

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

COUNCIL OF EUROPE



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**Comments by the United Nations Interim Administration Mission in Kosovo (UNMIK) on  
the Fourth Opinion of the Advisory Committee on the implementation of the Framework  
Convention for the Protection of National Minorities in Kosovo<sup>1</sup> - received on  
21 December 2017**

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<sup>1</sup> 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 Fourth Opinion on Kosovo<sup>2</sup> 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 Fourth 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 8 March 2017. 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 and information contained in the progress report prepared by the Organization for Security and Cooperation in Europe Mission (OSCE) and subsequently submitted by UNMIK to the Advisory Committee on 8 March 2016, 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 visit from 14 to 18 November 2016 to Kosovo, including to the Municipalities of Prishtinë/Priština, Obiliq/Obilić, Gračanica/Graçanicë, Mitrovicë/Mitrovica, Istog/Istok and Klinë/Klina (Pejë/Peć region), Gjilan/Gnjilane and Novo Brdo/Novobërdë, and the villages of Plementin/Plementina and Zallq/Zac.
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 third Advisory Committee's Opinion and until November 2017.
4. UNMIK acknowledges the European Union Office in Kosovo/European Union Special Representative in Kosovo (EUO/EUSR), OSCE and Kosovo authorities 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.

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<sup>2</sup> 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.

**SUMMARY**

5. The Advisory Committee states that *“However, there is a growing divide between communities, exacerbated by pervasive monolingualism in each community, and intercommunity dialogue and understanding remain absent, including within the same municipality.”*
6. The OSCE considers that the statement *“there is a growing divide between communities, exacerbated by pervasive monolingualism [...]”* does not reflect accurately the situation throughout Kosovo. The OSCE considers that in order to make such an assessment it should be clarified which communities the report is referring to, and what kind of divisions are created and where.
7. The Advisory Committee states in its Summary that *“The continuing existence of parallel structures administered by Kosovo\* and Serbia (municipalities, schools), and the absence of cultural initiatives promoting interaction between members of the different communities, in particular young people, represent serious obstacles for interaction and intercultural dialogue.”*
8. The OSCE, acknowledges that the existence of two parallel education systems in Kosovo does not contribute to interaction between members of different communities. However, OSCE notes that Kosovo institutions took positive steps by adopting the Kosovo Education Strategic Plan (KESP) 2017–2021, which includes inter-ethnic relations improvement among its core priorities. KESP institutionalizes efforts for the promotion of intercultural dialogue in education. In addition, throughout 2017, OSCE facilitated intercultural activities in schools applying the two curricula. However, as noted in the Fourth Opinion, such activities remain sporadic and are primarily led by either the international community or civil society organizations.
9. The Advisory Committee notes that *“Some progress has been accomplished to improve the return process of displaced persons following the conflict, although the persisting lack of a comprehensive domestic legal framework, of data collection, of co-ordination at central and local level and unresolved property issues continue to hamper the process.”*
10. The OSCE recommends to replace *“some progress has been accomplished”* by *“moderate progress has been accomplished”*. *“Some progress”* overestimates the actual progress made since the last assessment. Indeed, the draft Regulation for Displaced Persons (initiated in September 2015 by the Ministry for Communities and Returns with UNHCR and OSCE support) continues to face delays and has yet to be adopted. No data-base on displaced persons has been established, while property and security issues continue to hamper the return process. According to UNHCR data, returns as well as genuine interest to return are progressively declining every year.

11. The Advisory Committee in its recommendations for immediate action urges to *“Prioritize comprehensive and concrete efforts to promote interethnic dialogue and tolerance at central and local level in order to bridge divides between communities and promote reconciliation; build intercommunity relationships through initiatives targeting in particular young people, integrating the education system and applying consistently the language legislation;”*
12. OSCE notes that Kosovo took some steps in this regard by developing and approving the Kosovo Education Strategic Plan (KESP) 2017–2021 in December 2016. The KESP strategic objectives include the development of policies and mechanisms for the promotion of inter-community dialogue in education.
13. The EUO/EUSR fully supports the recommendation of prioritizing comprehensive and concrete efforts to promote interethnic dialogue and tolerance at central and local level in order to bridge the divides between communities and promote reconciliation, and build intercommunity relationships through initiatives particularly targeting young people.
14. In response to the Advisory Committee recommendation, Kosovo authorities state that no school or class in the Kosovo education system are specifically provided for students of Roma, Ashkali and Egyptian communities, as they are integrated with students from other communities. In addition, Kosovo authorities mention that in order to facilitate enrolment in Public Universities, for the academic year 2016/2017, the Ministry of Education, Science and Technology drafted and approved the Administrative Instruction No. 09/2016 on Application of Affirmative Measures and Reserved Seats for Enrolment of Students from non-majority Communities in Public Universities of Higher Education, which were thereafter implemented by Kosovo Universities.
15. Further, the Advisory Committee in its recommendations for immediate action urges to *“Take steps to ensure that the existing legal framework pertaining to national minorities is correctly implemented by strengthening mechanisms for the co-ordination, ownership and monitoring of strategies and action plans at central level, and by improving the distribution of responsibilities in the central government, its accountability and its capacity of communication at local level;”*
16. In these regards, Kosovo authorities comment that they plan to address the Action Plan for the implementation of the Strategy for inclusion of Roma and Ashkali communities, adopted in April 2017, through the Inter-Ministerial Coordinating Group for Human Rights. In addition, the Office of Good Governance plans to establish four working groups, in particular on education, employment and social welfare, health, and housing, to monitor the implementation of activities in these respective sectors.
17. Further, in its recommendations for immediate action, the Advisory Committee urges to *“Adopt all necessary measures to ensure full, equal, and adequate implementation of the Law on the Use of Languages; address central and local level*

*capacity gaps in language knowledge, quality of official translation and provision of services in minority languages, including in the judicial system; create a favourable environment conducive to the learning of the official and minority languages;”*

18. The Kosovo authorities note that although the Strategy for the Promotion and Protection of Language Rights has not yet been adopted, the Office of the Language Commissioner (OLC) took concrete steps towards the implementation of the Law on the Use of Official Languages. In particular, in 2017, the OLC developed a municipal tool for monitoring the implementation of the Law on the Use of Official Languages and the quality of translations at the local institutions, as well as for addressing the current challenges faced by language service providers.

## **I. KEY FINDINGS**

### **Monitoring process**

#### **Paragraph 1**

19. The Opinion states that *“This fourth cycle opinion on the implementation of the framework Convention for the Protection of National Minorities (FCNM) by Kosovo\* was adopted in accordance with the “Agreement between the United Nations interim Administration Mission in Kosovo (UNMIK) and the Council of Europe on technical arrangements related to the Framework Convention for the Protection of National Minorities”, signed on 23 August 2004 (hereinafter the Agreement). The findings are based on information contained in the progress report prepared by the Organization for Security and Co-operation in Europe (OSCE) and submitted by UNMIK on 8 March 2016 in accordance with the Agreement and other written sources and on information obtained by the Advisory Committee from official and non-governmental contacts during its visit from 14 to 18 November 2016 to Prishtine/Pristina as well as the municipalities of Obiliq/Obilic, Mitrovice/Mitrovica, Istog/Istok and Kline/Klina (Peje/Pec region), Gracanica/Gracanice, Gjilan/Gnjilane and Novo Brdo/Novoherce, and the villages of Plemetin/Plemetina and Zallq/Zac.”*
20. The OSCE wishes to clarify that while the OSCE’s Communities Rights Assessment Report (CRAR) – fourth edition was submitted by UNMIK in accordance with the agreement between UNMIK and the Council of Europe –this report was not prepared for this purpose. Therefore, OSCE requests not to refer to “OSCE progress report”. The OSCE’s CRAR is purely a policy report, which aims to provide an overview of communities’ rights in Kosovo, citing the Advisory Opinion recommendations as benchmarks for measuring progress. OSCE recommends that this point is clarified in a footnote highlighting that OSCE is not the responding party to the FCNM.

#### **Paragraph 3**

21. *“The Advisory Committee notes that the progress report, prepared by the OSCE Mission, is based on close consultations with representatives of all communities,*

*as well as relevant governmental and non-governmental entities throughout Kosovo\*. The report constitutes a comprehensive source of detailed information and analysis. It further acknowledges the availability of several reports and assessments by other international and national organisations in Kosovo\*.”*

22. The OSCE recommends that this paragraph makes it clear that the OSCE CRAR is a regular OSCE publication assessing the rights of communities in Kosovo. The sentence could read, *“The Advisory Committee notes that the OSCE report, a policy report regularly published by the OSCE to assess progress made by institutions on advancing communities rights, contains detailed information and analysis which is based on the organization’s regular monitoring.”* This is to avoid confusion and misunderstanding about the role of the OSCE in the context of the FCNM reporting cycle and UNMIK’s arrangements with the Council of Europe.

#### **Paragraph 4**

23. The Advisory Committee notes that *“The legal and institutional framework pertaining to the protection of persons belonging to national minorities remains in force. Positive steps have been taken to enhance their full and effective participation in society, (...). Nonetheless, the legislation is far from being implemented satisfactorily. The proliferation of strategies followed by action plans without adequate monitoring and without clear accountability undermines their effectiveness.”*
24. The EUO/EUSR, after analyzing the Opinion, substantively agrees with the findings of the Opinion, recognizing that they reflect the situation in Kosovo when it comes to rights and protection of national minorities. The EUO/EUSR recognizes the fact that Kosovo has the relevant legal framework in place for the protection of minorities as well as a proliferation of relevant strategies and action plans, but that more must be done in terms of implementation. Furthermore the multiplication of institutional bodies dealing with community affairs and the fact that these are not adequately coordinated and sometimes lack inter-institutional dialogue, both at the central level and between the central and local level, is also an observation shared by the EU.

#### **Paragraphs 5 (as well as paragraph 108)**

25. The Advisory Committee cites unemployment rates from the government survey in 2015 in the two paragraphs 5 and 108: *“...where unemployment remains the main source of concern for the whole population (32.9% in 2015)”* and *“In 2015, the official unemployment rate was 32.9 %, with youth unemployment rising to 57.7%”*.
26. The OSCE notes that as of May 2017, the results of the government’s 2016 Labour Force Survey are available. According to the survey, the unemployment rate in 2016 was 27.5% and the youth unemployment rate was 52.4%.<sup>3</sup> Furthermore, in

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<sup>3</sup> See the link: <http://ask.rks-gov.net/media/3245/lfs-2016-anglisht.pdf>

paragraph 108, the Advisory Committee may consider including that a lack of ethnicity-disaggregated data on unemployment makes it difficult for the government to provide more targeted interventions to address minority unemployment.

### **Assessment of measures taken to implement the recommendations for immediate actions**

#### **Paragraph 8**

27. The Advisory Committee observes that *“Hate-motivated incidents against persons belonging to national minorities are either concentrated in areas where K/Serb returnees are more numerous (Klinë/Klina, Pejë/Peć) or due to specific trigger events. These incidents have in general been swiftly condemned by the authorities both at central and focal levels. The legal framework proscribing hate crimes and ethnically motivated incidents as well as the mechanisms for recording them are in place. However, few cases are recorded by the authorities and even fewer appropriately sanctioned in line with the applicable legal framework. This is due to a number of factors: shortcomings in the recording system, under-reporting, mistrust in law enforcement by persons belonging to national minorities, and an insufficient application of the available legal provisions. Efforts have been undertaken to train the police and introduce a co-ordinated case management system. Linking all law enforcement institutions and enabling the tracking of cases from investigation to prosecution and conviction. Overall awareness of, and trust in, legal remedies against hate crime remains limited.”*
28. The OSCE Mission’s monitoring notes that Kosovo Police uses a database to record inter-ethnic incidents. However, these incidents may or may not have a bias motivation, as this database does not include disaggregated data to identify potential hate crimes based on protected characteristics other than ethnicity. Therefore, the strict reliance on Article 147 of the Criminal Code does not give an accurate picture of all hate crimes in Kosovo, and by not capturing all incidents, investigations and prosecutions of hate crimes are hampered.

### **Assessment of measures taken to implement the further recommendations**

#### **Paragraph 11**

29. The Advisory Committee notes that *“The equality legal framework was strengthened in 2015 with the adoption of new laws on the Ombudsperson, on Gender Equality and on Protection from Discrimination. The new anti-discrimination legislation is meant to sustain enforcement mechanisms before the Ombudsperson and the courts. Initial monitoring of the law has not identified substantive progress in terms of an increase in cases lodged and processed by courts and some already question its applicability in practice. The functioning of the Ombudsperson Institution has improved and its independence strengthened. However, it has been given additional tasks by the new legislation without providing it with supplementary human and financial resources.”*

30. The Advisory Committee may want to consider the following information: The Ombudsperson continues with the implementation of the Law on Ombudsperson and the Law on Protection from Discrimination with increased and improved reporting, especially on ex-officio cases and through the provision of amicus-curie opinions on discrimination cases to the court. Throughout 2016, the Ombudsperson published a compilation of reports addressed to relevant institutions, including ex-officio reports, amicus-curies opinions, complaint based reports and letters with recommendations.
31. UNMIK notes some progress in the area of non-discrimination. On 5 April 2017, Kosovo authorities at their regular meeting approved the Regulation of Institutional Mechanisms for Protection from Discrimination in Government and Municipalities, which aims at defining (i) the duties and responsibilities of units or officers for protection from discrimination in ministries and municipalities, as well as (ii) the coordination mechanisms, reporting and cooperation with other institutional mechanisms for protection from discrimination. The Regulation is based on art. 11 of the Law No. 05/L-021 on the Protection from Discrimination that obliges all ministries and municipalities to assign the appropriate unit or official to coordinate and report on the implementation of the Law based on the secondary legislation adopted by the government, specifying the institutional mechanisms for protection from discrimination. The Regulation comes nearly two years after the antidiscrimination law was adopted in 2015 as part of the Human Rights package of Laws.

**Paragraph 12**

32. *“Some policy steps have been taken to improve the return process of displaced persons following the conflict, namely the revised Strategy for Communities and Returns 2014–2018 and the establishment of the Inter-Ministerial Working Group on Returns in 2015. However, to date, there is no assessment of the Strategy, and the working group has never been convened. At local level, Municipal Offices for Communities and Returns (MOCRs’) have been established and certain municipalities were able to allocate land for projects involving returnees, to fund housing projects and emergency packages. However, the persisting lack of a comprehensive legal domestic framework, of data collection, of co-ordination between central and local levels and unresolved property issues continue to hamper returns which are slowing down. Forced returns are even more problematic since, once the initial support by international donors wears off, there are no alternative long-term integration measures and resources to sustain the process put in place by the authorities.”*
33. The OSCE points out that the Inter-Ministerial Working Group on Returns (IMWG) met on 25 May 2016 and 25 September 2016. In both meetings, the question of returns in Brđane/Kroi i Vitakut and Mushtisht/Mušutište as well as the development of the Inter-institutional initiative on displaced persons from Kosovo were discussed. However, despite these meetings, no progress has been noted in Brđane/Kroi i Vitakut and Mushtisht/Mušutište. The IMWG adopted Action Points on Security and Dialogue, Property Rights and Personal Documentation developed



and endorsed through the Inter-institutional initiative on displaced persons from Kosovo (“Skopje Process”). Since March 2017 Kosovo institutions started to work on the implementation of these action points through the establishment of Working Groups on property rights, security and dialogue, personal documentation, data-management and solutions planning. It is a significant development.

34. Furthermore the OSCE disagree with the sentence *‘forced returns are even more problematic since, once the initial support by international donors wears off, there are no alternative long-term integration measures and resources to sustain the process put in place by the authorities’*. For repatriated persons, a firm legal framework is in place and guarantees assistance upon arrival and for sustainable reintegration, such as work placements, internships, small business grants and vocational training. The legislative framework generally provides for solid long-term reintegration measures although it does not bestow the benefits to all repatriated persons (a potential beneficiary of certain forms of support must have left Kosovo prior to 28 July 2010) and requires the application to be submitted within three or six months, depending on the type of assistance. In contrast, the legal framework with regards to the return and integration of displaced persons is not as articulated, both in short and long terms. Displaced persons are therefore dependent on ad hoc projects and the selection of beneficiary by the MOCR. Displaced persons would benefit from the creation of one centralized legal framework for returns. Therefore, the expression *“even more problematic”* does not reflect the reality, as some progress has been made by the Kosovo institutions (mainly the Ministry for Internal Affairs) in the process of reintegration of repatriated persons whilst little progress has been noted on the return process of displaced persons. Furthermore, the reintegration programme for repatriated persons is not dependent on international donors as indicated by the Advisory Committee. Indeed, significant funds for reintegration are allocated from the Kosovo budget.

### **Paragraph 13**

35. *“Reconstruction of damaged Serbian Orthodox religious sites and the implementation, on of local legislation for the protection of cultural heritage has continued. Although incidents still occur, security and access to cultural heritage have improved thanks in particular to the Kosovo Police Religious and Cultural Heritage Unit (RCHU). However, legal standards are challenged by continuing illegal constructions and attempts by the government to amend Law No. 02/L-88 on Cultural Heritage and adopt a Strategy for Cultural Heritage have, so far, been unsuccessful. Similarly, no progress has been made to set up a system for the allocation of cultural support for national minorities. Media public broadcasting for communities and in minority languages has increased, but both public and private outlets generally work in parallel focusing on issues relevant to each community separately. Moreover, private outlets are widely dependent on international donors for support and training.”*

36. The OSCE concurs that the reconstruction of damaged Serbian Orthodox religious sites still remains an unresolved issue. This has been raised at the Implementation and Monitoring Council (IMC) but has yet to result in any action. The OSCE suggests to add that the Strategy on Cultural Heritage 2017–2027 was adopted in December 2016 and includes the rights and privileges of the Serbian Orthodox Church (SOC). The Strategy is available in Albanian, Serbian and English on the website of the Ministry of Culture, Youth and Sport. No development however has been noted on the Law on Cultural Heritage.

## II. ARTICLE-BY-ARTICLE FINDINGS

### Article 3 of the Framework Convention (Personal scope of application and census)

#### Paragraph 14

37. The Advisory Committee states that *“The scope of application of the Framework Convention for the Protection of National Minorities in Kosovo\* has not changed since the third monitoring cycle and continues to cover all communities present in Kosovo\* according to Article 1.4 of the Law on the Protection and Promotion of the Rights of Communities, that is “Serb, Turkish, Bosnian, Roma, Ashkali, Egyptian, Gorani, Montenegrin, Croatian communities and other communities”. The law also provides that the same rights shall be protected for members of the community in the majority in the Republic of Kosovo\*, that is K/Albanians, where they are not in the majority in a given municipality. However, no progress has been registered with regard to amending the constitution to cover also K/Croat and K/Montenegrin communities, notwithstanding their repeated requests to this end.”*
38. The OSCE suggests that the quotation should be revised as follows: “Kosovo Serb, Kosovo Turkish, Kosovo Bosniak, Kosovo Roma, Kosovo Ashkali, Kosovo Egyptian, Kosovo Gorani and other communities”. In the Law, Montenegrin and Croatian communities are not mentioned (see Article 1 para. 1.4).

#### Paragraph 15

39. The Advisory Committee notes that *“...Plans to organise an extraordinary census in the North in 2016 failed because a lack of support at central and local level prevented the adoption of the necessary legislation...”*
40. The OSCE does not have any evidence to suggest that the central government did not support the census or that the Kosovo Serbs were not willing to take part in it. Furthermore a legal framework for the implementation of the census was in place (Law No.03/L-237). Thus, the OSCE recommends the Advisory Committee to specify the necessary legislation it refers to. The Advisory Committee states that *‘several alternative sources could be employed to gather data, such as identity documents, electoral rolls, welfare benefits and health insurance’* As an additional source of data, the Advisory Committee may want to include an annual population estimate by Kosovo Agency of Statistics.
41. Furthermore, in the same paragraph, the Advisory Committee states that *“it was reported by one local interlocutor...that the number of votes/voters in the 2014 election was higher than the total population figure officially accounted for in the statistical data.”*
42. The OSCE would like to clarify that the number of voters in the voters’ list in the 2017 elections was also higher than the official population assessment by the Kosovo Agency of Statistics. This is due to the fact that the population assessment does not include a large number of registered voters that reside abroad. According

to the law, registered voters residing abroad have voting rights in all Kosovo elections, and are therefore included in the voters' list.

**Article 4 of the Framework Convention (Legal and institutional framework for the protection from discrimination of persons belonging to national minorities and the promotion of equal treatment)**

**Legislation and institutions**

**Paragraph 18**

43. *"Despite the comprehensive legal framework, the Advisory Committee noted with regret from several of its interlocutors (local authorities, consultative bodies, civil society and the International institutions, as well as some ministries) that its implementation is far from satisfactory. Shortcomings range from the partial functioning of local mechanisms, established to ensure the participation of communities in decision making and non-compliance with quotas for minority communities' involvement in the civil service and in higher education, to poor translation of legislation into the other official language and a lack of provision of services in minority languages."*
44. OSCE comments that in June 2016, the Ministry of Education, Science and Technology (MEST) endorsed the Administrative Instruction 09/20164 *"On the Application of Affirmative Measures and Quotas for Enrolment of Candidates from the Non-Majority Communities in the Public Institutions of Higher Education"*. It introduces a quota system through self-identification for potential students from non-Albanian communities. The OSCE notes the shortcomings of the system whereby neither MEST, nor universities, developed a systematic approach for collecting and maintaining information on a person's ethnicity, resulting in the possible misuse of the self-identification system by majority communities' potential students.

**Office of the Ombudsperson**

**Paragraph 22**

45. *"The Advisory Committee welcomes the progress accomplished as regards the functioning of the Ombudsperson Institution (OiK) with respect to the suitability of its premises, the increase in staff at central and regional level and a dedicated budgetary line. It also appreciates that the independence of the institution, including financial was confirmed by the Constitutional Court and strengthened by the 2015 law on the Ombudsperson. The Law on Protection from Discrimination conferred to the OiK the role of an equality body, Ombudsperson, as well as the National Preventive Mechanism under the Convention Against Torture. As no additional budget is foreseen despite the increased workload of the office, doubts*

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<sup>4</sup> MEST Administrative Instruction 09/2016 provides for cumulative 12 per cent seats for all non-majority communities at all public institutions of higher education functioning within the Kosovo education system: <http://masht.rks-gov.net/uploads/2016/06/ua-masht-09-2016-aplikimi-i-masave-afirmative-dhe-vendeve-te-rez-al.pdf>.

*of whether existing human and financial resources are commensurate to the new tasks, appear legitimate. The Advisory Committee notes that the OiK budget was already cut twice in 2015 is now lower than in 2014.”*

46. UNMIK notes that despite no additional funding, since the establishment of the National Preventive Mechanism (NPM) in January 2016, the OiK has been fulfilling the mandate through visits to places of deprivation of liberty. In August 2017, the OiK published an annual report of the NPM, covering a period from December 2016 to May 2017. Over the period, the NPM conducted nine (9) visits to places of deprivation of liberty and issued recommendations to Kosovo authorities.
47. The OSCE also believes that it is important to note the role of the Assembly of Kosovo in strengthening the effectiveness of the Ombudsperson Institution. The Assembly has a mandate to approve the Institution’s budget, oversee its performance and provide oversight of central government institutions expected to implement its recommendations. Oversight however remains to be one of the weaknesses of the Assembly and is one of the constraints for the performance of the Ombudsperson Institution.

### **Paragraph 23**

48. *The Advisory Committee reports that “In 2015 and 2016, the number of complaints received by OiK was 1995 and 1631 respectively, of which the majority were inadmissible (64% in 2015). Around 4.5% of cases concerned communities’ issues. This suggests a continuing lack of knowledge of the OIK mandate among targeted audiences due, inter alia to difficulties in communication in smaller minority languages and the need for more outreach by regional offices. The recommendations adopted, instead, increased from 57 in 2015 to 173 in 2016 testifying to the growing engagement of the OiK. Regarding responses from Kosovo’s\* institutions to the OiK, 25% of the recommendations were complied with by government authorities, judicial institutions and municipalities in 2015. For 2016, this was 18% {with 62% of the cases still pending}. The Ombudsperson indicated to the Advisory Committee that a series of measures would be put in place aimed at improving the government’s responsiveness. They include addressing recommendations in parliamentary debates, publicizing them through the media, having the Prime Minister’s Office reporting annually on their implementation to the Assembly, and making EU financial support conditional on compliance.”*
49. The OSCE points out that according to the 2016 Ombudsperson Institution’s annual report (pg. 184) the total number of received cases in 2016 was 1,694, including 801 inadmissible cases, which constitutes a 15 % decrease in inadmissibility compared to 2015. The decrease in most cases is due to the fact that there was no identified violation or that not all legal remedies were used or exhausted.

### **Paragraph 24**

50. *“The Advisory Committee urges the authorities to take steps to ensure that the existing legal framework is correctly implemented including by strengthening co-*

*ordination, ownership and monitoring of strategies and action plans at central level and by improving government accountability and budgetary management. Central authorities should also improve co-ordination and communication at local level."*

51. The OSCE agrees with this paragraph. It is also essential to state that not only inter-ministerial/agency co-ordination and communication should be strengthened but that the promotion and protection of community rights should be integrated into the budget cycle at central and local level.

#### **Paragraph 25**

52. *The Opinion states that "The authorities should also enable the satisfactory functioning of the Ombudsperson Institution by ensuring the provision of the necessary human and financial resources to carry out its mandate, including as regards awareness-raising initiatives, and the effective follow-up to its recommendations."*

53. The OSCE adds that with regards to awareness raising there has been some progress on the promotion and enforcement of human rights. In November 2016, the OSCE Mission in Kosovo together with the Ombudsperson launched a video campaign to promote the human rights package of laws, including the Law on Ombudsperson, Law on Protection from Discrimination and Law on Gender Equality. In March 2017, the Office of Good Governance launched a media campaign on promotion of the Law on Protection from Discrimination.

#### **Measures for the promotion of full and effective equality for persons belonging to national minorities**

##### **Paragraph 26**

54. *"The Advisory Committee acknowledges that numerous strategies and action plans relevant to national minorities are either in the process of being drafted (strategies for the promotion of language and property rights) or have already been adopted by the government (strategies for the inclusion of Roma, Ashkali and Egyptian communities in Kosovo\* society and for the reintegration of returnees) (see also further below and Article 16). An overarching Strategy and Action Plan on Human Rights, which would also apply to national minorities, has been under preparation for a considerable time already. While acknowledging the importance of policy documents, the Advisory Committee understands from several of its interlocutors that consultation and involvement of stakeholders is not always thorough, although there has been some progress. Moreover, these strategies are often prepared with the extensive support of a non-governmental organisation and international donors' support rather than within the government structure. This is due to the fact that, in several cases, the drafting and the monitoring of these instruments is entrusted to the same institution in the government, namely the OGG. The Advisory Committee shares the view of the OiK that this remains problematic, mainly because the OGG is short-staffed and its limited competences hamper its ability to become an effective policy developer. Finally, it was the opinion of many of the Advisory Committee's interlocutors that several of these policy instruments, including those targeting minority communities, appear to have*

*been adopted in order to comply with international requirements rather than for a clear understanding of what inclusion of minorities represents in a democratic society.”*

55. The OSCE, UNMIK and the EUO/EUSR share the concern that the OGG has an ambitious mandate, which is disproportionate to its resources. The gap between responsibilities and resources deserves a thorough reassessment of capacities and resources in fulfilling OGG's mandate. The OGG has a multitude of different responsibilities ranging from human rights, Roma and Ashkali communities, LGBTI, cooperation with the civil society sector as well as holding a coordinating role for the implementation of the recommendations for the FCNM, and others. As a result it cannot adequately deliver on all these fields and is often dependent on external assistance/support often by the international partners, including the EU. This undermines the government ownership.

#### **Paragraph 27**

56. *The Advisory Committee notes that “Despite some progress achieved locally with the help of the local action plans, Roma, Ashkali and Egyptian communities continue to be the most vulnerable to poverty, social exclusion, unemployment, unsuitable living/housing conditions and discrimination (see also Article 15). The Advisory Committee was informed by several interlocutors that the limited representation at local level also prevents these national minorities from becoming an integral part of society. The new Strategy and Action Plan for Inclusion of Roma and Ashkali communities in the Kosovo Society 2017-2021 addresses access to education, employment, health care, housing and basic services. It builds upon the recognition that the implementation of the previous 2009-2015 Strategy and Action Plan failed due to the inadequate co-ordination between the ministries and between authorities at central and local level, the lack of human resources to monitor progress of Implementation, insufficient funding, and inadequate consultation with external experts. The Advisory Committee notes that the new strategy provides for an articulated monitoring structure, accountability to the ICGHR, liaison with municipal authorities and inclusion of the communities' representatives. It also observes, nonetheless, that the OGG is still the main body in charge of overseeing and co-ordinating implementation. Finally, the Advisory Committee regrets to learn that the Egyptian community is no longer covered by the final version of the strategy and there is no alternative protection plan.”*
57. The OSCE agrees with the conclusions, and notes that as of August 2017, out of the 21 municipalities with a substantial number of members of the three communities,<sup>5</sup> five municipalities have adopted a Local Action Plan (LAP),<sup>6</sup> while eight more have started and are at different stages of developing a LAP.<sup>7</sup> It is worth

<sup>5</sup> Deçan/Deçane, Ferizaj/Uroševac, Fushë Kosovë/Kosovo Polje, Gjakovë/Đakovica, Gjilan/Gnjilane, Gračanica/Gračanicë, Istog/Istok, Kamenicë/Kamenica, Klinë/Klina, Lipjan/Lipljan, Mitrovicë/Mitrovica South, Novo Brdo/Novobërdë, Obiliq/Obilić, Pejë/Peć, Podujevë/Podujevo, Prishtinë/Priština, Prizren, Rahovec/Orahovac, Shtime/Štimlje, Suharekë/Suva Reka, Vushtrri/Vučitrn.

<sup>6</sup> Gjilan/Gnjilane, Ferizaj/Uroševac, Mitrovicë/Mitrovica South, Podujevë/Podujevo, Vushtrri/Vučitrn.

<sup>7</sup> Fushë Kosovë/Kosovo Polje, Gjakovë/Đakovica, Gračanica/Gračanicë, Kamenicë/Kamenica, Lipjan/Lipljan, Obiliq/Obilić, Prishtinë/Priština, Shtime/Štimlje.

to mention that the Kosovo Egyptian community was removed from the scope of the new Strategy for Inclusion of Roma and Ashkali communities in the Kosovo Society 2017-2021 shortly before its adoption, allegedly following the request of the Kosovo Egyptian member of the Assembly of Kosovo. According to the Kosovo Egyptian member of the Assembly, the use of the abbreviation would have led to the risk of loss of identity for the Kosovo Egyptian community. The Kosovo Egyptian member of the Assembly proposed the adoption of a separate strategy for the Kosovo Egyptian community. The removal of the Kosovo Egyptian community from the Strategy was reportedly not fully supported by the Kosovo Egyptian community itself since no broad consultation was conducted to assess the views of Kosovo Egyptian community in Kosovo. Local civil society organizations and international stakeholders did not support the exclusion of the Kosovo Egyptian community from the Strategy, as it might exclude the Kosovo Egyptian community from benefiting from the affirmative measures provided in the Strategy.

## Access to Justice and property restitution

### Paragraph 33

58. *The Advisory Committee notes that “As regards private immovable property restitution, by the end of 2014, the Kosovo Property Agency (KPA), through the Kosovo Property Claims Commission, adjudicated all the 42,749 claims lodged by 2007. Some of these claims were appealed (159 cases in 2015) and have been either decided upon or are still pending before the Supreme Court (126 and 95, respectively). The KPA is now concentrating on the implementation of the decisions, including in the North where evictions started in 2014. In 2016, the KPA was transformed into the Kosovo Property Comparison and Verification Agency. In the new format, the Agency will also compare and resolve discrepancies between original cadastral documents taken from Kosovo\* by Serbian authorities before June 1999 and current cadastral documents compiled by the authorities.”*
59. The OSCE agrees with the assessments made by the Advisory Committee; however the data should be updated as follows: *“Some of these claims were appealed (220 cases in 2015 and 2016) of which 158 cases have been decided (129 refused, 29 granted) while the other cases are still pending before the Supreme Court of Kosovo – Appeals Panel for KPA-related matters”<sup>8</sup>.*
60. UNMIK notes that based on the Law no. 05/L-010 on Kosovo Property Comparison and Verification Agency (Agency), the Agency shall administer the properties and implement the rental scheme in Kosovo within eighteen (18) months, since the Law no. 05/L-010 enters into force. However, the necessary subsidiary legislation for the implementation of the Law was adopted only in July 2017, when the Government of Kosovo finally approved the relevant Administrative instructions. Due to this delay, the Agency has only few months till the eighteen months implementation period elapses in May 2018. This may result in violation of the rights of property owners, who will not be timely informed about the end of

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<sup>8</sup> See link: [http://www.kpaonline.org/PDFs/Raporti\\_2016.pdf](http://www.kpaonline.org/PDFs/Raporti_2016.pdf), pp. 130–131.



administration of properties by the Agency. In October 2017, the Ombudsperson Institution in Kosovo published a Recommendation Report with regards to the Law no. 05/L-010, concluding that certain provisions of the Law constitute a violation of the right to property and are contrary to the Kosovo Constitution and to European and international human rights instruments. The Ombudsperson recommended to amend and supplement the Law in accordance with its findings.

#### Paragraph 34

61. *“Despite these steps forward, the Advisory Committee is seriously concerned about the effectiveness of the enforcement of KPA adjudications. On the one hand, it notes that, as a consequence of the many complaints received on non-enforcement of solved cases, the Ombudsperson addressed recommendations to the KPA to increase efforts to execute its final decisions and to the Kosovo Police (KP) and the government to support the process, including by establishing a fund to compensate the loss of rent by the owners. On the other hand, the Advisory Committee observes that many unresolved property compensation claims, non-respected eviction orders, and non-execution of orders to demolish illegal constructions are pending before the courts, while evicted persons reoccupy properties.”*
62. The OSCE agrees in general with the assessment. However, the Advisory Committee may want to consider the following developments: in 2017, the government allocated EUR 30,000 to the Agency (the KPA’s successor institution) for the demolition of structures built on displaced persons properties. It also allocated EUR 300,000 for compensation of claims involving A and C cases<sup>9</sup> whose owners’ rights were affected due to discriminatory practices in the 1990s. Despite this positive development, the Agency has yet to take action on both sets of cases.

**Article 5 of the Framework Convention (Support to the preservation and development of national minority identities and cultures)**

#### Paragraph 38

63. *“Recognizing the importance of cultural heritage for the preservation of the identity of national minorities, the Advisory Committee appreciates that some progress has been made as regards the reconstruction of damaged K/Serbian Orthodox religious sites. The implementation of local legislation on cultural heritage has also improved. The Law on the Historic Centre of Prizren and the Law on the Village of Velika Hoca/Hoce e Madhe have been implemented as regards limited or prohibited activities within the two areas and the establishment and functioning of the two respective councils have been administratively regulated.*

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<sup>9</sup> See <http://www.osce.org/kosovo/37717?download=true>: Category A Claims: Claims by natural persons whose ownership, possession, or occupancy rights to residential property were revoked after 23 March 1989 on the basis of discriminatory legislation. Category C Claims: Claims by natural persons who were the owners, possessors, or occupancy right holders of residential real property prior to 24 March 1999, who do not enjoy possession of the property and where the property has not voluntarily been transferred.

*Both councils meet regularly to discuss and review activities in the special protective zone (SPZ). However, the Advisory Committee's interlocutors have indicated that existing legal standards are challenged by continuing illegal constructions in SPZs to which the authorities are not in a position to provide an adequate and timely response. Moreover, no other local regulations appear to have been adopted for cultural heritage placed in remote and isolated locations."*

64. The OSCE agrees that some progress has been made in the reconstruction of Serbian Orthodox Churches' (SOC) sites. Namely, Kosovo government informed that it has allocated funds for the reconstruction of SOC sites. In the frame of the projects for *Emergency Interventions Program* of the Ministry of Culture, Youth and Sports, one cultural heritage site belonging to non-Albanian community was renovated. Improvements in the implementation of cultural heritage and SPZ legislation applies only to the Velika Hoča/Hoçë e Madhe and Prizren Councils. Both Councils convene regularly and provide opinions on activities. Moreover, the municipalities of Prizren and Rahovec/Orahovac recently endorsed budgets, including financial support for both Councils.<sup>10</sup>
65. The OSCE further notes that the Advisory Cultural Heritage database is being updated,<sup>11</sup> and currently lists 404 sites (out of 1,534 cultural heritage monuments under temporary protection), under architectural, archaeological and movable heritage. As to the implementation of the Law on Historical Center of Prizren and related legislation, the OSCE notes a number of challenges that are of concerns for the SPZ. These include local spatial planning documents which fail to set clear terms of construction, and lack of institutional responses to illegal constructions and demolitions, building dilapidation, arson, etc.

### **Paragraph 39**

66. The Advisory committee states that *"There have been attempts by the government to amend Law No. 02/L-88 on Cultural Heritage and to clarify, inter alia the position of the Serbian Orthodox Church and to adopt a strategy for cultural heritage. The Advisory Committee understands that both drafts were controversial in particular because they were considered to either affect the autonomy of Serbian Orthodox Church decision making on the restoration and renovation of its buildings, or to curtail protection of its heritage. In addition, as religious communities had not been adequately consulted, the government agreed to redraft both texts in co-ordination with the international community. In addition, as religious communities had not been adequately consulted, the government agreed to redraft both texts in co-ordination with the international community. Religious representatives indicated that, despite some resistance in public opinion, overall relations between the*

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<sup>10</sup> Rahovec/Orahovac municipality allocated 25.020 EUR for the Velika Hoča/Hoce e Madhe Council whereas Prizren municipality allocated 57.000 EUR to cover the expenses of the Council for Cultural Heritage of Prizren and Council of Village of Zym. At this stage, it is still not known how the amount will be divided between Prizren and the Village of Zym Council.

<sup>11</sup> The Ministry of Culture Youth and Sports, in 2014 launched the Cultural Heritage database. The above info is provided by Mr. Valon Berisha – administrator of the database –Ministry of Culture, phone interview 05 October 2017. Link of the database: [http://dtk.rks-gov.net/arkiva/tkk\\_hyrje.aspx](http://dtk.rks-gov.net/arkiva/tkk_hyrje.aspx).

*K/Albanian majority and the Serbian Orthodox Church have improved lately both in the context of the Implementation and Monitoring Council and at municipal level. Nonetheless, after a promising start, the Advisory Committee regrets that this council appears less active than in the past.”*

#### **Paragraph 40**

67. *“Several interlocutors of the Advisory Committee considered the security situation as regards access to cultural heritage to have improved overall, thanks in particular to the Kosovo Police Religious and Cultural Heritage Unit (RCHU), established in 2013 to protect 24 Serbian Orthodox Church cultural heritage sites. This police unit, which is multi-ethnic in its composition, performed well and established good relations with the various religious communities. Regular police patrols have also contributed to improving the situation in other religious sites and hostile incidents appear rather to reflect individual circumstances than the general situation. Nonetheless, in 2015, instances of religious-based violence, interference with religious pilgrimages, thefts and vandalism of religious sites, continued According to KP's data, the number of incidents increased in 2015 (99) as compared with 2014 (88) (respectively, 38 to 42 attacks targeting Serbian Orthodox, 52 to 40 targeting Muslims, six to five targeting Catholics, and three to one targeting 'others'). The Advisory Committee considers nonetheless that statistics may not entirely reflect reality because religion and ethnicity are often closely linked and it is hard to categorise many incidents as being solely based on religious affiliation (see also Article 6). It also observes that a good balance has to be reached between the need to ensure security to religious communities and allow access to sites for those who wish to visit them since over-securitisation engenders other risks of exclusion and alienation.”*
68. The OSCE confirms that the number of Kosovo Police recorded incidents affecting cultural and religious heritage sites had increased in 2015 (99 cases reported in 2015, 87 cases were reported in 2014, and 87 cases reported in 2013). The number of affected Serbian Orthodox sites was 41 in 2014 and 38 in 2015, while the number of affected Muslim sites was 40 in 2014 and increased to 52 in 2015. Furthermore, the number of affected Catholic sites was five in 2014 and six in 2015, and other-unspecified sites increased from one in 2014 to three in 2015.

#### **Paragraph 43**

69. *“The Advisory Committee calls on the authorities to consult closely with representatives of all communities when finalizing the law and the strategy on cultural heritage, as well as to strengthen the response to illegal constructions and activities in special protected zones by addressing gaps in the legal and policy framework.”*
70. OSCE comments that the Strategy on Cultural Heritage was adopted in December 2016. Concerning the institutional response to illegal constructions, the OSCE suggests emphasizing the need to effectively implement relevant legislation on protection of communities’ cultural and religious heritage and to address gaps in the legal framework.

<b>Article 6 of the Framework Convention</b>
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**Tolerance and intercultural dialogue****Paragraph 45**

71. The Opinion states that *“Comprehensive and concrete efforts to promote interethnic dialogue and tolerance on the ground are not prioritized yet at institutional level and when put in place they remain largely driven by civil society and international donors. On the contrary, sectarianism is growing as a result of the continuing existence of parallel systems and institutions, including in the administration and in education (see Article 12), and pervasive monolingualism. These factors all represent major obstacles for interaction and intercultural dialogue between persons belonging to the majority and the K/Serb community, in particular for young people.”*
72. On a positive note, the OSCE notes that the promotion of inter-ethnic dialogue in education is included in the new Kosovo Education Strategic Plan (KESP) 2017–2021. It is however not clear whether any aspect of co-operation between the two education systems will be addressed through the implementation of the plan. In addition, the OSCE is not convinced with the statement that *“sectarianism is growing as a result of continuing existence of parallel systems and institutions, including [...] in education”*. The OSCE recommends that the Advisory Committee clarifies the statement.

**Paragraph 46**

73. The Advisory Committee observed that *“At municipal level, there have been few systematic efforts to bring communities closer. Institutional attempts mainly consisted of the participation of community representatives in local bodies mandated to ensure the protection of minorities, such as community committees (CCs), deputy mayors for communities (DCMs) and deputy chairpersons of the municipal assembly for communities (DCMACs). While DCMs and DCMACs did not appear to fulfil their task of promoting interethnic dialogue, 58 some albeit sporadic initiatives emanated mainly from local actors, including civil society in co-operation with international donors. The Municipality's representatives in Novo Brdo/Novoberde referred to a number of small-scale activities, mainly targeting youth and sport events as opportunities for children belonging to different communities to meet, organised with the Gjilan/Gnjilane, Kamenice/Kamenica, and Ranilug/Ranillug municipalities.<sup>59</sup> Representatives of local bodies and civil society were of the opinion that the promotion of interethnic relations remains nonetheless sporadic, including when aimed at easing tensions surrounding the return of internally displaced persons (IDPs) (see Article 16).”*
74. OSCE notes that the correct acronyms for deputy mayors for communities are DMCs (not DCMs). The OSCE monitoring indicates that 11 out of the 15 appointed DMCs formally raised issues of significance for the protection of community rights, which amounts to 73% of DMCs (a slight increase from 71% in the previous

reporting period).<sup>12</sup> Eleven DMCs followed up on such issues in the reporting period, which is also a slight increase compare to the nine reported cases in 2015,<sup>13</sup>

75. With regards to the following statement: *“At municipal level, there have been few systematic efforts to bring communities closer. (...) The Municipality's representatives in Novo Brdo/Novoberde referred to a number of small-scale activities, mainly targeting youth and sport events as opportunities for children belonging to different communities to meet, organised with the Gjilan/Gnjilane, Kamenice/Kamenica, and Ranilug/Ranillug municipalities.”*, the OSCE suggests that the Advisory Committee considers including that as of 2013, 19 municipalities<sup>14</sup> from Gjilan/Gnjilane, Ferizaj/Uroševac, Prishtinë/Priština and Prizren regions signed inter-municipal declarations on inter-ethnic co-operation and dialogue between the municipalities, which resulted in a number of activities mainly targeting youth. During the reporting period, municipalities have gradually increased the implementation of activities such as an inter-ethnic youth march, cleaning of graffiti and defaced road signs, multi-ethnic sports activities, art colonies and language classes. Therefore, the sentence above should indicate ‘moderate progress in systematic efforts’ instead of ‘few systematic efforts’.

## Protection from hate crime and hostility

### Paragraph 55

76. The Advisory Committee observes that *“The overall perception is that security has improved for communities, including for the majority living as a minority in the North. According to OSCE monitoring, there has been a slight decrease of incidents affecting communities (479 in 2014-15 instead of 556 in 2013-14), still addressing in majority K/Serbs (310) and returnees (22% of the 479 cases).”*
77. The OSCE suggests that the second sentence reads *“affecting mostly Kosovo Serbs”* instead of *addressing in majority Kosovo Serbs*. In addition, it is advisable that when referring to the number of incidents, data collected annually by the OSCE is used: These data show that there was a gradual decrease of incidents affecting communities with 396 recorded in 2016, compared to 446 in 2015, and 542 in 2014. However, despite the decreasing trend of all incidents each year, the number of incidents affecting returnees has a slower decreasing trend. For example, there were 102 incidents affecting returnees in 2016 compare to 120 in 2015.

<sup>12</sup>Kamenicë/Kamenica, Novo Brdo/Novobërdë, Leposavić/Leposaviq, Mitrovicë/Mitrovica South, Lipjan/Lipljan, Prizren, Klokot/Klllokot, Fushë Kosovë/Kosovo Polje, Zubin Potok, Zvečan/Zveçan and Obiliq/Obilić.

<sup>13</sup> Mitrovicë/Mitrovica South, Leposavić/Leposaviq, Zvečan/Zveçan, Prizren, Kamenicë/Kamenica, Novo Brdo/Novobërdë, Klokot/Klllokot, Lipjan/Lipljan, Fushë Kosovë/Kosovo Polje, Zubin Potok and Obiliq/Obilić.

<sup>14</sup> Declarations were signed by the mayors of Kamenicë/Kamenica, Gjilan/Gnjilane, Novobërdë/Novo Brdo, and Ranilug/Ranillug, in 2013; Klokot/Klllokot, Ferizaj/Uroševac and Štrpce/Shtërpçë in 2015; Prishtinë/Priština, Gračanica/Gračanicë, Lipjan/Lipljan, Shtime/Štimlje, Fushë Kosovë/Kosovo Polje and Obiliq/Obilić in 2016; and Prizren, Dragash/Dragaš, Suharekëe/Suwareka, Rahovec/Orahovac, Mamuşa/Mamushë/Mamuşa and Malishevë/Mališevo in 2017;

### Paragraph 56

78. *“The Advisory Committee notes however that, although mechanisms for recording interethnic incidents are in place, official numbers provided by the KP during the visit are much lower (16 reported cases in 2015 and five reported cases until November 2016).<sup>70</sup> The Advisor Committee observes that the lack of incidents recorded may be explained by several factors, including shortcomings in the recording system, under-reporting, division of the communities and mistrust in the police and judicial system by persons belonging to national minorities. Data collection and the exact identification of the motive behind potentially ethnically motivated incidents are lacking because the current crime recording methods register data disaggregated by community affiliations, but do not record bias motivation. Moreover, KP data only reflects the cases where the prosecutor has authorised an investigation.”*
79. The OSCE Mission confirms that in 2015, the KP registered 16 potentially ethnically motivated cases. Furthermore, the OSCE observes that the KP does not categorize crimes as potential hate crimes when there is a mixed motive and/or when the perpetrator is unknown. The KP continued to record data using only one of the accepted ‘protected characteristic’ namely a potentially ethnically motivated case. Other protected characteristics are considered by investigators and prosecutors but are not recorded as the bias motivators for potential hate crimes. In 2016, the KP recorded only eight such cases compared with 16 such cases in 2015.

### Paragraph 58

80. The Opinion reports that *“Among law enforcement bodies, the public has most contacts with the KP, which is also perceived as the most inclusive and trustful institution (56%) {see also Article 15}.<sup>75</sup> The Advisory Committee notes that further efforts and training to improve co-operation between the police and communities in prevention, awareness and interethnic dialogue have been put in place through the implementation of the first Community Policing Strategy and Action Plan 2012-2016. According to the OSCE monitoring report,<sup>76</sup> Municipal Community Safety Councils (MCSCs) have been established in 34 of the 38 municipalities and their performance has been improved by meeting more often and focusing on security concerns of communities, in particular returnees.<sup>77</sup> Overall participation by persons belonging to all communities, as well as by the police and other institutions in these bodies has slightly Improved.<sup>78</sup> Some 51 Local Councils for Public Safety (LCPSs) were also operative in 2015 and played an important role by convening extraordinary meetings when ethnically motivated incidents occurred and by promptly condemning them.”*
81. The OSCE concurs that the implementation of the Community Policing Strategy and Action Plan 2017-2021 is a positive step to enhancing safety and security of communities in Kosovo. Regarding the MCSC’s, the OSCE recommends the inclusion of the following sentence after the footnote 77: *“however, despite this improvement, the frequency of MCSC meetings in 2017 has significantly decreased throughout Kosovo, compared to previous years. This is potentially related to local elections and the expected change of membership”*. Additionally, the OSCE

recommends that information on the lack of representation from the Kosovo Ashkali, Kosovo Turk and Kosovo Gorani communities and women in general are included.<sup>15</sup> While there are some good examples of security issues and concerns being raised by community representatives in MCSC meetings, this is not a regular practice for most MCSCs. Similarly, discussions on incidents affecting communities in a numerical minority, and extraordinary meetings to discuss serious incidents do not occur regularly. In fact, the number of serious incidents that are unaddressed during MCSC meetings remains significantly high. The OSCE also considers that MCSCs should be established in the northern Municipalities, and build the capacity of potential future MCSCs' members in these municipalities.

82. The OSCE further adds that to date, 60 local public safety committees (LPSCs) are established, out of which 11 are in the four northern municipalities. All the members of the LPSCs are trained by the OSCE Mission, and are operational at community safety grassroots level across Kosovo. Out of 60, 27 LPSCs are ethnically mixed and 33 mono-ethnic.

### Article 8 of the Framework Convention (Freedom of religion)

#### Paragraph 62

83. The Advisory Committee notes that *“Representatives of religious and minority communities were of the opinion that expression of freedom of religion has become somewhat easier. For instance, in 2015, the Serbian Orthodox Church (SOC) Saint Vitus (Vidovdan) festivities took place without major obstacles albeit with a high level of security present. The Advisory Committee notes, however, that although stable in number, incidents of vandalism, intimidation and threats to pilgrims still occur in particular in small villages on the occasion of participation in religious events (see also Article 5). Incidents target not only SOC pilgrims and properties, but also those of Muslim, Catholic and Jewish confessions. Similarly, contentious use of property and land is only solved judicially, as in the case of the Christ the Savior Church in Prishtine/Pristina. In addition, problems may still occur with the enforcement of the decisions, as in the case of the Decan/Decani Monastery. The Advisory Committee is concerned that a lingering feeling of insecurity continues among certain communities to manifest their religious belief. It therefore appreciates in this context the government support of interfaith dialogue when such incidents occur. Since religion and ethnicity are often closely linked, efforts to promote tolerance, interethnic and interfaith dialogue should also be directed towards respecting freedom of religion.”*

<sup>15</sup> For communities with more than 50 members listed in the census, the following communities are missing MCSC members: Kosovo Serb community in Skenderaj/Srbica, Kosovo Roma community in Gjakovë/Đakovica and Rahovec/Orahovac, Kosovo Ashkali community in Gjakovë/Đakovica, Istog/Istok, Pejë/Peć, Prizren, Rahovec/Orahovac and Obiliq/Obilić, Kosovo Egyptian community in Gjakovë/Đakovica and Prizren, Kosovo Turk community in Pejë/Peć, Dragash/Dragaš, Rahovec/Orahovac and Fushë Kosovë/Kosovo Polje, Kosovo Bosniak community in Gjilan/Gnjilane and Kosovo Gorani community in Pejë/Peć, Ferizaj/Uroševac, Gjilan/Gnjilane and Prishtinë/Priština.

84. The OSCE agrees with this assessment and adds that the case of the Christ the Saviour Court case is still pending before the Appeal Court since March 2016.

**Paragraph 63**

85. *“The Advisory Committee calls on the authorities to ensure that the Law on Freedom of Religion is amended without delay, in consultation with representatives of the religious communities, in order to allow them to be registered.”*
86. UNMIK notes that on 18 October 2017, the Draft Law on Amending and Supplementing of Law on Freedom of Religion in Kosovo (hereinafter the Draft Law on Freedom of Religion) was presented at the Kosovo Assembly Committee on Human Rights, Gender Equality, Missing Persons and Petitions. According to the last text of the Draft Law, there will be six (6) existing religious communities which constitute the historical heritage, cultural and social life of Kosovo: the Kosovo Islamic Community, the Catholic Church, the Serbian Orthodox Church, the Jewish Religious Community, the Kosovo Protestant Evangelical Church and the new Tarikate Community of Kosovo. Other and new religious communities are not required to register; however, if they wish they can do so upon establishing that the community can count at least fifty (50) adult citizens of Kosovo. The current Draft Law reflects on the Venice Commission recommendations, in particular in relation to the registration of the religious groups and communities. The Draft Law falls within the scope of Article 81.1 (6) of the Kosovo Constitution (Legislation of Vital Interest for non-majority communities) and requires for its adoption a majority of votes from the representatives of non-majority communities within the Assembly.

<b>Article 9 of the Framework Convention (Access of minority communities to broadcast and print media)</b>
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**Paragraph 65**

87. *“The Advisory Committee welcomes the expansion of media broadcasting for the communities and in minorities' languages. In 2013, public broadcasting (RTK) launched a second channel, RTK2, which broadcasts 85% of programmes in Serbian and 15% in other non-Albanian languages. Furthermore, in 2014-2015, RTK1 addressed the requests of the Ashkali and Egyptian communities to broadcast in the Albanian language monthly programmes specifically dedicated to them. In addition, RTK1 continued to broadcast a weekly 45-minute Romani language programme, as well as a 15-minute daily news bulletin. However, there is still no TV programming for the K/Bosniak community. Private radio broadcasting also offers programming for K/Serbs in the North and for all the smaller communities in certain municipalities throughout Kosovo. As regards printed media, the main outlets are in the Albanian language, which is generally the case also with online news portals. Printed media is also dedicated to smaller communities, but is limited in volume. In general, private outlets are widely dependent on international donors for financial support and training. While recognising the difficulty of sustaining a diversified media sector when the number of potential audiences are minor, the Advisory Committee considers it important that support of smaller community*



*media is not only the financial responsibility of international donors, but also of the authorities.”*

88. The OSCE notes that according to the Coordinator for Minority Programmes of RTK, the public broadcaster no longer groups the Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities together and has established small newsrooms of staff members working on respectively Kosovo Ashkali and Kosovo Egyptian communities, in addition to the existing newsroom in Romani language. Furthermore, the RTK has also set up a team for the Kosovo Montenegrin community, which produces and airs one show per week.

#### **Paragraph 66**

89. *“In spite of progress, the Advisory Committee also observed some shortcomings. Media in general appear to work in parallel and serve each community separately, focusing on issues relevant only to that community. There is neither translation of the programming, nor subtitling of mainstream programmes and/or bilingual/multilingual printed media. Moreover, RTK2’s signal is not sufficient to allow national coverage and a considerable portion of media in Serbian is broadcasted directly from Serbia. In addition, ethnic bias and stereotypes in reporting, such as a single focus on certain issues present within the Roma community. Including low education performance or housing conditions, strengthens a negative image of this community while the reality is often more nuanced. Media should help to dispel negative stereotypes, for example, by making existing role models better known. Finally, when training for the promotion of interethnic dialogue in the media sector is available, it continues to be organised mainly with the support of the international community.”*

90. The OSCE comments that despite some shortcomings, the Public Service Broadcaster generally serves all the communities living in Kosovo as per its public service remit, and thus meets the media and information needs of the communities to the extent possible given the limited financial resources available. The number of printed media is declining with only five different newspapers being printed daily, each having a very limited circulation. While there are no exact figures on the online news portals reporting from and for Kosovo, it is estimated that this figure exceeds 300<sup>16</sup>, including portals in the languages of the minority communities of Kosovo. As a result of the expansion of online media and increased access to social media by all communities, access to information and mainstream programmes is significant. RTK 2 is only accessible through licensed cable operators throughout Kosovo; however the cable operators in the northern municipalities still do not offer any of RTK’s channels into their networks.

#### **Paragraph 68**

91. The Opinion states that *“Persons belonging to smaller communities are represented among the staff of public media structures, as well as in the*

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<sup>16</sup> The number 300 was mentioned by the chairpersons of the Press Council of Kosovo and Association of Journalists in Kosovo during the conference “State of online media in Kosovo” organized by OSCE Mission in Kosovo on 30 May 2017.

*independent media regulator and self-regulatory structures (Independent Media Commission (IMC) and the PCK and, from 2016, also in the Association of Journalists. Both the IMC and the PCK are in charge, inter alia of ensuring the media's adherence to ethical standards with respect to content through complaints' procedures. While the IMC has the power to fine broadcasters who breach the code of ethics, the PCK may only oblige the journalists and news organisations to publish its adjudications in a medium they deem appropriate. The Advisory Committee was informed by representatives of the two bodies that a limited number of cases concern community issues. Among the reasons advanced to explain this situation are the facts that online media and news portals are not regulated and the Code of Ethics does not yet apply to them; there is a lack of awareness of their role as defenders of ethical standards in journalism, and financial pressures affect their effectiveness, reputation and future development. As hate speech and unethical language is present online, including in social media (see Article 6), the Advisory Committee appreciates the efforts undertaken by the PCK to expand its mandate and promote adherence to the Code of Ethics. It also understands from several of its interlocutors that a more general legal framework is required for online media covering standards of reporting, content, as well as transparency of the sector."*

92. The OSCE adds that printed and online media are not subject to regulation by the audio-visual media regulator (IMC). Instead, these forms of media are self-regulatory through the Press Council of Kosovo (PCK). The latter has hosted many online news portals including one reporting in Serbian language ([www.gracanicaonline.info](http://www.gracanicaonline.info)). According to the PCK Compliant Officer, the PCK adjudicates 8 complaints per month on average, and it has provided professional opinions about breaches of the Code of Conduct in at least two complaints relating to members of non-Albanian communities<sup>17</sup>. PCK could implement an increased number of activities to expand its mandate and promote adherence to the Code of Ethics if it had the necessary financial resources. PCK has 27 members, most of them being online news portals. About 10 of them joined PCK during 2017.

#### **Article 10 of the Framework Convention (Use of minority languages in the public sphere)**

##### **Paragraph 71**

93. The Advisory Committee notes that *"Several interlocutors indicated that the language divide, which is a major factor that promotes sectarianism, persists and that monolingualism is becoming pervasive. Besides operational deficiencies {see further below}, the Advisory Committee also notes an overall lack of political commitment to further implement the legislation, for instance, by delaying the adoption of the Languages Strategy prepared by the OCL and, in general, to offer the commissioner adequate political support to implement his mandate."*
94. Please see OSCE comment under Summary (para. 6). The same applies here.

<sup>17</sup> <http://presscouncil-ks.org/opinion-i-keshillit-te-mediave-te-shkrudara-te-kosoves-ndaj-ankeses-se-vuk-mitrovicit-kunder-portalit-te-rtk-se/>  
<http://presscouncil-ks.org/opinion-i-keshillit-te-mediave-te-shkrudara-te-kosoves-ndaj-ankeses-se-budimir-niqic-kunder-portalit-te-rtk-se/>.

**Paragraph 72**

95. The Advisory Committee further notes that *“According to OCL and the OSCE, some progress with the implementation of the language legislation has been accomplished, for instance, with respect to issuing identity cards in the Turkish language upon request and introducing software allowing municipalities to issue civil registry forms in the Bosnian and Turkish languages, as well as in the Cyrillic alphabet. According to the OCL, at central level, in the Assembly of Kosovo, interpretation is available in both official languages and in Turkish, and documents are available in both official languages. At local level, 28 municipalities provide interpretation and translation for official languages in municipal assemblies and one municipality (Gračanica/Gračanice) uses the Romani language. The functioning of the OCL has improved through the launch of a website, awareness campaigns of individual language rights through TV, radio and other information activities, and language focal points have been appointed in 32 municipalities. Finally, the number of complaints rose from 12 in 2013 to 54 in 2014 with a high closure rate.”*
96. The OSCE concurs with the statement that some progress has been made at the central level given the fact that identification documents are issued in official languages. At the local level an OSCE internal assessment notes that, as of December 2016, thirty<sup>18</sup> municipalities (out of 38) provide regular interpretation during official meetings, either as a general rule or when requested. The assessment included meetings of the Communities Committee, Municipal Community Safety Councils, and in some instances the Municipal Assembly meetings.

**Article 11 of the Framework Convention (Public signs, topographical indications and official documents)**

**Paragraph 77**

97. The Advisory Committee notes that *“Notable progress has been made in the display of signs of names of municipalities, villages, streets and municipal roads in official languages, the majority of which comply with domestic obligations. Seven municipalities (in addition to the four northern municipalities) remain however non-compliant and incorrect spelling and/or damage of signs remains a widespread problem. According to OSCE monitoring, the situation varies in municipalities with regard to the use of minority languages inside and outside public buildings. In the majority of municipalities, legal provisions on language were fully respected. Nonetheless, the Advisory Committee is concerned by the*

<sup>18</sup> Prishtinë/Priština, Shtime/Štimlje, Lipjan/Lipljan, Gračanica/Gračanice, Fushë Kosovë/Kosovo Polje, Obiliq/Obilić, Gjiilan/Gnjilane, Ranilug/Ranillug, NovoBrdo/Novobërdë, Kamenicë/Kamenica, Ferizaj/Uroševac, Viti/Vitina, Štrpce/Shtërpçë, Klokot/Kllokot, Deçan/Deçane, Gjakovë/Đakovica, Klinë/Klina, Istog/Istok, Junik/Junik, Pejë/Peć, Dragash/Dragaš, Rahovec/Orahovac, Mamuša/Mamushë/Mamuša, Mitrovicë/Mitroica South, Podujevë/Podujevo, Skenderaj/Srbica, Vushtrri/Vučitrn, Leposavić/Leposaviq (upon request), Mitroica/Mitrovicë North, Zubin Potok.

*continuing cases of non-compliance with the legal framework and the damages caused to property. It considers that displaying topographical bilingual signs in minority languages is of particular symbolic value inasmuch as it portrays a society where members of minorities are welcome and respected as part of society as a whole.”*

98. The OSCE agrees with the assessment in general. The OSCE notes an improvement with regards to the display of road signs in official languages (for street and settlement names, etc.). By December 2016, according to OSCE field teams' observation, 26<sup>19</sup> municipalities were compliant with this obligation, representing a slight improvement from the previous assessment in 2015 with 24 compliant municipalities.<sup>20</sup>

#### **Paragraph 79**

99. The Opinion states that *“...authorities should take the necessary measures to comply with their obligation to display bi- and multilingual public signs in all relevant official languages. Damages to signs should be officially condemned, adequately sanctioned and should be repaired without delay.”*
100. The OSCE agrees with the statement, but suggests amending the sentence by adding: *“...to display public signs in all official languages at central and local level. [...]”*.

### **Article 12 of the Framework Convention**

#### **Equal access to education**

##### **Paragraph 81**

101. *“The Advisory Committee notes with deep concern that no progress has been made as regards the establishment of an integrated education system and that two parallel education structures operated by the authorities, in Prishtine/Pristina and Belgrade, and following different curricula, continue to exist. With the exception of K/Bosniaks and Turkish, in general, smaller communities (Roma, Ashkali and Egyptian, K/Croats, K/Montenegrins and Gorani) have no access to community-specific educational subjects to enable them to preserve their cultural identity.”*
102. The OSCE suggests that the statement *“no progress has been made as regards the establishment of [...] education system and that two parallel education structures [...] continue to exist.”* is complemented with the following: *“Communication and*

<sup>19</sup> Prishtinë/Priština, Shtime/Štimlje, Lipjan/Lipljan, Gračanica/Gračanice, Fushë Kosovë/Kosovo Polje, Obiliq/Obilić, Ranilug/Ranillug, Novo Brdo/Novobërdë, Parteš/Partesh, Kamenicë/Kamenica, Ferizaj/Uroševac, Viti/Vitina, Štrpce/Shtërpçë, Kaçanik/Kaçanik, Klokot /Kllokot, Deçan/Deçane, Gjakovë/Đakovica, Klinë/Klina, Istog/Istok, Junik/Junik, Pejë/Peć, Glogoc/Glogovac, Mitrovicë/Mitrovica, Podujevë/Podujevo, Skenderaj/Srbica, Vushtrri/Vučitrn.

<sup>20</sup> Prishtinë/Priština, Shtime/Štimlje, Lipjan/Lipljan, Gračanica/Gračanice, Fushë Kosovë/Kosovo Polje, Obiliq/Obilić, Novo Brdo/Novobërdë, Kamenicë/Kamenica, Ferizaj/Uroševac, Viti/Vitina, Štrpce/Shtërpçë, Kaçanik/Kaçanik, Klokot /Kllokot, Deçan/Deçane, Gjakovë/Đakovica, Klinë/Klina, Istog/Istok, Junik/Junik, Pejë/Peć, Glogoc/Glogovac, Mitrovicë/Mitrovica, Podujevë/Podujevo, Skenderaj/Srbica, Vushtrri/Vučitrn.

*co-operation between the two education systems in Kosovo remain very limited. Such situation further perpetuates ethnic divisions, as there is no opportunity for interaction between communities from the two systems or for intercultural learning.” In addition, the OSCE suggests adding the following: “No progress has been made with regards to the sustainable provision of the Serbian-language education in Kosovo. The legislation in Kosovo allows for the use of the Serbia-run curriculum by schools in Kosovo upon notification to the Kosovo Ministry of Education Science and Technology (MEST). However, Serbia-run educational institutions in Kosovo continue with the usage of the Serbia-run curriculum without following this legislation and therefore without any formal consent from Kosovo institutions.” As regards to the availability of community-specific educational subjects to enable them to preserve the cultural identity of the communities, the Advisory Committee’s following statement “...smaller communities [...] have no access to community specific educational subjects to enable them to preserve their cultural identity” should be amended as follows: “the Ministry of Education Science and Technology has developed the subjects of language, history and culture in the Romani language in five different municipalities where substantial proportion of the Kosovo Roma community residing”. Additionally, the OSCE recommends to name all ethnicities with the prefix ‘K/’ or ‘Kosovo’.*

#### **Paragraph 82**

103. *“The Advisory Committee was informed by the authorities that efforts were directed to increase the participation of smaller communities at all education levels with a specific focus on preschool, as well as measures targeted specifically to higher education (see further below). Inclusion of children from minority communities was among the goals of the Kosovo Education Strategic Plan 2011-2016, which was evaluated by the Ministry of Education, Science and Technology (MEST) in 2015. Although the lack of disaggregated data on ethnicity prevents drawing concrete conclusions for different education levels, the Evaluation Report underlines that overall enrolment increased, with the most challenging groups being children from smaller communities and those living in remote rural areas. The Advisory Committee understands from its interlocutors that even physical access to education continues to be a problem for persons belonging to some smaller communities, including for Gorani pupils living in remote areas.”*

104. The OSCE confirms that physical access to educational institutions is one of the challenges affecting smaller communities. However, during 2017, the situation in some schools in Dragash/Dragaš municipalities has improved. Institutions have in a number of cases taken measures such as transport arrangement in order to support communities’ education.<sup>21</sup>

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<sup>21</sup> For instance, transport for pupils to attend education in other municipalities was provided by municipalities Ranilug/Ranillug (to Kamenicë/Kamenica, for Kosovo Albanian community schoolchildren), Deçan/Deçane (to lower-secondary school in Pejë/Peć, for Kosovo Bosniak community). Transport within the municipality was for instance provided by the municipality of Klokot/Klllokot (for Kosovo Albanian community), Novo Brdo/Novobërdë (for Kosovo Albanian and Kosovo Serb communities), Gračanica/Graçanicë (for Kosovo Albanian, Kosovo Roma and Kosovo Ashkali communities), Štrpce/Shtërpçë (for Kosovo Albanian community), Istog/Istok (for Kosovo Egyptian and Kosovo Bosniak pupils), Prishtinë/Priština (for Kosovo Serb community), Pejë/Peć (for Kosovo Serb community), Rahovec/Orahovac (for Kosovo Serbs and Kosovo Roma), etc.

#### Paragraph 84

105. The Advisory Committee notes that *“Higher education opportunities in the languages of smaller communities remain limited and students belonging to these groups are often obliged to pursue their studies elsewhere. Affirmative measures {quota system, scholarships, benefits in kind} to facilitate access to higher education by persons belonging to non-Albanian communities, such as K/Turks, K/Bosniaks, Roma, Ashkali and Egyptians, have been in place for some time. As a result, participation is estimated to reach around 10% of the age group 20-24 (compared with 47% of K/Albanians). A quota system in place to ease access to higher education of persons belonging to minority communities was reportedly misused and later replaced by measures based on self-identification of applicants.”*
106. The OSCE notes that at Prizren University, study programmes in Turkish and Bosnian languages, which did not receive an accreditation from the Accreditation Agency of Kosovo, is now functioning in parallel to the accredited programmes following a temporary measure enabling programmes in community languages for five years. During this period of time, the University should reach the required number of full-term employed PhD staff for programmes in community languages.

#### Paragraph 85

107. The Opinion observes that *“Concerns about the recognition of qualifications are persisting for students wishing to move from one education system to the other and for entering the job market. The Advisory Committee welcomes the initiative launched in 2015 by the Prime Minister's Office for Community Affairs together with civil society and international donors to set up a mechanism for the recognition of diplomas released between 2001 and 2015 by the University of North Mitrovica, to allow for applying for jobs, obtaining licenses and sitting professional exams in public institutions. It also notes that some progress has been noted within the EU-facilitated dialogue as regards the recognition of qualifications issued in the Republic of Serbia.”*
108. The OSCE notes that the initial mandate of the Government Commission dealing with the verification of degrees issued by University in Mitrovica/Mitrovicë North (UMN) has been extended for additional 12 months ending in May 2018. In terms of implementation of the 2016 agreement of Brussels dialogue on the mutual recognition of qualifications issued by Prishtinë/Priština and Belgrade, both Prishtinë/Priština<sup>22</sup> and Belgrade<sup>23</sup> assess that the implementation has currently been stalled. One of the concerns is the implementing partner of this agreement, which was appointed by the EU in September 2016 to provide technical support and expertise for the recognition of institutions of higher education. The MEST

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<sup>22</sup> Report available at: [http://www.kryeministri-ks.net/repository/docs/REPORT\\_-Brussels\\_Agreements\\_Pending\\_Implementation\\_060717.pdf](http://www.kryeministri-ks.net/repository/docs/REPORT_-Brussels_Agreements_Pending_Implementation_060717.pdf).

<sup>23</sup> Report available at: <http://kim.gov.rs/doc/2.1%20Izvestaj%20april-oktobar%202016%2018102016%20eng.pdf>.

Administrative Instruction (AI) 09/2015 that regulates the procedures for recognition of diplomas makes reference to the “European Association of Universities” (EAU) as the institution that accepts and recognizes the diplomas. However, the report of the Office of Kosovo and Metohija in October 2016<sup>24</sup> on the process of the implementation of EU-facilitated agreements notes that “EAU has refused to continue its part in the process” making the implementation of the above-mentioned AI obsolete.

## **Textbooks, teacher training and intercultural education**

### **Paragraph 93**

109. *“The Advisory Committee calls on the authorities to take steps, in consultation with minority representatives, towards the development, of adequate quality teaching and learning materials in minority languages free from stereotypes or other harmful representations. Modules supporting the preservation of identity, language and culture of these communities should also be developed, as well as critical thinking in history teaching, based on the appreciation of multiple perspectives and the promotion of intercultural understanding.”*
110. The OSCE suggests the following insertion “[...] Modules supporting the preservation of identity, language and culture of *other communities in addition to those already developed for the Kosovo Turkish, Kosovo Bosniak and Kosovo Roma communities [...].*”

### **Paragraph 94**

111. The Advisory Committee *“further calls on the authorities to ensure that a sufficient number of teachers and school staff is effectively trained to accommodate diversity in the classroom and promote intercultural respect and understanding throughout the education system.”*
112. The OSCE suggests the following insertion “[...] a sufficient number of teachers and school staff *from all communities [...].*”

<p><b>Article 14 of the Framework Convention (Teaching and learning in and of minority languages)</b></p>
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### **Paragraph 95**

113. The Opinion states that *“The current parallel education systems (see Article 12) provide different first language education opportunities for members of numerically smaller communities who tend to choose either system depending mainly on their location and, to a lesser extent, on their language and/or religion. Kosovo\* institutions offer teaching in the Albanian, Turkish and Bosnian languages, and the Serbian-administered system offers education in Serbian. In some cases, minority language education is offered even if the number of pupils is less than the official requirement Educational needs of smaller communities are*

<sup>24</sup> Report available at: <http://kim.gov.rs/doc/2.1%20Izvestaj%20april-oktobar%202016%2018102016%20eng.pdf>, page 12.

*not sufficiently addressed. Finally, Roma have benefited from a pilot project, funded by the MEST and international donors, offering Romani-language classes which encompassed elements of Roma culture and history. However, representatives of these communities and the OSCE indicated that the classes were discontinued due to the lack of funds and in some cases they never started. For instance, in Ferizaj/Urosevac, classes started in 2016 with some 25-30 pupils attending, but attendance has decreased and the teacher only continues them on a voluntary basis.”*

114. The OSCE adds that there is also a lack of clarity in the legal provision pertaining to the pupils’ threshold for establishing classes in community languages. The administrative instruction<sup>25</sup> regulating this matter does not specify what should be the minimum number of pupils for opening a class, including for the classes in community languages.

#### **Paragraph 96**

115. *“The Advisory Committee regrets that education in the other official language continues to be unavailable for pupils following, either the Kosovo\* or the Serbian curricula, while some teaching of Albanian as a second language is provided to students following education in Bosnian and Turkish languages. This teaching is, however, often inadequate in terms of the number of hours, qualified teachers and learning materials. The Advisory Committee is deeply concerned that, to date, no concerted efforts seem to have been made to support the introduction of the teaching of the two official languages to non-native speakers. It noted that the situation is deadlocked, due to the lack of commitment by both parties to take the first step. It recalls that the continuing existence of two separate educational systems providing education in Albanian and Serbian, inevitably perpetuates divisions between communities and carries, as a consequence, a move towards monolingualism. In order to build a multi-ethnic and inclusive society, efforts should be concentrated on developing the learning of official and minority languages at all educational levels, including the possibility to study them at public universities. This will not only contribute to promoting a generation of teachers who have been trained within Kosovo• in the two official languages, but also of translators and interpreters (see under Article 10).”*
116. The OSCE suggest the following insertion “[...] developing the learning of *the two official languages as well as minority languages [...]*”.

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<sup>25</sup> MEST AI 22/2013 on The Maximal Number of Students per Class and the Report Teacher-Student, available here: <http://masht.rks-gov.net/uploads/2015/05/22-2013-ua.pdf>.



**Article 15 of the Framework Convention (Representation in elected bodies and civil service)**

**Paragraph 98**

117. The Advisory Committee states *"...it does not respect the gender equality quota (only five out of 25 members are women which are less than the 40% required by statute)"*.
118. The OSCE suggests that corrections should be made on the number of the female members and the number of the Consultative Council for Communities (CCC). As of August 2017, six members are female for a total of 26 members.

**Paragraph 99**

119. The Opinion notes that *"Deputy mayors for communities and deputy chairpersons of municipal assemblies for communities, have been appointed in almost all municipalities."*
120. The OSCE recommends that this paragraph is amended to: *DMCs and DCMACs have been appointed in "almost all municipalities where the post is mandatory"*. The DCMAC post was established in six<sup>26</sup> out of the seven municipalities where the post is required by the relevant legislation and the 2011 census results. Nine other municipalities have gone further than the legal requirement and established DMC posts.<sup>27</sup> The footnote should indicate that no DMC has been yet appointed in Dragash/Dragaš, due to political tensions within the communities, as it was the case during the previous reporting period.

**Paragraph 100**

121. The Advisory Committee notes that *"Representatives of national minorities expressed concern over the Law on Civil Service, which is considered unsatisfactorily implemented, in particular at local level for the smaller communities. A government report concluded that persons belonging to communities represented 7.7% of central and local level staff, with the number of K/Bosniaks, K/Serbs and K/Turkish being proportionate to census data. On the contrary, Roma, Ashkali, Egyptian and Gorani communities were under-represented with a current rate of civil service employment of approximately 1% The Advisory Committee understands from its interlocutors that these discrepancies reflect the disparity of qualifications, as well as a perceived, general lack of political will to comply with legal requirements. In the context of the EU-facilitated dialogue for the normalisation of relations between Belgrade and Prishtine/Pristina, some progress has taken place with respect to the "K/Serb security structures" whose personnel has been partially*

<sup>26</sup>Dragash/Dragaš, Fushë Kosovë/Kosovo Polje, Klokot/Kllokot, Novo Brdo/Novobërdë, Štrpce/Shtërpçë and Prizren

<sup>27</sup>Kamenicë/Kamenica, Ferizaj/Uroševac, Mamuša/Mamushë/Mamuša, Mitrovicë/Mitrovica South, Lipjan/Lipljan, Obiliq/Obilić, Leposavić/Leposaviq, Zvečan/Zveçan, and Zubin Potok. It should be noted that Kamenicë/Kamenica DMC resigned on 27 December 2016, the DMC submitted a resignation on the position due to personal reasons. Based on the resignation the mayor made a decision for the dismissal of the deputy mayor for communities that became effective from 31 December 2016.

*integrated into Kosovo's\* administrative structures both in the North and the South. Finally, in 2016, the OCA put in place an internship programme with the support of international donors facilitating the placement of 100 non-Albanian interns from the University in Mitrovice/Mitrovica North in different central and local level institutions for a six-month period."*

122. The OSCE refers to OMIK report of 2017 on representation in the civil service, which recommends the amendment of Article 11 of the Law on Civil Service to provide legal clarity or provide implementation guidance for uniform interpretation at the central level. Guidance should specify whether the threshold for employment of communities in a numerical minority applies separately to each employing institution or whether it is an overall figure to be applied to all institutions as a whole. The same guidance is needed with regards to whether representation of communities should be calculated based on the overall percentage of ten per cent for all communities in a numerical minority, or whether representation should be broken down to match each individual community's proportion in the population at the level of Kosovo. Further, legal clarity or implementation guidance are required at the municipal level to clarify whether the proportional representation of communities should apply to each community individually according to its proportion of the municipal population, or as a single overall percentage.
123. Furthermore, the OSCE suggests that attention is drawn not only towards the under-representation of numerically smaller communities in terms of the absolute percentage of posts held, but towards their disproportionate under-representation in senior posts as well.

#### **Paragraph 101**

124. The Advisory Committee notes that *"Among law enforcement agencies, the KP stands out as a multi-ethnic and gender diverse force, with 16.9% of the overall number of officers belonging to minority communities and 17% women."*
125. The OSCE comments that the KP declared diversity, gender and ethnic equality as its core values. However, data provided by the KP Human Resources show that the percentage of gender and multi-ethnic composition has slightly decreased in 2017 with 15.82%<sup>28</sup> of the overall number of officers belonging to non-Albanian communities and 14% women.<sup>29</sup> Hence, the OSCE considers that more should be done to attract representatives of non-Albanian communities and particularly women to join the service.

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<sup>28</sup> The data provided by the KP Human Resources reflects the situation as of 27 July 2017.

<sup>29</sup> As of July 2017, non-Albanian communities in the KP were represented as follows: Kosovo Serb 11.87%, Kosovo Bosniak 2.24%, Kosovo Turkish 0.70%, Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian 0.44% (Roma 0.16%, Ashkali 0.18% and Egyptian 0.10%) and other 0.57%.

## Effective participation in the decision-making process

### Paragraph 104

126. *“The Advisory Committee notes that K/Serb representatives considered their presence in the government structure insufficient for effective participation in decision making. The absence of direct communication with the majority was often mentioned as one of the reasons preventing more fruitful interactions. The CCC is the main body in charge of representing communities' interests at central level and ensuring their participation in decision making, inter alia by reviewing and commenting on legislative initiatives of relevance for communities. Views however diverged among its members concerning its role. Some members indicated that CCC recommendations are only requested in the last stage of the legislative process and, moreover, seldom taken into account by the government. The Advisory Committee also notes from other sources that there is no systematic consultation of the CCC on policy making concerning minorities, and when it occurs, it is often prompted by the international community. Moreover, the CCC does not report to international human rights mechanisms, as provided by law and by the constitution, and so far has neither engaged in consultations nor outreach activities to support the understanding of community issues.”*
127. The OSCE recommends to amend the following sentence: *“The CCC is the main body in charge of representing communities' interests at central level and ensuring their participation in decision making, inter alia by reviewing and commenting on legislative initiatives of relevance for communities”* and replace it by *“The CCC is one of the main consultative mechanisms for representation of communities' interests at central level, inter alia by reviewing and commenting on legislative initiatives’.*

<b>Article 16 of the Framework Convention (Sustainability of return)</b>
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### Paragraph 113

128. The Advisory Committee's Opinion states that *“Although there has been improvement in the general security situation and freedom of movement {there are no longer road blocks and there is free movement within Kosovo\*}, 22% of the 479 recorded security incidents affected returnees, in particular K/Serbs.”*
129. The OSCE suggests to amend the figures based on the data of 2015–2016: *“25% of the 396 recorded security incidents affected returnees, in particular Kosovo Serbs”.*

### Paragraph 115

130. The Opinion observes that *“At local level, the performance of municipalities on returns varies substantially. There has been progress with respect to the establishment of Municipal Offices for Communities and Returns (MOCRs), which are now present in all municipalities except the four in the North. However, if 90% of MOCRs have established contacts with all communities, only half actually undertake needs assessments, and fewer monitor policies relevant to communities. Moreover, municipal working groups on return, mandated to support the work of the MOCR, were established only in 24 out of the 38 municipalities and only 16 are*

*functioning. The Advisory Committee notes that some municipalities were able to allocate land for return- related projects, to fund housing projects and emergency packages. It also observes, however, that unresolved property issues (such as unresolved compensation claims (approximately 22 000), problems with evictions and re-evictions, illegal (re)-occupation, payment of property taxes, and land allocation continue to prevent IDPs from enjoying their property rights. Often, the final result is that returnees tend to cluster in ethnically homogenous locations in existing or newly planned settlements (for instance Gjilan/Gnjilane and Gracanica/Gracanice or the Sunny Valley project), thereby exacerbating the separation between communities.”*

131. The OSCE notes that although there was significant media attention on the Zvečan/Zvečan Sunny Valley Project, both in Belgrade and Prishtinë/Priština, the project did not commence until recently. In November 2017, OSCE field teams observed that limited construction had started and that no return had yet taken place to this site.

#### **Paragraph 116**

132. *“Finally; the Advisory Committee is aware that forced returns can be even more problematic since, once the initial support by international donors ends, there are no alternative long-term measures or resources to sustain the process put in place by the authorities. Interlocutors of the Advisory Committee representing the majority and minority communities in Plemetin/Plemetina (Obiliq/Obilic municipality) presented the situation of their village as an example of uncoordinated forced return policy, in particular of persons belonging to the Roma minority. The intake of families not originally from the area, helped by the support of the international community which provided funds for constructing housing and a financial assistance package, appears to have further strained scarce local resources. As additional funding for infrastructure, education and employment opportunities, or increased police patrolling, was not forthcoming, local resources were largely insufficient. However, the absence of a long term plan of reintegration after the initial resettlement and the perceived sense of being at the receiving end of higher political interest contributes to creating division rather than promoting integration among the different communities affected.”*

133. Please see OSCE comment above in para. 34, concerning forced returns.

### **Article 17 and 18 of the Framework Convention (Regional Cooperation)**

#### **Paragraph 120**

134. *“The Advisory Committee welcomes the concrete results achieved in the fields of justice, civil protection, vehicle insurance and custom duty. “*
135. UNMIK notes that on 24 October 2017, the integration of judges, prosecutors and administrative staff of Serbia-run judiciary into the Kosovo judicial system took place. 40 judges and 13 prosecutors from non-majority communities, mainly Kosovo Serbs, were sworn in before Kosovo President. On the same day,

administrative staff signed their contracts and were transferred to the Kosovo judiciary system. Although judges and prosecutors have been officially integrated into the Kosovo judicial system, it is still not known when the judicial institutions will start functioning in the north of Kosovo. The integration of judiciary is based on the Belgrade-Pristina Agreement from 2015, which stipulates that the President of the Basic Court of Mitrovicë/Mitrovica should be a K-Serb, while the Chief Prosecutor at the Basic Prosecution Office of Mitrovicë/Mitrovica should be a K-Albanian. The Basic Court will have two courthouses, one in North (criminal cases) and one in South (civil cases and minor offenses.) Additionally, a permanent division of the Court of Appeals will be seated in North.

### III. CONCLUSIONS

#### **Recommendations for immediate action**

136. The Advisory Committee recommends to *“Prioritise comprehensive and concrete efforts to promote interethnic dialogue and tolerance at central and local level in order to bridge divides between communities and promote reconciliation; build inter-community relationships through initiatives targeting In particular young people, integrating the education system and applying consistently the language legislation.”*
137. The OSCE suggests adding the implementation of KESP 2017-2021 provisions on the promotion of inter-community dialogue in education.
138. The Advisory Committee recommends to *“Enable the Ombudsperson Institution to function properly by providing it with adequate human and financial resources to carry out its mandate, including awareness raising, and by ensuring an effective follow-up to its recommendations;”*
139. Kosovo authorities state that regarding the implementation of the Ombudsperson Institution’s recommendations, out of 173 recommendations to the Kosovo institutions in 2016, 36 were implemented, 36 were not implemented, and 101 are pending implementation. In addition, Kosovo authorities state that the Ombudsperson Institution is provided with adequate human and financial resources to implement its mandate.
140. The Advisory Committee recommends to *“Prioritise the development of an integrated curriculum in the Serbian language, of adequate first education opportunities for members of numerically smaller communities, as well as of learning opportunities of official and other minority languages; develop quality teaching and learning materials in all minority languages free from stereotypes or other harmful representations, as well as modules supporting the preservation of the identity, language and culture of the communities in consultation with their representatives; enhance teacher training programmes to accommodate diversity in the classroom and promote intercultural dialogue, respect and understanding;”*
141. The OSCE suggests the following amendments: *“[...] as well as learning opportunities of the two official languages and minority languages as subjects [...]”*  
*“[...]as well as modules supporting the preservation of the identity, language and culture of other communities in addition to Kosovo Turks, Kosovo Bosniaks and Kosovo Roma for whom such modules already exist [...]”*.
142. The Advisory Committee recommends to *“Consult effectively the Consultative Council for Communities (CCC) on all issues of relevance to minority communities and ensure that municipal community specific protection mechanisms fulfil effectively their role as enabler for all minorities to participate in decision making;”*

143. The EUO/EUSR fully concurs with this recommendation.