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ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

COMMENTS BY THE UNITED NATIONS INTERIM ADMINISTRATION MISSION IN KOSOVO (UNMIK) ON THE THIRD OPINION OF THE ADVISORY COMMITTEE ON THE IMPLEMENTATION OF THE FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES IN KOSOVO¹

(received on 10 September 2013)

¹ All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

United Nations Interim Administration Mission in Kosovo's comments on the Third Opinion on Kosovo² of the Advisory Committee on the Framework Convention for the Protection of National Minorities

1. The United Nations Interim Administration Mission in Kosovo (UNMIK) welcomes the Third Opinion on Kosovo (hereinafter the Opinion) of the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities (hereinafter the Advisory Committee), regarding the implementation in Kosovo of the Framework Convention for the Protection of National Minorities (hereinafter the Framework Convention). The Opinion was adopted on 6 March 2013. The Mission welcomes the opportunity to present its comments on the Opinion, in compliance with the Agreement between the Council of Europe and UNMIK on the Technical Arrangements Related to the Framework Convention for the Protection of National Minorities, signed on 23 August 2004.

2. The Opinion is generally in line with the findings of the last Community Rights Assessment Report which was published by the Organization for Security and Cooperation in Europe Mission (OSCE) in July 2012³ and subsequently submitted by UNMIK to the Advisory Committee on 13 September 2012, as part of the monitoring cycle of the Framework Convention. UNMIK notes that the considerations formulated in the Opinion are based on a number of written sources as well as on information obtained by the Advisory Committee from both official and non-governmental contacts during its December 2012 visit to Kosovo, including to the Municipalities of Prishtinë/Priština, Ferizaj/Uroševac, Fushë Kosovë/Kosovo Polje, Gračanica/Graçanicë, Mitrovicë/Mitrovica, Prizren, Suharekë/Suva Reka, Vushtrri/Vučitrn and Zvečan/Zveçan.

3. UNMIK is pleased to provide further clarifications and complementary perspectives on specific issues, as detailed below under the relevant headings and related paragraphs of the Opinion. The comments only reflect developments since the second Advisory Committee's Opinion and until July 2013.

4. UNMIK acknowledges the OSCE's excellent contribution in reviewing the Opinion and takes this opportunity to express its appreciation for the Advisory Committee's outstanding contribution to the local and international efforts to promote a multi-ethnic society in Kosovo, inclusive and respectful of the needs of all the communities. UNMIK also wishes to reiterate its unremitting commitment to cooperation with the Advisory Committee, in a spirit of dialogue and in furtherance of our common goals.

MAIN FINDINGS

Monitoring process

Paragraph 6

5. *"The Advisory Committee notes that the progress report was prepared by the OSCE Mission based on close consultations with representatives of all communities as well as relevant governmental and non-governmental entities throughout Kosovo, constituting a*

¹ This designation is without prejudice to positions on status, and is in line with United Nations Security Council resolution 1244 (1999) and with the International Court of Justice Advisory Opinion on the Kosovo declaration of independence.

³ OSCE Mission in Kosovo, Community Rights Assessment Report, Third Edition July 2012, accessible at: <http://www.osce.org/kosovo/92244>.

comprehensive source of detailed information and analysis. It further acknowledges the substantial number of reports and assessments prepared by other international and national organisations in Kosovo”.

6. UNMIK, in particular through its Office of Community Support and Facilitation, regularly liaises and interacts with relevant stakeholders at the community level in Kosovo. A number of consultative processes (such as the recent consultation on the mid-term review of the Kosovo Strategy for the Integration of Roma, Ashkali and Egyptians communities, started in November 2012) have provided insights into the situation on the ground, enabling UNMIK to have a comprehensive picture, including of the perception of all communities in Kosovo on specific issues related to the implementation of the Framework Convention.

Freedom of movement and return process

Paragraph 11

7. The Advisory Committee states that “[p]ersistent security concerns in some areas, as well as overall still limited access to core services and employment continue to impede the sustainable return of some displaced persons, mainly belonging to the Serb and Roma communities.”

8. The OSCE, while agreeing with this assessment, has also highlighted in its voluntary returns report⁴ that the return process is further obstructed by tensions between the receiving communities and potential or actual returnees in “difficult returns locations”, usually due to outstanding war crime issues and/or alleged property disputes. The OSCE submits that this issue does not seem to be reflected in the Opinion.

9. The Advisory committee states that “[s]ubstantial efforts have been made to promote the sustainable return of displaced persons from the region and within Kosovo [...] Efforts have been made by relevant authorities, including notably the police, to reinstall a sense of security among returnee communities and to support the economic development in return areas, which should be pursued and expanded. In addition, efforts must be increased to ensure that all returnees, from the region as well as from Western Europe, are equally attended to in accordance with their specific and individual needs.”

10. According to the information available to UNMIK, returns of displaced persons to Kosovo proceed at slow pace. The Office of the United Nations High Commissioner for Refugees (UNHCR) registered 89 individual voluntary minority returnees to Kosovo from April to June 2013, of which 47 were Kosovo Serbs, 30 from the Kosovo Roma, Ashkali and Egyptian communities’ members, 4 Kosovo Bosniaks and 8 Kosovo Albanians. 176 voluntary minority returns were registered from January to June 2013, with a total number of 24,537 individuals since 2000.

11. The Kosovo Ministry of Communities and Returns and the Office of the Kosovo Prime Minister participate in an international Task Force on Durable Solutions (on IDPs), which brings together UNMIK, UNHCR, IOM, UNDP, UNICEF, EU, UN-Habitat, WHO, Mercy Corps and the Danish Refugee Council. Two meetings of the Task Force were held on 12 February 2013 and 3 July 2013. The main objectives of the Task Force include: the

⁴ OSCE Mission in Kosovo, An Assessment of the Voluntary Returns Process in Kosovo, October 2012, accessible at <http://www.osce.org/kosovo/96805>.

consolidation of international efforts towards achieving sustainable returns in Kosovo, the reinforcement of governmental efforts to end displacement, the development of a regional durable solution strategy to urgently address the needs and priorities of returnees, refugees and IDPs in all countries concerned.

12. UNMIK furthermore notes that, at the recent meeting of the Task Force held on 3 July 2013 in Prishtinë/Priština, the Kosovo Minister of Communities and Returns reportedly acknowledged that the return process is happening at slow pace and pledged to take measures to tackle the issue. To this end, the Ministry of Communities and Returns has planned to strengthen inter-ministerial and inter-agency coordination and cooperation on returns and reintegration. Both the Ministry for Communities and Returns and UNHCR are working on the closure of about 35 Collective Centres in Kosovo. Reportedly, five of them have been closed thus far, and despite all logistical and financial limitations, the Ministry has confirmed its intention to close all Collective Centres. The Ministry has also stressed that it will positively consider the sustainable relocation or return of the displaced persons.

Access to justice

Paragraph 12 (see also comments to paragraphs 51 and 54 of the Opinion)

13. The Advisory Committee notes that “[a]n inter-ministerial working group on dealing with the past and reconciliation has been established with the aim to promote inter-ethnic understanding and restore trust in the justice system. It should be appropriately supported by all relevant national and international actors.”

14. The OSCE notes that the said statement reflects the mandate of the inter-ministerial working group,⁵ notably: “to promote reconciliation and lasting peace, *inter alia*, by ensuring accountability, serving justice, providing remedies to victims, facilitating truth-seeking, promoting healing, taking all measures needed to restore confidence in the institutions of the State and implementing the rule of law in accordance with international human rights law and transitional justice standards.”⁶

15. The last sentence of paragraph 12 of the Opinion states that the working group “*should be appropriately supported by all relevant national and international actors*”. While this statement is factually correct, the OSCE suggests that the need to advocate for improved communities’ representation may be better reflected by the following wording: “[The working group] should be appropriately supported by all relevant national and international actors, *and efforts should be made to ensure consistent representation of all ethnic communities, in accordance with the relevant legal and policy framework*”.

⁵ As outlined in the “Decision on the establishment of Inter-Ministerial Working Group on Dealing with the Past and Reconciliation (WG DwPR)”, 4 June 2012, accessible at: http://dwp-kosovo.info/images/uploads/2012-06-04_GoK_Decision_Establishment_WG_DwPR_English.pdf.

⁶ See Kosovo Prime Minister’s Decision 03/77, “Decision on the establishment of Inter-Ministerial Working Group on Dealing with the Past and Reconciliation (WG DwPR)”, 4 June 2012, accessible at: http://dwp-kosovo.info/images/uploads/2012-06-04_GoK_Decision_Establishment_WG_DwPR_English.pdf.

Situation of Roma, Ashkali and Egyptian communities

Paragraph 13

16. The Advisory Committee states that “*[f]ollowing the closure of Česmin Lug in October 2010, the lead-contaminated camp of Osterode was finally closed at the end of 2012.*”

17. A project for the closure of the last remaining camp for Kosovo Roma, Ashkali and Egyptian displaced persons in Leposavić/Leposaviq was initiated in May 2013. The project is financially supported by the European Union Office in Kosovo and the Ministry for Communities and Returns (See also comment to Paragraph 56 of the Opinion).

Protection and promotion of minority cultures

Paragraph 14

18. “*With the closure of the International Civilian Office, the Kosovo Assembly (Assembly) adopted the creation of an Implementation and Monitoring Council (IMC). The IMC has been established and mandated to monitor the implementation of 45 special protected zones surrounding religious and cultural heritage of the Serbian Orthodox Church. The IMC will work with an EU facilitator under the authority of the EU Special Representative.*”

19. OSCE is a member of the IMC, which, after its first meeting on 26 February 2013, has met three more times to discuss cases brought to its attention. On 26 February, the first IMC meeting was attended by the Minister of Environment and Spatial Planning, the European Union representative, the Head of the Greek Liaison Office, the Bishop of the Serbian Orthodox Eparchy of Raška and Prizren, the Kosovo Minister of Culture, Youth and Sports, and the Head of the OSCE Mission in Kosovo. The first meeting discussed procedural issues and general matters concerning the protection of Serbian cultural and religious heritage in Kosovo. This included the landslide affecting a Serbian Orthodox Church site in the Rahovec/Orahovac Municipality and the construction of a road that affects the special protective zone around a Serbian Orthodox Church site in Vushtrri/Vučitrn.

Freedom of association and religious freedom

Paragraph 16

20. *The rise in incidents of vandalism and violent destruction of Orthodox graveyards and other religious sites [...] further exacerbate the fear experienced by minority communities in relation to their religious freedom.*

21. It is noted that many Kosovo Serb or Serbian Orthodox Church cemeteries in Kosovo were vandalized on 21 January 2013 in the wake of the removal of the UÇPMB monument (Liberation Army of Preševo, Medveđa and Bujanovac; in Albanian: UÇPMB Ushtria

Çlirimtare e Preshevës, Medvegjës dhe Bujanocit) from Preshevë/Preševo, in Serbia proper. The Kosovo government is funding the repair of damaged tombstones across Kosovo.

22. The annual Vidovdan (St. Vitus Day) celebration - traditionally associated with the Battle of Kosovo between the Balkan Slavs and Turks (in 1389) - took place on 28 June 2013. The 2012 Vidovdan celebration was marked by incidents related to both provocative behaviour by some Serb pilgrims and the excessive use of force by Kosovo Police. To prevent incidents in 2013, Kosovo Police issued a special operational order ("Vidovdan 2013") including the deployment of Kosovo Serb police officers at the Gazimestan monument and of police escorts for buses of pilgrims. Kosovo Police was reportedly well prepared for this operation and acted in a professional manner to ensure the safety and security of all those who attended the celebration. Three buses of Serb pilgrims were reportedly stoned.

Access of minority communities to the media

Paragraph 17 (see also comment to Paragraph 94 of the Opinion)

23. The Opinion states: *"There are plans for the establishment of a second public TV channel devoted entirely to the languages and concerns of minority communities, which is welcome by most representatives."*

24. Based on the Law on Radio and Television of Kosovo amended in April 2012, the TV channel in Serbian (RTK2) was licensed as a content provider by the Independent Media Commission on 10 January 2013 and started broadcasting on 3 June 2013.

25. The Opinion further states: *"Overall, however, the numerically smaller communities report that access to print and broadcast media in their languages remains very difficult, particularly as regards the Turkish and Gorani languages, and Romani."*

26. The OSCE concurs with this statement considering that, at the local level, the existing radio and television stations broadcasting in non-Albanian languages provide insufficient, inadequate and low-quality programmes to the public. Furthermore, non-Albanian and non-Serbian communities are generally concerned with the insufficient number of radio and television stations with full-time programming in their languages. Regarding the Gorani language, see below, comment to paragraph 102 of the Opinion.

Education

Paragraph 19 (See also comment to Paragraph 129 of the Opinion)

27. The Advisory Committee notes at paragraph 19 that: *"[...] three schools in Prizren have piloted optional Romani classes"; and at paragraph 129 that "As regards Romani, the introduction of two optional weekly classes has been piloted at three schools in Prizren since October 2011. According to community representatives, institutional support for these classes is weak, no textbooks have been provided, and the responsibility for organizing classes [...] lies entirely with the teacher – who, at the time of writing of the Opinion, has not yet been paid. A significant number of the originally 41 children attending the classes has been missing class and dropping out, as no incentives are provided by the school for attending mother tongue education."*

28. As mentioned in several OSCE field reports, approximately 45 Roma pupils of second and third grades in three schools in Prizren (primary schools “Mati Logoreci”, “Aziz Tolaj” and “Lek Dukagjini”) attend Romani language classes, and all those pupils appear to be continuing with the classes. The Ministry of Education, Science and Technology (MEST), which launched the Pilot Project on Romani language classes, has not provided any textbooks or other relevant education materials, hence textbooks published by Roma authors from other Balkan and European countries are in use. The teacher responsible for this programme, reportedly, has not received a salary yet; allegedly, this is due to a lack of coordination between central and municipal authorities in the education sector.

ARTICLE-BY-ARTICLE FINDINGS

Article 4 of the Framework Convention

Legislative and institutional framework to combat discrimination and promote full and effective equality

Paragraph 37

29. The Advisory Committee *“calls on the authorities to take swift measures to ensure that the Anti-Discrimination Law is effectively implemented and applied by responsible institutions. This should include legislative measures to add clarity to its provisions, as well as increased awareness-raising and training activities among municipal officials and the public at large.”*

30. In May 2013 the Prime Minister’s legal office initiated a drafting process for a new Anti-Discrimination Law (ADL). The new law aims to improve protection from discrimination, by introducing more clear procedures for submitting discrimination complaints. However, some relevant institutions and stakeholders in Kosovo including the Ombudsperson Institution, the judiciary, non-governmental organizations (NGOs), and international organisations have noted that the drafting process was conducted in a rushed manner. The OSCE Mission in Kosovo organized two consultative workshops on amending the ADL, at which concrete amendments to the law were discussed.

31. The draft ADL, and two other key human rights-related pieces of legislation included in the 2013 Kosovo legislative agenda - the draft amendments to the Law on Ombudsperson and the draft Law on Gender Equality⁷ - were also discussed in July 2013, during technical meetings organized by the EU Office and the Council of Europe and attended by several representatives of the international community, with the aim to conduct in-depth and coordinated analysis of the mentioned draft laws. As noted by the participants during the technical meetings, the ambiguity of some of the ADL’s provisions has been hampering the implementation of the law over the past years. Furthermore, the provisions outlining the Ombudsperson’s responsibilities in the ADL ought to be harmonized with the current amendments to the Law on Ombudsperson.

Freedom of movement and return process

Paragraph 39

32. See above, comments to paragraph 11 of the Opinion.

Paragraph 41

33. The Advisory Committee *“welcomes the focus placed on reintegration and sustainability of return in the Strategy adopted in February 2010 by the Ministry of Communities and Returns, which maintains the institutional responsibility for the oversight of the return process.”*

⁷ Law on the Ombudsperson (Law No.03/L-195) http://www.md-ks.org/repository/docs/LAW_ON_OMBUDSPERSON.pdf and Law on Gender Equality (Law No. 2004/02) http://www.eulex-kosovo.eu/training/hrgi/docs/RE2004_18_ALE2004_02.pdf

34. It is worth noting that the Strategy for Communities and Return (2009–2013) is coming to an end.⁸ In March 2013 the Ministry of Communities and Return established a Working Group for the drafting of the new Strategy for 2014-2018. Based on the Working Group advice, the Ministry of Communities and Return is currently undertaking an assessment of the 2009–2013 Strategy, before moving on to the new Strategy.

Access to justice and property restitution

Paragraph 48

35. The Advisory Committee's Opinion states that "[...] *the choice of language of proceedings apparently depends on the discretion of the judge rather than the demand and needs of the claimant.*"

36. The OSCE monitoring of inter-ethnic judicial cases diverges from the above statement. In all proceedings monitored by the OSCE, interpretation is always provided when requested by a party to court proceedings. In instances, court sessions have been postponed due to a temporary inability by a court to provide interpretation services, but the OSCE has not recorded a single case where a party's request for interpretation services was denied by a court in Kosovo. On the other hand, the OSCE has observed that the quality of the interpretation services provided during judicial proceedings in Kosovo is not always satisfactory (including in EULEX trials) and that there is room for improvement.

Paragraph 49

37. The Advisory Committee notes that "[...] *the Property Agency as a mass claims processing mechanism is not in a position to solve such cases and welcomes the appointment in August 2011 of a national property rights coordinator. It considers that he should receive all necessary support from the authorities and relevant international organisations to ensure that the very complex property issues that remain are comprehensively considered in line with relevant international standards and suitable steps are taken without undue delay.*"

38. It must be noted that the national property rights' Coordinator has not received any support from relevant authorities in Kosovo, including any budget for additional staff and operational costs since his appointment. The OSCE has provided the national property rights' Coordinator, since his appointment, with support through information-sharing and regular advice on property-related issues. Notably, the OSCE is currently supporting a consultant to help the Coordinator with designing a strategy on property rights of displaced persons in Kosovo.

Paragraph 51

39. "With regard to war crimes and missing persons, the Advisory Committee welcomes the establishment of an inter-ministerial working group in June 2012 on dealing with the past and reconciliation. The purpose of the working group is to deal with gross human rights and humanitarian law violations in the past, while taking into consideration the views of all communities, and to promote reconciliation and lasting peace by 'ensuring accountability,

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See http://www.kryeministri-ks.net/zck/repository/docs/Strategy_for_Communities_and>Returns_2009-2013.pdf.

serving justice, [...], facilitating truth-seeking, [...], and taking all measures needed to restore confidence in the institutions of the State and implementing the rule of law [...]. “The Advisory Committee underlines the importance of such an initiative, which should be appropriately supported by relevant international organisations, in order to promote a process of reconciliation and healing among all communities and restore trust in the institutions and the justice system.”

40. The OSCE wishes to emphasise the need for all communities to be adequately represented within the process of dealing with the past and reconciliation in Kosovo, and therefore suggests rewording the last sentence as follows: “[...] in order to promote a representative and consultative process of reconciliation [...].”

41. UNMIK also notes that under the Kosovo Law on the Status and the Rights of the Martyrs, Invalids, Veterans and Members of the Kosovo Liberation Army, Civilian Victims of War and their Families (Law No. 04/L-54), survivors of conflict-related sexual violence and torture are not considered as victims.

42. In March 2013, the Kosovo Assembly approved on first reading the Draft Law on amending and supplementing the said Law No. 04/L-54. The proposed amendments aim to include a discrete category, namely survivors of sexual violence during the conflict, and result from advocacy efforts by civil society representatives and international organizations. However, the vote on the proposed amendments triggered a heated debate; a number of incidents were also registered (for instance, a human rights defender and a journalist received death threats, allegedly due to opinions they expressed in support of the said amendments).

43. A study on “Reparations for Survivors of Sexual Violence Related to the Armed Conflict in Kosovo” was commissioned by the OHCHR and launched in June 2013, as a discussion opener on this issue in Kosovo. According to the study, nearly fourteen years after the end of the conflict in Kosovo, survivors of sexual violence are still carrying a heavy burden of physical, psychological, social and economic consequences, further exacerbated by the absence of affordable and survivor-centered public and/or private medical and mental health care, by a considerable level of social stigmatization within the community, and by low level of access to income-generating opportunities. In the absence of a comprehensive reparation programme and given that the Law no. 04/L-54 on the “Status and the Rights of the Martyrs, Invalids, Veterans and Members of the Kosovo Liberation Army, Civilian Victims of War and their Families” does not recognise survivors of sexual violence as a specific category of war-related victims, only a few NGOs have filled some of these gaps, through the provision of psychosocial support, medical services and livelihoods programmes.

Paragraph 54

44. The Advisory Committee “*invites the authorities to take necessary measures to support the inter-ministerial working group on dealing with the past and reconciliation in its important task of promoting inter-ethnic understanding and restoring trust in the justice system*”.

45. The OSCE considers that additional emphasis should be laid on the inter-ethnic element, and to this end recommends the following re-wording of the last paragraph: “[...] the important task of promoting inter-ethnic understanding *between all communities in Kosovo* [...]”.

Full and effective equality of Roma, Ashkali and Egyptian minorities

Paragraph 56

46. The Advisory Committee “[...] is pleased to observe that continued efforts are underway in 2013 to close the IDP camp in Leposavić/Leposaviq where living conditions are appalling [...]”.

47. The Leposavić/Leposaviq camp hosts 32 Kosovo Roma, Ashkali and Egyptian families. The construction of houses for 16 families from the Leposavić/Leposaviq camp is underway in the Roma Mahalla in Mitrovicë/Mitrovica. A solution for the resettlement of the remaining 16 families has yet to be identified.

Paragraph 57

48. “The Advisory Committee notes that one year after adoption of the Strategy for the Integration of Roma, Ashkali and Egyptian Communities by the authorities, in December 2009, an Action Plan for the Implementation of the Strategy was endorsed [...]. Implementation has, according to a number of reports, been sporadic and often dependent on individual initiatives rather than institutionally coordinated efforts.”

49. The latest OSCE report, *Contribution to the Progress Review of the Action Plan of the Strategy for the Integration of Roma, Ashkali and Egyptian Communities in Kosovo, 2009-2015*, issued in September 2012,⁹ should be considered in addition to the May 2011 report cited in the Opinion.

50. On 10 July 2013 the Office of Good Governance in the Office of the Prime Minister held a high level meeting with representatives of the international and local community in Kosovo, as well as relevant civil society organisations, with the aim to discuss the progress report on the implementation of the Kosovo Strategy and Action Plan for the Integration of Roma, Ashkali and Egyptian Communities (2009–2015), currently under review. In order to convert policy provisions into tangible achievements, major recommendations resulting from the mentioned mid-term review included the need for more efficient coordination and stronger cooperation between central and local level institutions, along with the need for fostering capacity building initiatives, for reinforcing accountability measures, and for furthering policy analysis. Several participants in the high level meeting also indicated, as a key tool to support better evidence-based policy making, the harmonisation and strengthening of the systems of collection of information on Roma, Ashkali and Egyptian communities, with regular disaggregation of data by community and gender. While no report on the conclusions of the mid-term review process was distributed, a progress report (a regular requirement according to the Action Plan) was released at the high meeting drafted according to an enhanced reporting format, which is one of the improvements achieved through the mid-term review process. The mid-term review of the said Strategy and Action Plan for the Roma, Ashkali and Egyptian communities will end in November 2013.¹⁰

⁹ Available at: <http://www.osce.org/kosovo/94856>.

¹⁰ On the implementation of the Kosovo Strategy and Action Plan for the Integration of Roma, Ashkali and Egyptian Communities (2009–2015), kindly refer to the OSCE *Contribution to the Progress Review of the Action Plan of the Strategy for the Integration of Roma, Ashkali and Egyptian Communities in Kosovo, 2009–2015*, produced in September 2012 Report accessible at: <http://www.osce.org/kosovo/94856>.

51. It must also be noted that Roma, Ashkali, and Egyptian women and girls continue to endure discrimination at family, community and society levels. Reportedly, Roma, Ashkali, and Egyptian women and girls lack awareness about their basic rights and about the mechanisms in place to protect and ensure their full respect and enjoyment. They are not sufficiently informed about programs and opportunities offered by educational institutions for reducing the rate of illiteracy and school dropout. These concerns were highlighted and shared with local authorities and with the international community during the launching of the monitoring report for the implementation of the gender perspective in the Kosovo Strategy and Action Plan for the Integration of Roma, Ashkali and Egyptian communities (2009-2015), held in December 2012, issued by the Network of Roma, Ashkali and Egyptian Organizations of Kosovo.

Paragraph 58

52. *“The Action Plan emphasises the fundamental role of central-local coordination. However, the modalities in practice of the coordination between central and local levels appear unclear. The Ministry for Communities and Return chairs the inter-ministerial working group on the implementation of the Strategy, while the Deputy Prime Minister heads the inter-ministerial steering committee for the implementation of the Action Plan.”*

53. Two bodies are established to oversee and co-ordinate the implementation of the Action Plan,¹¹ notably: the inter-institutional steering committee¹², currently chaired by the Minister of European Integration since 10 June 2013; and the technical working group,¹³ chaired by the director of the Office for Good Governance in the Prime Minister’s Office.

Paragraph 59

54. The Advisory Committee *“remains particularly concerned about access to documentation for persons belonging to the Roma, Ashkali and Egyptian communities as it is difficult for many individuals to provide the required evidence for registration (parents’ identity documents, legally registered residence, as well as fees) as some were never registered for generations. [...] In view of the crucial disadvantages suffered through lack of documentation given the risk of statelessness, possible denial of access to health care, education and other public services, and problems in resolving issues of property restitution or compensation, such efforts must be expanded and concrete measures agreed in close consultation with community representatives to effectively reduce the number of affected individuals”*.

55. In March 2013, two related initiatives were undertaken by the central-level institutions with the aim to facilitate civil registration for persons belonging to Roma, Ashkali and Egyptian communities (following on from similar earlier initiatives), namely: (i) The Ministry of Local Government Administration’s letter dated 5 March 2013 instructing mayors to apply one-month, free-of-charge civil registration during April 2013 for the Roma, Ashkali and Egyptian communities; (ii) the Ministry of Internal Affairs – Civil Registration Agency’s circular issued on 14 March 2013, recommending heads of municipal civil status to

11 Office of Prime Minister, “Kosovo Action Plan for the Implementation of the Strategy for the Integration of Roma, Ashkali and Egyptian Communities, 2009–2015”, December 2009; accessible at: http://www.kryeministri-ks.net/zck/repository/docs/Action_Plan_on_the_Implementation_of_the_Strategy_for_the_Integration_of_Roma,_Ashkali_and_Egyptian_Communities_2009-2015.pdf.

12 Ibid, page 14.

13 Ibid, page 12.

remove penalties and fines for late registration, including birth and death certificates, for one year, i.e., until 15 March 2014. According to OSCE field monitoring, as of June 2013 municipalities have been waiving fees in compliance with the two aforementioned central-level instructions; however, it appears that many municipalities are failing to widely publicize the registration initiative among the concerned communities.

Article 5 of the Framework Convention
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Support to preserve the cultures and identities of minority communities

Paragraph 62

56. *“In the previous monitoring cycles, the Advisory Committee called on the authorities to increase their efforts to protect minority religious sites and to further promote the on-going reconstruction works.”*

57. Reportedly, a specialised unit for the protection of cultural heritage and religious sites was established within the Kosovo Police in March 2013. The unit, dedicated to the protection of Serbian Orthodox sites, has four sub-units covering the Municipalities of Prishtinë/Priština, Prizren, Pejë/Peć and Mitrovicë/Mitrovica. This multi-ethnic Police unit, composed of 199 police officers and led by a Kosovo Serb commander, is expected to replace the Kosovo Police Division of Public Security. Whereas the latter has been providing static-point protection only for 29 cultural heritage sites across Kosovo since 2009, the new specialised unit is responsible for ensuring protection at 23 Serbian Orthodox Church sites and regular patrolling at an additional 169 sites. The recruitment of police officers for the new police unit was completed in May 2013.

58. Between April and July 2013, UNMIK continued to cooperate and facilitate the activities of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in Kosovo. In July 2013, a UNESCO technical inspection team visited a number of sites under reconstruction in Kosovo. With support from Albania, the Russian Federation and Turkey, UNESCO facilitated the restoration of the Church of the Dormition in the Graçanicë/Gračanica Monastery, launched the tender for the restoration of the Gazi Mehmet Pasha Hammam in Prizren, and signed a contract for the restoration of the Roman Catholic cathedral in Prizren. With support from Bulgaria, the restoration of the Ottoman-era fountains in the historic zone of Prizren is currently being planned. The European Union shall restore the ruins of the medieval fortress in Novobërdë/Novo Brdo. KFOR continued to provide static protection at the Visoki Dečani Monastery and is gradually transferring to Kosovo Police security responsibility at the Pejë/Peć Patriarchate. UNMIK is regularly liaising with KFOR, Kosovo Police and UNESCO to ensure a smooth hand-over of protection responsibilities at the Serbian Orthodox sites.

Paragraph 64

59. The Advisory Committee states that: *“Relevant legislation was adopted in April 2012 to protect and preserve minority cultural heritage in the village of Hoçë e Madhe/Velika Hoča in Rahovec/Orahovac municipality as well as in Prizren Historic Centre.”*

60. The Municipal Office for Communities and Returns (MOCR) in the Prizren Municipality informed UNMIK that the Council for Cultural Heritage was officially established on 2 July 2013, pursuant to Law No. 04/L-066 “On the Historic Center of Prizren”. Under Article 14 of the said Law, the Council is composed of seven members: three experts on cultural heritage, one representative from the Islamic community, one from the Serbian Orthodox Church, one from the Catholic Church and a MOCR representative. The council members have already elected the representative of the Archaeological Institute of Kosovo to chair the council and agreed to meet once a month instead of once every three

months as foreseen by article 14, paragraph 8 of the Law. Following the formal establishment of the Council for Cultural Heritage in Prizren, on 2 July 2013, a group of local residents and civil society representatives raised their concerns over the ability of the Council to oversee the issuance of construction permits for buildings within the perimeter of the historic centre of Prizren/Prizren. They claim that eighty per cent of the buildings recently built in the area are not in compliance with the standards set by the Law. In a meeting with UNMIK in July 2013, the Chairperson of the Council stated that the Council would closely cooperate with the Municipal Directorates of Urbanism and Public Services, the Municipal Inspectorate and the Institute for Protection of Monuments in Prizren, to assess all requests for construction permits in the area. Regarding all buildings that do not meet the criteria envisaged by the law, the Chairperson stated that the Council would recommend that they be removed by the relevant municipal authorities.

Article 6 of the Framework Convention
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Ethnically motivated crime and hostility

Paragraph 73

61. The Advisory Committee *“urges the authorities again to devise, without further delay, a comprehensive strategy to promote inter-ethnic dialogue and understanding among different groups. All efforts must be made to closely involve representatives of communities in the development and implementation of such a strategy [...]”*.

62. The OSCE suggests amending the second sentence by adding: *“All efforts must be made to closely involve representatives of all communities in the development [...]”*.

Paragraph 76

63. *“The Advisory Committee further notes with deep concern reports of a renewed upsurge of incidents in December 2012 and January 2013 connected to the celebration of Orthodox Christmas in Gračanica/Gračanicë and Gjakovë/Đakovica, as well as reported desecration of 58 tombstones at the local Orthodox cemetery of Fushë Kosovë/Kosovo Polje.”*¹⁴

64. A point of relevance here is that in January 2013, Kosovo institutions allocated €97,000 to support the reconstruction of damaged Serbian Orthodox cemeteries. According to OSCE field reports, reconstruction works at all concerned sites have been concluded successfully.

Paragraph 78

65. *“The Advisory Committee urges the authorities to fight inter-ethnic crime and hostility more consistently and ensure that any incidents against members of minority communities are taken seriously by relevant municipal leaders and promptly and adequately followed up and sanctioned.”*

66. Reportedly, between April and July 2013, the overall number of incidents affecting minority communities slightly decreased (90 cases as of 2 July 2013), compared with the 120 cases reported during the previous three months and the 150 cases in the same reporting period in 2012 (16 April-15 July 2012). Apart from the incidents involving ethnic Serbs and Albanian youths in northern Mitrovicë/Mitrovica, similar instances of theft, property damage, arson and illegal occupation of the Kosovo-Serb uninhabited houses, as well as other criminal offences including physical assault, robbery and threat/intimidation against individuals from minority communities were predominantly reported in the ethnically-mixed areas of southern Kosovo.

¹⁴ “Another series of incidents where tombstones were partially gravely damaged at Orthodox graveyards was reported in January 2013 in Klokot-Vrbovac/Klokot-Vërboc, in Plemetin/Plementina and Milloshevë/Miloševo in the municipality of Obiliq/Obilić, in Prilluzhë/Priluzhje in Vushtrri/Vučitrn municipality, in Suvo Grilo/Syrganë in Skenderaj/Srbica municipality and in Prizren”.

Law enforcement

Paragraph 82 (see also comment to Paragraph 166 of the Opinion)

67. The Advisory Committee's Opinion states that *"It is imperative, however, that the investigations of the KPS are appropriately and swiftly followed up by prosecution and judiciary services to sustainably reinstall trust in the criminal justice sector overall. The latter, however, is still viewed with grave suspicion by members of minority communities, due to the tremendous backlog of cases and the apparent lack of interest in redressing the situation amongst the prosecution and judiciary services."*

68. The OSCE considers this statement as implying that the backlog of cases relates mostly to the criminal justice system, and suggests rewording this sentence in a manner that clarifies that the backlog of cases relates far more to the civil justice system.

Paragraph 83

69. *"While continued efforts have also been made to ensure that minority communities are adequately represented among the KPS, numbers are reportedly still insufficient, particularly as regards staff with Ashkali, Egyptian and Roma background."*

70. Given that the Roma, Ashkali and Egyptian communities are separately identified in the Kosovo legal system, the sentence should be phrased in a manner that does not cluster or conflate the different communities' identities, as follows: "[...] staff with an Ashkali, Egyptian or Roma background [...]".

71. *"The Advisory Committee further notes with concern reports of continued police brutality and excessive use of force by some officers during police operations [...]".*

72. The OSCE notes that there are occasional and alarming cases of excessive use of force by police during operations, but would not agree that they amount to "continued police brutality".

Article 7 of the Framework Convention
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Freedom of assembly, association, and expression

Paragraph 88

73. *“The Advisory Committee calls again on the authorities to ensure the enjoyment of rights as protected by Article 7 of the Framework Convention by addressing the continued limitations to the freedom of movement and promoting the freedom of expression, including in the media.”*

74. Regarding freedom of expression, it is worth recalling that on 14 December 2012, an organized group violently disrupted the launch of the latest edition of the multilingual bi-annual magazine Kosovo 2.0 (Albanian, Serbian and English), focused on sexuality, including homosexuality, in the Western Balkans. A similar attack on an NGO advocating Lesbian Gay Bisexual Transgender rights took place shortly after, on 16 December 2012. The violence was condemned by the local authorities, by the UNMIK **Special Representative of the Secretary-General** (SRSG), by international organisations, by embassies and NGOs. Four United Nations Special Rapporteurs (respectively, on Freedom of opinion and expression, on Freedom of peaceful assembly and of association, on Human rights defenders, and on Extrajudicial, summary or arbitrary executions) sent an Allegation Letter to the UNMIK SRSG, to be transmitted to the Prime Minister of Kosovo. The Prime Minister’s response was transmitted by UNMIK to the Four Special Rapporteurs in March 2013.

Article 8 of the Framework Convention**Religious freedom****Paragraph 90**

75. *“The Advisory Committee observes that authorities continue to pursue a secular approach in line with the 2006 Law on Religious Freedoms which provides for equal rights to all religious communities [...]”.*

76. It is worth noting in this regard that the Muslim community in Kosovo has requested the removal of the ban on wearing religious headscarves in secondary schools and an amendment to the MEST Administrative Instruction 6/2010, on the secondary school code of conduct, which includes a provision identifying the “wearing of religious uniform” as a “prohibited action”. The OSCE is not aware of any follow-up to the said requests from the Muslim community.

77. The Vidovdan (see above, paragraph 22) celebrations on 28 June 2013 were marked by minor security incidents only. The religious service at the Gazimestan monument was attended by approximately 3,000 people. The stoning of pilgrim buses and of a bus carrying Kosovo Albanian passengers is regrettable, but the Kosovo Police response was appropriate. EULEX worked with the Kosovo Police to ensure a safe and secure environment and respect for fundamental human rights during the celebrations.

78. *“The Advisory Committee [...] further welcomes the constructive interaction between the Serbian Orthodox Church and the local authorities in Pejë/Peć municipality and the organisation of several inter-faith academic and educational events that have taken place in the Pejë/Peć Patriarchate.”*

79. Of relevance here is that the OSCE facilitated two series of inter-faith forums for representatives of the Islamic, Serbian Orthodox, Catholic, Protestant and Jewish communities in Kosovo, which took place respectively in April and June 2013.

80. *“The Muslim community has repeatedly requested to be provided with a new mosque in the centre of Prishtinë/Priština, which has so far been rejected by authorities.”*

81. Following a lengthy public debate on identifying an appropriate location, the Municipality of Prishtinë/Priština provided in February 2012 a land parcel in the inner part of Prishtinë/Priština city for the construction of a new mosque. An international call for architectural proposals for a new mosque was completed in March 2013.

Paragraph 92

82. The Advisory Committee *“calls on the authorities to continue to pursue a secular approach and intensify their efforts to ensure that the rights of persons belonging to all religious communities, including numerically small ones, to manifest their religions and beliefs are duly protected.”*

83. The OSCE suggests adding the following sentence to the Advisory Committee's recommendation: "Furthermore, the Advisory Committee calls on authorities to reform the legal framework regulating freedom of religion and introduce mechanisms for obtaining legal status of religious communities in Kosovo, in line with the Venice Commission and OSCE *Guidelines for Review of Legislation Pertaining to Religion or Beliefs* (June 2004)."¹⁵

Article 10 of the Framework Convention

Use of minority languages in the public sphere**Paragraph 99**

84. *“While the Law on the Use of Languages adopted in 2006 remains one of the most ambitious in Europe [...] the Advisory Committee regrets the apparent lack of will exhibited in many municipalities to provide even basic services in the language of minority communities.”*

85. It is not clear whether the paragraph refers to *any* language of minority communities, or specifically to official languages at municipal level or languages in official use, as provided for by the legislation.¹⁶

86. Regarding the need to provide services in the language of minority communities, it is worth mentioning some expropriation cases resulting from the Kosovo government's decision to expropriate land for the purpose of building a highway, since January 2013. Such cases were *inter alia* brought to the attention of the Human Rights International Contact Group on property rights.¹⁷ Focus was given to the cadastral zone of Ugljare/Uglar (Graçanicë/Gračanica Municipality), where about 170 out of the 213 expropriated properties belonged to Kosovo-Serbs. Reportedly, members of the Kosovo-Serb community in Ugljare/Uglar complained about the inadequate dissemination of information. Numerous Kosovo-Serb owners in the village, whose land parcels would be affected by the highway construction work, were not made aware of the decision to expropriate their land, and were not given any information on their right to challenge the compensation scheme. Allegedly, the information on this matter was not properly distributed or was only in Albanian. At the invitation of the group, the Deputy Director of the Department for Immovable Property Tax (Kosovo Ministry of Finance) participated in the June 2013 meeting of the Human Rights International Contact Group on property rights and voiced the Ministry's concern about the lack of translation into Serbian of the mentioned notifications. He called for the international community's support and emphasized the need for improving translation services within the Ministry.

Paragraph 100

87. The Advisory Committee *“further notes that the Language Commission, which was established in 2007, failed to fulfil its mandate of overseeing implementation of the legislation and offering a complaints mechanism due to lack of adequate resources. It underwent reform in 2012 and has been replaced by the Office of the Language*

¹⁶ Pursuant to the Kosovo constitution, 15 June 2008 (Art. 5) and the Law No. 02/L-03 on the Use of Languages, 20 October 2006 (Art. 2) “Albanian and Serbian and their alphabets are recognized as the official languages of Kosovo”. However, the Law on the Use of Languages (Articles 2.3 and 2.4) states that “other community languages can gain recognition as an official language at the municipal level if the linguistic community represents at least 5 per cent of the total municipal population. Users of such a language have the same rights as users of the Albanian and the Serbian languages. A smaller linguistic community which represents 3 to 5 per cent of the municipal population, or where the language has been traditionally spoken, may have their language recognized as a ‘language in official use’. Users of a ‘language in official use’ can receive services and obtain documents in their language only through individual requests”.

¹⁷ The Human Rights International Contact Group HRICG provides a monthly forum to share information and strengthen coordination and advocacy efforts between international actors for the promotion and protection of human rights in Kosovo. The Group include UNMIK, OHCHR, UNHCR, UNDP, UNICEF, EU, CoE, OSCE and EULEX

Commissioner, which is expected to be functional as of 2013. [...] It notes, however, that the Commission has thus far received only two complaints. [...] In addition, the Office of the Language Commissioner should receive all necessary financial and human resources, including as regards professional and multilingual staff.” Also, footnote 65 states, “After the first Language Commissioner resigned after only a few months in office, a new Commissioner was appointed in December 2012”.

88. A new Language Commissioner was appointed in January 2013. As of June 2013, the Office had recruited four staff, while the three remaining positions should be advertised soon. In the meantime, the Office of the Language Commissioner has launched its website, has developed an online complaint form, and has reported successful resolution by mediation of three out of the four complaints received (the fourth one is still under review by the Office). In February 2013, the Language Commissioner submitted a set of recommendations to the Office of the Prime Minister, which, however, has not yet adopted a decision on the matters raised by the Language Commissioner.

Paragraph 102

89. *“The Advisory Committee expects [...] that following the census in 2011, all minority community languages spoken by 3 or 5 % of the population will be considered, in close consultation with community representatives, to be recognized as languages in official use or official languages in relevant municipalities [...]”. Also footnote 70 notes that: “Gorani [...] has until now not been considered official language in Dragash/Dragaš municipality. According to micro-data available at the Agency of Statistics, however, almost 30% of the population consider themselves Gorani and indicated Gorani as mother tongue during the 2011 census”.*

90. According to the Kosovo legal framework, the Turkish, Bosnian and Roma languages may have the status of official languages at the municipal level or languages in official use as provided by law¹⁸. The Kosovo institutions are urged “to take affirmative measures to ensure that languages other than the official ones are preserved, maintained and promoted, and shall orient its conduct according to the European Charter for Regional and Minority Languages”.¹⁹ Nonetheless, the European Charter for Regional and Minority Languages “does not pronounce on the often disputed question of the point at which different forms of expression constitute separate languages”, leaving the decision to competent public authorities.²⁰ In Kosovo, following the 2011 census results, Administrative Instruction No. 2011/02 on the Determination of Procedures for Implementation of the Law on the Use of Languages requires municipal assemblies to recognize the languages of communities that constitute 3 to 5 per cent of a municipality’s population, or 5 per cent and more, respectively as official languages at the municipal level or languages in official use. Nonetheless, to date no municipality has taken such an initiative. On the other hand, the OSCE has no knowledge of any request made by any community in Kosovo to have its language recognised, based on

¹⁸ Kosovo constitution, Art. 5.2; Law on the Use of Languages, Art. 1.2, note 9, supra.

¹⁹ Law No. 04/L-020 on amending and supplementing the Law No. 03/L-047 on the Protection and Promotion of the Rights of Communities and their members in Kosovo, Art. 4.9.

²⁰ Council of Europe, European Charter for Regional or Minority Languages, Explanatory Report, Art. 1, para. 32, clarifies the definition of regional or minority languages by emphasising that “these languages must clearly differ from the other language or languages spoken by the remainder of the population of the state. The Charter does not concern local variants or different dialects of one and the same language. However, it does not pronounce on the often disputed question of the point at which different forms of expression constitute separate languages. This question depends not only on strictly linguistic considerations, but also on psycho-sociological and political phenomena which may produce a different answer in each case. Accordingly, it will be left to the authorities concerned within each state, in accordance with its own democratic processes, to determine at what point a form of expression constitutes a separate language”. The report is available at <http://conventions.coe.int/Treaty/en/Reports/Html/148.htm>.

the census results, despite the existing provision granting community members the right to file a petition to their mayors (and, in the last instance, to the Language Commissioner) in such cases where a municipal assembly fails to recognise their language.

Article 12 of the Framework Convention

Equal access to education

Paragraphs 119, 123 and 124

91. The Advisory Committee states that *“The overall situation regarding access to education for members of the Roma, Ashkali and Egyptian communities remains of concern to the Advisory Committee, despite determined efforts made by non-governmental organisations, the MEST as well as some municipalities. The communities still experience high drop-out rates and generally late and low school enrolment, particularly among girls.”*

92. *“[...] The Advisory Committee urges the authorities to intensify their efforts to promote the enrolment and attainment of Roma, Ashkali and Egyptian children, and particularly girls, in school. Local achievements in this regard must be supported through enhanced central coordination and direction, such as related to institutionalisation of school mediators. Any form of segregation must be discontinued immediately.*

93. *[...]The Advisory Committee further urges the authorities to increase their efforts to ensure that all children, irrespective of the language of instruction they choose, have equal and unhindered access to quality education throughout Kosovo*, including higher education.”*

94. A Progress Report on the Implementation of the Kosovo Strategy and Action Plan for Children’s Rights was issued in July 2013 by the Office for Good Governance in the Office of the Prime Minister, in cooperation with the Human Rights Units in several ministries and Kosovo Police. Education stands as one of the key pillars of the mentioned Strategy and Action Plan. According to the Progress Report, more efficient institutional coordination at central and municipal levels, appropriate and sustained budget allocation, strengthened accountability measures, further investment in policy analysis and capacity building, along with the improvement of the data collection systems, all remain key issues for a more effective implementation of the mentioned Strategy and Action Plan. A number of obstacles are still in the way of the inclusion of Roma, Ashkali and Egyptian children in the educational system, including the low level of education of their families and early marriage practices. The abovementioned Progress Report mentions a pilot program on teaching elements of Roma culture and history at school as an elective subject. However, in the absence of trained teachers and of expressions of interest, this subject was reportedly not offered in 2012.

95. In January 2013, UNMIK met with the Municipal Director of Education of the Podujevë/Podujevo Municipality, to discuss media reports on the dropout of 100 Roma, Ashkali and Egyptian students from schools in the said Municipality. UNMIK was thus informed that there was a total of 87 Roma, Ashkali and Egyptian students enrolled at schools in the Municipality, with an overall dropout rate of 2.13 per cent among students of all communities in 2012. The Municipal Director of Education highlighted the high dropout rate of Roma, Ashkali and Egyptian students specifically, primarily attributable in his opinion to socio-economic reasons, and stated that approximately 80 per cent of total dropouts registered in the last year in his Municipality were concerned Roma, Ashkali and Egyptian

students. To tackle this issue, the Municipality of Podujevë/Podujevo now runs a scholarship program on an annual basis, which benefits 20 to 30 students from marginalized groups, including Roma, Ashkali and Egyptian students. The Municipal Department of Education has allocated a separate budget to provide free textbooks to students from minority groups in grades 10-13, for three consecutive school years. The Department's Director expressed doubt about the accuracy of media reports claiming that 100 Roma, Ashkali and Egyptian students dropped out of school, and in this regard pointed to the limited availability of reliable statistics on this subject in Kosovo.

96. Reportedly, in July 2013 the Obiliq/Obilić Municipality started an educational campaign aimed at enrolling Roma and Ashkali residents who could not enrol in secondary school, or who dropped out, for a "fast-track secondary school education" programme. According to a Municipal Education Officer, a special education scheme would begin in the following school year, and would target members of Roma and Ashkali communities between the ages of eighteen and thirty-five. The said Officer explained that the normal three-year-curriculum of secondary school would be compressed into one-and-one-half years and claimed that the said initiative was needed because the vast majority of Roma and Ashkali community members never complete secondary school education, which in turn seriously undercuts their employment prospects. Upon successful completion of the said programme, all students will receive a secondary school diploma.

97. Illiteracy remains a major problem especially for women from the Roma, Ashkali and Egyptian communities. According to the monitoring report on the implementation of the gender perspective in the Strategy and Action Plan for the integration of the Roma, Ashkali and Egyptian communities, issued by the Network of Roma, Ashkali and Egyptian Organizations of Kosovo in December 2012, 38 per cent of women and girls do not have any record of school attendance, 38 per cent of women and girls never complete(d) primary school, 8 per cent of women have completed primary school, less than 1 per cent has completed high school degree and less than 1 per cent hold a university degree.

Article 15 of the Framework Convention

Participation in elected bodies and administration

Paragraph 133 (see also comments to Paragraphs 140 and 141 of the Opinion)

98. The Advisory Committee *“notes discussions regarding possible constitutional amendments to reflect the official recognition of the Croat and Montenegrin communities by providing them with reserved seats in the Assembly [...] The Advisory Committee welcomes the inclusion of the Croat and Montenegrin communities in the scope of application of the Law on Communities [...]”*

99. Law No.04/L-020 on Amending and Supplementing of Law No.03/L-047 on the Protection and Promotion of the Rights of Communities and their Members, adopted on 8 December 2011, assigns two seats to Montenegrins and Croats in the Community Consultative Council.

Paragraph 135

100. The Advisory Committee *“further regrets that the overall representation of minority communities in the civil service and public structures appears to be still insufficient.”*

101. The OSCE agrees with the Advisory Committee’s statement. The issue of the representation of communities in the civil service was specifically addressed in the 2013 OSCE report on civil service.²¹

102. Reportedly, one issue of particular concern is the widespread under-representation of Roma, Ashkali and Egyptian communities at all levels of the civil service. Such under-representation is especially evident in those municipalities where these communities used to be present in large numbers, for example Fushë Kosovë/Kosovo Polje, Gjakovë/Đakovica and Gračanica/Graçanicë. The lack of required qualifications was mentioned as a possible reason for the low number of applications from under-represented communities’ members. There is a need to improve activities aimed at enhancing the qualifications of potential applicants from under-represented communities, e.g. through scholarships, vocational training schemes specifically targeting members of communities. According to the progress report on the implementation of the Strategy and Action Plan for the Integration of Roma, Ashkali and Egyptian communities (2009-2013), issued by the Office of Good Governance in the Office of the Prime Minister in July 2013, further efforts are needed to meet the target of 3 per cent representation of the Roma, Ashkali and Egyptian communities in the public sector. The reported value barely reached 1 per cent.

103. The main challenges faced by several human rights-related institutions in Kosovo in the implementation of their mandates were discussed at a conference organized in May 2013 within the framework of a Council of Europe and European Union joint project, on “Promoting Human Rights and Minority Protection in South East Europe”.²² On the basis of

²¹ OSCE Mission in Kosovo, *Representation of Communities in the Civil Service in Kosovo*, February 2013, accessible at: <http://www.osce.org/kosovo/99601>.

²² The overall objective of the programme is to improve respect for human rights, particularly minority protection in the Beneficiaries in practice, by enhancing the capacities of the relevant national bodies and the regional coherence of their activities. The specific objectives are to (i) strengthen the proper implementation of relevant national legislation and promoting best practices and to (ii)

interviews conducted with the Committee on the Rights and Interests of Communities and Returns, with the Consultative Council for Communities the Ministry of Communities and Return, with the Ministry of Local Government Administration, with the Office of Community Affairs, with the Office of the Language Commissioner and with the Office of the Ombudsperson, some major challenges were identified, including the unclear and overlapping mandates of the existing institutions, an overall lack of political will, and poor information-sharing between relevant institutions. Resource constraints were also highlighted. The views regarding the availability of financial resources for the implementation of the respective mandates varied significantly from one institution to another. The institutions that pointed mainly at budgetary limitations to explain their operational deficiencies, specifically lamented their inability to conduct research, to recruit new personnel, to conduct monitoring and evaluation activities on the ground and to support civil society organization's work.

Consultation with minority communities and coordination

Paragraph 141

104. The Advisory Committee states that *“A gender quota has been set to ensure at least 40% of the members are female. Importantly, the Statute now stipulates that there should be at least 14 meetings per year [...]”*.

105. Since the amendment to its Statute in September 2012, the Consultative Council for Communities (CCC) has held seven meetings; one meeting in 2012 was chaired by the President of Kosovo. As of June 2013, the gender representation in CCC remains a source of concern, with 19 male members (76 per cent) and 6 female members (24 per cent).

Participation in socio-economic life

Paragraph 151

106. *“The Advisory Committee calls on the authorities to intensify their efforts to promote access of minority communities to socio-economic opportunities, including in the privatisation process. Targeted training opportunities and grants must be offered, in particular in remote locations, to support the most disadvantaged to enter and remain in the labour market.”*

107. Regarding economic empowerment, members of minority communities, particularly members of the Roma, Ashkali and Egyptian communities, are reportedly more affected by unemployment than all other communities. According to the July 2013 progress report on the implementation of the Strategy and Action Plan for the integration of the Roma, Ashkali and Egyptian communities (2009-2013), issued in July 2013 by the Office of Good Governance in the Office of the Prime Minister, limited schooling and training opportunities for the members of the three communities are relevant obstacles to access to employment opportunities.

develop a functioning regional network of the relevant national bodies and exchange of best practices in the field of minority protection at regional level. See http://www.coe.org.rs/eng/tdoc_sr/coe_office_in_belgrade/projects_sr/?conid=2831

Paragraph 152

108. *“The Advisory Committee further urges the authorities to ensure that persons belonging to minority communities are effectively provided with access to quality health and other core services. Efforts must be enhanced to recruit and retain medical professionals with adequate language proficiency in minority community languages.”*

109. In December 2010, the Ministry of Health (MoH) published a three-year action plan for the Health Sector Strategy. An update was published in March 2011. The action plan mentions “vulnerable groups” and “vulnerable communities”, but does not define them, and makes no specific reference to the three communities, nor to their particular healthcare needs and access challenges.

110. The availability of disaggregated data is crucial to evidence-based policy-making. In this regard, the Ministry of Health has been taking several steps to improve the information available on the health condition of members of the Roma, Ashkali and Egyptian communities. According to the July 2013 Progress report on the implementation of the Strategy and Action Plan for the integration of Roma, Ashkali and Egyptian communities (2009-2013), the creation of the Health Information System Database on persons in Kosovo, currently underway, should help address information needs in the health sector for Kosovo Roma, Ashkali and Egyptian communities, although the database is unlikely to be completed before 2014.

Article 16 of the Framework Convention**Protection against population changes****Paragraph 156**

111. *“The Advisory Committee calls on the authorities to intensify their efforts to facilitate and encourage the sustainable return and integration of displaced persons to their original place of residence.”*

112. Between July 2012 and March 2013, UNMIK visited 24 return sites and 22 collective centres in Kosovo, located south of the Ibër/Ibar river. The purpose of the said visits was to check the number of people who currently reside at the return sites and in collective centres, and to assess their living conditions and the status of the (re)constructed houses. During UNMIK’s visits to the said return sites and collective centres, perceived security concerns emerged as the only critical factor preventing many displaced persons from returning and living in (re)constructed houses. Security concerns also led to the departure of some Kosovo Serbs, including many returnees. In addition, a number of Kosovo Serb returnees mentioned that socio-economic challenges, such as a high rate of unemployment, difficult access to public services and poor infrastructure, have hindered the return process. Consequently, many houses remain unoccupied in the majority of the return sites, resulting in recurring thefts and acts of vandalism. Poor hygienic conditions pose health hazards to the residents. UNMIK’s municipal interlocutors confirmed that the return process has progressed at slow pace and that they continue to make efforts to facilitate it.

Positive developments following two cycles of monitoring**Paragraph 162**

113. The Advisory Committee notes that “[...] progress has been made in some municipalities to promote dialogue between receiving and returning communities with positive results, even in some formerly difficult return areas.”

114. As noted in the aforementioned OSCE report on voluntary returns,²³ the only concrete example of successful municipal engagement to improve relations between communities in support of the return process was observed in the Municipality of Ferizaj/Uroševac in 2011, notably in the village of Nerodimja e Epërme/Gornje Nerodimlje.

Paragraph 164

115. The Advisory Committee states that “Steps are also taken to improve school enrolment and attainment by Roma, Ashkali and Egyptian children and progress is made at local level through close consultation with all relevant stakeholders and the involvement of school mediators”.

116. The OSCE notes that, while school mediators do co-operate with municipalities, their role receives no institutional support or recognition by MEST, and they remain managed, co-

²³ OSCE Mission in Kosovo, An Assessment of the Voluntary Returns Process in Kosovo, October 2012, accessible at <http://www.osce.org/kosovo/96805>.

ordinated and trained only by NGOs, with the financial support of international and local organisations.