

NATIONAL CONVENTION ON THE EUROPEAN UNION  
WORKING GROUP FOR CHAPTER 35



2022

TOWARDS  
THE AGREEMENT

## Towards the Agreement

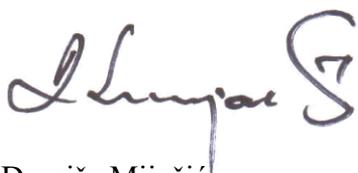
Despite the longevity of the negotiations on the normalisation of relations between Belgrade and Pristina, the year behind us undoubtedly represents one of the most dynamic, in which we saw many failed negotiations, crisis situations and serious incidents that could have led to armed conflicts between the special police forces of Kosovo and the local population in the north of Kosovo. The crisis contributed to an elevated tone in the public space, where discriminatory vocabulary and pejorative speech could often be heard by public officers, civil servants, other public figures, and unscrupulous journalists.

As in previous years, the Working Group of the National Convention on the European Union for Chapter 35 tried to introduce rationality and reason in the public debate on politically sensitive issues related to the normalisation of relations with Pristina and reconciliation between the Albanian and Serbian people. Through its activities, the Working Group and its members analysed the challenges in the dialogue in a professional and adequate manner in the public space, trying to contribute to a better understanding of the process among the citizens of Serbia. Through a series of meetings with state authorities and diplomatic representatives, including those directly in charge of organizing the negotiation process between Belgrade and Pristina, the Working Group also tries to contribute to the professional debate and the quality of the proposals that are the subject of the dialogue in Brussels.

The Working Group for Chapter 35 brings together 19 civil society organizations and four persons acting in an individual capacity. This publication, symbolically titled “Towards the Agreement”, is a collection of analytical papers published by the Working Group on Chapter 35 for the year 2022. The previous publication of the same name was issued by the Working Group for 2021 and it contained four analyses.

This publication contains six analyses developed in partnership by researchers from 12 members of the Working Group. The analyses include topics of importance for the negotiating process, from the necessary elements to achieve a successful and sustainable agreement between Belgrade and Pristina, through the discussion of possible solutions for Serbian religious and cultural heritage in the context of the new agreement, to the impact of the negotiation teams' narratives on the process of normalisation of relations. In addition, the problems of property rights of Serbs in Kosovo, obstacles in the process of return of displaced persons, and opportunities for cooperation in the field of environmental protection were analysed. Through these analyses, the Working Group tries to contribute qualitatively to the negotiation process through insight into empirical data and practical policy proposals in areas of importance for dialogue. The publication was translated into English in order to have the greatest use value and as many readers as possible.

The publication "Towards the Agreement" was produced with the financial support of the Embassy of the Kingdom of Norway in Belgrade and the Balkan Fund for Democracy of the German Marshall Fund of the United States, which I sincerely thank for their assistance.

A handwritten signature in black ink, appearing to read 'Dragiša Mijačić', with a stylized flourish at the end.

Dragiša Mijačić

Coordinator of the Working Group for Chapter 35



**YUCOM**  
Komitet pravnika  
za ljudska prava



# THE IMPACT OF NEGOTIATION TEAMS' NARRATIVES ON THE NORMALIZATION OF RELATIONS BETWEEN BELGRADE AND PRISTINA

Analysis of political representatives in 2022

### **Publisher**

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### **Authors**

Jovana Spremo, YUCOM  
Velimir Petrović, YUCOM  
Milica Orlović, NGO AKTIV

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# **The impact of negotiation teams' narratives on the normalization of relations between Belgrade and Pristina**

**Analysis of political representatives in 2022**

*Jovana Spremo (YUCOM)*

*Velimir Petrović (YUCOM)*

*Milica Orlović (NGO AKTIV)*

**October 2022**

## **CONTENTS**

<b><i>INTRODUCTION</i></b> .....	<b>1</b>
<b><i>METHODOLOGY</i></b> .....	<b>3</b>
<b><i>CHRONOLOGY OF EVENTS</i></b> .....	<b>5</b>
<b>REFERENDUM ON THE AMENDMENT OF THE CONSTITUTION OF THE     REPUBLIC OF SERBIA</b> .....	<b>5</b>
<b>THE BEGINNING OF RUSSIA'S AGGRESSION ON UKRAINE</b> .....	<b>9</b>
<b>PARLIAMENTARY AND PRESIDENTIAL ELECTIONS IN SERBIA</b> .....	<b>11</b>
<b>NEW CONSENT ABOUT THE ENERGY AGREEMENT</b> .....	<b>15</b>
<b>DECISION OF THE KOSOVO GOVERNMENT ABOUT RE-REGISTRATION OF VEHICLES AND     PERSONAL DOCUMENTS</b> .....	<b>17</b>
<b><i>THE RETHORICS OF INTERNATIONAL OFFICIALS PARTICIPATING IN THE DIALOGUE</i></b> .....	<b>20</b>
<b><i>ANALYSIS OF THE NARRATIVES AND THE IMPACT ON THE PROCESS OF NORMALIZATION OF RELATIONS</i></b> .....	<b>25</b>
<b><i>CONCLUSION</i></b> .....	<b>30</b>

## **ABBREVIATIONS**

EU	European Union
UNSC	United Nations Security Council
OSCE	Organization for Security and Co-operation in Europe
USA	United States of America
UN	United Nations
KM	Kosovska Mitrovica
PR	Pristina
RKS	Republic of Kosovo
MUP	Mnistry of Interior
VAT	Value added tax
EEAS	European External Action Service

## INTRODUCTION

The dialogue between Belgrade and Pristina, with the mediation of the European Union, began in March 2011, three years after Kosovo\* declared independence.<sup>1</sup> The goal of the negotiations is the normalization of relations between the official Belgrade and Pristina and they include all issues that are important for the lives of people living in the territory of Kosovo. The negotiations are also one of the foreign policy projects of the European Union. As Serbia is currently in accession negotiations with the EU, the issue of the normalization of relations between Serbia and Kosovo\* is considered within chapter 35 “Other issues” as a separate item that the EU will deal with throughout the negotiation process.<sup>2</sup> The EU negotiation framework explicitly stipulates that progress in the normalization of relations with Kosovo is also a condition for further negotiations between Serbia and the EU.<sup>3</sup>

All this shows that the dialogue between Belgrade and Pristina, in addition to improving the lives of citizens living in the territory of Kosovo, is also part of a wider political process that is an obligation of Serbia if it wants to join the EU. The first agreement on the principles governing the normalization of relations between Belgrade and Pristina, known as the Brussels Agreement, was signed in 2013, and negotiations within the framework of these principles have lasted for as long as 9 years. Since then, there have been ups and downs, bright and not so bright moments in the relations between the two negotiating parties, with accompanying rhetoric that either served to justify the necessity of the dialogue with the “other side” or it was used for confrontation, mutual accusations, and measuring of forces.

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<sup>1</sup> This asterisk does not call into question the views on the status and is in accordance with UN Security Council Resolution 1244/1999 and the Opinion of the International Court of Justice on the Declaration of Independence of Kosovo. The name without the asterisk will be used hereinafter.

<sup>2</sup> Negotiating framework of the Republic of Serbia, see at: [https://www.mpravde.gov.rs/files/pregovaracki\\_okvir%201.pdf](https://www.mpravde.gov.rs/files/pregovaracki_okvir%201.pdf).

<sup>3</sup> If Serbia significantly lags behind the overall progress of the negotiations, and the reason for this is Serbia's failure to act in good faith, and in order to ensure a general balance regarding the progress of the negotiations, progress in the overall negotiations can be stopped until this balance is established. Even with the new enlargement methodology, Chapter 35 has the position of one of the key chapters in the process of Serbia's accession to the European Union, to the extent that it is not included in any of the six clusters, but the fulfillment of the prerequisites for its closure will be decided separately.

And while the European Union, which leads the dialogue process, has not fully and clearly defined what is expected as the final goal of the negotiations, the negotiating parties in Belgrade and Pristina each have their own view and interpretation of what is happening and what is expected in that process.<sup>4</sup> It seems that for Pristina it is an opportunity to confirm independence and complete sovereignty over the entire territory, while for Belgrade it is an attempt to formally and legally keep Kosovo within the constitutional and legal system of Serbia.

The obvious inconsistency of what the political elites of both sides decide to communicate to the public contributes to the fact that the citizens of Kosovo and Serbia do not have a clear and unique picture of what the dialogue is, and therefore have different expectations. The public discourses of the governments in Pristina and Belgrade do not leave the possibility that the final solutions contain compromises, but instead foster a competitive and victorious narrative, and the citizens themselves are against compromises that are the only realistic solutions. Nevertheless, both sides in the dialogue show a basic level of responsibility by, despite interruptions and setbacks, staying in the process leading to normalization and making efforts to find peaceful solutions even when it seems impossible.

The analysis “The Impact of the Negotiating Teams’ Narratives on the Normalization of Relations between Belgrade and Pristina” deals with the dialogue process between Belgrade and Pristina in 2022 and the specific messages that the negotiators of both sides sent to the public, in the context of the most significant events, as well as the impact of those messages on the further process of normalization of relations. Throughout the publication, the public narratives of the negotiation teams of Belgrade and Pristina were analyzed at the same time, with the aim of better understanding the meanings of such a narratives, their purpose, as well as the impact they can have on the further course of the dialogue between the two parties.

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<sup>4</sup> This name is without prejudice to the status and is in accordance with the UN Security Council Resolution 1244/1999 and the Opinion of the International Court of Justice on the Declaration of Independence of Kosovo

## **METHODOLOGY**

For the purpose of analyzing the narratives of the negotiating teams, the researchers identified five key events in the relations between Belgrade and Pristina in 2022. The analysis covers the period from the beginning of January, i.e., from the campaign to organize the referendum until September 2022 and reaching the agreement on personal documents. The most significant events that marked the relations between Belgrade and Pristina in 2022 were:

- Referendum on amending the Constitution of the Republic of Serbia held on 16 January
- The beginning of the Russian Federation's armed attack on Ukraine, which began on February 24
- Parliamentary and presidential elections in the Republic of Serbia on April 3
- A new agreement on the Energy Agreement reached on 21 June
- Decisions of the Government of Kosovo on the re-registration of vehicles and personal documents in the period from June to September.

The subject of the analysis are the statements and positions of the negotiators in the dialogue between Belgrade and Pristina, and their influence on the process of normalization of relations. The basic criteria for selecting events are the *criterion of relevance*, i.e., whether the selected events are related to and in accordance with the needs of the subject analysis, and the *criterion of impact*, i.e., whether in the context of the observed events and the analyzed narrative of the negotiators, there were effects or consequences produced that may be of importance for the further course of negotiations between Belgrade and Pristina.

The observed events were not only those that are the official subject of the dialogue between the two negotiating teams, but also internal and external events that made an impact and determined further relations between

Kosovo and Serbia, such as the conflict in Ukraine or the elections in Serbia. During the analysis of the content, the official announcements of the leaders of the institutions participating in the negotiations, government institutions, the president of the state, or special government services, i.e., offices were used as the main source of data. As a secondary source of data, the statements of public officials transmitted through print and electronic media and published through media portals were used.

For the analysis of the narrative presented in the text, *discursive analysis* was of particular importance, i.e., identifying the social context behind oral or written statements, as well as analysis of the relationship between narratives and social processes. In addition to the analysis of the text itself, which has formal characteristics, for the understanding of the narrative itself, the analysis of “*discourse practice*” is also important, which concerns the production, use and distribution of the narrative that was the subject of study, as well as “*social practice*” through the study of the political context of events and their ideological effects.

## CHRONOLOGY OF EVENTS



### REFERENDUM ON THE AMENDMENT OF THE CONSTITUTION OF THE REPUBLIC OF SERBIA

In order to fulfill the goals defined by the *Action Plan for Chapter 23*, and ensure greater independence for the judiciary system, the Government of the Republic of Serbia proposed changes to the Constitution in the part related to the judiciary, which is why a referendum was announced on 16 January 2022. Voting in the referendum was supposed to be implemented in the territory of Kosovo, in areas where the majority Serb population lives, as it was organized in previous years for elections at all levels.

On the occasion of the referendum in the Republic of Serbia, the Office for Kosovo and Metohija sent a request to the Mission of the Organization for European Security and Cooperation (OSCE) in Kosovo to operationally implement the referendum voting process in the field in accordance with its mandate. By *resolution*, the Parliament in Pristina prohibited the implementation of a referendum on the territory of Kosovo, proposing options for Serbs to vote in the same way as citizens do in foreign territory, through the post office or Liaison Office, and not at formal polling stations.<sup>5</sup> This was certainly unfeasible in accordance with the legal framework of the Republic of Serbia.

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<sup>5</sup> DW, [Kosovo ne dozvoljava birališta za srpski referendum](#), 16 January 2022

The Office for Kosovo and Metohija officially addressed the ambassadors of the Quint countries, the official Brussels, as well as the EU special representative Miroslav Lajčak, who is the mediator in the communication between Belgrade and Pristina, with a request to make it possible to organise the referendum in Kosovo and Metohija.<sup>6</sup> In a joint statement by several Western countries, they regret that the Government of Kosovo\* did not allow OSCE to collect ballots from Kosovo during the referendum. Due to the impossibility of voting in the territory of Kosovo, a reorganization was carried out and voting was made possible at the relocated polling stations in Vranje, Kuršumlja, Novi Pazar, Tutin and Raška.

Belgrade officials	Pristina officials
<p>The Director of the Office for Kosovo and Metohija, <b>Petar Petković</b>, on the ban on the holding of the referendum and the news about the arrest of the Republic Electoral Commission's coordinator and the confiscation of election materials, stated that the Serbs, with such a decision and action, <i>witnessed demonstration of force and violation of the agreement by Albin Kurti, which will have unfathomable consequences on the normalization of relations between Belgrade and Pristina.</i><sup>7</sup></p> <p>The Office for Kosovo and Metohija issued a statement in which it states that <i>any news published by Pristina is malicious</i>, that Belgrade did not address the institutions in Pristina</p>	<p>Kosovo Prime Minister <b>Albin Kurti</b> announced on Twitter, after a telephone conversation with the head of European diplomacy, Josep Borell, that Serbs in Kosovo with dual citizenship can vote in the Serbian referendum by mail or in the Liaison Office in Pristina, but that a <i>referendum on the sovereign territory of another country is not a practice acceptable to any democratic country.</i><sup>12</sup></p> <p>After a meeting with the ambassadors of the Quint countries, who asked Pristina to allow the Serbs from Kosovo* to vote in the referendum in accordance with the practice so far, Prime Minister <b>Kurti</b>, President</p>

<sup>6</sup> Office for Kosovo and Metohija of the Government of the Republic of Serbia, [Kancelarija je od OEBS-a zatražila da u skladu sa mandatom sprovede referendum na KiM](#), 12 January 2022

<sup>7</sup> Office for Kosovo and Metohija of the Government of the Republic of Serbia, [Kosovska policija privela je večeras na Merdaru koordinatora RIK i zaplenila materijal za referendum](#), 12 January 2022

<sup>12</sup> Albin Kurti's twitter account, see: <https://twitter.com/albinkurti/status/1481368149819904001/photo/1>.

<p>regarding the referendum, and that <i>with a spin, Pristina is trying to mask the most direct violation of human rights of Serbs in Kosovo and Metohija, with the decision to ban their right to vote and to declare their opinion.</i><sup>8</sup> In a statement, the office pointed out that the Office for Liaison between Serbia and Kosovo is a <i>fictional body that exists exclusively in the imagination of Pristina politicians.</i> In relation to the reactions of the West towards the Pristina authorities, the office points out that <i>the West supports Kosovo as its child.</i><sup>9</sup> In his statements, Petković nevertheless states that, despite the aforementioned challenges, Serbia will continue to <i>peacefully and democratically fight for the holding of future elections in Kosovo</i>, but also that <i>Albin Kurti and his extremists should not think that they will be able to prohibit Serbs from voting in Kosovo and Metohija in the future.</i></p> <p>Although they did not have official statements in the form of announcements, the Prime Minister of RS, <b>Ana Brnabić</b>, and the President of Serbia and the main negotiator in the process of normalizing relations</p>	<p><b>Vjosa Osmani</b> and the President of the Kosovo Assembly <b>Glauk Konjufca</b> issued a joint statement and confirmed that <i>the Serbs in Kosovo will have the right to vote in the referendum by mail or through the Liaison Office in Pristina, while the practices so far have been unconstitutional and have only resulted in the strengthening of Serbia's illegal structures in Kosovo.</i> They further said that <i>Serbia wants to use the referendum as means to extend its sovereignty over Kosovo and called on the international community to apply the same standards in relations with Kosovo as with any other country.</i> The statement further states that <i>it is the practice of Serbia, which follows the Russian model, has the full support of the Russian Federation, thus proving that their tendencies are to quickly destabilize the region and undo the successes that Kosovo and the region have achieved in partnership with friendly democratic countries.</i><sup>13</sup></p> <p>During the parliamentary discussion when the Kosovo deputies adopted a resolution against organizing a referendum to amend the Constitution</p>
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<sup>8</sup> Office for Kosovo and Metohija of the Government of the Republic of Serbia, [Kancelarija je od OEBS-a zatražila da u skladu sa mandatom sprovede referendum na KiM](#)?, 12. januar 2022. godine.

<sup>9</sup> Office for Kosovo and Metohija of the Government of the Republic of Serbia, [Kosovska policija privela je večeras na Merdaru koordinatora RIK i zaplenila materijal za referendum](#), 14 January 2022

<sup>13</sup> DW, [Kosova kundër referendunit të Serbisë në Kosovë - kundërshton edhe QUINT-in](#), 14 January 2022

between Belgrade and Pristina, **Aleksandar Vučić**, spoke on this occasion. On the occasion of the events related to the referendum, **Brnabić** expressed the opinion that *Albin Kurti does not want a stronger Serbia, which is the main reason why he forbade Serbs to vote in the referendum*.<sup>10</sup> Immediately after the vote, **Vučić** declared that *the ban will have far-reaching consequences*, but that in any case he is with the Serbian people in Kosovo and Metohija, and that he will make decisions together with them in the future. For him, *the behavior of Pristina "is not a surprise", considering that the Government of Kosovo Prime Minister Albin Kurti "mistreats and harasses Serbs"*. He added that the Serbs, through the representatives of their Serbian list, declared that *the vote of the Serbs from Kosovo and Metohija is a vote for 'yes' and 'yes' for Serbia, not for Kurti*. For him, the deeper problem is what some members of the Quint think, because *"I guess they think or we look like idiots to them", because they are able to call Albanians to respect democracy and allow Serbs to vote, but when the Albanians do not allow it, not a word of protest is heard nor do they undertake actions and sanctions*.<sup>11</sup>

of Serbia on the territory of Kosovo, Prime Minister Kurti responded to the Serbian List MP **Igor Simić**, who said that preventing Serbs from going to the referendum was only "one in a series of anti-Serb actions", and said that the *Kosovo government is not anti-Serb because it has a minister from the Serb community who is even the president of the Serbian List, as well as a deputy minister and adviser*. Kurti then added that the *fight against crime and corruption does not recognize nationality*, and police officers in the fight against corruption do not obey the orders of the government but the prosecutor's office.<sup>14</sup>

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<sup>10</sup> NI [Brnabić: Kurti ne dozvoljava referendum jer ne želi jaču Srbiju](#), 15 January 2022

<sup>11</sup> NI [Vučić: Zabrana Kosova da Srbi glasaju na referendumu imaće dalekosežne posledice](#), 16 January 2022

<sup>14</sup> Bota Sot [Kuvendi miraton rezolutën kundër referendumit të Serbisë në Kosovë](#), 15 January 2022

## THE BEGINNING OF RUSSIA'S AGGRESSION ON UKRAINE

On 24 February 2022, the Russian Federation carried out an armed attack on Ukraine, which did not happen without implications for the normalization between Belgrade and Pristina and a tightening of the rhetorics of officials from both sides. Already on 3 March, the Assembly of Kosovo adopted a resolution condemning the attack and thereby clearly stood in solidarity with the people of Ukraine, while Serbia supported both Resolutions of the UN General Assembly, which, along with the condemnation, demand the immediate cessation of the use of force and the withdrawal of Russian military forces from the territory of Ukraine.

However, Serbia did not introduce sanctions against Russia, and thus did not harmonize its foreign policy with the rest of the EU and Western Balkan countries that did so, which a large part of the public perceives as Serbia's ambivalence to declare its position towards the Russian-Ukrainian conflict in order not to violate traditionally good diplomatic relations with Russia, at the same time running the risk of jeopardizing progress in the field of European integration. While Kosovo officials in their public appearances see a similarity between "Serbian aggression on Kosovo and Russian aggression on Ukraine", Serbia's official position is that it considers "violation of the sovereignty of any country, including Ukraine, wrong", drawing a parallel with the secession of a part of its territory.

<b>Belgrade officials</b>	<b>Pristina officials</b>
Director of the Office for Kosovo and Metohija, <b>Petar Petković</b> , on the start of the war in Ukraine, made a statement that <i>politicians in Pristina are using the crisis in Ukraine to realize their Great Albanian ideas and are transforming their security forces into an army</i> . In his opinion, the authorities in Serbia appeal <i>for reason, peace, tolerance and refraining from words and actions that</i>	Kosovo Prime Minister <b>Albin Kurti</b> accused Serbia of siding with Russia, even though it condemned the invasion of Ukraine at the UN and assessed that <i>the crisis in Ukraine is one of the reasons why the dialogue between Pristina and Belgrade in Brussels is stopped</i> . In a statement to the media, he said that the Kosovo authorities expressed their readiness to accept 20 journalists and

could result in the destabilization of sensitive situations in Kosovo and Metohija, while at the same time the authorities in Pristina use every opportunity for provocations and false accusations against Serbs.<sup>15</sup> **Petković** conveyed the message of President Aleksandar Vučić to the Serbs in Kosovo that peace and stability are necessary in these difficult times and that Serbia should know that *peace and stability are a prerequisite for the economic development of the entire country of Serbia, and therefore of the Serbian people in Kosovo and Metohija.*<sup>16</sup>

In a statement to the media, the President of Serbia, **Aleksandar Vučić**, compared the situation in Ukraine with the status of Kosovo, saying that when they talk about Ukraine, *their mouths are full of the UN Charter, and when you mention Serbia and the UN Charter and Resolution 1244 of the UN Security Council, then they become wrapped in thought, you would say all Einsteins and Hegels.*<sup>17</sup> In relation to the various external pressures for a quick solution to the Kosovo problem, **Vučić** responded by saying that Western countries *are trying to end the Kosovo*

5,000 refugees from Ukraine and to join the US and EU sanctions, but that *Serbia did not do so and practically sided with Russia.*<sup>20</sup> He went a step further and accused Russia of wanting to use Serbia as a platform to destabilize the Balkans, and especially to attack Kosovo, *pointing out that only 160 km from Pristina is the Russian humanitarian center based in Niš and that the Sputnik headquarters for Western Balkans is located in Belgrade.* In this regard, he wrote on his Twitter account, where he announced that *the democratic world must oppose Russia's illegal war, which has the risk of spilling over to the Balkans through the violent aggression of its autocratic ally Serbia.*<sup>21</sup>

Deputy Prime Minister of Kosovo **Besnik Bislimi** said that the Government of Kosovo is extremely concerned about the development of the conflict in Ukraine. He said at the press conference that *not everyone in Europe adheres to Western values and condemns Russian aggression*, referring to Belarus and Serbia. According to him, *Serbia's position is worrying, and Serbia is a country that constantly destabilizes the region.*<sup>22</sup>

<sup>15</sup> Office for Kosovo and Metohija of the Government of the Republic of Serbia, [Petković: Kurti hoće da destabilizuje region](#), 3 March 2022

<sup>16</sup> Office for Kosovo and Metohija of the Government of the Republic of Serbia, [Petković u Zubinom Potoku sa predstavnicima Srba sa KiM: Važno da sačuvamo mir i jedinstvo](#), 12 March 2022

<sup>17</sup> Beta, [Vučić: Priština donela dve odluke usmerene ka proterivanju Srba](#), 29 June 2022

<sup>20</sup> Telegraf, [Kurti për zgjedhjet në Serbi: Me ambasadorët e QUINT-it po përpiqemi të gjejmë zgjidhje për votimin e serbëve në Kosovë](#), 15 March 2022

<sup>21</sup> Albina Kurti's Twitter account, see: <https://twitter.com/albinkurti/status/1525865618838257666>.

<sup>22</sup> Kallxo, [Bislimi: Qëndrimi i Serbisë për situatën në Ukrainë është shqetësues](#), 28 February 2022

<p><i>problem so that (Russian President Vladimir) Putin would not give them the 'five Kosovos', Donetsk, Luhansk, Crimea, Kherson, Zaporozhye. Also, the Government in Pristina is using the situation in the world by playing the card "big Putin ordered little Putin, so little Zelenski in the person of Albin Kurti will save someone and fight against Great Serbia hegemony".<sup>18</sup> He mentioned that Albin Kurti dreams of being Zelensky, sometimes he dreams of being (German philosopher) Hegel, but he is a small caliber.<sup>19</sup></i></p>	<p>The President of Kosovo, <b>Vjosa Osmani</b>, also supported the narrative about Russia's tendency to destabilize the region, which is supported by Serbia. She stated that <i>Serbia is targeting what Russia is targeting in Ukraine and Georgia.</i><sup>23</sup> She also accused Serbia of not showing the will to harmonize with the EU when it comes to sanctions against Russia, after the invasion of Ukraine, considering that such a decision is bad for the entire region.<sup>24</sup></p>
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## PARLIAMENTARY AND PRESIDENTIAL ELECTIONS IN SERBIA

Elections for deputies of the National Assembly of the Republic of Serbia, elections for the President of the Republic, as well as local elections in 13 local self-government units, including Belgrade, were held simultaneously on 3 April 2022. The President of Serbia, Aleksandar Vučić, called the extraordinary parliamentary elections on 15 February, and on the same day, the President of the National Assembly, Ivica Dačić, called local elections, followed by regular presidential elections on 2 March.

The months leading up to the calling of elections were marked by numerous socio-political processes that took place both in institutions and on the streets - from attempts to change election conditions through inter-party dialogues, legislative changes to the framework for holding elections, as well as increasingly frequent and radical protests all over Serbia. During the election campaign, the issue of Kosovo was one of the most important

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<sup>18</sup> N1, [Vučić: Ne budu li hteli da sačuvaju mir, ja vam saopštavam – Srbija će pobediti](#)

<sup>19</sup> N1, [Vučić: Planiraju opšti napad na sever Kosova, cilj im je nova „Oluja](#), 29 June 2022

<sup>23</sup> Klan Kosova, [RUBIKON–Intervista ekskluzive me Presidenten Vjosa Osmani–24.02.2022–Klan Kosova](#), 24 February 2022

<sup>24</sup> N1, [Osmani: Odluka Srbije da ne uvede sankcije Rusiji loša za ceo region](#), 23 June 2022

topics on which all political parties and candidates for the position of president made declarations.

After announcing the elections, Serbia, taught by the experience of not holding the referendum, looked for a way to organize elections on the territory of Kosovo as well. The Quint countries worked intensively with the representatives of Kosovo and Serbia to find a pragmatic solution to enable eligible Kosovo Serbs to exercise their right to participate in the elections in Serbia. However, as the Government in Pristina rejected Quint's proposal to organize elections, the Republic Electoral Commission decided to establish polling boards where Serbs from Kosovo would vote, in the territory of central Serbia, namely in Raška, Tutin, Bujanovac and Kuršumljija.

<b>Belgrade officials</b>	<b>Pristina officials</b>
<p>During the election campaign, the director of the Office for Kosovo and Metohija, <b>Petar Petković</b>, made a statement about the dialogue between Kosovo and Serbia, claiming that the representatives of Kosovo <i>refuse any dialogue and compromise, and that the Balkans would once again be a powder keg if it were not for the Serbian president.</i><sup>25</sup></p> <p>Regarding the refusal of the Kosovo authorities to allow the organization of voting in the parliamentary and presidential elections in Serbia, the President of Serbia, <b>Aleksandar Vučić</b>, stated that <i>the decision of the</i></p>	<p>When it comes to parliamentary and presidential elections in Serbia, Prime Minister <b>Kurti</b> of Pristina said that <i>he does not want any citizen of Kosovo who has Serbian citizenship to be deprived of the right to vote.</i> He said that the Kosovo government, together with the ambassadors of the Quint and the EU, are trying to find a solution for this, but that <i>it must not in any way violate the constitutionality and statehood of Kosovo.</i><sup>29</sup> In his address in Serbian, on his Facebook account, he also called on the Serbian community in Kosovo not to be influenced by the <i>authoritarian regime in Belgrade, because, as he</i></p>

<sup>25</sup> Office for Kosovo and Metohija of the Government of the Republic of Serbia, [Petković: Osmani i Kurti bi od Balkana da naprave bure baruta](#), 1 March 2022

<sup>29</sup> Telegrafi, [Kurti për zgjedhjet në Serbi: Me ambasadorët e QUINT-it po përpiqemi të gjejmë zgjidhje për votimin e serbëve në Kosovë](#), 15 March 2022

*Kosovo Prime Minister not to allow the voting of Serbs in Kosovo was aimed at “humiliating the Serbs”, but also at “reducing the number of votes” for the electoral list of the Serbian Progressive Party.<sup>26</sup> The President of Serbia also stated that the Prime Minister of Kosovo is constantly bullying the Serbs, because he wants to send a message that Serbs have no place in Kosovo and Metohija.<sup>27</sup> However, he also said that patriotism is to preserve peace and the Serbian people in Kosovo and Metohija, stating that it is easiest to make irresponsible statements about organizing elections in Kosovo.<sup>28</sup>*

*says, they are not interested in the rights or well-being of the Serbs in Kosovo, but are trying to destabilize Kosovo for their electoral purposes and perhaps also because of large warmongering forces, and he called them to preserve peace and trust the Government of Kosovo.<sup>30</sup>*

The Deputy Prime Minister in Pristina and the negotiator in the dialogue between Belgrade and Pristina, **Besnik Bislimi**, confirms that there were requests from the Quint countries and the OSCE regarding the modalities within which the elections can be held and that the *Government of Kosovo is ready to help the Government of Serbia that the citizens of Kosovo with dual citizenship participate in voting in the parliamentary and presidential elections in Serbia through the best practice of the OSCE countries.* However, he explains that a country that wants to organize elections in another country needs to send such a request to the government of that country, but that the Government of Serbia did not do that but sent the request through the Liaison Officer.<sup>31</sup>

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<sup>26</sup> Beta, [Vučić: Odluka Kurtija da smanji broj glasova meni i listi SNS](#), 23 March 2022

<sup>27</sup> Beta, [Vučić: Kurti se stalno izživljava, hoće da sruše jedinstvo Srba na Kosovu](#), 23 March 2022

<sup>28</sup> Ibid.

<sup>30</sup> Albin Kurti's Facebook account, see at: <https://www.facebook.com/watch/?v=425878219300904>.

<sup>31</sup> Kallxo, [Bislimi tregon për kërkesën e vendeve të QUINT-it në lidhje me zgjedhjet e Serbisë](#), 22 March 2022

	<p>The President of Kosovo, <b>Vjosa Osmani</b>, also spoke out on this issue the day after the Serbian elections, accusing <i>Serbia of continuing its propaganda by claiming that Kosovo's institutions violated the right to vote that the Serbs had in the elections on 3 April, pointing out that it was Serbia that rejected the three offered options for the organization of voting in the elections.</i><sup>32</sup></p>
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<sup>32</sup> Kosovo online, [Osmani: Srbija nastavila sa propagandom, ponuđene tri opcije za jučerašnje izbore](#), 4 April 2022

## NEW CONSENT ABOUT THE ENERGY AGREEMENT

On 21 June 2022, the chief negotiators of Belgrade and Pristina, Petar Petković and Besnik Bislimi, agreed on the implementation of the energy agreement, which was signed back in 2013, and which has not been fully implemented. The agreement contains *A Roadmap for the Implementation of Energy Agreements within the Framework of the Brussels Dialogue*, which foresees that the company “Elektrosever”, owned by the Republic of Serbia, and in accordance with Kosovo laws, will start supplying electricity to consumers in four municipalities in the north with a majority Serb population.

Residents of North Mitrovica, Zvečan, Leposavić and Zubin Potok have not paid their electricity bills for more than two decades, which has often been the subject of public controversy between Belgrade and Pristina officials. This agreement opened the way to charging for electricity used in the north of Kosovo, which, according to some predictions, is expected from January 2023, when a potential expression of dissatisfaction could damage the sensitive political and security situation in that part of Kosovo.

<b>Belgrade officials</b>	<b>Pristina officials</b>
The director of the Office for Kosovo and Metohija, <b>Petar Petković</b> , on the occasion of agreeing on the roadmap for the implementation of the energy agreement, said that this agreement creates <i>independence in the supply of electricity in the north of Kosovo and Metohija, and thus Serbia has preserved peace and stability and ensured a normal supply of electricity</i> . <sup>33</sup> He explained that the	Prime Minister <b>Kurti</b> repeatedly insisted that citizens <i>in the north of Kosovo do not pay for electricity, and that they consume it, and what is consumed must be paid for</i> , and that the current government inherited this situation, and it is working intensively to resolve as soon as possible and that he is convinced that <i>the reason for not paying for the electricity is related to illegal structures in Serbia</i> . “There

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<sup>33</sup> Office for Kosovo and Metohija of the Government of the Republic of Serbia, [Petković: “Elektrosever” dobija samostalnost u snabdevanju](#), 21 June 2022

agreed roadmap states that the energy agreements reached in 2013 and 2015 will be fully respected. Therefore, **Petković** noted that *people can be calm and peaceful because Pristina no longer has any argument to invade Valaç, violently occupy that important transformer substation and cause violence in the north of Kosovo and Metohija.*<sup>34</sup>

Just before reaching the agreement, **Petković** made a statement that *there is no alternative to dialogue and that Belgrade will consistently be committed to dialogue as the only right way to resolve disagreements and open issues.*<sup>35</sup> However, the director of the office also mentioned that *separatism in Kosovo, which is supported by western countries, is complementary and represents a type of Albanian monoethnic project. He pointed out that the removal of Serbs as a political and demographic factor from Kosovo and Metohija is an unofficial commitment in the programmes of many Albanian political parties.*<sup>36</sup>

*are some structures that impose their interests and organize disobedience to Kosovo and in this way cause harm to the citizens without difference, but to our country as well. We are trying to bring this issue to a conclusion with as little damage as possible and in a peaceful way, and it can only take one form, and that is the payment of electricity by all those who consume it,”* said Kurti.<sup>37</sup> On the other hand, he claims that Brussels understood *Serbia's destructive approach to the agreement - We are constructive and committed, but Belgrade is on the opposite side of such behavior,* Kurti said.<sup>38</sup>

Pristina's chief negotiator in the dialogue with Belgrade, **Besnik Bislimi**, announced on Twitter that the Roadmap for the implementation of the energy agreement, which was adopted in Brussels, will make it possible to bill the electricity in four municipalities in the north of Kosovo and Metohija. *“Finally, we approved the Roadmap for the implementation of the 2013 and 2015 energy*

<sup>34</sup> Ibid.

<sup>35</sup> Office for Kosovo and Metohija of the Government of the Republic of Serbia, [Snovi Prištine nisu deo dijaloga: Petar Petković, direktor Kancelarije za Kosovo i Metohiju, za „Novosti“](#), 20 June 2022.

<sup>36</sup> Office for Kosovo and Metohija of the Government of the Republic of Serbia, [Snovi Prištine nisu deo dijaloga: Petar Petković, direktor Kancelarije za Kosovo i Metohiju, za „Novosti“](#), 20 June 2022

<sup>37</sup> Gazeta Express, [Kurti për mospagesën e rrymës nga serbët në veri: Strukturat paralele po imponojnë padëgjueshmëri](#), 19 January 2022

<sup>38</sup> Kossev, [Kurti: „Nasilno nestali“ termin oko kojeg se ne slažemo: Nećemo subvencionisati struju za Sever](#), 20 July 2022

<p>The President of Serbia, <b>Aleksandar Vučić</b>, did not make an official statement on this occasion.</p>	<p><i>agreements.” This makes it possible to bill the electricity in four northern municipalities of Kosovo, in accordance with the laws and regulatory system of Kosovo,” Bislimi said on Twitter.<sup>39</sup></i></p>
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## DECISION OF THE KOSOVO GOVERNMENT ABOUT RE-REGISTRATION OF VEHICLES AND PERSONAL DOCUMENTS

The Government of Kosovo has made a decision to start issuing a declaration sheet for all those entering Kosovo who have identity cards issued by the Republic of Serbia from 1 August 2022. Also, owners of vehicles with license plates of cities in Kosovo (such as KM and PR) can re-register the car with RKS plates from 1 August to 30 September 2022, which aims to completely abolish the plates in Kosovo issued by the Ministry of Interior of the Republic of Serbia, and which the Kosovo authorities consider illegal. These decisions were presented to the public as “reciprocity measures” towards Serbia and as “the introduction of legality in the north”.

However, on 31 July, in the afternoon, sirens were heard in North Mitrovica, then the road was blocked in Zvečan and Zubin Potok. The police determined that gunshots were heard, but that no one was injured. The increased tensions in the north of Kosovo and the visible agitation of the citizens were additionally influenced by the incendiary statements of the officials of both negotiating parties. Due to the potential escalation and further deterioration of the security situation, the American Ambassador in Kosovo, Jeffrey Hovenier, asked the Kosovo Prime Minister Albin Kurti and the Kosovo President Vjosa Osmani to postpone the implementation of the decision on the plates and Serbian documents by 30 days, which the Kosovo government did. On the other hand, Belgrade and Pristina reached an agreement on identity documents on 27 August 2022, according to which Belgrade abolishes entry-exit documents for

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<sup>39</sup> Besnik Bislimi's Twitter account, see at: <https://twitter.com/BislimiBesnik/status/1539170793644609536>.

those who possess Kosovo identity cards, while Pristina will not introduce them for citizens with identity cards issued by Serbia. With this, the tensions in the north of Kosovo subsided, at least temporarily.

Belgrade officials	Pristina officials
<p>According to the director of the Office for Kosovo and Metohija, <b>Petar Petković</b>, with the decisions of institutions in Pristina regarding Serbian license plates and identity cards from June 2022, Kosovo Prime Minister <i>Albin Kurti</i> most openly threatened with a war against the Serbs in Kosovo and Metohija.<sup>40</sup> “With these moves, Pristina has brought the dialogue to the brink, and Pristina’s relations with Belgrade have been brought to a boiling point.”<sup>41</sup> As a reaction to this decision, he emphasized that <i>the Serbs will not allow to be persecuted, killed and to have their legitimately acquired property confiscated</i>.<sup>42</sup> After the renewed escalation at the beginning of August, Petković warned that the situation was <i>on the verge of serious conflicts</i><sup>43</sup>, as well as that <i>fully armed special forces were brought to the north with the intention of dealing with the bare-handed Serbian people</i>,<sup>44</sup> but also that Pristina was</p>	<p>Kosovo Prime Minister <b>Albin Kurti</b> first posted in Serbian on his Facebook profile and announced that, in the municipal registration centers, the vehicle re-registration process will be organized, i.e., <i>transition from illegal plates to those valid according to the laws of Kosovo</i>, i.e., the plates with the RKS mark, after the adoption of the Government's decision. He added that a major concession was made by the fact that those vehicles will not be subject to customs duty, which, according to him, would amount to about 5,000 euros for an average vehicle, and technical inspections and tax collection will not be mandatory either.<sup>55</sup> However, when the security situation in the north of Kosovo worsened, <i>the Prime Minister of Kosovo blamed Serbian President Aleksandar Vučić and the director of the Office for Kosovo and Metohija, Petar Petković, as the instigators of “riots”</i>. As riots, he specified <i>the blocking of roads and shootings, and as for the actions he described as “aggressive”, he stated that</i></p>

<sup>40</sup> RTS, [Petković o odluci Prištine: Direktan udar na sve Srbe i južno i severno od Ibra](#), 29 June 2022

<sup>41</sup> RTV [Petković: Priština odnose sa Beogradom dovela do tačke ključanja](#), 30 June 2022

<sup>42</sup> RTS, [Petković o odluci Prištine: Direktan udar na sve Srbe i južno i severno od Ibra](#), 29 June 2022

<sup>43</sup> N1, [Petković: Sinoć smo bili na korak od ozbiljnih sukoba, hteli da upadnu na sever](#), 1 August 2022

<sup>44</sup> Fonet, [Petković: Kurti hteo da izazove sukobe, oklopna vozila u bazi na jugu Mitrovice](#), 1 August 2022

<sup>55</sup> Albin Kurti’s Facebook account, see at: <https://www.facebook.com/watch/?v=1725824637798476>.

trying to light a keg of powder and that they do not want dialogue, but new conflicts.<sup>45</sup> He assessed that *the Prime Minister of Kosovo is blowing war horns and leading a policy of threats and blackmail.*<sup>46</sup>

The Minister of Internal Affairs of Serbia, **Aleksandar Vulin**, assessed these decisions of Kosovo as *an announcement of a conflict that will not be possible to control,*<sup>47</sup> as well as that *all responsibility for causing the conflict lies with the Prime Minister of Kosovo and the Quint.*<sup>48</sup>

In relation to these events, the President of Serbia, **Aleksandar Vučić**, announced that *the Kosovo authorities are planning a general attack on the north of Kosovo on 1 October at the latest.*<sup>49</sup> Also, that *a decision was made with the aim of expelling the Serbs from the north of Kosovo and creating a new "Storm".*<sup>50</sup> He also added that Serbia has never been in a more complex and difficult situation in relation to Kosovo, as well as that it was *on the verge of a*

*they were planned in Belgrade and Raška, and that they were preceded by meetings and gatherings of fear and threats.*<sup>56</sup>

A day later, together with the Minister of the Interior **Xhelal Sveçla**, he held a press conference where he said that the illegal structures of Serbia have become *aggressive criminal gangs like never before* and that there are nine barricades north of the Ibar River that he expects will soon be removed.<sup>57</sup> *The possibility that Belgrade's aggressive policy will turn into an attack on Kosovo should not be ruled out,* Prime Minister **Albin Kurti** told Reuters, a few days after he warned of the danger of war in Kosovo, declaring that *Kosovo is ready to withstand possible attacks from Serbia because the escalation of the dispute with the Serbian minority could lead to an armed conflict.*<sup>58</sup> On the eve of 1 September, Kosovo Prime Minister Albin Kurti once again encouraged citizens in the north of Kosovo whose vehicles are registered with KM plates to re-register their vehicles to RKS plates: "We encourage all citizens of the Serb community who

<sup>45</sup> Fonet, [Petković: Jasno je da vlast u Prištini ne želi dijalog, već sukobe](#), 5 August 2022

<sup>46</sup> Fonet, [Petković: Duvanje u ratne trube i politika pretnji – jedino što Kurti zna](#), 10 August 2022

<sup>47</sup> Fonet, [Vulin: Politika Prištine može izazvati sukob koji će zapaliti Balkan](#), 29 June 2022

<sup>48</sup> Ibid.

<sup>49</sup> N1, [Vučić: Planiraju opšti napad na sever Kosova, cilj im je nova „Oluja“](#), 30 June 2022

<sup>50</sup> Ibid.

<sup>56</sup> Dukagjini, [Kurti: Vuçiq dhe Petkoviç janë përgjegjësit kryesorë për trazirat](#), 31 July 2022

<sup>57</sup> Kallxo, [Kurti: Strukturat ilegale të Serbisë janë bërë banda kriminale agresive si rrallë herë më parë](#), 01 August 2022

<sup>58</sup> Koha Ditore, [Kurti për kërcënimin për luftë: Jemi vigjilentë, por jo të frikësuar](#), 10 August 2022

<p><i>disaster,<sup>51</sup> that there will be no rows of refugees and that the people will be protected from pogrom<sup>52</sup> and that if Pristina dares to start persecution of Serbs, mistreatment of Serbs, killing of Serbs, Serbia will win.<sup>53</sup> However, according to his words, <i>Serbia will always stand for peace and dialogue, as the only way to solve open issues.</i><sup>54</sup></i></p>	<p>are citizens of Kosovo <i>to use our initiative to transfer license plates and avoid paying VAT, excise taxes and customs duties</i>”, calling KM license plates a legacy of the Milošević’s regime.<sup>59</sup></p> <p>The Deputy PM of the Kosovo Government, <b>Besnik Bislimi</b>, on the escalation in the north of Kosovo, said that all the riots that President Vučić is organizing in the countries of the region are masked by the idea of an alleged revolt of local citizens. He pointed out that <i>everyone has been made aware that there are no rebellions by local citizens, but rather rebellions staged and directed by the centre in Belgrade and Vučić himself.</i><sup>60</sup></p>
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## THE RETHORICS OF INTERNATIONAL OFFICIALS PARTICIPATING IN THE DIALOGUE

In addition to the statements of the participants in the negotiations, the statements of international officials were also relevant. Regarding the organisation of Serbia’s referendum in Kosovo\*, the position of the part of the international officials involved in the dialogue process provided a clear signal that *Kosovo should allow the referendum to be held*. High

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<sup>51</sup> RTS, [Vučić za RTS: Jedva je izbegnut najteži scenario pre dva dana na KiM, bili smo na korak od katastrofe](#), 2 August 2022

<sup>52</sup> N1, [Vučić: Šta god bilo, kako god bilo, izbegličke kolone neće postojati](#), 21 August 2022

<sup>53</sup> N1, [Vučić: Ne budu li hteli da sačuvaju mir, ja vam saopštavam – Srbija će pobediti](#), 31 July 2022

<sup>54</sup> N1, [Vučić: Dobro je što je Priština odustala od prvobitne namere da izazove sukob](#), 2 August 2022

<sup>59</sup> Kossev, [Kurti posle sastanka sa opozicijom „ohrabruje“ Srbe na Severu da uzmu „legitimne RKS“ tablice umesto „Miloševićevih“](#), 30 August 2022

<sup>60</sup> Kossev, [Petković: Srbi žele ZSO, a ne RKS tablice: Bisljimi hoće da spreči „samostalno“ delovanje Elektrosevera](#), 6 August 2022

Representative of the European Union for Foreign Affairs and Security Policy, **Josep Borrell**, asked the Kosovo authorities to make it possible for local Serbs to vote in the referendum on changes to the Constitution of Serbia.<sup>61</sup> Also, the embassies of the Quint countries noted with regret that *the Kosovo government did not allow OSCE to collect the ballots of voters living in Kosovo in the upcoming referendum in accordance with the previous practice*. At the same time, they called on Belgrade and Pristina *to refrain from actions and rhetoric that raise tensions and to engage constructively in dialogue through the EU*.<sup>62</sup> Regarding this issue, the spokesperson of the European Union, **Peter Stano**, also spoke, and stated that Pristina should reconsider its position on the vote of Kosovo Serbs in the referendum on constitutional changes in Serbia. Stano added that the *EU has always encouraged talks and is ready to facilitate any new talks between the parties if requested*.<sup>63</sup>

The crisis in Ukraine was not directly linked to the context of the dialogue between Belgrade and Pristina by international officials, but it was recognized as something that could indirectly affect the process by transferring the resources and interests of the European Union from Kosovo to Ukraine. The European mediator in the dialogue between Belgrade and Pristina, **Miroslav Lajčak**, commented on the deadlock in the dialogue in the context of the crisis in Ukraine, pointing out that *the priority is to help Ukraine in the war, which consumes the EU's capacities, but that it is a favorable moment for the Balkans, and that the EU understands that it must not look like it has lost interest and turned its head to the east, which is why it insists on positive examples from the region*.<sup>64</sup> **Borrell** addressed the citizens of the Western Balkans with his text regarding the current war in Ukraine, stating that the Balkans are *the target of disinformation operations by the Kremlin*. He stated in the text that people in the Western Balkans,

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<sup>61</sup> Josep Borrell's Twitter account, see at <https://twitter.com/JosepBorrellF/status/1481545443439951873>.

<sup>62</sup> Kossev, [Kvinta o referendumu: Priština da dozvoli Srbima da glasaju u skladu sa ustaljenom praksom](#), 14 January 2022

<sup>63</sup> Kosovo Online, [Stano o referendumu: Priština da preispita stav](#), 14 January 2022

<sup>64</sup> BBC na srpskom, [Miroslav Lajčak za BBC na srpskom: „Sastanak Vučića i Kurtija u Briselu nije bio uzalud"](#), 24 August 2022

unfortunately, know what war is and that they understand what the Ukrainian people are going through, and then he confirmed that the countries of the Western Balkans belong in the EU. Also, there is concern in the European Union about the strengthening of ties between Serbia and Russia and the non-introduction of sanctions by Serbia, so the EU spokesman, **Stano**, stated that he expects that Serbia, as a candidate country, *will not further strengthen its ties with Russia*.<sup>65</sup>

Although the organization of Serbian presidential and parliamentary elections in Kosovo is not a topic of the dialogue, **Lajčak** assessed that Serbian elections should be organized on the basis of previous practice, with the mediation of the OSCE mission.<sup>66</sup> He was more explicit when he said that a political agreement must be reached very soon *that would not violate the constitutionality of Kosovo* and that would *make it possible for Kosovo Serbs to exercise their right to vote* in the elections on 3 April. He said that he is in contact on daily basis with the institutions of Kosovo and Serbia in order to find a solution for holding the elections and added that such an agreement would create another atmosphere in the high-level political dialogue, which, he says, will be continued after the elections.<sup>67</sup> When Kosovo rejected the proposal of the Quint countries regarding the solution for the voting of Kosovo Serbs in the elections in Serbia, **Stano** said that *it was contrary to the commitment to the European path and democratic future and contrary to the principle of protecting the democratic rights of all citizens, including those who belong to the non-majority population*. He said that the EU now expects *Kosovo and Serbia to refrain from actions and rhetoric that could increase tensions and calls on both sides to behave properly*.<sup>68</sup> **Borrell** also assessed that Pristina's

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<sup>65</sup> Kosovo Online, [Stano: Očekujemo da Srbija, kao zemlja kandidat, neće dalje jačati svoje veze sa Rusijom](#), 30 May 2022

<sup>66</sup> Radio Slobodna Evropa, [Escobar i Lajčak poručili Prištini da se izjasni kakvu Zajednicu želi](#), 2 February 2022

<sup>67</sup> Kosovo Online, [Lajčak: Mora da se pronade način za održavanje izbora 3. aprila na Kosovu](#), 16 March 2022

<sup>68</sup> Radio Slobodna Evropa, [Kosovo odbilo predlog Kvinte da omogući glasanje na srpskim izborima](#), 22 March, 2022

decision is contrary to Kosovo's commitment to European values and the principle of protecting democratic rights.<sup>69</sup>

In contrast, the agreement on energy was warmly welcomed by international representatives. **Lajčak** announced on his Twitter profile that he can announce with great pleasure that Kosovo and Serbia have just adopted the Roadmap for the implementation of energy agreements within the Dialogue with the support of the EU, calling it *a big step forward*.<sup>70</sup> European Union welcomed the agreement as a step forward in the normalization of relations between Kosovo and Serbia for the benefit of all citizens. A statement issued by the European External Action Service (EEAS) says the agreed Roadmap sets out a clear timetable and concrete steps for the implementation of the 2013 and 2015 energy agreements, which, as they claim, have only been partially implemented with the relevant elements that are still unresolved. In the announcement, they also state that this *paves the way to ending the current non-transparent and unregulated practice*. **Josep Borrell** also joined in the congratulations on the agreement reached.<sup>71</sup>

The European Union called on both sides to use the EU-mediated dialogue as a platform to resolve all outstanding issues between them, including the license plates.<sup>72</sup> **Borrell** welcomed Kosovo's decision to move the measures to September 1, stating that *he expects all roadblocks to be removed immediately and that open issues should be resolved through EU-mediated dialogue and focus on the comprehensive normalization of relations between Kosovo and Serbia*.<sup>73</sup> Borrell also commented on the agreement on identity cards, under which Serbia agreed to abolish entry and exit documents for holders of Kosovo identity cards, and Kosovo agreed not to introduce the same measure for those with Serbian identity

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<sup>69</sup> Danas, [Borelj: Odluka Prištine da se ne održe srpski izbori na Kosovu suprotna evropskim vrednostima](#), 8 June 2022

<sup>70</sup> Miroslav Lajčak's Twitter account, see at: <https://twitter.com/MiroslavLajcak/status/1539169005172301825>.

<sup>71</sup> Radio Slobodna Evropa, [Kosovo i Srbija dogovorili Mapu puta o sprovođenju dogovora o energetici](#), 21 June 2022

<sup>72</sup> Euronews, [EU poziva Prištinu da omogući dovoljno vremena za preregistraciju](#), 1 September 2022

<sup>73</sup> Josep Borrell's Twitter account, see at: <https://twitter.com/JosepBorrellF/status/1553876818721128449>.

cards.<sup>74</sup> **Lajčak** welcomed Kosovo's decision and wrote on Twitter that the EU expects all roadblocks to be removed immediately,<sup>75</sup> while **Stano** stated that according to the agreements from the dialogue on freedom of movement from 2011 and 2016, Kosovo has the right to gradually abolish KM plates (issued by Serbia).<sup>76</sup>

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<sup>74</sup> RTS, [Sporazum o ličnim dokumentima, bez blokada 1. septembra – u iščekivanju dogovora o tablicama](#), 28 August 2022

<sup>75</sup> Miroslav Lajčak's Twitter account, see at: <https://twitter.com/MiroslavLajcak/status/1553869532506251264>.

<sup>76</sup> Kosovo Online, [Stano: Kosovo ima pravo da ukine tablice koje izdaje Srbija, ali postepeno](#), 30 June 2022

## **ANALYSIS OF THE NARRATIVES AND THE IMPACT ON THE PROCESS OF NORMALIZATION OF RELATIONS**

Bearing in mind the previously described framework and proclaimed goals that are to be achieved through negotiations, the question arises, what constitutes the background of the public discourse of the negotiators who conduct a mutual dialogue? Why is political speech and the language of negotiators burdened with additional conflict? One gets the impression that the way negotiators formulate assessments of the interlocutors with whom they are negotiating may have a certain hidden political purpose or may represent a form of dissatisfaction with the current failure of conducting negotiations, which is manifested through additional political confrontations with the interlocutors. However, as it is a permanent phenomenon and a constant feature of public discourse between negotiators, the basic explanation for this phenomenon is the conclusion that such a narrative is constructed with a specific goal to convey a specific message.

One of the explanations for this kind of speech can be that *one of the main "recipients"* addressed by such messages are, first of all, the electorate targeted by the politicians. Negotiators, who are also political representatives, use negotiations to win over voters, with the aim of winning future elections. By sending apocalyptic messages about the existence of the danger of *lines of refugees, pogroms and persecutions, a new Storm, bullying and killing, a new disaster, an uncontrolled conflict*, a political show is created for internal needs. By raising national sentiments with the special threat for the people and the nation from external danger and the external enemy, the aim is to consolidate "internal ranks". As long as the people and the nation are threatened by the current danger, (*"special forces fully armed with the intention of dealing with the bare-handed Serbian people"*) all other political issues become secondary and less important (*"it is sad if someone thinks that Europride is as important as Kosovo"*). Also, the tightening of relations with opposing "unpopular"

negotiators creates undoubted benefits for one's own electorate and winning over new voters, which political elites can usually count on when producing such messages.

Another explanation for this phenomenon of creating a harsh narrative among negotiators, whose main task is to participate in mutual dialogue, is that they send messages to the international community and international actors who are involved in the negotiations in some way. By sending *apocalyptic messages* and predicting *catastrophic scenarios*, the political elites want to win over the international community, under whose auspices the negotiations are conducted, as their ally. In situations where the negotiators are dissatisfied with the current outcome or certain decisions of the opposite party, the threat of *disrupting the peace and escalating conflicts that will not be possible to control* has the motive of intimidating the international community and further delaying the problem, until a sustainable solution is found. This type of alarming followed almost all decisions related to personal documents and license plates, after which the implementation would be delayed under pressure from the international community, until a certain agreement was reached.

Regarding the mentioned events, which were taken as a sample precisely because of their political significance and/or reflection on the dialogue, the pattern of commenting by those directly involved in the dialogue is most often repeated. On the negotiating side of Belgrade, it is inevitably the director of the Office for Kosovo and Metohija, **Petar Petković**, and the President of the Republic of Serbia, **Aleksandar Vučić**. Petković speaks in an archaic style, mainly from the point of view of the “victim” of the dialogue, using well-known phrases that are explicitly linked to the territory of Kosovo and Metohija, such as “hearth”, “settlers”, “endangered existence” and “provocation”. His messages are aimed at criticizing the behavior of Pristina, indicating an existential threat to the Serbs in Kosovo, with the ending in the form of semi-threats and messages for the other

negotiating party.<sup>77</sup> On the other hand, Vučić always addresses the electorate by sending messages that he thinks they want to hear, and always drawing attention to the role and obligations of the international community in the dialogue. Any kind of agreement with Pristina, which certainly implies compromises on the Serbian side, receives less attention in the president's statements. Thus, it is visible that the president's statements were completely absent after reaching an agreement in the field of energy, while the agreement regarding license plates and the use of personal documents was presented as a kind of victory, even though it was essentially Serbia that had to make concessions.

Relevant actors who do not participate directly in the dialogue speak according to the need to reinforce the discourse. Thus, we had active speech of the Prime Minister, **Ana Brnabić**, only in the event of the absence of organizing a referendum regarding the change of the Constitution, while the Minister of Internal Affairs, **Aleksandar Vulin**, speaks exclusively when the dominant narrative becomes a potential open conflict.

As for the negotiating side of Pristina, Prime Minister **Albin Kurti** and his deputy and negotiator in the dialogue with Belgrade, **Besnik Bislimi**, often made public statements related to the mentioned events. They are followed by the statements of the President **Vjosa Osmani**, the President of the Assembly **Glauk Konjufca** and the Minister of the Interior **Xhelal Sveçla**, who with equal sharpness and intensity contributed to the confrontation of public narratives between the two parties in the dialogue, and that in sensitive moments when relations were becoming strained in the media space, and often in the field.

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<sup>77</sup> Example: "If they do not know the agreements they signed in Pristina, they can generously download and read them on the website of the Government of the Republic of Serbia or the Office for Kosovo and Metohija."; "That's why we remind Pristina once again not to provoke Belgrade and the Serbs in Kosovo and Metohija and to threaten peace and security by violating the agreement, because in that case all responsibility lies with Pristina, but also with the international community, which is obliged to ensure peace and stability in Kosovo and Metohija"

In his public discourse, Kosovo Prime Minister **Albin Kurti** often stresses that the unilateral moves that Pristina makes are the result of the *policy of reciprocity*, the implementation of which he began as soon as he came to power. He tries to leave the impression of a determined statesman who will strengthen the sovereignty and integrity of Kosovo, and often appears in public criticizing Belgrade's official policy towards Kosovo. His public discourse is characterized by the constant confirmation of the independence and sovereignty of Kosovo and the insistence that the negotiations between Belgrade and Pristina, under the auspices of the European Union, are actually taking place between two independent countries, Kosovo and Serbia, with the ultimate goal of *mutual recognition*.<sup>78</sup> Together with the main negotiator, **Besnik Bislimi**, who uses the "softest" rhetoric of the negotiators, he presents the agreements reached with the Belgrade side to the Albanian public in Kosovo as a success of his politics and a confirmation of Kosovo's statehood. Both Prime Minister **Kurti** and President **Osmani** in their statements present Serbia as an aggressor, and the government in Belgrade as undemocratic. They used the momentum of the war in Ukraine to accuse Serbia of preparing the same scenario for Kosovo and the Western Balkan region together with Russia.

On the other hand, Prime Minister **Kurti** tried on a couple of occasions to get closer to the Serbian community in Kosovo, addressing them directly, in Serbian language, but at the same time presenting the Serb majority north of Kosovo as an area ruled by criminal and illegal structures and introducing measures that negatively affect the very members of that community. The lack of dialogue with the Serb community, especially in the north of Kosovo, results in its very low trust in the institutions in Pristina, even though members of the **Serbian List** are members of the parliament. However, **Kurti** claims that his government is not anti-Serb because it includes representatives of the Serb community, including the president of the Serbian List (**Goran Rakić**).<sup>79</sup> On the other hand, the

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<sup>78</sup> Radio KIM, [Kurti ponovio: Cilj dijaloga međusobno priznanje](#), 15 September 2022

<sup>79</sup> Kossev, [Kosovska skupština rekla „ne“ referendumu, usvojena rezolucija](#), 15 January 2022

Minister of Internal Affairs, **Xhelal Sveçla**, has on several occasions accused the vice-president of the Serbian List, **Milan Radoičić**, of being the leader of *criminal structures in the north of Kosovo*, and Serbia of using these groups to *undermine the authority of Kosovo in the north*, and as a reward giving them the opportunity to get rich illegally.<sup>80</sup>

While Belgrade and Pristina stick to their harsh and opposing public positions, representatives of the **European Union**, who are directly involved in the dialogue process, take a position depending on the situation. When one of the parties does not express the will to compromise or does not act in accordance with democratic principles, **EU** representatives criticise, while publicly expressing gratitude for the agreements and compromises reached. They, however, tend to take a neutral stance when it comes to the rhetoric of the negotiators themselves. In those cases, their reaction generally boils down to urging both sides to refrain and return to the negotiating table.

Despite sharp confrontations and harsh words, in their speeches, the negotiators express a clear commitment to a peaceful *dialogue that has no alternative* and is also *the only correct way of resolving disagreements and open issues*. This kind of confusing narrative, which is at the same time burdened by sharp confrontations with the opposite side but undoubtedly determined for further dialogue *as a basic method of conflict resolution*, shows that the political elites always move within the allowed limits.

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<sup>80</sup> Radio Slobodna Evropa, [Šef policije Kosova: Milan Radoičić je među vođama švercera koji napadaju policiju](#), 18 July 2022

## **CONCLUSION**

The scope of the analysis limits a detailed review of each individual event relevant to the dialogue between Belgrade and Pristina. Despite this, conclusions can be drawn about the influence of the negotiator's narrative on the process itself, based on isolated examples. The main conclusion is that the negotiators are primarily addressing their electorate, and not with the aim of informing the public about the progress in the dialogue. That is why each message has a completely different interpretation in Serbia and Kosovo\*. While the negotiators do not miss the opportunity to mention that the dialogue has no alternative, at the same time they accuse the "other side" of not wanting to participate in it or of jeopardizing the normalization process with their moves. Since the basic principles are diametrically opposite, ie. that Belgrade views the dialogue as an internal issue, and Pristina as a bilateral agreement between two sovereign states, it is clear that the events are interpreted in relation to this initial position. This is most visible in the examples of non-implementation of voting in the referendum and elections in the territory of Kosovo\*.

In addition to these different positions, negotiators do not miss an opportunity to increase their rhetoric in moments where they recognize that the other side has a more favorable position. In these situations, negotiators from Belgrade talk about the threatened existence of Serbs in Kosovo\* and predict catastrophic consequences with examples from the wars of the 90s of the last century. On the other hand, the negotiators from Pristina are resorting to the narrative of Serbia as an aggressor that threatens state sovereignty, with the inevitable alleged accusations of genocide committed in Kosovo. The common accusation is that the other side is violating the normalization.

The conflict in Ukraine, caused by Russia's armed attack, gave an additional dimension to the narrative, which was especially used by the negotiators from Pristina. It is interesting that both sides identify with Ukraine, whose sovereignty is threatened, Kosovo\* through equating

Putin's tendencies and policies with Vučić's, and Serbia through the secession of Ukrainian territories and violation of its territorial integrity, which is compared to the secession of Kosovo\*. Tensions are rising further in anticipation of reaching an agreement. Thus, the situations related to the decisions of the Kosovo government on reciprocal measures for personal documents and vehicle registration were practically followed by increasing combat readiness, precisely through the statements of officials.

As long as the negotiators themselves resort to incendiary rhetoric and further increase the population's sense of threat, the general public cannot recognize progress in the negotiations, even when it is real. Blaming the "other side" is inevitable, but what can really be avoided is the verbal threat of conflict that is constantly resorted to.





# FACTS AND NARRATIVES ABOUT THE PROBLEMS OF PROPERTY RIGHTS OF SERBS IN KOSOVO FROM 2013 – MEDIA REPORTING IN SERBIAN AND ALBANIAN LANGUAGE

### **Publisher**

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### **Authors**

Katarina Nikitović - Center for Social Dialogue and Regional Initiatives  
Dušan Radaković – Advocacy Center for Democratic Culture (ACDC)  
Lulzim Hakaj - Advocacy Center for Democratic Culture (ACDC)

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# **Facts and narratives about the problems of property rights of Serbs in Kosovo from 2013 – media reporting in Serbian and Albanian language**

*Katarina Nikitović - Center for Social Dialogue and Regional Initiatives*

*Dušan Radaković - Advocacy Center for Democratic Culture (ACDC)*

*Lulzim Hakaj - Advocacy Center for Democratic Culture (ACDC)*

**October 2022**

## **CONTENTS**

<b><i>INTRODUCTION .....</i></b>	<b><i>1</i></b>
<b><i>FACTS .....</i></b>	<b><i>2</i></b>
<b><i>ANALYSIS OF MEDIA TITLES IN SERBIAN .....</i></b>	<b><i>4</i></b>
<b><i>THE INTENSITY OF REPORTING .....</i></b>	<b><i>8</i></b>
<b><i>RECOMMENDATIONS .....</i></b>	<b><i>10</i></b>
<b><i>REPORTING OF THE MEDIA IN ALBANIAN LANGUAGE .....</i></b>	<b><i>10</i></b>
<b><i>RECOMMENDATION – CONTINUING THE RESEARCH WITH INSTITUTIONS.....</i></b>	<b><i>13</i></b>
<b><i>EXAMPLES TO BE CONSIDERED .....</i></b>	<b><i>15</i></b>
<b><i>SOURCES FROM THE MEDIA IN ALBANIAN.....</i></b>	<b><i>16</i></b>
<b><i>SOURCES FROM THE MEDIA IN SERBIAN.....</i></b>	<b><i>17</i></b>

## **INTRODUCTION**

One of the inevitable issues in the dialogue between Belgrade and Pristina is certainly the issue of private property of Serbs in Kosovo. Many believe that this is actually one of the most significant points that would greatly improve the dialogue and normalization of relations between the two sides. However, both sides are fixed at completely opposite ends, and therefore the solution to this issue is not in sight. One constant that is present is the media coverage related to the negotiations, but also the (dis)interest in conveying information related to the property rights of individuals.

The focus of the analysis is on the period from 2013 to 2022, where we will try to determine the key points of media narratives by categorizing the media headlines. At the beginning of 2013, the First Agreement on the principles of management of the normalization of relations, i.e. the Brussels Agreement, was signed. However, the issue of property was raised earlier, in 2011, with the signing of the Cadastre Agreement, but this did not lead to the improvement of relations between the two parties, but only to the incomplete implementation of that agreement.

Through this analysis, we intend to address the problem of exercising property rights of Serbs in Kosovo. Through the media prism, not including printed editions, we will try to show to what extent the media in Serbian and Albanian languages (do not) contribute to exercising of the property rights of Serbs in Kosovo, but also to the normalization of relations and the progress of the negotiation process. By analyzing over 50 media titles, we will try to show what kind of narrative is being formed in relation to the problem of exercising property rights.

## **FACTS**

In 1999, the cadastral documentation from the territory of Kosovo was transferred to the territory of central Serbia, and after the declaration of independence in 2008, the cadastral documentation from the 60s was used in the territory of Kosovo, which was then further supplemented. After the signing of the Cadastre Agreement in 2011, as part of the negotiations between Belgrade and Pristina, the first steps were taken in returning and supplementing the cadastre books. However, the process of fulfilling the points of the agreement was suspended over time, while the parties accused each other, and it is concluded that the main problem is the (lack of) political will to implement the agreement.

On the territory of Kosovo, there are over 70,000 cases of usurped property of both Serbs and non-Albanians<sup>1</sup>. According to the Kosovo Agency for Property Comparison and Verification, by 2007, “42,749 seized structures were registered on the territory of Kosovo, of which 96.84 percent or 41,399 usurped properties belonged to Serbs.”<sup>2</sup>

In addition, there is a very present systemic obstruction of the proceedings themselves, from non-appearance of litigants, postponement of proceedings, excessively long duration of the proceedings, imposition of large court fees which the litigants (mainly Kosovo Serb returnees initiating proceedings for the exercise of property rights) cannot afford, disappearance of the cases in courts and the impossibility of finding them, through the lack of translators who would translate the documentation necessary for the procedure, to false documents and powers of attorney signed and issued by people who had already passed away for many years at that time.

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<sup>1</sup> Beta, „Advokat: Na Kosovu 70.000 slučajeva uzurpirane imovine“, *Danas*, 08.11.2021.

<sup>2</sup> Filip Rudić & Serbeze Haxhijaj, „Ukradeni domovi: Borba za povraćaj uzurpirane imovine na Kosovu“, *BIRN*, 29.05.2018.

All this represents deep systemic obstacles for both Serbs and non-Albanians from the territory of Kosovo who want to exercise their property rights.

## **ANALYSIS OF MEDIA TITLES IN SERBIAN**

A search of dozens of Internet sites found more than 50 media titles of Serbian media that reported on the problem of property issues of Serbs in Kosovo during the specified time. It is important to emphasize that in this text the titles will be brought directly, that is, copied in the same form in which they are available on the websites.

Depending on the media source, two main narratives run through these headlines. Primarily, there is a neutral tone that presents certain facts or conveys official statements in the title. It can be called a neutral narrative. The most common phrase used in these titles is *usurped property*.

*They are building on the Serb property in Klina*<sup>3</sup>

*State Department: Property and return problems in Kosovo*<sup>4</sup>

*Fight for usurped property in Kosovo and Metohija a difficult and painful process*<sup>5</sup>

*Usurped property in Kosovo and Metohija, a Sisyphean task for legal teams*<sup>6</sup>

Most of these headlines are written by journalists from state media companies such as Radio Television of Serbia or Radio Television of Vojvodina. These titles do not bring or impose a tone with which a potential reader/listener might approach the text/video itself.

The second narrative is the one expressing aggressiveness and sensationalism. The most common phrase used is *stolen property*. In addition, violence is also present in such headlines, as well as calling

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<sup>3</sup> Dragana Zečević, Novosti, 11.08.2017.

<sup>4</sup> Jugpress, 13.04.2022.

<sup>5</sup> Milica Stojanović, RTV, 24.04.2021.

<sup>6</sup> RTS, 05.06.2018.

Albanians Shqiptars, thus increasing the distance and widening the gap of otherness, increasing and strengthening the division between “us” and “them”. This narrative can be called negative.

*DIRTY SHQIPTAR GAME: Robbing Serbian houses and then asking for ransom*<sup>7</sup>

*SERBIAN WOMAN FIGHTING FOR HER PROPERTY IN PRISTINA FOR 20 YEARS: Kaqusha Jashari basking in my apartment for two decades*<sup>8</sup>

*Albanians beaten up a Serbian because of property*<sup>9</sup>

*UNPRECEDENTED ROBBERY: Usurped property of Serbs in Kosovo and Metohija worth several billion euro*<sup>10</sup>

In addition to this, it is important to see that the media are reporting about the same news with two almost different titles. What best illustrates the dichotomy of the preceding narrative phrases are the following three headlines:

*Accusing UNMIK and OSCE for usurpation of the land*<sup>11</sup>

*UNMIK and OEBS stole a Serb's land*<sup>12</sup>

*OUTRAGEOUS! UNMIK and OEBS stole a Serb's land*<sup>13</sup>

It is entirely the same text that was written by BETA and that these three media published on their websites. The content of each of them is identical, however, the very tone of the headlines of these texts causes them to be

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<sup>7</sup> Pravda, 17.07.2018.

<sup>8</sup> Dragana Zečević, Novosti, 16.06.2019.

<sup>9</sup> BETA, B92, 20.03.2018.

<sup>10</sup> Novosti, 09.06.2018.

<sup>11</sup> Beta, RTV, 20.07.2016.

<sup>12</sup> Alo, 20.07.2016.

<sup>13</sup> Srbija Danas 21.07.2016.

read in a completely different manner and from a completely different starting point.

Another interesting thing that can be seen is, if you look at the headlines of the same media, in this case Novosti, you can clearly see how the headlines and consequently the narratives that are served to the readers change over time. Examples from this medium are given in both the first and second group of narratives, and the approach and change from 2017 to 2018 is clearly visible.

As already noted in the first part of this paper, the fact we have is that there are 70,000 cases that have a property problem of some kind. The attitude of “packaging” media headlines into a negative narrative can potentially be understandable. However, what is striking up to this point is the absence of any form of positive narrative regarding this topic. Therefore, there are no reports on examples of good practice, property restitution, but only on situations that describe the difficulties faced by Kosovo Serbs. Among all the media titles that were found during the research, only the following could fall under this category:

*THE FIRST AND SO FAR THE ONLY: Serbian woman has won over Kosovo in the property battle!*<sup>14</sup>

This example is not a true positive narrative as such but could even be classified as a negative one based on the tone and phrases used. This is somewhat understandable if you take into account the source that published this - Telegraf, as a media that borders on the tabloid.

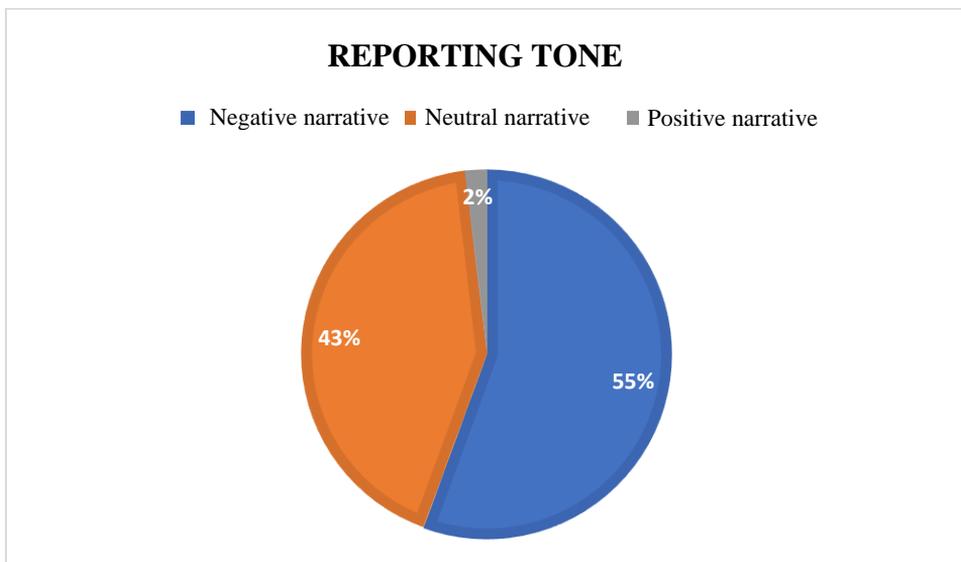
Furthermore, another thing to emphasize is that the news is from 2014. If we take into account all the facts that claimants face every day during the court proceedings, they have in order to recover their property, statistically speaking, it is more than possible to expect that more people have exercised this type of right. This further tells us that there is a disinterest

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<sup>14</sup> Telegraf, 12.06.2014.

of the media in dealing with examples of good practice i.e., the successful realization of these rights.

The only broadcasting and making a topic of these problems is the one on the national frequency of Radio Television of Serbia. However, the space available for this is very narrow. The program “The right to tomorrow”, which deals with the problem of property issues of Serbs in Kosovo, is broadcast on the second channel of the national television, every two weeks, and thus have a reduced availability, giving the impression that it is marginal. Furthermore, there is the problem of not broadcasting that show in Kosovo, as well as the problem of the language barrier, because the show is in Serbian, therefore a large part of potential viewers with Albanian as the primary language remain deprived of information about the problems faced by Kosovo Serbs. It should be noted that this show as such belongs to a neutral or sometimes a positive narrative.



Media reporting related to the very problem of property issues of Kosovo Serbs and non-Albanians represents a significant niche, which perhaps in the television sense has been monopolized (perhaps rightfully so) by the national service. This is one of the very important issues for the negotiations between Belgrade and Pristina, but also for the process of

normalization and the easier everyday life of citizens. From the chart above, it can be seen that the general media coverage of the Serbian media is mostly with a negative narrative. This does not highlight the positive things, which are almost non-existent, but further creates a deeper gap and ethnic distance. In this way, it does not contribute to the process of normalization and improvement of relations between Belgrade and Pristina, but also to the attempt to facilitate the daily life of people in the territory of Kosovo.

## **THE INTENSITY OF REPORTING**

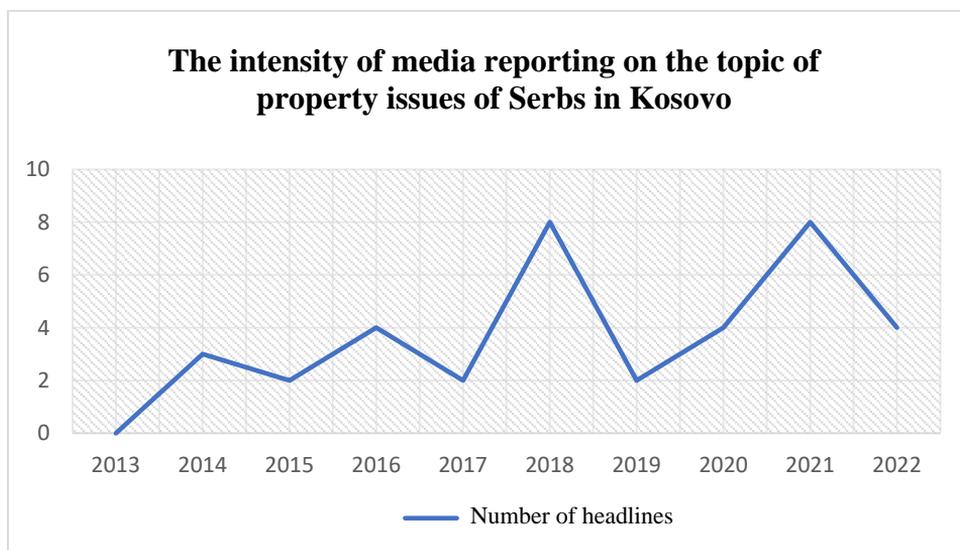
By reviewing the intensity of the research, we can see how the media's interest in this topic has changed over the years. This can give us significant information about the media participation in the formation of the narrative.

At the beginning of 2013, it was noticeable that there was no direct reporting related to the property issues of Serbs in Kosovo. This can be interpreted in two ways. Primarily, it seems that the media were not interested in this topic. All search results pointed almost exclusively to news related to the Brussels dialogue and the signing of the Brussels Agreement, and almost all interest in the negotiations between Belgrade and Pristina was based on the signing of this agreement. One gets the impression that this topic was sacrificed for the sake of the success and promotion of the Brussels Agreement.

A big jump in media announcements related to property rights in 2018 could potentially be due to the fact that in that year an internal dialogue was conducted on the issue of Kosovo itself. In addition, in the same year, taxes of 100% were introduced on goods from Serbia entering the territory of Kosovo.

The growth of interest in this topic in 2020 can be interpreted by the signing of the Washington documents, which restarted the negotiations between Belgrade and Pristina and thus put this topic in the focus of the media.

In 2021, 5 of the 8 texts that brought this topic to life this topic were written after the events and the mini-crisis related to car plates, after the meeting of the negotiators and the signing of the Agreement regarding car plates.



Taking into account all the above-mentioned examples, it can be concluded that an external impulse to the media is necessary, which would somehow remind them that there are actually still relevant topics related to Kosovo, not necessarily closely related to the negotiation process, i.e., the official meetings.

## **RECOMMENDATIONS**

It is necessary to have a more frequent exchange of journalists from central Serbia and Kosovo, in order to exchange experiences, but also to reduce the ethnic distance, which would significantly affect the way they work.

It is necessary to establish a mixed journalistic editorial office, which would potentially publish a monthly newsletter where headlines would be displayed, which would be checked in a way to determine to what extent they contain fake news, and with a kind of narrative check, so that this content would be equally accessible to both Kosovo Serbs and Kosovo Albanians.

Media portals should make available the archives of the online articles they publish. In this way, they would strengthen their media credibility, while significantly helping researchers who follow these types of reporting.

The reporting of journalists should not be based solely on the sensationalism of the headlines and the motivation for more clicks and visits to the page.

It is necessary to insist on this topic through media reporting, because one of the main keys to the progress of the dialogue between Belgrade and Pristina is the successful resolution of the issue of property rights.

It is necessary for the media to report in more detail on legal remedies and existing obstructions to the exercise of property rights, but also on examples of good practice.

## **REPORTING OF THE MEDIA IN ALBANIAN LANGUAGE**

In the period from April to September, the research was very challenging because of the topic it covered. Although there are many media in Kosovo, including social media sites, portals, etc. (but excluding previously

published papers), the result was below expectations. There were very few or no reports of property owned by members of the Serb community. In the absence of reporting, it seemed that the problems of non-majority communities were not important to the media in Kosovo. Research in the field showed different information and in various meetings it was revealed that the Serb community faced and still faces numerous problems related to their property. The perceived problems were different, but the most mentioned problem was that the courts take too much time to render judgments and process cases.

Access to media page archives was not efficient. The reasons for this can be different, but below are just some of them:

- Technical reason – the media often changed the page or changed the page menu. Certain new pages do not have an archive in their menu, so there is no access to all previously published articles, which prevents viewers and researchers from accessing articles written in the previous period, or at least makes access difficult. This happens more often with larger media (e.g., Kohavision, Klan Kosova, Kosova Press, etc.), while some of the media have published their reports and episodes on the YouTube channel and thus provided access to saved published articles and news that can be read and/or download. The entire research can be seen in the research table with information about the media and topics.
- The language factor - one of the key reasons why the media in Kosovo did not publish articles or news about the property issues of the Serb minority in Kosovo, for the reason that they DO NOT SPEAK the language of the non-majority communities. The fact is that many journalists do not know Serbian language, and they mostly speak Albanian or are bilingual, which means they know Albanian and/or English. English is considered a problem in the understanding of the Serb community in Kosovo because their language, or Serbian language, is one of the official languages in use in Kosovo and they have the right to request material in their

native language. It is not only the Serb population that is affected by this problem, but there are also Bosniaks, Croats, Montenegrins and Roma who speak practically the same language with minor differences. In addition, it should be emphasized that the entire translation process takes a long time. Let's imagine how a TV story for a trilingual person is created: conceptualization in Albanian, realized in English and translated into Serbian, the whole process is long, and besides, it is often not related to the original story or has some changes that could change the whole article and have different meaning than expected.

- Lack of interest – the media have not expressed interest in publishing such stories or articles, or even using the information as short news. They are mainly focused on politics and politicians (probably daily), unemployment, education system, health system (mainly where there were corrupt situations), while the dialogue between Kosovo and Serbia is an important topic that is used or serves as breaking news. This is not surprising considering all the past events in the north of Kosovo and on the political scene in Pristina and the narrative that was used for their voters. In this aspect, for the media (also worldwide) “bad news is good news”, and the media often use this political crisis presenting it as of national importance, as a game changer or an opportunity to create better conditions for the future (visa liberalization). The issue of returnees to their estates is not perceived as good news and the media simply did not provide space for reporting on these issues. It is obvious that this type of problem continues, as there are fewer and fewer reports of it.

From the perspective of civil society activists, the issue of returnees to their estates is not a topic the media deal with. Kosovo has a lot of media registered as individual companies (according to the website of the Business Registration Agency in Kosovo, there are more than 30, while the primary and secondary fields of activity are: Internet advertising, web portals, news agencies and other information services). So, in this sense,

the most trusted media are national TV channels (companies with the national frequencies), followed by radio stations and finally web portals that are linked to social media pages. Research in the field showed that there are events on this topic, more precisely, there were many cases where Serb property was sold to Albanians and their cases were closed on legal grounds, and there were also cases where members of the non-majority community did not have the opportunity to exercise their constitutional rights and have many obstacles to return their property, house, apartment, etc. Bearing all this in mind, this research concludes that the media does not pay enough attention to the property issues that members of non-majority communities have had for years, and some of them for decades in Kosovo, and although the approach to solving these issues is multi-layered, the media should follow them and report about them because all citizens have equal rights and this topic deserves much more attention than the one that is being given to it at the moment.

## **RECOMMENDATION – CONTINUING THE RESEARCH WITH INSTITUTIONS**

In order to find the best way to solve the issue of returnees or displaced persons, we need to consider a different approach. One of the possible solutions would be to send each municipality an official request of returnees and displaced persons from their municipality. That would give us accurate data with real numbers about the property issues that each municipality has and how many of them have been resolved over time. This will give a clear picture of the status of returnees and how long it took them to exercise their right. Another option is to contact the court and ask about existing property cases and ask for information about cases that have been completed. Official information from the courts will help us have a clearer picture of cases and the situation regarding property rights. At the same time, it can be used as a double check of the information received from the municipality, and thus accurate data on current, solved, or possible cases (in the future) will be obtained.

This procedure takes time, up to two months, and taking into account the period of official response according to the law, then an additional month (or two) for the analysis of the responses of the municipalities and with that data, the preparation of a summary report on the position of non-majority property issues and the percentage of solutions begins.

With this method, we will have a much better picture of how many properties in Kosovo are owned by members of the Serb community. Also, it can show us how many properties changed owners in the previous period and what is the exact number of returnees who returned to live in Kosovo.

## **EXAMPLES TO BE CONSIDERED**

As an example, and at the same time a challenge related to court cases, we can mention old cases that never had a property settlement. There are still properties from the seventies of the last century, which were sold by Serbs, bought from Albanians, and vice versa, and there are still no documents of the owners due to the informality of the sellers. Such cases still occur in terms of the administrative competences of municipalities, in order to register the property in the name of the real owner. Although the government through the relevant ministry has eased the property registration criteria, there is still no solution. And although there is not a high percentage of these cases, they are still not solved and require the attention of both institutions and the media.

As another example that can be mentioned, ownership of land is disputed, which directly refers to local and central government. In this regard, many estates were built without a permit, which is why they are still in the process of expropriation, bearing in mind that there was informal construction in the eighties and nineties of the last century. After the 2000s, informality of hard structures continues, while the same process happened after the decentralization process, when new municipalities came to power (after 2012). Therefore, the land belongs to the state (local or central administration), and the construction belongs to the construction company. The result is construction without a permit. There are many cases where land ownership is not legally regulated, which creates a problem in the future for people who have bought apartments, offices or any other space built on that unsettled plot.

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# ANALYSIS OF OBSTACLES IN THE PROCESS OF RETURN OF DISPLACED PERSONS FROM THE WAR IN KOSOVO BETWEEN 2017 AND 2021

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**Authors**

Milica Radovanović, New Social Initiative (NSI)  
Marko Milosavljević, Youth Initiative for Human Rights (YIHR Serbia)

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# **Analysis of obstacles in the process of return of displaced persons from the war in Kosovo between 2017 and 2021**

*Milica Radovanović, New Social Initiative (NSI)*

*Marko Milosavljević, Youth Initiative for Human Rights (YIHR Serbia)*

**December 2022**

## **CONTENTS**

<b><i>INTRODUCTION .....</i></b>	<b><i>1</i></b>
<b><i>BASIC DATA AND PROBLEMS OF INTERNALLY DISPLACED PERSONS IN SERBIA.....</i></b>	<b><i>3</i></b>
<b><i>KOSOVO'S LEGAL FRAMEWORK FOR RETURN OF DISPLACED PERSONS</i></b>	<b><i>8</i></b>
<b><i>HOW DOES THE RETURN PROCESS TO KOSOVO WORK .....</i></b>	<b><i>12</i></b>
<b><i>RETURN TO KOSOVO – DESCRIPTION OF THE SITUATION.....</i></b>	<b><i>16</i></b>
<b><i>RESISTANCE TO RETURN AND SECURITY INCIDENTS IN KOSOVO.....</i></b>	<b><i>21</i></b>
<b><i>REALIZATION OF PROPERTY RIGHTS .....</i></b>	<b><i>28</i></b>
<b><i>FINDINGS OF ORGANISATIONS AND INSTITUTIONS ABOUT THE RIGHTS OF RETURNEES .....</i></b>	<b><i>32</i></b>
<b><i>RECOMMENDATIONS .....</i></b>	<b><i>36</i></b>

## ABBREVIATIONS

IDPs	Internally displaced persons
UN	United Nations
UNMIK	United Nations Interim Administration Mission in Kosovo
UNHCR	United Nations High Commissioner for Refugees
MWGR	Municipal Working Groups on Return
CRM	Central Review Mechanism
MOCRs	Municipal Offices for Communities and Return
OSCE	Organization for Security and Co-operation in Europe
MCR	Ministry of Communities and Return
CRC	Central Review Commission
KFOR	NATO-led international peacekeeping force in Kosovo
Office for K&M	Office for Kosovo and Metohija of the Government of the Republic of Serbia
HPD	Housing and Property Directorate of the Government of Kosovo
KPA	Kosovo Property Agency of the Government of Kosovo
KPCVA	Kosovo Property Comparison and Verification Agency
KP	Kosovo Police

## **INTRODUCTION**

The right of displaced persons to voluntarily return to their homes with safety and dignity, as well as the return of property (or appropriate compensation) is proclaimed in the principles of displacement (the so-called Pinheiro Principles).<sup>1</sup> According to the Pinheiro Principles, voluntary return with safety and dignity must be based on free, informed, individual choice. Also, refugees and displaced persons should be provided with complete, objective, up-to-date and accurate information, including information on issues of physical, material and legal security in countries or places of origin. Furthermore, this right cannot be subject to arbitrary or illegal time limits by countries.<sup>2</sup>

In addition, the right to property, freedom of movement, as well as the right to return to the country of origin are prescribed by international human rights law norms and instruments that are directly applicable in Kosovo\*. In addition, as emphasized in principle no. 28 of the Guiding Principles on Internal Displacement, IDPs have the right to a permanent solution and often need assistance in this regard. This means that the competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in other locations. Apart from state authorities, the role of humanitarian and international actors is of key importance in the return process. They provide support and direct assistance in finding sustainable solutions.<sup>3</sup>

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1 UN Economic and Social Council, Final report of the Special Rapporteur, Paulo Sérgio Pinheiro: Principles on Housing and Property Restitution for Refugees and Displaced Persons, downloaded from <https://digitallibrary.un.org/record/552535>

On 11 August 2005, the UN Sub-Commission on the Promotion and Protection of Human Rights has officially adopted the 'Pinheiro Principles, Principles on Housing and Property Restitution for Refugees and Displaced Persons, E/CN.4/Sub.2/2005/17;

2 Tamara Vučenović, Rastko Brajković, Milena Šošić, Sustainable return of IDPs to Kosovo: a Step Forward, 2019, p. 17; <http://idcserbia.org/wp-content/uploads/2019/05/Studija-o-odrzivom-povratku-na-Kosovo.pdf>;

3 Ibid, p. 17-18;

According to the study “Sustainable Return of Internally Displaced Persons: A Step Forward”, four criteria can be highlighted as key to measuring sustainable return: a) physical security (ethnically motivated violence and property, freedom of movement); b) material security (housing and property issues, employment and economic status); c) social security (education, health, social protection system and infrastructure); d) legal security (access to documents and information, access to courts, etc.).<sup>4</sup>

This analysis aims to map and explain the main obstacles in the previous four years to the return of displaced persons to Kosovo after the armed conflict in Kosovo in 1998-1999, as well as after the wave of ethnically motivated violence in March 2004. The main focus of the analysis is on the security problems of returnees, as well as unresolved property and legal relations. The analysis consists of chapters on the basic problems faced by internally displaced persons in the Republic of Serbia as a result of poor integration, the legal framework for the return of displaced persons to Kosovo, as well as an overview of obstacles in terms of security issues and difficult restitution. Also, the analysis contains the findings of international and local governmental and non-governmental organizations regarding the issue of the return of displaced persons to Kosovo, as well as a series of recommendations that can be guidelines for the sustainable return of displaced persons to Kosovo.

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<sup>4</sup> Ibid, p. 18;

## **BASIC DATA AND PROBLEMS OF INTERNALLY DISPLACED PERSONS IN SERBIA**

At the end of 2021, there were 196,140 registered internally displaced persons (IDPs) from the territory of Kosovo in the Republic of Serbia. The Commissariat for Refugees and Migration, in accordance with its competences established by the Law on Refugees, provides care and assistance in the integration and return of refugees. In accordance with the National Strategy, the Commissariat for Refugees and Migration provides support in improving the living conditions of internally displaced persons from Kosovo.<sup>5</sup>

According to the report on the work of the Commissariat, in the course of 2021, 713 refugees integrated in the Republic of Serbia (regulated residence and identity card of the Republic of Serbia). In 2021, in the Republic of Serbia, four collective centers were closed in the territory of Kosovo, so there are five collective centers operating in the Republic of Serbia, of which four collective centers are in the territory of Kosovo, and one in Bujanovac. A total of 186 persons are housed in the aforementioned five collective centers in the Republic of Serbia: 18 refugees and 168 internally displaced persons. The Commissariat for Refugees and Migration plans to continue the closure of collective centers, in accordance with the provided funds for the implementation of projects that follow the closure of collective centers, i.e. the purchase of rural houses with a garden, providing assistance in construction materials and construction of prefabricated houses.<sup>6</sup>

The research on the situation in informal collective centers conducted by A 11 - Initiative for Economic and Social Rights in October and November 2019 included seven municipalities with ten informal collective centers

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<sup>5</sup> Izveštaj o radu Komesarijata za izbeglice Republike Srbije za 2021. godine: <https://kirs.gov.rs/lat/izvestaji/izvestaji>;

<sup>6</sup> Ibid;

(one third of which are informal Roma settlements) and a sample size of 95 households in which a total of 395 members live.<sup>7</sup>

The units of the conducted research were households, and a convenient quota sample was used, with at least one third of the estimated number of households from each informal collective center. The research was conducted in response to the preparation of the new National Strategy for Resolving Problems of Refugees and IDPs. In addition, the research sought to improve existing knowledge about the needs of one of the most vulnerable categories within the displaced population - internally displaced persons living in informal collective centers. Specific objective 3.6 of the National Strategy for Resolving Problems of Refugees and IDPs until 2020 states, as one of the measures, that it is necessary to “create conditions for the closure of informal collective centers and unsanitary settlements by solving the housing needs of internally displaced persons who are housed there.”<sup>8</sup>

As a result, with this research Initiative A 11 tried, by analyzing the position of displaced persons living in those centers, and especially their position in terms of realizing the right to housing, education, health care, social protection and work and employment, to point out their marginalization and the need for a priority solution to the problems they face.<sup>9</sup>

Although significant progress has been made in the area of exercising status rights, as stated in several reports by A 11 - Initiative for Economic and Social Rights, IDPs still encounter problems in the procedures for registering residence at the addresses of centers for social work, as well as when registering the residence of new family members of users of social

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7 A 11 - Inicijativa za ekonomska i socijalna prava, Kako izgleda život u neformalnim kolektivnim centrima u Srbiji, 2020:

[https://www.a11initiative.org/wp-content/uploads/2020/06/Kako-izgleda-%C5%BEivot-u-neformalnim-kolektivnim-centrima\\_kona%C4%8Dna-verzija.pdf](https://www.a11initiative.org/wp-content/uploads/2020/06/Kako-izgleda-%C5%BEivot-u-neformalnim-kolektivnim-centrima_kona%C4%8Dna-verzija.pdf);

8 Ibid;

9 Ibid;

housing or housing intended for their accommodation. Possession of personal documents and the possibility of registering residence are still a necessary prerequisite for access to other guaranteed Guiding Principles of Internal Displacement.<sup>10</sup>

The availability of most social protection services is therefore directly related to permanent and temporary residence. This means that the services of centers for social work are available to persons who cannot register their place of permanent and temporary residence only in cases where urgent intervention is necessary. Considering the high rate of poverty, the restrictive provisions of the regulations in the field of social protection greatly affect the possibilities of integration of IDPs. The obligation to file a claim for maintenance against relatives, time-limited social assistance and the discretionary right to calculate missed earnings, discrimination of users of financial social assistance and the implementation of the Decree on Social Inclusion Measures for Recipients of Financial Social Assistance, as well as improper and illegal application of the regulations are some of the main identified problems .

Realizing the right to adequate housing is also burdened with problems. Particularly important are the problems related to the taxation of social housing and the housing of internally displaced persons, guaranteeing the security of housing status, as well as numerous irregularities in the application of regulations relevant to the eviction procedures of residents of informal settlements where a large number of Roma IDPs live. The availability of permanent housing solutions for the most vulnerable internally displaced persons further complicates the realization of this right.<sup>11</sup>

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10 A 11 - Inicijativa za ekonomska i socijalna prava, Interno raseljena lica u Srbiji: Kako do prava na dostojanstven život, 2020, p. 9: [http://www.a11initiative.org/wp-content/uploads/2018/11/Advocacy-Brief\\_SR\\_Web.pdf](http://www.a11initiative.org/wp-content/uploads/2018/11/Advocacy-Brief_SR_Web.pdf)

11 Ibid, p. 10;

In addition to problems in exercising certain rights, the absence of a functional system of free legal aid for years further complicates the position of these persons and limits access to justice for internally displaced persons. Numerous criticisms of the Draft Law on Free Legal Aid, which primarily related to its insufficient inclusivity, are the first signal that the most vulnerable internally displaced persons will have problems in exercising their right to access justice when its implementation begins. In the context of the current situation of internally displaced persons in Serbia, local integration, and thus the solution to the issue of IDPs, is conditioned precisely by the improvement of access to socio-economic rights, on the one hand through the improvement of the legal framework and the removal of administrative obstacles for access to rights, and on the other through the creation of policies and support programs that will be based on respect for human rights and interdependence of human rights.<sup>12</sup>

The difficult situation of displaced persons from Kosovo living in Serbia has been pointed out for years by the European Commission through annual Serbia's Progress Reports on European integration. The European Commission's 2022 Progress Report for Serbia states that there are still 196,140 internally displaced persons (IDPs) in Serbia, of which 68,154 are still vulnerable and have displacement-related needs. The Report recommends that the only remaining collective center in Bujanovac should be closed. The related strategy expired in 2020.<sup>13</sup>

The report further states that the law on permanent and temporary residence should be consistently applied to enable Roma IDPs living in informal settlements to obtain registered residence and access to basic socio-economic rights. IDPs of the Roma national minority remain the most marginalized and vulnerable group, especially in terms of unequal access to health care. Finally, it is noted that Serbia is still involved in the regional

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<sup>12</sup> Ibid, p. 10;

<sup>13</sup> Annual Progress Report of the European Commission for Serbia (2022):

[https://www.mei.gov.rs/upload/documents/eu\\_dokumenta/godisnji\\_izvestaji\\_ek\\_o\\_napretku/ec-report-2022.pdf](https://www.mei.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/ec-report-2022.pdf)

dialogue on “permanent solutions for displaced persons from Kosovo” (“Skopje Process”).<sup>14</sup>

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<sup>14</sup> Ibid;

## **KOSOVO'S LEGAL FRAMEWORK FOR RETURN OF DISPLACED PERSONS**

The provisions of the Universal Declaration of Human Rights (Article 13, 2),<sup>15</sup> the International Covenant on Civil and Political Rights (Article 12, 4)<sup>16</sup>, and the International Convention on the Elimination of All Forms of Racial Discrimination (Article 5 d,ii)<sup>17</sup> in accordance with Article 22 of the Constitution are directly applicable in Kosovo.

Accordingly, every person is guaranteed the right to return to their country, and no one can be arbitrarily deprived of the right to return.

Additionally, the Constitution defines Kosovo's obligation to promote and facilitate a safe and dignified return of refugees and internally displaced persons, and to help them recover their property and personal belongings.<sup>18</sup>

In addition to general provisions confirming the right to return in accordance with international standards and individual acts that partially regulated the return process, Kosovo only received a more comprehensive legal framework regulating the return process in 2018, with the adoption of the *Regulation on the Return of Displaced Persons and Durable Solutions*.<sup>19</sup>

Until 2018, the legal and institutional frameworks establishing the right to return in accordance with international standards were contained in the following documents.

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15 Universal Declaration of Human Rights (1948), <http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2013/02/Univerzalna-deklaracija-o-ljudskim-pravima-1948.pdf>

16 International Covenant on Civil and Political Rights (1966), <http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2013/02/Me%C4%91unarodni-pakt-o-gra%C4%91anskim-i-politi%C4%8Dkim-pravima.pdf>

17 International Convention on the Elimination of All Forms of Racial Discrimination (1965), <https://unmik.unmissions.org/sites/default/files/regulations/05bosniak/BRacialdiscrimination.pdf>

18 Constitution of Kosovo (2008), article 156 (Refugees and Internally Displaced Persons), [https://www.assembly-kosova.org/Uploads/Data/Files/6/UstavRepublikeKosovo\\_4NLeWNWqGD.pdf](https://www.assembly-kosova.org/Uploads/Data/Files/6/UstavRepublikeKosovo_4NLeWNWqGD.pdf)

19 Regulation 01/2018 on the Return of Displaced Persons and Durable Solutions, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=15942>

**The Protocol on Voluntary and Sustainable Return<sup>20</sup> of the United Nations Interim Administration Mission in Kosovo (UNMIK), the Government of Kosovo and the Government of the Republic of Serbia (2006)** by which the parties undertook to ensure the basic preconditions for voluntary and sustainable return of displaced persons regardless of their ethnicity.

**Revised UNMIK's Manual for Sustainable Return (2006)<sup>21</sup>** which guarantees refugees and displaced persons the right to return to their homes, as well as the right to return property and personal belongings. This manual defines the roles and responsibilities of all relevant government and municipal institutions in order to enable the safe return of refugees. The manual stipulates the establishment of Municipal Working Groups on Return (MWGRs) and Central Review Mechanism (CRM) as the main mechanisms for coordination at the municipal and central levels. Returning to the place of previous residence was seen as the most favorable permanent solution for all displaced persons.

**The Law on the Protection and Promotion of the Rights of Communities and Their Members (2008)<sup>22</sup>** does not explicitly mention the right to return. However, provisions regarding language rights, education, security, social and economic opportunities directly affect the sustainable reintegration of returnees.

**Regulation for the Municipal Offices for Communities and Return (2010)<sup>23</sup>** provides for the establishment of these offices (MOCRs) in all

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20 Protocol of Cooperation on Voluntary and Sustainable Return between UN Interim Administration in Kosovo, Provisional Institutions of Self-Government in Kosovo\* and the Government of Serbia, 6 June 2006 <https://www.ian.org.rs/arhiva/kosovo-info/srpski/files-index/Protocol%20on%20Returns%20SRP.pdf>

21 Revised Manual for Sustainable Return, 2006, <https://www.ian.org.rs/arhiva/kosovo-info/srpski/files-index/Prirucnik%20za%20odrziv%20povratak%20-%20juli%202006.pdf>

22 Law 03/L-047 on the protection and promotion of the rights of communities and their members, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2840>

23 Regulation 2/2010 for the Municipal Offices for Communities and Return,

municipalities in Kosovo, which are responsible, among other things, for coordinating and creating conditions for the sustainable return and reintegration of refugees and internally displaced persons, developing action plans in relation to the process of return and reintegration, as well as maintaining an electronic database of displaced persons and returnees.<sup>24</sup>

**Guidelines of the Ministry of Communities and Return (MCR) for the Provision of Assistance in the Implementation of Return (2012)** supplemented the UNMIK's manual from 2006. The Guidelines concentrate the responsibilities for coordination on the Ministry of Communities and Return, and the responsibilities for making decisions on the provision of assistance to the Central Review Commission (CRC) managed by MCR. At the municipal level, the Guidelines recognize the role of the MOCRs and expand their responsibilities listed in the MOCR Regulation.<sup>25</sup>

**Regulation on the Return of Displaced Persons and Durable Solutions<sup>26</sup>** from January 2018 and the Guidelines for the Implementation of the Regulation from October 2018 are the first documents that regulate the procedure for the return of displaced persons and permanent solutions in a consolidated manner and guarantee certain rights.

Return and assistance is guaranteed to returnees not only in the place of origin, but also in another location within Kosovo. A procedure for return is defined and criteria for assistance to displaced persons established.

The Regulation stipulates the creation of a case management system in which data on displaced persons and voluntary returnees, as well as the

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<https://gzk.rks-gov.net/ActDetail.aspx?ActID=10522>

24 Ibid, Art. 7 items 1.3, 1.4, 2

25 Assessment of Voluntary Returns in Kosovo, OSCE, November 2019,

<https://www.osce.org/files/f/documents/e/d/440744.pdf>

26 Regulation 01/2018 on the Return of Displaced Persons and Durable Solutions,

<https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=15942>

This Regulation repealed the Ministry of Community and Return's Guidelines for providing assistance in the implementation of return from 2012

assistance they receive, are registered, processed and archived. The entire process of reintegration of returnees should be done through this system.

Through this system, the Ministry of Communities and Return should produce quarterly reports that should be available to the public. This system is still not fully functional.

When it comes to the legal regulation of the process of voluntary return of displaced persons, there is still uncertainty. The process of drafting the Law on the Return of Displaced Persons, which would establish the right to voluntary return, as well as the scope of rights of returnees, the return procedure, appropriate legal procedures, legal protection and other issues is still ongoing. In 2019, the Ministry of Communities and Return pointed out that there was an initiative to establish a working group for the drafting of laws and political will, but that there were no concrete activities in this matter.<sup>27</sup>

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<sup>27</sup> Sustainable return of IDPs to Kosovo\* 1 as a Step Forward Ref. IDC 11/2018-100/2018, p. 19, <http://idcserbia.org/wp-content/uploads/2019/05/Studija-o-odrzivom-povratku-na-Kosovo.pdf>;

## **HOW DOES THE RETURN PROCESS TO KOSOVO WORK**

A displaced person is a person who was forced to flee or leave their place of residence from 28 February 1998 to 31 March 2004, especially as a consequence or in order to avoid the consequences of an armed conflict, a situation of general violence, human rights violations.<sup>28</sup>

A displaced person interested in returning submits a completed form with accompanying documentation to the Municipal Office for Communities and Return (MOCR) in the municipality where they wish to return, from which they escaped, or where they currently live.

Displaced persons outside Kosovo submit their applications to the competent authorities that deal with displaced persons in the place of displacement, which they forward to the Ministry of Communities and Return (MCR). MCR further forwards such an application to MOCR of the municipality to which the displaced person has expressed their desire to return. If a displaced person expresses a desire to return to another municipality, and not the one they fled from, MOCR will forward such an application to the municipality of origin for verification and comments.

MCR is responsible for receiving and filing all applications from the MOCR and from the countries of the region.

MOCR conducts an initial evaluation of applications in the field, in the municipality to which the displaced person has expressed the desire to return, within 15 days from the date of receipt of the application.

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<sup>28</sup> Regulation 01/2018 on the Return of Displaced Persons and Durable Solutions, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=15942>;

After the evaluation of the applications on the ground and the recommendation of the Municipal Return Commission, the complete file of each applicant is submitted to the Central Review Commission, which makes the final decision. Central Review Commission operates within the MCR.

This Commission is obliged to make a decision within 15 days from the date of receipt of the application and recommendation.

The Commission can reject or accept the recommended case, or put the case on hold and request additional information from the Municipal Return Commission. The decision of the Central Review Commission is delivered to the applicant within 10 days from the date of issuing.

According to the Regulation, the applicant has the right to file an appeal against the decision of the Central Review Commission, within 30 days, to the Appeals Commission, personally or through MOCR. However, this Commission has not yet been established.<sup>29</sup>

In order to promote return and permanent reintegration, the Regulation on the Return of Displaced Persons and Durable Solutions also stipulates measures for assistance to returnees, as well as criteria for receiving it.

The Regulation prescribes a strict selection of users based on needs, with a series of established vulnerability criteria in order to determine priority cases. It introduces the obligation of municipalities and MCR to provide assistance to all applicants who meet the conditions, but to prioritize vulnerable cases based on a number of criteria.<sup>30</sup>

One of the main criteria is that a displaced person or returnee does not own other residential property in Kosovo, or does not have access to such

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<sup>29</sup> European Commission, Report for Kosovo 2022, p. 41  
<file:///C:/Users/PULSE%20Electronics/Downloads/Kosovo%20Report%202022.pdf>;

<sup>30</sup> Ibid;

property, or does not own property in the place of displacement or elsewhere, or has not sold the property. It is also necessary that the person has not used any assistance as a permanent solution in the past and does not have the means to find a permanent solution.

Also, additional criteria are used in order to determine priority cases for the award of aid. In accordance with the Regulation on Displaced Persons, assistance in accessing information before, during and after return in a language they understand is provided in accordance with the Law on the Use of Languages.

If they do not have funds at their disposal, they have the right to assistance in the form of organizing transport, crossing the border and canceling customs duties. Help in the form of a basic three-month food package is also foreseen for returnees who fall into the severe and medium vulnerability category.

Assistance in the form of hygiene packages, furniture and firewood is also planned. The costs of connection to the electricity, water and sewage networks are also covered for displaced persons who receive assistance upon their return.

In addition, the Regulation stipulates the assistance in accommodation and housing in the form of rent, renovation and construction of housing units. The Regulation stipulates that information on the required documents and instructions for filling out the application forms must be available on the website of the municipalities and MCR.<sup>31</sup>

This Regulation represents a significant step in the consolidation of procedures and cooperation among the various mechanisms active in the return process. The Regulation strengthens the supervisory role and

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<sup>31</sup>Currently, most forms can only be found on the website of the Ministry of Communities and Return, accessed on 24 November 2022 <https://mkk.rks-gov.net/ministry/application-form>;

responsibility of the MCR in relation to the performance of municipal level institutions and foresees the appointment of regional coordinators in order to ensure a better flow of information between the MCR and the MOCR.<sup>32</sup>

What is negative is that the Regulation limits the efficiency of emergency aid, because the authority to make decisions on the provision of emergency aid packages rests with the MCR, not the municipalities.<sup>33</sup>

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<sup>32</sup> [Assessment of Voluntary Returns in Kosovo, OSCE, November 2019](https://www.osce.org/files/f/documents/e/d/440744.pdf), p. 14:  
<https://www.osce.org/files/f/documents/e/d/440744.pdf>;

<sup>33</sup> Ibid;

## **RETURN TO KOSOVO – DESCRIPTION OF THE SITUATION**

In March 2000, the Commissariat for Refugees and Migration, in cooperation with the United Nations High Commissioner for Refugees (UNHCR), organized a census of displaced persons from Kosovo, when 187,129 persons were registered. In the period from 2000 to 2005, about 20,000 more persons were registered from Kosovo, and at the end of 2005, the number of displaced persons was 209,021.<sup>34</sup> By July 2021, there were 196,140 persons in this register.<sup>35</sup>

UNHCR estimates that of those displaced by the conflict that took place between 1998 and 1999, around 90,000 still have displacement-related needs and are awaiting solutions. It is estimated that there are 72,000 of them in Serbia, 16,406 in Kosovo, 729 in Montenegro, and 394 in North Macedonia.<sup>36</sup>

By the end of December 2018, according to UNHCR data, only 28,111 persons returned to Kosovo.<sup>37</sup>

Until October 2022, the office of the United Nations High Commissioner for Refugees (UNHCR) registered 120 voluntary returns of members of non-majority communities who were displaced in Kosovo and outside

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34 Commissariat for Refugees of the Republic of Serbia, <http://arhiva.kirs.gov.rs/docs/statistika/Registracija%20Lica%20Raseljenih%20sa%20Kosova%20i%20Metohije.pdf>;

35 Commissariat for Refugees RS, <https://kirs.gov.rs/media/uploads/Stanje%20izb-ir%20po%20opstinama%202021.pdf>;

36 Displaced persons from Kosovo in the region – a re-assessment of interest to return, UNHCR: <https://www.unhcr.org/see/10873-displaced-people-from-kosovo-in-the-region-a-re-assessment-of-interest-to-return.html>;

37 Office of the Head of Mission of UNHCR in Kosovo, statistical review for December 2018; Assessment of Voluntary Returns in Kosovo, OSCE, November 2019, p. 9: <https://www.osce.org/files/f/documents/e/d/440744.pdf>;

Kosovo. These returnees include 65 women and 55 men (102 Serbs, 9 Egyptians, 6 Ashkali, 2 Roma, and 1 Albanian).<sup>38</sup>

The report states that this has increased the total number of displaced persons from non-majority communities who have found a permanent solution in Kosovo since 2000 to 29,185, of which 14,335 are women and 14,850 men (12,678 Serbs, 7,752 Ashkali and Egyptians, 4,049 Roma, 1,878 Bosniaks, 1,464 Gorani, 1,320 Albanians, 21 Montenegrins, 19 Turks and 4 Croats). The remaining are 15,683 displaced persons in Kosovo (7,220 women and 8,463 men), as well as 69,627 persons with displacement-related needs throughout the Western Balkans, out of approximately 200,000 displaced persons from Kosovo living in the region, most of them in Serbia.

2015 - 802 persons<sup>39</sup>

2016 - 582 persons<sup>40</sup>

2017 - 498 persons<sup>41</sup>

2018 - 327 persons<sup>42</sup>

2019 – 191 persons<sup>43</sup>

2020 – 394 persons<sup>44</sup>

2021 – 368 persons<sup>45</sup>

In 1999, 90% of Albanians were displaced. Between March and June 1999, around 863,000 Albanians were expelled from Kosovo.<sup>46</sup> According to a

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38 Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, October 2022, p. 9, [https://unmik.unmissions.org/sites/default/files/s\\_2022\\_739-sr.pdf](https://unmik.unmissions.org/sites/default/files/s_2022_739-sr.pdf)

39 Ibid;

40 Ibid;

41 Ibid;

42 Ibid;

43 European Commission, Report for Kosovo 2020, p. 37

[file:///C:/Users/PULSE%20Electronics/Downloads/kosovo\\_report\\_2020.pdf](file:///C:/Users/PULSE%20Electronics/Downloads/kosovo_report_2020.pdf);

44 UNHCR data, European Commission, Report for Kosovo 2022, p. 41

<file:///C:/Users/PULSE%20Electronics/Downloads/Kosovo%20Report%202022.pdf>;

45 UNHCR data, European Commission, Report for Kosovo 2022, p. 41

<file:///C:/Users/PULSE%20Electronics/Downloads/Kosovo%20Report%202022.pdf>;

46 An analysis of the human rights findings of the OSCE Kosovo Verification Mission October 1998 to June 1999, OSCE, <https://www.osce.org/files/f/documents/d/d/17772.pdf>;

2018 UNCHR estimate, 5,176 households are still internally displaced in Kosovo:<sup>47</sup> Albanians: 1,167 households or 5,879 individuals. Albanian IDPs were displaced primarily from the north of Mitrovica (78%). For the majority (93%), the original displacement occurred in 1999.

Roma/ Ashkali/ Egyptians: 137 households or 638 individuals who were displaced primarily from the Mitrovica region and from Pristina (57% combined). For the majority (94%), the initial displacement took place in 1999.

Serbs: 3,872 households or 16,383 individuals living in private accommodation and 140 households living in collective centers. They were displaced from different locations in Kosovo (south of the Ibar River). For the majority (88% of those staying in private accommodation and 92% of those staying in collective centres), the initial displacements took place in 1999.

Many displaced persons and families of victims from Kosovo are financially threatened and marginalized, partly because they were not able to dispose of their property in Kosovo. They also face unemployment and inadequate housing, and 166 of them continue to live in inhumane conditions in collective centers. The status of displaced persons provides them with fewer housing opportunities, because they do not have all the rights granted to refugees.<sup>48</sup>

Displaced persons from Kosovo who worked in state-owned enterprises or public institutions in Kosovo are still formally employed, but instead of a full salary, they receive only a modest monthly allowance. Their inability to dispose of property in Kosovo is another obstacle to improving their socio-economic situation. In recent years, the Office for Kosovo and

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47 Profiling internally displaced persons in Kosovo, UNHCR, 2018, p. 4-5 [https://www.unhcr.org/see/wp-content/uploads/sites/57/2018/11/UNHCR\\_KOS\\_Profiling\\_Serbian\\_Pages.pdf](https://www.unhcr.org/see/wp-content/uploads/sites/57/2018/11/UNHCR_KOS_Profiling_Serbian_Pages.pdf);

48 Dealing with the past, surviving the present: Situation and needs of civilian war victims in Serbia, Kosovo, and North Macedonia, Gradanske Inicijative, Integra, NSI, Mirovna akcija, ICTJ, PAX, 2022, p. 32;

Metohija of the Government of Serbia has represented injured parties in property claims before the courts in Kosovo, but that support came too late because many families have already gone through a very difficult period or family members have passed away in the meantime. Additionally, displaced persons from Kosovo do not have the right to participate in the Regional Housing Program, due to Serbia's unwillingness to integrate them. Namely, Serbia considers their displaced position to be temporary and encourages their return to Kosovo.<sup>49</sup>

Displaced persons from Kosovo perceive themselves as victims of war crimes, kidnapping, expulsion, torture, ethnic cleansing, post-war tendency to cover up these crimes, as well as manipulation and neglect from the international community. Displaced persons who are still searching for their missing family members prioritize the issue of enforced disappearance over their status as displaced persons.<sup>50</sup>

The Coalition of Displaced Persons from Kosovo and Metohija has been operating since 2015, but its representativeness is being questioned.<sup>51</sup>

Most associations of Serbian victims were focused on internally displaced persons, but most of them were closed when the Ministry of Communities and Return and local government structures, with the help of international organizations, primarily the International Organization for Migration and the United Nations High Commissioner for Refugees (UNHCR), took over the return process. The return process is limited to a few rural areas in Kosovo, predominantly in the Peja/Peć region, which are unsuitable due to the age of returnees and security challenges.<sup>52</sup>

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<sup>49</sup> Dealing with the past, surviving the present: Situation and needs of civilian war victims in Serbia, Kosovo, and North Macedonia, Građanske Inicijative, Integra, NSI, Mirovna akcija, ICTJ, PAX, 2022, p. 36;

<sup>50</sup> Dealing with the past, surviving the present: Situation and needs of civilian war victims in Serbia, Kosovo, and North Macedonia, Građanske Inicijative, Integra, NSI, Mirovna akcija, ICTJ, PAX, 2022, p. 20;

<sup>51</sup> Dealing with the past, surviving the present: Situation and needs of civilian war victims in Serbia, Kosovo, and North Macedonia, Građanske Inicijative, Integra, NSI, Mirovna akcija, ICTJ, PAX, 2022, p. 23;

<sup>52</sup> Dealing with the past, surviving the present: Situation and needs of civilian war victims in Serbia, Kosovo, and North Macedonia, Građanske Inicijative, Integra, NSI, Mirovna akcija, ICTJ, PAX, 2022, p. 60;

There are only two associations of Kosovo Albanians that support internally displaced persons. While many Albanians have experienced forced expulsions, their focus is primarily on other human rights violations related to the war. The majority of organizations representing or supporting internally displaced persons (16) were founded by ethnic Serbs, several of which represent the interests of all minorities.<sup>53</sup>

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<sup>53</sup> Dealing with the past, surviving the present: Situation and needs of civilian war victims in Serbia, Kosovo, and North Macedonia, Gradanske Inicijative, Integra, NSI, Mirovna akcija, ICTJ, PAX, 2022, p. 60;

## **RESISTANCE TO RETURN AND SECURITY INCIDENTS IN KOSOVO**

In the period from July 2015 to December 2019, OSCE recorded 1,621 security incidents that potentially affected the security perception of communities in the numerical minority at the municipal level.

These include incidents targeting religious buildings and burial sites, as well as the cultural heritage of communities which are a minority in a given municipality.

Of the security incidents recorded by OSCE, 20 percent were directed against places of return and mostly Kosovo Serb returnees.

Most incidents were break-ins into uninhabited houses of Kosovo Serbs, repeated petty thefts of movable property of returnees, damage to property and illegal logging in forests owned by returnees.

Incidents most often occurred in locations where a significant return rate was recorded, such as the municipalities of Peć, Istok and Klina.<sup>54</sup>

Although many of these acts may have a predominantly economic motive and are reported to the Kosovo Police, OSCE notes that the negative impression of security has increased among returnees, as many perpetrators have escaped justice. This, together with the community's perception of crimes against returnees, contributes to a negative impression of security for returnees and thus hinders the return process.

During its monitoring activities, OSCE noticed that such incidents discourage potential returnees. At the municipal level, perceived security

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<sup>54</sup> The Community Rights Assessment Report 5. issue, OSCE, June 2021, p. 12  
<https://www.osce.org/files/f/documents/1/8/493681.pdf>

threats are not always met with public condemnation by municipalities. When cases are condemned, the message does not always reach the affected communities.

In July 2016, an elderly Kosovo Serb returnee in Decani was physically attacked by a Kosovo Albanian in a barber shop.<sup>55</sup>

In December 2016, a municipal official in Dečani accused eight elderly displaced persons of involvement in war crimes and threatened their return if they did not reveal the location of Kosovo Albanians who are listed as missing persons. As a result, the Kosovo Police had to evacuate the displaced.<sup>56</sup>

In April 2017, about 300 Kosovo Albanians protested in the village of Ljubožda, Istok municipality, against the return of 13 Kosovo Serbs who spontaneously returned to the village. Protesters were particularly unhappy with the return of a Kosovo Serb, a former police commander, who they claimed was involved in war crimes in the 1999 Kosovo conflict. The adviser to the mayor of the municipality of Istok gave a statement that all the returnees passed the security check, which was carried out by the Pristina and Belgrade institutions, and that none of them were charged or tried for war crimes.<sup>57</sup>

There were also protests and petitions by local Kosovo Albanians against the planned visits of Kosovo Serb pilgrims to the religious sites of the Serbian Orthodox Church (SOC) in Đakovica.

Close to 100 people, activists of the “Self-Determination” movement, and spontaneously gathered locals, protested against the visit of Serbian pilgrims to Đakovica. About 30 Albanians from Kosovo tried to break

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55 Assessment of Voluntary Returns in Kosovo, OSCE, November 2019, p. 27

<https://www.osce.org/files/f/documents/e/d/440744.pdf>;

56 Ibid, p. 27;

57 Ibid, p. 27;

through the Kosovo Police cordon securing a visit to the local Orthodox church and threw paint and firecrackers at the police. One protester was arrested, and two police officers were injured during the arrest. The mass of protesters was dispersed without disturbing the pilgrims.<sup>58</sup>

Since the last incident, in January 2017<sup>59</sup>, no pilgrims have visited this municipality.<sup>60</sup>

In the village of Mušutište in the municipality of Suva Reka, as a place where return is difficult, several incidents were recorded in 2016, including protests and a road blockade carried out by about 500 Kosovo Albanians to prevent the visit of Kosovo Serb pilgrims to the destroyed monastery, as well as the installation of anti-Serb billboards.

On August 28, 2017, after a visit by pilgrims, a potential Kosovo Serb returnee, a member of the working group for the return to Mušutište, was arrested on charges of war crimes. He was released and acquitted of all charges after spending five months in prison.<sup>61</sup>

After the incidents on August 28, 2015, 2016 and 2017 in connection with the celebration of the Orthodox religious holiday “Assumption of the Blessed Virgin”, in 2018 Serbian pilgrims celebrated this holiday without incident.

Allegations of war crimes appeared on several occasions; in Ukče, in the municipality of Istok, a displaced person was verbally harassed by a resident, a Kosovo Albanian, who accused him of committing war crimes

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58 Ibid, p. 28;

<https://kossev.info/djakovica-srbi-uspeli-da-udju-u-portu-crkve-demonstranti-kamenicama-na-policiju-video/>

59 <https://kossev.info/raseljeni-djakovcani-odustali-od-dolaska-na-badnji-dan/>

60 RSE, 28 August 2018 <https://www.slobodnaevropa.org/a/29457438.html>

KoSSev, 6 January 2019 <https://kossev.info/djakovica-i-za-ovaj-bozic-protest-protiv-posete-raseljenih-srba-crkvi/>;

KoSSev, 6 January 2020. <https://kossev.info/djakovica-ponovo-pripreme-da-se-spreci-poseta-raseljenih-srba-gradskoj-crkvi/>;

61 Assessment of Voluntary Returns in Kosovo, OSCE, November 2019, p. 28

<https://www.osce.org/files/f/documents/e/d/440744.pdf>

during the 1999 conflict. Similarly, in Račak, Štimlje municipality, the village council sent a letter of protest to MOCR with alleged accusations of war crime, against the return of the only family from the Kosovo Serb community that applied to return.

In February 2016, the basic court in Peć/Peja filed an indictment for war crimes against fourteen Kosovo Serbs from Klina, some of whom were potential returnees to villages in the municipality. Also, there were two arrests of potential returnees from Prizren, and two from Klina, including one woman, all based on allegations of war crimes.<sup>62</sup>

In their report, OSCE noticed that although municipalities are obliged to provide conditions for sustainable return in most places where return is difficult, they have taken no action to mediate with host communities in favour of the return process.<sup>63</sup>

On the other hand, it was noted that some municipalities have taken positive steps. In one case, the municipality organized a sports event to send a message about peaceful coexistence of communities. The football tournament was organized on 12 March 2016 with the slogan “Building the future together” with the participation of the municipal administration in Klina, Slovenian KFOR and members of the Kosovo Serb community from the municipality.<sup>64</sup>

In other cases, municipalities compensated the victims of security incidents. For example, the Municipality of Klina paid 300 euros to a returnee as compensation for the damage caused by the burning of 1,000 bales of hay, while the Municipality of Istok financially compensated a family of Kosovo Serbs from the returnee village of Sinaje in the amount

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<sup>62</sup> Ibid, p. 28

<sup>63</sup> Ibid, p. 28;

<sup>64</sup> Ibid, p. 29-31;

of 300 euros for the damage caused by the burning of 1,000 bales of hay committed by an unknown person, or persons.<sup>65</sup>

On the initiative of the OSCE Mission, representatives of the municipalities of Peć, Klina, Istok, Dečane, Đakovica and Junik signed the inter-municipal declaration on cooperation on 28 May 2018. The Declaration contains commitments to support initiatives for dialogue between communities. After that, the municipalities participated in a series of activities that brought together people from different communities in Kosovo.<sup>66</sup>

In the middle of 2020, dozens of attacks on the property of returnees and Serbs living in Albanian majority areas in Kosovo were recorded.<sup>67</sup> As of July 2020, UNHCR recorded 45 incidents that primarily affected returnees and their property, mostly in the Peć region.<sup>68</sup>

The case of opposition to return that has received the most attention concerns the return of a Kosovo Serb, Dragica Gašić, to Đakovica in June 2021. Eleven local civil society organizations have prepared a petition to the Government of Kosovo, asking for legal measures to be taken and for Gašić to move out, stating that Đakovica is not ready to accept the return of Serbs until the remains of the missing persons from this municipality are found. During the conflict in Kosovo, Serbian forces killed around 1,500 citizens of Đakovica, while around 200 missing persons are still being searched for today.<sup>69</sup>

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65 Ibid, p. 29-31;

66 Ibid, p. 29-31;

67 KoSSev, 1 May 2020 <https://kossev.info/kancelarija-eu-zabrinuta-zbog-incidenata-nad-srbima/>;  
KoSSev, 26 May 2020 <https://kossev.info/jevtic-napad-na-povratnika-u-selu-drenovic-kod-kline-policija-nema-informacije/>;

KoSSev, 4 July 2020 <https://kossev.info/ucestali-napadi-na-povratnike-i-pljacka-imovine-u-klini-i-istoku/>;

KoSSev, 30 July 2020 <https://kossev.info/oeps-napadi-na-imovinu-povratnika-izazivaju-zabrinutost/>;

68 State Department: Country Reports on Human Rights Practices: Kosovo 2021, p. 16-17, [https://xk.usembassy.gov/wp-content/uploads/sites/133/HRR\\_2021\\_Serbian.pdf](https://xk.usembassy.gov/wp-content/uploads/sites/133/HRR_2021_Serbian.pdf);

69 KoSSev, 6 August 2021 <https://kossev.info/srpkinja-prkosi-protivljenju-grada-da-se-vrati-kuci-na-kosovu/>;

Ms Gašić reported that she was being harassed by her neighbors and that she suffered insults and intimidation. They refused to serve her in the local market, her apartment was ransacked, and the municipality then did not allow the installation of new armored doors. Immediately afterwards, a lawsuit was filed against Ms Gašić. The municipality of Đakovica filed a lawsuit demanding that the apartment lease contract be annulled.<sup>70</sup> Kosovo officials did not publicly support the return of Ms Gašić.

At the request of Ms Gašić, the Ombudsperson conducted an investigation and asked the Municipality of Đakovica to allow the returnee free and unhindered use of the apartment, to allow her to arrange the apartment and to comply with Regulation no. 01-2018, which is related to the return of displaced persons and durable solutions.<sup>71</sup>

A year later, in September 2022, in a statement to the media, she stated that she was living better, but that she was being guarded by the police and that she still could not shop at the local market across the street from the building where she lives.<sup>72</sup>

In the report of the coalition of civil society organizations from Kosovo, it is emphasized that from 1 January to 31 October 2021, 31 incidents involving returnees/internally displaced persons from non-majority communities throughout Kosovo were recorded. Returnees, Kosovo Serbs, are still the target of theft, stoning, property damage and intimidation, which additionally creates a negative perception of the security situation and affects the reconciliation process.<sup>73</sup>

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70 KoSSev, 8 July 2021 <https://kossev.info/fhp-i-yirh-kosova-vlasti-u-djakovici-da-povuku-tuzbu-protiv-gasic-u-suprotnosti-je-sa-ustavom/>;

71 Radio KIM 11 September 2022 <https://www.radiokim.net/vesti/politika/ombudsman-utvrdio-da-su-dragica-gasic-iz-djakovice-prekrшена-ljudska-prava.html>;

72 KoSSev, 26 September 2022 <https://kossev.info/dragica-gasic-godinu-dana-kasnije/>;

73 Civil Society Report on Human Rights, 2021, p. 64-65, <https://newsocialinitiative.org/wp-content/uploads/2022/05/Izvestaj-Civilnog-Drustva-o-Ljudskim-Pravima-na-Kosovu-u-2021.pdf>;

The Office for Kosovo and Metohija of the Government of Serbia recorded 125 ethnically motivated incidents in Kosovo in the period from 1 January 2021 to December 2022.<sup>74</sup>

On the other hand, the Kosovo Police recorded only four cases with a possible ethnic background in the period from January to June 2022. As potentially ethnically motivated cases, they cited damage to the Turkish flag, writing graffiti in the Serbian language and two cases against Albanians in Gazimestan during the Vidovdan celebration.<sup>75</sup>

Due to the political and security situation in North Mitrovica, Albanian internally displaced persons have limited prospects of returning to their place of origin, i.e. their former residence.

Most Serb-majority areas are also opposed to the return of internally displaced Albanians, especially the settlement of Brđani/Kroi and Vitakut in North Mitrovica. However, organized and individual return of Albanian families continues to take place at a slow pace. Given the challenges surrounding the return process in rural areas, some Serb IDPs are instead offered housing in Serb-majority municipalities in northern Kosovo. The media in Albanian language often portray it as illegal, and Kosovo Albanian politicians portray it as “colonization”.<sup>76</sup>

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74 Office for Kosovo and Metohija, <https://www.kim.gov.rs/incidenti-kim.php>;

75 KoSSev, 26 August 2022 <https://kossev.info/kp-etnicki-motivisani-slucajevi-u-prvoj-polovini-2022-u-opadanju-u-odnosu-na-isti-period-2021/>;

KoSSev, 26 August 2022 <https://kossev.info/ngo-aktiv-u-prvih-sest-meseци-2022-zabelezen-51-bezbednosni-incident/>;

<sup>76</sup> Dealing with the past, surviving the present: Situation and needs of civilian war victims in Serbia, Kosovo, and North Macedonia, Gradanske Inicijative, Integra, NSI, Mirovna akcija, ICTJ, PAX, 2022, 61;

## **REALIZATION OF PROPERTY RIGHTS**

Displaced persons continue to face challenges in realizing their property rights. Positive progress was achieved with the adoption of the Kosovo Strategy for Property Rights at the end of 2016, which contains practical policies that ensure the protection of the property rights of displaced persons. Still, displaced persons continue to face problems in the use of their property, primarily with illegal reoccupation of property, non-execution of demolition orders and compensation of returnees whose property was destroyed or damaged as a result of armed conflicts, as well as shortcomings in finding sustainable solutions for returnees without land.<sup>77</sup>

After 1999, after the end of the conflict, as a result of displacement and loss of property rights, UNMIK established mechanisms for mass processing of claims - Housing and Property Directorate (HPD) with its Commission for Housing Property Claims, as a quasi-judicial decision-making body in charge of all housing and property disputes. Non-residential property was not included in the mandate of this institution.<sup>78</sup>

Since 2006, the mandate and name of this institution have changed: the Kosovo Property Agency (KPA) was established, with jurisdiction also including disputes related to non-residential property.

In 2016, KPA changed its mandate into the Kosovo Property Comparison and Verification Agency (KPCVA). In addition to taking over KPA cases, KPCVA also deals with the resolution of discrepancies in the cadastral records between the original cadastral documents on real estate property in

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<sup>77</sup> The Community Rights Assessment Report 5th issue, OSCE, June 2021, p. 40

<https://www.osce.org/files/f/documents/1/8/493681.pdf>;

Assessment of Voluntary Returns in Kosovo, OSCE, November 2019, p. 20

<https://www.osce.org/files/f/documents/e/d/440744.pdf>;

<sup>78</sup> Održivi povratak interno raseljenih lica na Kosovo ka koraku napred, Povratak kao korak napred Ref. IDC 11/2018-100/2018, str. 40, <http://idcserbia.org/wp-content/uploads/2019/05/Studija-o-odrzivom-povratku-na-Kosovo.pdf>;

the territory of Kosovo before June 1999 moved by Serbian authorities and the current data of cadastral documents collected by Kosovo institutions after June 1999.

Until 2003, UNMIK's Housing and Property Directorate, whose exclusive competence was the return of occupied residential property, received 29,610 requests<sup>79</sup> that can be divided into three categories according to the type of claimants:

Category A claimants (persons who lost their property rights due to discrimination in the period 1989-99), a total of 1,212 claimants.

Category B claimants (persons who entered into informal transactions related to residential real estate in the period 1989-99), a total of 767 claimants.

Category C claimants (persons who lost their residential property after June 1999), a total of 27,182 claimants (93.2% of all cases).

Claimants were not able to directly participate in the proceedings, and sometimes only one paragraph would be devoted to a specific individual case within a group decision. Individual request was resolved in two stages and the final decisions could not be challenged before any other institution. Some cases were referred to local courts without the applicant's knowledge, where they were stuck in long court proceedings. Implementation of decisions in favor of claimants was particularly challenging. Although HPD claimed to have closed 100% of these cases, it is hard to tell from their statistics how many properties were actually returned to their owners.<sup>80</sup>

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<sup>79</sup> [http://www.kpaonline.org/hpd/statistics\\_m.asp](http://www.kpaonline.org/hpd/statistics_m.asp);

<sup>80</sup> Sustainable return of IDPs to Kosovo: a Step Forward, Return as a step forward Ref. IDC 11/2018-100/2018, p. 40, <http://idcsrbia.org/wp-content/uploads/2019/05/Studija-o-odrzivom-povratku-na-Kosovo.pdf>;

The successor of the Housing and Property Directorate is the Kosovo Property Agency (KPA), to which 42,749 requests for property restitution were submitted. Most of the requests were submitted by displaced persons and members of non-majority communities in Kosovo. Kosovo Property Agency has decided on all submitted requests, and all decisions have been registered in the cadastre. By the end of 2016, approximately 29,000 KPA decisions were awaiting implementation.<sup>81</sup>

Regarding the implementation of decisions, KPA had the mandate to implement the decisions, including the inherited cases from the Housing and Property Directorate. KPA also did not provide support to claimants in cases where it was necessary to forcibly demolish an illegally constructed building on a plot of land belonging to legal owners. In cases where claimants C were entitled to compensation (a limited number of cases - 143 in total) after more than 10 years, the procedure and criteria for compensation were not designed.<sup>82</sup>

Since 2016, the Kosovo Property Comparison and Verification Agency (KPCVA) has taken over the responsibilities and duties of the KPA. However, KPCVA does not efficiently fulfill the following aspects of its mandate: forcible eviction of illegal tenants from property belonging to non-majority communities and displaced persons, demolition of illegally built buildings, and enforcement of 143 compensation decisions.<sup>83</sup>

Amendments to the Law on KPCVA, which would enable multiple forced evictions in cases of illegal occupation of property, have yet to be adopted, as well as amendments to expand the KPCVA management program for property belonging to non-majority communities and displaced persons.<sup>84</sup>

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81 Kosovo National strategy on Property Rights, 2016, p. 8,

<https://md.rks-gov.net/desk/inc/media/108185FC-07BD-45DF-B652-35970F60B2A9.pdf>;

82 Sustainable return of IDPs to Kosovo: a Step Forward, Return as a step forward Ref. IDC 11/2018-100/2018, p. 41,

<http://idcserbia.org/wp-content/uploads/2019/05/Studija-o-odrzivom-povratku-na-Kosovo.pdf>;

83 The Community Rights Assessment Report 5<sup>th</sup> issue, OSCE, June 2021, p. 41

<https://www.osce.org/files/f/documents/1/8/493681.pdf>;

84 The Community Rights Assessment Report 5<sup>th</sup> issue, OSCE, June 2021, p. 41

KPCVA is still not performing the duty it inherited from the Housing and Property Directorate - providing financial compensation to parties who lost their right to property due to discriminatory practices in the 1990s, and the agency has not demolished the buildings illegally built on the property of displaced persons.<sup>85</sup>

Courts are still largely inefficient in resolving property cases. Finally, KPCVA is not able to compare and verify the right of ownership because the Government of Serbia has not yet submitted the cadastral books to the Kosovo institutions.<sup>86</sup> To this day, it remains unclear how many people actually managed to recover their property.

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<https://www.osce.org/files/f/documents/1/8/493681.pdf>

85 The Community Rights Assessment Report 5<sup>th</sup> issue, OSCE, June 2021, p. 41

<https://www.osce.org/files/f/documents/1/8/493681.pdf>

86 The Community Rights Assessment Report 5<sup>th</sup> issue, OSCE, June 2021, p. 41

<https://www.osce.org/files/f/documents/1/8/493681.pdf>

## **FINDINGS OF ORGANISATIONS AND INSTITUTIONS ABOUT THE RIGHTS OF RETURNEES**

### **European Commission: Kosovo Report 2022**

In their Kosovo Report 2022, European Commission states that there are concerns about fraudulent property transactions and illegal transfers of ownership of property mainly belonging to displaced persons.<sup>87</sup>

According to the Report, to ensure a lasting and sustainable return of refugees and displaced persons, it is necessary to create an enabling environment that includes inter-alia, dialogue with the local community, safety provisions for returnees, resolution of long-standing property related issues, access to education, employment opportunities and freely accessing language rights.

In an effort to strengthen policy development and implementation of voluntary return, the Ministry of Communities and Return is recommended:

- to finalize and adopt the Strategy for Protection and Promotion of the Rights of the Communities and their Members (2022-2026) and its Action Plan,
- to fully functionalise returns case management system (returns database),
- to establish an appeals commission as per the Regulation on Returns and Durable Solutions (No. 01/2018).

### **State Department: 2021 Kosovo Country Report on Human Rights Practices**

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<sup>87</sup> European Commission, Report for Kosovo 2022, p. 41;  
<file:///C:/Users/PULSE%20Electronics/Downloads/Kosovo%20Report%202022.pdf>;

In the Report, State Department states that the return of ethnic minority refugees from the war remained a challenge. Parliamentary representatives of the Ashkali, Balkan-Egyptian, and Romani communities reported social prejudice prevented the return of nearly 400 members of their communities even though they informed the Office of the UN High Commissioner for Refugees (UNHCR) that they were ready to return from Serbia, North Macedonia, and Montenegro.<sup>88</sup>

Widespread discrimination against members of minority communities, fear of violence or harassment, failure to enforce court decisions (particularly those concerning property), property usurpation, lack of access to educational and economic opportunities, limited representation of minority communities in public institutions and enterprises, and limited coordination and cooperation between governmental bodies to address issues of concern – are barriers to return according to the Ministry of Communities and Return.

UNHCR noted the government lacked a data collection and processing system for displaced populations and voluntary returns to Kosovo and that the lack of a detailed census and adequate profiling data left displaced persons excluded from human rights protections and development plans.

It is underlined that the Government of Kosovo promoted the safe and voluntary return of internally displaced persons (IDPs). Through the Ministry of Communities and Return, it promoted policies and protections for IDPs in line with EU policies and cooperated with domestic and international organizations to ensure IDPs had access to their property and tools for their sustainable return.

Romani, Ashkali, and Balkan-Egyptian displaced persons and returnees continued to face particularly difficult living conditions. One of the main

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<sup>88</sup> State Department: Country Reports on Human Rights Practices: Kosovo 2021, p. 16-17, [https://xk.usembassy.gov/wp-content/uploads/sites/133/HRR\\_2021\\_Serbian.pdf](https://xk.usembassy.gov/wp-content/uploads/sites/133/HRR_2021_Serbian.pdf)

challenges was the resistance of some municipalities to allocate land and recognize tenancy or possession rights based on the informal settlements members of these communities occupied prior to displacement. Some municipalities failed to allocate land to Roma, Ashkali, and Balkan-Egyptian communities that had received property rights within the municipalities because they had lived elsewhere prior to their displacement.

The return process in some areas of the country continued to be marked by security incidents and local communities' reluctance to accept the return of, or visits by returnee Kosovo-Serbs.<sup>89</sup>

### **The report of the civil society on human rights in Kosovo**

The report of the coalition of civil society organizations from Kosovo in its report for 2021 states that there are significant inconsistencies in the implementation of the policy that includes returnees and internally displaced persons.<sup>90</sup>

It is pointed out that some returnee families staying in private accommodation are subject to continuous pressure from their landlords to be evicted, due to poor socio-economic conditions, and are unable to cover rent and utilities. Likewise, they state that there are persons whose cases have been approved by the Central Review Commission and who have not yet exercised their right to housing care.

Return support projects continue to target only a group of selected municipalities, so return assistance in other municipalities is neglected. Moreover, Roma and Ashkali returnees from North Macedonia did not benefit from housing assistance because the municipality of Obilić did not take them into account since 2017.

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<sup>89</sup> Ibid;

<sup>90</sup> Civil Society Report on Human Rights, 2021, p. 64-65, <https://newsocialinitiative.org/wp-content/uploads/2022/05/Izvestaj-Civilnog-Drustva-o-Ljudskim-Pravima-na-Kosovu-u-2021.pdf>;

They also state that the Ministry of Communities and Return has not developed a data management system that would enable prioritization of cases based on vulnerability criteria. A limited number of returnees and internally displaced persons continue to face obstacles during the process of obtaining citizenship documents.

Children who were born outside institutions and do not have parental documentation have difficulties in exercising their rights and accessing services. There are other problems affecting the registration of these children such as the lack of documents from the place of origin (of the mother) and technical errors in the documents compared to the data in the registers. It is also added that parents have a low level of knowledge about the procedures and/or resolution of requests for exercising their rights. Regulating such documentation entails financial costs, so returnees/IDPs do not undertake relevant actions due to their poor economic situation and are unable to apply for social assistance or other social benefits.<sup>91</sup>

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<sup>91</sup> Ibid;

## **RECOMMENDATIONS**

### **For the Government of Kosovo:**

- Ensure an adequate translation into Serbian of the website of the Ministry of Communities and Return, as well as the availability of all necessary information about the return process,
- Respond quickly and efficiently to incidents affecting minority communities at the municipal level,
- Redirect the resources of the Kosovo Police to reflect the needs of the communities where non-majority communities live for their presence,
- Prime Minister and ministers to publicly support the return process,
- Improve institutional cooperation between government and municipal institutions through responsibilities that will facilitate the return process,
- Solve the issue of illegal repossession of property by amending the Law on KPCVA to include multiple evictions for illegally occupied property,
- Assign responsibility to one body that would deal with coordination between government and municipal bodies on land allocation issues,
- Continue cooperation through working subgroups for the implementation of the Skopje Process in order to help improve the remaining points of action in all thematic areas,
- Invest greater efforts in implementing the points of action resulting from the Skopje Process, including taking ownership of the process itself,
- Regularly publish documents and modalities of the commitment and work of the Working Group for implementation within the scope of the Skopje Process.

**For the Government of Serbia:**

- Ensure proper and consistent application of the Law on Temporary and Permanent Residence of Citizens in terms of the possibility of registering residence at the address of the center for social work,
- The Office for Kosovo and Metohija to publish a special report on the representation of displaced persons before the Kosovo courts on property restitution,
- Abolish the obligation to file a claim for support as a condition for exercising the right to financial social assistance,
- Repeal the Regulation on measures of social inclusion of financial social assistance beneficiaries,
- Ensure proper implementation of the Law on Housing and Building Maintenance and inform interested parties on time of the new solutions and procedures stipulated by this law,
- Abolish tax on social housing and housing of internally displaced persons,
- Improve the data collection system on internally displaced persons and ensure greater comparability, especially in relation to the general population,
- Create special monitoring reports on the position of internally displaced persons by national human rights institutions,
- Create and publish a report on the implementation of the National Strategy on Refugees and Internally Displaced Persons.





# AN AGREEMENT ON COMPREHENSIVE NORMALISATION OF RELATIONS BETWEEN SERBIA AND KOSOVO

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### **Authors**

Nikola Burazer, Centre for Contemporary Politics  
Stefan Surlić, Centre for Interdisciplinary Studies of the Balkans

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# **An Agreement on Comprehensive Normalisation of Relations between Serbia and Kosovo**

*Nikola Burazer, Centre for Contemporary Politics*

*Stefan Surlić, Centre for Interdisciplinary Studies of the Balkans*

**December 2022**

## **CONTENTS**

<b><i>AN AGREEMENT ON NORMALIZATION OF RELATIONS AND EUROPEAN INTEGRATION</i></b> .....	<b>1</b>
<b>THE PROCESS OF NORMALIZATION OF RELATIONS</b> .....	<b>3</b>
<b>THE NEGOTIATING FRAMEWORK AND CHAPTER 35 IN THE SERBIAN NEGOTIATIONS ABOUT EU MEMBERSHIP</b> .....	<b>4</b>
<b>AGREEMENT ON COMPREHENSIVE NORMALIZATION COMING ON THE AGENDA</b> .....	<b>6</b>
<b>HOW TO HAVE EUROPEAN PERSPECTIVE FOR SERBIA AND KOSOVO THROUGH AN AGREEMENT</b> .....	<b>9</b>
<b><i>CHALLENGES ON THE WAY TO ACHIEVING THE FINAL AGREEMENT BETWEEN BELGRADE AND PRISTINA</i></b> .....	<b>13</b>
<b>THE LACK OF CLEAR PERSPECTIVE OF EU MEMBERSHIP AND LOCAL OWNERSHIP OF THE DIALOGUE</b> .....	<b>13</b>
<b>NO IMPLEMENTATION OF WHAT HAS BEEN AGREED, PRIMARILY THE CSM</b> .....	<b>16</b>
<b><i>IS THERE (STILL) SPACE FOR AN AGREEMENT</i></b> .....	<b>21</b>
<b>INTEREST OF SERBIA IN THE POSSIBLE AGREEMENT</b> .....	<b>21</b>
<b>INTEREST OF KOSOVO IN A POSSIBLE AGREEMENT</b> .....	<b>24</b>
<b>POLITICAL CONSEQUENCES FOR SERBIA IN CASE OF RECOGNITION</b> .....	<b>26</b>
<b><i>INSTEAD OF THE CONCLUSION – AN AGREEMENT WITHOUT COMPREHENSIVENESS</i></b> .....	<b>28</b>

## **AN AGREEMENT ON NORMALIZATION OF RELATIONS AND EUROPEAN INTEGRATION**

In recent years, officials of the European Union and member states have more frequently been heard saying that it is necessary for Serbia and Kosovo to work towards reaching an agreement on comprehensive normalization of relations. The public was often bidding on the date by which the two parties should reach such an agreement: there were talks of the end of Federica Mogherini's term as High Representative of the European Union for Foreign Affairs and Security Policy in 2019<sup>1</sup>, as well as the last year of the (first) mandate of the American president Donald Trump.<sup>2</sup> At the time of writing, there is active speculation that Belgrade and Pristina would have to reach such an agreement by the end of 2022 or by the middle of 2023.<sup>3</sup>

On the other hand, research shows that the citizens of Serbia do not know what the ultimate goal of the dialogue that has been going on between Belgrade and Pristina since 2011 is. As many as 50% of respondents explicitly answered that they do not know the government's goal in the process of dialogue with Pristina, while the second most common answer is that it is the process of keeping Kosovo as part of Serbia.<sup>4</sup> An opinion, therefore, which corresponds to the messages that can be heard from representatives of the authorities in Serbia, but which in any case does not correspond to the reality of what is the essence of the process of normalization of relations, as well as the agreement on comprehensive normalization that is more and more frequently being talked about.

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<sup>1</sup> Mogerini želi sporazum do kraja mandata, Danas, June 2018, available at <https://www.danas.rs/vesti/politika/mogerini-zeli-sporazum-do-kraja-mandata/>

<sup>2</sup> NEPRISTOJNA ŠOK PONUDA IZ VAŠINGTONA: Trump nudi Srbiji - priznajte Kosovo, zauzvrat dobijate eskadrilu F-16, deset MILIJARDI DOLARA i članstvo u EU!, Kurir, September 2019, available at <https://www.kurir.rs/vesti/politika/3316389/nepriostojna-sok-ponuda-iz-vasingtona-tramp-nudi-srbiji-priznajte-kosovo-zauzvrat-dobijate-eskadrilu-f-16-deset-milijardi-dolara-i-clanstvo-i-eu>

<sup>3</sup> Albanci tvrde: Novi sporazum Beograda i Prištine 2023, priznanje za 10 godina, Nova.rs, September 2022, available at <https://nova.rs/vesti/politika/albanci-tvrde-novi-sporazum-beograda-i-pristine-2023-priznanje-za-10-godina/>

<sup>4</sup> Kosovo – šta građani znaju, misle i osećaju?, Beogradski centar za bezbednosnu politiku, November 2020, available at <https://bezbednost.org/wp-content/uploads/2020/11/kos-srb-SRB-f.pdf>

Ever since the beginning of the process of Serbia's accession to the European Union, it has often been heard that the European Union is asking Serbia to recognize Kosovo in order to become a member state. Indeed, such messages often came from various officials of the EU member states, and even from representatives of the authorities in Serbia. Even more often, the opinion could be heard that the European Union, having learned the lesson of Cyprus, will no longer import open disputes, but insist that Serbia and Kosovo resolve their status dispute before becoming members.

However, this picture is not so clear if we know that 5 of the 27 member states of the European Union do not recognize Kosovo as an independent state. This means that the European Union cannot recognize Kosovo as an independent state, and even less can it demand that from Serbia in the accession process. The official position of the European Union is that Serbia and Kosovo should reach a "legally binding agreement on the comprehensive normalization of relations".

What needs to be clarified, therefore, is whether "comprehensive normalization of relations" is just a euphemism for the recognition of Kosovo by Serbia, wrapped in a wafer that would be formally acceptable to the European Union. Furthermore, if there is a difference, no matter how small, between the comprehensive normalization of relations and the recognition of Kosovo's independence, it is necessary, based on the analysis of the basic goals of this agreement, to examine what options Serbia has if it wants to bring this process to an end and become a member of the European Union.

Finally, the normalization of relations is not only a way of buying a ticket to the European Union, but also a process aimed at improving the lives of people affected by the status dispute between Belgrade and Pristina. A comprehensive agreement should therefore offer quality, sustainable solutions in various areas of importance to citizens. The analysis of "comprehensiveness" of the agreement is therefore no less important than its international legal consequences.

## THE PROCESS OF NORMALIZATION OF RELATIONS

The basis for the dialogue between Belgrade and Pristina is the United Nations General Assembly Resolution 64/298, adopted on 9 September 2010. Jointly initiated by Serbia and the European Union, this resolution was adopted after the publication of the advisory opinion of the International Court of Justice on the legality of the declaration of independence of Kosovo on 22 July 2010, and aimed at laying the foundations for dialogue between Belgrade and the Pristina authorities after the publication of this decision. The resolution takes note of the advisory opinion, but also calls on the European Union to mediate in the dialogue between the two parties. According to the text of the resolution, this dialogue would be a factor of peace and stability in the region and would aim to **“promote cooperation, achieve progress on the path to the European Union and improve the lives of the people.”**<sup>5</sup>

Goals of Belgrade and Pristina according to the UN General Assembly Resolution (2010):

- Promotion of cooperation
- Progress on the path to the EU
- Improving the lives of people

The status-neutral dialogue between Belgrade and Pristina, mediated by the European Union, then began in March 2011, first in the form of a technical dialogue, where the main negotiators were lower ranked officials of the two governments, and then, from October 2012, a political dialogue, in which the two prime ministers were the main negotiators. In addition to the fact that the “political” dialogue meant meetings at the highest political level, it also meant talking about more fundamental issues than was the case in the first phase of the dialogue. However, according to the words of

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<sup>5</sup> United Nations General Assembly Resolution 64/298, September 2010, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N09/479/71/PDF/N0947971.pdf?OpenElement>

one of the architects of the dialogue process, British diplomat Robert Cooper, the division into technical and political dialogue was “nonsense”, since it is only a way to say that certain issues are more explosive in the local public. Cooper believes that the philosophy of the dialogue was to deliberately avoid the issue of the status of Kosovo in order to provide space for discussion, as well as “not to change reality, but to bring it under the rule of law”.<sup>6</sup>

The dialogue between Belgrade and Pristina culminated with the signing of the First Agreement of Principles Governing the Normalization of Relations, better known as the Brussels Agreement, on 19 April 2013. This 15-point agreement provided for the abolition of the so-called “parallel” institutions of Serbia in Kosovo - judiciary, police and civil protection, as well as the creation of the Community of Serb Municipalities<sup>7</sup> in Kosovo, which would represent territorial autonomy for Kosovo Serbs. Point 14 of the Brussels Agreement stipulates that “no party will block, or encourage others to block, the progress of the other party on its path to the EU”.<sup>8</sup>

## THE NEGOTIATING FRAMEWORK AND CHAPTER 35 IN THE SERBIAN NEGOTIATIONS ABOUT EU MEMBERSHIP

It is precisely thanks to the signing of the Brussels Agreement that Serbia gets a date for the start of negotiations on EU membership. The negotiating framework, adopted by the EU Council in December 2013, creates a formal link between the European integration of Serbia and the dialogue between Belgrade and Pristina, putting the normalization of relations in the negotiation process itself.

According to the negotiating framework, the issue of “normalization of relations between Serbia and Kosovo” was included in Chapter 35 (Other

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<sup>6</sup> Robert Cooper, “The Philosophy of the Belgrade-Pristina Dialogue“, July 2015, available at <https://europeanwesternbalkans.com/2015/07/16/sir-robert-cooper-the-philosophy-of-the-belgrade-pristina-dialogue/>

<sup>7</sup> The precise term is Association/Community of Serb majority municipalities in Kosovo

<sup>8</sup> Prvi sporazum o principima koji regulišu normalizaciju odnosa, April 2013, available at <https://www.srbija.gov.rs/cinjenice/283757>

issues), which will be relevant during the entire negotiation process. The negotiating framework describes the goal of improving relations with Kosovo in more detail, defining it as “a process (that) will **ensure that both sides can continue on their European path**, avoiding blocking each other in these efforts and that it should gradually, until the end of the accession negotiations with Serbia, **lead to a comprehensive normalization of relations between Serbia and Kosovo in the form of a legally binding agreement** with the intention that both parties will be able to fully exercise their rights and fulfill their obligations.”<sup>9</sup>

Improving relations with Kosovo according to the Negotiating Framework (2013)

- It should ensure that both sides can continue their European path
- It should result in a legally binding agreement on comprehensive normalization by the end of Serbia’s EU membership negotiations
- Both parties should be able to fully exercise their rights and fulfill their obligations

Serbia was one of the first countries to open chapter 35 in December 2015. The Common Position of the European Union for this chapter presented then defined Serbia’s obligations more clearly when it comes to the normalization of relations with Kosovo, relying on the negotiating framework as the basic document. It stated that the accession negotiations and the normalization of relations with Kosovo are two parallel processes, and that chapter 35 is the link between them. Specifically, chapter 35 was a mechanism for monitoring progress in the dialogue between Belgrade

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<sup>9</sup> General EU position: Ministerial meeting opening the intergovernmental conference on the accession of Serbia to the European Union, January 2014, available at <https://data.consilium.europa.eu/doc/document/AD%201%202014%20INIT/EN/pdf>, translation available at [https://www.mei.gov.rs/upload/documents/pristupni\\_pregovori/pregovaracki\\_okvir.pdf](https://www.mei.gov.rs/upload/documents/pristupni_pregovori/pregovaracki_okvir.pdf)

and Pristina, and the interim benchmarks were mainly the implementation of various agreements from the previous phases of the dialogue.<sup>10</sup>

When it comes to the agreement on comprehensive normalization, the Common Position of the European Union on Chapter 35 states that Serbia should “engage in reaching further agreements, furthering the normalization in good faith, with a view to **gradually lead to the comprehensive normalization of relations between Serbia and Kosovo, in line with the negotiating framework.**” The third interim benchmark for this chapter, “Further agreements and progress in the normalization of relations,” contains almost identical wording.<sup>11</sup>

In Chapter 35, therefore, Serbia accepts the obligation to implement the existing agreements with Kosovo by the end of its EU accession process, as well as work on reaching new agreements that will result in an agreement on the Comprehensive Normalization of Relations. The chapter itself, however, says nothing about what that agreement should look like, or what its goal is. The negotiating framework referred to clearly speaks of the need to ensure a smooth path for both sides to the European Union but says nothing about how this could be achieved.

## AGREEMENT ON COMPREHENSIVE NORMALIZATION COMING ON THE AGENDA

Although based on the negotiating framework and the common position of the European Union for chapter 35, it is expected that the legally binding agreement between Belgrade and Pristina will be on the agenda at the end of Serbia’s negotiations on membership in the European Union, i.e. only after all previous agreements in the dialogue have been implemented, the development of the situation brought a different dynamic.

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<sup>10</sup> European Union Common Position, Chapter 35: Other issues, Item 1: Normalization of relations between Serbia and Kosovo, November 2015, available at <https://data.consilium.europa.eu/doc/document/AD-12-2015-INIT/en/pdf>, translation available at [https://www.mei.gov.rs/upload/documents/pristupni\\_pregovori/pregovaracke\\_pozicije/pg35\\_zajednicka\\_pozicija\\_eu.pdf](https://www.mei.gov.rs/upload/documents/pristupni_pregovori/pregovaracke_pozicije/pg35_zajednicka_pozicija_eu.pdf)

<sup>11</sup> Ibid.

Namely, almost 9 years after the opening of negotiations and 7 years after the opening of the first chapters, Serbia has only opened a little more than half of the chapters and closed only two, being far from membership in the European Union. On the other hand, the dialogue itself has not progressed much. Problems with the implementation of existing agreements, especially in connection with the establishment of the Community of Serbian Municipalities, agreed upon by the Brussels Agreement in 2013 and later by a special agreement in 2015, brought the dialogue to a dead end. The loss of a clear European perspective of both Serbia and Kosovo and the stagnation in the dialogue went hand in hand, as was previously the case with progress in both processes in the period from 2011 to 2015.

The so-called European Union Strategy for the Western Balkans, adopted by the European Commission on 6 February 2018, states in several places that “a comprehensive, legally binding agreement is urgent and crucial so that Serbia and Kosovo can progress on their European paths.”<sup>12</sup> This once again states that progress towards the European Union is the key goal of normalizing relations, in addition to long-term stability. What is new, however, is the message that the agreement needs to be reached urgently, that is, as soon as possible, regardless of the current state of negotiations and the process of European integration.

A little earlier, the so-called “internal dialogue” about Kosovo began in Serbia, which represented a good opportunity to start a public debate about expectations from the agreement on comprehensive normalization, which was rarely mentioned in previous years. This process, however, did not result in the definition of a platform for negotiating an agreement, but fell into oblivion over time without clear conclusions.<sup>13</sup> In 2018, all attention was focused on the “demarcation” plans of President Vučić and President

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<sup>12</sup> A credible enlargement perspective for and enhanced EU engagement with the Western Balkans, February 2018, available at [https://ec.europa.eu/info/sites/default/files/communication-credible-enlargement-perspective-western-balkans\\_en.pdf](https://ec.europa.eu/info/sites/default/files/communication-credible-enlargement-perspective-western-balkans_en.pdf)

<sup>13</sup> Da li je unutrašnji dijalog o Kosovu bio neuspešan?, October 2018, available at <https://europeanwesternbalkans.rs/da-li-je-unutrasnji-dijalog-o-kosovu-bio-neuspesan/>

Thaçi, which were stopped by the introduction of 100% customs duties on goods from Serbia by the Kosovo government, which put the dialogue itself on hold for several years.

When the dialogue between Belgrade and Pristina with the mediation of the EU was finally renewed in the summer of 2020, the European Union had a new instrument at its disposal: the special representative for the dialogue between Belgrade and Pristina and other regional issues in the Western Balkans, Miroslav Lajčák, who was appointed to this position in April 2020. The main goal of his mandate was to “first and foremost achieve the comprehensive normalization of relations between Serbia and Kosovo, which is the key to their European paths.” As the essence of his mandate, it was also described that in cooperation with EU member states “he is working on the comprehensive normalization of relations Serbia and Kosovo through the conclusion of a legally binding agreement that refers to all open issues between the parties.”<sup>14</sup>

Description of the comprehensive normalization in the mandate of the EU Special Representative Miroslav Lajčák:

- The most important goal is the comprehensive normalization of relations between Serbia and Kosovo
- Comprehensive normalization is the key to the European paths of Serbia and Kosovo
- It is achieved through a legally binding agreement on comprehensive normalization that applies to all open issues

Since the dialogue resumed, however, it seems that there has not been any progress towards a legally binding agreement, but the talks have mostly been about resolving the current crises and avoiding their escalation. Russia’s invasion of Ukraine on 24 February 2022 encouraged the

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<sup>14</sup> Council decision appointing the European Union Special Representative for the Belgrade-Pristina Dialogue and other Western Balkan regional issues, April 2020, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32020D0489&from=EN>

representatives of the European Union and member states to insist more strongly on the resolution of the Kosovo dispute. The French - German proposal, certain versions of which have appeared in public, is the latest initiative in that direction.<sup>15</sup> Whatever its fate, it is evident that the comprehensive normalization agreement must be discussed, which is why it is useful to make some contribution to the debate about its content.

## HOW TO HAVE EUROPEAN PERSPECTIVE FOR SERBIA AND KOSOVO THROUGH AN AGREEMENT

Based on all the relevant European Union documents regarding the normalization of relations between Serbia and Kosovo, it can be concluded that the main goal of this process is to enable both Serbia and Kosovo to progress on the European path. Although the Serbian public is reluctant to talk about it, it is completely clear that the European Union expects Serbia to sign such an agreement that would enable Kosovo to progress towards membership in the European Union.

All potential agreements that would not meet that condition would not be seen as adequate comprehensive normalization in the eyes of the European Union and could be discussed only outside the context of Serbia's European integration. Here, we will not deal with what Serbia should do, that is, whether it should fulfill what the European Union expects of it, but we will analyze a potential agreement on comprehensive normalization within the framework of European integration.

The most important question is what such an agreement could and must contain in order to fulfill its essential goal of facilitating the European path to Serbia and Kosovo. As far as Serbia is concerned, things are simpler. It is already on its way to membership of the European Union, and the comprehensive normalization of relations will remove this obstacle from

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<sup>15</sup> Šta se zna o francusko-nemačkom predlogu za Kosovo i Srbiju?, October 2020, available at <https://www.slobodnaevropa.org/a/srbija-kosovo-francusko-nemacki-predlog-dijalog/32093192.html>

its European path. Serbia has no formal obstacles to membership, only political obligations in Chapter 35.

As far as Kosovo is concerned, things are much more complicated. Although it has reached the Stabilization and Association Agreement (SAA) with the European Union, Kosovo has no prospect of continuing its European path, i.e., obtaining the status of a candidate for membership, until it is recognized as a state by all member states of the European Union. Of the 27 member states, 5 of them do not recognize Kosovo as an independent state: Spain, Slovakia, Romania, Greece, and Cyprus. And while in recent years there has been talk of the possibility of some of these countries changing their position, this has not yet happened, and it is clear that some of them - especially Spain - will not recognize Kosovo in the current circumstances.

The fundamental agreements of the European Union do not clearly state who can become a member of the European Union, except that it is about countries in Europe that meet the basic criteria for membership defined in Copenhagen in 1993 - political, economic and institutional.<sup>16</sup> Experts in international law, however, state that for membership in the European Union, it is necessary for the entity in question to be recognized as a country by other members of the European Union.

Therefore, if the agreement on comprehensive normalization should aim to enable Serbia and Kosovo to enter the European path, it should ensure that Kosovo is recognized by the 5 member states that do not do so and thereby enable the next steps in European integration. The question is, of course, what Serbia needs to do in order for that to happen.

According to experts in international law, it is not necessary for Serbia to formally recognize Kosovo as an independent state in order for other countries that do not recognize Kosovo to change their position. For them

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<sup>16</sup> Conclusions of the European Council in Copenhagen, June 1993, available at [https://ec.europa.eu/commission/presscorner/detail/en/DOC\\_93\\_3](https://ec.europa.eu/commission/presscorner/detail/en/DOC_93_3)

to change their attitude, they need a **political signal about the acceptance of Kosovo's independence by Serbia** (often called *de facto* recognition in the public), which would remove the existing obstacles which are the reasons why these countries refuse to recognize Kosovo since 2008.

The local public is paying a lot of attention to the question of Kosovo's membership in the United Nations. The agreement between the two Germanys from 1972, which is often taken as a model for the process of normalizing relations between Serbia and Kosovo, really opened the door for the membership of both countries in the United Nations, despite the fact that they did not formally recognize each other.<sup>17</sup> In order to gain membership in the UN, Kosovo must receive the support of two thirds of the countries in the General Assembly, as well as 9 out of 15 votes in the Security Council, assuming that none of the permanent members cast a veto.<sup>18</sup> Although Serbia would probably encourage the majority of countries to support its admission to the UN by giving a political signal about accepting Kosovo's membership in the UN, countries like Russia or China can prevent this step. That is why membership in the UN in itself is not a measure of success of the normalization process. According to experts in international law, Serbia's consent to Kosovo's place in the UN can be a sufficient signal for recognition by the 5 member states of the European Union. This question certainly remains open.

What also remains an open question is whether Serbia and Kosovo can become members of the European Union if they do not recognize each other, that is, if Serbia formally continues to view Kosovo as part of its territory. Some experts are skeptical about this possibility, considering that such precedents have never existed. However, there were similar phenomena. Before reaching the Good Friday Agreement in 1998,<sup>19</sup> the

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<sup>17</sup> Treaty on the Basis of Relations Between the Federal Republic of Germany and the German Democratic Republic and Supplementary Documents, December 1972, available at [https://www.cvce.eu/content/publication/1999/1/1/3b9b9f0d-6910-4ca9-8b12-accfcb91d28e/publishable\\_en.pdf](https://www.cvce.eu/content/publication/1999/1/1/3b9b9f0d-6910-4ca9-8b12-accfcb91d28e/publishable_en.pdf)

<sup>18</sup> About UN Membership, available at <https://www.un.org/en/about-us/about-un-membership>

<sup>19</sup> The Belfast Agreement, April 1998, available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1034123/The\\_Belfast\\_Agreement\\_An\\_Agreement\\_Reached\\_at\\_the\\_Multi-Party\\_Talks\\_on\\_Northern\\_Ireland.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1034123/The_Belfast_Agreement_An_Agreement_Reached_at_the_Multi-Party_Talks_on_Northern_Ireland.pdf)

Republic of Ireland considered Northern Ireland as part of its territory in its Constitution, which did not prevent both the Republic of Ireland and Great Britain from being members of the European Union. It is similar in case of Cyprus, which does not control more than a third of the territory that formally belongs to it. The argument that the European Union no longer wants to import similar disputes does not mean that it cannot eventually do so.

Serbia has some room for maneuver when it comes to this aspect of comprehensive normalization of relations. However, it is difficult to imagine the end of this process that would satisfy the European aspirations of Serbia, and which would not result in the recognition of Kosovo by all member states of the European Union. It is controversial to say that by reaching this agreement, Serbia should actually lose the support of 5 member states for the preservation of its territorial integrity. However, the controversy of this position stems from years of deliberate ignoring of the question of what constitutes the completion of the process of normalization of relations so that it could enable both Serbia and Kosovo to become members of the European Union. Another question is whether Serbia should go that way, as well as whether it gains or loses more by delaying this process, considering its fundamental interests.

## **CHALLENGES ON THE WAY TO ACHIEVING THE FINAL AGREEMENT BETWEEN BELGRADE AND PRISTINA**

Although the normalization of relations between Serbia and Kosovo does not require formal recognition of Kosovo's independence by Serbia, the statements of certain officials of the EU member states, such as the recent statement of German Chancellor Olaf Scholz<sup>20</sup> that at the end of the road of the dialogue between Serbia and Kosovo – there is mutual recognition, speak in favor of the fact that some member countries will probably expect formal recognition of Kosovo's independence from Serbia. On the other hand, as already emphasized, as for the status of a potential candidate, Kosovo has not moved away from the ratification of the SAA because the declared independence is not recognized by five EU member states.

Therefore, there is a clear intention of the majority of member states that have recognized independence to unfreeze Pristina's further path towards the institutions in Brussels through the normalization process. Such a scenario is not possible without the consent of Belgrade, and that is why we can expect pressure on Serbia to reach an agreement with legal formulations that will not mention recognition but will probably include respect for the "inviolability of borders", "territorial integrity" and the "right to independent representation" of Kosovo in international relations.

### THE LACK OF CLEAR PERSPECTIVE OF EU MEMBERSHIP AND LOCAL OWNERSHIP OF THE DIALOGUE

Although chapter 35 does not replace the dialogue between Belgrade and Pristina, which is conducted under the auspices of the EU High Representative, in this way the negotiation process was incorporated into the accession negotiations on EU membership and thus became an integral part of Serbia's European integration processes. The conditionality of the

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<sup>20</sup> Olaf Šolc u Beogradu: Priznanje Kosova nemački uslov za ulazak Srbije u EU, predsednik Vučić tvrdi da to „čuje prvi put“, available at <https://www.bbc.com/serbian/cyr/srbija-61750503>.

accession process to progress in the normalization of relations is especially emphasized - if “progress in the normalization of relations with Kosovo lags significantly behind the overall progress of the negotiations, and if the reason for this is Serbia’s failure to act in good faith, especially when it comes to the implementation of the agreements reached between Serbia and Kosovo”, the Commission will “on its own initiative or at the request of one third of the member states, in accordance with point 25 of the negotiating framework, propose that recommendations for the opening and/or closing of other negotiating chapters are not given, and adjust the associated preparatory work, as needed, until the resolution of this disparity is initiated”.<sup>21</sup>

The negotiating framework thus established a mechanism through which the lack of progress in negotiating chapter 35 could lead to non-opening and non-closing of other chapters, now the clusters. Although member countries have not formally submitted an initiative to stop the process of opening or closing negotiation clusters, it is obvious that stagnation is in effect and that Serbia is not making progress even in clusters for which it has met the criteria, such as Cluster 3 – Competitiveness and inclusive growth. In addition to the topic of Kosovo, it is primarily influenced by the policy of not imposing sanctions on Russia after the aggression against Ukraine.

The main justification of the political leaders from Belgrade and Pristina for the concessions they made so far in the negotiation process was the policy of conditionality in the EU accession process. In this way, the responsibility was removed from the domestic elites and transferred to mediators who present themselves as a third party in the dialogue. The “German – French” proposal reinforces this impression through the absence of any transparency of the process. **Since the dialogue is not presented in the public discourse as national interest but is exclusively related to the European perspective, in the absence of a clear road map**

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<sup>21</sup> GENERAL EU POSITION, Ministerial meeting opening the Intergovernmental Conference on the Accession of Serbia to the European Union (Brussels, 21 January 2014, available at [https://eupregovori.bos.rs/progovori-opregovorima/uploaded/General%20EU%20position\\_EN\\_2.pdf](https://eupregovori.bos.rs/progovori-opregovorima/uploaded/General%20EU%20position_EN_2.pdf).

**in the enlargement policy, the finalization of the agreement has no prospects for success.** Serbia is currently not being offered the acceleration of the accession process, or any creative solution such as phased accession, larger structural funds, or membership in the single European market,<sup>22</sup> while Kosovo expects visa liberalization only in 2023.

There is an obvious need for a direct meeting without European and American intermediaries. Belgrade and Pristina are avoiding such a possibility not only because of the status dispute, but because such an event would mean assuming responsibility. A direct meeting, if not of the leaders, then of the technical teams would represent taking ownership of the process, and thus responsibility for the outcome. If this does not happen, the dialogue will continue to be presented in both societies as an unwilling and harmful activity, with political leaders limited to a responsive role - commenting on various proposals, including the “German – French”. Also, the complete non-transparency of the process jeopardizes efforts to normalize relations because it allows negotiators to selectively share information with the public, leaving a lot of room for misinterpretation or populist messages.

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22 Offer the four freedoms to the Balkans, Ukraine, and Moldova. For a merit-based EU accession process with a credible goal, available at <https://www.esiweb.org/proposals/offer-four-freedoms-balkans-ukraine-and-moldova>.

***Recommendations:***

- The EU should formulate a policy towards the countries of the Western Balkans, i.e., **openly present the agenda for Serbia and Kosovo** - can they count on membership or some alternative such as greater access to structural funds, strategic partnership, phased accession, access to the single market, etc. and possibly what would they offer as “benefits” for both parties if they reach an agreement.
- EU mediators should encourage a **direct meeting of negotiators** while respecting status neutrality in order to change the public discourse, and political representatives take responsibility for the success of the process.
- The EU should insist on the **transparency of the process**, in contrast to the current practice of complete secrecy. Although the negotiations imply a certain amount of non-transparency, the previous practice of avoiding the public together with constructive ambiguity had the unintended consequence of the complete unwillingness of both societies to reach a final agreement.

NO IMPLEMENTATION OF WHAT HAS BEEN AGREED, PRIMARILY  
THE CSM

Previous dialogue between Belgrade and Pristina did not produce the desired results because both sides interpreted the agreement differently. The European Union, as a mediator of the dialogue, in its desire to avoid deadlocks, resorted to constructive ambiguity, which ultimately led to the opposite effect. Association or community, integrated borders or administrative lines, executive or supervisory powers, are just some of the examples that reinforced different interpretations and misunderstandings. On the other hand, there was no legal consequence of the reached technical agreements and the Brussels Agreement. The Constitutional Court of Serbia stated that the Brussels Agreement is political, without legal consequences, and the Constitutional Court of Kosovo stated that it is an

international agreement with certain points that contradict the current constitution. With the constructive ambiguity and the absence of adaptation of the legal framework, a path of dependence was created that resulted in partial implementation and strengthening of distrust.

The key problem arose from Pristina's political decision to abandon the implementation of the agreement on the Community/Association of Serb-Majority Municipalities. After almost ten years since the agreement was reached, the Community has not been formed. The last deadline of four months for the proposal of the Community's Statute set by the EU expired in August 2018. Despite the announcement by the Prime Minister of Kosovo at that time that the steering group for drafting the statute was reactivated, there were never any concrete results. Statements by current Prime Minister Albin Kurti that the formation of the Community is unacceptable<sup>23</sup> weaken the chances of a final agreement. **It turned out that the main weakness of the dialogue between Belgrade and Pristina is the absence of any guarantees that the previous agreements, as well as any "final" ones, will be implemented after signing.**

According to the Brussels agreement, the Community of Serb Municipalities was foreseen as a personal (made up of local representatives) and territorial (consisting of 10 municipalities with a Serb majority) bringing together of the Serbian community in Kosovo. Its establishment is defined in Article 3 of the agreement, which foresees the statute as the basic normative act and the institutions of the president, vice president, assembly and council, and the main responsibility is to exercise full supervision in four areas that are of vital interest to the Serb community in Kosovo: economic development, education, health, urban and rural planning.<sup>24</sup> In the general and final provisions of the agreement from 2015, Pristina committed that the statute of the Community would be drawn up

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<sup>23</sup> Kurti: Ne mogu da nadoknadim Srbiji to što je izgubila rat; Niko u EU ne daje više prava manjinama od Kosova, available at <https://kossev.info/kurti-ne-mogu-da-nadoknadim-srbiji-to-sto-je-izgubila-rat-nema-drzave-u-eu-koja-daje-vise-prava-manjinama-od-nas/>.

<sup>24</sup> Asocijacija/Zajednica opština sa većinskim srpskim stanovništvom na Kosovu – opšti principi/glavni elementi, available at <https://www.kim.gov.rs/p17.php>.

“within four months from the date of reaching the agreement.” Almost eight years after the expiration of this deadline, the statute is far from being realized, and the drafts are considered only as non-papers among civil society organizations.

Until now, Pristina has insisted on the interpretation that even if the Community of Serb Municipalities is formed, it would be at the level of associations of municipalities that are already legally defined in Kosovo. Belgrade, on the other hand, claims that a community with a special status was agreed upon in Brussels and that they would certainly not negotiate something that already existed as a possibility, but that an agreement was required that would mean changing the existing constitutional and legal framework that is currently valid in Kosovo.

In refusing to implement the agreement, Pristina refers to the decision of the Constitutional Court, which questioned certain points of the agreement. In its decision from 2015, the court found that the Community “cannot be entrusted with full and exclusive authority to promote the interests of the Serb community in Kosovo in its relations with the central authorities”, as well as in point 173 that “it cannot have the right to propose amendments on legislation and other regulations”, which is provided for in Article 10 of basic principles/main elements. Among other objections, the planned transfer of money from Serbia or another party is also disputed, so in Article 180 of the decision, it is stated that the right to transfer finances from the central government belongs exclusively to municipalities with a Serb majority, not to the Community.<sup>25</sup>

It can be concluded that the Constitutional Court in Kosovo did not question the formation of the Community, but certain specific competencies. **With the good will of negotiators and mediators, these problematic issues can easily be overcome.** Also, through the amendment procedure, it is possible to adapt the constitutional framework in Kosovo

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<sup>25</sup> Presuda u slučaju br. K0130/15, available at [https://www.gjk-ks.org/wpcontent/uploads/vendimet/gjk\\_ko\\_130\\_15\\_srb.pdf](https://www.gjk-ks.org/wpcontent/uploads/vendimet/gjk_ko_130_15_srb.pdf).

for the implementation of all the main elements of the Community. In the end, **the normalization of relations between Belgrade and Pristina meant that at the end of the process constitutional and legal changes would be made in both systems so that the final compromise could have a legal epilogue.**

In recent visits to Belgrade and Pristina, international representatives emphasized that the Community of Serb Municipalities must be formed. The U.S. Deputy Assistant Secretary of State, Gabriel Escobar, said in August that it is necessary to start the discussion on the Community and that “there are many examples in the European Union that could serve as a model for the Community, and we should hope that it will be discussed in Brussels.”<sup>26</sup> During his visit to Pristina, EU Special Representative Miroslav Lajčak emphasized that “the agreements reached in the past must be implemented if we want this process to be serious.”<sup>27</sup> Although international actors insist on this issue, the problem for Belgrade may be that the formation of the Community is offered as the last concession for the final agreement. In this way, instead of the already established obligation of Pristina, the Community of Serb Municipalities turns into a “new” agreement, a final compromise in which, after its formation, Serbia is expected to recognize Kosovo’s independence and support Pristina’s membership in international organizations.

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<sup>26</sup> Eskobar: ZSO će biti formirana, to je obaveza za Srbiju, Prištinu i EU, available at <https://www.rts.rs/page/stories/sr/story/9/politika/5040592/gabrijel-eskobar-zso-srbija-kim-eu-.html>.

<sup>27</sup> Lajčak: Sporazum o ZSO treba sprovesti, ali ne želimo drugu Republiku Srpsku, available at <https://www.rts.rs/page/stories/sr/story/9/politika/4682696/lajcak-sporazum-o-zso-dijalog-beograd-pristina.html>.

***Recommendations:***

- **It is necessary to review all 33 agreements** that have been reached so far, since many of them are not implemented in practice. With the mediation of EU services, determine criteria for evaluation and monitoring of implementation.
- It is necessary to hold another round of talks on the Community of Serb Municipalities and remove all institutional and political obstacles to its implementation before the final agreement. **Disputed points about the Community can be overcome** through the implementation of compromise solutions that would not violate the basic idea of autonomy for the Serbian community in Kosovo in four defined areas.
- The final agreement should **incorporate all previous agreements** from the technical and political phase, either in the agreement itself or in the form of an annex. In this way, the legal obligation of all agreements reached earlier would be ensured.
- It is necessary that the final agreement, in addition to the status issue, removes all forms of constructive ambiguity and provides effective mechanisms of **international sanctions in case of non-implementation of the agreed**.
- Before signing the final agreement, it is very important to work on **trust-building measures between the two parties**, because it is impossible to reach a successful agreement in an atmosphere of conflict, fear, warlike rhetoric, and general lack of trust.

## **IS THERE (STILL) SPACE FOR AN AGREEMENT**

### INTEREST OF SERBIA IN THE POSSIBLE AGREEMENT

There are many reasons why Serbia has an interest in continuing negotiations despite the absence of a clear European perspective. In the research conducted by CDDRI<sup>28</sup> in 2021, citizens of Serbia recognize several goals of the future final agreement: ensuring protection and special rights for the Serb community in Kosovo (89%), where we can add the request for the formation of the Community of Serb Municipalities (74.4%), management of natural resources (83.5%), the status of cultural and religious heritage (82.6%), as well as the realization of lasting peace between Serbs and Albanians (75.2%). The results of the 2022 research within the project “National interests of the Republic of Serbia: from challenge to legitimization” show that citizens mostly agreed with the following national interests: Physical security of Serbs in Kosovo and the possibility to live and work normally (73.1%), preservation of cultural-historical heritage and spiritual heritage of Serbs in Kosovo (65.8%), as well as preservation of Orthodox monasteries (68.1%).<sup>29</sup>

**The unresolved status of Kosovo has a direct impact on the economy, regional connecting initiatives and security.** Serbia lost more than 520 million euros due to taxes imposed by Kosovo on Serbian goods. The initiative to establish closer ties in the Western Balkans through the application of the four freedoms and the creation of a single regional market, which is proposed through the Berlin Process and the Open Balkans, is not possible without the participation of Kosovo. Also, the results of the survey show that most Serbian citizens are not ready (59.3%) to jeopardize economic interests such as economic growth, higher incomes and a better standard of living for the sake of achieving political national

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<sup>28</sup> Stavovi građana Srbije o Kosovu, available at <https://cddri.rs/wp-content/uploads/2021/06/Stavovi-gradjana-Srbije-o-Kosovu.pdf>.

<sup>29</sup> Kako građani vide nacionalne interese Srbije, available at <https://nationals.rs/kako-gradani-vidе-nacionalne-interese-srbije/>.

interests, including Kosovo and Metohija. At the same time, they express doubt that political national interests (Kosovo and Metohija, Republika Srpska, position of Serbs in the region...) can be protected with the help of international law (41.5% of the population do not believe, while 23.8% said they do not know).<sup>30</sup>

The north of Kosovo, despite the integration processes, still represents an area of high security risk due to the measures taken by Pristina to take full control over the territory and the desire of the majority Serb population to remain connected to Serbia. The authorities in Kosovo skilfully use the Serbian community as a means of pressure on Belgrade itself, since they take measures that directly affect its security and the normality of everyday life.

The direct consequence of such a situation are extremely negative trends that NGO Aktiv has been following for years among the Serb community. The fact that every sixth respondent belonging to the age group 18 to 29 believes that the situation in Kosovo will get worse in the next three years is particularly worrying. If this pessimistic sentiment relates to the increasing opportunities and motivation to leave Kosovo, it seems that in the coming years the problem of depopulation and the departure of young people will become more and more acute for the Serb community in Kosovo. Viewed in comparison with the data obtained from the research of the previous year, we can see that in all age groups, except for the oldest, there was a significant increase in the number of those who believe that life in Kosovo will be even worse in the next three years. This is an increase from 14% (age 30-45) to 22% (age 45-65).<sup>31</sup>

One in two respondents do not see themselves in Kosovo in the next five years, while the other half of the respondents are either waiting for the opportunity or have already made the decision to leave Kosovo. This

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<sup>30</sup>Kako građani vide nacionalne interese Srbije, available at <https://nationals.rs/kako-gradani-vide-nacionalne-interese-srbije/>

<sup>31</sup> Analiza trendova - stavovi srpske zajednice na Kosovu, available at <http://ngoaktiv.org/uploads/files/01tasrb.pdf>.

information has been pointing to the alarmingly bad situation in which the Serbs in Kosovo live for years, and for many of them, leaving Kosovo is perceived as the only solution. The main reason for leaving Kosovo is economic uncertainty (50.9%). The second reason is political instability 19.3%, while the third and fourth motivations for leaving Kosovo are caused by non-respect of the rights of Serbs in Kosovo 14.9% and personal insecurity 14.9%.<sup>32</sup> Although the economic element sets the determination of every other respondent, it is unacceptable that after more than two decades after the conflict, the issue of security, political instability and lack of rights are still the factors that determine the decision of the members of the Serb community to leave Kosovo.

In addition to the alarming situation of the Serbs from Kosovo, an additional obstacle is the political discourse in Serbia, which is based on the dichotomy of recognition and non-recognition of Kosovo's independence, but also the dichotomy for and against the EU in the context of resolving the status dispute with the authorities in Pristina. The dialogue is presented as a marathon in which the other side wins and ensures the inviolability of Serbia's territorial integrity. A total of 56% of Serbian citizens fully agree with the statement that preserving Kosovo and Metohija as part of Serbia is an important national interest, but at the same time, more than 70% believe that the priority is to ensure the safety of Serbs in Kosovo.<sup>33</sup> For this reason, it seems unrealistic that Serbia will achieve the demands arising from the Negotiating Framework without an open and public debate on the conditions that stand on the way to full membership in the EU. One of those occasions was the initiation of the Internal Dialogue in July 2017 by President Vučić, which ended without defined conclusions. Serbia's main interest is to preserve the Serbian community in Kosovo as functional and socially active with prospects for a decent existence. Prolonging the agreement directly affects their lives and massively makes them decide to leave Kosovo.

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<sup>32</sup> Ibid.

<sup>33</sup> Kako građani vide nacionalne interese Srbije, available at <https://nationals.rs/kako-gradani-vide-nacionalne-interese-srbije/>

***Recommendations:***

- In the continuation of the dialogue, it is necessary to discuss several important topics that would free political leaders in Serbia from public pressure and encourage a solution. These are topics that are of vital interest to Serbia and the Serb community in Kosovo, and which should be an integral part of the final agreement: *permanent status of Serbs in Kosovo, property rights of individuals, rights of displaced persons and return policy, status of Serbian cultural heritage, property over companies located in Serbian areas, issues of the health and school systems, the issue of the missing, Kosovo's participation in regional integration.*
- It is necessary **to stop the trend of emigration**, as well as the significant determination to leave Kosovo in the coming years, by means of affirmative measures, and above all by protecting guaranteed rights and ensuring security.
- It is necessary that the rights and freedoms of the Serb community are not placed in the context of a compromise solution, because these are not issues that are subject to negotiation. In this regard, it is necessary that the final agreement be devoid of possible pressure on Belgrade due to the open threat that the rights of Serbs in Kosovo will be threatened.

## INTEREST OF KOSOVO IN A POSSIBLE AGREEMENT

Research conducted by the Kosovar Center for Security Studies shows that most Albanians are in favor of an agreement that would mean formal recognition by Serbia (75%), while the option of non-recognition by Serbia with membership in international organizations, with the formation of the Community of Serb Municipalities and special status for monasteries was supported by only 9% of Kosovo citizens. Also, 43% do not believe in

peace between the two societies in the near future, while 74% support the dialogue between Serbia and Kosovo.<sup>34</sup>

Political leaders in Pristina are aware that without recognition and agreement with Serbia, Kosovo becomes a permanently disputed territory, economically unattractive for investments and a side that is avoided in regional initiatives because of Serbia. The war in Ukraine further securitizes the dialogue and leads to conflict as a realistic scenario in the absence of an agreement.

**The key problem is the created negative narrative about the Community of Serb Municipalities, that is, not agreeing to the implementation of what has already been agreed.** The attempt to offer the Community in the final agreement is clearly unacceptable to Serbia because it means that the rights of the Serbs are being offered as a “compromise” for the second time. This is a prerequisite for being able to talk about a sensitive topic such as status. The authorities in Pristina use dialogue as a tool to deal with corruption and crime, but the activities are concentrated only in the north of Kosovo. The rule of law and endemic corruption have not been suppressed with the arrival of the new government in Pristina, despite numerous promises. International pressure in this field is also weak due to the view that this would harm Kosovo in the fight for full international recognition. The main interest of Kosovo is to achieve membership in international organizations and ensure an independent path towards the EU and NATO, and this is not possible without an agreement with Serbia.

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<sup>34</sup> Barometer 2021, available at [https://qkss.org/images/uploads/files/Barometer\\_2021\\_Kosovo\\_4\\_Eng\\_%282%29.pdf](https://qkss.org/images/uploads/files/Barometer_2021_Kosovo_4_Eng_%282%29.pdf).

***Recommendations:***

- It is necessary to initiate a change in the dominant narrative in Kosovo about an uncompromising and confrontational attitude, first of all according to the demands of the Serb community. “Mutual recognition” is constantly emphasized, but in fact the main goal of Pristina is to ensure **the unblocking of Kosovo on the international level** by Serbia. Belgrade is not ready to do so without concessions for the Serbian community and a clear perspective of EU membership.
- Earlier agreements, including the implementation of the Community of Serb Municipalities, must be implemented as a guarantee for the final agreement.
- The issue of **security and guaranteed rights for Serbs** should not be presented in any form of “compromise”.
- It is necessary to present the final agreement as a **guarantee of permanent peace** between Serbs and Albanians.

## POLITICAL CONSEQUENCES FOR SERBIA IN CASE OF RECOGNITION

The current authorities in Belgrade, although they enjoy considerable support from citizens, are between the international demand to reach an agreement with Pristina, the need to normalize relations between Serbs and Albanians, and the majority of citizens’ views that the possible recognition of Kosovo would represent a great emotional loss for the state and its citizens (72.9%) with the fear that the fragmentation of the country would not be stopped with Kosovo (74.8%).<sup>35</sup>

On the other hand, according to the results of the mentioned survey, 71.7% of Serbian citizens oppose EU membership, if the condition is recognition of Kosovo’s independence by Serbia. Also, the solution that currently

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<sup>35</sup> Stavovi građana Srbije o Kosovu, available at <https://cddri.rs/wp-content/uploads/2021/06/Stavovi-gradjana-Srbije-o-Kosovu.pdf>.

enjoys the greatest support from the citizens of Serbia and seems unattainable includes 1) division, restoring Belgrade's control over the north of Kosovo, 2) forming the Union of Serbian Municipalities for Serbs who would remain living south of the Ibar, and 3) extraterritorial status for Serbian Orthodox monasteries in exchange for recognition of independence, would be supported by only 36.4%.<sup>36</sup>

An additional aggravating circumstance for Serbia's negotiating position is the Russian attack on Ukraine, since the non-introduction of sanctions promotes the image of Serbia as Russia's "proxy" in the Balkans. In this context, **the securitization of the dialogue between Belgrade and Pristina strengthens the pressure to reach an agreement as soon as possible that would resolve the open issue and geopolitically tie this part of the Balkans permanently to the EU.**

***Recommendations:***

- International pressure on Serbia regarding Kosovo should be constructive, because a solution that would mean major political consequences for any party or leader deters the agreement. At the same time, **any solution** that the majority of the public would **recognize as unfair** would represent a long-term problem for the political scene and Serbian society as a whole. It is necessary to search for a solution that would cause the least political damage, avoid deeper social splits and at the same time achieve the goal - **permanent normalization of relations.**

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<sup>36</sup> Ibid.

## **INSTEAD OF THE CONCLUSION – AN AGREEMENT WITHOUT COMPREHENSIVENESS**

The dictation of reaching a final agreement in a short period of time can be fatal to the initial intention of comprehensiveness of the solution. The absence of implementation of earlier agreements has resulted in devastating results on the ground since conflict is still not ruled out as a real possibility. The agreement devoid of the initiative for the reconciliation of Serbs and Albanians in those circumstances can be very easily understood as another forced political document without essential consequences for the two societies. Especially if the practice of blackmail cards were to continue, where Pristina would settle accounts with Belgrade through the Serb community, and Belgrade would make Pristina's position on the international level difficult.

If it is not comprehensive, the question arises as to which arguments support the finalization of the agreement between Belgrade and Pristina. The first is that frozen conflict does not imply the status quo. On the contrary, the conflict is maintained by incidents with the real danger of possible larger conflicts. The second is that most of the problems between the Serbian and Albanian sides including the issues of identity cards, license plates, various permits and licenses cannot be permanently resolved without defining the final status. The third is a constant that will not change for both nations: Albanians, regardless of geopolitical constellations, will not experience Serbia as their country, and Serbs, despite integration into the Kosovo system, see Serbia as a country where they live and whose institutions they trust. In the end, there is no agreement that will not require greater international engagement, primarily in the context of clear and tangible guarantees that the agreement will be fully implemented. The international attention that is currently being paid to the dialogue implies a greater participation in the implementation phase of the possible agreement.

If an agreement is reached, it will require the incorporation of all previous agreements either in the document itself or in the form of an annex. The

signing of the new document would certainly imply the legal obligation of the reached compromise, the road map according to which the agreement would be implemented, as well as the desired commitment to permanent reconciliation between the two nations.

Regardless of the different models of dispute resolution, it is evident that an agreement is needed in many ways. The absence of an agreement would mean that Serbia, without a solution, freezes the conflict, stops its EU integration, and that Kosovo becomes a permanent unfinished project without membership in international organizations. Missing the currently open space for an agreement would bog down Serbia and Kosovo for the next few decades. In anticipation of a possible agreement, the citizens of Serbia and Kosovo would become members of backward societies in which the threat of conflict will be an excuse for endangering democratic government and the rule of law.

A political agreement can only legitimize the establishment of cooperation and create a new framework, by no means establish a full normalization of relations. **It is a long-term process that requires political commitment and significant internal social changes.** At this moment, the absence of a European perspective and irreconcilable positions distance not only the agreement, but also any initiative to continue the dialogue. However, the societies in which Serbs and Albanians live are faced with a choice whether to “normalize” or to be permanently defined as post-conflict and unstable. The agreement is necessary because only a legally binding document can legitimize the right to a new chapter in the relations between the two nations.

**The last and key obligation in the dialogue is an institutional confrontation with the past in order to stop further political instrumentalization.** Manipulation with the past requires the formation of a joint commission that will lead to the official recognition of the victims through a detailed census. The mistakes of Belgrade and Pristina are particularly noticeable on this topic. Albin Kurti’s government began its mandate with self-victimization, promoting the term genocide, which is not

recognized by any international court when it comes to the war in Kosovo, ignoring the Serbian list and branding the entire ethnic community. On the other hand, the government in Serbia also promotes self-victimization through Serbs as exclusive victims and Albanians as extremists and terrorists. The dominant narrative in which Pristina is presented as an archnemesis, and any agreement with Pristina as an act of betrayal, leaves no room for agreement.

Manipulation of the number of victims and ethnicized demands for justice became part of the colorful instrumentalization of the past by political representatives who proclaimed themselves exclusive interpreters of the former conflict. The direct consequence of such actions is that the agreements that normalize the lives of people on the ground, at the same time do not improve mutual relations or contribute to the creation of a more positive perception of those relations in the near future. In other words, the normalization so far did not lead to reconciliation, so it is likely that the possible final agreement will also remain only on technical and status issues. The normalization achieved in this way is deprived of its essential purpose.





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# THE ISSUE OF SERBIAN CULTURAL AND RELIGIOUS HERITAGE IN KOSOVO – THE ROAD TO A SUSTAINABLE MODEL

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### **Authors**

Stefan Surlić, PhD, Centre for Interdisciplinary Studies of the Balkans  
(CISBalk)

Igor Novaković, PhD, Council for Inclusive Governance (CIG)

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# **The issue of Serbian cultural and religious heritage in Kosovo – the road to a sustainable model**

*Stefan Surlić, PhD, Centre for Interdisciplinary Studies of the Balkans (CISBalk)*

*Igor Novaković, PhD, Council for Inclusive Governance (CIG)*

**December 2022**

## **CONTENTS**

<b><i>RELEVANCY OF THE TOPIC IN THE NORMALIZATION OF RELATIONS .....</i></b>	<b><i>1</i></b>
<b><i>A NEW MODEL FOLLOWING “AHTISAARI +” .....</i></b>	<b><i>4</i></b>
<b><i>SOFT EXTERRITORIALITY .....</i></b>	<b><i>9</i></b>
<b><i>TOWARDS A COMPREHENSIVE MODEL – PROPERTY RIGHTS .....</i></b>	<b><i>11</i></b>
<b><i>INSTEAD OF A CONCLUSION – WHAT DO ALL SIDES GET IN THE END?.</i></b>	<b><i>13</i></b>

## RELEVANCY OF THE TOPIC IN THE NORMALIZATION OF RELATIONS

The recent statements of Prime Minister Albin Kurti about “Orthodox fundamentalism” which, supported by “fascist Russia, wants to divide the Balkans and Europe”, in which Orthodoxy is labeled as an exponent of Russian influence, as well as the decision not to allow Patriarch Porfirije of the Serbian Orthodox Church to enter the territory of Kosovo, show how much the issue of religious rights and cultural heritage is important and urgent in current relations between Serbs and Albanians.

If we conditionally consider the text that appeared in the media, which is claimed to be a “German-French” proposal for an agreement, it is encouraging that the topic of the status of the Church is mentioned in point 7. The alleged agreement contains the following wording – “the parties will formalize the status of the Serbian Orthodox Church in Kosovo and ensure a high level of protection of Serbian religious and cultural heritage, in accordance with existing European models”. With that in mind, the main intention of the following lines is to offer a model for a permanent solution of this issue, and to point out the negative consequences of possibly omitting the topic of religious and cultural heritage in the dialogue.

Several studies indicate the importance that Serbian cultural heritage has for the citizens of Serbia. In the survey conducted by CDDRI<sup>1</sup> in 2021, respondents recognized several goals of the future final agreement between Belgrade and Pristina: ensuring protection and special rights for the Serb community in Kosovo (89%), and to add the request for the formation of the Community of Serb Municipalities (74.4 %), management of natural resources (83.5%), **status of cultural and religious heritage (82.6%)**, as well as achieving permanent peace between Serbs and Albanians (75.2%). The results of the 2022 survey show that the citizens mostly agreed with

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<sup>1</sup> Stavovi građana Srbije o Kosovu (The views of Serbian citizens about Kosovo), available at <https://cddri.rs/wp-content/uploads/2021/06/Stavovi-gradjana-Srbije-o-Kosovu.pdf>.

the following national interests: Physical security of the Serbs in Kosovo and the possibility to live and work normally (73.1%), **preservation of the cultural and historical heritage and spiritual heritage of the Serbs in Kosovo (65.8%), as well as the preservation of Orthodox monasteries (68.1%).**<sup>2</sup>

On the other hand, research conducted in Kosovo shows that the majority of Albanians are in favour of an agreement that would mean formal recognition by Serbia (75%), while the option of non-recognition by Serbia with membership in international organizations, with the formation of the Community of Municipalities with a Serbian majority and **a special status for monasteries** was supported by only 9% of Kosovo citizens. Also, 43% do not believe in peace between the two societies in the near future, while 74% support the dialogue between Serbia and Kosovo.<sup>3</sup> These data indicate a broad social consensus among Kosovo Albanians on the topic of cultural heritage as irrelevant without the political condition of formal recognition of independence by Belgrade. Therefore, the conclusion can be drawn that even the political elite in Pristina has no interest in providing long-term special status for the protection and preservation of Serbian religious and cultural heritage when there is no social demand among the people for that.

The current lack of respect of the rights from the Ahtisaari package points to the need to find a sustainable model for the status of the Serbian Orthodox Church and Serbian cultural heritage in Kosovo, which would be pursued **independently from the status dispute that exists between Belgrade and Pristina.**

There are two very pragmatic reasons for this. First, although cultural heritage is one of the most important and sensitive topics according to all

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<sup>2</sup> Kako građani vide nacionalne interese Srbije (How do the citizens see national interests of Serbia), available at <https://nationals.rs/kako-gradani-vide-nacionalne-interese-srbije/>

<sup>3</sup> Barometer 2021, available at [https://qkss.org/images/uploads/files/Barometer\\_2021\\_Kosovo\\_4\\_Eng\\_%282%29.pdf](https://qkss.org/images/uploads/files/Barometer_2021_Kosovo_4_Eng_%282%29.pdf).

surveys of the opinions of Serbian citizens, **Belgrade has no interest in accepting any idea that the status of Serbian monasteries and churches is offered as part of the final compromise.** Cultural and religious rights cannot be subject to political compromises. On the other hand, **Pristina does not see the Serbian Orthodox Church as a religious organization, but as a direct exponent of the state of Serbia,** and according to the latest statements, it is assumed - also of Russia. Therefore, it is of crucial importance to rescue the topic of cultural and religious heritage from the currently contaminated area of dialogue on the normalization of relations.

The topic of cultural heritage should be permanently depoliticized, and this is possible only through **a special internationally binding agreement between the EU (with the consent of the U.S.) and the authorities in Pristina, which would be simultaneously incorporated into the valid normative framework in Kosovo.**

## **A NEW MODEL FOLLOWING “AHTISAARI +”**

The need for a new model is very evident. Kosovo has so far shown an absence of full will to respect its own laws, Ahtisaari’s framework including the freedom of movement of ecclesiastical persons, as well as court rulings protecting the property rights of the Church, and it even seems possible that in the future Pristina will suspend the right to a special status of the Church.

Possible future proposal should be an **upgrade of Annex 5 of Ahtisaari’s plan** since the designed mechanisms did not achieve full protection of the special status for the Church and cultural heritage.

It is necessary to formulate a clear request to the European officials who lead the dialogue so that the status of the Serbian Orthodox Church and cultural heritage is on the list of priorities in the comprehensive normalization of relations. The proposal would be formulated independently of the entire process and would mean confirmation of the sovereign right of the Church in areas of vital importance for its smooth functioning and sustainable protection of Serbian cultural heritage.

The previous practice of Kosovo institutions forced the conclusion that any new model of cultural heritage protection should **exclude the possibility of arbitrary action by the authorities in Pristina**.

Many years of institutional practice are supported by an extreme discourse which, in its basis, has a rather discriminatory attitude towards the cultural identity of the minority Serb community in Kosovo, and such practice should be completely prevented by the new model.

It is necessary that the issue of cultural and religious heritage **is not currently raised as part of the final agreement** due to the stalling of the dialogue process. The proposal should be such that it does not presume the issue of status and that it is **applicable regardless of the outcome of the comprehensive normalization of relations**.

The reason for the separate process is because the protection of Serbian cultural and religious heritage is directly suspended due to the non-enforcement of the existing legal framework and because in this topic Pristina sees blackmailing potential for negotiations with Belgrade. Postponing the resolution of this issue would represent **a great danger for further protection and preservation** of the cultural and religious uniqueness of the Serb community in Kosovo. There is a clear intention to gradually stop applying the current legal framework, to adapt and change it to achieve full control over something that is already formulated as the “cultural heritage of Kosovo”.

It is necessary to define, with international mediation, **a comprehensive document** that would regulate relations between the authorities in Pristina, on the one hand, and the Serbian Orthodox Church, on the other. It is necessary that the provisions of that **international agreement with clear guarantees be later incorporated into the constitutional-legal framework in Kosovo without the right to arbitrary changes.**

A comprehensive document that would be incorporated into the legal system that is valid on the territory of Kosovo would have to consider the preservation of cultural identity, historical continuity, the canonical connection of the Eparchy of Raška and Prizren with the Patriarchate of the Serbian Orthodox Church, which has its centuries-old seat in Peć. Inviolable protection of property rights, religious freedom, economic, customs and other commissions, as well as a system of protected zones that would continue to exist, are necessary for the functioning of the Serbian Orthodox Church.

Although most of these requirements are defined in the Ahtisaari plan, the previous period has given rise to several concrete problems that should be eliminated by the future comprehensive agreement: first, **some provisions of the Ahtisaari plan have not been respected at all**, second, **certain provisions have been regulated by the law but not implemented**, third, **some provisions are interpreted incorrectly or ambiguously**; fourth, **certain important issues are not at all covered by Ahtisaari’s plan or the existing legal framework in Kosovo.**

A few illustrative examples. Article 1.6 of Annex 5 stipulates that the Serbian Orthodox Church in Kosovo has **full discretion in the management of its property, reconstruction of its property and access to its premises and facilities**. This provision is not at all incorporated into the constitutional and legal framework in Kosovo, and there are intentions to further challenge this right to the Serbian Orthodox Church with new laws, primarily on cultural heritage.

Article 1.6 of Annex 5 states that the authorities in Pristina **cannot arbitrarily prohibit the entry or stay in Kosovo of priests, novices, monks, nuns, laymen or other invited persons and members of the Serbian Orthodox Church**. Although this provision was rewritten in the adopted Law on Religious Freedoms, the recent case of banning the entry of Patriarch Porfirije shows the randomness of the application of the current norms.

Many years of endangerment of special protected zones have been described in more detail in earlier analyses<sup>4</sup>, and it happens despite the foreseen mechanisms for overcoming disputes. Most laws concerning cultural heritage fall under laws of “vital interest”, but the main weakness

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<sup>4</sup> Surlić Stefan, Novaković Igor, (2020) Srpska kulturna i verska baština na Kosovu od Ahtisarijevih zaštićenih zona do finalnog statusa, Nacionalni konvent za EU (Serbian Cultural and Religious Heritage in Kosovo from Ahtisaari’s Special Zones to the Final Status), Working Group for Chapter 35.

is still the unwillingness of the authorities to respect the adopted legal framework.

Based on past experiences, the biggest challenge for Ahtisaari's "package" was the implementation mechanism. Therefore, in the event of an agreement on a new model for the country's cultural heritage, the guarantors (most likely the EU) would have an important role in ensuring a sustainable control mechanism for the implementation of what was agreed upon.

The main request of the Serbian Orthodox Church to international actors should be strong **guarantees** that the agreement will be respected. Those guarantees must contain two key elements: 1) **a body that will have executive powers** in resolving disputes between the Church and Kosovo's local and central institutions, 2) **security forces** that would execute the decisions of the foreseen body (special police unit, international forces, mixed units...)

According to Ahtisaari's plan, in the event of a dispute, the functioning of the Council for Implementation and Monitoring composed of representatives of the local government, Serbian Orthodox Church, and international missions is foreseen, which makes decisions by consensus. In the later decision-making process of the Council, the question arose as to whether it is a body with executive or advisory powers. Representatives of the Government of Kosovo insisted on an advisory character, emphasizing the Government as the final authority. On the other hand, Serbian Orthodox Church considered that the decisions of the Council are not subject to government's approval and repeatedly insisted that the adopted decisions have an executive character, i.e. that they are not subject to subsequent changes by the executive.

Analyzing the mandate assigned to the Council shows that the Government of Kosovo has an obligation to ensure the implementation of "decisions" of the Council, not "recommendations", "advice" or "opinions". However, this double interpretation paralyzed the entire framework of special

protection, allowing the Government of Kosovo to, by its own decision, define itself as the final adjudicating body in any dispute, despite the negative attitude of the Serbian Orthodox Church regarding activities in areas designated as special protected zones.

Despite the negative experience, the Council for Implementation and Monitoring can have its role in the newly designed “Ahtisaari +” model. It is necessary that this body, which primarily deals with the respect of special zones, **be transformed into a committee for the implementation** of the entire mechanism for the protection of the Serbian Orthodox Church and Serbian cultural heritage, **to have executive powers**, and to be officialized as **the final adjudicating body in any dispute**.

## **SOFT EXTERRITORIALITY**

As already mentioned, with the mediation and guarantees of the EU and U.S. representatives, Serbian cultural and religious heritage in Kosovo requires a new model for three key reasons: first, inconsistent application, ambiguous interpretation as well as complete disregard for certain rights arising from Annex 5 of the Ahtisaari plan. Second, the absence of a single legally binding document that would regulate all the rights and obligations of the Serbian Orthodox Church in the territory of Kosovo. Third, the absence of an effective international mechanism for applying the special status of Serbian cultural and religious heritage. Finally, the absence of a **certain form of territoriality** for localities that have a very significant religious, cultural and identity component for the Serbian community and the Serbian Orthodox Church.

A sustainable model of protection can be applied in a combination of “**soft extraterritoriality**” enjoyed by diplomatic missions, military bases, the Holy See (Lateran Treaty), the headquarters of the Sovereign Military Order of Malta, Mount Athos in Greece. These are undoubtedly European and sustainable models of **special status** that, with political will, can be easily applied in Kosovo. Soft extraterritoriality would mean that the host political system retains all sovereign rights over the territory where extraterritoriality is applied, but its legislative framework is not applied or is significantly limited.

It is necessary that the current normative **model of special protected zones be strengthened by the application of soft extraterritoriality** to prevent the further practice of jeopardizing special religious and cultural sites. A special status would not deviate from the already mentioned European models that have proven to be applicable.

Together with that, the **creative mechanism of the condominium** could be applied in the context of **care about the heritage - preservation and protection**. Pristina would have a general legislative framework on

cultural heritage and religious rights, but they would renounce the right to take care of Serbian cultural heritage, and Belgrade would leave its jurisdiction to the Church in coordination with the Institute for the Protection of Cultural Monuments and other relevant institutions.

This would also mean **the official renunciation of the authorities in Pristina from the competence and responsibility for the care of the Serbian cultural and religious heritage in Kosovo** both within the internal executive and legislative framework and at the international level in case of achieving membership in UNESCO and other relevant bodies, agencies, committees.

## **TOWARDS A COMPREHENSIVE MODEL – PROPERTY RIGHTS**

Three important prerequisites for a comprehensive model of protection and preservation of cultural and religious heritage are related to property rights:

- 1) determining the list of **objects that would enjoy special international protection with the generally accepted categorization of different objects and localities** by importance.

UNMIK mission, in cooperation with the OSCE, listed 114 buildings of the Serbian Orthodox Church, including chapels and half-demolished buildings. In the plan submitted by the Office for Kosovo and Metohija to the representatives of the European Union in 2018, in which guarantees are requested to the Serbian Orthodox Church that it has the full right to dispose of its property for an unlimited period of the established legal protection regime, 44 objects are listed. Although the plan is not public, this figure probably coincides with the list of 44 facilities with special protection zones mentioned in Ahtisaari's plan. They include the locations with a special dispute between the Serbian Orthodox Church and the authorities in Kosovo.

- 2) settlement of **current property disputes and disputes regarding jurisdiction** (Visoki Dečani Monastery, Christ the Savior Temple in Priština, St. Archangel Monastery near Prizren, Novo Brdo, etc.).

The new comprehensive model would enable more precise wording regarding the competences, rights and obligations of the Church and the central authorities in Kosovo. The document would also include the obligation of Pristina to **implement all court decisions** confirming the property rights of the Serbian Orthodox Church.

- 3) Ahtisaari's plan envisages **the restitution of the Serbian Orthodox Church's property in Kosovo**, which has not even been initiated to

date. It is necessary in a comprehensive model to insist that this provision be implemented.

“One of the priorities in Kosovo will be issues related to restitution of property, including those related to property issues of the Serbian Orthodox Church. Kosovo will establish independent mechanisms to create a political, legislative, and institutional framework for resolving restitution issues. Representatives of the international community will be invited to participate in such mechanisms, which will also include representatives of non-majority communities”.

The process of restitution should begin with the prohibition of further privatization of confiscated, nationalized, or expropriated property claimed by the Serbian Orthodox Church. At the same time, local and central authorities would be obliged to stop further or new construction until the end of the restitution process in establishing new property rights. A special emphasis would be on the land and property located within the already defined special protected zones.

## **INSTEAD OF A CONCLUSION – WHAT DO ALL SIDES GET IN THE END?**

The first challenge for a permanent solution to the status of the Church and Serbian cultural heritage is certainly the legal nature of the document. The most realistic scenario is an agreement between the EU (with the consent of the U.S.) and the authorities in Pristina, which would entail the incorporation of the agreement into the current legal system in Kosovo. A direct agreement between Belgrade and Pristina does not seem certain and possible at the moment since the dialogue is at a standstill and the dispute over the final status of Kosovo is paralyzing possible agreements in other spheres.

For reaching this type of agreement, Belgrade would be accused of recognizing Kosovo's independence with "soft extraterritoriality" for cultural and religious heritage. Also, they are not interested in the final compromise being reduced to concessions in the identity sphere. On the other hand, Pristina is also not interested in discussing this topic with Belgrade because the prevailing narrative is that the issue has already been resolved and that it belongs to the domain of caring for the overall cultural heritage of Kosovo. In the end, Serbian Orthodox Church cannot be a contracting party directly with Pristina at this moment because it would be accused of undermining the interests of Serbia in the process of dialogue and achieving the comprehensive normalization of Serbian-Albanian relations.

European Union is not only the only, but also the most desirable party in the contractual relationship because it can be expected that the authorities in Pristina would have less room for maneuver to deny the process and challenge the agreed rights for Serbian religious and cultural heritage.

With this approach, Belgrade does not have to make any compromises regarding political and other issues due to the position of the Church, because it would be resolved outside the contaminated space of the

Brussels dialogue. On the other hand, by resolving the issues surrounding the preservation and protection of cultural and religious heritage through an agreement with which the Serbian Orthodox Church agrees, Belgrade frees itself from a very sensitive identity issue, and thus gains wider room for maneuver to reach painful compromises in the final agreement with Pristina. Also, with this model of soft extraterritoriality and condominium, the relevant institutions of Serbia reserve the right to deal with the protection of Serbian cultural heritage in Kosovo.

By adopting the new mechanism, Pristina would show that it can accept a model that already exists in organized democracies such as Italy and Greece, and that it is ready to institutionally protect religious and cultural pluralism in an efficient way. The idea of soft extraterritoriality implies that heritage would exist in Kosovo regardless of the current dialogue process and the possible final agreement on status. By respecting the special status of the Serbian Orthodox Church and the Serbian cultural heritage, the authorities in Pristina would reduce identity tensions, contribute to the construction of a multi-ethnic society, and ensure the right of the Serbian community to a socially integrated cultural distinctiveness.

For the European Union and the USA, the issue based on European principles and good practice of protection and preservation of cultural heritage valuable for the entire civilization would be resolved. The sensitive issue would be saved from the political process of defining the final status of Kosovo thus providing a lasting contribution to the reconciliation between Serbs and Albanians. Indirectly, solving this issue would relax the further normalization of relations between Belgrade and Pristina, reduce destabilizing influences and open the way to a final agreement.





# A DIALOGUE AND POSSIBILITIES FOR COOPERATION BETWEEN BELGRADE AND PRISTINA ON ENVIRONMENTAL PROTECTION

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**Authors**

Ljubiša Mijačić, Institute for Territorial Economic Development  
Sanja Sovrlić, Crno beli svet

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# **A dialogue and possibilities for cooperation between Belgrade and Pristina on environmental protection**

Ljubiša Mijačić, Institute for Territorial Economic Development  
Sanja Sovrlić, Crno beli svet

**December 2022**

## **CONTENTS**

<b><i>INTRODUCTION</i></b> .....	<b>1</b>
<b><i>THE STATE OF ENVIRONMENT</i></b> .....	<b>3</b>
<b><i>AIR</i></b> .....	<b>5</b>
<b><i>LAND</i></b> .....	<b>10</b>
<b><i>WATER</i></b> .....	<b>15</b>
<b><i>CONCLUSION AND RECOMMENDATIONS</i></b> .....	<b>20</b>

## **INTRODUCTION**

The year 2022 brought a handful of challenges and shook the global security, economic and energy order. As a result, these disruptions, as well as the impetus to boost the economy in the post-covid era, created even greater pressures on ecosystems through increased exploitation of environmental resources, and therefore increased pollution emissions globally.

Despite the optimism that appeared at the beginning of 2022 due to the easing of measures against COVID19, the world soon entered a state of general insecurity with the beginning of the war in Ukraine. Consequently, geopolitical interests, the creation and strengthening of political and security alliances have created global economic and energy challenges that have had various negative effects on developed and developing countries. But what we can already conclude is that the Western Balkans are unprepared to ensure energy security not only for the economy, but also for the basic needs of citizens.

In addition to the mentioned critical events, which, although unprecedented in this generation (COVID19, war events in Ukraine), the world, and especially the European continent, was gripped by the most intense heat wave with minimal precipitation. All the largest rivers in Europe are recording historic minimum water levels, and water ecosystems are at the highest level of threat in recent history. Nevertheless, this news did not cause public attention and concern in the circumstances of the war events in Eastern Europe and the fear of the spread of the conflict.

Complex challenges marked the year 2022, where the resilience of the system emerged, and the impossibility of even the richest countries in Europe to ignore their own policies and rules in the blink of an eye, created in the face of a threat to energy security, and to resurrect the abandoned dirty energy sources and technologies. Among other things, we are witnessing the failure of several decades of global efforts to reduce greenhouse gas emissions.

If globally there is no turn towards global cooperation for the benefit of humanity, if the gods of war are not appeased, instead of cooperation in the field of environmental protection, nations will enter the phase of an even greater struggle for the control of the remaining natural resources with increased exploitation and an even greater degree of environmental degradation. In such geopolitical circumstances and in conditions of climate change, control over natural resources will be imperative for the survival of nations, and the environment itself can be used as a weapon or as a reason to start some new conflicts.

## **THE STATE OF ENVIRONMENT**

The quality of water (surface and underground), air, and soil is directly correlated with the economic standard. The infrastructural, ecological, geographical, and legal heritage of Kosovo is significantly connected with Serbia, which was not erased by the unilateral declaration of independence. Bearing in mind the interdependence of the systems and common resources of Serbia and Kosovo, as well as the high level of ethnic distance between Serbs and Albanians, it can be concluded that the reasons for degradation and inadequate use of environmental resources may also be a reason for some future disagreements.

In order to eliminate the risks that different types of pollution can cause between Serbia and Kosovo, it is necessary to define the current problems. In addition to the cause, location and type of pollution or impact, it is necessary to investigate the way pollution is transported, that is, to define the area on which certain pollution has an impact. Although this action algorithm seems simple, in the circumstances of undefined political jurisdiction over the territories where pollution occurs or where they cause the greatest damage, solutions to the problem of pollution in transit are a challenge.

*A dialogue and possibility for cooperation between Belgrade and Pristina on environmental protection*

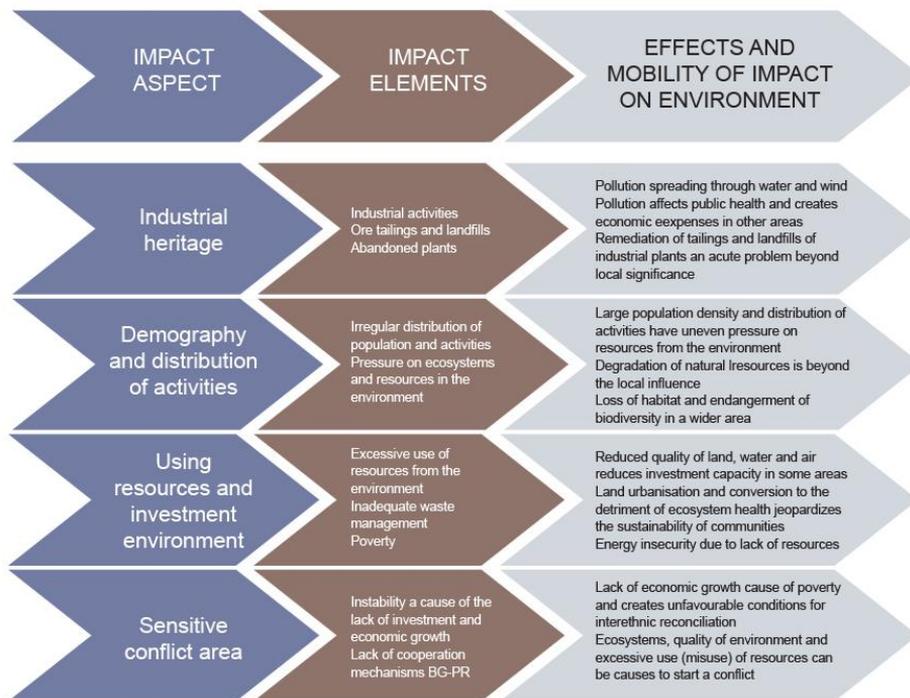


Figure 1. Interdependence and impact of the system on the environment

## **AIR**

Although there are acute problems related to air quality, they are mostly local or regional and have a limited effect outside the administrative entities managed by the authorities in Belgrade or Pristina. Air pollution in this sense does not represent a problem that one party can abuse to the detriment of the other party to a significant extent. Still, despite the limited influence and distribution of economic activities and settlements, there are significant opportunities in this field that can be exploited in order to improve cooperation between Serbia and Kosovo.

**Climate change and greenhouse gas emissions.** The region of the Western Balkans is not in the focus of global initiatives and mechanisms to combat climate change because this region has a small population and relatively minor economic activity. Proof of this is the scarce data and information base not only in terms of CO<sub>2</sub> emissions but also other aspects in the sphere of environmental quality preservation (control and measurement of pollution emissions in water, air and soil, open databases, pollutant cadastre, etc.).

Looking at the data presented, it can be concluded that the problems of the amount of greenhouse gas emissions in the Western Balkans are not at all alarming. Based on these indicators, and from the perspective of the principles of environmental protection, a heretical assumption can be made that in the Western Balkans, *a higher emission of greenhouse gases is preferable*, if it would contribute to the business and economic development of the region. Although such a proposal is illogical from the point of view of the fight against climate change, it is necessary to achieve the goals of economic development, which would consequently positively affect stability in this turbulent region. In other words, economic growth should have priority, and it will inevitably in the foreseeable future provide the necessary financial and technological resources needed to create and implement zero CO<sub>2</sub> emission measures (most European countries have committed to 2050).

There is room for cooperation between Belgrade and Pristina in the fight against climate change, but cooperation in that area is not of critical importance. Economic cooperation and infrastructural connectivity will create favorable conditions for reducing CO<sub>2</sub> emissions in the long term. The focus should be placed on forms of cooperation that promote energy efficiency in production and distribution, but also the competitiveness of the regional economy and business on the global stage. Progress in this direction is being implemented, especially in terms of improving the traffic infrastructure, opening the labor market and services. Digitization and modern technologies represent a great chance for developing countries and can create mechanisms that will define responsibility and thus have an impact on democratic processes. By raising the quality of the information base and the transparency of data on the state and quality of the environment, political responsibility would be defined, and in that way environmental problems would be the subject of political processes. A standardized information base would create rivalry between the people and their leaders in the Balkans in implementing the goals of the green agenda with more effective strategies, a better legal framework and financing method.

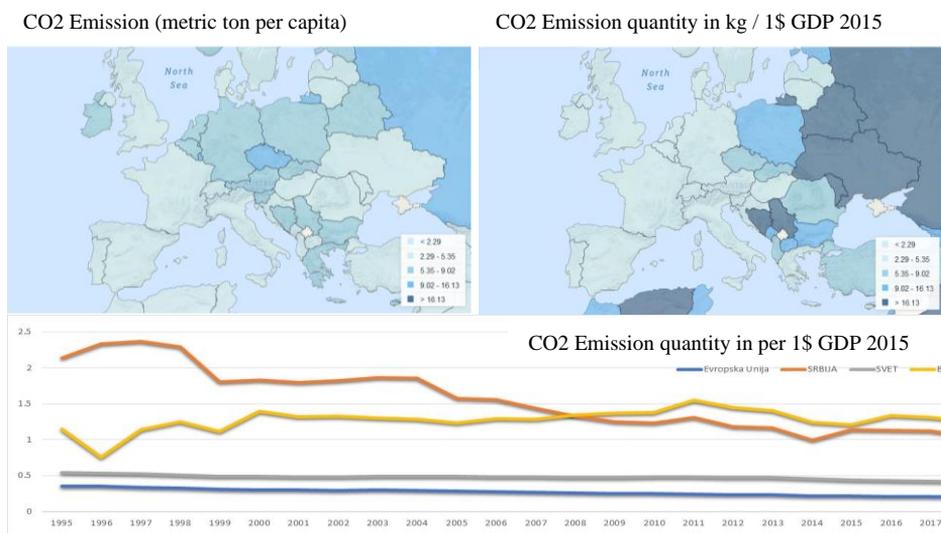


Figure 2. CO<sub>2</sub> emissions in Europe. Source: World Bank <https://data.worldbank.org>

**Air pollution.** Unlike CO<sub>2</sub> emissions, particle and gas emissions pose a direct threat to public and ecosystem health. Air pollution from emissions includes the emission of particles (PM), carbon monoxide (toxic), SO<sub>x</sub> (sulfur dioxide and trioxide), NO<sub>x</sub> (nitrates and nitrites), ammonia and methane (biodegradation of organic matter), dangerous organic vapors, and even dust raised from the ground (especially from ore tailings). Air pollution can also be created by meteorological conditions with strong winds so that dust particles from the contaminated area are emitted into the air currents and thereby contaminate the wider area.



Figure 3. Air quality [breezometer.com](https://www.breezometer.com) Im. 1 - Nov 2021, Im. 2 - Aug 2022, Im. 3 - Oct 2022

Air pollution is a problem of inadequate distribution of economic activities and distribution of settlements, as well as a problem of the lack of economic power to use better technologies. By comparison, Serbia has an emission of 6.7 Mt/per capita CO<sub>2</sub>, and Germany 7.9 Mt/per capita CO<sub>2</sub>. This means that the poor air quality in the Balkans in Image 1 is not caused by higher gas emissions, but rather by poor emission filtering technologies and the availability of types of energy sources.

However, the greater part of air pollution that has a toxic nature affects environments in the immediate vicinity of the emission of pollution and with different climatic conditions. The same air pollution emissions create different air quality conditions in the winter and summer periods, and the air pollution images here best illustrate that. In this respect, at least in the short term, the existing air pollution does not represent a major threat to interethnic relations between Albanians and Serbs. However, if technologies are not improved and existing practices continue, there is a real risk that interethnic relations will deteriorate in relation to this area.

Although there is a clear correlation in the region between air pollution and increased incidence of diseases, especially respiratory, it is almost impossible to record relevant data that would prove this correlation. In Kosovo, there is an acute problem of air pollution from the power plants in Obilić, in the immediate vicinity of which almost 1/3 of the population of Kosovo is located, with a proportional representation of all ethnic groups (the Serb community in the municipality of Gračanica and the villages around Obilić and Vučitrn, the Albanian community in all municipalities, including Priština).

Adverse effects of air pollution on the environment can create an (informal) form of cooperation in the health sector. There are examples in which Albanians from Kosovo seek adequate medical assistance in hospitals in Belgrade and other major cities in Serbia. The decision of Kosovo Albanians to seek treatment in Serbia is personal and rational, guided by the motive of the fastest healing and adequate care. The level of trust achieved through the treatment of Albanians in Belgrade is of great value and is insufficiently exploited in the field of interethnic and inter-institutional cooperation between Serbia and Kosovo.

In terms of air quality control, there is certainly room for cooperation even in the conditions of the current energy crisis. The proposal of the President of the Republic of Serbia on the exchange of lignite for electricity was a great opportunity for cooperation in which Pristina would benefit more. Namely, by exporting lignite, Kosovo would also export air pollution, and in return it would receive excess electricity that it does not have the capacity to produce in the thermal power plants in Obilić.

There is also room for air quality monitoring and the creation of gas emission inventory databases organized according to the methodology of the European Environmental Agency, although one should not be fooled that at this moment it is possible to implement a system that is completely transparent. The reason has already been mentioned in the opportune cost

of energy insecurity and the reduced level of investment in relation to improving the quality of the environment. But even so, the collection and exchange of air quality data between Serbia and Kosovo (and others from the Western Balkans) can have positive effects both in the short and long term.

Preservation of the environment and the fight against climate change is becoming more and more a political issue, and today it has the power to be a key element in the fight for citizens' votes in electoral processes. Hence, there is room for cooperation at the level of political parties and movements that tie their engagement to the green agenda, principles of sustainable development and similar topics, but certainly also at the level of civil society organizations that are active in these fields.

## **LAND**

Land is a limited (fixed) resource very sensitive to surrounding influences and activities, whether natural disasters or human influence. Simply put, we can say that there are three main causes of soil quality disturbances that have the potential to affect the relations between Serbs and Albanians in the Balkans:

1. Stress on ecological systems due to changes in land use (economy, agriculture, industry, urbanization...)
2. Industrial heritage (legacy of past industrialization)
3. Loss of biodiversity and habitats due to excessive exploitation of environmental resources (forestry, water management, agriculture, mining, etc.).

These three aspects describe some significant local activities that may have regional or even international consequences. Soil pollution and even land use change can create economic and ecological problems over long distances where the mechanisms of pollution mobility are mainly water and air, but the mechanism can also be combined. Particles of air pollution or direct contamination of the soil with pollution are transformed due to precipitation or spilling into watercourses, thus watercourses contaminate areas far from the location of the origin of the contamination. The wind has a similar mechanism to particle pollution, but the transport of pollution by this route is still limited. The meteorological and climatic conditions of the Balkans are linked so that the associated hydrological mechanisms and wind roses have the ability to transport local activities and pollution over long distances. As in terms of air quality, the impact can be mutual, but taking into account the geographical characteristics of the terrain, hydrology and distribution of settlements and activities, in this case the causes of the problem are mostly in Kosovo.

Planning and construction in urban areas since the arrival of the peacekeeping mission in Kosovo in 1999 until today have a constant trend

of growth. High population density and urbanization have created increased pressure on all systems, and even on agricultural production. The conversion of agricultural land into construction land in Kosovo has increased dependence on imports of food and other agricultural products. Proof of this is the effects of the 100% tax on products from Serbia, which was adopted by the government of Ramush Haradinaj in November 2018.



Figure 4. Village/settlement Čaglavica, today the suburbs of the city of Priština

Figure 4 shows the development of a settlement at the expense of agricultural land in the immediate vicinity of Pristina. At the same time, it also shows the trend of spatial planning, which not only changes its purpose, but also shows the scale of influence in other aspects that urbanization brings, pressures on water resources, problems with wastewater and solid waste management. In this specific case that the figure shows, there are also problems of population concentration in a location that is threatened by the negative impacts of air pollution from TPP Kosovo A and Kosovo B in Obilić, which means an increased risk to public health.

For the sake of objectivity, inadequate waste management, although mostly located in Kosovo, in case of the Ibar River is a significant example of the transport of pollution towards Kosovo. Sanitary landfills in the territories of Rožaje (Mostina) and in the municipality of Tutin pollute the river Ibar, which fills Lake Gazivode with water. Although in terms of concentration and types of pollution, this contamination has a smaller impact on water quality and public health, regardless, this problem must be put on the same level as other problems that must be solved.

Industrial heritage, i.e., hotspots and concentrations of pollution from abandoned industrial and existing energy plants have a significant impact on regional, and even international relations. This type of pollution migrates mainly from Kosovo to other areas and is almost exclusively located in the Ibar-Danube basin. These hotspots represent a local threat to human health and soil quality, but also an international threat because they threaten the health of aquatic ecosystems and agricultural production in the areas downstream

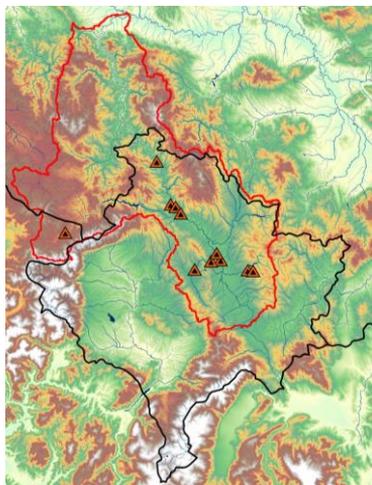


Figure 5. Pollution hotspots in the Ibar Basin

from the hotspots. In the past few decades, several studies and analyses of water and soil quality have been carried out, which indicate the extent of the impact these hotspots have on the wider area. Although these analyses are valuable, with a lot of information, the methodology of work and sample collection is not comprehensive, that is, there are no elements of cooperation and consensus in the way of data collection and processing in order to identify problems and causes in the field. In order to eliminate the negative impacts that have the potential to threaten the already bad interethnic relations, it is necessary to analyse the state and impact of these hotspots and create a cadastre of pollutants in all other areas that exceed the local impact. This analysis would thus represent the basis for the development of an action plan of activities and an analysis of the investment plan for the removal of threats to the environment and public health in the region.

The bad bio-chemical characteristics of water in the period before 1999 were mostly influenced by industrial waste, while the influence of untreated wastewater today is more pronounced.

The last major threat to the relations between Serbs and Albanians in the Balkans is the excessive exploitation of environmental resources. High population density, urbanization and economic growth have created pressure on ecosystems outside of populated areas. In the past few decades, there has been an increase in the trend of exploitation of forests and stone aggregates for the construction industry, illegal exploitation and trade of forests and lignite for firewood, water and water resources for energy, agricultural production and industry, etc. As a result, these trends threaten the ecosystem, wildlife habitats and biodiversity. The change in the composition and purpose of the land also affects the microclimate and hydrological characteristics, and in this respect the loss of the forest area shows its negative effects even today.

Forests store and conserve water and protect the soil from erosion, so the reduction of the area under forests has changed the hydrological characteristics of certain areas in the region. In the past few years, we have witnessed unprecedented torrential floods, which over time become a seasonal phenomenon in the plains and create environmental and economic problems. In addition, the loss of forests endangers habitats and the health of the ecosystem, thus causing the disappearance of many species, some of which are on the EU red list (wild cat, brown bear, wolf, grouse, etc.). Bearing in mind that ecological habitats do not know the barriers of administrative units, this problem concerns all actors, so cooperation is necessary at all levels, and it is recommended to build cooperation from lower to higher instances (e.g., from hunting associations to the competent ministry).

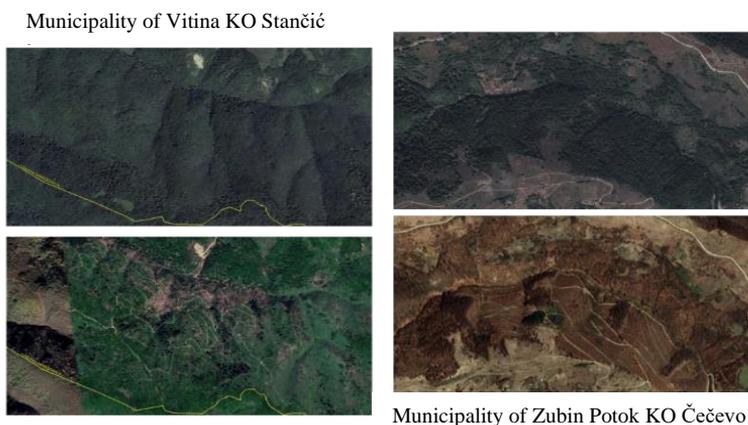


Figure 6. The loss of forest areas in the north and south of Kosovo

Ecology and environmental problems are becoming a framework of values that have an increasingly significant influence on political processes and shape the investment environment everywhere in the world, and in our country. In this regard, the field of environmental protection is an ideal space for cooperation and can be a catalyst for the creation of policies, initiatives, building value systems and leaders outside the administrative framework of nations and states. Although there are some forms of cooperation and mechanisms supported by international institutions, ownership, and responsibility for achieved goals must be national. In this sense, we should strive, that is, put pressure on political leaders and national budgets to form cooperation mechanisms.

## **WATER**

The causes and origins of water pollution have already been elaborated in this document, so in this segment we will not further deal with the wide range of water pollution problems that are under the local jurisdictions (wastewater, industry, agriculture, etc.). Instead, we will deal with water problems in this part of another critical aspect of water resources, which is the (in)availability of water, i.e., the irrational or excessive use of water resources from the common basin. Confirmation of the importance of this topic in the relations between Belgrade and Pristina is point 7 of the Washington Agreement, which provides for the preparation of a feasibility study *“with the aim of joint use of Lake Gazivode as a reliable source of water and energy supply”*.

Water is a sensitive resource and necessary for the sustainability of all systems. In the conditions of already evident climate changes and under the pressure of economic systems dependent on growth, the quality and availability of water will represent a major challenge in the region and may pose a threat to regional stability.

There are two factors that affect the amount of available water. One is the hydrological potential of the area, and the other is the population, that is, the population density of the area where the water resource is shared. The basin of the Ibar River belongs to the group of stressed water resources on both grounds, but more based on population density.

According to the adopted methodology and indicators from the forum on natural resources in 1989 (Falkenmark, Malin, Lundqvist, & Widstrand, 1989), the threshold of stressed and sustainable microunits in terms of available water from renewable sources is 1700m<sup>3</sup>/inhabitant/day. In terms of this methodology, part of the Ibar basin in the area of central Kosovo (municipalities: Pristina, Kosovo Polje, Obilić and Vučitrn) due to low water availability and high population density, belongs to the micro-unit of crisis areas with limited amounts of water. The website “world water”

(www.worldwater.io) according to the same methodology interactively displays the areas of the world facing water shortages where the extent of the water shortage problems in Kosovo today and in the future can be clearly determined. What Figure 7 shows is that the Ibar basin is very stressed and unfavourable in terms of creating sustainable development. Figure 7 also illustrates an unfavorable investment environment in an already poor region, which in conditions of complete absence of cooperation leads to the strengthening of motives for controlling the remaining water resources and such a trend inevitably leads to conflicts and further escalation of the situation.

In Kosovo, the highest population density and the highest concentration of industrial activities is in the Ibar river basin in central Kosovo. At the same time, the White Drim basin has a negligibly small concentration of industry and the highest degree of runoff. Such an unbalanced distribution of activities and settlements, which are the main generators of water demand, was inherited from the time of the SFRY and is mainly a consequence of trends formed after the construction of the Ibar-Lepenac hydro system at the end of the 20<sup>th</sup> century, which is still the only material basis for economic development.

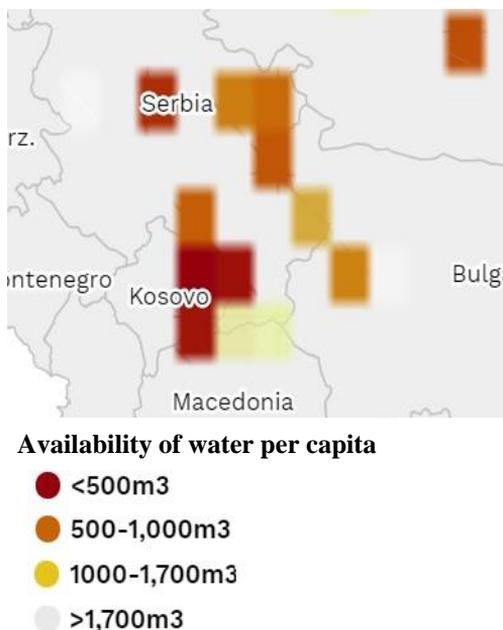


Figure 7. Stressed areas of water availability (worldwater.io)

From 1999 until today, nothing has been done to redistribute activities and to have equal use of resources towards other basins, especially towards the

White Drim basin, which is hydrologically much stronger than the Ibar basin. The pressure on the Ibar basin continues to grow at an unabated pace with new population concentrations and investments in the energy sector (New Kosovo 450MW) as well as other economic activities. All the strategies available to the public in Kosovo rely on the increased catchment of the Gazivode lake reservoir by the Ibar-Lepenac canal, while completely ignoring the interests of central Serbia, where the hydrological situation is conditioned by the hydrological potential of the Ibar River (Figure 7).

The Pristina side and the elites in Kosovo do not see any problem in this approach, and dialogue or the need to talk about the rational use of water resources, which is common, has never existed. The Washington Agreement gave economic importance to the water resources of the Ibar River for the first time through point 7. However, although this item of the agreement in terms of the development of dialogue represented a great step forward, despite great expectations, it did not produce the effect for either side to capitalize on it.

Pristina was apparently forced to include this point in the agreement, even though a member of the negotiating team from the coalition party AAK was absent from the signing ceremony in protest, and the president of this party threatened to overthrow the government during the signing itself because of this point. On the other hand, Belgrade did not receive any assurances in the submitted proposal of the feasibility study (US DoE PNNL 2021) that the pressure and strain on the water resources of the Ibar River will be reduced and the interests of communities, municipalities and regions downstream from Raška will be protected, except for the confirmation of factors in the domain of water resources control. On the contrary, the study supports the interests of Pristina and the investment framework for the improvement of greater water abstraction from this basin.

Although the study document specified the obligation to control water quality at the reservoir and outlets, it did not consider any water quality

management mechanisms on the tributaries of the Ibar River, especially on the Sitnica River. Thus, all the burden of investment and responsibility was transferred to Belgrade, while Pristina has no obligation to solve the problems within its jurisdiction that create far more significant problems in the municipalities of Raška and Kraljevo and further downstream. In addition, it must be noted that the proposed document completely ignores (or the authors are not aware of) the water management strategies of Montenegro and the Republic of Serbia, which can have a major impact on the observed area.

The document proposed as a model of cooperation the example of the Columbia River and the basin shared by the US and Canada. The quality of this example is the absence of a hegemon in the control of water resources, so this example is ideal to create conditions and motivate parties to participate in negotiations. Some other examples and practices of transboundary basins can only create the opposite effect and postpone the possibility of cooperation indefinitely which would benefit no one. However, no further progress has been made since the preparation of the study in this field and the problems, as before, have been postponed.

The problem of water and resources from the Ibar basin, and thus the resources of Lake Gazivode, are a sensitive issue for Pristina because Pristina does not have the ability to control the inflow of water into this reservoir. Instead of taking the initiative and initiating dialogue, Pristina expects foreign partners to protect its interests while at the same time demonstrating sovereignty and control over the Gazivode Lake area by using a monopoly of force. Belgrade is planning investments and the development of traffic infrastructure in the Raška region, which implies a better connection with Montenegro, in the part of the upper Ibar basin. Currently, there are no indications that Belgrade plans to build any water management facilities in this area in the near future, but the very fact that they are possible represents a real and credible threat to Kosovo's economy. In this sense, the dialogue on the management and quality of water in the

Ibar river basin should be started as soon as possible, primarily because Pristina has a greater interest in it than Belgrade.

Cooperation is the only way to avoid conflicts, especially in areas where hydrological characteristics have a transboundary character. In this sense, it is imperative that this topic be debated in public, and that this topic be put on the table of technical negotiations in Brussels, because the issue of responsible use of environmental resources is of the greatest importance for creating long-term regional stability. There are a handful of examples in the world that tell us that water resources that are shared with hostile ethnic groups become very fertile ground for the outbreak of conflict. Ignoring this topic would be proof of the frivolity and irresponsibility of the political elites.



## **CONCLUSION AND RECOMMENDATIONS**

*Political ecosystem:* The socio-political and economic market ecosystem is currently not favorable for dealing with environmental problems, especially in the circumstances of the unclear territorial organization of the Balkans, at the level of rational and universal principles. Narratives and interests are primarily in the service of political, national, and economic interests of ethnic groups. Environmental problems are often misused against another ethnic group and thus this acute area is drawn even deeper into a potential conflict in the future. Nevertheless, in the public space, the media, civil society, and citizens can and must insist that political subjects and leaders clearly state their position and define their program and way of solving environmental problems. International organizations, especially financial institutions, have mechanisms that set the framework for supporting or financing projects in relation to protecting the interest of groups outside the investment area, which can be helpful in motivating political elites to design their programs in a responsible manner (World Bank OP protocols; EU directives and IPA protocols; USAID - 22 CFR 216, etc.). Such mechanisms are desirable, useful and welcome, but the real responsibility and ownership of the consequences of decisions made or not made remain only with the competent institutions.

*Civil society:* Since it is unlikely that political narratives will be changed in the direction of effective action for common interests, because it does not bring political capital to elites, the burden falls on civil society to monitor the decision-making and activities of political elites, corporate society, and even individual communities and administrative units. As an impartial actor in the absence of institutional cooperation between Belgrade and Pristina, the civil sector is the only one with the possibility to fill the empty space.

Civil society can create a form of cooperation, enable monitoring mechanisms, data measurement, information exchange, start activities of creating public policies, drafting legal strategic and other plans that

improve the quality of the environment and eliminate potential threats to stability in the region. National institutions and agencies should include recommendations, measures and action plans in their investment plans (for example, afforestation, stocking, area remediation programs, etc.). It is of critical importance to create as soon as possible a pollutant cadastre that will describe the mobility of pollution with clear hotspot locations, discharge points and a pollution inventory, according to a methodology that would be acceptable to all parties. The absence of institutional cooperation must not be an excuse to delay this analysis because such a document is necessary as a starting point for creating an investment framework and problem-solving technology.

Civil sector must not be a silent observer of activities that create environmental injustice at the local, national, and regional levels. It can build an information base for collecting data from the field, either through information technologies (measuring sites, applications, telemetry systems...), but also through cooperation, especially with individuals and groups of those who have direct information from the field (associations of fishermen, hunters, forest harvesters, tourist organizations...).

International community can donate funds to start activities in this field, but the goal is for the financing of the activities to be taken over by national institutions and agencies whose obligations are realized by the civil sector. The international community has ways to motivate Belgrade and Pristina to initially take part, and later take over the full financing of these activities and thus take ownership of the achieved goals.

*Educational institutions:* The curricula with an emphasis on sustainable development and ecology must be improved both in primary education and in higher education institutions. It would be ideal to coordinate programs at the level of the entire Balkans in order to create a long-term generation of citizens who would be able to solve common problems using a familiar vocabulary and methodologies.

An example of a possible positive role of the Community of Serb Municipalities:

Kosovo is unsuccessfully trying to become part of the international initiative for protection of the Danube (<https://www.icpdr.org/main/>) and in that it encounters smaller obstacles from Serbia, but greater obstacles from other member countries of the initiative that did not recognize Kosovo's independence (Bosnia and Herzegovina, Slovakia, Romania, Moldova and Ukraine). It should be noted that regardless of the fact that these countries do not recognize the independence of Kosovo, they unanimously support the Brussels dialogue and respect the agreements and obligations resulting from this process.

Let's assume that the Community of Serb Municipalities is established and that its administrative services include a Secretariat for Environment. The Government of Kosovo could appoint this secretariat as a permanent member of the inter-ministerial water council and assign it the role of representing Kosovo within the international initiative for the protection of the Danube. The secretariat would thus participate in the work of this initiative, prepare reports on meetings and conclusions and submit them directly to the government of Kosovo.

Bearing in mind that the Community of Serb Municipalities is a product of the Brussels Agreement and the point of the agreement on which Belgrade insists the most, it would be logical for Belgrade not to object to Pristina's participation in this initiative. Also, it would be logical for all countries that do not recognize Kosovo to accept its membership because the agreement on the representation of Kosovo resulted from the Brussels Process, supported by everyone.

*Dialogue between Belgrade and Pristina for sustainable development:* It would be useful to create an impact assessment of individual Brussels agreements on the environment, as well as an inventory of topics related to environmental protection that are not considered (ignored) within the technical or political dialogue. Such an assessment could be used to mobilize the public on the necessity of solving problems serving towards a better quality of life for citizens.





NATIONAL CONVENTION ON THE  
EUROPEAN UNION  
KNEZA MILOŠA 4  
11000 BELGRADE

[WWW.EUKONVENT.ORG](http://WWW.EUKONVENT.ORG)  
[OFFICE@EUKONVENT.ORG](mailto:OFFICE@EUKONVENT.ORG)



INSTITUTE FOR TERRITORIAL  
ECONOMIC DEVELOPMENT (INTER)  
VLAJKOVIĆEVA 29  
11000 BELGRADE

[WWW.REGIONALNIRAZVOJ.ORG](http://WWW.REGIONALNIRAZVOJ.ORG)  
[OFFICE@REGIONALNIRAZVOJ.ORG](mailto:OFFICE@REGIONALNIRAZVOJ.ORG)