



Verein für
Integrative Mediation e.V.

Situation Assessment
Kosovo
October 2008



Stabilitätspakt für Südosteuropa
Gefördert durch Deutschland
Stability Pact for South Eastern Europe
Sponsored by Germany

Integrative Mediation:

Bringing Local Leaders Together

CSSP – Verein für Integrative Mediation e.V. (CSSP) is a registered non-profit association based in Berlin, Germany. It was founded on 16 June 2006 in Berlin and has ten founding members. Its purpose is to improve inter-ethnic communication and cooperation, and the implementation of peace initiatives to resolve local conflicts through Integrative Mediation. It also promotes efforts to support the development of democratic processes as a tool to overcome conflicts. The organization is fully funded on a yearly basis by the German Foreign Ministry and the Bundestag through the Stability Pact for South Eastern Europe and has its offices in Berlin. In 2006, 2007 and 2008, parts of its activities are also sponsored by the Austrian Development Agency (ADA).

The origin of CSSP lies in the implementation of the lessons learned from ten years of work of the International Mediator in Bosnia and Herzegovina (1995 – 2004), Dr. Christian Schwarz-Schilling. As International Mediator he placed a particular emphasis on increasing dialogue. Through review, critique and the evolution of his extensive experience as a mediator, the methodology of Integrative Mediation was developed. It brings together several elements of conflict resolution at the local level in a comprehensive approach. Integrative Mediation is the core of CSSP.

CSSP seeks to empower local individuals through tailored mediation processes. This includes providing local individuals with professional training in mediation, negotiation and problem solving techniques and skills, as well as offering expertise and assistance in resolving their conflicts. At the same time CSSP tries to strengthen professional mediation in its target areas to increase capacity and provide credible alternatives to conflict. The CSSP team firmly believes in and strives for building peace from the bottom up and strengthening a community's capacity to overcome its internal disagreements and to create a fertile ground for democratic (political, economic, and social) development.

The comprehensive approach to mediation includes various levels of responsibility, multiple actors, and a variety of techniques, drawing on classical mediation and developing holistic and decentralized processes. It combines five different core elements: Mediation, Consultation, Professional Training, Advocacy, and Research & Analysis. The elements are combined in various forms and situations to develop a holistic and individual process.

CSSP assists local actors to develop initiatives and to implement confidence-building measures which apply to their specific needs and circumstances. Overall Integrative Mediation endeavours to bring the general and hierarchical process of conflict resolution down to the local level by focusing on joint meetings, dialogue, confidence-building and experience sharing.

CSSP does not seek to replace or remove ownership of the peace process. Instead, Integrative Mediation complements the work of those already in the field. The main aim is to leave decisions and solutions in the hands of local actors.

For further information contact:

CSSProject for Integrative Mediation, e.V.
Auguststr. 72
10117 Berlin
Germany

info@cssproject.org
www.cssproject.org
tel: +49 30 227 77414
fax: +49 30 227 76417

Table of Contents

Introduction.....	3
Creating Incentives for Kosovo Serbs	4
Strengthen cooperation between municipal and central level	5
Empowering the Communities Committees	8
Štrpce / Shtërpçë – political chaos at the local level	9
ADR Services in Kosovo Property Disputes.....	11
CSSP Projects in Kosovo	13
DEÇAN / DEČANI	13
FERIZAJ / UROŠEVAC	14
GJILAN / GNJILANE	15
OBILIQ / OBILIĆ	15
RAHOVEC / ORAHOVAC	16
ŠTRPCE / SHTRËPÇË	17
ADR SERVICES IN THE KPA	17
SOUTH EASTERN EUROPEAN MEDIATION FORUM (SEEMF).....	18
Recommendations	19

Introduction

The ratification of the Kosovo Constitution on 9 April 2008 and its subsequent coming into effect on 15 June 2008 were further steps in Kosovo's efforts to being recognized as an independent country. Although these events are to bring stability to the Kosovo political system, they have been accompanied in some municipalities by confusion and uncertainty over rules, responsibilities, and duties. This uncertainty became more visible with the elections held by Kosovo Serb communities on 11 May 2008 that created parallel structures at the municipal level. These parallel structures are prominent in some Kosovo municipalities and their influence is growing disproportionately because of the economic assistance from Belgrade to supporters of these structures.

This CSSP report highlights the main issues determined through an assessment visit made by CSSP from 14 to 23 July 2008 and 3 to 5 September 2008 to Kosovo. During these visits, CSSP team members met with state and international representatives in Dečan / Dečani, Ferizaj / Uroševac, Gjilan / Gnjilane, Obiliq / Obilić, Prishtinë / Priština, Rahovec / Orahovac, and Štrpce / Shtërpçë. The meetings were held with municipal leaders, officials from international organisations, parallel institutions, local NGOs, individual community representatives, and representatives at the central level. This report highlights five key issues that CSSP found to be critical in the current political environment in Kosovo and gives an overview of the CSSP projects in the region.

CSSP identified five key issues during the recent assessment visits drawn out of meetings with representatives at the local and at the state level:

- The need to strengthen cooperation between municipal and central level representatives and administrations;
- Empowering the Communities Committees to address the concerns of ethnic groups in their municipalities and become a platform for intercommunity dialogue;
- A need for creating incentives for Kosovo Serbs to participate in Kosovo institutions and recognising those who are participating;
- Alerting the appropriate stakeholders that the potential for conflict in Štrpce / Shtërpçë is escalating while local representatives wait for a decision from UNMIK.
- Exploring the potential for Appropriate Dispute Resolution (ADR) services in the Kosovo Property Agency (KPA) to address property disputes more efficiently.

These issues highlight the most prominent areas that CSSP determined during its visits and demonstrate the systemic nature of gaps in intercommunity cooperation that need to be addressed by all relevant stakeholders in Kosovo.

Creating Incentives for Kosovo Serbs

The independence of Kosovo has complicated politics at the local level, especially for Kosovo Serbs in municipalities where they comprise a minority. In the current situation, Kosovo Serbs have to choose whether they cooperate with the Kosovo government and its structures, a de facto acceptance of independence, or whether they participate in the structures supported by the Serbian government. At this time, the majority of the Kosovo Serbs choose to participate in the political structures supported by Serbia, due largely to financial incentives provided Belgrade. Thus, since the declaration of independence, a tension is created between those Kosovo Serbs who work within the Kosovo structures and those who work in the parallel Serbian structures. Both groups try to gain popularity among their community and convince the citizens to support them. This split weakens the Kosovo Serb community in these municipalities and hinders their ability to present their interests and needs in a unified way.

This tension has become more prominent since the 11 May 2008 parallel elections organised by the Republic of Serbia especially in the municipalities of Gjilan / Gnjilane and Štrpce / Shtërpçë, where the power of the parallel institutions is growing. Kosovo Serbs that are associated with the parallel structures are paid double¹ the salary they would obtain from the Kosovo institutions. Furthermore, infrastructure projects are being financed by Belgrade and are for exclusive use for the Kosovo Serb communities. For example, in Rahovec / Orahovac the Kosovo Serb leadership in the Kosovo institutions is struggling to prove to the local Kosovo Serb population that the central government in Prishtinë / Priština supports integration, as they were denied monies by the Ministry of Community and Return for a much needed water project. The fear now is that Belgrade will finance this project for the exclusive use by the Kosovo Serb community. The implications of this are serious since it creates the perception that the Belgrade government takes better care of Kosovo Serbs than the Kosovo government. Furthermore, it undermines the efforts of those Kosovo Serbs in the Kosovo institutions that are trying to integrate and represent their community.

The growing influence and power of the parallel structures in a number of municipalities as a result of economic support from Belgrade and perceived lack of support from the Kosovo government is adding to the difficulties of those Kosovo

¹ This revelation is well known in Kosovo and was mentioned to the CSSP team by representatives of the parallel structures, the representatives of the Kosovo institutions, and the representatives of the International Community.

Serbs participating in the Kosovo institutions. In some cases, after funds had not been made available by the Kosovo government, water supply projects and road construction to remote villages were funded by the Republic of Serbia. However, these infrastructure projects were then modified to only benefit the Kosovo Serb population. This undermines the efforts of the Kosovo Serbs who cooperate with the Kosovo institutions to motivate other Kosovo Serbs to do the same and weakens interethnic cooperation. At the municipal level both Kosovo Albanians and Kosovo Serbs express frustration at the apparent lack of support by the international community and the Kosovo government in facing this issue. In several municipalities like Rahovec / Orahovac and Ferizaj / Uroševac, local representatives were encouraged to submit project proposals that would benefit the minority communities. However, none of these proposals were accepted by the institutions in Prishtinë / Priština, often without reason, causing the local officials to appear unable to successfully carry out their duty in front of their constituents. Therefore, Kosovo Serbs that are participating in Kosovo institutions at the local level have become pragmatic in their duties in the municipality by choosing to accept support from either the Kosovo government or Belgrade, whichever side provides them with the funds required for much needed social services and infrastructure projects. The result of these two decision making structures is a balancing act that moves in either direction, depending on which structure provides more support to the Kosovo Serb community.

In order to support Kosovo Serbs who have chosen to participate in the Kosovo institutions, the Kosovo government needs to create incentives and reach out to those Kosovo Serbs reducing the influence of the parallel structures. This support should come from the Ministry of Community and Return, the Ministry of Transport and Telecommunication, and the Ministry of Local Government Administration, especially in those municipalities where the parallel structures are gaining influence.

Strengthen cooperation between municipal and central levels

Since the declaration of independence on 17 February 2008 and with the adoption of the new Law on Local Self Government adopted on 20 February 2008 and the promulgation on 15 June 2008, a series of structural political changes have to be implemented at the municipal level. New positions, such as Mayor and Deputy Mayor for Communities, have been created, and former ones, like that of Chief Executive Officer (CEO) and Municipal President, have been eliminated. Furthermore, responsibilities for old positions have changed – some have expanded to cover additional areas, others have been limited. Especially the position of Mayor has been given more responsibility which has increased his/her influence in the topics discussed by the Municipal Assembly and in the municipal government in

general.² All of these changes have caused confusion at the local level and municipal representatives are often unsure of the correct procedures, applicable laws, and correct jurisdictions. Officials are uncertain about what issues fall under their responsibility and in some municipalities, one person holds several different positions. Furthermore, ethnic minority representatives are unsure about their status in the local government due to new restrictions based on population percentages and therefore fear that their influence will decrease³. To clear their doubts and receive guidance on these issues, the municipal leaders look towards the central level. Unfortunately, the communication between the local and central level is weak and contact persons at the central level have not been identified. Hence, requests for meetings with ministerial officials often go unanswered or are postponed indefinitely, and the flow of information from Prishtinë / Priština to the municipalities is not yet functioning effectively.

Kosovo Serbs are particularly affected by this lack of communication and support by the central level because, due to the political circumstances and the boycott of the November elections, only a few hold an official position. Those who have an official position in the municipal government have expressed concern that they feel disconnected from the central level. Especially when they need guidance regarding return-related issues, the lack of contact to the Ministry of Community and Return is detrimental. In many municipalities, like Rahovec / Orahovac, the Ministry closed its office in the municipality in January 2008, and now all procedures have to run directly through the Ministry in Prishtinë / Priština. Since there is no person at the Ministry in charge of specific municipalities, local officials feel frustrated with the procedure to receive information and clarification or request meetings. In this time of political change, where institutions are new and many officials are inexperienced, it is important for the minority communities to be able to approach the central level for guidance.

The lack of communication to the central level also affects Kosovo Albanian municipal representatives. In all municipalities that were visited, they have voiced their dissatisfaction with the lack of response from the ministries regarding requests for information or meetings. Project proposals that they submit go unanswered or they simply receive a rejection letter without further explanation. Especially when projects are focused on strengthening intercommunity cooperation, the lack of explanation is interpreted as a lack of willingness from the central level to support

² Article 58 of the New Law on Local Self Government clearly outlines the responsibilities of the Mayor and demonstrates an increase when compared to the responsibilities of the Municipal President outlined in Section 28 of UNMIK Regulation No. 2000/45 on Self-Government of the Municipalities in Kosovo.

³ For example the Law on Local Self Government states in Article 61.1 that “There shall be a Deputy Mayor for Communities in those municipalities where at least 10% of the citizens belong to non-majority communities.” Previously, there were positions for minority representatives in the municipal government even if their community made up less than 10% of the population.

integration. This lack of communication with the central level is straining intercommunity relations at the local level since the minority communities perceive the low number of successful projects and the long waiting period for replies on issues of concern as being discriminatory against them. Also Kosovo Albanian officials have commented that a point person at the different ministries, responsible for specific municipalities and knowledgeable of the local situation, would be very beneficial for the strengthening of the local political structures and the promotion of stability at the municipal level.⁴

An issue where the disconnection between the local and the central level is very evident is in Obiliq / Obilić, where due to the pollution from KEK plants A and B, an environmental catastrophe is steadily developing. Although the inhabitants – Kosovo Albanians, Kosovo Serbs, and RAE – are aware of the pollution due to the high cancer rates, unclean water, the amount of ash in the air, and the overall smell, there does not seem to be an awareness campaign from the central level regarding pollution. The local population does not see that options are developed to resolve the problem, which reaches beyond their municipal areas of influence, or to try to find solutions. The overall sentiment at the central level seems to be ‘it will get worse before it gets better’ and a solution to the problem will not come before 2017 when Kosovo C is scheduled for completion. Meanwhile, the inhabitants of Obiliq / Obilić are continuing to live on in such an environment without investigation of the full impact on their health. The lack of action on part of the central government and KEK to develop a joint action plan with the municipal leadership and initiating an awareness campaign is worrying. Having a representative in Parliament designated to represent the needs and concerns of the municipality would help in raising awareness of the issue.

In order to strengthen intercommunity cooperation at the local level and to support the municipal leadership during this time of political change, communication between the local and central level has to be improved. One step in that direction would be designating point persons in each ministry who are in charge of requests from specific municipalities. This would ensure that the political adjustments would be implemented more smoothly and the flow of information would be more efficient. Another would be appointing Parliamentarians to represent the issues of certain municipalities and be in charge of staying in contact with the municipal leaders and the citizens. If a certain issue of concern is raised at the local level which reaches beyond the municipality’s area of influence and has the potential of affecting the stability of Kosovo, it can be discussed at the central level and the necessary decisions can be made.

⁴ This concern was mentioned by Kosovo Albanian leaders in Rahovec / Orahovac, Ferizaj / Uroševac, and Gjilan / Gnjilane.

Empowering the Communities Committees

Communities Committees are one of the obligatory committees at the municipal level according to Article 53 of the Law on Local Self Government. They provide an important platform for intercommunity dialogue at the municipal level, where issues of concern to the different communities can be openly discussed and options to resolving them can be developed. However, the new Law on Local Self Government seems to have weakened the role of the Communities Committee as developed in UNMIK Regulation No. 2000/45 on Self-Government of Municipalities in Kosovo. While Regulation 2000/45 clearly outlines the composition and responsibilities of the Communities Committee, the new Law has reduced the requirements of the Committee to one article (Article 53) with unclear guidelines regarding composition, duties, and working procedures. Furthermore, the new Law eliminates the Mediation Committee and does not mention the Communities Office, which in the past has been an important institution where minority communities could obtain information, support, and voice their concerns. These structures play a confidence-building role among the communities and their reduction or elimination can trigger distrust and fear among the minority population.

Regardless of being legally mandatory and often the only platform for the minority community to voice their concerns, the Communities Committee in many cases has not been constituted or is not functioning.⁵ In Ferizaj / Uroševac the Communities Committee has been formed, but has never met and has no real agenda for the year. In Obiliq / Obilić, the lack of intercommunity dialogue and facilitation skills is inhibiting the work of the committee.⁶ In Gjilan / Gnjilane, although the Communities Committee meets regularly, the implementation of its recommendations by the Municipal Assembly is very limited. In the case of Rahovec / Orahovac, Kosovo Serb leaders stated that the Committee has not worked very well in the past and that they now have built up direct channels of communication to the Board of Directors. This procedure is perceived by the Kosovo Serb leaders as more effective since they get answers to their requests immediately. Although in the short-term, this solution might benefit intercommunity relations, its middle to long-term effects are still to be determined. By ignoring the legal structures put in place to ensure that minority communities have a voice and by strengthening personal relationships to the current leadership, the democratic political system is weakened. Especially in the current political environment where Kosovo is working to put in place its political institutions,

⁵ Rahovec/Orahovac and Štrpce/Shtërpçë currently do not have Communities Committee. In Obiliq/Obilić the committee rarely meets and no agenda is set for the meeting. In Ferizaj/Uroševac, the committee has been constituted, but met for the first time when CSSP called a meeting during its trip. There is no agenda or plan for 2008. In Gjilan/Gnjilane, the Communities Committee meets regularly and plays an active role in the municipal government.

⁶ In Obiliq/Obilić, the current mayor decided that the Kosovo Serbs should form a majority on the Communities Committee since, due to their boycotting of the November 2007 elections, this remained the only platform to voice their concerns.

it is important to support all municipal structures in order to promote long-term stability.

CSSP will continue to strengthen the Communities Committees and develop them as effective platforms for intercommunity dialogue at the local level. In September 2008, a specialized training focused on intercommunity dialogue and group facilitation, as well as enhancing problem-solving and negotiation skills took place with Committee members from Obiliq / Obilić. In 2009, CSSP will expand this activity to Community Committees in other municipalities, like Ferizaj / Uroševac. In order to promote intercommunity cooperation at the local level and solidify platforms for intercommunity dialogue, these local structures have to be supported by the local and the central government. This means an investment has to be made to give them the necessary financial resources to function and give members the skills to effectively fulfil their responsibilities. CSSP is under the impression that, especially in the current political situation in Kosovo, more confidence building measures have to be put in place to strengthen the relations among the communities.

Štrpce / Shtërpçë – political chaos at the local level

Štrpce / Shtërpçë is a municipality located in the south of Kosovo, with a population made up of 67% Kosovo Serbs and 30% Kosovo Albanians.⁷ Due to its sizable Kosovo Albanian population, its situation cannot be compared to the three municipalities north of the Ibar River that have a Kosovo Serb majority. The Kosovo Serb population of Štrpce / Shtërpçë boycotted the November 2007 elections and thus failed to gain any representation at the municipal level. However, the election results for mayor and municipal assembly were never certified by the Central Election Commission and the Kosovo Albanian representative who was elected mayor never took office.⁸ The SRSG issued “Executive Decision 2007/64 on the Provisional Establishment of Municipal Government in Shtërpçë / Štrpce” putting in office the previously elected local government for six months. In June 2008, the mandate of these representatives, including the mayor, was extended for another six months. Meanwhile, in May 2008, Kosovo Serbs in Štrpce / Shtërpçë participated in the Serbian elections and elected a new leadership. The mayor, who was elected during those elections, and his staff have since then taken over the municipal building and although the Serbian elections are not officially recognized on Kosovo territory, have declared themselves the official government of the municipality and created parallel structures. Furthermore, all 46 Kosovo Serbs who worked in the administration

⁷ This percentage is taken from the OSCE municipal profile from April 2008. An official census has not taken place in Kosovo since 1981. Local Kosovo Albanians claim that the population has changed to be about 55% Kosovo Serbs and 45% Kosovo Albanians, and local Kosovo Serbs claim there are 65% Kosovo Serbs and 35% Kosovo Albanians.

⁸ See UNMIK documents entitled “2007 Elections for Mayors in Kosovo – Certification” and “2007 Elections for Municipal Assemblies in Kosovo – Certification” from 18 December 2007.

appointed by the SRSG have resigned and are now cooperating with the parallel structures.

These political developments have caused confusion among the population and the leadership, and the outcome of the political struggles will have repercussions throughout Kosovo. The person elected as mayor in the November elections lives in Ferizaj / Uroševac and has never taken office. The mayor appointed by the SRSG decision handed over the keys to the municipal building to the one elected in the unrecognized Serbian elections in May and now no longer has an official office. The Kosovo Albanians from the administration appointed by the SRSG continue to try to function without interacting with the parallel structures with which they share the municipal building. And the Kosovo Serbs who are cooperating with the parallel structures are waiting for instructions from Belgrade or UNMIK. Everyone is waiting for the international community to make a decision on what is the official government of Štrpce / Shtërpçë. However, the local actors state that UNMIK representatives have largely been absent from meetings or do not actively participate in discussions. The Kosovo Albanians interpret this as UNMIK and the international community de facto allowing the parallel structures to exist. The Kosovo Serbs in the parallel structures see it as UNMIK being afraid to move them out and make a decision. As time passes without a decision being made or an action being taken, the potential for a lose-lose situation increases.

The current conflict should not be analyzed as a local political issue but should be seen through the prism of the overall complexity of Kosovo. The problem with conflict resolution in this case is that the international community is not united on the issue of Kosovo's independence and by default on the situation in Štrpce / Shtërpçë. It has sent conflicting signals on what action will be taken when citizen groups occupy official buildings. In the case of the occupation of the courthouse in Mitrovicë / Mitrovica that started on 14 March 2008, the court was re-established by a joint action of the UN police force and KFOR three days later. In Štrpce / Shtërpçë, offices in the municipal building were taken over on 12 June 2008 and to date there has been no international response which outlines a strategy for resolving the political vacuum. All sides are waiting for UNMIK to make a clear decision on what the official government of the municipality is. However, the current strategy seems to be, wait and allow the issue to resolve itself over time. Meanwhile the work of NGOs and international representatives in the municipality is restricted due to all of their activities and comments being interpreted along conflict lines.

The question facing the international decision-makers, from the international community, Serbia and Kosovo, is whether conflict avoidance is the right strategy or whether action should be taken to resolve the current stalemate. Constructive problem-solving approaches are constrained since all sides are entrenched in their positions. Furthermore, the leaders' reputations and political affiliation place

additional strain on the already tense situation. The mayor elected by the Serbian elections is a member of the Serbian Radical Party (SRS) and used to be a member of the Serbian parliament. Although he seems to have the support of the Kosovo Serb community in Štrpce / Shtërpçë, the Kosovo Albanian community distrusts him and views him as a criminal. The SRSG appointed mayor has been somewhat discredited by participating in the May Serbian elections, losing, and then deciding to continue to represent the municipality within the UNMIK appointed structures. Currently he does not have an office in the Municipal Building and cannot fulfil the responsibilities of his position. The options for the different stakeholders are few and problematic, especially because they indirectly involve some form of recognition of the other side. The problem in Štrpce / Shtërpçë mirrors the overall Kosovo complexity and any action taken at the local level runs the risk of being interpreted as a precedent. However, leaders at higher levels need to consider whether the socio-economic future of the citizens of the municipality is worth the political stalemate.

It is essential that international stakeholders recognize that Štrpce / Shtërpçë cannot continue to be in a social-political-economic vacuum. There needs to be a local government framework accepted by both Prishtinë / Priština and Belgrade that ends this uncertain situation independent of the greater political questions surrounding Kosovo's status. The multiple claims to authority have to be clarified peacefully and a solution has to allow the municipal leadership to work with Prishtinë / Priština and Belgrade institutions, at least in the medium-term, without forcing them to take sides. This is especially important since municipal leaders have no real bearing on the outcome of the future status of the municipality. This requires from the Belgrade and the Kosovo government, UNMIK and other international actors to take active steps towards developing creative and practical solutions to the municipal conflict.

In view of the complex situation in Štrpce / Shtërpçë, it is important to develop creative options on how to best proceed with governing the municipality. It is even valid to raise the question whether the international community should seriously consider temporarily assuming the administration of a municipality in which there is no local unified governing structure. Other options, working with municipal stakeholders of all sides are equally conceivable. Regardless of the solution, it is important to consider that any solution must be face-saving for all sides and should not set a precedent for potential use of force or conflict escalation strategies.

ADR Services in Kosovo Property Disputes

The Kosovo Property Agency (KPA) was established in 2006 to replace the Housing and Property Directorate (HPD), and is the institution in charge of resolving property dispute claims. The KPA's mandate is to receive, register and resolve claims on private immovable property, enforce final decisions made in the property dispute resolution process, and administer abandoned property. The process of receiving

and registering claims ended in December 2007 and over 39,818 claims were submitted. Currently, the KPA is in the process of resolving the claims and to date 14,088 claims have been processed.

Submitted claims are reviewed by the Kosovo Property Claims Commission (KPCC) which then makes a final decision regarding the claim. The Commission is made up of two international and one local member, all appointed by the SRSG, and meets an average of four times a year. During these meeting sessions, the KPCC is able to settle at most 3000 cases. Thus at least another three years will be required to settle all remaining cases. Furthermore, there is a high probability that the backlog will continue beyond these three years since a decision by the KPCC can be appealed. If a decision is appealed, it is sent to a Supreme Court Panel created specifically to deal with these property claim appeals. At the time of writing, this panel had not been formed and thus the duration of the dispute resolution process, its costs, as well as the judicial backlog will be further increased.

Appropriate Dispute Resolution (ADR) services like mediation can play an important role in resolving property disputes. The appropriate stakeholders should come together to develop a strategy suitable for Kosovo of integrating ADR services into the already existing KPA structure. At this point, CSSP foresees that ADR services can play an important role at two points in the property dispute resolution process. First, is in the beginning where disputants could choose to withdraw their claim and submit it to mediation. Disputants would be given the choice whether they would prefer to have their case mediated instead of going through the KPCC. This can have financial benefits, as well as save time. Additionally, decisions that have developed during an ADR process are often easier to implement since all parties have come to a consensus. Especially in the post-conflict environment, where rule of law is not fully established, having an agreement that is acceptable to all highly increases the probability of a successful implementation.

Secondly, ADR services can be an attractive option for the disputants at the appeals level. Instead of having to re-enter the system and waiting additional time for their claim to be reviewed again, conflict parties could choose to participate in an ADR process. This option is particularly attractive keeping in mind that the Supreme Court Panel designated to review the appeals has not been formed yet. Again, this could positively influence the rate of successful implementation of claims decisions. Since ADR processes are voluntary and bring together conflict parties to jointly develop a solution that is acceptable to all sides, they have a reconciliatory effect which supports the peacebuilding process in the post-conflict environment. During meetings with different state and international stakeholders in the property dispute resolution process, CSSP suggested to hold a roundtable discussion to develop options on how ADR can be integrated as a viable alternative for disputants with property claims. This roundtable will take place in December of this year.

As the Law on Mediation has recently been passed, it is important to determine different areas of dispute resolution where mediation and other ADR can support the judicial system. The current judicial backlog can be alleviated by diversifying the services offered to conflict parties in resolving their disputes.

CSSP Projects in Kosovo

During the trips to Kosovo in July and September 2008, CSSP also continued its work on its projects in the municipalities. A team of at least two mediators met with various contact persons and participants in CSSP activities to follow-up on what developments have taken place since CSSP's last visit. During these follow-up visits, the areas where progress has been made are highlighted and the challenges that still exist are discussed. Action plans for future activities are developed jointly with the municipal leadership. It is CSSP's methodology to plan its project activities together with the local decision-makers so that ownership over the Integrative Mediation process is taken by local stakeholders and so that all actions appropriate to the local situation. Thus, CSSP is in constant communication with local leaders to determine how it can best support the municipality in promoting intercommunity cooperation.

Following is a description of the different projects of CSSP in Kosovo.

Deçan / Deçani

CSSP visited the municipality at a time when tensions are high between the municipal government and the Serb Orthodox Monastery. As a UN World Heritage Site the Monastery is situated in a predominantly Albanian municipality and symbolizes the unique relationship that characterizes many other municipalities where there are Kosovo Serb and Kosovo Albanian communities. Recently, the relationship was strained after the intervention of SRSG Joachim Rucker in the matter. The case is now in court. Unwilling to recognize the decision, the municipal government has asked the Courts to rule on the land in question. While this may be seen as a positive step, it is also representative of a more systemic intercommunity problem that still needs to be addressed. Regardless of the decision by the Courts there will be one side that is unsatisfied and thus tension is further increased between the communities. CSSP met with all stakeholders in the municipality to first understand the dynamics of the conflict and to determine if CSSP could play a role in reducing tensions. As such, CSSP is due to return to the municipality in the beginning of October, 2008 at the invitation of both the municipal government and the Orthodox Church.

Deçan / Deçani, on a more positive note, has seen the return of two Kosovo Serb families through the cooperation of the municipal government and the UNDP. One Kosovo Serb has found employment at the Communities Office and returnees are

satisfied with freedom of movement and the overall acceptance they have felt since returning. There are still issues with their property where despite the efforts of both the municipal government and the police have found it difficult to return them to their property because of existing occupants. As well, there are other ethnic groups that are in a state of limbo waiting for the opportunity to return to the municipality, which places an urgency to continue the work. CSSP will assess any potential need for us to be involved, possibly through mediating conflicts between potential returnees, the International Community, and the municipal government.

Ferizaj / Uroševac

CSSP conducted a follow-up to the Professional Training on “Gender and Equal Opportunity in the Return Process” that it organized with key leaders from the municipality in April 2008. Meetings were held with the Municipal Return Officer, the Gender Officer who had requested the Training, and a selection of participants from the different working groups of the training. All agreed that since the training, gender has been more widely accepted as a topic in the municipal proceedings. Officials feel more comfortable in addressing the gender-sensitivity of decisions and that this request is now perceived as a legitimate contribution to the process. Gender sensitivity has been additionally increased with regards to the role of women in the return process and their key function in ensuring a sustainable return. Participants, furthermore, perceived the inclusion of the top municipal leadership as beneficial to the topic. For example, participants have expressed that the Deputy Mayor and other members of the board of directors have as a consequence attributed further significance to gender equality. Although still much support in gender mainstreaming of all municipal institutions and activities is needed, participants saw the training as a helpful first step which they seek to build on in the future.

In its efforts to strengthen intercommunity cooperation at the local level, CSSP met with the Communities Committee of Ferizaj / Uroševac. Previously CSSP had met bilaterally with some of its members but had not met the Committee as a whole. The Committee identified itself as non-functioning. Members of the Committee elaborated on the challenges specific to the community they represent. All expressed a commitment to making the Committee work and fulfilling their responsibilities as members, but at the same time expressed a lack of clarity regarding the mandate and function of the Committee. There is a need to assist the Committee regarding formal procedures and communication, how to adopt a problem-solving approach and to develop options. Furthermore, a direct connection between the Committee and the municipal leadership needs to be facilitated to ensure the effective fulfilment of the Committee’s mandate.

CSSP recognized the need for capacity-building with the Communities Committee of Ferizaj / Uroševac particularly in this municipality where three organized returnee

villages are located. The need for intercommunity cooperation and dialogue is important to ensure the sustainability of the returns and further encourage the implementation of the return process. The Communities Committee through its mandate has a crucial contribution to make to the municipal proceedings. Therefore, a functioning Communities Committee must become a priority of the municipal government. For 2009, CSSP is planning to initiate an intense capacity-building process with the Communities Committee that will include three professional trainings each followed by a follow-up monitoring visit. Two trainings will focus on assisting the Committee members in clarifying the role, procedures and responsibilities of the Committee, as well as building skills in problem solving, intercommunity dialogue, and interest-based negotiation. A third professional training will include the top municipal leadership in a joint strategic planning process with the Communities Committee to further strengthen intercommunity dialogue and return in Ferizaj / Uroševac.

Gjilan / Gnjilane

Upon the request of local leaders, CSSP made a first visit to the municipality of Gjilan / Gnjilane and met with municipal elected leaders (including those elected in the parallel elections), community representatives, the Communities Committee, a local NGO, and the OSCE Municipal Team. The goal of the visit was to assess the state of intercommunity relations at the local level and determine how CSSP can support efforts to strengthen intercommunity cooperation. CSSP found that the decentralization process is causing confusion in the municipality and is putting a strain on intercommunity relations. Additionally, the influence of the parallel structures poses a challenge to effectively running the municipal government and representing the needs of all communities. However, there is goodwill on all sides to strengthen cooperation and develop options on how to open channels of communication in this precarious political situation.

CSSP is in the process of developing a project specific to the needs of the municipality of Gjilan / Gnjilane. It will conduct another visit to the municipality later this year to present its ideas to the local leaders.

Obiliq / Obilić

CSSP met with the Communities Committee of Obiliq / Obilić and with the OSCE Municipal Team to discuss the local situation. The Communities Committee is constituted and the members demonstrated a commitment to fulfil their responsibilities. In Obiliq / Obilić, there are several pressing issues that affect the communities and should be discussed by the Committee. However, the members seem unsure of how to work on these issues and look for guidance to the mayor and the elected representatives. In order to support the work of the Committee and assist

it in becoming a functioning platform for intercommunity dialogue, CSSP offered to initiate a capacity-building process consisting of three trainings. The first training will focus on developing the problem-solving, mediation, communication and interest-based negotiation skills of the participants. The second training builds on the first and supports the Committee in working on their own case using the problem-solving approach. Finally, during the third training, the Committee members jointly with the Mayor and the Board of Directors, will develop a strategic plan for the integration of the Communities Committee in to the municipal government procedures. Each training will be followed by a follow-up visit designed to assess the progress that has been made and determine the challenges that still exist. The Committee members supported the idea of this capacity-building process and suggested to begin as soon as possible. The first training will take place in September 2008.

Additionally, CSSP lobbied the case of the environmental catastrophe that is happening due to the exorbitant levels of pollution in the municipality at the state and international level. An overall reluctance to tackle this issue because of its complexity was perceived from all representatives.

Rahovec / Orahovac

CSSP conducted follow-up meetings with participants of the Strategic Planning Professional Training that took place in April 2008. Discussions focused on how the training had affected the work of the Board of Directors and the relationship of the municipal leadership with the community representatives. Community representatives praised the relationship they have with the Board and said they recognized the efforts of the leaders to work with the communities and listen to their concerns. Members of the Board of Directors recognised the contributions of the training to their joint work, as well as for their individual departments. The strategic planning workshop has contributed to their individual department planning and enabled them to develop projects accordingly. Representatives of both ethnic groups furthermore confirmed the improvement of relations between the communities.

After bilateral meetings with the different representatives, all were invited to a joint meeting where they were able to freely exchange their views on different issues of concern. The community representatives voiced concern about a lack of communication to the ministries in Prishtinë / Priština and asked the mayor for assistance in this matter. Additionally there seems to be confusion on all sides regarding the implications of the New Law on Local Self-Government. The major difficulties in the municipalities were attributed to funding for projects and the overall development of Rahovec / Orahovac. With the conclusions from the joint meeting, confirmed by all participants, the municipal leadership confirmed its goodwill for further cooperation between the communities and positive outlook for future development.

With this final joint meeting, CSSP brought its Integrative Mediation Process in the municipality of Rahovec / Orahovac focusing of the integration of the communities in the municipal structures to a close. CSSP began working with the municipal leaders in 2005 and since then conducted joint meetings combined with capacity-building professional trainings as well as the final strategic planning training to support the local leadership's efforts to promote intercommunity cooperation. Additionally, regular follow-up visits to the municipality were conducted to monitor the progress and the effect of the trainings and to implement the strategies which were developed. In the fall of 2008, CSSP will conduct a final evaluation trip to the municipality.

Štrpce / Shtërpçë

CSSP met with elected leaders and community and Internally Displaced Persons (IDP) representatives as well as the OSCE in Štrpce / Shtërpçë. The purpose of the visit was to assess the current situation, post-independence, post-coming into effect of the Kosovo Constitution, and post-Serbian elections. As already mentioned in this report, the overall political situation in the municipality is very tense. CSSP talked to all sides to determine how it can support the leaders and promote intercommunity dialogue in this precarious environment. It was clear from the meetings that there is a complete absence of trust between Kosovo Serbs and Kosovo Albanians and that communication has come to a standstill. The IDPs are uncertain about future developments and therefore have chosen to wait and see. At the moment they do not feel comfortable to continue working on their return process and are very discouraged due to the political situation in Kosovo.

Although CSSP has worked in the municipality since 2005, it has decided to put its activities in Štrpce / Shtërpçë on hold and meanwhile resort to regularly re-assessing the local situation. During the meetings it became apparent that the current conditions are heavily influenced if not actually determined by forces outside of the municipality. Therefore, it is very difficult for the local leaders to take initiatives or participate in activities that focus on intercommunity cooperation. All work in the municipality is heavily politicized. However, CSSP will remain in contact with the local leaders in Štrpce / Shtërpçë and will resume its work when it determines the situation to be ripe.

ADR services in the KPA

During both trips, CSSP met with different stakeholders in the property dispute resolution system of Kosovo to assess the current state of the system and determine where and how it could be strengthened. The goal was to establish whether there is an interest in developing a strategy of how to integrate Appropriate Dispute Resolution (ADR) services into the already existing structures of the Kosovo Property Agency (KPA). CSSP found that the different institutions involved in the property

dispute resolution process are open to exploring ways to integrate ADR and see the value of diversifying the services of the KPA to make them more participatory for the conflict parties.

In December 2008, CSSP plans to organize a one-day roundtable discussion about the current challenges of the property dispute resolution process and areas where ADR services would be beneficial. Representative from state and international institutions as well as NGOs will be invited to this roundtable. The purpose is to create a base document outlining the current situation taking into consideration diverse perspectives from different actors involved in the property dispute resolution process. In 2009, it is planned to hold a systems-design workshop with all top stakeholders to develop a strategy specific for Kosovo on how to integrate ADR services into the KPA structures.

South Eastern European Mediation Forum (SEEMF)

The South Eastern European Mediation Forum (SEEMF) is a regional network of mediators that supports and advocates the development of mediation as a conflict resolution tool in South Eastern Europe – the former Yugoslavia and Albania. The purpose of SEEMF is to create a platform for exchange and dialogue to improve good practice, cooperation, and strengthen human relationships. SEEMF also seeks to advocate the legal frameworks for mediation in the region.

Each member country of SEEMF has a country coordinator in charge of promoting mediation activities and supporting mediators in their country. During the July and September trips, CSSP met with the Kosovo SEEMF coordinator to discuss various options on how to raise awareness of the network. Options were developed on how to overcome the challenges faced by the coordinator mainly that mediation had not been legally regulated and thus was not taken seriously as a conflict resolution method.

However, on 18 September 2008 the Law on Mediation was approved by the Kosovo Parliament. With the legal framework almost in place – the Law still needs to be signed by the President of the Parliament – it will be easier to promote mediation and advocate its use in the resolution of different civil cases. The SEEMF coordinator in Kosovo will play an active role in supporting the state structures in integrating mediation into the judicial system.

Furthermore, preparations were made for the 2008 SEEMF Conference in Zagreb that takes place on 7-8 November, 2008. This conference brings together mediators from all over the region to exchange ideas, share best practices, and participate in workshops that focus on various specialization of mediation. During this conference, the annual SEEMF Regional Coordination meeting will take place.

Recommendations

CSSP visited Kosovo on 14-23 July 2008 and 3-5 September 2008 to assess the political and social situation post independence and to follow up on current projects. In this regard the team met with representatives of international institutions, government, local communities and NGOs. Specific concerns have been raised concerning the challenges for local leaders in the implementation of already adopted laws and the strengthening of the municipal and central level institutions. The recent changes and the new reality in Kosovo have created problems in communication between the central and the municipal level to the detriment of the latter. The following are conclusions and recommendations from the assessment visit to the region in July of 2008:

- In order to support Kosovo Serbs who have chosen to participate in the Kosovo Institutions the Kosovo Government needs to create incentives and reach out to those Kosovo Serbs. This would be mainly accomplished through economic assistance programs from the Ministry of Community and Return, Ministry of Transport and Telecommunication, and Ministry of Local Government Administration. This economic assistance needs to be given to municipalities with the intent of demonstrating to the Kosovo Serb communities that they are represented and provided for by the Kosovo Government. This is especially important with the growing influence of the parallel structures over the Kosovo Serb communities.
- Although the Communities Committee is one of the main instruments at the local level for intercommunity conflict resolution and the protection of minority rights, it is not properly equipped or capacitated to effectively take on this role. Therefore, they must be given the necessary resources, both financial and human, and the required legitimacy in order to fulfil their responsibilities for a functioning platform for intercommunity dialogue in the municipalities. The Kosovo Government should enlist the support of international organisations such as the OSCE to assist in capacity-building efforts for the Communities Committees and their members.
- The new Law on Local Self Government has made significant changes to the regulation of the Communities Committee and to other structures in place to represent issues of concern of the minority communities. These structures have an important role to play to build confidence and trust among the communities. Any reform of these structures should be thoroughly reviewed and considered before enacted.
- In order to provide clarification to the municipal leaders regarding political changes outlined by the new Law on Local Self Government, the ministries should have a contact person within their institution in charge of different

municipalities to act as a liaison to the local officials. This is especially important for the Ministry of Community and Return and the Ministry of Local Government Administration. Furthermore, communication channels between municipal leaders and parliamentarians have to be strengthened, with certain Members of Parliament designated to represent the needs and interests of specific municipalities at the parliamentary level.

- The current political situation in the municipality of Štrpce / Shtërpçë is not sustainable. All stakeholders – decision-makers in Prishtinë / Priština and Belgrade, as well as the international community – have to come together and make a decision on how the municipality can be governed. In the precarious political environment, it is important to find a solution that does not cause one side to lose face. One option to consider is whether for the sake of stability, the international community assumes administrative control of the municipality for the short-term until the stakeholders have developed a sustainable solution.
- Appropriate Dispute Resolution (ADR) services can play an important role in resolving property disputes and making the current process more participatory. CSSP has already entered into discussions with various stakeholders, both state and international, to hold a roundtable discussion to further develop a strategy on how to integrate ADR services into the existing KPA structures. As the Law on Mediation is approved, options must be developed on how mediation and other ADR services can support the Kosovo judicial system and be an added value to the services currently being offered.