

# PERFORMANCE AND IMPACT OF THE CONSULTATIVE COUNCIL FOR COMMUNITIES

2015-2016



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## **LIST OF ABBREVIATIONS**

<b>AoK</b>	Assembly of Kosovo
<b>CC</b>	Communities Committee
<b>CCC</b>	Consultative Council for Communities
<b>CRO</b>	Community Representative Association/Organization
<b>CRIC</b>	Committee on Rights and Interests of Communities and Returns
<b>MCR</b>	Ministry of Communities and Return
<b>OCA</b>	Office for Community Affairs
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>RTK</b>	Radio Television Kosovo

## EXECUTIVE SUMMARY

The Consultative Council for Communities is a body set up under the authority of the President, to provide a forum for regular exchange between communities and institutions. Its proper functioning is vital to ensure that the views of communities and their members in relation to legislation, public policies and programs of special importance to them are articulated and considered by institutions.

The main aim of this report is to assess the compliance of the Consultative Council for Communities with the legal framework regulating its work and key functions as well as to identify and highlight any shortcomings or obstacles that need to be overcome in order for this mechanism to be more effective in enhancing communities' participation in decision-making. It provides a brief assessment of the two fundamental roles of the Consultative Council for Communities: to provide a link between communities and Kosovo institutions; and to review draft legislation and policy before it is endorsed by the government, and ensure that the views of communities are taken into consideration. The report assesses these two aspects of the CCC's role for the period January 2015–December 2016, which covers parts of the mandates of two compositions of the CCC (August 2014 – September 2016 and September 2016 – September 2018).

The report notes that progress has been achieved on several issues during the reporting period. In particular, the report shows improvements in the participation of CCC members in regular CCC meetings, communication between the CCC members and the CCC Secretariat, as well as inter-institutional communication in particular with the Office of the President, and information-sharing among members of the CCC. However, the report also outlines some of the challenges that the CCC has been facing in the period assessed. In terms of the links between the CCC and the communities that its members represent, the findings of this research are that awareness levels among community representatives on the municipal level are generally low. These low awareness levels suggest a lack of adequate outreach by the CCC and regular consultation of communities in relation to legislation, public policy and programs of relevance to communities. In terms of assessing the link between the CCC and Kosovo institutions, issues relating to the appointment and participation of members representing institutions that have permanent membership in the CCC impact on the awareness and influence of the CCC in these institutions. The CCC met regularly in the reporting period, reviewed the majority of draft laws that it received, and sent recommendations relating to communities' rights to 18 central and municipal institutions. However, research data indicates that its impact during this time period was limited. Therefore, the OSCE calls on the CCC to conduct regular and extensive outreach and consultation activities with communities, so that awareness levels of this important central-level mechanism are enhanced and the influence of the CCC is strengthened; the CCC Secretariat to provide the necessary capacity building to CCC members, particularly in terms of undertaking the core duty of commenting on draft legislation; and the Office of the President to ensure that the budget of the CCC is adequate to undertake all mandated duties.

Moreover, the OSCE calls on institutions to fulfil their legal obligations with respect to responding to and addressing recommendations made by the CCC in a timely manner. Further, the OSCE urges institutions that have permanent membership in the CCC to appoint representatives who regularly attend CCC meetings and provide a strong link between the CCC and their respective institution. The OSCE remains committed to providing support to the CCC in tackling the

challenges it faces as well as raising the capacities of its members on the specific issues outlined in the report.<sup>1</sup>

## 1. INTRODUCTION

The Consultative Council for Communities (CCC) is a central-level mechanism that was created in 2008 (but started working in 2009) to function as a key link between communities and the Kosovo government as well as relevant institutions. It is composed primarily of members/representatives of all non-Albanian communities in Kosovo, but also includes representatives of selected central-level institutions that have a mandate to address issues of special concern for communities. As such, the OSCE Mission in Kosovo has been regularly monitoring the work of the CCC since its establishment (in particular by attending plenary sessions and working group meetings).

The main aim of this report is to assess the CCC's compliance with the legal framework regulating its work and key functions, as well as to identify and highlight any shortcomings or obstacles that need to be overcome in order for this mechanism to be more effective and to enhance communities' participation in decision-making. This report assesses the composition, performance and impact of the CCC during the period 1 January 2015 to 31 December 2016. This reporting period covers two compositions of the CCC: August 2014 - September 2016 and September 2016-September 2018.<sup>2</sup> As such, most of the reporting period (January 2015 – September 2016) assesses the previous composition of the CCC, with just the last quarter of 2016 assessing the current composition.

The assessment concentrates on the two functions that are explicitly outlined in the Constitution: i.e. firstly to provide a link between communities and Kosovo institutions (which will be assessed in this report in terms of the level of communication between the CCC and the communities it represents, as well as between the CCC and Kosovo institutions); and secondly to review draft legislation and policy before it is endorsed by the government, and ensure that the views of communities are taken into consideration<sup>3</sup>.

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<sup>1</sup> Throughout 2014 -2017, the OSCE supported the CCC with various round tables and meetings conducted jointly with central- and local-level institutions on issues such as the use of languages, participation in decision-making, legal drafting skills. In 2017, the OSCE supported the CCC in organizing two meetings on addressing the shortcomings and gaps identified in communication and co-operation between the CCC and local mechanisms for representation of communities. The recommendations from these meetings offered concrete proposals to improve referral of municipal issues to the CCC and to strengthened advocacy.

<sup>2</sup> According to Article 12.8 of the Law On the Protection and Promotion of the Rights of Communities and their Members in Kosovo, members of the CCC are appointed for a term of two years, *supra* note 10

<sup>3</sup> Article 60 of the Constitution describes the CCC's mandate as follows: "(1) provide a mechanism for regular exchange between the Communities and the Government of Kosovo; (2) afford to the Communities the opportunity to comment at an early stage on legislative or policy initiatives that may be prepared by the Government, to suggest such initiatives, and to seek to have their views incorporated in the relevant projects and programs; (3) have any other responsibilities and functions as provided in accordance with law".

## 1.1 Methodology

Data for this assessment was gained through qualitative questionnaires with current and former CCC members<sup>4</sup>, as well as representatives of the CCC Secretariat conducted in May and June 2017. The research team also interviewed nine representatives of community representative organization (CROs)<sup>5</sup> accredited at the Office of the President, and key CCC stakeholders, such as former and current CCC chairpersons, representatives of the institutions that have permanent membership in the CCC, as well as the chairperson of the Committee on Rights and Interests of Communities and Return (CRIC),<sup>6</sup> also conducted in May and June 2017.<sup>7</sup> An additional questionnaire was filled by OSCE field teams in May 2017 in all 34 municipalities where communities in a numerical minority have a representative in the communities committees (CC) with information obtained from representatives of CCs.<sup>8</sup> Each institution to which a CCC recommendation had been submitted during the reporting period was also contacted and a survey was conducted with the relevant contact at each institution in July 2017. Secondary data for the work of the CCC during the reporting period was also retrieved from analysis of the CCC's annual reports, the respective work plans and other CCC publications and reports.

## 2. LEGAL FRAMEWORK

The establishment of the Consultative Council for Communities is guaranteed by the Constitution<sup>9</sup> as well as the Law on the Protection and Promotion of the Rights of Communities and Their Members (hereafter referred to as the Law).<sup>10</sup> Additional detail on the composition, accreditation of communities' organizations that nominate members and functions of the CCC can be found in its statute.<sup>11</sup> The budget for the CCC is included under the Office of the President, and Article 26 of the Statute outlines the specific functions of the CCC that should be covered by this budget.<sup>12</sup>

<sup>4</sup> One per each community represented at the CCC as well as the chairpersons for both compositions. (August 2014 - September 2016 and September 2016- September 2018).

<sup>5</sup> To become an accredited Community Representative Organization (CRO), a non-governmental association or organization (NGO) must fulfil the requirements outlined in Article 7 of the CCC Statute (see note 11), including demonstrating that it: represents one single community (or a coalition of communities in a joint representation), is a registered NGO under applicable law, and can demonstrate a track-record of work for the benefit of the community it seeks to represent. The list of the accredited (CRO) to be interviewed was chosen in consultation with the CCC Secretariat as well as checked with the OSCE field teams. For the purpose of this report, the OSCE interviewed one CRO per community.

<sup>6</sup> The Committee on Rights and Interests of Communities and Return (CRIC) is a permanent committee in the Assembly of Kosovo. Its role is to ensure that the rights and interest of communities are adequately addressed by the Assembly, as outlined in Article 78 of the Constitution (see note 9).

<sup>7</sup> There were no accredited community representative associations/organizations representing the Kosovo Ashkali community for either the former or current compositions of the CCC. Additionally, representatives of the only two organizations representing the Kosovo Croat community were already interviewed in their capacities as CCC representatives and thus were not included in this aspect of data collection.

<sup>8</sup> Communities committees are municipal mechanisms that are mandated to ensure that the rights and interests of communities are respected through the review and provision of recommendations on municipal policies and actions. CCs are comprised primarily of representatives of communities living in the municipality. For the data collection, up to four representatives representing the largest communities in a numerical minority residing in the municipality were interviewed; two women and two men per municipality where possible. As the composition of the CCC only includes communities in a numerical minority Kosovo-wide, there are no Kosovo Albanian community representatives in the CCC. Therefore, no CC representatives from this community were interviewed, even in municipalities where they constitute a community in a numerical minority. Conversely, Kosovo Serb and Kosovo Turk CC representatives were interviewed, even in municipalities where they constitute the community in a numerical majority. As there are no non-Albanian CC representatives in Glogoc/Glogovac, Hani i Elezit/Elez Han, Junik, or Kaçanik/Kaçanik, these four municipalities were not included in the data collection.

<sup>9</sup> See Constitution, 15 June 2008, Article 60.

<sup>10</sup> Law No.03/L-047 on the Protection and Promotion of the Rights of Communities and their Members in Kosovo, Article 12, 13 March 2008, [http://www.kuvendikosoves.org/common/docs/ligjet/2008\\_03-L047\\_en.pdf](http://www.kuvendikosoves.org/common/docs/ligjet/2008_03-L047_en.pdf) (accessed 13 March 2017).

<sup>11</sup> Decree on the approval of the statute of the consultative council for communities, presidential decree No.KKK-001-2012, 18 April 2012.

<sup>12</sup> Supra note 11. Specific functions that the budget should cover, according to this Article of the Statute are: a. organization and running of council meetings; b. per diems for members; c. communication costs; d. web-site and web-site maintenance; e.

The CCC can also be assessed in terms of compliance with international frameworks with respect to the right to participation in public life, as elaborated within the Framework Convention for the Protection of National Minorities<sup>13</sup> and in particular the Advisory Committee's Thematic Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs,<sup>14</sup> and within the framework of non-discrimination and equal access to public service in the International Covenant on Civil and Political Rights<sup>15</sup>. Both international human rights instruments are directly applicable within Kosovo.<sup>16</sup>

### 3. COMPOSITION

According to the requirements specified in the Law, there should be 23 members representing communities in a numerical minority,<sup>17</sup> as well as representatives from certain central-level institutions (more detail is provided in section 4.2 below on these institutions.) The CCC does not have Kosovo Albanian community representatives. The composition of the CCC complies with these requirements for both compositions that are being assessed.<sup>18</sup> For both compositions, all of these community representatives were nominated by accredited community representative associations of the respective community,<sup>19</sup> except for representatives of the Kosovo Ashkali community as there were no accredited organizations representing this community for either composition.<sup>20</sup>

In terms of gender balance, representation of women in the CCC falls well below the requirements set out in the statute of the CCC for both compositions that are being assessed. The statute specifies that for communities that have two seats in the CCC, gender representation should be balanced and for communities that have three or five seats, neither gender should have representation lower than 40 per cent.<sup>21</sup> While gender balance improved slightly in the 2016–2018 composition, the Kosovo Ashkali, Kosovo Egyptian, Kosovo Gorani, and Kosovo Roma communities were represented entirely by men in the CCC for both compositions. The representation of women was also inadequate for the Kosovo Serb community and for the Kosovo

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materials and documentation to support the work of the CCC; f. recruiting and retaining staff; g. conducting studies and surveys; h. seeking external expert advice; i. capacity-building of the council and its members; and j. publicizing the work of the CCC.

<sup>13</sup> Council of Europe, *Framework Convention for the Protection of National Minorities*, February 1995, Article 15. <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800c10cf>, (accessed 13 March 2017).

<sup>14</sup> Advisory Committee on the Framework Convention for the Protection of National Minorities, *Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs*, 27 February 2008, ACFC/31DOC(2008)001, para. 107, 109, 110 and 117.

<sup>15</sup> United Nations, *International Covenant on Civil and Political Rights*, 23 March 1976, Articles 2 and 25. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>, (accessed 13 March 2017).

<sup>16</sup> See Constitution, 15 June 2008, Articles 22, 58.2 and 123. The International Convention on the Elimination of All Forms of Racial Discrimination and the Universal Declaration of Human Rights are also applicable. Articles 5(c) and 21(2) respectively, are of relevance to this issue.

<sup>17</sup> The Law on the Protection and Promotion of the Rights and Interest of Communities and Their Members was amended on 8 December 2011 to include the additional two communities not listed in the previous law, namely the Kosovo Croat and Kosovo Montenegrin communities. In Article 12.6 of the Law on the Protection of the Rights of Communities, *supra*, note 10. 'Two representatives for the Kosovo Ashkali, Kosovo Croat, Kosovo Egyptian, Kosovo Gorani, Kosovo Montenegrin and Kosovo Roma communities, three representatives for the Kosovo Bosniak and Kosovo Turk communities and five representatives for the Kosovo Serb community.

Accessible at: <http://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20amending%20the%20law%20on%20communities.pdf>.

<sup>18</sup> In the 2014–2016 composition a Kosovo Roma member and a Kosovo Ashkali member resigned but according to information received from the Secretariat, these members were replaced in accordance with relevant procedures.

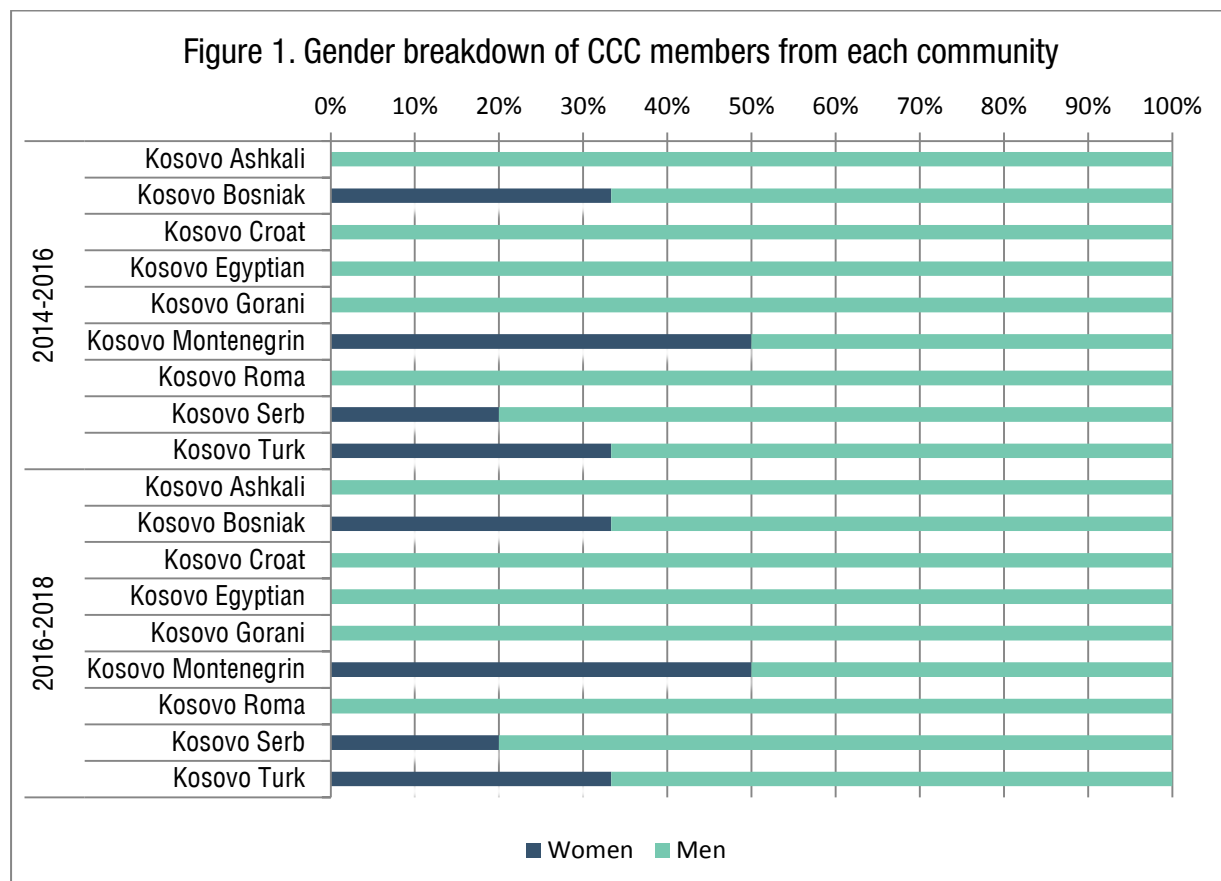
<sup>19</sup> As outlined in Article 12.7 of the Law on the Protection of the Rights of Communities, *supra* note 10.

<sup>20</sup> In this case, the representatives were independent candidates who were appointed directly by the Office of the President, as outlined in Article 12.7 of the Law on the Protection of the Rights of Communities, *supra* note 10.

<sup>21</sup> Article 6.4.1 of the Statute, *supra* note 11.



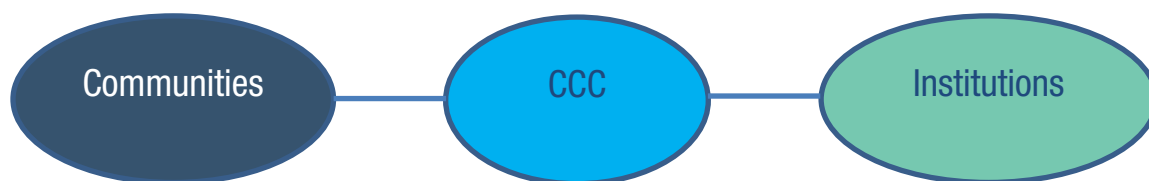
Croat community (only for the 2014–2016 composition). Overall women represented just 17 per cent of seats in the 2014–2016 composition, and 26 per cent in the 2016–2018 composition. See figure 1 below for the gender breakdown of CCC members from each community.



In addition, the CCC Secretariat as the co-ordination body responsible for ensuring the functionality and organization of CCC's daily work is composed of four staff members, including the general secretary, two legal officers and communication officer.<sup>22</sup> The Secretariat staff are all civil servants, paid from the budget of the Office of the President. According to interviews conducted with staff members, the CCC Secretariat would greatly benefit from the hiring of one or two additional staff members to better perform its duties.

<sup>22</sup> The general secretary is a woman –while the two legal officers and the communication officer are men.

## 4. PERFORMANCE AND IMPACT OF THE WORK OF THE CCC



### 4.1 Communication with communities

One of the primary roles of the CCC is to provide a channel of communication between communities and the government.<sup>23</sup> Additional detail is also given in the Law on the Protection and Promotion of the Rights of Communities and Their Members in Kosovo (Article 12), where it states that the mandate of the CCC is to “provide a forum for coordination and consultation amongst communities” (12.1b), as well as “to raise awareness of community concerns” (12.1i). It is therefore important to assess not only the relationship between the CCC and the relevant government institutions, but also the relationship between the CCC and the communities that it represents, in order for it to effectively represent the views of these communities. In this respect, outreach activities are an important element of the CCC’s work.<sup>24</sup>

In order to assess the links between the CCC and communities, OSCE field teams interviewed 97 non-Albanian representatives of communities committees (CC)<sup>25</sup> in 34 municipalities in Kosovo.<sup>26</sup> CC members were chosen as these bodies are established in every municipality in Kosovo, and additionally because, as CC members, these representatives have been proposed as candidates by members of communities in a numerical minority in the municipality.<sup>27</sup> As such, the respondents should have a good understanding of the issues facing communities in the municipality as well as established links with community members.

#### 4.1.1 Awareness levels of the CCC and its members

The data collected reveals that in general there is very low awareness of the CCC on the municipal level. The chart below (Figure 2) shows that out of the 97 CC representatives that were interviewed, only one-third (33) stated that they are aware of this mechanism. Out of this number, only 21 (which equates to 22 per cent overall) correctly identified that the CCC is a consultative body within the Office of the President. This leaves two-thirds of those interviewed with no awareness at all of the mechanism or its role.

<sup>23</sup> This point is explicitly outlined in the Constitution (Article 60.3.1).

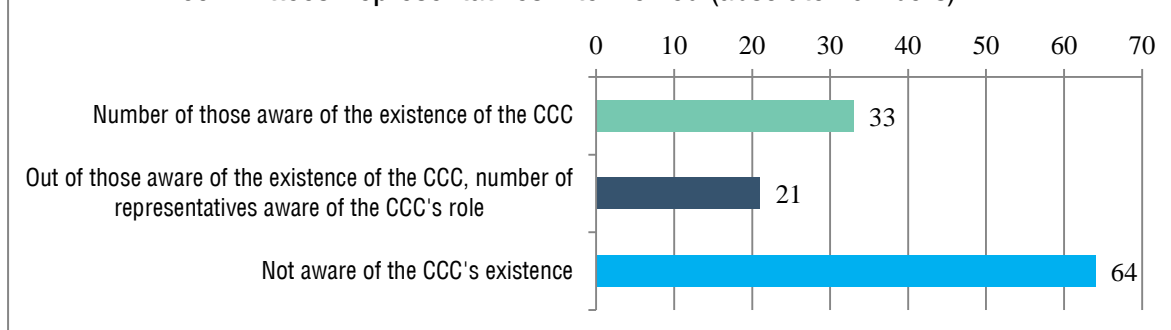
<sup>24</sup> Article 13.2.3 of the CCC Statute outlines that the CCC Secretariat should support outreach activities and promote visibility of the CCC, see *supra* note 11.

<sup>25</sup> Including 13 Kosovo Ashkali (one woman, 12 men), 12 Kosovo Bosniaks (nine women, three men), two Kosovo Croats (one woman, one man), six Kosovo Egyptians (one woman, five men), three Kosovo Gorani (three women), one Kosovo Montenegrin (woman), 24 Kosovo Roma (all men), 26 Kosovo Serbs (seven women, 19 men) and 10 Kosovo Turks (one woman, nine men) (in total, 24 women and 73 men).

<sup>26</sup> As there are no non-Albanian representatives of the communities committees in Glllogovc/Glogovac, Hani i Elezit/Elez Han, Junik, or Kaçanik/Kaçanik, these municipalities were not included in the data collection.

<sup>27</sup> Ministry for Local Government Administration Administrative Instruction No.03/2014, On the Procedure of Establishment, Composition and Competences of Standing Committees in the Municipality, Article 10.

Figure 2. Awareness levels of the CCC among 97 communities committees' representatives interviewed (absolute numbers)



### *Communities committee representatives*

When asked about whether the CC representatives were aware of the member who represents their community in the CCC, awareness levels are low. Only 12 CC representatives reported knowing their representative for the 2014–2016 composition, and 14 for the 2016–2018 composition. Reported contact levels with the mechanism in general or with individual CCC representatives specifically were even lower, with only ten respondents reporting having any contact with the CCC during the reporting period, and only one reporting being consulted by the CCC in relation to their views on any legislation, public policy and programs of relevance to communities.<sup>28</sup> Additionally, only two respondents reported being aware of outreach activities conducted by the CCC during the reporting period. According to information provided by the CCC Secretariat, outreach visits and round tables were conducted by the CCC during the reporting period<sup>29</sup> but there was a lack of continuous efforts to consult communities in order to formulate consolidated views of their members in relation to legislation, public policy and programs of relevance to communities.<sup>30</sup> Thus, the CCC should be more proactive in soliciting comments from communities' representatives on legislation, public policy and programs of relevance to communities.

### *Community representative organizations (CROs)*

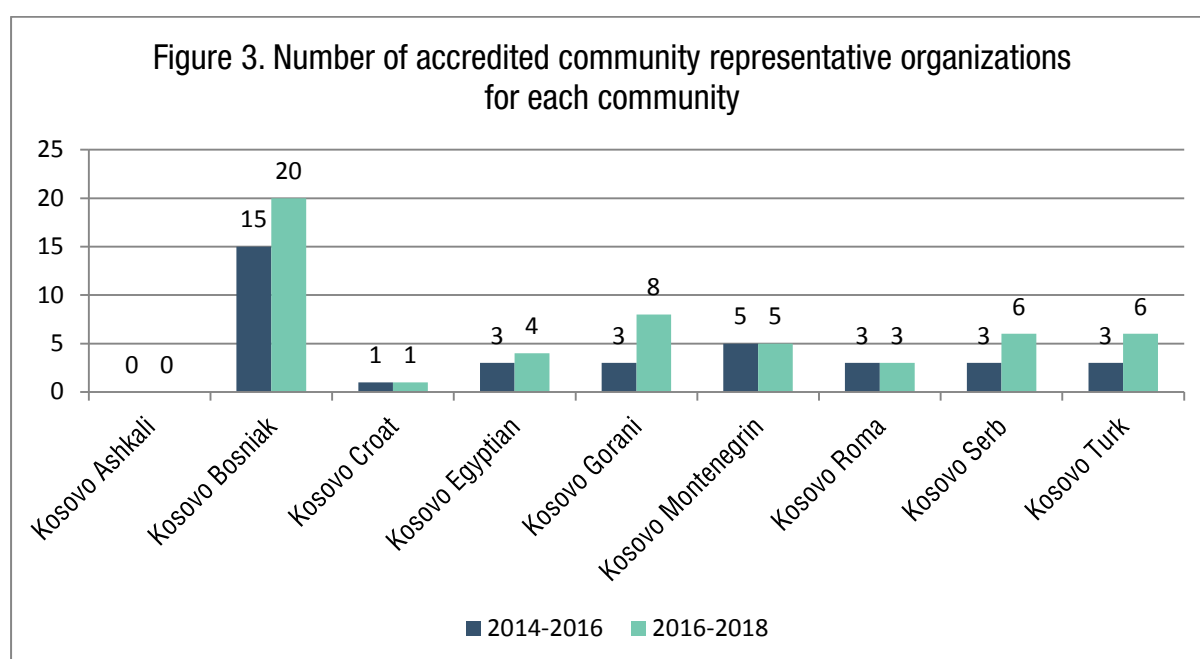
In addition to gaining data from CC representatives, the data collection for this assessment also included representatives of non-governmental community representative associations and organizations that are accredited by the Office of the President. Awareness levels of individual community representatives in the CCC were much higher for this group of respondents, with all but one respondent reporting that they knew the CCC member representing their community for both compositions that were functional in the reporting period. Contact levels with either the CCC in general or the individual community representatives were similarly high, with all but one

<sup>29</sup> According to CCC Annual Reports from 2015 and 2016, the CCC conducted outreach visits with communities' representatives and accredited organizations from individual communities in October and November 2015 and February and March 2016, as well as a round table with representatives of accredited Community Representative Organizations.

<sup>30</sup> Interview with a representative from the Secretariat of the CCC conducted on 3 May 2017. According to the respondent, the CCC made no efforts to consult communities about their views on legislation, because it was the view of the respondent that communities are primarily concerned with everyday issues, not legislation, and additionally because the CCC representatives come from the field so they should be able to adequately reflect the views of communities in any comments or recommendations regarding legislation.

respondent again reporting some level of contact in the reporting period. In terms of awareness of outreach initiatives, however, positive responses from this group were similarly low, with only one representative out of nine reporting knowledge of such activities of the CCC.<sup>31</sup> Additionally none of the CRO representatives reported being consulted by the CCC on relation to views on legislation, public policy and programs of relevance to communities.

The very low awareness levels of the CCC in general have a far-reaching impact for the functioning and effectiveness of the mechanism. As CCC members representing communities should come from accredited communities' organizations,<sup>32</sup> it follows that low awareness of the mechanism leads to low numbers of organizations seeking accreditation and being accredited.<sup>33</sup> Indeed, according to information submitted by the CCC Secretariat, the number of accredited organizations for the 2014–2016 composition was 36 and for the 2016–2018 composition, 53. See figure 3 below for the number of accredited CROs for each community.



Thus the smaller the pool of potential CCC members, the more restricted the mechanism becomes, both in terms of the members accurately representing the views of the communities that they are supposed to represent in the CCC, and in terms of having the skills and experience that are necessary to competently undertake the duties and responsibilities of being a CCC member. Additionally, the minimal representation of women from different communities impacts the inclusion of women's perspective and the identification of needs in the first place, thus there is a concern with members being able to adequately represent the respective needs of women from the various communities.

<sup>31</sup> A Kosovo Serb representative recalled a CCC meeting with Kosovo Serb community members organized in Ulpiana in Prishtinë/Priština in 2016.

<sup>32</sup> Article 5.3 of the Statute of the Consultative Council for Communities, *supra* note 11.

<sup>33</sup> Procedures for the accreditation process are outlined in the CCC Statute, *supra* note 11.

#### 4.1.2 Assessment of the work of the CCC

Views of both CC members and CRO representatives in relation to the work of the CCC, and particularly whether the CCC sufficiently represented the issues facing communities to Kosovo institutions, were mostly negative. Of the relatively small number of CC members who were aware of the CCC, five (representing 15 per cent of those who are aware of the CCC) stated that the CCC works sufficiently to represent the issues facing communities. A considerable percentage (39 per cent of those who are aware of the CCC) stated that the CCC was not working sufficiently to represent the issues of communities, while the other CC members (46 per cent of those who are aware of the CCC), conversely, assessed that the CCC was not working at all to raise relevant issues. Most of the CC members who provided further details as to the reasons for their negative assessment of the CCC (nine) stated that the CCC should do more to raise the visibility and awareness of the mechanism and share information regarding its work, thus indicating that this perception stems more from a lack of information rather than a negative assessment of the work itself. All except for one CRO representative similarly considered that the CCC's work in terms of raising the issues facing communities to Kosovo institutions was not sufficient.<sup>34</sup> Among the reasons given for this negative assessment were the lack of executive powers of the mechanism and the lack of activity of CCC members.

### 4.2 CCC as a link between communities and Kosovo institutions

#### 4.2.1 Institutions with permanent membership in the CCC

In addition to the community representatives, the composition of the CCC also includes representatives from institutions that have permanent membership in the CCC. These institutions include

- the Office of the President,
- the Office of the Prime Minister,
- the Office of the President of the Assembly of Kosovo , and
- the Ministry of Communities and Return.

These institutions should appoint a permanent senior representative and should ensure that all meetings are attended.<sup>35</sup> According to information received from the CCC Secretariat, all of these institutions appointed senior representatives as permanent representatives for attendance in CCC meetings except for the Office of the Assembly of Kosovo in the 2016–2018 composition.<sup>36</sup> Additionally, the Office of the Prime Minister appointed the head of the Office for Community Affairs (OCA) as its representative in the CCC, which was cited as being problematic by the CCC Secretariat.<sup>37</sup> The chart below (Figure 2) presents the assessments of CCC community representatives regarding the relationship between the CCC and the institutions that have permanent membership in the CCC.

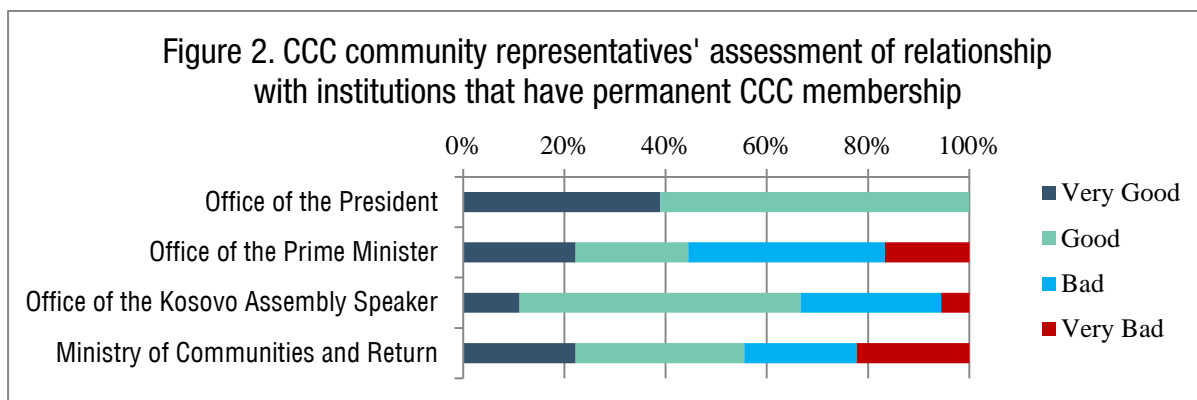
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<sup>34</sup> The CRO representative from the Kosovo Turk community gave a positive answer but did not provide any further details.

<sup>35</sup> According to Article 4.3 and 4.4 of the Statute of the CCC, *supra* note 11.

<sup>36</sup> According to the CCC Secretariat, an invitation was sent to the Office of the Assembly of Kosovo but no response was received (interview with representative of the CCC Secretariat, 3<sup>rd</sup> May 2017).

<sup>37</sup> This appointment was seen as problematic by the CCC Secretariat, as there are potential conflicts of interest between the CCC and the OCA (as the OCA has a substantial budget for giving grants to non-governmental organizations that CCC members from the accredited organizations could apply for), and with this appointment, the OCA is the only point of contact for the CCC with the Office of the Prime Minister. According to information from the CCC Secretariat, the head of the OCA does not regularly attend meetings. In terms of the competences, the OCA is also regarded as a mechanism within the Office of the Prime Minister that performs executive powers, while the CCC is a consultative body.



According to community representatives in the CCC from both the 2014–2016 and 2016–2018 compositions,<sup>38</sup> of those institutions that have permanent membership in the CCC, the most positive relationship is with the Office of the President. Indeed all members who were interviewed assessed this relationship, (in terms of information sharing, responding to requests for information, responding to CCC recommendations, etc.), in positive terms. More than half of those interviewed also regard the relationship with the Office of the Kosovo Assembly Speaker in positive terms. Assessments of the CCC's relationship with the Office of the Prime Minister and the Ministry of Communities and Return were not so positive. Indeed more than half of the CCC members interviewed regarded the relationship between these institutions and the CCC as being either 'bad' or 'very bad'. Regarding the relationship between the CCC and the OPM, the most commonly cited reason that respondents gave for their dissatisfaction was that the appointed representative of the OPM did not attend CCC meetings.<sup>39</sup> CCC members who negatively assessed the relationship between the CCC and the MOCR raised the issue of the MOCR representative not participating in meetings.<sup>40</sup>

#### 4.2.2 How institutions respond to CCC recommendations

In order to further assess the functioning of the CCC as a link between communities and Kosovo institutions, the data collection for this report also included information about recommendations that the CCC made to different institutions, and tracked any responses and outcomes.<sup>41</sup> According to the CCC Statute, any institution that receives a recommendation from the CCC is obliged to respond to the CCC on any planned and undertaken action in response to the recommendation, or the reasons for failing to take action, within one month of receiving the recommendation.<sup>42</sup> During the reporting period, the CCC submitted six recommendations to 18 separate central and municipal-level institutions (see Annex 1 for details of each recommendation). These recommendations covered issues relating to:

- the issuing of civil status documents;
- employment of communities in a numerical minority in the civil service;
- language rights, equal access and representation on Radio Television Kosovo;

<sup>38</sup> Data not available for Kosovo Montenegrin members for 2014-2016 composition and Kosovo Croat member for 2016-2018 composition.

<sup>39</sup> Cited by the Kosovo Ashkali, Kosovo Roma and Kosovo Serb representatives from the 2014-2016 composition and the MOCR representative, Kosovo Roma and Kosovo Serb representatives from the 2016-2018 composition.

<sup>40</sup> Cited by representative of the CCC Secretariat, the Kosovo Ashkali, Kosovo Bosniak, Kosovo Egyptian and Kosovo Roma representative from the 2014-2016 composition and the Kosovo Ashkali representative from the 2016-2018 composition.

<sup>41</sup> This aspect of the CCC mandate is explicitly covered in the Law on the Protection of the Rights of Communities, Article 12.12, *supra* note 10.

<sup>42</sup> Article 24.2 of the CCC Statute, *supra* note 11.

- and access to education.

Out of these six recommendations the CCC only received responses from two institutions<sup>43</sup> regarding one of the recommendations. Additionally, positive developments were noted in relation to four of the recommendations. While it is positive that improvements were seen in relation to most of the concerns raised by the CCC, the fact that a direct response to the recommendation was received in relation to only one of the recommendations<sup>44</sup> means that it is not possible for the CCC to know whether improvements were made as the result of its recommendation or not. Moreover, the lack of responses to CCC recommendations indicates that there is room for improvement in terms of increasing communication between the CCC and institutions.

In order to assess the relationship between the CCC and the institutions that the recommendations were sent to, the data collection for this assessment included approaching the relevant contact at each institution. Out of the 18 institutions that the CCC sent recommendations to, the OSCE was unable to get information from six,<sup>45</sup> while for the remaining 12 institutions,<sup>46</sup> the responses were mixed. Representatives of five of the institutions that were contacted indicated that they were not aware of the institution having received the CCC recommendation.<sup>47</sup> For those six that acknowledged receipt of the recommendation, all reported that positive actions were undertaken to address the CCC's concerns.<sup>48</sup>

### 4.3 Commenting on legislative and policy initiatives

In addition to providing a mechanism for regular exchange between the communities and the government, the other primary role of the CCC is to give communities the opportunity to comment at an early stage on legislative or policy initiatives that may be prepared by the government.<sup>49</sup> At the beginning of each calendar year, when the legislative agenda is received by the CCC, it is distributed to all CCC members, who are asked to indicate which planned draft laws and strategies they would like to review. Once the draft is received by the CCC, any comments should be submitted within 15 days,<sup>50</sup> and a reasoned response should be received from the relevant institution within one month.<sup>51</sup> In order to assist in this aspect of the CCC's work, the CCC Secretariat should provide legal advice, as outlined in the CCC Statute.<sup>52</sup> According to the head of the working group on legislation, there is no problem with the CCC receiving draft laws and strategies for review in a timely manner.<sup>53</sup> Figure 3 below outlines the numbers of laws and

<sup>43</sup> The CC received a response from the Radio Television Kosovo and Civil Registration Agency.

<sup>44</sup> The recommendations submitted to the Civil Registration Agency were taken on board by the latter institution and gaps found on the documents pertaining to civil documents were fixed.

<sup>45</sup> The OSCE was unable to get information from the following institutions: Ministry of Justice, Ministry of Finance, Ministry of Foreign Affairs, Ministry of Education, Science and Technology (two recommendations for MEST), and the municipality of Mitrovicë/Mitrovica South.

<sup>46</sup> Responses received from: Civil Registration Agency, Ministries of European Integration, Economic Development, Health, and Trade & Industry, municipalities of Prishtinë/Priština, Prizren, Pejë/Peć, Gjiļan/Gnjilane and Vushtrri/Vučitrn, Radio Television Kosovo and the University of Prishtinë/Priština.

<sup>47</sup> The following institutions reported not receiving the CCC recommendation: Ministry of European Integration, Ministry of Health, Ministry of Trade and Industry, and the municipalities of Gjiļan/Gnjilane and Vushtrri/Vučitrn, and the University of Prishtinë/Priština.

<sup>48</sup> The following institutions reported undertaking actions in response to the CCC recommendation: Civil Registration Agency, Ministry of Economic Development, municipalities of Prishtinë/Priština, Prizren, and Pejë/Peć and Radio Television Kosovo.

<sup>49</sup> See Constitution, Article 60.3.2, *supra* note 9.

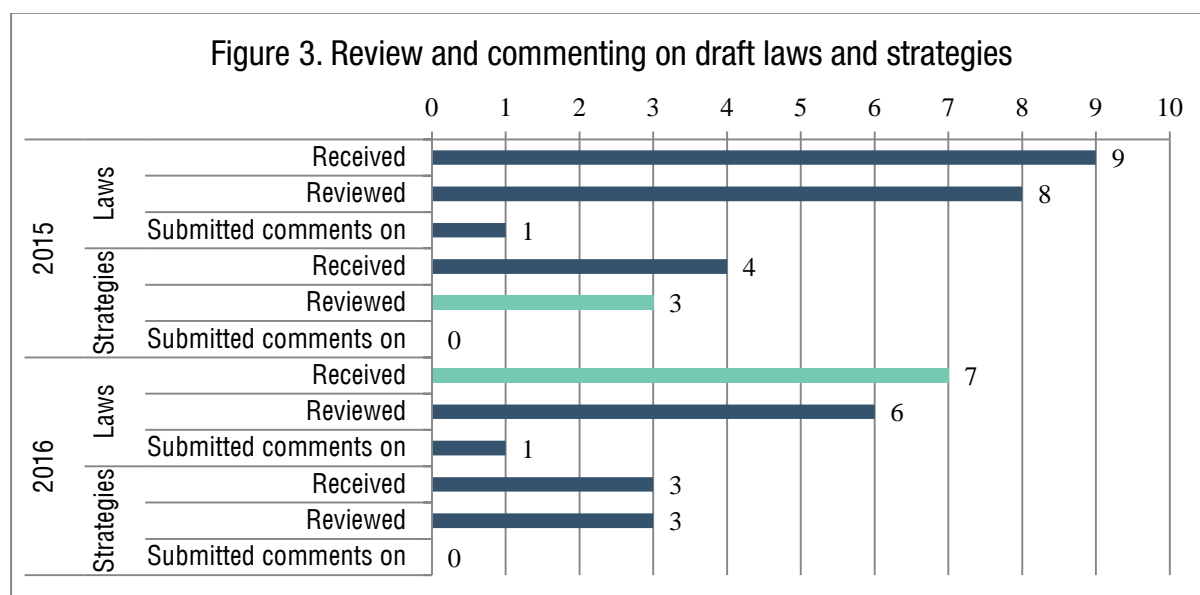
<sup>50</sup> According to Regulation No.09/11 on rules of procedure of the government, 12 September 2011, [http://www.kryeministri-ks.net/repository/docs/Rregullore\\_e\\_punes\\_se\\_Qeverise\\_09.2011\\_\(anglisht\).pdf](http://www.kryeministri-ks.net/repository/docs/Rregullore_e_punes_se_Qeverise_09.2011_(anglisht).pdf)

<sup>51</sup> According to Article 12.12 of Law No.03/L-047 On the Protection and Promotion of the Rights of Communities and their Members in Kosovo, *supra* note 10.

<sup>52</sup> Article 13.2.6 of CCC Statute, *supra* note 11.

<sup>53</sup> Interview with Zijush Ahmeti, Senior Legal Officer, CCC Secretariat, 2<sup>nd</sup> June 2017.

strategies that the CCC received (out of those it planned to review),<sup>54</sup> reviewed and commented on in 2015 and 2016.



The charts show that the CCC reviewed almost all of the draft laws and strategies that it received in the reporting period. For 2015, one law and one strategy were received but not reviewed by the CCC.<sup>55</sup> For 2016 one law was received but not reviewed.<sup>56</sup> According to information received from the CCC Secretariat, the main reason for the failure to review these laws and strategies was that the CCC was not able to review them in the very tight deadline required (15 days) of the draft laws and strategies that were reviewed, however, the CCC only submitted comments on two documents during the two-year reporting period. In 2015 the CCC submitted proposed amendments to the draft Law on Social Housing that included provisions for communities in a numerical minority and displaced persons. These comments were not incorporated by the Ministry of Environment and Spatial Planning and the CCC did not receive any information from the Ministry as to why the comments were not incorporated. In 2016 the CCC similarly submitted proposed amendments to the draft Law on amending and supplementing the Law No. 2004/37 on Inspection of Education in Kosovo that included safeguards for representation of communities in a numerical minority, and received a response from the Ministry of Education, Science and Technology that the proposed inclusion was already covered by the Law on Civil Service. While there is no legal provision stipulating how many laws and strategies should be assessed and commented on by the CCC, the commenting of only two laws in the two-year period assessed, with no successful incorporation of the comments on either law, suggests that the impact of the CCC in this primary role has been very limited during the reporting period.

<sup>54</sup> There are often discrepancies between the legislative agenda and what was actually distributed for review, due to delays in the drafting. For example, in 2015 the CCC planned to review 18 laws but only nine of these were distributed for review, and in 2016 the number was 30, compared with seven distributed.

<sup>55</sup> Draft Law on Electronic Identity Cards, and draft Strategy on Local Self Government 2016–2026.

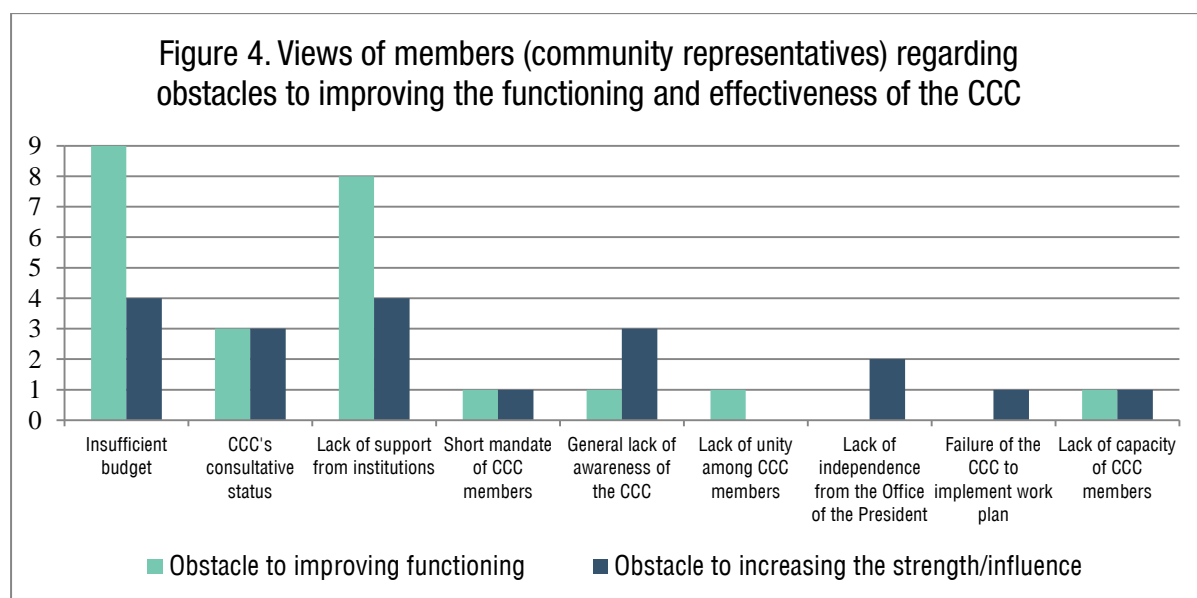
<sup>56</sup> Draft Law on the Academy of Justice.



## 4.4 Obstacles to improving the functioning, strength and influence of the CCC

### 4.4.1 Views of communities' representatives in the CCC

Assessments of CCC members<sup>57</sup> themselves of the work of the CCC are largely positive. Seventeen out of 18 of the members who were interviewed assessed that communications between the CCC and communities during the reporting period to be either 'very good' or 'good'.<sup>58</sup> Similarly, 11 out of 18 CCC members assessed that consultations between CCC members and communities was sufficient in the reporting period.<sup>59</sup> In terms of awareness-raising and outreach activities that were conducted by the CCC during this time, ten of the members interviewed assessed these efforts to be adequate, and eight viewed them as inadequate. The overwhelming majority of CCC members who were interviewed responded that in their opinion, the CCC sufficiently represented the issues facing communities to Kosovo institutions.<sup>60</sup> These positive assessments contrast sharply to those given by both municipal CC members and representatives of non-governmental community representative associations and organizations. Figure 4 below outlines the obstacles cited by CCC members to improving the functioning, as well as to increasing the strength and influence of the CCC.



When asked an open-ended question about the obstacles facing the CCC, the most commonly-cited issues by CCC members were that the budget for the CCC was insufficient<sup>61</sup> and that the CCC did not enjoy a high degree of support from institutions (nine out of 18 CCC members mentioned each of these issues as being obstacles to improving the functioning of the CCC). The CCC currently has no budget allocation for the CROs. The CCC Secretariat sent a request to the

<sup>57</sup> Data not available for Kosovo Montenegrin members for 2014-2016 composition and Kosovo Croat member for 2016-2018 composition.

<sup>58</sup> Respondents assessing communication as being 'very good' seven, 'good' ten, 'bad' one, 'very bad' zero.

<sup>59</sup> Respondents assessing consultations between CCC members and communities as being 'sufficient' 11, 'not sufficient' six, 'not at all' one.

<sup>60</sup> Respondents assessing the CCC's representation of issues facing communities to Kosovo institutions as being 'sufficient': twelve, 'not sufficient' four.

<sup>61</sup> According to the Kosovo budget, the total budget for the CCC was 87,036 Euros in 2015 and 84,341 Euros in 2016, (2015 - <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=10606>, 2016 - <https://gzk.rks-gov.net/ActDetail.aspx?ActID=11324>, accessed 20 September 2017).

Ministry of Finance and the Office of the Prime Minister, as well as the Assembly's Committee for Budget mentioning the issue but received no response yet.<sup>62</sup>

The CCC's status as a consultative body with no executive powers was also mentioned as an obstacle to improving the functioning of the mechanism. When asked how CCC members assess the strength and influence of the CCC in terms of ensuring that issues concerning communities were taken into account by Kosovo institutions, most of those members interviewed gave a negative response; indicating that in their view the strength and influence of the CCC is either weak or very weak.<sup>63</sup> The most commonly-cited obstacles were a lack of support from Kosovo institutions (including the failure of institutions to take CCC recommendations into consideration), followed by a general lack of awareness of the mechanism both within Kosovo institutions and in the wider community.

#### 4.4.2 Views of permanent members representing institutions in the CCC

Assessments of the work of the CCC by representatives of the four institutions with permanent membership in the CCC were more critical. When asked an open-ended question on the obstacles to improving the functioning and influence of the mechanisms, while the strength and influence of the CCC was mostly assessed as being strong from a legal framework perspective,<sup>64</sup> representatives from these institutions focused more on the community representatives themselves. Specifically, respondents mentioned that the capacity, commitment of members was not sufficient to undertake their mandated duties, and that political affiliations of members can also interfere in their work.<sup>65</sup> Some of the same concerns that were raised by community representatives were additionally mentioned by these representatives, including the short mandate of CCC members,<sup>66</sup> the CCC's consultative status<sup>67</sup> as well as the lack of support from institutions.<sup>68</sup> Nevertheless, the majority of the members elected in the CCC have undertaken a two-term mandate, thus serving in the CCC for four years.<sup>69</sup> Assessments regarding the adequacy of the communication between the CCC and communities, and the consultation of communities by CCC members were more positive: three of the four respondents assessed these communication levels to be either 'good' or 'very good'.<sup>70</sup>

## 5. CONCLUSIONS

In terms of the links between the CCC and the communities that members represent, the findings of this research are that awareness levels among community representatives on the municipal level are generally low. These low awareness levels suggest an absence of adequate outreach by the CCC and of regular consultation of communities in relation to legislation, public policy and programs of relevance to communities. The general consensus from interviews that were

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<sup>62</sup> The CCC has also received additional funds from the Norwegian Embassy for projects related to communities' and outreach activities undertaken by its members. For 2017 there is a budget allocation for the CCC secretariat (€43,000) for salaries, plus €43,000 for the functioning of the CCC itself, of which, 50 percent goes to per diems for members.

<sup>63</sup> Respondents assessing the CCC's strength/influence in terms of ensuring that issues concerning communities were taken into account by Kosovo institutions as being 'very strong' none, 'strong' six, 'weak' nine, 'very weak' three.

<sup>64</sup> Representative of the Office of the President, representative from the Office of Legal Affairs of the Prime Minister, representative of the Office of the Prime Minister, representative of MCR.

<sup>65</sup> Representative of Office of the President, representative from the Office of Legal Affairs of the Prime Minister.

<sup>66</sup> Representative of CRIC.

<sup>67</sup> Representative of MCR.

<sup>68</sup> Representative of MCR, representative of the Office of the Prime Minister, representative of Legal Office of the Prime Minister.

<sup>69</sup> Interview with the representatives of the CCC Secretariat;

<sup>70</sup> 'Very good' representative of the Office of the President, representative of the Office of the Prime Minister, good: representative of MCR.

conducted is that the budget of the CCC is not adequate to conduct such outreach activities or consultations. The implications of this shortcoming are manifold. Without regular consultations, the CCC cannot have an adequate sense of the issues facing communities that should be addressed by this mechanism. If communities are not aware of this mechanism, then instances of issues being raised by community members to their CCC representatives are less frequent, and subsequently fewer issues are raised by the CCC to Kosovo's institutions. The lack of exchange contributes to lessening the impact of the mechanism as a whole. The CCC should thus do more to obtain comments from communities' representatives on legislation, public policy and programs of relevance to communities. On a more fundamental level, lack of awareness of the CCC means that the list of accredited organizations that can nominate CCC members is not comprehensive. Fewer choices for members lessens the possibility of the CCC being composed of community representatives that adequately represent their community and who have the capacity to undertake the duties that are required to fully realise the potential of this mechanism. The poor gender balance additionally means that the probability of issues facing women being adequately discussed and addressed by the CCC is decreased.

In terms of assessing the link between the CCC and Kosovo institutions, issues relating to the appointment and participation of members representing institutions that have permanent membership in the CCC weaken the influence of the CCC in these institutions. Moreover, the relatively low response rate by institutions that have received a recommendation by the CCC indicates that there is room for improvement in the co-operation between the CCC and institutions.

In terms of the CCC's role in commenting at an early stage on draft legislation, a positive finding of this report is that the CCC did review most of the draft laws and strategies that it planned to review. However, the very low number of comments submitted indicates that the impact of the CCC in this regard is limited. In light of these conclusions, it appears that the capacities of the CCC need to be strengthened. The OSCE remains committed to providing support to the CCC in tackling the challenges it faces as well as raising the capacities of its members on the specific issues outlined in the report.

## **6. RECOMMENDATIONS**

### **To the Office of the President**

- Ensure that the CCC's annual budget is sufficient to ensure its effective functioning for every point that is listed in Article 26.3 of the Statute of the CCC (not just the minimum costs associated with the functioning of the Secretariat and meetings).

### **To institutions that receive a recommendation or comments to draft legislation from the CCC**

- Ensure that the CCC receives a reasoned response within one month, including planned and undertaken actions in response to the recommendation, or ground for failing to take action, as outlined in Article 24 of the Statute of the CCC, Article 12(12) of the Law on Communities, and Article 70 of the Rules of Procedure of the Government.

### **To the CCC Secretariat**

- Liaise with specific institutions that have been sent a recommendation or comments to draft legislation, to ensure that the CCC receives a reasoned response, as outlined in Article 24 of the Statute of the CCC;
- Ensure that draft legislation is distributed to all CCC members in a timely manner, to enable adequate review and drafting of comments;
- Ensure adequate implementation of the accreditation and nomination procedures (as outlined in Article 13.2.3 of the Statute), including measures to publicly promote and distribute information about the accreditation process for registering non-governmental associations and organizations of communities, with the aim of boosting the number of accredited organizations and associations and therefore increasing the representation of communities, specifically encouraging women;
- Support the CCC's capacity to comment on draft legislation (as outlined in Article 13.2.6 of the Statute), by organizing capacity-building for new CCC members, including on how to comment on draft legislation, including a component on gender sensitive legislation in order to increase the capacity for both men and women to be able to integrate a gender perspective into the process;
- Support outreach activities and promote visibility of the CCC, as outlined in Article 13.2.5 of the Statute.

#### **To members of the CCC**

- Undertake regular outreach and awareness-raising activities in municipalities where significant numbers of members of communities in a numerical minority live, on the role and responsibilities of the CCC, also ensuring that such activities target both men and women and that gender considerations are a significant component of the initial planning;
- Ensure that comments to draft legislation are made and submitted in a timely manner.

#### **To institutions that have a permanent seat in the CCC**

- Appoint a permanent representative of the institution to the CCC;
- Ensure regular attendance and participation in CCC meetings.

## Annex 1. Recommendations sent to institutions

Issue/Law	Institution/s that recommendation was sent to	Response from institution/s	CCC assessment of outcome	Was recommendation taken into consideration by institution/s?	Action taken by institution/s
Issuing of civil status documents/ language rights (no forms for issuing documents in Turkish and Bosnian in municipalities where the language is an official language at the local level).	Civil Registration Agency	X	The Civil Registration Agency undertook the appropriate actions and during 2015 provided a solution to the issue addressed by the Council's recommendation.	✓	The Civil Registration Agency (CRA) convened a working group on 5 June 2015, were all the forms and documents pertaining to civil registration were analysed. The gaps found were fixed and modified in the computer system that issues all forms of identification cards, in accordance with the recommendations of the CCC.
Employment of non-majority communities' members in civil service/implementation of Law on Civil Service (regulating representation of communities in a numerical minority in central-level civil service).	Ministry of European Integration	X	No improvement was made in any of the ministries	X	No action taken.
	Ministry of Justice	X		<i>Awaiting info</i>	<i>Awaiting info</i>
	Ministry of Economic Development	X		✓	The ministry hired 18 participants from non-majority communities in 2016.
	Ministry of Finance	✓		<i>Awaiting info</i>	<i>Awaiting info</i>
	Ministry of Foreign Affairs	X		<i>Awaiting info</i>	<i>Awaiting info</i>
	Ministry of Health	X		X	No action taken.
	Ministry of Trade and Industry	✓		X	No action taken.
Implementation of the Law on the Use of Languages on the municipal level.	Municipality of Prishtinë/Priština	X	According to information from CCC members, after the submission of the recommendations, the relevant municipalities made improvements, but not enough.	✓	The municipality restructured the translation unit and the municipality gave clear guidelines on how the office needs to implement the law on languages to in order to ensure permanent use of the Serbian and Turkish languages. Actions taken by the municipality were the following: Translation of all the municipal documents into Serbian language, including the mayor's decisions, which were not translated in the past. Additionally, simultaneous translation was improved and there is regular translation of the municipal website.
	Municipality of Prizren	X		✓	The mayor's protocol office indicated that they did not respond in writing to the recommendation received from CCC since they already undertook appropriate measures and actions, in order to ensure the permanent use of the Turkish and Bosnian languages.

Implementation of the Law on the Use of Languages on the municipal level.	Municipality of Pejë/Peć	X		✓	One translator was hired and the official documents of the municipality were translated. Most of the documents were published in the municipal website. Translation was provided during all the official meetings of the municipality.
	Municipality of Mitrovicë/Mitrovica South	X		<i>Awaiting info</i>	<i>Awaiting info</i>
	Municipality of Gjiilan/Gnjilane	X		X	No action taken
	Municipality of Vushtrri/Vučitrn	X		X	No action taken
Review of media space in RTK for the Kosovo Gorani and Kosovo Croatian communities.	Board & Director of RTK	X	Director of RTK issued decision on broadcasting a program for Gorani community, and has trained two-member staff, but the program broadcasting has not yet commenced. Regarding the Croatian community, no noticeable action has been taken.	✓	Recommendations have been implemented especially with regard to the Kosovo Gorani community, while for the Kosovo Croat community the process is ongoing.
Use of textbooks for Turkish and Bosnian community students.	Ministry of Education, Science and Technology	X	Despite MEST undertaking actions to supply pupils with school textbooks, several school textbooks for students of these communities are still lacking.	<i>Awaiting info</i>	<i>Awaiting info</i>
Quotas for enrolment of students from non-majority communities at the University of Prishtinë/Priština.	Rector of the University of Prishtinë/Priština	X	MEST issued an Administrative Instruction for application of affirmative measures.	X	No action taken
	Minister of Education, Science and Technology			<i>Awaiting info</i>	<i>Awaiting info</i>



PERFORMANCE  
AND IMPACT OF THE  
**CONSULTATIVE  
COUNCIL FOR  
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2015-2016