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**Civil Administration
Pillar II
OFFICE OF COMMUNITY
AFFAIRS**

**Department
of
Democratization**

**Prime Minister's
Advisory Office
on Communities**

Assessment of Municipal Communities Committees

Standard: “Existing mechanisms within municipalities responsible for protection of human and community rights (Municipal Community Offices, Municipal Assembly and **Communities and Mediation Committees**) have adequate resources and staff and **are functioning effectively.**”

Eighteen months after the October 2002 Municipal Elections, the Communities Committees have not yet reached an acceptable level of performance in the majority of Kosovo municipalities. The present report prepared by the OSCE Mission in Kosovo (OMiK) Democratization Department (DD) in co-operation with the UNMiK Office of Community Affairs (UNMIK-OCA) and PISG Prime Minister's Advisory Office on Communities (PISG AOC) reveals three inherent causes that prevent the Committees from functioning effectively. Upon analysis of these reasons, a number of recommendations on how the Provisional Institutions of Self-Government (PISG) and UNMiK should address the identified shortcomings are hereby proposed.

I. Background

The Communities Committee (CC) is one of the three mandatory Committees that each municipality must appoint under UNMIK Regulation 2000/45 on Self-Government of Municipalities in Kosovo¹. Along with the Mediation Committee (MC) and the Community Office, the CC has been crafted as an anti-discrimination and community protection mechanism to ensure that every local community regardless of its size, language, religion, ethnic origin or any other characteristic of its members shall receive equal treatment by the municipal authority.

The CC's role and procedural guidelines have been outlined in UNMIK Administrative Instruction (AI) 2003/2 on Procedural Guidance for the Work of Municipal Communities Committees, promulgated by the Deputy Special Representative of the Secretary General (D/SRSG) on 15 September 2003.

¹ Refer to UNMIK Regulation 2000/45 on Self-Government of Municipalities in Kosovo, S. 21.1

II. Current state

A recent assessment jointly conducted by OMiK DD and UNMIK-OCA reveals that as of March 2004, CCs have been appointed in 27 of 30 municipalities². However, one quarter of them either do not have all their members selected³, have not met except for the inaugural session⁴, or do not meet on a regular basis⁵. In 11 of the 27 municipalities where CCs have been appointed, meetings are held on a regular basis, however with little substantive progress. Rarely have matters been referred to the MC⁶, which is in charge of investigating cases referred by the CC.

The survey conducted reveals that identified shortcomings derive from issues related to (1) the *process of selection of CC members*, (2) *CC members' misunderstanding of UNMiK Regulation 2000/45 on their role and competencies* and (3) *CC members' lack of commitment*, manifest in infrequent CC meetings and in the absence of substantive discussion during these meetings. In the next section, these three patterns have been reviewed and analyzed. The findings form the basis for the conclusion and the joint OMiK DD and UNMIK-OCA recommendations on UNMiK and PISG future course of action.

III. Problem Analysis

1. Challenges regarding the process of CC member selection

- *Political entities either disagree over CC composition or accept a composition that is in violation of UNMiK Regulation 2000/45.*

The CC has to be composed to ensure fair representation of communities. As such, it is not meant to automatically reflect the proportion of seats held by political entities within Municipal Assemblies⁷. However, the process of nominating CC members often becomes

² They have not been appointed in Gillogovc/Glogovac, Kačanik/Kaçanik and Malishevë/Mališevo.

³ Not all communities have their representatives appointed in Obiliq/Obilić, Prishtinë/Priština, Mitrovicë/Mitrovica and Fushë Kosovë/Kosovo Polje.

⁴ These municipalities include Suharekë/Suva Reka, Klinë/Klina, Viti/Vitina, Fushë Kosovë/Kosovo Polje, Podujevë/Podujevo, Dragash/Dragaš and Vushtrri/Vučitrn.

⁵ In Pejë/Peć, Gjilan/Gnjilane, Lipjan/Lipljan, Shtime/Štimlje, Klinë/Klina, Obiliq/Obilić, Rahovec/Orahovac, Skenderaj/Srbica, Kamenicë/Kamenica.

⁶ A total of **five** recommendations have been forwarded to an MC Kosovo-wide. Two recommendations have been referred to the MC in Gjilan/Gnjilane, regarding the employment of ethnic Kosovo Roma in the municipal civil service and illegal woodcutting in minority-inhabited areas. One was referred in Rahovec/Orahovac on the issue of using both the official languages of Kosovo on public signs. One recommendation was referred to the MC in Lipjan/Lipljan concerning an ethnicity-based dispute; one - in Istog/Istok, regarding the return of a Kosovo Egyptian family. In addition, in Štrpce/Shtërpçë the requirement to use both Serbian and Albanian languages was forwarded to the Municipal Assembly.

⁷ Refer to UNMIK Regulation 2000/45, S.23.3.

politicized, especially when it concerns the selection of Municipal Assembly Members⁸. As a result, CCs are often turned into political *fora* and, as a means to protest, appointed members often do not participate in CC sessions. This partly explains why some Kosovo Serb representatives and Kosovo Albanian affiliated political entities⁹ are reluctant to take part in CC work.

Power struggles within the Committees occur across several dividing lines and take the following forms: political competition among political factions from the same ethnic community (i.e. majority versus minority, or among various minority groups), internal competition within the same political entity, and among political factions representing different ethnic communities (the most widespread ones).

Another politically sensitive issue related to CC composition is whether the CC chairperson should be a member of the community that is in a minority position in the Municipal Assembly, or a member of the community that is a minority within the territory of the municipality (according to UNMiK Regulation 2000/45, S.23.3 c). This question needs to be analyzed from a legal standpoint for Municipal Assemblies where members of the minority community currently living in the municipality hold the majority of seats, such as Novobërdë/Novo Brdo.¹⁰

- *The selection process for communities' representatives is inadequate, in some cases undermining popular support for Committee members.*

Many CC members are either self or politically appointed and hence lack a fully-fledged democratic mandate deriving from their constituencies. For instance, in Prizren/Prizren, Gjilan/Gnjilane and Lipjan/Lipljan communities have contested the appointments of their selected representatives. The reason can be traced to UNMiK Regulation 2000/45. While stipulating the Municipal Assembly shall appoint all Committee members¹¹, the Regulation does not provide explicit guidance on the way candidates shall be selected, so as to ensure consultations with grassroots constituencies. Due to this lack of guidance,

⁸ UNMIK Regulation 2000/45, S.21.1 stipulates the Municipal Assembly shall appoint the CC. The Municipal Statute shall regulate the procedures for appointing CC and MC members, ensuring that CC membership includes both Assembly members and Community representatives [S.23.3 (a)].

⁹ At present, the Democratic Party of Kosovo (PDK) is boycotting participation in CC in Viti/Vitina (although it has begun to show initiative to participate), while Kosovo Serbs are boycotting the work of CCs in four other municipalities near them. PDK in Klinë/Klina refused to participate in the CC because, allegedly, it was not represented on the municipal Board of Directors, and the Democratic League of Kosovo (LDK) in Istog/Istok has yet to submit a name for the CC.

¹⁰As stated above, Kosovo Serb representatives hold the majority of the seats in the Municipal Assembly (10 of 17) and the Municipal Assembly President is Kosovo Serb. Until recently, the chairperson of the CC was Kosovo Serb, causing considerable confusion and dissatisfaction among the Kosovo Albanian Municipal Assembly members. Though it would appear that more Kosovo Albanians actually live in Novobërdë/Novo Brdo, when one takes into account Internally Displaced Persons (IDPs), it becomes unclear which community is actually in the majority or in the minority. In any case, there are no reliable population figures. In March of 2004, the chairmanship of the CC in this municipality was taken up by a Kosovo Albanian.

¹¹ Including both Assembly Members and community representatives helps to ensure each community in the municipality is represented by at least one member of the CC [UNMIK Regulation 2000/45, 23.3 (a), (b), (c)].

many municipalities have faced popular discontent. Zvečan/Zvečan municipality, however, has successfully managed to seek a solution and following a wide information campaign, an informal election was held on 20 December 2002 to choose non-Assembly minority CC members.

With respect to the selection of community representatives, Municipal Assemblies have found it difficult to identify appropriate CC candidates who are capable of dealing in a professional manner with their counterparts and their communities. When Municipal Assemblies initially appointed mandatory Committees, the CC's role and responsibilities were unclear due to the lack of model rules of procedure. Therefore, it appears that CC candidates' commitment and qualification have been inadequately considered in the selection process.

Finally, ethnic community members often lack understanding of the municipal structure and underlying principles of "good governance". This has posed a significant challenge where the same representatives were members of the CC and the MC. This is clearly a violation of the provisions of UNMiK Reg. 2000/45, S.23.3 (d) (i). With such endemic shortcomings, CC members have appeared reluctant to increase their knowledge through targeted training activities such as the OMiK DD Municipal Assembly Support Programme (MASP)¹².

2. Lack of understanding of the CC role and competencies

CC members do not appear to fully understand the CC purpose and scope of activity and this has negatively impacted their work. As a result, Municipal Assemblies show indifference or resist active engagement to help ensure the CC is effectively fulfilling its role.

- *Internal power struggles among community representatives in established Committees represent an additional challenge.*

Majority and non-majority Committee members see the CC as a forum for competition¹³, thus impeding the Committees' effective work. Best practices however, show all communities should work for the best interest of the municipality and all its inhabitants. Therefore, conveying this idea to CC members has been and will continue to be included in OMiK activities.

- *Some municipalities continue to ignore the necessity to comply with UNMiK Regulation 2000/45 and therefore do not establish the CC.*

In the mono-ethnic municipalities of Glllogovc/Glogovac and Kačanik/Kaçanik, the CCs have not been established on the grounds that appointing them would be artificial and

¹² During implementation of MASP IV on "Rules and Procedures of the Communities Committee", delivered by the OMIK DD, participation was low in Gjilan/Gnjilane, Dragash/Dragaš, and Suharekë/Suva Reka.

¹³ An example is Prishtinë/Priština municipality.

would only incur additional financial burden for the municipality. Recent developments however indicate a change of mind. Similarly, in Malishevë/Mališevo, the Municipal President and most Municipal Assembly Members do not consider it relevant to appoint CC members, although the Municipal Assembly has formally confirmed the existence of the CC. There are only 29 ethnic Kosovo Roma inhabitants, constituting another community, in the municipality who, according to the Municipal President, have not shown interest in participating in local governance. However, according to UNMiK Regulation 2000/45¹⁴, the CC should be appointed, regardless of the size or nature of communities, as discrimination could occur on many grounds, including ethnic affiliation.

It must be re-iterated that the rights of the communities are guaranteed by the Constitutional Framework, UNMiK Regulation 2001/9, Chapter 4, and that communities are defined as ethnic, religious and linguistic.

3. Lack of commitment of CC members, manifest in infrequent meetings and lack of substantive discussion during CC sessions.

CC members, often inexperienced, are many times unsure of their responsibilities which helps to explain why they lack motivation to take part in CC sessions and do not take a proactive approach to identify and address communities' concerns¹⁵. The low attendance rate and weak involvement often imply that the members come unprepared to CC sessions and consequently, cannot work efficiently. Correcting this should start by proper organization and planning of meetings, as well as prompt member notification¹⁶ of the meeting's time, venue and agenda. An illustrative example is Zvečan/Zveçan municipality where the CC has faced a number of organizational issues, due to a lack of understanding of the role of the municipal administration. Reportedly, although the CC meets on a regular basis, there was no archiving, presentation of minutes, translation, proper information dissemination, which was solved following the OMiK DD MASP IV training¹⁷. In addition, difficulties occur due to restricted freedom of movement of members of minority communities.

Ethnic communities' freedom of movement, employment, or usage of their native languages are the main issues referred to CCs. However, these issues have been discussed out of context, as substantive case-oriented discussion is still lacking and meetings are rarely concluded with substantive outcome or follow-up of issues discussed. Furthermore, having had few meetings since their establishment, the CCs have not been able to systematically address the issues raised. Therefore, the CCs have so far submitted only

¹⁴ Refer to UNMIK Regulation 2000/45, S.23.1 and 5 and AI 2003/002 on Procedural Guidance for the Work of Municipal Communities Committees, 3.1 and 3.3 (b).

¹⁵ In a number of municipalities, namely Gjilan/Gnjilane, the UNMIK Local Community Officer is the one who raises issues and stimulates dynamic discussion among CC members who lack initiative to start discussion on community issues.

¹⁶ Refer to UNMIK Regulation 2000/45, S.15.3, "At least seven working days prior to any session of the Municipal Assembly, or exceptionally three working days in case of emergency..."

¹⁷ See footnote 13.

six recommendations to the MC Kosovo-wide¹⁸. On the positive side, some CC members appear to show more interest in investigating matters raised at meetings. Field visits have been organized in Pejë/Peć (to assess a dispute between two families of different ethnic communities), Štrpce/Shtërpçë (to assess the situation within a Kosovo Albanian temporary school) and Prishtinë/Priština (where CC members visited Kosovo Ashkali and Kosovo Turkish communities and held a meeting with Kosovo Bosniaks).

IV. Conclusion and Recommendations

Eighteen months after the October 2002 Municipal Elections, CCs are only slowly on their way to becoming fully operational. With the exception of a few municipalities where CCs have been established and have had regular meetings, CCs have not yet been institutionalized and could hardly be regarded as a successful tool for advocating communities' rights within municipal territories. There is an urgent need to assist CC members in comprehending their essential role and responsibility, as well as municipal authorities to recognize the role of Committee members. Further training and familiarization of CC members and municipal authorities with AI 2003/2 should be coupled with constant provision of advice. To understand their role and responsibilities, CC members need to understand the purpose of the CC, and fundamentally, the meaning of "discrimination". To help resolve these issues, OMiK DD, UNMIK-OCA and PISG/AOC would like to propose the following:

1. Organising roundtable discussions or mediation sessions in the municipalities that encounter difficulties in establishing a functional CC.

In municipalities where CCs have not been established, supportive activities should be focused on developing Municipal Assembly members' negotiation skills to enable them to reach an agreement on CC establishment and composition. This was one of the objectives of the Kaçanik/Kaçanik Municipal Assembly Retreat, organised by Štrpce/Shtërpçë OMiK Office in Struga (fYROM) in December 2003¹⁹. Through interactive and participatory components such as meetings in small groups and "role-playing" activities, the retreat aimed to facilitate dialogue and acted as a catalyst to improve the functioning of the Municipal Assembly and its Committees. The Kaçanik/Kaçanik retreat could be used as a model for future planning of similar mediation activities.

In municipalities where CCs are established, but not functional, OMiK and UNMiK should continue to organise roundtable discussions and mediation sessions with municipal officials, CC members, and community representatives. Such activities have

¹⁸ See footnote 7.

¹⁹ Following a six-month Municipal Assembly political gridlock from February 2003 until August 2003, the retreat successfully gathered 29 of 31 Municipal Assembly Members and served as a forum to reconcile members' differences and establish co-operative practices.

proven successful in Zubin Potok/Zubin Potok²⁰ where the result included agreement to meet on a regular basis.

Moreover, in those municipalities where a Municipal Assembly additional Deputy President has been appointed²¹, he/she should be involved in the work of the CC, as his/her organisational support and contribution of procedural knowledge may be of great value to the successful functioning of the CC²².

2. Maximising effective participation among communities

Ensuring all communities, including the majority community, are aware of the functioning of the CC and how people should correctly approach it will play a vital role in strengthening the CC's role. Public meetings, media debates and awareness campaigns should be designed to familiarize the public with ways to use the CCs to protect and promote their rights. Particular efforts should be made to present CCs in concrete and simplistic terms that are pertinent within the local context through exemplifying to the extent possible the ways community concerns should be channelled through CCs.

OMiK Community Centers could serve as a venue to host CC sessions or roundtables and this can be organized in conjunction with village leader meetings. For example, the OMiK Community Center in Veliko Ropotovo/Ropotova e Madhe, Kamenicë/Kamenica municipality organizes monthly meetings of Kosovo Serb village representatives on issues relevant to the local community. In such a forum, the public is informed of the CC's activities and has the opportunity to address and meet with CC members.

3. Increasing the capacity of CC members to ensure the optimal use of the CC mechanism

Committee members need both guidelines and training. While guidelines exist in AI 2003/002, training and capacity-building activities are an ongoing process. OMiK DD's work in that respect has been centered on the implementation of MASP IV²³, coupled with training on procedural matters. Best practices have shown that appropriate and substantive follow-up to each activity through "monitoring, advising and advancing" is critical to the CC's development.

²⁰ In Zubin Potok the UN Municipal Representative called an extraordinary meeting on 13 November 2003 to discuss the reasons why the established CC and MC had a four-month break in convening sessions.

²¹ Refer to UNMIK Regulation 2000/45, S.25.3 "In municipalities where one or more communities live that are not in the majority, an additional Deputy President shall be appointed by the Municipal Assembly from these communities".

²² A recent example of involving the additional Deputy President in solving CC related issues has been presented by Prishtinë/Priština municipality which has been faced with continuing gridlock over Kosovo Serb appointments to the CC. As a result of a meeting that OMiK held on 23 December 2003, the Prishtinë/Priština additional Deputy President from the Kosovo Serb community agreed to begin to attend the CC bi-monthly meetings as an observer.

²³ See footnote 12.

Ensuring follow-up activities may take different forms, and therefore, a creative approach is essential. For example, Lipjan/Lipljan CC has set up three sub-groups, which deal respectively with citizens' rights and discrimination, monitoring Municipal Assembly's work, and reviewing citizens' complaints. Although for the time being the work of the Committee remains stalled due to political reasons²⁴, creating specialized working groups is an important step forward.

Moreover, one-on-one meetings with CC members organized by the OMiK DD have proved to be effective in Štrpce/Shtërpçë and are now being implemented in Ferizaj/Uroševac. OMiK DD in Pejë/Peć organized a series of seminars for CC members in the region where participants discussed issues faced by the CC and helpful tools to address them²⁵.

Finally, regional exchanges among CC members from neighboring municipalities should be encouraged and facilitated. This approach is likely to foster the exchange of ideas and "best practices" as CC members are afforded a chance to learn from municipalities with more developed CCs²⁶.

4. Increasing support of Municipal authorities

Support from Municipal authorities, especially from Municipal Assembly members, President and Deputy President of the Municipality can greatly improve the functioning of the CC. Efforts from Municipal leadership should aim at assisting the work of CC by encouraging participation of both CC members as well as the communities they represent. Recommendations formulated by CC should be carefully considered, discussed with CC members and included - to the extent possible - in municipal decision-making.

Municipal authorities should also encourage local ownership of AI 2003/002, and an efficient way to do this is to support its inclusion, partly or fully in the Municipal Statute. As the AI 2003/002 is currently a non-binding document, including it in the Municipal Statute will greatly increase its enforcement power.

The PISG Prime Minister's Advisory Office on Communities will continue their capacity building for communities committees implemented through Information Sessions on "Role of Local Government in the Implementation of Selected international conventions", already taken place in three of the five regions in Kosovo. The AOC also performs a liaison function between the Government and the Municipalities on issues related to community rights and interests.

²⁴ Since the establishment of the CC sub-groups on 9 October 2003 the CC in Lipjan/Lipljan has met only once. One serious problem is posed by the fact that the Chair of the CC who is also the Kosovo Serb Additional Deputy President does not enjoy the support of the Kosovo Serb village leaders.

²⁵ Seminars have been organised upon the request of CC members who expressed their will to continue to share their views on the work of the CC and how to strengthen their work within the Municipal Assembly.

²⁶ For example, in Gjilan/Gnjilane region, CC members from four municipalities gathered on 4 December 2003 to attend MASP IV. This type of meeting could also be organised at a later stage after the training.

OMiK DD will continue their training and counseling of Community Committees based on a training module already delivered in 15 Municipalities.

5. Strengthening co-operation between pillar II and III on the CC issue

Difficulties related to the appointment and functionality of the CC calls for stronger co-operation and improved co-ordination between Pillar II (UNMIK) and Pillar III (OMiK). This should begin by consolidating a common position on the CC issue. Ensuring OMiK/UNMIK co-operation in assisting CC day-to-day activities is essential to avoiding an inconsistent approach and providing adequate support to this crucial tool for the successful integration of all communities.