



**Organization for Security and Co-operation in Europe
MISSION IN KOSOVO**

**Representation of Communities in the Civil Service in
Kosovo**

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LIST OF ABBREVIATIONS

| | |
|---|-------------------|
| Kosovo Institute of Public Administration | KIPA |
| Law on Civil Service of Kosovo | Civil Service Law |
| Law on Local Government Finance | LLGF |
| Ministry of Public Administration | MPA |
| Ministry of Agriculture, Forestry and Rural Development | MAFRD |
| Ministry for Communities and Returns | MCR |
| Ministry of Culture, Youth and Sport | MCYS |
| Ministry for Economic Development | MED |
| Ministry of Education, Science and Technology | MEST |
| Ministry of Environment and Spatial Planning | MESP |
| Ministry of Finance | MoF |
| Ministry of Health | MoH |
| Ministry of Infrastructure | MoI |
| Ministry of Internal Affairs | MIA |
| Ministry of Justice | MoJ |
| Ministry of Local Government Administration | MLGA |
| Ministry of Trade and Industry | MTI |
| Organization for Security and Co-operation in Europe | |
| Mission in Kosovo | OSCE |

EXECUTIVE SUMMARY*

Members of communities continue to be under-represented in the civil service in Kosovo despite the passage of the 2010 Civil Service Law and its implementing regulations. One such regulation mandates that a minimum of 10 per cent of the workforce must be represented by members of communities at the central level, and that local-level representation must be proportionate to the demographic composition of each municipality.

At the central level, communities occupy approximately 8 per cent of civil service positions. Kosovo Ashkali, Kosovo Egyptians, Kosovo Gorani and Kosovo Roma were proportionally under-represented, while Kosovo Bosniaks, Kosovo Serbs and Kosovo Turks were proportionally over-represented. The distribution of communities' levels of representation was also highly uneven across different institutions, with the result that in many institutions communities' representation was well below their proportional share of the population.

At the municipal level, Kosovo Albanians, Kosovo Bosniaks and Kosovo Serbs were generally represented proportionally or over-represented in those municipalities where they constituted a numerical minority, while Kosovo Turks and Kosovo Gorani were under-represented. Of particular concern was the persistent and disproportionate under-representation of Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities at all levels of the civil service.

The legal framework also requires that employing institutions implement a range of positive action measures aimed at enhancing the recruitment and promotion of members of communities. These include outreach activities to under-represented communities, as well as targeted recruitment and training programmes. However not one of the assessed institutions, at either the municipal or the central level, was in full compliance with their obligations in this respect.

The OSCE calls on employing institutions at both the central and municipal levels to guarantee the fair and proportional representation of communities in the civil service, including through the allocation of adequate budgetary resources for effective implementation of positive action measures. Particular efforts should be made to increase representation of members of the Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities.

* This report is published in conjunction with a comprehensive overview of the current status of implementation of the Law on Civil Service in Kosovo, entitled *The Implementation of Civil Service Legislation in Kosovo* (February 2013), <http://www.osce.org/kosovo/99606>.

1. INTRODUCTION

The series of OSCE *Communities Rights Assessment Reports*¹ drew attention to the persistent problem of under-representation of communities at all levels of the civil service². They highlighted the general absence of communities' members in senior positions, as well as the widespread lack of accurate, disaggregated data on civil service employees and applicants.

The purpose of this report is to assess the current status of communities' representation in the civil service, and to provide relevant institutions with evidence-based research for the further development and implementation of policies aimed at enhancing communities' access to public-sector employment. The report analyses statistical data against the legal requirements to determine whether representation is adequate at both the central and municipal levels. It then assesses the extent to which employing institutions are in compliance with their obligations to enhance representation of communities in the civil service through positive action measures.

The data cover 29 municipalities³ and 15 central-level institutions⁴, and were collected during two rounds of interviews with relevant municipal- and central-level officials⁵ during March/April 2012 and July 2012 respectively, and from regular monitoring activities. The reporting period is from June 2010, when the Civil Service Law⁶ entered into force, to August 2012.

Following this Introduction, Section 2 will set out the legal framework regulating communities' representation in the civil service in Kosovo, while Section 3 will assess whether or not the relevant requirements are being met. Section 4 will examine whether employing institutions are fulfilling their positive obligations to enhance communities' representation, for example through outreach to applicants from communities or

¹ OSCE Report *Communities Rights Assessment Report* December 2009, pp. 42-43, <http://www.osce.org/kosovo/40779> (accessed 21 August 2012); OSCE Report *Communities Rights Assessment Report Second Edition* December 2010, pp. 13-14, <http://www.osce.org/kosovo/74597> (accessed 21 August 2012); and OSCE Report *Communities Rights Assessment Report Third Edition* July 2012, pp. 32-33, <http://www.osce.org/kosovo/92244> (accessed 21 August 2012).

² A civil servant is any individual who is defined as such by Law No.03/L-149 on the Civil Service, 25 June 2010, Articles 1.2, 3 and 4 (categories of public employees excluded from the civil service).

³ In Glllogoc/Glogovac, Kaçanik/Kaçanik, Malishevë/Mališevo, Parteš/Partesh and Viti/Vitina, the percentage of communities' members was considered too small to be statistically relevant (0.20 per cent of the total municipal population or below).

⁴ The central-level institutions surveyed were: the Office of the Prime Minister (OPM); the Ministry of Agriculture, Forestry and Rural Development (MAFRD); the Ministry for Communities and Returns (MCR); the Ministry of Culture, Youth and Sport (MCYS); the Ministry for Economic Development (MED); the Ministry of Education, Science and Technology (MEST); the Ministry of Environment and Spatial Planning (MESp); the Ministry of Finance (MoF); the Ministry of Health (MoH); the Ministry of Internal Affairs (MIA); the Ministry of Infrastructure (MoI); the Ministry of Justice (MoJ); the Ministry of Local Government Administration (MLGA); the Ministry of Public Administration (MPA); and the Ministry of Trade and Industry (MTI).

⁵ The officials interviewed were those responsible for civil service recruitment, e.g. the Director of Administration or the Head of Personnel

⁶ Law No. 03-L/149 on the Civil Service of Kosovo, 14 June 2010.

specialized training sessions to enhance the capacities of employees from under-represented communities. The final sections draw together key conclusions and make a series of recommendations to relevant institutions and stakeholders with the aim of enhancing communities' access to public-sector employment.

2. LEGAL FRAMEWORK

This section assesses implementation of the legal provisions regulating representation of communities in the civil service. The equal participation of all communities in the conduct of public affairs is an important element in the promotion and protection of their rights. At both the central and local levels, the United Nations (UN) Human Rights Committee identified civil service reforms and equal participation in the civil service as necessary to safeguard the human rights of communities in Kosovo, and called on Kosovo institutions to ensure that reforms were adopted towards that end.⁷

Building on the general principles of non-discrimination, equal opportunities and equal representation⁸, the Civil Service Law states that communities and their members have a right to fair and proportional representation in the civil service and bodies of central and local public administration⁹.

The Ministry of Public Administration (MPA) issued secondary legislation within the required six-month period (Regulation 04/2010)¹⁰, which requires that a minimum of 10 per cent of positions at central level are represented by staff belonging to non-Albanian communities, while at the municipal level, representation must be proportionate to the demographic composition of the municipality.¹¹ In addition, it regulates the number of senior or "functional" posts for members of communities: again, at the central level this figure was 10 per cent¹², while at the municipal level it was proportionate to the demographic composition of the municipality¹³.

⁷ See the UN Human Rights Committee's concluding observations on Kosovo (Eighty-seventh session, 13 August 2006), UN Doc. CCPR/C/UNK/CO/1, para. 21: "The Committee notes with concern that members of minority communities have only limited access to the conduct of public affairs, as well as to public service, and that discrimination against minorities, including the Roma, is widespread in Kosovo (Articles 2, 25 and 26). UNMIK should ensure that PISG increase the employment of members of minorities at the central and municipal levels of the Kosovo Civil Service, guarantee their equal enjoyment of the rights protected under the Covenant, and ensure the effective participation of all minorities in the conduct of public affairs, including in the ongoing negotiations on the future status of Kosovo."

⁸ Civil Service Law, Articles 5.1.2, 5.1.9 and 11.1.

⁹ *Ibid*, Article 11.2.

¹⁰ Regulation No. 04/2010 on Procedures for the Fair and Proportional Representation of Communities not in the Majority in the Civil Service of Kosovo, 21 September 2010 issued by the MPA.

¹¹ *Ibid*, Article 4.1.2.

¹² "Functional posts" are divided into five categories: (1) senior management and management level, (2) senior management and professional level, (3) senior management and technical administrative level, (4) managements and professional, and (5) management and technical-administrative level. Central-level institutions are under an obligation to fulfil the requirement of 10 per cent communities' representation in at least one of these categories. *Ibid*, Article 5.

¹³ *Ibid*, Article 6.1.2.

To enhance representation of communities, employing institutions are under a positive obligation to pursue an active recruitment strategy, including through special efforts to identify and solicit job applications from under-represented communities; to address the results of long-term discrimination by developing on-the-job training programmes for commonly disadvantaged communities; to provide training for personnel on anti-discrimination policies; and to include “statements of encouragement” in vacancy announcements targeting members of communities.¹⁴

All employing institutions are required to collect anonymous statistical data on the community affiliation of applicants and employees for the purposes of monitoring and reporting.¹⁵ They are also required to submit an annual report to the MPA detailing the status of implementation of Regulation 04/2010.¹⁶ The costs of all relevant initiatives must be borne by the employing institutions¹⁷, but it is the responsibility of the MPA to draft and supervise the implementation of all civil service policies¹⁸.

3. CURRENT STATUS OF IMPLEMENTATION

3.1 Central-level representation

According to official data provided by the MPA, representation of non-Albanian communities in the central-level civil service was 7.85 per cent at the end of the first quarter of 2012. Although Regulation 04/2010 does not require that representation of a particular community be proportionate to the size of that community in Kosovo, a comparison of MPA disaggregated statistics with recently published census data¹⁹ showed that Kosovo Ashkali, Kosovo Egyptians, Kosovo Gorani and Kosovo Roma were proportionally under-represented, while Kosovo Bosniaks, Kosovo Serbs and Kosovo Turks were proportionally over-represented.²⁰ The MPA could not provide data on seniority of position, which meant that an assessment of the number of communities’ members in “functional positions” was not possible.²¹

¹⁴ *Ibid*, Article 4.4.

¹⁵ *Ibid*, Articles 8, 9 and 10.

¹⁶ *Ibid*, Article 14.1.

¹⁷ *Ibid*, Article 13.2.

¹⁸ Civil Service Law, Article 6.2.1.

¹⁹ Kosovo Agency of Statistics, Kosovo Population and Housing Census 2011: Final Results, 2011.

²⁰ The MPA reported that of the 7.85 per cent communities’ members, 0.12 per cent were Kosovo Ashkali, 1.6 per cent were Kosovo Bosniak, 0.11 per cent were Kosovo Egyptian, 0.17 per cent were Kosovo Gorani, 0.22 per cent were Kosovo Roma, 4.34 per cent were Kosovo Serb and 1.29 per cent were Kosovo Turk. Census data on the relative percentages of communities within the total population are as follows: Kosovo Ashkali: 0.89 per cent; Kosovo Bosniaks: 1.58 per cent; Kosovo Gorani: 0.59 per cent; Kosovo Egyptians: 0.66 per cent; Kosovo Roma: 0.51 per cent; Kosovo Serbs: 1.47 per cent; Kosovo Turk: 1.10 per cent.

²¹ Data on communities’ representation at the central level was obtained during an interview with the Director of Administration and Personnel of the MPA, MPA premises, in June 2012.

According to the MPA, the 10 per cent threshold applies only to the civil service as a whole, and not to each individual institution.²² However, in order to better understand the relative distribution of communities across different institutions, the OSCE undertook a series of interviews with 14 ministries and the Office of the Prime Minister.²³ Of these, only four met or were above the 10 per cent threshold²⁴; five were between 6 and 10 per cent²⁵, and six were below 6 per cent²⁶. The gap between the most representative institutions and the least representative was very wide: in the Ministry for Communities and Returns (MCR), non-Albanian communities occupied 41.66 per cent of civil service positions; in sharp contrast, they occupied just 1.49 per cent of positions in the Ministry of Economic Development, 1.56 per cent in the Ministry of Trade and Industry, and 2.50 per cent in the Ministry of Finance. While slightly higher levels of communities' representation might be expected in those ministries that deal specifically with communities' issues, in many institutions communities' representation remains well below their proportional share of the population and cannot reasonably be said to be "fair and proportional".

Of concern is that this general trend of communities' under-representation is not being addressed through the hiring process. Amalgamated figures from the 12 institutions that could provide data on recruitment of communities' candidates since June 2010²⁷ showed that only 16 communities' members were hired from an estimated 218 positions (or 7.48 per cent). Moreover, although Regulation 04/2010 specifies a range of positive action measures that employing institutions must take in order to improve communities' representation in the longer term, no institution was in full compliance with its obligations in this respect (this issue is addressed in greater detail in Section 4 below). However, the low rate of implementation cannot be attributed to a lack of awareness on the part of the institutions of their legal obligations, as all interviewees were familiar with the key provisions of the Civil Service Law and Regulation 04/2010 – e.g. those relating to quotas and the format for vacancy announcements – and the majority stated that the MPA had undertaken specific activities to train them on the issue²⁸.

Although very few institutions kept data on the community affiliation of applicants, those that did so reported that the number of applications from communities' members was very low, at between 0–2 applications per position advertised (out of an estimated 30–40).²⁹ When asked to speculate as to why this might be, institutional representatives

²² Director of Civil Service Administration Department, MPA, Telephone interview, 13 September 2012.

²³ *Supra* note 4.

²⁴ The MCR (41.67 per cent), the MoJ (11.85 per cent), the MLGA (approximately 10.00 per cent) and the MPA (10.40 per cent).

²⁵ The MoI (approximately 9.50 per cent); the MAFRD, 6.73 per cent; the MYCS (approximately 6.00 per cent); the MEST (8.00 per cent); the MoH (approximately 6.00 per cent).

²⁶ The MED (1.49 per cent), the MESP (5.45 per cent); the MoF (2.50 per cent); the MIA (5.04 per cent); the OPM (5.38 per cent); the MTI (1.56 per cent).

²⁷ The MoF, the MIA and the MPA were not able to provide data on the number of total vacancies since June 2010 and the number of successful applicants from communities.

²⁸ Eight ministries reported receiving training on this issue: the OPM, the MESP, the MoF (did not attend), the MIA, the MoH, the MoJ, the MLGA, the MPA.

²⁹ Precise data on the ethnicity of applicants was generally either not kept or not provided. See note 31 below.

commented that it might be due to a lack of qualifications among under-represented communities, which would either discourage them from applying or result in an unsuccessful application.³⁰ Another possible reason was thought to be the decentralization process, which enabled qualified communities' members to work in municipal institutions closer to home, and left them reluctant to accept the low salary, higher living costs and long commute that came with employment in central-level institutions.

With regard to data collection, although all institutions submitted quarterly reports to the MPA detailing the number of civil servants employed (disaggregated by community, sex and qualifications), very few kept accurate data on the community affiliation of applicants.³¹ No institution submitted an annual report on implementation of Regulation 04/2010 in either 2010 or 2011, although they noted that no such report had been requested by the MPA.

3.2 Local-level representation

As noted in section 2 above, according to secondary legislation, the number of positions for each community in the municipal civil service should be proportionate to the total number of members of that community residing in the respective municipality. This section uses demographic data from the 2011 census to assess municipal compliance with this requirement.³²

In 18 of the 29 assessed municipalities³³ the percentage of civil servants from communities in a numerical minority at the municipal level was in proportion to, or above, the total number of communities present in the municipality.³⁴ In terms of proportional representation of individual communities, Kosovo Albanians were over-represented in two of the three municipalities in which they constituted a numerical minority³⁵; and Kosovo Bosniaks were over-represented in six out of eight municipalities,

³⁰ This point was emphasized in interviews in those ministries that required specialized staff, for example the MoA, the MED and the MESP.

³¹ Only the MCR, the MYCS and the MoI kept data on community affiliation of applicants. These figures could not be confirmed by the MPA, which did not keep statistics on applicants for itself or for other institutions.

³² *Supra* note 19.

³³ *Supra* note 3.

³⁴ Municipalities that were not in compliance were Dragash/Dragaš, Gjakovë/Đakovica, Gračanica/Gračanicë, Istog/Istok, Malishevë/Mališevo. Novo Brdo/Novobërdë, Pejë/Peć, Podujevë/Podujevo, Prishtinë/Priština, Prizren and Suharekë/Suva Reka.

³⁵ Kosovo Albanians occupied 8.33 per cent of municipal civil service positions in Mamuşa/Mamushë/Mamuša, where they constitute 5.94 per cent of the population, and 8.33 per cent in Ranilug/Ranillug (4.24 per cent of the population). Although they appear to be under-represented in Gračanica/Gračanicë (only 9.33 per cent of positions out of a municipal population of 25.73 per cent), the extent of under-representation is likely to be less than it appears here. In fact OSCE data estimate the Kosovo Albanian population at 7.37 per cent in Gračanica/Gračanicë, which would actually indicate their over-representation in the civil service. Also, note that the municipalities of Klokot/Klllokot, Novo Brdo/Novobërdë and Štrpce/Shtërpçë were excluded from the list as the 2011 census indicates that they are majority Kosovo Albanian (53.29 per cent, 52.64 per cent and 54.06 per cent, respectively).

with the exceptions of Pejë/Peć and Prizren³⁶. Kosovo Serbs were proportionally or over represented in all municipalities where they constituted a numerical minority.³⁷ However, Kosovo Turks were under-represented in six out of seven municipalities³⁸, and Kosovo Gorani were under-represented in both municipalities where they constituted a numerical minority³⁹. It should be recalled that these figures only take account of communities in a numerical minority at the municipal level; as non-Albanian communities now constitute the majority population in certain municipalities, e.g. Kosovo Serbs in Gračanica/Gračanicë or Kosovo Turks in Mamuşa/Mamushë/Mamuşa, their representation across the municipal civil service as a whole is higher than these figures suggest.

Certain municipalities in particular were fully aware of their obligations and had worked hard to ensure proportional representation of all communities. Gjiilan/Gnjilane, for

³⁶ Kosovo Bosniaks occupied 1.67 per cent of position in Deçan/Deçane, where they constitute 0.15 per cent of the population; 14.29 per cent of positions in Dragash/Dragaş (12.06 per cent of the population); 2.00 per cent of positions in Hani Elezit/Elez Han (0.44 per cent of the population); 3.92 per cent of positions in Istog/Istok (2.91 per cent of the population); 3.13 per cent of positions in Mitrovicë/Mitrovica (0.58 per cent of the population); 1.18 per cent in Obiliq/Obilić (0.27 per cent of the population); 3.65 per cent of positions in Pejë/Peć (3.92 per cent of the population); and 6.27 per cent of position in Prizren (9.50 per cent of the population). Although Kosovo Bosniaks were present in small numbers in most municipalities, their percentage of the total municipal population was considered too small to be statistically relevant (0.20 per cent of the total municipal population or below). Also, in Dragash/Dragaş, respondents to the OSCE survey did not wish to specify whether they considered themselves Kosovo Gorani or Kosovo Bosniak, so these categories have been merged.

³⁷ Kosovo Serbs occupied 11.11 per cent of positions in Fushë Kosovë/Kosovo Polje, where they constitute 0.92 of the population; 8.62 per cent of positions in Gjiilan/Gnjilane (0.69 per cent of the population); 1.31 per cent of the population in Istog/Istok (0.49 per cent of the population); 14.35 per cent of positions in Kamenicë/Kamenica (4.31 per cent of the population); 2.21 per cent of positions in Klinë/Klina (0.25 per cent of the population); 7.57 per cent of positions in Lipjan/Lipljan (0.89 per cent of the population); 15.29 per cent of positions in Obiliq/Obilić (1.28 per cent of the population); 0.91 per cent of positions in Pejë/Peć (0.34 per cent of the population); 0.21 per cent of positions in Prishtinë/Priştina (0.22 per cent of the population); 6.67 per cent of positions in Rahovec/Orahovac (0.24 per cent of the population); 3.83 per cent of positions in Viti/Vitina (0.24 per cent of the population); and 5.35 per cent of position in Vushtrri/Vučitrn (0.55 per cent of the population). Although Kosovo Serbs were present in small numbers in most municipalities, their percentage of the total municipal population was considered too small to be statistically relevant (0.20 per cent of the total municipal population or below). In relation to the municipalities of Klokot/Kllokot, Novo Brdo/Novobërdë and Štrpce/Shtërpçë, see note 42 below.

³⁸ Kosovo Turks occupied 0.00 per cent of positions in Dragash/Dragaş, where they constituted 0.59 per cent of the population; 0.86 per cent of positions in Gjiilan/Gnjilane (1.08 per cent of the population); 0.00 per cent of positions Lipjan/Lipljan (0.22 per cent of the population); 1.57 per cent in Mitrovicë/Mitrovica (2.79 per cent of the population); 0.21 of positions in Prishtinë/Priştina (1.08 per cent of the population); 3.00 per cent of positions in Prizren (5.11 per cent of the population); and 0.82 of positions per cent in Vushtrri/Vučitrn (0.40 per cent of the population). Although Kosovo Turks were present in small numbers in most municipalities, their percentage of the total municipal population was considered too small to be statistically relevant (0.20 per cent of the total municipal population or below).

³⁹ Kosovo Gorani occupied 13.27 per cent of positions in Dragash/Dragaş, where they constitute 26.35 per cent of the population; and 0.00 per cent of positions in Prizren (0.37 per cent of the total population). Although Kosovo Gorani were present in small numbers in some other municipalities, their percentage of the total municipal population was considered too small to be statistically relevant (0.20 per cent of the total municipal population or below).

example, significantly exceeded its legal requirement of 2.62 per cent proportional representation, employing 34 members of communities, or 9.77 per cent of its civil service. Moreover, all communities present in the municipality were represented, albeit not in perfect proportion, including Kosovo Roma, Kosovo Turk and Kosovo Serb communities. Another positive example was Skenderaj/Srbica, where communities' representation exceeded the proportional requirement of 0.34 per cent, with over 4.52 per cent of civil service positions occupied by Kosovo Serbs (including one senior position).

However, despite these positive examples, Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities were consistently and disproportionately under-represented in all municipalities where they were present, with very few exceptions⁴⁰; in many municipalities they did not occupy a single civil service position⁴¹. Representation was very low even in municipalities where those communities were present in relatively large numbers, and which were otherwise in compliance with the Civil Service Law. For example, in Fushë Kosovë/Kosovo Polje, the Kosovo Ashkali community was estimated

⁴⁰ Kosovo Ashkali occupied 4.15 per cent of positions in Ferizaj/Uroševac, where they constitute 3.34 per cent of the population; 1.96 per cent of positions in Fushë Kosovë/Kosovo Polje (9.27 per cent of the population); 0.00 per cent of positions in Gjakovë/Đakovica (0.65 per cent of the population); 0.00 per cent of positions in Gračanica/Gračanicë (0.97 per cent of the population); 0.00 per cent of positions in Istog/Istok (0.28 per cent of the population); 0.00 per cent of positions in Klinë/Klina (0.22 per cent of the population); 1.08 per cent of positions in Lipjan/Lipljan (3.16 per cent of the population); 0.00 per cent of positions in Mamuşa/Mamushë/Mamuşa (0.22 per cent of the population); 0.31 per cent of positions in Mitrovicë/Mitrovica (0.90 per cent of the population); 0.00 per cent of positions in Obiliq/Obilić (2.68 per cent of the population); 0.00 per cent of position in Podujevë/Podujevo (0.77 per cent of the population); 0.21 per cent of positions in Prishtinë/Priština (0.28 per cent of the population); 0.00 per cent of positions in Prizren (0.76 per cent of the population); 0.00 per cent of position in Rahovec/Orahovac (0.72 per cent of the population); 1.47 Shtime/Štimlje (2.75 per cent of the population); 0.00 per cent of positions in Suharekë/Suva Reka (0.93 per cent of the population); and 0.41 Vushtrri/Vučitrn (0.24 per cent of the population). Kosovo Egyptians occupied 0.00 per cent of positions in Deçan/Dečane (0.09 per cent of the population); 0.00 per cent of positions in Fushë Kosovë/Kosovo Polje (0.91 per cent of the population); 1.28 per cent of positions in Gjakovë/Đakovica (5.41 per cent of the population); 1.96 per cent of positions in Istog/Istok (3.93 per cent of the population); 1.00 per cent of positions in Klinë/Klina (2.43 per cent of the population); and 0.30 per cent of positions in Pejë/Peć (2.80 of the population). Kosovo Roma occupied 1.31 per cent of positions in Fushë Kosovë/Kosovo Polje, where they constituted 1.25 per cent of the population; 0.00 per cent of position in Gjakovë/Đakovica (0.78 per cent of the population); 0.29 of positions in Gjilan/Gnjilane (0.40 per cent of the population); 0.00 per cent of position in Gračanica/Gračanicë (6.98 per cent of the population); 0.00 per cent of positions in Kamenicë/Kamenica (0.66 per cent of the population); 0.00 per cent of positions in Lipjan/Lipljan (0.59 per cent of the population); 0.00 per cent of positions in Mamuşa/Mamushë/Mamuşa (0.71 per cent of the population); 0.31 per cent of positions in Mitrovicë/Mitrovica (0.73 per cent of the population); 3.08 per cent of positions in Novo Brdo/Novobërdë (0.94 per cent of the population); 1.18 per cent of positions in Obiliq/Obilić (3.07 per cent of the population); 0.30 per cent of positions in Pejë/Peć (1.03 per cent of the population); 0.27 per cent of positions in Prizren (1.63 per cent of the population); and 0.00 per cent of positions in Štrpce/Shtërpçë (0.34 per cent of the population).

⁴¹ This was the case in 11 of the 17 municipalities where Kosovo Ashkali were present (Gjakovë/Đakovica, Gračanica/Gračanicë, Klinë/Klina, Mamuşa/Mamushë/Mamuşa, Obiliq/Obilić, Podujevë/Podujevo, Prizren, Rahovec/Orahovac, Shtime/Štimlje, Suharekë/Suva Reka and Vushtrri/Vučitrn); two of the six municipalities where Kosovo Egyptians were present (Deçan/Dečane and Fushë Kosovë/Kosovo Polje); and six of the 13 municipalities where Kosovo Roma were present (Gjakovë/Đakovica, Gračanica/Gračanicë, Kamenicë/Kamenica, Lipjan/Lipljan, Mamuşa/Mamushë/Mamuşa and Štrpce/Shtërpçë).

at 3,230 individuals (of a total municipal population of 34,827), which entitled them to 9.27 per cent of positions in the municipal civil service; however, only 3 of the 153 civil service staff in the municipality were Kosovo Ashkali (1.96 per cent). Similarly, in Gjakovë/Đakovica, the Kosovo Egyptian community was estimated at 5,117 individuals (of a total municipal population of 94,556), entitling them to 5.41 per cent; however, out of 313 civil servants only 4 were Kosovo Egyptian (1.28 per cent). In Gračanica/Gračanicë, the Kosovo Roma population was estimated at 745 out of a total municipal population of 10,675, entitling them to 6.98 per cent of civil service posts. However, there was not a single member of the Kosovo Roma community employed in the Gračanica/Gračanicë civil service. Many municipal officials were aware of these shortfalls, but stated that they were due to an insufficient number of applications from qualified candidates.

Although there was no official data on the relative seniority of communities' members at the municipal level, an OSCE survey conducted in April 2012 showed that communities' representatives occupied an encouraging 7.78 per cent of senior positions across the municipal civil service as a whole.⁴² However, these positions were not evenly distributed: 9 of the 29 assessed municipalities did not have any communities' members in senior positions.⁴³

With regard to data collection, very few municipalities kept accurate data on the community affiliation of applicants⁴⁴ and none submitted an annual report on implementation of Regulation 04/2010 in either 2010 or 2011, although they noted that no such report had been requested by the MPA.

4. POSITIVE ACTION MEASURES

As noted in Section 2 above, in order to fulfil the requirements of fair and proportional representation of communities in the civil service, employing institutions at both the central and municipal levels are required to design and apply positive action programs. Article 11 of Regulation 04/2010 states that these programs must be developed by the Personnel Units⁴⁵, and approved by the highest administrative officer after a period of consultation with organizations representing communities.⁴⁶ Institutions are required to select and apply a minimum of six measures from the following fourteen initiatives to support the recruitment and promotion of under-represented communities:

⁴² This data was not disaggregated by ethnicity.

⁴³ These were: Gračanica/Gračanicë, Hani Elezit/Elez Han, Junik, Kačanik/Kaçanik, Malishevë/Mališevo, Mamuşa/Mamushë/Mamuşa, Podujevë/Podujevo, Prishtinë/Priština, Ranilug/Ranillug and Suharekë/Suva Reka.

⁴⁴ Only Ferizaj/Uroševac, Klinë/Klina, Mitrovicë/Mitrovica, Skenderaj/Srbica Suharekë/Suva Reka reported keeping a statistical record of applicants. This could not be confirmed by the MPA, which did not keep a statistical record of applicants, either for itself or for other employing institutions.

⁴⁵ Personnel Units are offices within an employing institution which are responsible for the management and development of personnel. Civil Service Law, Article 7.

⁴⁶ Regulation 04/2010, Article 11.2.

- 1) Publish job advertisements designed to encourage applications from under-represented communities, advertised through print and broadcast media in all official and relevant community languages;
- 2) Cooperate with communities' organizations to distribute job vacancies in areas where under-represented communities are concentrated;
- 3) Prepare recruitment and training schemes in cooperation with regional offices for employment targeting members of communities who do not have proper qualifications;
- 4) Make efforts to identify and solicit job applications from under-represented communities;
- 5) Ensure that when considering candidates for recruitment or promotion in the civil service, where candidates are of equal merit preference shall be given to the best qualified candidate from communities not in the majority⁴⁷;
- 6) Develop internship schemes for under-represented communities;
- 7) Develop scholarship programs or financial awards for under-represented communities;
- 8) Develop vocational training programs, including language courses;
- 9) Undertake training to support promotion, career opportunities or skill-building for employees of under-represented communities who lack specific expertise but who show potential (in co-operation with the Kosovo Institute of Public Administration (KIPA));
- 10) Develop individual or group mentoring programs for lower-level personnel (in co-operation with KIPA);
- 11) Develop in-house on-the-job training schemes;
- 12) Organize workshops on non-discrimination and how to report discrimination;
- 13) Establish joint recruitment strategies with organizations representing under-represented communities (in co-operation with the Ministry of Labour and Social Welfare (MLSW));
- 14) Develop applicant pools of qualified persons from under-represented communities (in co-operation with MLSW).⁴⁸

With regard to recruitment initiatives (1) to (4), all ministries interviewed reported issuing job advertisements that aimed to encourage applications from communities. Vacancies were consistently published in both official languages in print media and on official websites, and all ministries targeted communities directly by publishing job announcements in media outlets broadcasting in communities' languages (e.g. *Radio Gračanica*, *Radio K*, *Radio Blue Sky*). All institutions published a "statement of encouragement" at the bottom of job advertisements⁴⁹, and all institutions complied with

⁴⁷ It is further specified that this measure must only be temporary, and apply until quotas for communities' representation are achieved within the respective institution.

⁴⁸ These recommendations are laid out in greater detail in Article 11.3 of Regulation 04/2010. For the purposes of this analysis each recommendation has been assigned a number between 1 and 14, which corresponds to the order in which it appears in Regulation 04/2010.

⁴⁹ All vacancy announcements must include the following statement: "Non-majority community [sic.] and their members are entitled to fair and proportional representation in central and local bodies of public administration in civil service [sic.], as specified under Article 11, paragraph 3 of the Law No. 03/L-149

the legal requirement to readvertise a position for an additional seven days in cases where they did not receive applications from members of communities (or women) within the initial 15-day period.⁵⁰ However, almost none undertook any small-scale outreach activities to specifically inform under-represented communities of recruitment opportunities.⁵¹

At the municipal level, 28 of the 29 assessed municipalities advertised job vacancies in both official languages in print media, official websites and, often, through local radio stations.⁵² However, out of the three municipalities where Turkish is an official language at the municipal level, only Mamuşa/Mamushë/Mamuşa published vacancies in all three official municipal languages, in compliance with its obligations under the Law on the Use of Languages.⁵³ Nineteen municipalities included a “statement of encouragement” at the bottom of job advertisements⁵⁴, but only two undertook small-scale outreach activities to specifically inform under-represented communities of recruitment opportunities⁵⁵.

Although many interviewees at both the central and local levels speculated that the low rate of applications from and recruitment of members of communities might be due to a lack of proper qualifications, no institution implemented a more proactive recruitment strategy aimed at boosting qualifications of under-represented communities, e.g. through the organization of recruitment or training schemes (3), or efforts to identify and solicit job applications from under-represented communities (4). At the central level, although all assessed ministries did provide training for their staff, through the Kosovo Institute for Public Administration, none of these activities were directed specifically at communities’ members; in one case, a ministry official believed that measures targeting members of

on the Civil Service of [...] Kosovo”. Regulation No. 02/2010 on Recruitment Procedures in the Civil Service, 20 September 2010.

⁵⁰ *Ibid*, Article 22.3.

⁵¹ MIA distributed vacancy announcements to municipal offices and displayed them in municipal buildings in areas inhabited by communities; it also distributed them by email to employees from communities, for further distribution among their networks. However, it stated that this had not led to an increase in applications from communities. MLGA and the Office of the Prime Minister (through the Office for Community Affairs) also asked representatives of the newer municipalities to raise awareness of the vacancies among their networks.

⁵² Malishevë/Mališevo only publishes job vacancies in Albanian, justifying this on the grounds that the very small number of Kosovo Serbs living in the municipality makes publication in both official languages unnecessary.

⁵³ In Prishtinë/Priştina and Prizren, where Turkish is also an official language at the municipal level, job advertisements were only published in Albanian and Serbian. According to Article 2.3 of the Law on the Use of Languages, “[i]n municipalities inhabited by a community whose mother tongue is not an official language, and which constitutes at least five (5) percent of the total population of the municipality, the language of the community shall have the status of an official language in the municipality and shall be in equal use with the official languages.” Law No. 02/L-037 on the Use of Languages, 20 October 2006.

⁵⁴ Municipalities which did not include a statement of encouragement were Deçan/Deçane, Dragash/Dragaš, Gračanica/Gračanicë, Klinë/Klina, Klokot/Klllokot, Malishevë/Mališevo, Novo Brdo/Novobërdë, Podujevë/Podujevo, Ranilug/Ranillug and Skenderaj/Srbica.

⁵⁵ For example, Ferizaj/Uroševac municipality posts vacancy notices in the municipal sub-offices located in communities’ settlements and representatives visit those areas to encourage applications. Representatives of Skenderaj/Srbica also visit Kosovo Serb villages to tell residents of upcoming job vacancies.

communities would actually contravene the law. Similarly, while several municipalities offered internship or scholarship programs, these were not specifically for members of communities⁵⁶; moreover, two municipalities that had previously organised such programs for members of non-Albanian communities had cancelled these for budgetary reasons.⁵⁷

With regard to recruitment initiative (5), eight of the 15 ministries stated that, if presented with a choice between two candidates of equal merit, they would employ the candidate from an under-represented community, indicating a generally high level of commitment to ensuring fair and proportional representation of communities. While most were quick to clarify that this would only apply to cases where the candidates had the same strengths and qualifications, two institutions stated that they would hire a candidate from an under-represented community, even if that candidate was weaker than a candidate from an over-represented community; in one case, the ministry faced a complaint from an unsuccessful applicant based on this policy, which it justified on the grounds that it was under an obligation to meet the 10 per cent threshold. However, such action contravenes Regulation 04/2010, which states that “[t]he fair and proportional representation of communities [...] shall not be interpreted as requiring that the employing authority hires a person who lacks qualifications to perform the job successfully, or hire a less qualified person as required for such position”.⁵⁸

No institution at either the central or the local level implemented any activities in relation to initiatives (3), (6), (7), (8), (9), (10), (12), (13) or (14), and none was in full compliance with the requirement of implementing six of the fourteen initiatives.

5. CONCLUSION

Members of communities continue to be under-represented in the civil service in Kosovo, at both the central and municipal levels. Official data indicate that representation in central-level institutions is roughly 8 per cent, or 2 per cent below the required 10 per cent threshold. While this is not a huge shortfall, when these figures are broken down by institution it is clear that communities’ members are concentrated in certain ministries, notably those that are specifically mandated to address communities’ issues (e.g. the MCR). Although the 10 per cent threshold is interpreted by the MPA as applying to the central-level civil service as a whole (rather than to each institution), the extent of the discrepancies and the disproportionately low representation of communities in certain ministries cannot reasonably be said to constitute “fair and proportional representation”.

At the municipal level, in 18 of the 29 assessed municipalities the total number of communities employed in the civil service was in proportion to, or above, the total

⁵⁶ These were Istog/Istok, Kamenicë/Kamenica, Lipjan/Lipljan, Prizren, Rahovec/Orahovac, Shtime/Štimlje and Suharekë/Suva Reka.

⁵⁷ These were Deçan/Dečane and Gjakovë/Đakovica, which both cancelled scholarship programs previously in effect.

⁵⁸ Regulation 04/2010, Article 4.3. This question was not included in the municipal survey.

number of communities present in the municipality. In terms of proportional representation of individual communities, Kosovo Albanians were over-represented in two of the three municipalities in which they constituted a numerical minority; and Kosovo Bosniaks were over-represented in six out of eight, with the exceptions of Pejë/Peć and Prizren. Kosovo Serbs were proportionally or over represented in all municipalities where they constituted a numerical minority. However, Kosovo Turks were under-represented in six out of seven municipalities, and Kosovo Gorani were under-represented in both municipalities where they constituted a numerical minority. Of particular concern was the disproportionate and widespread under-representation of Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities at all levels of the civil service, with the extent of their under-representation especially evident in those municipalities where they were present in large numbers, for example Fushë Kosovë/Kosovo Polje, Gjakovë/Đakovica and Gračanica/Graçanicë.

Although the legal framework states that all employing institutions have an obligation to implement at least six positive action initiatives to encourage recruitment and promotion of communities' members, not one Kosovo institution was in full compliance. While almost all employing institutions published job advertisements in both official languages and included a "statement of encouragement" in their vacancy announcements, only one or two undertook additional activities to raise awareness among communities of upcoming positions. Moreover, although a lack of qualifications was widely cited as a possible reason for the low number of applications from communities' members, no institution undertook any activities aimed at enhancing the qualifications of potential applicants from under-represented communities, e.g. through scholarships, vocational training schemes or internships targeting members of communities specifically.

If employing institutions are to fulfil their legal obligations to ensure fair and proportional representation of communities at all levels of the civil service, in accordance with the relevant legal standards, far greater efforts will need to be made to tackle the core problems of the stated lack of qualifications of communities' members (through internships, training programs or vocational training schemes), the low rate of applications (through targeted outreach activities), and the absence of communities' members in senior positions (through professional development schemes). However, without clear direction from the MPA on the importance of increasing communities' representation through positive action measures, employing institutions are unlikely to dedicate the additional financial and human resources required for their effective and sustainable implementation.

6. RECOMMENDATIONS

To the Ministry of Public Administration (MPA):

- Undertake training activities to ensure that all employing institutions at both the central and local levels are fully aware of the relevant legal and policy frameworks regulating equitable representation of communities in the civil

- service, with particular focus on positive action measures (under Article 11 of Regulation 04/2010) and data collection (under Articles 6.7.2, and 8, 9 and 10 of Regulation 04/2010).
- Instruct municipal and central employing institutions to submit an annual report on implementation of Regulation 04/2010, as per their obligations under Article 14 of that regulation.

To central and municipal employing institutions:

- Take action, including through the allocation of adequate budgetary resources, to ensure full and effective implementation of positive action measures aimed at enhancing representation of communities in the municipal civil service, as required under Article 11 of Regulation 04/2010.
- Collect anonymous statistical data on the ethnicity of employees and applicants, as required under Articles 8, 9 and 10 of Regulation 04/2010.
- Submit an annual report on implementation of Regulation 04/2010 to the MPA, as required under Article 14 of that regulation.
- Pay particular attention to enhancing representation of members of the Kosovo Roma, Kosovo Ashkali and Kosovo Egyptian communities in the civil service to ensure their proportional representation in the municipality.