be organized. This is confirmed by Article 8.1 of the *Law on the Promotion and Protection of the Rights of the Communities*. However, pursuant to Article 8.2 of the Law, in municipalities in which there are an insufficient number of students, Government of Kosovo should subsidize transport to an area where schooling is being offered in their mother tongue.<sup>19</sup>

16 Article 8.3 of the *Law on the Protection and Promotion of the Rights of the Communities and Their Members*.

17 Article 8.4 of the *Law on the Protection and Promotion of the Rights of the Communities and Their Members*.

18 *Law on the Education in Municipalities of the Republic of Kosovo*, ZBr. 03/L.068, Article 4 Extended Powers of Municipalities, and Decree no. 2002/19 o proglašenju Zakona Br, 2002/2 on elementary and high school education. Article 4 on the Law on Education in Municipalities: *Municipalities shall have full and exclusive powers, insofar as they concern the local interest, while respecting the standards set forth in applicable legislation with respect to the provisions of public pre-primary, primary and secondary education, including registration and licensing of educational institutions, recruitment, payment of salaries and training of education instructors and administrators.*

19 Article 8.2.

Turks, Bosniaks, Ashkalies, Egyptians, and a part of Goranis who attend schools in Bosnian go to schools that are under the authority of Kosovo MONT.<sup>20</sup> Serbs and Goranis attend schools under the authority of the Government of Serbia.<sup>21</sup> Roma attend schools under the authority of the Government of Kosovo and the Government of Serbia. However, neither of these schools has organized education in the Roma language. In elementary schools under the authority of the Government of Serbia, the Roma language is an elective subject.

MONT has begun preparing a strategy for integration of Roma, Ashkali, and Egyptian communities. In late October 2008, the project of the Roma language standardization began, which would enable the curriculum to be written in the Roma language. Within this plan, it was intended to have classes of Roma language organized twice a week for Roma students who attend schools in Albanian or Serbian. MONT will also provide staff that would teach in the Roma language.

104 One of the greatest problems pupils and students who attend schools in Bosnian and Turkish face is the lack of textbooks and professional literature.<sup>22</sup> As far as elementary school education is concerned, nine-year elementary school education for pupils attending schools in Turkish, textbooks for I, II, III, IV, VI, VII and VIII have been issued, while textbooks for IX grade have been partially issued, and for V have not been issued at all. As far as nine-year elementary schools in Bosnian are concerned, textbooks for I, II, III, and IV grades have been issued, while textbooks for V, VI, VII, VIII and IX have been issued only for some subjects. Textbooks for high schools for students attending schools in their mother tongues have not yet been issued. As MONT representatives claim, all missing textbooks will be printed during 2009. The ones that are not printed during this period will be imported from BiH or Turkey.

As far as university education is concerned, Turks can obtain university education at the Prizren/Prizren Teachers College, which is a branch of the University of Prishtinë/Priština and at the University of Prishtinë/Priština Department for Turkish and Oriental languages. Turkey also grants scholarships and therefore enables a certain number of Turks from Kosovo to obtain education at universities in Turkey.

20 Ashkalies' and Egyptians' mother tongue in Albanian and therefore they attend Albanian schools.

21 Apart of Goranis, who attend Serbian school, also attend schools under the authority of the Government of Kosovo.

22 HLC – Applying the Law on the Use of Languages in Education Report, September 2008.

Bosniaks can obtain university education in their own language in Peć/Pejë at the Faculty of Applied Business Sciences, Teachers College in Prizren/Prizren, and at the Faculty of Technology and Computer Science in Peć/Pejë. These are the only colleges under the authority of the Government of Kosovo where Bosniaks can obtain education in their mother tongue.

MONT has provided for a certain number of members of minority communities, Bosniaks and Turks in particular, to obtain education at the University of Prishtinë/Priština in Albanian. In order to stimulate members of minorities to attend these schools, they are exempted from taking the entering exam. Even though MONT has enabled members of minorities to be admitted into the University of Prishtinë/Priština, this decision has not applied to Serbs and Roma who might, hypothetically speaking, want to apply for studies at this University and it has not enabled students from minority communities to obtain education in their mother tongues.<sup>23</sup>

*There are 56 slots at the Priština University for members of the Bosniak community and 40 for members of the Turkish community at departments where lectures are given in Albanian. If members of these communities want to apply for these slots, they do not have to take an entering exam because these places are reserved exclusively for them.*

**U.B. MONT Deputy Minister**  
HLC interview, 5 November 2008

MONT officers also have not been well informed about the *Law on the Promotion and Protection of the Rights of the Minorities*.

*As far as the Consultative Council is concerned, I have not been informed about the fact that MONT can participate in the work of this Council.*

**U.B. MONT Deputy Minister**  
HLC interview, 5 November 2008

### **4.3. Ministry of Health**

According to the Law, the Kosovo Government needs to undertake all the necessary measures in order to ensure that members of communities have equal access to health care and without discrimination. The services provided by health care

<sup>23</sup> Department for Oriental Languages is the only exception; lectures at this department are organized in the Turkish language.

centers which are under the jurisdiction of the Kosovo Government are used by all ethnic communities except for Serbs who use parallel health care centers which are in the jurisdiction of the Government of Serbia. Besides Serbs, members of other ethnic communities, such as Gorani and Roma, use Serb clinics. The social momentum also has impact on the fact that they use Serb health care institutions because Serb health institutions are free of charge while Albanian are not. However, HLC-Kosovo noted that the number of Serbs using health care centers under the jurisdiction of the Kosovo Government is increasing.<sup>24</sup>

A total of 6,158 employees work for the Ministry of Health, Kosovo health institutions and institutions under the jurisdiction of the Government of Serbia. 512 of them are from minority communities: 198 Serbs, 122 Turks, 111 Bosniaks and 81 are members of other minority communities. Out of 198 Serbs, only three work for Kosovo institutions (two of them work in Đakovica/Gjakove and one of them works in Gnjilane/Gjilan), while 195 of them work for the parallel institutions. The Ministry of Health provides salaries for the Serb employees who work in the health centers in Laplje Selo/Lapllaselle and in Gračanica/Gracanice. They also receive salaries from the Government of Serbia.

There is not an office for minority communities in the Ministry of Health. However, the Deputy Minister responsible for the health issues related minorities is a Serb. Also, ministry officials do not know about the *Law on the Promotion and Protection of the Rights of Communities and Their Members in Republic of Kosovo*.

*The salaries of Serb doctors are three to four times higher than the salaries in Kosovo institutions. This is also one of the reasons why members of Serb community do not accepted offered job positions.*

**B.B., Deputy Minister in the Ministry of Health**

HLC Interview, 5 November 2008.

*I, as the coordinator of the Human Rights Office in the Ministry of Health, am not informed about the adoption of the Law on the Promotion and Protection of the Rights of Minorities and Their Members in Republic of Kosovo. In order to obtain information I contacted the Office for Legal Issues in the Ministry of Health. However, they did not have any information either.*

**S.K. Coordinator of Office for Human Rights in the Ministry of Health**

HLC Interview, 21 November 2008.

24 HLC Report, Security Issues, Employment and Application of Law on the Use of Languages and the Anti-discrimination Law in Kosovo, September 2008.

## 5. Implementing the Law on the Promotion and Protection of the Rights of Communities and Their Members in Republic of Kosovo and the Media

*The Article 6 of the Law on the Promotion and Protection of the Rights of Communities and Their Members in Republic of Kosovo guarantees the right to information to minority communities in their own languages and establishing of their own electronic and printed media. The Law on Public Service ensures that 15% of all programmes are broadcasted in the minority languages.<sup>25</sup> RTK broadcasts programmes in Serbian, Bosnian, Turkish and the Roma for one hour a week.*

RTK covers 78 percent of Kosovo territory. The remaining 22 percent are in the areas of Prizren/Prizren, where mostly Bosniaks, Turks and Gorani live, and Mitrovica/Mitrovicë, where the majority of the population are Serbs.

This denies minorities' access to information which makes the integration of Kosovo minorities into the Kosovo society harder. Besides the problem of not having coverage, RTK also does not provide the number of programs in the minority languages as it is foreseen by the Article 6 of the *Law on the Promotion and Protection of the Rights of Communities and Their Members in Republic of Kosovo*. According to the estimates made by the Independent Media Commission, RTK provides less than 15% of programmes in minority languages than it is supposed to. These shows are broadcasted six times a week, Monday through Friday. There is also 15-minute news which is broadcasted on RTK in Turkish, Serbian and Bosnian languages. There is no news broadcasted in the Roma language.

The RTK fee is 3.5 Euros and it is paid together with the electricity bill. Minorities from the Prizren/Prizren and Mitrovica/Mitrovicë regions complain that they have to pay the fee as well, even though they do not have the reception for the RTK.

Serbs mostly obtain information through the Radio Television of Serbia (RTS) and Serb radio stations which are mostly located in the northern part of Kosovo. Turks in the region of Prizren/Prizren have *Yeni Donem* where they can obtain additional information. Bosniaks receive information through Radio *Hayatt*. Some radio stations in Kosovo also broadcast programmes in the Roma language.

25 Law on Kosovo Radio and Television Service, Article 6(6)

A small number of minority members obtain information via internet. Minority communities are generally not satisfied with the information provided on the bulletin boards in municipalities, cities and villages. HLC-Kosovo noted that information on some bulletin boards is several years old. This is the case in the Municipality of Dragaš/Dragash where information on the bulletin board is from 2002. Generally, most minority representatives obtain information from municipality from individuals who visit municipality for personal reasons.

## 5.1. Minority Media Fund

On 15 April 2005, the Kosovo Government adopted the Strategy for minority media. The goal of the strategy is the support for establishing minority media in order to promote multi-ethnicity, non-discrimination and inter-ethnic dialogue. In 2006, the Minority Media Fund was founded and the first budget was 50,000 Euros. In May 2006, the following media obtained financial support from the aforementioned fund: Serbian media - Radio *Goraždevac*, Radio *M*, Radio *KiM* and *Glas juga*; Bosniak media - *Alem* and Radio *Bambus*; Turkish media - Radio *Kent*; multi-ethnic media - Radio *Kamenica* and Radio *K*; media of disabled groups<sup>26</sup> – *Mali ljudi* and acoustic magazine „Our Challenge“.

After the Law on Public Broadcasting Service was passed, this type of financing of minority media ceased. According to Article 20 (11) of this Law, 5% of fees received by the public broadcasting services are supposed to be used for financing minority media. However, this Article of the Law has not yet been implemented in practice.

*So far, this Article of the Law has not been implemented due to the internal and procedural problems. The Prime Minister formed a working group in order to resolve this problem. However, this working group is still having discussions related to the finding of the best way to support the work of the minority media. One of the biggest problems in the monitoring of the media programmes which is also supposed to receive support from this fund. There are no institutions in Kosovo which would do the monitoring. I think that it is very important to find a solution in order to be able to monitor the quality of programs broadcasted by the media in order for them to be in the service of all Kosovo citizens.*

**I.C, official in the office for information of the Kosovo Prime Minister's Office**

HLC Interview, 6 November 2008.

## 5.2. Kosovo Independent Media Commission (IMC)

The Kosovo Independent Media Commission is an independent regulatory body founded by the Law on the Independent Media Commission<sup>27</sup> Article 141 of the Kosovo Constitution. The Commission's mandate is to make the distribution of the frequencies in a transparent manner so that all Kosovo citizens are able to obtain information in their language efficiently. On the basis of Article 3 of the Rules of broadcasting of Kosovo Independent Media Commission, the work of the media which promote multiculturalism and inter-ethnic dialogue will be promoted while the work of the media which spreads prejudice and hatred would be prevented.

The Commission has three departments: IMC Council, CEO Office and Media Appeals Board.

The Commission's mandate also includes the evaluation of the quantity of the RTK's program, however, they do not have a mandate to evaluate the quality of their program. None of the media agencies whose job is to monitor different media have such power.

Out of the total number of 157 media in Kosovo which legally broadcast their programs, 44 of them are electronic media broadcasted in the minority languages; 33 of them broadcast program in Serbian language, three in Bosnian, 5 in Turkish language, two in Gorani and one in Roma language.

On 25 November 2008, the IMC held the first public meeting where the establishment of a national channels in Serbian language was discussed, as it is foreseen according to article 6.5 of the *Law on the Promotion and Protection of the Rights of Communities and Their Members in Republic of Kosovo*. The representatives of the Kosovo Government, Ministry for Returns and Communities, representatives of Serbian media, representatives of the RTK and international representatives of the ICO, UNDP, IREY and other were present at the meeting. The participants of the meeting agreed that it was necessary to urgently find a solution in order to fully implement the Kosovo Constitution which guarantees minority groups the right to obtain information in their languages.

27 On 21 April 2005, Kosovo Parliament passed the Law no. 02/L-15 on Independent Media Commission. The Law entered into force on 8 September 2005.

### 5.3. Press Council of Kosovo

Press Council of Kosovo is a professional association of journalist, a non-governmental organization, which, among other things, deals with monitoring of text quality in printed media and the respect of code of ethics, the ban of hate speech and so forth on the basis of reports filed by citizens of Kosovo. They also monitor if minorities are obtaining information in their own languages. This association consists of journalists who write in Albanian and journalists who write in minority languages. They do not conduct constant monitoring primarily due to the lack of finances.

*These newspapers (printed media in the languages of minorities) do not fulfil necessary conditions needed for informing communities. The responsible bodies must deal with this problem. The newspaper „Gradanski glas” (Citizens’ Voice), which is published two times a month would be able to become a daily newspaper if it only had financial support. By doing this, the Kosovo citizens would have a better access to information as it is supposed to be according to the Constitution and the Laws.*

**N.I, Representative of Press Council of Kosovo**

HLC Interview, 6 November 2008.

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## Legal Framework

### 1.1 Constitution of the Republic of Kosovo

#### **Article 60 [Consultative Council for Communities]**

1. A Consultative Council for Communities acts under the authority of the President of the Republic of Kosovo in which all Communities shall be represented.
2. The Consultative Council for Communities shall be composed, among others, of representatives of associations of Communities.
3. The mandate of the Consultative Council for Communities shall:
  - (1) provide a mechanism for regular exchange between the Communities and the Government of Kosovo.
  - (2) afford to the Communities the opportunity to comment at an early stage on legislative or policy initiatives that may be prepared by the Government, to suggest such initiatives, and to seek to have their views incorporated in the relevant projects and programs.
  - (3) have any other responsibilities and functions as provided in accordance with law.

## **1.2 Law on the Protection and Promotion of the Rights of Communities and their Members in Republic of Kosovo**

### **Article 1**

#### **General provisions**

**1.1** The Republic of Kosovo shall guarantee full and effective equality for all people of Kosovo. Kosovo regards its national, ethnic, linguistic and religious diversity as a source of strength and richness in the further development of a democratic society based on the rule of law. In the development of the Republic of Kosovo, the active contributions of all persons belonging to communities is encouraged and cherished.

**1.2** The Republic of Kosovo shall take special measures to ensure the full and effective equality of communities and their members, taking into consideration their specific needs. Such measures shall not be considered act of discrimination.

**1.3** Persons belonging to communities in the Republic of Kosovo shall be entitled to enjoy individually or jointly with others the fundamental and human rights and freedoms established in international legal obligations binding upon the Republic of Kosovo. These rights and freedoms are guaranteed by the constitution, other laws, regulations and state policies.

**1.4** For the purposes of this law, communities are defined as national, ethnic, cultural, linguistic or religious groups traditionally present in the Republic of Kosovo that are not in the majority. These groups are Serb, Turkish, Bosnian, Roma, Ashkali, Egyptian, Gorani and other communities. Members of the community in the majority in the Republic of Kosovo as a whole who are not in the majority in a given municipality shall also be entitled to enjoy the rights listed in this law.

**1.5** Every person belonging to a community shall have the right to freely choose to be treated or not to be treated as such, and no disadvantage or discrimination shall result from the choice to exercise or not to exercise the rights that are connected with that choice.

**1.6** In their free exercise of rights and freedoms enshrined in this law, communities and their members shall respect the rights of others.

**1.7** The authorities in the Republic of Kosovo, including the Courts, shall interpret this law in accordance with the guarantees of human rights and fundamental freedoms and the rights of communities and their members established in the Constitution of the Republic of Kosovo with applicable international human rights obligations including the provisions of the Council of Europe Framework Convention for the Protection of National Minorities.

## **Article 4**

### **Language**

**4.1** The Albanian and Serbian languages and their alphabets are official languages of the Republic of Kosovo and have equal status in its institutions. The Turkish, Bosnian and Roma languages shall have the status of official languages at the municipal level or will be in official use in accordance with the Law on the Use of Languages.

**4.2** Persons belonging to communities shall have the right to use freely and without interference the language of their community in private and in public, orally and in writing.

**4.3** Persons belonging to communities shall have the right to freedom of expression, including the right to receive and impart information and ideas in the language of their respective community.

## **Article 5**

### **Culture**

**5.1** Communities in the Republic of Kosovo and their members have the right to express, maintain and develop their culture and traditions and to administer their own cultural affairs.

**5.2** Communities shall have the right to establish associations for culture, art, science and education and other associations for the expression, fostering and development of their identity. These associations shall have the right of registration as citizens' associations, and such registration shall not be denied or revoked other than for reasons prescribed by law.

**5.3** Communities shall have the right to establish community representative organizations that may act as umbrella organizations in relation to the respective community and seek representation on the Community Consultative Council. These associations shall, in addition to requirements under paragraph 2 of this Article, comply with a code of conduct relating to their genuine representation of their respective community, democratic functioning, efficiency and financial transparency. Such a code of conduct shall be adopted by the community representative organization through the Community Consultative Council established in accordance with Article 12 of this law.

## **Article 6**

### **Media**

**6.1** Communities and their members shall be guaranteed access to information without discrimination. Communities and their members shall have the right to create and use their own media, including for the purpose of providing

information in their language through, inter alia, daily newspapers and wire services. Communities and their members shall have a reserved number of frequencies for electronic media in accordance with the law and international standards.

**6.2** Communities shall be guaranteed access to equitable representation in public broadcast media. Time shall be allocated for programming about communities on public broadcasting channels and to ensure the mainstreaming of communities' perspectives in domestic news broadcasting.

**6.3** Communities shall have the right to community programming in their language in public broadcast media in accordance with the law. Such programming should cover both the activities of the respective community and other content of interest to it, extending to news, culture, sports and entertainment. Persons belonging to communities shall have a leading role in generating and presenting such programs.

**6.4** Public broadcast media outlets shall ensure, at national and local levels, an adequate number of broadcast hours of programming in the languages of communities, including at peak viewing/listening times. The minimum number of community programming hours shall be prescribed by law.

**6.5** The Government of Kosovo shall be obliged to take all measures within its powers to secure an international frequency plan that will allow the Kosovo Serb Community access to a licensed Kosovo-wide independent Serbian-language television channel operating effectively and without discrimination in accordance with law.

**6.6** The free reception of cross-border broadcasts, whether direct or by means of retransmission or re-broadcasting, shall be guaranteed.

**6.7** Persons belonging to communities shall be adequately represented on the regulatory bodies relating to the media in the Republic of Kosovo. Representatives of communities shall be appointed to the Independent Media Commission in consultations with community representative organizations.

**6.8** Regulations concerning the prohibition of incitement or spreading of racial, ethnic or religious hatred or intolerance shall also apply to the media outlets referred to above.

## **Article 8**

### **Education**

**8.1** All persons belonging to communities shall have the right to receive public education at all levels in one of the official languages of Kosovo of their choice. Persons belonging to communities are entitled to pre-school, primary, secondary public education in their own language, even if it is not an official language.

The Government of Kosovo shall establish reasonable and viable thresholds for establishing specific classes or schools operating in community languages. The minimum threshold for such classes or schools shall be lower than thresholds normally stipulated for educational institutions and classes.

The maximum thresholds shall correspond with the established thresholds normally stipulated for school classes. This shall be regulated by law.

**8.2** In municipalities in which there are an insufficient number of pupils to make education available in a non-official community language, the Government of Kosovo has an obligation to offer alternatives, including subsidized transport to an area where such schooling is being offered, distance learning, roving teaching arrangements or offers of boarding.

**8.3** The Republic of Kosovo shall guarantee the existing facilities for professional training and higher education at university level in community languages. In accordance with an expressed need and financial viability, the Government of Kosovo shall provide further higher education and professional training programs in community languages.

**8.4** Communities and their members shall have the right to establish and manage their own private educational and training establishments for which public financial assistance may be granted, in accordance with the law and international standards. Such establishments shall be eligible to apply for accreditation by the Ministry of Education, Science and Technology if they comply with the general educational standards of the curricula of the Republic of Kosovo in accordance with the law. The Ministry of Education, Science and Technology shall monitor the quality of the delivery of education in accordance with the law.

## **Article 10**

### **Health**

**10.1** The Republic of Kosovo shall take necessary measures to ensure that persons belonging to communities shall have equal access to health care without discrimination.

**10.2** The Republic of Kosovo shall take special measures to ensure that satisfactory health care services are provided to persons belonging to socially and economically vulnerable communities.

**10.3** Medical safety instructions shall be available in the relevant community languages.

## **Article 12**

### **Community Consultative Council**

**12.1** There shall be a Community Consultative Council under the auspices of the President of the Republic of Kosovo. The Council shall have the following mandate:

- a) to assist in the organization and the articulation of the views of communities and their members in relation to legislation, public policy and programs of special relevance to them;
- b) to provide a forum for coordination and consultation amongst communities, and to ensure the effective functioning of the community representative organizations according to a code of conduct to be adopted by the Community Consultative Council;
- c) to provide a mechanism for regular exchange between communities and state institutions;
- d) to afford the communities the opportunity to participate at an early stage on legislative or policy initiatives that may be prepared by the Government or the Assembly, to suggest such initiatives and to have their views incorporated in the relevant projects and programs, including the annual strategy and report under Article 13 of this law, in accordance with the law;
- e) to fulfill requests for other mandatory consultations with regard to certain legal acts, as foreseen in the Constitution and the law;
- f) to enable communities to participate in the needs assessments, design, monitoring and evaluation of programs that are aimed at their members or are of special relevance to them;
- g) to make recommendations during the decision-making process concerning the apportionment of funds, both international and allocated from the budget of the Republic of Kosovo, for projects aimed at communities or their specific interests;
- h) to contribute to the reporting of the government of Kosovo to international human rights mechanisms; and
- i) to raise awareness of community concerns within the Republic of Kosovo and to contribute to harmonious relations between all communities within the Republic of Kosovo.

**12.2** The Community Consultative Council shall be established on the basis of a statute reflecting the provisions of this law. The statute of the Council shall be adopted after consultation with the communities by a presidential decree

within three months of the coming into force of this law. The Council shall commence its work within one month of the adoption of this statute.

**12.3** The Community Consultative Council shall meet once a month. It may create specialist working groups on issues such as education, employment, social provision, culture, language and other related issues that may meet more often.

**12.4** The Community Consultative Council shall meet twice a year to conduct a major review of community policy and concerns in the Republic of Kosovo, which shall be chaired by the President of the Republic of Kosovo.

**12.5** At the ordinary meetings of the Community Consultative Council, the position of the chairperson shall be held by a member of the Council who is elected by the Council for the period of one year. The chairperson shall be assisted by two deputy chairpersons, who shall be appointed from two communities to which the chairperson does not belong.

**12.6** The Community Consultative Council shall consist of representatives of all communities in Kosovo and of the Government, the Office of the President and relevant agencies. From the Roma, Egyptian and Ashkali communities, there shall be two (2) representatives respectively, one (1) of each of whom may be a member of the Assembly of Kosovo. The Bosniak and Turk communities shall have three (3) representatives respectively, one (1) of each of whom may be a member of the Assembly of Kosovo. The Serb community shall have five (5) representatives, two (2) of whom may be members of the Assembly of Kosovo, and the Gorani community shall have two (2) members, one (1) of whom may be a member of the Assembly of Kosovo. In relation to each member, a substitute member may be appointed. Those members who are not members of the Assembly of Kosovo shall normally be the chairpersons or vice chairpersons or the other senior nominees of community representative organizations or representatives of associations or NGOs affiliated with a particular community.

**12.7** Representatives of the relevant community shall be nominated by that community through its community representative organizations. Where there is no such organization, or there is more than one organization purporting to represent a given community, the Office of the President shall seek to support the establishment of one coordination mechanism for the community in question and mediate between the contending groups when necessary. Where no agreement is possible, the President appoints the relevant representative according to the criteria established in the statute of the Community Consultative Council.

**12.8** The President shall appoint members of the Community Consultative Council for a term of two (2) years, renewable once, in accordance with the nominations made by the community representative organizations. Should the

President refuse to appoint one or more of the nominees, he or she shall give a reasoned opinion for this decision and seek a new nomination from the relevant community representative organization.

**12.9** The Office of the President shall be represented by a senior representative. Ministers or Deputy Ministers and representatives of the state agencies whose remit is of special relevance to communities shall also participate. The number of governmental representatives entitled to vote in the Community Consultative Council shall not exceed one third of the overall membership of the Council. The chair of the Community Consultative Council may invite civil society organizations, individual experts, additional governmental representatives or representatives of international agencies to participate in meetings of the Council without the right to vote.

**12.10** The Community Consultative Council shall adopt its own rules of procedure and agree on an annual work plan establishing clear targets. The Community Consultative Council shall report regularly, at least once a year, to the President of Kosovo and to the Assembly of Kosovo. The Community Consultative Council will also inform the general public of its activities and report.

**12.11** The Community Consultative Council shall be supported by a secretariat located in the Office of the President of the Republic of Kosovo, and shall be allocated a budget to enable it to function effectively, and, inter alia, to engage in studies and surveys, seek external expert advice, to build the capacity of its members, and to publicize its activities.

**12.12** The Community Consultative Council shall make recommendations on the basis of its mandate. Where recommendations are addressed to public institutions, these institutions shall give a reasoned response within one (1) month, which shall include information on the actions by the specific institution(s) that have been or will be undertaken. Where the Council consults in relation to draft legislation, it shall have the right to be heard at the committee stage and make substantive written submissions within one (1) month. The Community Consultative Council has the right to receive a reasoned response to its recommendations within one (1) month in case its advice is not or not fully taken into account.

**12.13** The Community Consultative Council may also be assigned a budget for programming relating to community issues in Kosovo. It will assign portions of this budget to community representative organizations, NGOs and other actors in support of projects aimed at satisfying community interests. It will also arrange for capacity building within the relevant community representative organizations to help ensure effective organization and articulation of community interests.

**12.14** The Community Consultative Council may undertake social and cultural activities that bring different communities together and promote common understanding and tolerance among the communities with the objective of building intercommunity trust and harmony.

### **Article 13**

#### **Implementation**

**13.1** In consultation with the Community Consultative Council and other relevant national and international stakeholders, the Government of Kosovo shall prepare, adopt and publish once a year a comprehensive strategy for the promotion and protection of rights of all communities and their members. The Government shall present annually a comprehensive report to the Assembly of Kosovo on the implementation of its strategy.

**13.2** The strategy shall establish targets and special measures for combating exclusion and marginalization of communities and their members in the economic, social and cultural life in Kosovo and for the full implementation of this law.

**13.3** The report shall include full information and detailed data on the implementation of the strategy under paragraph 2 of this Article, including on activities, developments and findings required according to this law.