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**LOCAL AND  
INTERNATIONAL  
DETERMINANTS  
OF KOSOVO'S  
STATEHOOD**





# LOCAL AND INTERNATIONAL DETERMINANTS OF KOSOVO'S STATEHOOD —VOLUME II

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“Local and International Determinants of Kosovo’s Statehood: Volume II”

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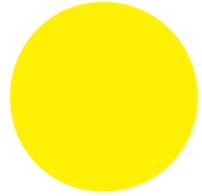


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# INTRODUCTION

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**Ioannis Armakolas, Agon Demjaha, Arolda Elbasani,  
Stephanie Schwandner-Sievers**

This edited volume is divided in three parts. Each one of the parts mixes disciplinary approaches and research traditions, and constitutes one thematic cluster, with a common conceptual thread connecting its chapters. Part I is entitled ‘Culture, Heritage and Representations’. The chapters in this part tackle various aspects of culture and heritage and, in a broader sense, identity and representations of self and other in contemporary Kosovo. The thematic array is diverse, ranging from the social experience of traditional and ethnically-defined cultural identities, to issues of representations of national history and independent statehood, to cultural representations of the nation in international contexts, and finally, to cultural encounters with countries maintaining limited or no contacts with Kosovo due to their stance of non-recognising its independence.

Part II holds the title ‘Local Interpretations of International Rules’. The chapters in this part could be included in the broader academic trend of the ‘local turn’ in post-conflict peacebuilding and statebuilding (Mac Ginty and Richmond 2013). Three chapters are included under this theme, focusing on issues of the local application of transitional justice measures initiated and promoted by the international community, the civil society contribution to peacebuilding in the divided city of Mitrovica, and the question of women and access to politics.

Finally, Part III is entitled ‘Facets of Relations with the EU’ and deals with the complex reality of the Kosovo’s relations with the EU, which are hampered by the ambiguities

produced, on the one hand by the lack of unity when it comes to EU member states' stance on Kosovar independence, and on the other by the EU's dwindling credibility due to its failure to deliver on its promises towards Kosovo. There are five chapters in this part and they range from the issue of EU's role in the statebuilding process in Kosovo, the politicization of the question of the visa-free regime for Kosovars, to issues of the civil society's contribution to Kosovo's European integration prospects, the EU's role in the Belgrade-Prishtina dialogue and Kosovo's presence in the Berlin Process. In what follows, we provide a brief conceptual and analytical introduction to the theme of each part as well as outline the chapters that make up this edited volume.



## PART I: CULTURE, HERITAGE AND REPRESENTATIONS

At what point do 'culture' or 'heritage' become arguments, which either underpin or help overcome, exclusionary claims (such as in representing the nation)? The ambiguities inherent to these two concepts – considering that both 'culture' and 'heritage' can encompass universalising values as well as lend themselves to exclusionary identity constructions - has long been debated in scholarship. Several earlier contributions to these debates can be found in the two preceding publications of the Kosovo Foundation for Open Society project 'Building Knowledge about Kosovo' (e.g. Pasamitros 2017; Selenica 2017).

In this Part I of the present edited volume, the four contributions subsumed under this section, although diverse, delve even deeper into above complicated, but fascinating, question. They are all guided by a rigorous social-constructivist approach in analysing the socio-political and cultural dynamics of identity politics, and the sentiments and exchanges of knowledge involved. The advantage of a social constructivist approach is its non-partisanship. Firstly, it emphasises the fact that all knowledge is produced as a result of social interactions through time and

space (including verbal, mediated and other forms of communication in the widest sense), rather than based on any inherent, pre-existing truth or fact. Secondly, it holds that all knowledge about (or ‘representations’ of) the world is shaped by its respective (social, political or economic) context and thus relative to the specific time and space of its production. Any social group’s specific worldviews and beliefs are therefore never just taken for granted as an unquestionable ‘given’, but their underpinning history can be analysed, i.e. ‘deconstructed’, in tracing the process and context of their development.

Such an approach allows for a radically non-discriminatory, critical analysis of any processes of knowledge production and sharing, anywhere. However, it has also been criticised by those pointing to the structural and epistemological unfairness in implicitly ignoring the fragility of identities which never had the chance to become as established, for instance as recognised ‘nations’, as those of the geopolitical mainstream of the so-called ‘Global North’ or ‘West’ (see, for example, on the need for ‘strategic essentialism’, Spivak 1988; including in the Balkans, Brown 2000; and in relation to postcolonial hubris, Ghandi 2019, 102-121). The contributions of Part I express awareness of such questions of epistemic and global injustices. They demonstrate that a rigorous, social constructive approach is not incompatible with empathy for the social groups and people whose perspectives of the world are explored. Their subjective knowledge is studied from the situated perspective of the respective beholder, an epistemological method also known as relativism (here: of the methodological and not the moral type, as such inquiry does not necessitate agreement with, or adoption of, the perspectives identified; Brown 2008, 367). Furthermore, the social constructivist approach is cognisant of the ubiquitous role of power in shaping situated, shared, representations of the world that inform people’s practices in their worlds (at any level). This awareness is most evident in the discussed approach’s subsidiary method of Foucauldian discourse analysis, which all the contributions in question employ to different degrees.

Luke Bacigalupo’s chapter “Kosovo and Serbia’s National Museums: A New Approach to History?”, which studies the exhibitions of the national museums in Belgrade and Prishtina, first inquires into the constructed character of their representations of na-

tional history, respectively. He then asks whether, and under what circumstances, these museums are adopting, or might be able or willing to adopt, a critical constructivist approach to their own educational messages. Such a constructivist approach would be in line with international ‘new museology’ and stands in contrast to perpetuating 19th-century types of exhibiting artefacts and stories which support the constructing of distinct (and regionally divisive) national mythologies. Bacigalupo discovered that the lack of implementation of new museology in Belgrade’s and Prishtina’s national museums, respectively, is not simply a matter of conservative political will and public expectations. Rather, creative and critical ideas and potentials abound in both countries. Obstacles identified beyond several pragmatic factors, however, include the epistemology of a ‘national museum’ and its classic function, itself. The author juxtaposes this finding to a different, innovative post-socialist example (Warsaw’s national museum’s exhibition) which suggests that courage for change and creativity can even produce economic benefits.

Donjetë Murati’s and Stephanie Schwandner-Sievers’ joint chapter “An Exercise in Legitimacy: Kosovo’s Participation at the Venice Biennale” further thematises the question of representing the nation. It explores the role negotiations, self-understanding and creative potentials of the four Kosovar artists, who, since 2013, were entrusted with representing their nation at the Venice Biennale. It also takes their wider (local and transnational) social and political fields into account and the ways in which these shape expectations. Although not unanimously comfortable with their role, all four artists were found to consciously realise and accept their construction as quasi ‘currency’ in the, socially and politically widely shared, quest for accumulating symbolic capital for their nation, internationally. The authors’ critical discourse analysis of Kosovar media representations suggest that it was the artists’ presence, rather than the barely-reviewed art works themselves, which were seen to fulfil this function of legitimising the nation, as long as both artists and works guaranteed international recognition at this prestigious event. Beyond questions of collusion or political appropriation, the contribution interrogates normative expectations in mainstream art, internationally, which tend to equate an artist’s role with resistance or subversion to regimes of power alone, rather than taking the situations of fragile national identities into account.

Similarly, Juan Manuel Montoro's chapter "Imaginaries and Media Consumptions of Otherness in Kosovo: Memories of the Spanish Civil War, Latin American Telenovelas and Spanish Football" focusses on questions of unequal, symbolic hierarchies and their impact on social reality at geopolitical levels. His study focusses on the relations between Kosovo and Spain and these two countries' citizens' mutual knowledge of each other. While Spain remains one of the few EU countries which have yet to recognise Kosovo's statehood, a fact Kosovar citizens are acutely aware of, Kosovar attitudes towards Spanish people and their cultures were identified as most sympathetic regardless. The friendly construction of Spanishness evolved around three major tropes, that of Albanian historical engagement in the Spanish Civil War; Latin American telenovelas (soap operas); and contemporary global football. The study juxtaposed this finding to the much less advantageous representations of Kosovars in Spain. Spanish notions of 'Albanianness' rarely distinguished between people from Kosovo and Albania. Rather, they were informed by prejudice, including tropes of war, crime, violence and radical Islam. The analysis revealed the impact of geopolitical asymmetries of power on such unequal systems of representation and the ways in which these are marked by a great discrepancy in knowledge about, and sympathies for, each other.

Finally, in Julianne Funk's chapter "Lived Religious Perspectives from Kosovo's Orthodox Monasteries: A Needs Approach for Inclusive Dialogue", ethnographic vignettes, taken from the author's interviews and everyday observations in and around Kosovo's Serb monasteries, reveal a historically rooted, yet disempowered, monastic construction of Self and Other within the wider, segregated field of interethnic relations in Kosovo. The Serb Orthodox monks interviewed shared their hopes, aspirations and grievances with the author. On the one hand, their predicament included having to respond to the overarching Serbian Church, which to the present day still vehemently denies Kosovo statehood within which they are having to arrange themselves. On the other, they are navigating social and political realities on the ground which include experiences of being refused certain rights and claims and a related sense of insecurity. For example, the Serbian identity of their material heritage (the monasteries) might be denied (if listed as Kosovar); or concrete land rights, although constitutionally affirmed, refused in conflict with

the local municipality. Beyond a mere needs analysis (e.g. the implementation of the Rule of Law in Kosovo), however, this contribution identifies conflict transformation potentials, such as the monks' construction of monasteries as open places of gathering for all.

All the contributions discuss, demonstrate the impact of Kosovo's fragile state- and nationhood on the processes and phenomena observed. While culture or heritage serve as symbolic capital in all cases discussed, the different case studies highlight several different ways in which any representation of Self or Other is situated within existing symbolic hierarchies that represent power differentials at multiple levels. Whether between communities within Kosovo; bilaterally, between regional neighbours or within the EU; or at geopolitical levels worldwide - the actors, whether Serb or Albanian, were all found to have a vested interest in having their community or nation (and respectively associated rights) fully recognised as a matter of dignity, respect, and human security. .



**PART II:  
LOCAL INTERPRETATIONS  
OF INTERNATIONAL RULES**

Being subject to an unprecedented international intervention, post-war Kosovo has become a massive laboratory of international-led institutional transfers across various areas of reform (Visoka 2017; Elbasani 2019). The flow of international resources and the authority attributed to international structures have contributed to an unmatched export of international templates to deal with post-conflict peace- and state-building tasks. While best model institutional transfers are typical of international interventions, and wider democracy promotion activities, post-war Kosovo has literally seen the overhaul of the entire institutional infrastructure to align with the promoted models.

Yet, twenty years on, there is a wide consensus that imported institutional templates have not worked as expected. Instead, they are commonly re-interpreted or outright resisted in the local context where they are transplanted (Elbasani 2018; Troncota 2018) giving ways to hybrid forms of institutional change (Belloni 2012; MacGinty 2011). These local ratifications are rarely straightforward or simple to explore to the extent they involve at least some formal changes that resemble their original counterparts (Tadic and Elbasani 2018). At the same time, they feature unconventional mixes of old and new rules that ultimately enable survival “of the ways such reformation is designed to eliminate” (Roberts 2013, 95). Given the dominance of hybrids and their repercussions for the scope and depth of reform, empirical research needs to highlight what mixture of choices they consist of, how they operate in practice and how they deviate from the original intentions.

The chapters in this part of the book grapple with these questions including the noted gap between international best models and their local replications, but also the repercussions of the institutional hybrids for the depth and sustainability of reforms. The analysis is based on a rich array of secondary and primary sources, including interviews and field work carried out in Kosovo. The chapter “The Specialist Chambers in Kosovo: A Hybrid Court between Mounting Expectations and Domestic Contestation” by Meris Musanovic examines why the Kosovo Specialist Chambers and its specific attributes, which are widely heralded as a promising hybrid solution to transitional justice, remain heavily contested in Kosovo. The analysis shows that this institution, given its attributes as hybrid court, originates high expectations both from the international community and the Serbian community in Kosovo that it will allow access to justice for those victims ignored by the previous tribunals. The Albanian community in Kosovo does not share these expectations. This, like all previous attempts to investigate war crimes in Kosovo, was initiated and mostly managed by various structures of the international community. Yet, differently from the previous attempts, the Specialist Chambers qualifies as hybrid court that fuses international and local elements. As such, it can play a useful role in shoring up the legitimacy and capacity of criminal proceedings of those accused of war crimes.

The chapter “Civil Society Contribution to Sustainable Peacebuilding in the City of Mitrovica: Finding a Niche between Donor Priorities, Ethnic Divisions, and Social Needs” by José Carpintero Molina explores the role of civil society in facilitating peacebuilding processes in the ethnically-divided city of Mitrovica. Specifically, it analyzes how civil society organizations navigate between international donor priorities and deeply-divided ethnic groups to overcome cultural and structural dimensions of violence that undermine sustainable peace in Mitrovica and Kosovo more broadly. The empirical analysis focuses on three organizations - Mitrovica Rock School, Diakonie Kosova and NGO Aktiv –each involved in different sectors of peacebuilding activities. Through the analysis of these organizations, the analysis sheds light on the complexity of ethnic relations in Mitrovica, but also presents an array of activities that seek to address the different dimensions of violence. The results reveal how international organizations contributed to a strong, but also dependent civil society in Kosovo. Likewise, the chapter shows how civil society organizations reproduce division and encounter the challenge of having to carry out multi-ethnic activities in a city that is physically and ethnically-divided.

The chapter “Corruption and Women’s Access to Politics: Quotas and Party Funding in Kosovo” by Liljana Cvetanoska aims to offer a better understanding of the impact that corruption has on women’s access to politics by focusing on the case of Kosovo, a country characterised by male dominated patronage networks and systemic corruption. The analysis focuses on gender quotas and electoral funding, two closely related issues crucial for women’s involvement in politics. The study argues that women’s political participation is negatively affected by closely tied insider patronage male dominated networks and identifies direct and indirect obstacles to women’s access to politics in Kosovo. The findings confirm that corruption disproportionately negatively impacts women, and particularly those from marginalised groups. Specifically, the introduction of quotas in Kosovo has paved the path for descriptive representation of women in politics, but these efforts are limited by legal discrepancies and lack of women in leadership positions. Moreover, party funding regulations are short of provisions on distribution of funds between male and female candidates for office, which hampers women’s involvement in politics.

Each of the sectors under analysis in this part of the book has been center stage of the international community’s attempts of peace- and wider institution-building in the

country. They have also been heavily sponsored by various international actors, receiving the lion's share of technical and financial assistance. Consequently, each sector has undergone major legal and institutional reshuffling to align with the international models. Specifically, Musanovic's chapter on transitional justice shows that Kosovo under much international pressure has adopted the Specialist Chambers, a third generation model of international criminal tribunals, in order to adjudicate unpunished crimes perpetrated during the Kosovo war. In a fusion of national and international aspects, the court offers the best of both worlds -the international expertise and independence that local courts tend to lack, and the local ownership that pure international courts don't have. Molina's chapter on civil society also shows that the international community has very generously supported the civil society sector as a means to pursue long-term reconciliatory activities, but also to empower an active mediator between international solutions and local ideas and networks. As a result, Kosovo has become the scene of a rich array of civil society organizations working on various aspects of peace and reconciliation, often in liaison with the international community. Cvetanoska's chapter on gender and corruption also points that the international community has enabled legislation that provide for quotas of women representation and gendered electoral financing in order to facilitate women access to politics.

Despite the noted changes, all sectors under analysis also feature local processes and interpretations that hollow out the promised attributes of the international transfers. The chapter on transitional justice points out that the Chambers are not only actively resisted by those political actors, who are their main target, but they are also seen with suspicion by the majority of the Kosovo Albanian population. The related 2015 law was actively blocked twice in the Kosovo Assembly and once adopted it was again delayed for several years. Hence, the Specialist Chambers' embeddedness in the Kosovo legal system, the strong point of third generation courts, proved to make operation of the chambers vulnerable to collaboration and possible resistance from Kosovo institutions. The chapter on civil society also shows that instead of the role of mediator, the civil society organizations de facto reflect strong association with donors' priorities, but also the strong divisions that mark society. Most civil society organizations are typically attended by one of the ethnic communities and/or seen as dependent to international funding and related priorities. The chapter on corruption and gender also highlights the

gap between pro-forma measures and how they work in practice. Accordingly, the discrepancy between various laws, typically enables power holders to evade responsibility for upholding the law on gender equality and its system of quotas. Similarly, lack of legislation and related uncertainties on party funding negatively impact women's access to electoral funding.

Altogether, the chapters in this part suggest that many of the undertaken institutional changes closely resemble the original international templates, but often operate according to different logics. Regarding transitional justice, the promise of the Specialist Chambers to provide justice for victims ignored by the previous tribunals, pales when considering that most Albanians see the court as an one-sided administration of justice. When it comes to civil society, related organizations themselves face the challenge of divisions and are widely perceived as a 'foreign sector' or working for one community or the other. In the case of corruption and women's access to power, the existence of shadowy agreements allow political elites to pick and choose new laws so as to maintain the party patronage networks which are deeply embedded in Kosovo's politics.

Despite those de facto controversies, not all is lost. The Specialist Chambers remain contested, but have triggered a wide public debate regarding individual responsibility of those indicted for war crimes; the civil society activities remain compartmentalized along ethnic lines, but do carry services and activities that neither donors themselves nor public institutions can offer; and the quota system and party financing regulations explain the growing number of women in politics, even if this increase doesn't necessarily mean gender equality or that rights guaranteed on paper are fully implemented in practice.



**PART III:  
FACETS OF RELATIONS  
WITH THE EU**

This part brings together five papers that analyse different aspects of the complex relationship between Kosovo and the EU. Immediately after its unilateral declaration of independence in 2008, Kosovo has made integration into the European Union as one of the key strategic objectives of its foreign policy. However, throughout this period, Kosovo's relations with the EU have been rather cumbersome and complicated, mainly due to the fact that five out of 27 EU member states have still not recognized Kosovo's statehood. Currently, Kosovo, is lagging behind the rest of the region considerably, as the last country to sign the Stabilisation and Association Agreement, and the only one in the Western Balkans not enjoying the visa liberalisation regime. The issue of recognition/non-recognition among the EU member states has greatly hindered the EU's coherent foreign policy towards Kosovo. Furthermore, the EU's status-neutral position has undermined its state-building policies and made Kosovo's Stabilisation and Association Process rather difficult and problematic. As a result, Kosovo's European integration is currently blocked since, due to the non-recognition by five EU member states, the Council cannot authorise Kosovo's further progress towards EU regardless of whether it fulfils the accession criteria or not.

In such a reality, visa liberalisation remains the only incentive that the EU can utilise as part of its conditionality towards the Kosovo authorities. However, the EU failed to deliver on its promise for visa liberalization even though the European Commission has since 2018 confirmed that Kosovo has fulfilled the extensive list of technical criteria enshrined in the visa liberalisation Roadmap. By directly linking migration and asylum-related concerns of its member states with the visa-free regime for Kosovo, the EU has unjustly denied free movement to the citizens of Kosovo.

vo. Such failure has further eroded the EU's credibility and its approach to the visa liberalisation process among Kosovo citizens and political elites. Consequently, the young and once most pro-European population of the region is getting tired and discouraged by the prolonged process, while the political elites are becoming less and less influenced by the European authorities.

On the other hand, the EU-facilitated dialogue between Kosovo and Serbia, aimed at normalization of relations, was also blocked in 2018 when Kosovo imposed tariffs on Serbian goods. For long, Kosovo had been reluctant to lift tariffs despite pressure from the EU and the United States. On 1 April 2020, the then acting Prime Minister Albin Kurti lifted the tariffs against Serbian imports on the condition that Serbia stops its efforts of undermining Kosovo's international legitimacy. Kurti also pledged to gradually introduce reciprocity measures to match Serbian barriers to the movement of goods and people. However, his government proved short-lived and Kurti lost his parliamentary majority after only a couple of months in office.

His successor, Avdullah Hoti, and the new Kosovar government proved more willing to re-engage in dialogue with Belgrade. It was in that context, and after Serbian President Aleksandar Vucic had reaffirmed his dominant position in Serbian politics in the June 2020 elections, that the EU and the United States worked to bring the two sides back to the negotiating table. When it comes to Washington, the Kosovo-Serbia question has been for some time on the radar of the President Trump's trusted man and special envoy for Kosovo and Serbia, Richard Grenell. The latter had already brokered two deals between Kosovo and Serbia that entailed restoring, for the first time since 1999, direct flights between respective capital cities as well as railway services. In doing so, the US clearly demonstrated that it wished to play a greater role in the mediation efforts and the Kosovo-Serbia dialogue framework. After almost a decade, the EU would no longer be the only actor to mediate agreements between Kosovo and Serbia.

Still, the outcome of this American diplomatic push was anything but impressive. On 4 September 2020, Serbian President Aleksandar Vucic and Kosovo Prime Minister Avdullah Hoti signed in the Oval Office of the White House a new agreement.

The deal was not comprehensive, it focused on a number of disparate and peripheral issues and seemed to be hastily put together. The text of the agreement included also provisions that it was certain to annoy the EU and other actors, and before the ink was dry the text received a barrage of criticism from analysts, think tanks and the civil society on both sides.

On the European side also, a new round of negotiations for a comprehensive agreement between Kosovo and Serbia was kickstarted in July 2020 after nearly two years of a formal lull in talks. The Balkans envoy of the EU's High Representative for Foreign Affairs, Josep Borrell, had in the meantime become the Slovak politician Miroslav Lajcak, an old hand in the EU's management of regional affairs. Lajcak re-engaged with the two sides for reaching a comprehensive deal that will regulate relations between Serbia and Kosovo for good and will allow EU to have again a unified policy on Kosovo's recognition and the country's accession process. In the meantime, Kosovo's President and a prime mover and shaker of the country's politics, Hashim Thaci, resigned after he was indicted by the Kosovo Tribunal and was moved to the Hague in late 2020. Another layer of volatility was added to Kosovar politics and it is uncertain whether the current government's weak majority will survive the next period.

This part of the book begins with the chapter "Recognition and the European Union Statebuilding in Kosovo" by George Kyris, which explores whether international statebuilding activities in Kosovo, and particularly by the EU, relate to a titular recognition, i.e. a recognition of a right to statehood. Kyris conducts a historical analysis of the specific role of the EU in a series of different observations related to the relationship between titular recognition and statebuilding. The chapter offers two rather interesting findings: first, a recognition of a right to statehood might co-exist with the support of alternative ways to solve a dispute (e.g. autonomy); second, the relationship between titular recognition and statebuilding is more dialectic and less linear: as institutions were developed and introduced, Kosovars' demands for independence grew, which seems to have diminished the room that international organisations had to support other options for resolving the dispute with Serbia. In this regard, the paper makes a manifold contribution. Firstly, the paper focuses on

Kosovo's recognition by international organisations, therefore contributing to the literature on Kosovo's statehood and more generally. Secondly, the chapter moves away from binary understandings of recognition by exploring titular recognition as a different type of recognition. Thirdly, and most importantly, the chapter cross-fertilises the topics of recognition and statebuilding in Kosovo, therefore helping us understand better their inter-relation.

In her chapter "Diluting Principles, Darkening EU Accession Perspective: Politicization of Kosovo's Visa Liberalization Process," Gentiola Madhi seeks to investigate the politicization of EU enlargement in light of the decoupling between the Commission's technical positioning and member states' stalling behaviour. Through an in-depth analysis of the case of visa liberalization for Kosovo, the study traces the shifting positions and contrasting tendencies of France, the Netherlands and Germany vis-à-vis the Commission's recommendations about Kosovo's case. Madhi argues that the main aim of France is to delay enlargement on the grounds of pure domestic political calculations. Moreover, the chapter points out that under the justification of the 'strict and fair' approach, the Netherlands' approach is shaped by citizens' increasing skepticism towards enlargement and protection concerns over normative EU values. Finally, the study acknowledges Germany's consistent commitment towards the Balkans, while also pointing out to its increased demands for tough conditions given the domestic questioning of the transformative power of conditionality in the region.

In her chapter "The Role of Civil Society Organizations in the Process of Kosovo's Integration into the European Union," Svjetlana Ramic Markovic explores the range of Kosovo civil society organisations' involvement in the process of the EU integration related to political criteria and rule of law. The paper further examines the main advocacy activities and initiatives of the civil society organisations towards the government and the EU office in Kosovo, with special focus on the functionality of the tripartite partnership between government, CSOs and the EU. It argues that despite the positive legislative framework for active participation of CSOs, the political environment in Kosovo continues to be rather negative and demobilising. Accordingly, Ramic Markovic points out that the unpredictable domestic and

international political situation represents a major challenge that clearly agitates Kosovo's integration process into the EU. While communication and collaboration with the EU office in Kosovo is existent and ongoing, the paper claims that it lacks structural dialogue and continuity. The rather vague existence of the functional tripartite model, necessitates a need for structural partnership that supports full inclusion of CSOs in policy and the decision-making process. In conclusion, the chapter emphasizes the EU office's key role in arbitrating and preserving a watch-dog role of CSOs during monitoring and evaluating further processes related to Justice and Home Affairs chapters.

Boshko Stankovski's chapter "The Role of the EU in Framing and Reframing the Belgrade-Prishtina Negotiations: The Case of Land Swap Proposal," offers an innovative examination of the role of the EU as a mediator in the Belgrade-Prishtina Dialogue. The chapter argues that by extensively using constructive ambiguity and dual interpretation over the core issues of the dispute, the EU has contributed in creating an entirely different understanding of the negotiation process by the two parties. As a result, this has only brought the two sides further apart, and when the idea for land swap between Serbia and Kosovo was introduced, the process has been completely derailed. The first part of the chapter analyses the way the negotiations have been framed by the mediator and its approach to use constructive ambiguity in the process. Then the paper examines if and how the Dialogue undermined the original framework as established with the Ahtisaari plan, especially in the light of the proposal for territorial exchange between Serbia and Kosovo. Finally, the third part examines whether it is possible to use international law to create new narrative for the negotiations and reframe the process. Stankovski concludes that the EU as a principal mediator needs to reframe the negotiations and to create a new narrative in the process if it wants to maintain the possibility for finding a solution. In doing that, the mediator should rely on the approach of the international community to securitise Kosovo's statehood and re-invoke the Ahtisaari Plan, meaning that such a new narrative can be created only through strict adherence to the norms of the international law.

Donika Emini's final chapter of the book, "Kosovo's Stressful Multilateralism: Can the Berlin Process Serve as a Remedy?" explores whether the Berlin Process could serve as an effective platform to solve the bilateral dispute between Kosovo and Serbia. It also analyses eventual benefits that Kosovo has yielded from the Berlin process, while at the same time examining how the Berlin Process served to improve Kosovo's regional participation. Initially the chapter offers an overview of all agreements signed in the framework of the Berlin Process and assesses the success of Kosovo in maximizing the benefits alongside its counterparts. Emini shows that Kosovo did relatively well in being included in the agreements, being represented with its state symbols - albeit under the asterisk which puts the Kosovo statehood into question. The chapter points out that the Kosovar political elite has treated the Berlin Process similarly to other existing multilateral cooperation initiatives, and has therefore, failed to understand its potential for further consolidating Kosovo's statehood. Instead of taking a leading role in the process that would positively contribute to the internal development of the country and its better positioning regionally, Kosovo followed a passive approach that amounted to simple participation to existing initiatives.

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# CULTURE, HERITAGE AND REPRESENTATIONS

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— **Luke Bacigalupo**

Kosovo and Serbia's National Museums: A New Approach to History?

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Lived Religious Perspectives from Kosovo's Orthodox Monasteries: A Needs Approach for Inclusive Dialogue



# **KOSOVO AND SERBIA'S NATIONAL MUSEUMS: A NEW APPROACH TO HISTORY?**

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**— LUKE BACIGALUPO**

## — LUKE BACIGALUPO

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# ABSTRACT

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This contribution analyses and compares the main exhibitions of the national museums of Kosovo and Serbia through applying a framework of juxtaposing the ‘constructed’ approaches of ‘older museology’ with the ‘constructivist’ approaches of ‘new museology’. National historiographies and the educational mission of museums in Kosovo and Serbia have long been dominated by nationalist constructions of history, here subsumed under McNeill’s concept of ‘mythhistories’. However, more recent, constructivist understandings of museology emphasise that museums should be places in which historical narratives are questioned and debated. This chapter explores the respective histories of the museums’ politicisation and the resulting understandings of the role and purposes of national museums in Belgrade and Prishtina. It asks how and whether a contemporary, critical, constructivist, museological approach could be implemented in these two museums. It takes comparative recourse to the post-socialist example of the Polish National Museum in Warsaw in order to identify the potential benefits of implementing such an approach. Overall, this study identifies several tendencies, in both museums explored, that point to a reconciling of the demands of new museology with the need to promote a national narrative, as is widely expected of ‘national’ museums. However, this process remains ambiguous and disjointed. Numerous obstacles remain, including conservative public expectations and educational culture; questions of adverse political will; mixed curatorial capacities; a general paucity of resources and, particularly in the case of Kosovo, a lack of exhibits.

# INTRODUCTION

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According to a 2012 research project into the role of Europe's national museums,

[N]ational museums were formed to build walls around communities...to establish world views through the lens of the nation...[but] As trusted purveyors of national orthodoxies, more than any other institution they have the power to re-imagine, to construct histories that build bridges between communities and nations. (Aronsson et al. 2012, 11)

This quote captures the main tension within modern 'national' museums. They were often founded to define and express a country's identity, to delineate the national community from other communities. This involved narrowing history down to a single interpretation decided upon and enforced by academic and political elites. I will refer to this as the 'constructed' view of history. Meanwhile, as important state institutions, national museums are increasingly being called to bring people together, to be inclusive, rather than exclusive. This requires taking an alternative approach to history that seeks to challenge assumptions, reveal hitherto silenced stories, and allow space for individuals to form their own interpretations. For its critical awareness of how single, hegemonic national narratives are forged, this can be summarised as a 'constructivist' approach.

This dichotomy between 'constructed' and 'constructivist' approaches draws from the critical pedagogy of Joe L. Kincheloe (2005), who emphasised the contingencies of shared worldview, values, knowledge productions and its transfer across generations from wider structures of power and interest. Accordingly, through educational knowledge transfer (here: in a museum), specific constructions of past and present become culturally internalised to such an extent that alternative ways of seeing the world become omitted and lost. It is the constructivist's task to critically analyse and reveal these dynamics.

Kosovo and Serbia offer fascinating examples to examine this distinction between 'constructed' and 'constructivist' approaches, because both of their educational systems have very well-established, constructed historical narratives (Gashi 2016; Kolstø 2005). The two prevailing national narratives are very different, even mutually exclusive, and they are both used to claim ownership over Kosovo's territory. These differing narratives have a strong influence on people's collective understanding of identity and associated territorial entitlements, and they have been used in the past to stoke confrontation between Albanians and Serbs. The museums offer a relatively up-to-date perspective on the currently still prevailing dominant historical narratives; the National Museum of Serbia because it only reopened in late 2018 after having been closed for 15 years, and the Kosovo Museum because its main exhibition was freshly renovated in early 2018.

In both Kosovo and Serbia specific interpretations of history have been promoted by governments through educational means. Much of public history remains wedded to a national, constructed interpretation, as studies of school textbooks have shown (Gashi 2016; Di Lellio et al. 2017). Museums represent an understudied aspect of this wider apparatus. They are usually state institutions and so tend to fall into line with the government's preferred historical narrative. As such, it is not surprising that museums in Serbia and Kosovo had tended to follow a constructed approach to history. Meanwhile, the push to adopt a more constructivist approach has for the most part come from external actors such as the EU, who are keen to use trusted bodies like museums to create space for reconciliation processes between nationalities and nation states and nurture greater cooperation. Museums and other aspects of cultural heritage policy thus face a tension between the universalist values promoted by international organisations and the national discourse often endorsed locally (Pasamitros 2017).

The aim of this study is to examine the prospects for moving beyond a constructed approach to history in the national museums of Kosovo and Serbia and towards a more inclusive, critical-constructivist approach, towards building bridges rather than walls. To do this, I will begin by providing an explanation of how the constructed and constructivist approach to history are expressed through museology; the dis-

cipline of how museum exhibitions are developed. Then I will briefly explain some of the main obstacles to implementing the constructivist approach in museums in Kosovo and Serbia. I will account for the political factors that have supported the prevalence of constructed histories in the two territories. On the basis of research conducted in Summer and Autumn 2019, I will share selected insights of the influence of both constructed and constructivist narratives in these two museums. Finally, I will explore the benefits of moving towards a more constructivist approach and the conditions necessary for this to occur.

This study is based on four in-depth, theme-guided, semi-structured and open, expert interviews and several informal conversations as part of wider ethnographic immersion in Belgrade and Prishtina during the period July to September 2019. All interviews were conducted in confidentiality, and the names of interviewees are withheld by mutual agreement.<sup>1</sup> This was supplemented with a desk review of literature focused on museology and the history of the two museums during the same period. The main museum in Belgrade is called the National Museum, Belgrade, (in Serbian *Narodni Muzej, Beograd*). For clarity, I will refer to it as the National Museum of Serbia. The museum in Prishtina does not actually contain the word 'national', but is formally known as the Museum of Kosovo or Kosovo Museum (in Albanian *Muzeu i Kosovës*). However, the museum's own Facebook page refers to itself as the 'National Museum of Kosovo'.<sup>2</sup> It is the main museum in the capital city of Prishtina and it is dedicated to the history of Kosovo. I believe it is fair to call it a 'national' museum. Following the formal terminology, it will be called the Kosovo Museum in this paper.

It is necessary to outline some methodological limitations to this study. I am based in Belgrade so I have been able to make many more visits to the National Museum of Serbia, than to the Kosovo Museum; I was limited to one visit to Prishtina in September 2019, only. In addition, the National Museum of Serbia is an older, better-established institution with a much larger collection than the Kosovo Museum, and

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1 The interviews were conducted under standard, international guidelines for academic research ethics to which the 'Building Knowledge about Kosovo' project, under the auspices of the Kosovo Foundation for Open Society, subscribes.

2 See website of the Kosovo Museum (in Albanian), <https://www.facebook.com/museumofkosovo/>

so there is far more literature available to me and my analysis. As a result, there is a certain bias in terms of quantity and quality of analysis towards the National Museum of Serbia.

In the following sections I will explore how the constructed and the constructivist approaches manifest themselves in museum exhibitions, both, in general terms and in terms specific to the two museums' exhibitions. I will begin with providing some background the constructed approach as it has dominated national museums since the 19<sup>th</sup> Century.

## THE CONSTRUCTED APPROACH AND OLDER MUSEOLOGY

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A 'constructed' approach to history consists of presenting one particular interpretation of history as 'the truth' and dismisses all others as inaccurate. The prevalence of this approach is often a result of the fact that propagating the single historical narrative serves a useful purpose for people in power. To take Kosovo and Serbia as examples, the established historical narratives have been promoted to serve the purpose of nation-building. Museums designated as 'national', or museums of the nation were often founded in Europe during the 19th century, a period marked by the spread of romantic, Herderian ideas of national identity and its cultural-primordialist underpinnings to South-Eastern Europe (cf. Raffler 2007, 141-142; Sundhaussen 1973). National museums of this type often served the political purpose of constructing the existence and ethnogenesis of a distinct people by archiving and displaying artefacts, serving as evidence, in a chronological manner. They have often been characterized as 'temples' or 'shrines' to the nation that reproduced and affirmed primordialist, historical mythologies in order to strengthen a sense of belonging to a specific nation state.

To this day, national museums tend to fulfil a specific role within society that is different to other museums. Usually a national museum is expected to:

celebrate the nation or has to convey security and identity to the citizens, even pride. In general, a national museum must allow an easy acceptance of the past and a positive view of the glorious forefathers. Dark sides of the nation's history are concealed since they may accuse the behaviour of past politicians and rulers. Very often there is few or even no space at all for other views. (Schrärer 2012, 38)

Prior to the 1970s, museums worldwide tended to implicitly endorse this constructed approach, even if it was not immediately clear. Museology as a discipline was primarily concerned with the techniques required to preserve and archive historical items. This form of museology rested on the idea that by applying empirical, scientific methodologies to museum collections, they could present an objective and 'true', non-political perspective on history.

In practice, this led to exhibitions that prioritised the needs of curators over those of visitors. Artefacts were categorised in an archival way that made sense to curators, but not necessarily to people who did not have their training. The museum's educational mission still rested on a hierarchical idea of expert knowledge held by the curators. Usually little effort was made to explain to the layman what they were seeing and why it was considered significant. Objects were left 'to speak for themselves' and text or other methods for explaining exhibitions were rarely used. Chronological exhibitions that culminate with the present day were the norm. According to museologists Mareović and Edson, such exhibitions tend to reinforce the idea of a single, true historical narrative that is not only correct but inevitable and, hence, constructed accordingly (1998, 85-86).

Far from being neutral, this form of presentation is generally considered to have reinforced the status quo because it tended to reproduce the values of the educated elites at the time. As Bob West has put it, the role of the curator as the arbiter of value with a supposedly objective, scientific rationale in practice suggests:

a lack of democracy in the process of ascribing meaning and value, where the process itself is hidden from the public gaze or informed by dominant codes of significance. These, unless stated otherwise, invariably favour the privileged classes and anti-progressive accounts of history, with their blindness to class struggle, gender inequalities, and racist legacy of Empire (West 1988, 49).

## THE CONSTRUCTIVIST APPROACH AND NEW MUSEOLOGY

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A constructivist corrective to the traditional national museum could be summarized as: “No heroic and glorious narrative. No narrative making things seem better! Present also dark sides, conflicts and the like.” (West 1988, 49) The development of constructivist approaches to history since the 1970s has been reflected in what is known as ‘critical museology’ and ‘reflexive museology’ among other terms. For ease of understanding I will use ‘new museology’ as a catch-all term to describe these varied but similar, conceptions of museology. New museology questioned museums’ claims to objectivity, arguing that they in fact communicated a reality that was only valid to the privileged groups who created and curated museums (Padro 2013). Rejecting overarching narratives, new museology contends that all history is ultimately an interpretation of a limited set of facts regarding the past – i.e. there is no single, true narrative that museums should be communicating. It is constructivist in that it recognises, as Anthony Shelton has put it, “[e]very history is a constructed fiction and every fiction has its own history” (Shelton 2013, 10).

Reflecting the rejection of the possibility of objectivity, new museology also calls for visitors to be made aware of the artificiality and subjectivity, i.e. the constructed character, of museum displays. Exhibitions and displays should be credited to the author or curator, rather than to the institution itself because the latter suggests that the interpretation of history being presented is generically valid and definitive, rath-

er than being just one possible interpretation. It demands that history be displayed differently to traditional chronological displays that give an impression of an on-going story. Displays should reflect the fact that 'history is not unitary or unified, but is constructed in distinct ways by different societies. Neither is history necessarily linear nor cumulative' (Shelton 2013, 9).

Cultural historian Charles Saumarez Smith summarized the following key practical principles of new museology in regard to museum displays:

[T]hat there should be a mixed style of presentation; that there should be a degree of audience involvement in the methods of display; that there should be an awareness of the amount of artificiality in methods of display; and that there should be an awareness of different, but equally legitimate, methods of interpretation. (1989, 20)

As can be seen from this definition, new museology requires many varied practical changes from museums. A 'mixed style of presentation' can include the introduction of new technology to the museum exhibits in order to support their critical educational aims. Audience involvement can mean outreach programs and introducing children to the museum. New museology also demands that museums play a new role in society. In 2019, the International Council of Museums (ICOM) called for museums to be "democratising, inclusive and polyphonic spaces for critical dialogue about the pasts and the futures" (ICOM 2019). This is a long way from the collection of plain display cases that let the artefacts 'speak for themselves' within a set homogenous narrative, which the older museology tended to endorse.

# NEW MUSEOLOGY – IDEALISM OR OPPORTUNITY?

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A complete overview of the state of museology in Kosovo and Serbia is beyond the scope of this paper. Nevertheless, I believe it is important to briefly acknowledge some of the difficulties that new museology has and will face in the case studies explored here. Museums have been a long way down the list of priorities of the governments in Kosovo and Serbia for many years. The 15 year closure of the National Museum of Serbia's permanent exhibition is a testament to this. Kosovo's National Museum did not gain an official statute to replace the Yugoslav one until 2018, ten years after Kosovo's Declaration of Independence (Maxharraj 2018). This neglect has starved both of these museums of expertise and resources. In addition, a lack of long-term planning at national, local and institutional levels during the 1990s meant that innovation relied entirely on the initiative of individual museum staff members (Krivošejev 2011, 307), which resulted in an 'anarchy of the museum practices' (Manojlović Pintar and Ignjatović 2011, 787).

Even where attempts are made to introduce new museological approaches, the public might not yet be ready to accept these. For example, an attempt to introduce children to the Kosovo Museum through interactive activities had resulted in the initiative being disregarded in some media reports as turning the museum into a kindergarten. This suggests that expectations of the museum as an authoritative, elite-led institution of education remains culturally engrained. Similarly, a temporary exhibition that aimed to recreate the feelings, sights and sounds of the 1997 women's marches in Kosovo encountered resistance both from museum staff and the leaders of the women's movement due to its lack of focus on the leaders of the movement. These examples demonstrate that the tendency towards elitism and supporting constructed narratives in museums is not completely a simple top down process: the public often expect this from museums, and perhaps especially from the national museum.

Reluctance to move away from traditional museum exhibitions that reinforce constructed narratives is not unique to the Balkans. Even in the United Kingdom, in which museums have gone further than most other countries in implementing the new museology, it has been “a slow process rather than a revolutionary one” that has often struggled with an “in-built resistance to change” (Ross 2015, 97).

A further complication is that the new museology has not coalesced into an agreed, concrete way of organizing museum exhibitions, which makes it difficult to implement, regardless of local conditions. Expert in museum education J. Pedro Lorente observed that “it is principally in universities that the locution ‘critical museology’ has been branded” (Lorente 2015, 117). It is telling that the various terms for the new museology were not developed within museums, but in universities. Across the globe, new museology has a far more active existence in academic literature than in actual museum exhibitions.

Nevertheless, new museology offers numerous new opportunities to museums in Kosovo and Serbia. Older museology can hamper smaller museums in countries that have not been as wealthy, historically, as Western Europe, because they cannot compete with world-famous collections on the same terms. So it makes sense to redefine the terms, to re-imagine what a museum can be. This can mark out smaller, poorer museums from their wealthy counterparts and thereby help to attract more visitors. Other museums have implemented the new museology to great success. This was demonstrated in the case of the National Museum in Warsaw. Faced with falling visitor numbers, curators Katarzyna Murawska-Muthesius and Piotr Piotrowski implemented new museological ideas because “the museum was unable to compete with the world’s largest museums in terms of its number of ‘masterpieces’, the only possibility was to propose an original conception of the museum institution” (Piotrowski 2015, 138).

Apart from the financial incentive, Murawska-Muthesius and Piotrowski also believed that the new museology could make the National Museum more relevant to society at large. Thus,

instead of continuing the traditional model of the ‘national’ institution, serving the ‘nation’ in the nineteenth-century understanding of the term, [their] aim was to turn the museum into a critical agent within the cultural sphere, an institution capable of taking a stance on the key issues...an active actor in a process of developing democracy’ (Piotrowski 2015, 137).

They believed that that the traditional conception of a national museum was no longer relevant, “in order to play an important role in society, the museum should no longer be recognized primarily as a national shrine or a temple of art” (Piotrowski 2015, 139). Their stance was that the national museum should change its practices because society has changed. They realised that the National Museum could and should play an important role in Poland’s democratisation by encouraging critical thinking, especially towards the past. The development of a democratic society requires citizens who are able to think critically, in contrast to previous authoritarian regimes that demanded loyalty to the party line.

The National Museum in Warsaw also provides a rare example of new museology being applied wholesale to a museum, thus demonstrating how it can be translated in practical terms. For example, an action called ‘Interventions’ moved exhibits into different areas, placing new artworks alongside old ones and vice versa. This relatively simple action achieved many of the principles of the new museology. By mixing past and present, it was a “challenge to the ‘linear’ approach to art history” (Piotrowski 2015, 140). In addition, it drew public attention to the fact that museum staff make decisions on how objects are presented. The artificiality of the standard categorisation was revealed. It was intended to stimulate visitors to think about how exhibitions are constructed and what a museum exhibition is.

In another example, for an exhibition called ‘Ars Homo Erotica’, the curators arranged historical artworks from the permanent exhibition and items from the museum’s depot, some of which had never been put on public display. They were selected in order to demonstrate that homoerotic imagery and aesthetics have been a crucial part of European High Art of all periods (Piotrowski 2015, 142). This exhibition on a very controversial topic in Polish society allowed the museum to put forward a thesis and be

an active participant in on-going public debates. It displayed the museum's own items in a new way, thereby demonstrating to the public that the collections themselves do not determine the exhibition; the curator does so in a subjective manner. This example of the National Museum in Warsaw demonstrates that applying a constructivist approach to history through the new museology is not only possible, but often desirable. It allows museums to engage more directly with the public, and foster critical thinking, but it also has financial benefits. Making museums more relevant and responsive to current issues can, in turn, bring more visitors and more money.

## THE POLITICS OF NATIONAL HISTORIES AND MUSEUMS IN KOSOVO AND SERBIA

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In the introduction, I claimed that constructed views of history have often been promoted by the governments of the region. This statement might seem a generalisation, but one that is largely supported by the history of the two museums. In this section I will detail how the two museums' exhibitions have frequently been defined by political considerations, from their inception in the 19<sup>th</sup> century onwards. As discussed above, the National Museum of Serbia was founded for purposes of nation-building in context of the wider European national emancipation movements of the 19<sup>th</sup> century. Founded in 1844, it defines its role, through history and today, as "an institution of protection but also as a scientific and research institution that **constituted the national identity**... [It] soon grew into **an official representative of the state and the society**" (National Museum 2018; emphasis added).

However, rather uniquely, the National Museum of Serbia has had to serve as a 'shrine' for several different regimes of nationhood. When Serbia became a part of the Kingdom of Serbs, Croats and Slovenes in 1918, the museum adapted accordingly. It included more exhibits from other regions of the country, though Serbia remained the most represented area (Subotić 2011, 15-56). Furthermore, the museum

gained royal patronage and merged with the Museum of Contemporary Art in 1935 to become the Prince Paul Museum. An avid art collector, Prince Paul of the Serbian Karađorđević dynasty, which reigned in the Kingdom of Serbs, Croats and Slovenes endowed the museum with a large art collection.

The Yugoslav Communist regime, installed in 1945, then left an interesting legacy that affects the Serbian national narrative that is presented in the museum to this day. The authorities removed relics from the First and Second Serbian rebellions against the Ottoman Empire from the National Museum's collections. They did this in order to establish a separate museum dedicated exclusively to these rebellions. This new museum, which would later become the History Museum of Serbia, was founded to ensure that these rebellions were firmly placed into a wider Marxist interpretation of history, rather than a Serbian nationalist one (Bojković 2013, 34). Even today the permanent exhibition of the National Museum contains no historical artefacts from the First and Second Serbian uprisings, and the only artefacts from after the Ottoman conquest of Serbia are artworks.

The Kosovo Museum was founded in 1949, much later than the Serbian National Museum. It thus, originally, served another guiding ideology, that of the Yugoslav Communist regime. Rather than questioning the validity of overarching historical narratives, the regime replaced the prevailing national narratives with the hegemonic narrative of 'Brotherhood and Unity', aimed at pre-empting segregationist tendencies among the different communities of Yugoslavia. It elevated the anti-fascist struggle of the multi-ethnic communist partisans in World War II to the foundation of the state. Simultaneously, a Marxist interpretation of class warfare was transposed onto all modern history. Yugoslav museums were designed to exhibit "participation in the national liberation struggle and the building of socialism in the homeland" (Dobronić 1955, cited in Krivošejev 2011, 30). The Kosovo Museum's expressed purpose of 'educating the masses' (Morina 1975, 32) explains the topic of its temporary exhibitions under Yugoslav governance. These included the national liberation struggle in Kosovo, the worker's movement and the lives of Boro and Ramiz – Serb and Albanian partisans whose choice to die together was glorified by the Yugoslav authorities as an example of Brotherhood and Unity.

The collapse of Communist Yugoslavia in 1990s, saw the disintegration of the all-encompassing Yugoslav historical narrative in both Kosovo and Serbia. It was replaced by new constructed narratives that were frequently nationalist in character. Sociologist Todor Kuljić branded these new narratives as 'Anti-anti-fascism', so hostile were they to Yugoslav interpretations that idealized the multi-ethnic partisans' fight against Nazi forces (2012). The Communist narrative was disregarded in its entirety. Anthropologist and museologist Tijana Jakovljević-Šević's explains how the changing of historical narratives for political reasons affected museology in Serbia:

The changes that have swept the world museology and ethnology have left ethnographic museology in Serbia unaffected, and then the already slow progress of change was followed by the events of recent history. They affected the whole society, including the museums and ethnographic museology, in the form of a process of retraditionalization, efforts towards the establishment of a continuity with the past, the forgotten customs. (Jakovljević-Šević 2014, 150)

The period of Communist Yugoslavia was increasingly portrayed as an exception, a period of disconnection from the true nation, and the new era was declared to be a return to more traditional values, and to older 'mythhistories' (see below). Despite these upheavals, the importance of the National Museum of Serbia as a representative of the Serbian nation had remained relatively intact. According to the Belgrade scholars Manojlović Pintar and Ignjatović, "[t]he official role of the museum as the national institution responsible for collecting, displaying and interpreting the culture of 'Serbia and the region' has not changed since the nineteenth century" (2011, 788). Following the collapse of Yugoslavia, Serbian governments have fostered the re-emergence of the national museum's role as a guardian of Serbian culture. This was evident, for example, when Prime Minister Ana Brnabić declared that the museum's 15-year closure represented 'cultural genocide' (N1 2018).

The current main exhibition in the Kosovo Museum, meanwhile, strongly represents Kosovo's on-going bid to be recognized as an independent state. A large amount of space is dedicated to the NATO campaign against Yugoslavia in 1999 and the mili-

tary struggle of the Kosovo Liberation Army (KLA). Furthermore, pride of place is given to Kosovo's 2008 Declaration of Independence. This is very recent history to be displayed in a museum. Its inclusion demonstrates that the museum's exhibition reflects current political issues in Kosovo – it is representing what are currently considered the most important events in the construction of national history.

The way that the historical narratives given in the two museums have been determined by different regimes and changing political contexts confirms the constructivist observations of two representatives of contemporary museology, Aronsson and Elgenius. They contend that national museums' distinct purpose means that they should "be analysed as manifestations of cultural and political desires, rather than straightforward representations of historical or national 'facts'" (2014, 2). In the case of Kosovo and Serbia these 'desires' clearly often consist of a need to reinforce particular, constructed historical narratives that arise within the contemporary context.

## Mythhistories

Both Kosovo and Serbia have well-established 'mythhistories', formulated in the 19<sup>th</sup> and early 20<sup>th</sup> centuries. 'Mythhistory' is a constructivist concept coined by US historian William H. McNeill (1986), which acknowledges the group-constitutive functions of shared narratives yet also their fallibility and subjectivity, hence the constructed character, of historical and all supposedly scientific 'truths'. This concept has been previously applied to narratives aimed at constructing a distinct national identity among Albanians (Schwandner-Sievers 2002, 12) and Serbs (Aleksić 2007). Mythhistories have served to justify the creation and continued existence of Albanian and Serbian nation states since the time of the Ottoman Empire's decline. These constructed mythhistories can be found in history textbooks and have often also been perpetuated through educational institutions such as museums.

Having been formulated for the same purpose of justifying the existence of ethnically-defined nation states, it is perhaps not surprising that there are significant similarities in form between the two sets of mythhistories, although in content they are diametrically opposed (Semić 2017). Both emphasise the ancientness of their ethno-national

settlement in the Balkan peninsula and thereby claim the right to ownership of the land. For Albanians, this takes the form of a claim that Albanians are the original, inhabitants of the Balkan peninsula while postulating ethno-cultural continuity from times immemorial. For Serbs it has meant that many of the surrounding ethnicities including Bosnians, Croats, Montenegrins, Macedonians, and – in what is known as the *arnautaš* thesis - also Albanians, are in fact Serbs who converted from Serbian Orthodoxy and/or assimilated into other cultures (e.g. Bogdanović and Isaković 1985). By the same token, many areas of the Balkans are seen as having been 'Serbian' in character for centuries. Albanian and several international authors have long challenged these types of claims regarding the territory of Kosovo (e.g. as assembled in Di Lellio 2006).

Both sides also stress the unity and purity of their respective ethno-national group. For Albanians, a mythistory of prior origin, ethnic purity and cultural continuity suggests that they have gone through history unaffected by foreign influences and people, always remaining as 'true' Albanians (Malcolm 2002). According to another important myth of religious indifference, religion has never been important to Albanians; instead they were always dedicated to 'Albanianism' (ibid.). Similarly, Serbs entertain the myth that the Serbs are an exceptional people whose uniqueness qualifies them for their own nation state (Antić 2005). Both of these mythhistories have been used as a counterbalance to Yugoslavism. Finally, both nationalities have a history that stresses the idea of a permanent struggle throughout history. In the Albanian case, this means that the Albanians always fiercely protected their identity from foreign invaders (Malcolm 2002, 81-84). For Serbs, it consists of the *antemuralis* myth of defending Europe against the destructive, encroaching influence of Islam since the medieval period (Antić 2005). The medieval Serbian states and the Battle of Kosovo in 1389 are key parts of this myth.

These mythhistories retain a strong influence in Kosovo and Serbia today. Much public history-writing and educational textbooks still broadly conform to these ideas, rather than questioning them (Gashi 2016; Di Lellio et al. 2017; Semić 2017). In other words, a constructed rather than a constructivist approach to history remains commonplace. Museums, too, have been used to advance the constructed mythhistories discussed. For example, when the National Museum of Serbia was reopened to great

fanfare in 2018, the Serbian government decided to hold the event on Vidovdan, the sacred day of remembering the Battle of Kosovo. Serbian leaders have used the symbolic significance of this day for political purposes for centuries. On this date in 1876 Serbia declared war on the Ottoman Empire; Archduke Franz Ferdinand was assassinated in 1914; and in 1989 on the 600<sup>th</sup> anniversary of the Battle of Kosovo, Serbian President Slobodan Milošević gave a speech at the site of the battle that is often interpreted as a key event in the eventual dissolution of Yugoslavia. Ivan Čolović, a Serbian critical-constructivist anthropologist, commented that the museum “is in effect defined as a kind of new Vidovdan temple... this announcement [that it will be reopened on Vidovdan]... makes me think that it will be some new shrine of Serbian national identity, more precisely the heroic dimension of Serbian culture” (Čolović 2018). In other words, it will conform to Serbia’s mythistory and the 19<sup>th</sup> century role of a national museum as a shrine to the nation.

Similarly, the Kosovo Museum has also been used for political statements that invoke the mythistory of the eternal struggle of the Albanians. Speaking at a temporary exhibition about guerrilla fighter Adem Jashari, Kosovo’s Minister of Culture Kujtim Gashi linked this aspect of the Albanian mythistory to the conflict of 1990s by stating that the exhibition is there “to remind us, of the painful past of our people, the sublime sacrifice of the legendary commander Adem Jashari... The KLA war woke up the pride of the Albanian world wherever they lived and operated” (Ministry of Culture, Youth and Sport 2018).

## Contemporary Politics

The current political relations between Kosovo and Serbia are mostly defined by Serbia’s refusal to recognize Kosovo’s independence. National mythistories and the two museums are often used to serve contemporary political aims. Re-opening the National Museum of Serbia on Vidovdan did not just reinforce Serbia’s mythistory, it was also an explicitly political act by the Serbian government. It symbolically affirmed Serbia’s claim to ownership of the contested territory of Kosovo. The inauguration ceremony thereby served to link the prevailing mythistory of Serbian identity to the present political situation regarding Kosovo.

The Kosovo Museum's collection is itself defined by the ongoing political dispute between Kosovo and Serbia, with the latter refusing to recognize the independence of the former. A large number of the Kosovo Museum's artefacts from the classical, post-classical and medieval periods were displayed in an exhibition in Belgrade in 1999 and never returned. This has weighed heavily on the museum's identity since. It is for this reason that the main exhibition of the Kosovo Museum is called a 'base exhibition' rather than a 'permanent exhibition'. This suggests that the exhibition will be improved and expanded in the future and that it is not finished and or complete. Until recently, visitors were offered free postcards which had one of the missing artefacts pictured and a text that read, "We have to return to where we belong. Your help needed! More than a thousand pieces of Archaeological and ethnological collection of the Museum of Kosovo recollected in 1999 by the Serbian authorities to Belgrade" (Zubkovych 2017 s.n.). The museum's Facebook page still states that "Museum of Kosova haves [*sic*] a rich collection of prehistoric objects uncovered in Kosovo – most of them were spirited off to Belgrade, and hundreds of archaeological finds and ethnographic items yet have to be returned." <sup>3</sup>

This is just one example of how cultural heritage is extremely politicised in Kosovo. In 2018 it became an open diplomatic conflict when Serbia successfully lobbied against Kosovo's membership of UNESCO, arguing that the Kosovar authorities had failed to protect Serbian cultural heritage in Kosovo, especially during the anti-Serb riots of 2004. Anti-Kosovo rhetoric in Serbia often focuses heavily on the potential danger to Serbian cultural heritage. These arguments go far beyond cultural heritage of course; they are a part of Serbia's rejection of Kosovo's independence. UNESCO membership would help to legitimize Kosovo's claim to independence. Returning historical artefacts to Kosovo means that Serbia would implicitly acknowledge Kosovo's right to its own history, a separate history from Serbia's that would be expressed in independent institutions.

It is clear that the National Museums of Kosovo and Serbia have both been used to support constructed political and historical narratives. In the following section I will explore how the mythologies and political narratives are supported and replicated in

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3 See website of the Kosovo Museum (in Albanian), <https://www.facebook.com/museumofkosovo/>

the main exhibitions. I will further examine whether there is space in the museums for these narratives to be challenged, as the new museology and its constructivist approaches would demand.

## THE CONSTRUCTIONS OF THE MAIN EXHIBITIONS

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In this section I will analyse some selected aspects of the main exhibitions in the National Museum of Serbia in Belgrade and the Kosovo Museum in Prishtina to determine whether they are influenced more by older museology and support constructed narratives; or if they reflect new museology and a constructivist historical approach. Giving a complete description and overview of the exhibitions is beyond the scope of this paper. The following analyses are intended to give some insights into the museological approaches taken and observed at the time of research in 2019; this section is not a comprehensive overview of the museology of the two museums or a complete description of every aspect of the exhibitions. Nevertheless, I will give a brief description of the contents of the two museums as seen, to help to anchor the analysis that will follow.

### The Permanent Exhibition of the National Museum of Serbia

The National Museum of Serbia is situated in a neo-Renaissance style building, which was constructed in 1902-3 to house *Uprava Fondova*, one of the oldest banking institutions in Belgrade. It is located in Trg Republike, Belgrade's main central square. Immediately in front of the museum stands a statue of Prince Mihailo of the Obrenović Serbian royal dynasty. Across the road on the other side of the square is the National Theatre, which is 10 minutes' walk from the Serbian Parliament and the official residence of the Serbian President. As such, the National Museum of Serbia is located at the heart of the Serbian state.

The permanent exhibition is spread over three floors. The exhibition begins in a large hall near the entrance. The visitor is instructed to walk around the perimeter of the room, following a chronological presentation of history from the earliest signs of human civilization to the Roman period. The walls bear text and diagrams in English and Serbian that explain the artefacts on display, the themes they raise and the historical periods to which they belong. The artefacts themselves are mostly located in glass cases in the middle of the room. The exceptions are large stone objects, mostly from the Roman period including tomb stones and pillars that are kept open to the air, outside of cases. Almost all of the artefacts were uncovered in Serbia and the surrounding countries. Small side rooms located at the end of the chronological presentation contain coins and medals. They are also presented in chronological order, in effect creating a separate numismatics exhibition. The visitor is then instructed to ascend the stairs to the first floor, which contains artefacts from the post-Roman and medieval eras.

The first floor follows the same overall museological approach as the ground floor, with glass cases containing artefacts surrounded by explanatory text and diagrams on the walls. The exhibition moves through several interconnected rooms in a predetermined chronological order. However, a few of the rooms have a more specific focus than the broader historical period. For example, the town of Novo Brdo, located in Kosovo, has a single room dedicated to it, as does the family tree and artefacts from the medieval Serbian Nemanjić royal dynasty. The chronological approach comes to an abrupt end with a display of the museum's collection of religious icons. Serbia's time as a part of the Ottoman Empire, which spans roughly five centuries, is covered by two paragraphs of text on the wall. Then, Serbia's 18<sup>th</sup> and 19<sup>th</sup> Century history is summarised, also in two paragraphs on the wall, concluding with the proclamation of the Kingdom of Serbia in 1882.

The exhibition then moves to the second floor of the museum. Here the museum serves as an art gallery that displays European and Serbian paintings and sculptures from the 14<sup>th</sup> to 20<sup>th</sup> Century. Some explanations of artistic movements and the historical context of the artworks are provided on the walls, but far less than for the historical artefacts. The gallery section mostly follows the traditional approach to displaying artworks, with each piece accompanied only by a small plate bearing the artist's name

and the name of the piece. The artworks are organised in chronological order, but also according to whether the artist was Yugoslav/Serbian or from elsewhere in Europe. Drawings, graphics and sculpture are displayed separately to the paintings. Although the vast majority of the artefacts and artworks are arranged chronologically, some categories of objects are displayed separately. Apart from the aforementioned numismatics exhibition, the famous Belgrade Mummy is exhibited in a corridor on its own. It is the only historical object in the museum that does not originate from Europe.<sup>4</sup>

Serbia's mythistory becomes apparent in the museum's explanatory texts about medieval Serbian states. They draw a clear continuity between medieval Serbia and modern Serbia. References to 'present-day Serbia' present in texts referring to earlier periods are jettisoned as the medieval Serbian states are referred to simply as 'Serbia'. For example, on explanation reads: "In these new circumstances, Serbia received a certain degree of independence...Bosnia, hitherto a part of Serbia, would not begin to develop independently until the next century" (Bendžarević et al. 2018, 76). Maps show the extent of 'Serbian lands', which are far larger than the territory of modern Serbia. However, the diversity of cultures, including Greeks, Albanians, Bulgarians and others that existed within these borders is rarely mentioned.

Kosovo holds a prominent place in the exhibition. A whole room is dedicated to artefacts from Novo Brdo, a town located in Kosovo. The title of the exhibition is 'Development of the Serbian Town, Novo Brdo' (Bendžarević et al, 2018, 103). Taking one example to examine the development of towns in medieval Serbia is legitimate, but no mention is made of the fact that the town is now located in Kosovo and inhabited by both Serbs and Albanians. It could be argued that this is irrelevant, but in using the phrase 'Serbian town', the town is already being imbued with a nationality.

The mythistorical concept of a Serbian struggle against Islam is also clear in the text. Prince Lazar Hrebeljanovic is described as having had a "martyr's death in the Battle of Kosovo, in 1389" (Bendžarević et al. 2018, 106), while an exhibition of icons notes

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4 The Mummy was purchased by wealthy nobleman Hadži Pavle Ridjički in Luxor, Egypt. He gifted it to the National Museum in 1888.

that “Icons in the Italo-Cretan style are found in both Orthodox Christian and Catholic Churches...these icons were a common denominator when the time came to unite Orthodox and Catholic believers against Islam” (Bendžarević et al. 2018, 116).

Notably, the 2018 renovation of the National Museum of Serbia did not change the mostly chronological categorisation of the exhibits in any way. The same artefacts have been arranged in the same order and categories since 1956, and possibly since even earlier: this is evident from multiple editions of the museum’s guidebooks that give floor-plans and detailed accounts of the contents of the permanent exhibition (Petrović 1952; Kolarić 1970; Bendžarević et al. 2018). It is therefore unsurprising that the new museology is not evident in the categorisation of the artefacts, as it has remained the same since before the new museology was formulated. Given this, it is also unsurprising that the national mythistory has gone unchallenged, despite the museum's recent renovation.

## **The Base Exhibition of the Kosovo Museum**

The Kosovo Museum is a renovated building of late Habsburg imperial style. The building was originally constructed by the Austro-Hungarian Empire as a barracks for a Turkish military division posted in Prishtina. It is situated in the old town centre, near the great mosque. Just like the National Museum of Serbia, it stands in the centre of the capital city, within walking distance of the parliament, illustrating its perceived national importance. The first sign one sees upon entering the museum is a large sign indicating that the room directly ahead contains artefacts from ‘Ancient Dardania’. This part of the exhibition contains a collection of objects, including vases, tools, sarcophagi and statues, ordered chronologically from prehistoric to medieval times and showcased behind glass. The period covered begins with early human civilization and finishes at the medieval period.

The 19<sup>th</sup> and 20<sup>th</sup> century part of the exhibition is located upstairs. A large picture of Mother Theresa, an Albanian from North Macedonia, composed entirely of staples looms over the stairs. The first item from the stairs is a projector that displays oral histories of Kosovo. Following this display, the room opens up to reveal a collection of

items that is notably militaristic - many of the artefacts on display are swords, guns and other weapons. The Ottoman period is represented exclusively through weapons and one example of traditional dress. The 'weapons of Albanian fighters' from the armed conflicts of the late 19<sup>th</sup> century and early 20<sup>th</sup> century are displayed. There are also a collection of Albanian language newspapers and pamphlets from the early 20<sup>th</sup> century. Additionally, there is also a very small ethnographic section in a side room containing an example of traditional dress, three lyres and a traditional chest.

Much of the first floor is dedicated to the KLA and the NATO intervention of 1999. A large proportion of the exhibition consists of uniforms and weapons used by the KLA and NATO, including guns, shells and other equipment such as maps and satellite phones. Personal possessions of important figures in the conflict, such as KLA guerrilla Adem Jashari and former US Secretary of State Madeleine Albright are displayed. The same type of display is given to Ibrahim Rugova, the first President of the self-declared independent Kosovo. The glass case contains objects including his glasses and his typewriter. In addition, there are two displays that demonstrate Kosovo's statehood: a collection of Kosovo's stamps since 2008 and a side room that contains the 2008 Declaration of Independence surrounded by flags of the countries that have recognized Kosovo.

The main exhibition does not provide any guiding, textual narrative for visitors. The items are only accompanied by labels that indicate what they are and what time period they are from – Prehistory, Antiquity etc. This represents an older museological approach, which as explained earlier, tends to support narratives constructed by elites imbued with hierarchical authority who go unchallenged over their representations of history.

The artefacts are usually accompanied in their glass cases by simple paper print-out labels that describe the objects. One display case containing assorted weapons and a syringe is labelled "Evidence of Serbian violence, small arms, spears, syringes, traces of rape, etc." The two labels for Adem Jashari's personal items, his motorcycle and his hat, are punctuated with exclamation marks, for example "Motorcycle of the Legendary Commander, Adem Jashari!" The presentation of everyday items might suggest the influence of new museology. Many objects not previously considered

worthy of preservation are now being collected by museums to ensure that everyday life is given equal weight to events traditionally considered important by political and intellectual elites. However, displaying the possessions, one might say the 'relics', of a martyr to the national cause serves to reinforce the national mythistory, as much as it elevates the position of everyday objects. This evidently constructed, partisan approach to a recent traumatic past stands in opposition to new museology and constructivist approaches to history.

The chronological approach of the Kosovo Museum has a direct aim in line with ethno-national mythistory described above. It begins with 'Ancient Dardania', a reference to the idea that the Albanians are the direct descendants of the pre-Roman inhabitants of the Balkans who lived in the ancient Kingdom of Dardania. As mentioned above, the exhibit then skips ahead to the 19th and 20th centuries, with the largest part of the exhibition dedicated to the KLA, the NATO intervention of 1999 and the 2008 Declaration of Independence. The chronology draws a straight line from Ancient Dardania to the modern state of Kosovo. Dardania reinforces the idea of the ancientness of the Albanians; the focus on the KLA and NATO references the idea of an ongoing national struggle; with the Declaration of Independence suggested to be its culmination. Meanwhile, periods that challenge the Albanian mythistory, such as the accommodation of Albanians within the Ottoman Empire and medieval Serbian rule over Kosovo, are almost entirely ignored.

It is important to note that the exhibition of the Kosovo Museum is officially considered to be an unfinished 'base' exhibition, and so does not pretend to be final or complete. Apart from the 1999 loss of exhibits, the current arrangement of the remaining and new objects in the museum might also be due more to a lack of capacity and resources, rather than a result of any specific museological approach. Arguably, the sparseness of both the exhibits and the text currently in the museum could be used to its advantage in the future – it is almost a blank canvas onto which a new museological approach could be inscribed.

The exhibitions (artefacts and labels or texts) in both Belgrade and Prishtina are arranged mostly chronologically. As noted previously, chronological exhibitions tend

to serve the purpose of national identity-building by reproducing mythologies of ethno-national origins, priority and continuity. They are usually associated with older understandings of museology. They have been criticised, also, for their evolutionist epistemology: giving the visitor a sense of constant progress and implying that the present day is the natural culmination of what has gone before. Nevertheless, it is important to note that chronological exhibitions remain the most common way of organizing history museums worldwide, the new museology's criticisms notwithstanding. Kosovo and Serbia are far from alone in keeping to a chronological approach.

## INFLUENCE OF THE CONSTRUCTIVIST APPROACH OF THE NEW MUSEOLOGY

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Despite the findings presented above, neither museum is completely unaffected by contemporary museological approaches. In the National Museum of Serbia, this is evident in several texts accompanying the exhibits outside of the medieval period. These clearly show the influence of the new museology and its mission of critical education. In some cases, the reader is directly challenged. For example, a section on the late Neolithic Vinča culture asks “Were there tensions between Vinča communities? Did the inhabitants of one settlement threaten their neighbours’ stability? How did everyday tasks influence the position of individuals and groups? Did a gender division of labour exist?” (Bendžarević et al. 2018, 33). Some of the text also seems set on correcting some misconceptions about certain narratives. For example, under the title “They Conquered, they Changed, they Combined” it is stated that “In Roman times, the populace of the provinces occupying present-day Serbia was comprised of **natives and immigrants**...Romans were not a homogenous group” (emphasis in original).

As the exhibition moves into the Middle Ages the commitment to explaining a variety of different areas to the public is maintained – religion, architecture and agri-

culture and other diverse topics are explained in a relatively simple way. Texts are also accompanied by maps and diagrams to aid understanding. Further on, the texts accompanying the art pieces make an effort to relate the artworks to wider historical developments. For example, the following interdisciplinary and critical historical explanation illustrates the constructivist influence of the new museology:

The rekindled interest in the culture of Antiquity...as well as the phenomenon of the scientific approach led to a comprehensive transformation in the art and culture...Art was still dominated by sacred themes, but the manner of representing them was now much closer to the notion of man whose self-awareness and individuality suddenly flourished in the period (Bendžarević et al. 2018, 128).

As described above, in the case of the Kosovo Museum, a contemporary, critical historical exhibition on everyday women's resistance in 1997 met with public resistance. But there are also other indications of experiments in new museology. Namely, Kosovo's museum contains a projector that is intended to show video clips of people remembering recent history, based on a collaboration with a civil society initiative called the Kosovo Oral History Project.<sup>5</sup> The idea of integrating oral history into a history museum is a very real implementation of a constructivist approach. Oral history by its very nature provides different perspectives on historical events, rather than a single narrative. It also provides an opportunity for people other than elite academics to offer an historical narrative through both the video themselves and because it is a collaboration with a civil society organisation, thereby helping to democratise historical interpretations, one of the key aims of the museology. Furthermore, the embrace of the projector as an audio-visual guide an innovative addition to the museum's otherwise very traditional display.

Overall, it is clear that certain mythstories currently remain sacrosanct and unchanged in the two museums' main exhibitions. However, there are some indica-

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5 Unfortunately, the projector was not functioning during my visit so I was not able to view the presentation. However, much of the content can be accessed online at <https://oralhistorykosovo.org>.

tions from within both museums that older museology is being challenged. Given this, future changes in the political context could conceivably see the prevailing, constructed historical narratives become more contested in Kosovo and Serbia.

## NEW MUSEOLOGY-INSPIRED IDEAS AND POTENTIAL BENEFITS OF CHANGE

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The new museology offers opportunities for the two museums to move away from the traditional role of a national museum and the constructed historical narratives that come with it. At the same time, a new museological approach that is tailored to their particular collections could help to distinguish them from other museums and even serve as examples worldwide (such as the aforementioned Polish National Museum in Warsaw). Possibly, they could redefine themselves as truly 21<sup>st</sup> Century museums which foster critical thinking and engagement with, for example, the politicisation of people's shared experiences in homogenising narratives; or tell the story of similar histories across ethnic and other dividing lines, both, nationally and beyond. In the following, I will present some ideas for new museological changes which illustrate the existing potentials in the two museums under discussion.

Serbia's National Museum cannot offer a complete historical narrative of Serbia because its historical artefacts end with medieval Serbia. But there lies great potential in its unusually large and varied art collection. Breaking down the barriers between the art and the historical parts of the museum could give the museum a very distinct character. This would also overcome the jarring transition from historical museum to art gallery that takes place from the medieval period to the modern era. This would be a less drastic change than it seems, because a significant proportion of the text in the museum highlights the links between different historical periods. For example, this is evident in this quote taken from the National Museum's explanation of developments in 18<sup>th</sup> century art:

Artists continued to travel to Italy, now primarily lured by archaeological discoveries... This newly created affinity for Antiquity... would lead to the magnification of the values and virtues of the Roman Republic, which would be reflected in art through the appearance of Neoclassicism (Bendžarević et al. 2018, 134).

One could imagine a text such as this accompanying a joint exhibition of the museum's Roman art and the existing texts on the Roman republic's values, with examples of neoclassical artwork. Such an approach would invite the visitor to consider the interplay of art and ideas across long periods of time, thus giving a much more nuanced view of the artefacts than the current chronological exhibition. Breaking out of the constraints of a chronological narrative split between art and history and embracing an approach that focuses on the relationships between art styles and ideas of different time periods would mark the museum out from many other European national museums. It would provide a new selling point for the museum.

While the existing texts guiding the visitor through the National Museum of Serbia do raise questions at some points, the main exhibition stops short of offering alternative interpretations of history. It fails to truly challenge the hegemonic Serbian mythology, especially regarding medieval Serbia. A more inclusive, new museological approach would incorporate different, including non-Serbian, voices from different historical sources. This method has been demonstrated by the Center for Democracy and Reconciliation in Southeast Europe (CDRSEE). It produces textbooks aimed to supplement national teaching materials by providing different sources and viewpoints on historical events. Taking such an approach in the museum would build on the questions that are currently asked of the visitor in parts of the text by providing them with the tools necessary to grapple with those questions.

Regarding the Kosovo Museum, it is possible that a wider selection of objects with less emphasis on military items might help to facilitate a much broader view of Kosovo's history. It would allow the museum to define Kosovo's recent history through much more than just conflict with Serbia. For example, the exhibition's erasure of non-violent struggles, apart from the display of the personal possessions of Ibrahim Rugova, underplays locals' civic capacities and the mass nature of non-violent resis-

tance (cf. Gashi 2019). This form of resistance was especially important in Kosovo, where an entire parallel education and health system developed during the 1990s, yet this is not covered at all in the museum. Addressing this topic could help reorient the museum towards promoting a more civic view of nationality and, arguably, even generate pride in civic capacities hitherto omitted.

The re-interpretation and re-categorisation of current exhibits could allow Kosovo's 'stolen artefacts' to play less of a role in the museum's identity. The importance of the artefacts to Kosovo does not have to be underplayed, but using the existing artefacts in different contexts to communicate different idea and themes would make the reduced size of the museum's collection less of an issue. The addition of guiding, multi-lingual texts or other means of communication, to the exhibition, would allow for much more engagement with and by visitors, both national and international alike. These texts should raise questions rather than offer a single interpretation of Kosovo's history in order to make for a contemporary museum which invites its visitors to think and reflect critically, rather than to reproduce the standard, hegemonic narratives. The current exhibition, which endorses Kosovo's mythstories, might appeal to those domestic audiences which require no explanation of the narrative and might enjoy the emphasis on military items, martyrdom and victimhood. However, it ignores all those to whom the national museum could be more than an exclusionary, sacred shrine to the nation. A new approach could demonstrate that national pride in Kosovo can take many forms beyond military struggle.

## CONCLUSION

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Embracing a new museological approach would necessarily mean challenging the Albanian and Serbian mythologies, in favour of a more critical approach to history. As noted previously, these sacred, homogenous narratives have been entwined with contemporary political concerns, and so political will would undoubtedly be required to facilitate a change in approach. The national museums' status as state institutions also leaves them highly susceptible to political concerns. Some interviewees expressed reservations regarding the likelihood of being given the freedom to apply new approaches, noting that such a change could face not only political resistance, but a backlash from the general public. This problem is particularly pertinent for national museums, which traditionally play an important role in defining collective national identity and symbolising the nation. Overcoming this obstacle would involve firm political support to try something new within a very traditional institution, a commitment to generate public approval, as well as requiring 'buy-in' from museum staff and administrators. In addition, the changes should be open and transparent. They should be debated in public, and museums visitors should be involved, otherwise the changes would replicate a top-down, elite-driven imposition.

My interviewees from among members of staff expressed not only an awareness of newer museological approaches, but a desire to apply them. This change would not be taking place in a vacuum, nor would it have to be driven, as I postulated in my introduction, by external, international influences. The previous section demonstrated there have already been some cursory introductions of a newer, more critical approach within both museums. In addition, both Belgrade and Prishtina have a lively artistic and civil society sectors, which have often taken it on themselves to provide alternative historical narratives and highlight forgotten histories.

In this study I have presented preliminary, indicative insights of a range of issues that require further research. To gain a better understanding of the public willingness to

embrace a new approach, surveys of museum visitors are necessary. People's willingness to experiment would probably depend on what they currently expect as the primary role of a national museum. But when people clearly understand the benefit of change, e.g. having a museum which is unique and modern in ways that interests people not just in Kosovo and Serbia but internationally, there might be few remaining reasons to object. Hence, political commitment and a good public communication strategy would be paramount. In order to fully gauge the likelihood of change, a future study would also need to closely explore the nature of appointments to museum positions and how far political considerations are involved. It would also need to look into possible demands of a new generation of young people in Serbia and Kosovo who might require contemporary exhibitions that can stand up to worldwide comparison in terms of critical contents and innovative technologies of museological education.

The question of how best to apply a critical, constructivist approach to history in museums is being grappled with across the world, not only in Kosovo and Serbia. Dialogue with other museums could bring a wealth of new ideas. The two museums would not be alone in seeking to transform themselves if they chose to pursue a new museological approach to history which will attract visitors in the future.

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The two museums would not be alone in seeking to transform themselves if they chose to pursue a new museological approach to history which will attract visitors in the future.



# **AN EXERCISE IN LEGITIMACY: KOSOVO'S PARTICIPATION AT THE VENICE BIENNALE**

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# ABSTRACT

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The Venice Biennale, one of the world's most prestigious cultural events, engages artists and states to represent their nation at an international level. This contribution demonstrates the ways in which such an event can be used to enact a novel national identity and support its international legitimacy in the case of Kosovo, a state which began to obtain official international recognition in 2008 only. It explores the role of Kosovar artists, bureaucrats and the polity, both at national and international level, in this process of generating symbolic power. Based on discourse analysis of media reports and various public utterances emanating from within the wider social and political fields surrounding four Kosovar artists who participated at the Venice Biennale since 2013, the study explores how the nation is enacted and national identity constructed, or overcome, in the fields of the arts in Kosovo. It explores the extent to which Kosovar artists occupy, or can be expected to occupy, a critical, perhaps even subversive role towards state power and national ideas. Guided by Bourdieu's (1991) and Loveman's (2005) theories of symbolic capital and power accumulation during state-building processes, the study traces the artists' intent, negotiations and enactments of their roles, as pertaining to their nation, at the Biennale. This case study thereby attempts to unpack contemporary, artistic articulations of Kosovo's national identity and artistic response to collective and political expectations of promoting legitimacy through cultural diplomacy.

# INTRODUCTION

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The Venice Biennale, founded in 1895, is known as one of the most prestigious cultural events worldwide.<sup>1</sup> It engages artists and states to represent their nation at an international level. In 2013, Kosovo formally participated in the Venice Biennale for the first time. At this 55<sup>th</sup> Biennale, Kosovo's first ever national pavilion could be found in the Arsenale, one of the Biennale's two main exhibition spaces. Since, Kosovo has participated in further three Venice Biennales. In chronological order, the artist representing Kosovo were Petrit Halilaj in 2013, Flaka Haliti in 2015, Sislej Xhafa in 2017 and Alban Muja in 2019. Originating from different places across Kosovo, these artists all have an established international reputation and experience with international exhibitions and residencies. Most of them lead transnational lives. Halilaj, who originates from Runik in the municipality of Skenderaj, lives between Berlin, Milan and Prishtina; Haliti is based in Munich, while returning to Prishtina often; Xhafa originates from Peja, studied in Italy and lives in New York; and only Muja lives predominantly in Prishtina, Kosovo, although he travels a lot.

This contribution asks, how was the first participation of a Kosovar artist and of the others that followed, in one of the most important exhibitions and contemporary art events worldwide, talked about, both locally and internationally? What do the plain utterances by the artists themselves, by various commentators in, both, local and international media, and by selected visitors at the Biennale, withhold and reveal about the ways in which meaning is being generated in public as well as in concrete social interactions, about Kosovo as a nation-state? Finally, how do these artists reconcile their individual, cosmopolitan identities with their role as representatives of a nation which is still internationally contested? How do they understand and negotiate poten-

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<sup>1</sup> We are so also grateful to Alban Muja, Flaka Haliti, Hana Halilaj, Petrit Halilaj, Sislej Xhafa for their meaningful and rapid feedback to the final version of this chapter.

tially different expectations of their role and as emanating from the different social and political fields within which they reside?

The critical literature has long thematicised the ambiguities involved in artists' relation with the state, tracing their changing role through time and space between collusion (or compliance) and resistance (or subversion) to their respective state, across the globe (e.g. Kapferer 2007; see also multiple studies assembled in Kapferer 2008). Especially in authoritarian contexts such as Stalinist-era USSR, artists must meet strict political criteria regarding what is to be disseminated to the public in order to be allowed to exhibit (e.g. Ewing 2017). Here, artists are found in the services of the state, rather than representing civil society and the independent public sphere (Kapferer 2007). Yet, while art can be manipulated to serve regimes, ideologies, and politics of the day, it can also be feared by authoritarian power holders (Ewing 2017). This is because artists hold the potential "to subvert the order of the prevailing power" (Bourdieu 1983, 325). For their potential to oppose and critique the state and its power holders, they are often seen as an asset in supporting democratization processes (e.g. Kapferer 2007, 10). Groys (2017, s.p.) reminds us that this is precisely because of the break that contemporary art made from "national cultural and pictorial traditions—the break that the artistic avant-garde effectuated at the beginning of the twentieth century." Hence, artists sought to produce a visual universal language beyond borders. However, it is not just that the contemporary art world is supposed to offer an inherent critique of the nation-state and is expected to be of a cosmopolitan character. According to Groys, as a minority in every national culture, artists tend to feel solidarity with underrepresented groups. "Art offers a public platform that allows the formulation of positions and the expression of attitudes that have no chance of attaining majority status in our current societies or of even being represented in the mainstream media" (2017, s.p.).

In the contemporary, global cosmopolitan imaginary, art seems exclusively envisaged as an alternative or subversive form of power, which introduces new ideas by creatively engaging with questions of social justice and opening up venues for critical thinking. The state, in particular where and when it promotes nationalism, thus, becomes a target which art is supposed to criticize, rather than to collaborate with.

International commentators in London, New York, or Berlin, are likely to perceive artists' collaboration with any forms of authority as problematic. Is such awareness shared by the arts community in Prishtina?

Generally, cosmopolitan attitudes tend to associate the role of the art world with offering an inherent critique of the state as well as any national constructions of statehood. Those who compose the arts scene are members of one of the categories of citizens in society from which challenges and subversions of the structures and agents of power is outright expected, including – as will be suggested - in Prishtina. But does the relation between art and state power always follow just one of these two different trajectories of either collusion or resistance? Could it be even suggested that normative, cosmopolitan attitudes in the global capitals arise from an unreflected privilege, which is that of belonging to a nation-state whose identity is not in question? Alternatively, is there, perhaps, a need for a more precise differentiation between serving the state and its authorities; or wider national, interests? Poggi (1990, 20) reminds us that, in historical European state-building processes, the state itself was once understood as a work of art, although this is now forgotten by the established nations. It has already been suggested that Kosovo, itself, is a work of art. The Slovenian artist group IRWIN issued the then-Prime Minister of Kosovo, Agim Çeku, with an NSK<sup>2</sup> passport in 2004. According to Boynik this “does not indicate that the politician from Kosovo is interested in avant-garde art, but that Kosovo itself is almost like an avant-garde artwork” (Boynik 2007, s.p.).

Because Kosovo began to gain international recognition only recently, after it declared independence in 2008, it serves as an interesting site of exploring the role of artists in co-creating and representing their nation during a time while their state is under construction still. While they live lives which might be of a cosmopolitan nature, Kosovo's internationally recognised artists have to negotiate the tension arising from a variety of expectation both at home and abroad. They face these in their role

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2 The artists' collective "Neue Slowenische Kunst (NSK)" (German for "New Slovenian Art") was established in 1984 during Yugoslav times. IRWIN is a founding member. Other members include the music group "Laibach" (1980); the performance group "Gledalisce Sester Scipion Nasice" (1983), later known as the "Kozmokineticni Kabinet Noordung"; and the design department "Novi Kolektivizem". On its website, IRWIN states that the group "is committed to the so-called 'retro-principle' which is 'not a style or an art trend but a principle of thought, a way of behaving and acting'" (IRWIN, no date).

as artists in their own rights as well as, as representatives of a nation-state. Exactly because the arts scene is one of the few social groups where a critical awareness of the challenges and necessity of state formation is expected, including in Kosovo, it is such a promising field of analysis.

This contribution aims to show that artists in and of Kosovo defy any easy, dichotomous assumptions. In the following, their potentially deliberate contribution to Kosovo's nation-building or state-building processes is under scrutiny. Are they compromising their creative independence in the services of representing the state, or are they finding more complex answers? The following sections will explore the tensions they might face, the context within which the expectations they face arise, and their conscious role negotiations vis-à-vis their selection. Before further exploring the artists' own understandings, as well as their wider surrounding's, it is necessary to share some contextual observations of the background within which this study is situated, first, as well as briefly introduce the theoretical concepts and methods, which have guided this analysis.

## **KOSOVO'S CULTURAL DIPLOMACY AIMS FROM ARTIST, OFFICIAL, AND EVERYDAY PERSPECTIVES**

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Since the first Kosovo artist, Petrit Halilaj, participated in the Venice Biennale in 2013, an event which was hailed as an important moment of Kosovo's consolidation as nation-state, the country's representation has been seen, officially, as a strategically important matter of cultural diplomacy for wider social and political reasons. As will be demonstrated in the analysis further below, the Ministry of Culture, Youth and Sport's (MCYS') statements as well as their dissemination in everyday media, make this abundantly clear. By this token, cultural diplomacy is one of the main categories

upon which the MCYS decides to subsidize art works in Kosovo, as evident from the application forms. The following information provides selected background information to the ways in which the local arts scene as well as the wider public have related to questions of Kosovo's national identity and representation.

Overall, there are only very few studies available on the core paradigms through which the contemporary art scene in Kosovo evolved since the 2000s onwards (Isto 2020). Those available suggest that politically engaged art works reflected contemporary concerns and predominant societal questions on nation, nationalism, image and identity, as these preoccupied the emerging state and its citizen at the time. Specifically, the 2018 anthology *Notes on Contemporary Art in Kosovo* (Schendl, 2018) suggests Prishtina's art scene's long critical engagement with, and skepticism about context-specific questions. These include how art, nationalism and the sovereignty of the state relate; and whether art from Kosovo should be seen as part of wider Albanian art or of a wider spectrum of post-Yugoslav or East European art (note, particularly, Maliqi's [2007 and 2018] essays). Several contributions discuss selected Kosovar artists' critical responses to the stereotyping, Balkanist ways of "othering", when "artists from Kosovo in particular are still often framed in terms of trauma, cultural liminality, and the country's perceived poverty" (Isto 2020, s.p.) on international platforms.

In 2007, Boynik in his essay *Theories of Nationalism and Contemporary Art in Kosovo* was critical of the presentation of contemporary art from Kosovo through a "so-called 'Balkan' exhibition". On the same chapter, extending his analysis to the local scene, Boynik suggested that contemporary art in Kosovo could fit into the paradigm of nationalistic or national art, although he saw the nationalism that it portrayed as a context-specific form. It corresponded with. More recently, Boynik (2018) specified that, on the one hand, his original thesis may still hold true in terms of a cultural policy concerned with nationalism which obviates important social and political questions such as unemployment. On the other, his way of thinking about nationalism was too absolutist. In an updated analysis (exploring, specifically, the transformations of the Vetvendosje movement since 2004 and its relation to nationalism), he concluded that if the nation "is something that constantly changes, consequent-

ly, the reclamation of nationalism makes sense only when it serves to politicize the masses in the process of dialectical voluntarism – as Peter Hallward describes it – outside the state apparatuses.” (2018, 60).<sup>3</sup>

Beyond the art scene, random ethnographic observations in the café houses and bars of Prishtina suggest that Kosovo’s citizens seem keenly interested in the ways in which the Republic of Kosovo establishes its international presence as a nation. Kosovo’s wider public identifies with, and promotes, cultural diplomacy as an obligation to generate symbolic capital for the external recognition of Kosovo and Kosovars at international levels. Putting Kosovo on the international map appears to be seen as a collective aspiration. Both arts and sports have been considered important tools for legitimizing the country’s political sovereignty, internationally. It is for this reason that, when Kosovar judoka, Majlinda Kelmendi, won the gold medal at the Olympics in 2016; or a local organization, such as Open Data Kosovo, are mentioned in an international newspaper, this becomes subject of enthusiast everyday chatter and proud social media postings. Equally, Kosovar-owned, internationally-operating mega companies in the fields of IT, communication, tourism or banking, all spark bliss (arguably in those cases also because people in Kosovo benefit from such systems), once established and operational. Any success stories and skills of Kosovars that compare in terms of international standards, whether evident only at home or abroad, gain recognition in the public eye. Ordinary Kosovars’ strong identification with political aims of recognition and national pride in everyday life has just recently been observed and described, ethnographically, a form of ubiquitous ‘everyday nationalism’ (Luci and Schwandner-Sievers 2019, 478).

At the same time, however, national identity appears still fragile in Kosovo, not just because of the incomplete external recognition. On the one hand, Kosovo’s national symbols, such as the national flag and national anthem (resulting from an international competition and inaugurated at the occasion of the country’s Independence Declaration in 2008), are not yet recognized by every country around the world. On

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<sup>3</sup> According to Hallward, 2011, nationalism can reflect “the will of the people” through “dialectical voluntarism”, which he describes as a process of collective, inclusive and deliberate, emancipatory politics of self-determination.

the other, the derived symbols are still perceived as novel also to the various constitutive communities inside Kosovo. Basic ideas about what it means to be a Kosovar remain contested. Migjen Kelmendi, a Kosovar musician and publisher, captured the mood in 2007: "When you ask a Kosovar, 'are you a Kosovar?', they will answer, 'no, I am Albanian'. If you ask a Serb, 'are you a Kosovar?', they will answer, 'no, I am a Serb'. Then, who is a Kosovar?" (quoted in Bilefsky: 2007, s.p.). Arguably, it is because of the prevalence of an actually still very fragile national identity that ordinary Kosovars commonly regard those co-citizens, who have managed to gain recognition for their work at an international level, as their 'finest ambassadors'. Their performance seems to generate a sense of normality, establishing Kosovo as a credible nation among all nations, just as any other nation, whose athletes and artists compete at international level with a much more established and less contested recourse to symbolic capital.

## THEORETICAL, EPISTEMOLOGICAL AND METHODOLOGICAL CONSIDERATIONS

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This contribution takes a social constructivist (symbolic and social interactionist), hence processual, epistemological approach to exploring the ways in which artists generate symbolic power for Kosovo. Inspired by Loveman's (2005) discussion of the 'War of the Wasps' in Brazil, it is based on the understanding that the accumulation and normalization of a nation-state's symbolic power and, hence, its, legitimacy, is always an outcome of historical, social processes aimed at acquiring, both, internal and external recognition. Particularly in the early stages, Loveman suggests (in what she calls the 'primitive accumulation of symbolic power'), i.e. at a point when the state, its powers and ideological and administrative functions are not yet all established and taken for granted, the interdependence between state and society is particularly marked in generating legitimacy through the accumulation of symbolic power (2005, 1655). Only once the ideological state-building process is completed and its symbolic power becomes unquestioned 'meta-power' (Loveman 2005, in re-

liance on Bourdieu's concept of 'social capital', 1991), its legitimacy is consolidated. Might it be that it becomes possible only at this consolidated stage that cosmopolitan artists can assume a role of questioning national identity and statehood as a form of organizing altogether, as this wouldn't effectively risk reverting such political consolidation process and the privileges that go with it, even for those artists? Where, then, might artists who represent a nation-in-the-making sit within this process as cognizant agents and actors, potentially still fighting for their nation's right to exist?

As mentioned initially, in order to explore the role assigned to, assumed and negotiated by, the participating artists themselves, this contribution is not just interested in their explicit statements alone (although a selection of these will be retrieved from existing interviews or commentaries in various media). Firstly, their utterances as well as the ways in which their art work generate, transform or amplify meaning out of their origin from Kosovo and their participation at the Biennale, are of relevance to this contribution. Secondly, Bourdieu has long alerted us to the fact that art does not exist outside the socio-political field which provides the context which imbues it with meaning. Art is intimately connected to the context, as 'the essential explanation of each work lies in the objective relations which constitute this field' (Bourdieu 1983, 312). By contrast, any "ignorance of the 'mood of the age' produces a de-realization of works [of art]: stripped of everything which attached them to the most concrete debates of their time" (Bourdieu 1983, 314). It is for this reason that this contribution focuses not just on the agency, intent and choices of the artists (in word and work) alone. It also explores the artists' statements and work vis-à-vis the wider social and political fields, which provide the backdrop to their choices and predicaments.

It is through the analysis of speech acts that we can trace meaning-making processes at collective and individual, official (state) or everyday levels. Searle (2008, 453) suggests language creates social reality and institutional facts because of its 'deontic power'. This applies to, both, top down and bottom-up acts of speech, ranging from policy, media or interview utterances, to everyday speech acts. Hence, language has a far greater function than just mere communication. It is one of the very ways through which norms and knowledge about the world are both shared and internalized (Berger and Luckmann 1999, 129). The way individuals 'communicate' and 'es-

tablish' shared norms, as embodied in their language, enables and perpetuates culture and society. This function of language (e.g. of the affirmation of shared norms, intents and aims in meaning-making processes which can only be understood out of their social or political context; see Cotts Watkins and Swilder 2009), is what discourse analysis can capture best. This method of analysis is not just the realm of linguists, but has long and widely been used by social scientists in order to assess the meaning of "language beyond the sentence" (Shiffrin et. al. 2015, 1, 6). Following Cotts Watkins and Swilder's (2009) considerations, speech acts can be interpreted as a conscious process which tells of the speech agents' perceptions of, for example, the nation-state, its symbolic capital and accumulation needs. In Kosovo, while dynamics are always shifting, yet the 'national myth' is yet to be agreed upon collectively, and symbols are yet to be completely inherited, discourse analysis seems best suited to excavate ongoing meaning making processes in society at large as well as by those individual agents of speech acts, who are of specific interest to this analysis.

In the following section, the focus is not just on the artists but also on various bureaucrats and the polity, both at national and international level, involved in the process of promoting Kosovo's legitimacy through the country's selected artists' work exhibited at the Venice Biennale. Based on analyzing a variety of media representations, various public utterances and interviews given as well as controversies identified around the Kosovar artists' participation at the Venice Biennale in recent years, and as identified within the wider social fields surrounding these artists, the next section provides selected examples of the ways in which the first participation of a Kosovar artist, and of the others that followed, in one of the most important exhibitions and contemporary art events worldwide, was talked about, both locally and internationally. The underpinning questions are, firstly, what do the plain utterances (by the artists and those around them) withhold and reveal about the ways in which meaning is generated and acted out? Secondly, what do the artists' language and speech acts reveal of their intent vis-à-vis representing the nation-state and a wider policy context which aims to generate symbolic capital for Kosovo's state out of their participation at the Biennale, as a matter of cultural diplomacy strategies? Finally, what form does such process take, if aimed at advancing state legitimacy through generating symbolic power at international level?

The sources perused include official documents, published interviews and the artists' commentaries found across a wide spectrum of local and international media relating to Kosovo's representations at the Venice Biennale between 2013 and 2019. Approximately 100 sources were perused, including newspaper articles, TV interviews and official documents published during a period from four months prior, to four months after, Kosovo's participation at the respective events, and therefore offering real-time insights. Only a fraction of these can be cited, but the authors deem the selection representative. The official documents analyzed include related newsletters of the Ministry of Foreign Affairs and the press releases of the Ministry of Culture, Youth and Sports (MCYS) in conjunction with the selection process of the artists chosen to present Kosovo at the Biennale. The relevant sources were found via hashtag-based internet research and event-related, relevant websites. Notably, very few of these offer any critical analysis. The vast majority of documents found are descriptive accounts of the event, or a repetition of the official statements released by the involved artist, commissioner or MCYS.

It is in the state official documents that the question of selected artists representing their country at the Venice Biennale is raised as a matter of cultural diplomacy. Official documents and press releases are circulated in the national media once the artist and their team have been 'appointed' by the Minister. As the analysis suggests, the process of selection is relatively closed, possibly even more so since relations between the MCYS and the National Gallery were recalibrated in 2015 (Marí 2015, s.p.). Its closed character has sometimes been criticized by Kosovo's artist community. Yet, the processes through which the MCYS deals with selected artists and works was found to be only ever marginally mentioned in the discourses perused. Questions of state expenditures, as relating to official state visits to the event, were mentioned critically only a few times. Most articles focus on the question of whether Kosovo is represented appropriately through the artist and his or her art works and on their respective reception on the international stage of the Biennale.

# DISCOURSE ANALYSIS AROUND KOSOVO'S ARTISTS' PRESENCE AND REPRESENTATIONS AT THE VENICE BIENNALE

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Being a significant global Contemporary Art event, the Venice Biennale has been the point of departure for artists from Kosovo in the past. In 1997, Sislej Xhafa enacted his performance by embodying the Albanian Clandestine Pavilion to make a political point (Proctor 2007, more below). Controversies around Kosovo's arts presentations at the Venice Biennale precede its independence recognition in 2008 and any official invitation to the event as a recognized nation-state. E-flux is a publishing platform and a major source that galleries, museums, biennales, art fairs and others across the globe use to disseminate their content. Founded in 1998, the platform encourages independent curators worldwide to use it for announcements (E-flux, no date). It contains several press releases about Kosovo's participation at the Venice Biennale. The first entry is of 2005, long before Kosovo's first official participation in 2013. The 2005 entry, called "Kosovo Pavilion at the Venice Biennale - Sislej Xhafa" (E-flux 2005a), seems identical in form to any other such announcement on this platform. It suggests that Kosovo, indeed, for its first time, participated with Sislej Xhafa and his art work *Cuisine* (2005) at the Venice Biennale. Upon closer look, however, one finds another, related entry, titled Open Letter (E-flux 2005b). This is an on-line response to a letter apparently sent by Silvia Macchetto, who was in charge of the press office of the Venice Biennale in Albania in 2005 (and which is also reprinted in this response). The response states that the artist Sislej Xhafa is representing Albania, even though his origin is from Kosovo. It is headed with this note: "e-flux projects, Albert Heta, 'Kosovar Pavilion', 2005. August 17, 2005" (E-flux 2005b).

Evidently, the 2005 e-flux publication, titled 'The Kosovar Pavilion at the Venice Biennale with Sislej Xhafa', pretended that there existed a Kosovar pavilion when it

did not. The closer investigation of the online publications reveals that this act was an art intervention by Kosovo artist and curator, Albert Heta, assigning it (falsely) to Xhafa, the Kosovar artist exhibiting on titular Albania's behalf (E-flux 2005b). The press office's original letter expressed strong concerns about the impact of the deception involved on the artist's (Xhafa's) work and requested correction of the wrong information regarding his name, work and the country represented. Simultaneously, however, the intervention highlights the complications arising for a new nation-state such as Kosovo, whose independence was not yet officially declared at the time and which found itself excluded from participating at the Venice Biennale. To Albert Heta (Prishtina), the artist and curator behind this intervention, his "works are often simple acts of intervention in an existing social condition, responses to a given situation, or rethinking of existing objects" (Heta, no date, s. p.). The intervention is registered as art work under the title 'Kosovar Pavilion Venice Biennale 2005 (2005 – 2009)' with the Artist's Pension Trust (APT 2020). In his published biography, Heta mentions it as one of his own most notable artistic interventions that "are not merely the installations or acts of appropriation, but also acts of engagements with the conditions under which the works were accepted by the curators, media, politicians, and the public" (Heta, no date, s. p.).

Among the many questions which Heta's intervention might raise, of particular interest, here, is the apparent intent of the artist to inject the idea of Kosovo as an independent nation-state, separate from Albania, into both national and international debates. Was Kosovo's identity part of a wider Albanian cultural space (perhaps in line with nationalists claims of Greater Albania as propagated by some political factions at the time), or a nation in its own right? Furthermore, beyond depicting Kosovo as an independent country from Albania, it emphasizes the close relation of collective identity and statehood by suggesting that official and international structures are not just simple political organizations. Rather, as structures of exclusion on any level, they have everyday consequences regarding citizens' participation in the public sphere, including at international levels.

In 2012, Kosovo presented a highly acclaimed exhibition at the '13th Venice Architectural Biennale' (e.g. Selmani 2012) - a specialist section of the 'Venice Biennale' set

up in 1980 and occurring every other year to the main event. Many Albanian news outlets reported on this event without necessarily noting the architectural specificity in its title, the different bi-annual schedule and associated difference in numeration (in 2011, the classic Venice Biennale presenting arts exhibitions counted its 54 anniversary; in 2013, its 55<sup>th</sup>). Although comparable in terms of media and political attention, the analysis of this related, but different, event extends beyond the scope of this contribution and has not been included here.

In 2013, Kosovo finally participated - for the first time and officially - in the arts-focused Venice Biennale, then in its 55<sup>th</sup> incarnation. The country was represented by the, then, 26-years-old Petrit Halilaj's work has been shown in several solo and group exhibitions locally and internationally. It must be noted that Halilaj won the Mario Merz Prize, and the special mention of the jury of the 57th Venice Biennale in 2017. (Kamel Mennour 2018). That Biennale's overarching theme was The Encyclopedic Palace (in reference to Italian-American artist Marino Auriti's 1955 idea of a huge, imaginary museum which would house the entire world's knowledge and artefacts). The first-ever Kosovo pavilion could be found in the Arsenale, one of the Biennale's two major exhibition spaces (the other one is the Palazzo Giardini). Entering the Kosovo pavilion, the visitor encountered tree trunks to form a cave-like, dark shelter, creating a nest-like structure elevated above the floor, with a pathway carved through the middle. The visitor could step in and move through this oversized 'nest', surrounded by the scent of earth and the sounds of two real-life canaries hopping among the twigs. For this piece, the artist, Halilaj, had transported original soil and branches from his hometown Runik, to Venice. There were also mementos relating to his family, including a costume fitted for Petrit's measurements and inspired by his mother's profession as a tailor. The canaries, however, used to live with him in his studio in Berlin (E-flux 2013). Arguably, the notion of 'home' in his work comes together in 'ambiguous symbolism' (Culture Trip 2016): the chthonic qualities of the Kosovar earth possibly symbolizing the heavy spirits of a localised past and the canaries pointing to the effervescence of a transnational presence, while all elements have 'migrated' from elsewhere, just as the artist himself. Pablo Larios, senior editor of *frieze*, an online arts magazine, referenced the artist's history of war, loss of home and flight. He suggested that Petrit Halilaj "seems fully aware of the complications

his work brings with it – the inevitability, say, of voyeurism or exoticization on the audience’s part – yet he has chosen to provoke, and move, via the sure-fire capital of his biography” (Larios 2013, s.p.). Halilaj’s work has been described as “deeply connected with the recent history of his country, and the consequences of the political and cultural tensions in the region. But while confronting a collective memory, his work often originates from a personal experience and it is usually the result of an intimate process and a shared moment with someone he loves” (Kamel Mennour 2020, s.p.)

Halilaj’s work, overall, conveys a sense of intimacy and immersion into the transnational artist’s original background. Inside there is a *Light* (2014) a documentary directed and produced by Dardan Selimaj and Rea Surroi focuses on the process of Petrit Halilaj’s installation at the Venice Biennale. The documentary which premiered a year after the event at Dokufest, extensively reveals the complexities of the work while engaging with the artist himself. The long title suggests longing and loss: “I’m hungry to keep you close. I want to find the words to resist but in the end there is a locked sphere. The funny thing is that you’re not here, nothing is” (E-flux 2013). As the appointed international curator for this work, Vienna-based Katrin Rhomberg, explained:

Petrit Halilaj’s artistic practice is deeply rooted in a constant search of what reality is and how reality might be represented through art. His memories of a rural childhood, his personal experience of war, destruction, exodus and displacement are the very basis of his reflections on life and the human condition. The artist moves back and forth between different countries, between Kosovo, where he grew up and where his family and many friends are; Italy, where he studied; and Berlin, where he temporarily lives. This transnational way of life not only adds to his experience but is also representative of Petrit Halilaj’s specific way of exploring art and reality, and of his continuing attempts to translate or even transform the one into the other. His art can be seen as building bridges between different worlds and realities, ideologies, different generations and phases of life. (E-flux 2012, s. p.)

Beyond the theme of the art work, curator (Rhomberg), the artist and his wider team, including family members, expressed a shared sense of great responsibility and privilege in representing Kosovo at this international venue for the first time, aware of the symbolic significance and political repercussions involved (ibid.). Yet, from selected news outlets the reader also learned that the artist felt high pressure, due to the expectation of representing the nation and not just himself as an individual artist. This becomes clear also from other sources. For example, how heavy the question of Kosovo's nation- and state-building process weighted on him, is evident from a conversation between Halilaj and Rina Meta, who interviewed him on behalf of Kosovo 2.0. At the time when he was invited, he had to choose between the Venice Biennale and an exhibition at the Wiels Contemporary Art Center in Brussels: Brussels being a place where every Kosovar wants to go, and Venice where every artist wants to go. Meta recalls how she felt when hearing of this problem:

I didn't say a word. I was lost in the sad part of being a Kosovar. You're 26 years old, and your small dilemmas concerning individual plans, your individual destiny, are defined by very strange narratives of the national responsibility kind. Today though, I save the sadness for other moments, because with time I have thought about how being a young person from this place can be beautiful as much as challenging. (Meta: 2013)

In the end, Halilaj managed to exhibit in both places (Contemporary Arts Daily, 2013). In an interview with Milot Hasimja for *Klan Kosova* (2013), Petrit Halilaj stated the joy and the responsibility he felt in representing Kosovo, which directly affected his work. His mother, Shkurte Halilaj, suggested that the work should take the form of "a shelter within a structure, which would free his project from the pressure to represent an entire nation" (ibid). Such statements enhance the impression of the artist and his team feeling the burden of taking on this responsibility of representing the nation, why working on an art work based on highly personal memories. It might not normally be the case that artists working through highly personal associations have to consider their representativity for the nation, when looking at teams working on similar projects, internationally. The pavilion gained much attention, on the work and the fact that it was the first time for Kosovo participating at the Venice Art

Biennale. However, selected national and international media reports, most Kosovar press releases (in Albanian) emphasised only the historic significance of Halilaj's participation for Kosovo at the Venice Biennale, rather than engaging with the content of the art work itself.

Halilaj's selection as the representing artists was based on the proposal by the then-director of the National Gallery of Kosovo (from 2011 to 2015), Erzen Shkololli, and accepted by the Ministry of Culture, Youth and Sport (MCYS 2012). Shkololli had also suggested the appointment of Rhomberg as the international curator. As the commissioner, this event was the pinnacle of Shkololli's tenure, and international commentators observed that "Shkololli ha[d] put Kosovo on the international art map" as director of the National Gallery, even before the Venice Biennale 2013 (Marí 2015, s.p.). However, the ministry's press release in 2012 did not yet give away any explicit strategic considerations underpinning this choice nor highlight its global relevance, quite contrary to the subsequent occasions discussed below. While it listed the artist's and the curator's exhibitions, it failed to distinguish between the different incarnations of the Venice Biennale, such as that of 2012, and referred to Kosovo's first pavilion at the biannual arts exhibitions as 'the second presentation of Kosova at Venice Biennale' (MCYS 2012). Arguably, it thereby somewhat took away the spot light from Halilaj's role which, though, was widely acknowledged in the national and international arts world as Kosovo's first.

In 2015, at the 56<sup>th</sup> Venice Biennale, Kosovo was formally represented by the Munich-based artist of Kosovar origin, Flaka Haliti, then 33 years of age. This second Kosovar pavilion, again situated in the Arsenale, displayed her exhibition called 'Speculating on the Blue'. Curated by German Nicolaus Schafhausen, it took as a point of departure the fenced-off United Nations building in Prishtina. Metal barriers, sat on a blue ground and steeped in blue light, are a reference to the obstacles which any borders pose for people, nations, mobility and democracy. According to the artist, the contrast between the metal barriers and the expansion of blue, such as in expanding horizons, aimed at allowing the public to find different visual perspectives, in front or behind, the different metal structures, thereby creating a subjective experience (Haliti 2015). The blue sand spread across the pavilions. There were re-

ports from individuals that took sand with their shoes and outside Venice. Haliti's work became one of the most visited and gained much media attention at the Biennale, ranking among the top 10 pieces to be covered by the international media (Kohavision 2015).

Haliti's political agenda is subtle. It has previously been described as "not interested in the recent debate on the political per se. She avoids and escapes the fashionable. Her credo goes more like: less political to be more political" (Studio Miessen 2014). Yet an e-flux (2015) announcement of her work exhibited at the Biennale highlights the artist's political awareness and the political repercussions of her work: "Haliti's installation aims at de-militarizing and de-contextualizing this specific aesthetic regime by stripping the columns down to their material essence and juxtaposing them with elements that are by nature resistant to the concept of borders" (E-flux 2015, s.p.). To gauge the political resonance for Kosovars, it is worth remembering the situation in 2015, which was locally marked by young people's sense of geopolitical injustice given the EU's restrictive visa regime (ethnographically described by Luci and Schwandner-Sievers 2020) as well as large-scale, yet failed, emigration attempts involving thousands of young, desperate citizens. This experience of border and exclusion further contrasted with the country's recent, postwar history of international tutelage, which internal critics had long publicly denounced as an ineffective and neo-colonialist regime. The metal barriers used in her art work were modelled on the iron fence separating the UN headquarters from Kosovo's citizens since the end of the 1999 war.

Haliti, in front of the TV cameras of a Kosovar crew interviewing her in Venice at the Biennale, made it clear that she was aware of the role of her work in promoting Kosovo statehood: "it is inevitable the attention and impact that such a participation has on the state, but also on the individual artistic level [...]. It makes me happy to think about the level of attention that both representations of Kosovo have received, two years ago and mine, placing Kosovo successfully in the international contemporary art scene" (Kohavision 2015, s.p.). She further explained that she accepted, greatly moved, the fact that she would represent Kosovo at the largest cultural event in the world, not least due to the significance this has for the country. To her, the presence of Kosova at the Venice Biennale has the same international impact "as participating

in the Olympics” (Kohavision 2015, s.p.). This TV interview revealed her clear intent, awareness and even downright joy about the fact that, through her work, Kosovo had managed to position itself stronger in the international arts arena.

Interestingly, the international art community promoting her work aligned with these political goals. The surprise guest appearance of Paolo Barratta, the president of the Venice Biennale, at the opening of Flaka Haliti’s exhibition explicitly acknowledged her work of representing her nation-state, and the challenges of Kosovo’s statehood itself. His unplanned speech at the occasion, captured on Kosovar TV cameras, was unparalleled regarding the symbolic significance it attributed to national arts representations, especially for countries aiming to gain recognition, such as Kosovo. Barratta’s speech suggested: “the first thing they [states] do is to go to the United Nations in New York to be recognized, a matter of international diplomacy; and then they go to Paris to get recognition from the economists; then, as their third step, they come to Venice, to receive recognition from the arts community and this is exactly what has happened” (Kohavision 2015, s.p.).

Then-president of Kosovo, Ahtifete Jahjaga, was present at the opening of the pavilion, keen to promote the event in terms of the role it played in affirming Kosovo’s statehood. She declared in her speech: “the presence of the Republic of Kosovo in the Venice Biennale, at this most important art event in the world, is a testimony for our achievements in strengthening our international subjectivity” (Kohavision 2015, s.p.; Tota 2015, s.p.).

The selection of Haliti as representing artist also was a closed process. However, local sources (anonymous) suggested that, for the first time, for this selection the MCYS decided to organize a closed call, inviting selected artists and teams to submit proposals. According to the official statements of the ministry, the

Minister of Culture, Youth and Sports, Memli Krasniqi took a decision to nominate Flaka Haliti, the Artist of the Pavilion of the Republic of Kosovo in the 56th edition of International Art Exhibition in Venice Biennale, whereas, Nicolaus Schafhausen was nominated as Curator of Pavilion [sic]” (MCYS 2014, s.p.).

It seems that Schafhausen was chosen and suggested by the artist herself (AlbInfo 2014). Most certainly, the ministry also appointed the commissioner to act on behalf of the Ministry of Culture, Youth and Sports: Veton Firzi was a technocrat from the ministry. Perhaps the selection process in 2014 was already a precursor to events in 2015, when several arts institutions in Kosovo faced what they perceived as the Ministry attempting to “garner closer political control of the arts” (Mari 2015). Notwithstanding any details of the selection procedures (e.g. regarding the degree of inclusion or exclusion of independent or non-governmental arts organisations in the selection process), however, the process could also be interpreted as falling in line with international processes elsewhere. Many national pavilions at the Venice Biennale are managed by the participating countries’ respective Ministries of Culture (Bailey 2017).

In 2017, Sislej Xhafa, born in 1970 in Peja and the only US-based Kosovar artist participating, represented Kosovo at the Biennale. His presence at the Biennale was not for his first time. As mentioned above, in 2005 he had presented Albania. In 2013, he had presented in Italy’s national exhibition at the Biennale, the country in which he studied during the 1990s. Even before, in 1997, he had made an appearance at the 47th Venice Biennale with an uncommissioned and artwork, which he later called *The Clandestine Albanian Pavilion*: he had entered illegally, dressed in Albania’s national football team’s costume and inviting visitors to kicking a ball. As he later declared, one of his intentions was, then, through “an unassuming performance that raised difficult questions about the countries invited to such rarified events and why those that are not, are not” (Proctor 2017, s.p.), to promote awareness of international processes of political silencing and exclusion. When interviewed at the occasion of his formal presence when representing his country of origin in 2017, the artist explained in retrospective reflection, “I wanted to highlight the complexity of exclusion and inclusion in the Venice Biennale, ... emphasizing the national prestige that countries seek from this contemporary art event” (Bailey 2017, s.p.). He further stated that, already then, he intended to highlight human rights issues through his art. In 1997, his action related also to the plight of the illegal Albanian migrants in Italy (Proctor 2017).

Khafa's work has been described as

Performances, videos and installations tackle social and political themes with irreverence and irony. His practice is conceptual in nature, and reflects on travel, belonging and human rights. These universal themes are filtered through the artist's own personal vision, balancing his close connection with Albanian culture with a strong inclination to discover the other." (Punta Della Dogana, no date)

Khafa's 2017 Biennale exhibition was titled 'Lost and Found'. It showed a wooden phone booth featuring a 'Lost' sign attached, and a telephone.

The telephone never rings [which] refers to the families who are waiting to receive a phone call with news about their missing relative. The wooden pallets and the plastic wrap allude to the movement of people across the globe. At the opening days of the exhibition, a *telall* – a town crier figure – periodically announced the names of the missing. (The Venice Insider 2017)

This exhibition recalls the fact that there are still more than 1,600 persons missing from the Kosovo war, whose fate remains unknown until this day. Khafa explained that he conducted research and worked together with the families of the missing persons in Kosovo, in order to finetune his work (Koha 2017). According to various press reports, the reception of his engagement with this sensitive topic was welcomed by affected family survivors in Kosovo (e.g. Kelmendi 2017; Koha 2017). In an interview regarding his 2017 work, Khafa pondered the risks of national self-victimisation inherent to dealing with such a topic, yet concluded, "art is the only power to transform the aspect of the victim into a magical and unique experience. It creates an attitude and gives hope and vision for the future" (Avdyli 2018, s.p.). To him, art holds democratisation potentials because it humanises victim experiences amidst adversity, yet it is not a political force for change (Kelmendi 2017).

Khafa's work for the Biennale 2017 was curated by Arta Agani, appointed as director of Kosovo's National Gallery in 2016 and commissioned by the Ministry of Culture, Youth and Sport. The ministry's selection, seemingly, was based on a strategic choice.

Rather, the choice of an established artist, was one of cultural diplomatic strategy: to increasing the country's prestige, internationally. According to the ministry's press release:

the presentations and reviews that were written about [Sislej Xhafa] guarantee a praiseworthy and affirmative representation of Kosovo in Biennale, in the third representation of our country in this huge worldwide art event. The aim is to get the attention of the public, through Xhafa's work, considering his poignant reputation he is currently enjoying in the global art scene. (MCYS 2017)

Xhafa, however, has repeatedly lamented the intrusion of politics in the art scene. In an interview given in 2018, he criticized selection processes, collusion and appropriation of artists by the state in Kosovo:

Nathan Coley's piece "A place beyond belief" [2012, financed by the National Gallery of Kosovo and installed on the university's campus] is proof that confirms cultural prostitution and aesthetic placement. I am not talking about the artwork itself, but rather about the selection process. Kosovo employs people from all over the world without public competition and transparency, without local or international juries, with the objective of promoting the country. Kosovo engages people to show the world that Kosovo is progressing fast. This is a media farce. It is a facade, a lack of intellect that has produced mediocracy. ... Power corrupts artists by giving them grants ... Artists that do not receive grants for realizing their scripts start writing and speaking against the government in interviews. The very same artists shut their mouths and disappear from public opinion once they receive the grants ... The path of an artist is solitary, very poor and very, very long. But it [the path of the artist] is encouragement and a stimulation for hunger, for not giving in to compromise, for intellectual and decisive autonomy. (Avdyli 2018, s.p.)

Elsewhere, he recognized that "the Biennale does not so much represent an artistic statement but a political statement – unfortunately, a national political statement.

I am kind of disturbed by that. However, I accept this as part of the challenge ... In the end, the role of art is to make good art, without too much talk” (Bailey 2017, s.p.).

The final Kosovar artist to be discussed, Alban Muja, born in 1980, is the only artist living in Kosovo permanently, although a frequent traveler. Muja participated for Kosovo in the 58<sup>th</sup> Venice Biennale of 2019. The exhibition was curated by Vincent Honoré. He is known for covering “a wide range of media, including video installation, short film, documentary film, drawing, painting, photography and performance” (Pavilion 2019). For the Biennale, he also chose to present a theme dealing with Kosovo’s painful past. His exhibition was based on a “video installation that digs deep into personal and collective memories of the Kosovo War (1998-1999) and interrogates the role that images and the media have in constructing and shaping narrative, identity and history, especially in times of conflict” (E-flux 2019). Titled *Family Album*, this installation engaged with iconic, journalistic photos from the 1999 Kosovo war which were disseminated worldwide. However, rather than those photos, it was the stories of the Kosovar individuals and families behind these, former refugees of war, which Muja’s work highlights and humanizes. For the video broadcasts, he tracked down the former child refugees depicted in these famous photographs, now adults, and investigated their personal and family memories in filmed interviews (RTK: 2019; E-flux 2019). Muja’s own personal history and the story of his father, of whom, during the war, the family didn’t know whether he had survived, served as an inspiration. *Family Album* also gained international art media attention and high acclaim. The President of the Venice Biennale Paolo Barrata was present at the opening, showing support once again. (Marí 2019).

According to one interview with the artist, Muja “aimed to find the personal aspect of images that ‘sadly became neutralized due to wide global circulation’” (Brown 2019, s.p.). In another interview he stated that “an artist’s purpose, particularly at major art events like the Venice Biennale, is to present to the public local stories that communicate transnational problems” (ArtReview 2019). Yet, beyond this desire to humanize Kosovar objects of war photography while simultaneously introducing individual stories of universal relevance from Kosovo to a wider world, Muja recognized the predicament of his role at the Biennale in the services of the state and its cultural diplomacy

goals. His emphasis on presenting ordinary people's struggles serve him as the basis for rebutting critiques: "a lot of people question state representation, and I feel that we still haven't arrived there. We have other issues in Kosovo that are fundamental for living, fundamental to being respected as human beings" (Marí 2019). In other words, having the chance to tell the story of ordinary people from Kosovo and their grievances to the world, seeking universal recognition of their plight, justifies his role, in Venice, as a symbolic representative of the state. His work was described as "influenced primarily by the social, political and economic transformation processes in the wider surrounding region", hence based on investigating "history and socio-political themes and link[ing] them to his position in Kosovo today" (Pavilion 2019). Other than that, Muja expressed his understanding of contributing to the empowerment and recognition of Kosovo's local art scene, along with heightening his country's prestige.

This is our fourth time at the Venice Biennale, which is remarkable given we have had to build and develop a country almost from nothing in the wake of the war. I believe our official participation has been one of the best decisions for the country: it has helped build the profile of the local art scene in Kosovo, bringing in investment to the local art ecosystem. Here we have the chance to be showing alongside other countries which, for a young country, is important. The possibilities are endless because the desire and will to create them exist. (ArtReview 2019)

Repeatedly, Muja expressed his sense of responsibility to the people of Kosovo and of representing the country, not least because the expenses of a country's participation at the Biennale are borne by the tax payer (Marí 2019; RTK 2019). At the same time, there is an apparent sense to contribute to counteracting asymmetric symbolic hierarchies at global level and their concrete impact on experiences at local level: "because of political issues, we have problems in being equal when compared with other countries ... You cannot escape what our societies are experiencing now. We are the only society that needs all this procedure to travel [due to the ongoing, exclusionary visa regimes for Kosovars in most countries of the world]" (Marí 2019, s.p.).

The government's choice of Muja for representing Kosovo had been another strategic one. This time, Arta Agani, Director of the National Gallery, served as the commissioner and proposed his name to the MCYS (Insajderi 2019). MCYS's minister, Kujtim Gashi, had expressed confidence in that the artist Alban Muja would "present Kosovo in the best possible way" (RTV21 2018) because he "is an established name on the world art scene. Muja's work has been widely exhibited in various festivals, art fairs, group exhibitions and solos" (Insajderi 2019). Meanwhile, when facing critique for a politician using the opening of his exhibition for a nationalist speech (which was then replicated in at least one news outlet; see Telegrafi 2019), he indicated the dilemma that might arise from state sponsorship of artists participating at events of national significance. On the one hand, "it's not up to the artist, the curator or the team to decide who should be there" as political representatives; on the other, "they never asked me what I'm gonna do, because of course I would never accept that, to be told what to do" (Marí 2019, s.p.).

## CONCLUDING DISCUSSION – CONVERGENCE RATHER THAN COLLUSION

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Above discourse analysis revealed, overall, the convergence of media representations, artists' utterances, norms and worldviews from within the wider social and political field in Kosovo, in subscribing to the common aim of generating and accumulating symbolic capital for legitimacy of Kosovo, as a nation, through the artists' participation at the Venice Biennale. It is safe to suggest that, with the success of these events and surrounding discourses in contributing to Kosovo's national image construction abroad, cultural diplomacy has become established as an important policy tool in Kosovo today. In the context of a global event such as the Venice Biennale, the common ethos identified and found to be shared among all involved Kosovar artists and with the wider social and political fields around them, could be interpreted – from a post-colonial studies framework - as representing the subaltern at a global level, which renders nationalism ambiguous rather than simply 'bad' (Ghandi

2019, 107; Hallward 2011; Nairn 1998). Within a wider context of global inequality, in such understanding, and in expanding on Spivak (1988), nationalism becomes “a political tactic employed by a minority group acting on the basis of a shared identity in the public arena and in the interests of unity during a struggle for equal rights” (Chandler and Munday 2020, s.p.), here at a global level.

Given the background of a still fragile national identity, both internally and worldwide, the question of collusion vs. resistance or artists with Kosovo as a nation-state appears too simple and dichotomous. It remains for further research to establish whether nationalism in Kosovo is currently undergoing any changes and whether Kosovo will soon fall into line with other nation-states where nationalism is associated with empirical or right-wing supremacy to be counteracted by the critical art world. The Kosovar nation state and its new symbols has yet to prove its homogenizing effects throughout its institutions.

According to the analysis, Kosovo's artists did not perceive themselves as conforming, even less so, submitting, to state politics. Rather, their collaboration with the state as a ‘concentrated form of symbolic power’ (Bourdieu 1999, 60) appeared as an elevated extension of all Kosovo citizens’ everyday aspirations of advancing collective recognition in the international sphere. The artists, however, expressed an internalized sense of, both, privilege and duty in using their elevated position to help establishing Kosovo's legitimacy as a nation-state on the prestigious, international stage of the Venice Biennale. While individually showcasing their country's creative potentials, their role included responsibilities and obligations that would normally belong to appointed officials, ambassadors and politicians. Meanwhile, they did not seem to see their work as “nationalistic”, for their efforts in putting Kosovo on the international map were aimed at inclusion, rather than exclusion (at global level), and thus not associated with nationalism perceived as right-wing, populist or threatening. The analysis suggests that the Kosovo artists’ role should thus be studied in relation to their country's progress in nation building and nation branding as well as the state of the wider recognition of its statehood worldwide, rather than from a normative, liberal framework denouncing ‘nationalism’ without reflection on wider structures of power.

Regarding their relation to state structures, the artists' statements perused suggest that they were free to show anything they wished, and that they never experienced any pressure or monitoring by the Ministry of Culture, Youth and Sports. However, on the basis of the sources analyzed, it is impossible to conclude with absolute certainty that this will always be the case in the future. Overall, the risk of external control, perhaps even of self-control, of content remains, as long as the selection process takes place through a closed, state-controlled process alone. It was also found that it was only through the National Gallery in collaboration with the MCYS that commissioners, artists and curators were selected during the years examined. There was no evidence of any openness towards building professional commissions or space for any competition involving other institutions, commissioners or independent artists to apply. In fact, the independent art scene operating outside the preset framework was not included in the decision-making process at any stage of the selection process during the four occasions that were analyzed in this contribution.

At first sight, the discourse analysis suggests little divergence in the Albanian-language media coverage (e.g. news, TV reports) from official state pronouncements (press releases, speech acts) in Kosovo. However, at closer investigation, some heterogeneity emerged in terms of, firstly, the focus of the media discourses; and, secondly, the scope of the artists' role negotiations, as studied for four different occasions, within a relatively closed, political field. Firstly, there is a clear discrepancy regarding attention to the art work itself. Most media representations shared a clear emphasis on the symbolic capital arising from the sheer participation of Kosovar artists at the Venice Biennale and the ways in which their presence helped bolster Kosovo's legitimacy as a nation-state on this prestigious, international stage. While highlighting the number of times that Kosovo participated, and emphasizing the fact of the representation of the country at the event itself, all major Albanian-language media perused (newspapers, journals, TV reportages) rarely, discussed extensively the content and messages of the art works presented. The rare exception is the documentary 'There is a light inside' (2014) and when attention to the art work was given at all, such as in the Albanian-language news outlet Telegrafi (2019), which used the artist's engagement with Kosovo's traumatic pasts to propagate a political message. In terms of covering culture other exceptions were found through Koha Group. Particularly the KTV program Express

which mainly focuses on culture, and articles in *Koha Ditore*, *Kosovo 2.0*, publishing in Albanian, English and Bosnian/Croat/Serb, and *Prishtina Insight* publishing in English critically engaged with the artistic content shown at the Biennale, the artist as a person and with questions such as potential political appropriation. Other examples of this second type include the international art-news sites *E-flux*, or *Artforum International*, published in English only, which both announce and review art content. These differences demonstrate the widths of the social and political field in Kosovo, marked by media consumption ranging from very conservative and localized to globalized and cosmopolitan forms of information exchange.

Secondly, the individual utterances of the artists (as well as of others around them, including from their team or politicians involved) were found in an array of news outlets across this field, including national TV reportages at the respective event as well as in interviews with the artists in international arts journals. The artists' interview responses, speeches and statements perused, suggest their clear awareness of the role expected and assumed as representatives of the nation at the Venice Biennale. The statements perused point to the fact that they all clearly felt the responsibility of being charged with contributing to generating symbolic capital for the legitimacy of the nation-state. Given the methodological limits of this paper (based on secondary-source discourse analysis rather than primary interviews), however, it is impossible to systematize their individual emotional responses. In the statements found, these ranged from expressions of an acute sense of burden (Halilaj) to outright joy and pride (Haliti). However, all the artists and their works explored may well all have shared both of these emotions, yet expressed one or the other circumstantially.

In all the cases analysed, the topics chosen for the artworks exhibited at the Venice Biennale expressed, shared, simultaneously personal and political, concerns for many Kosovar citizens still today: Halilaj's transnational yearning for home and rootedness, symbolized in the transport of Kosovar soil to the venue; Haliti's barriers and borders, pointing to global injustices and exclusion; or Xhafa's missing people and Muja's individual histories behind famous war photographs – the latter two works, each in their own ways, serving as counterpoints to war victimization through emphasizing victims' agency and humanity. As mentioned already above, however, in

all cases it was less the content, but the presence and recognition of the art work at the international event, which enjoyed most media attention in Kosovo. In the domestic media coverage perused, the success of the Kosovar artists' participation was discussed as a matter of cultural diplomacy aimed at maximizing external acknowledgement of artistic value emanating from Kosovo, and thereby the legitimacy of the independent country itself. The discourse analysis revealed that this overarching, strategic purpose was shared, understood and supported by all four artists as well as the political and social fields around them. The processual approach underpinning this study of four Kosovar artists representing their nation at the Venice Biennale suggests that, with time passing, it might well be possible to witness how new relations between the country's artists and the state become forged and collective meanings emerge, here in building Kosovo's national identity.

Does this convergence make the Kosovar artists "nationalist" or "conforming" with the authorities? Beyond a more nuanced view of nationalism, which would be reflective of global asymmetries of power and relative positionality, as suggested above, it is important to invert the gaze. As some of the artists, themselves, have suggested (Xhafa in his much earlier work; and Muja more recently), nationalism is not the privilege of the globally disadvantaged alone. It should be remembered that, firstly, every successful form of representing one's nation on an international stage, not just in the case of Kosovo, becomes a site where people express their inward and outward group tendencies. Secondly, the Venice Biennale, itself, embodies the tension between cosmopolitan and national identity negotiations: the artists are expected to represent a global act whereas, in fact, they represent a nation-state. It seems apt to conclude the analysis with the words of the philosopher Boris Buden: "it doesn't make any sense to sniff out nationalism among the works of contemporary art, presented for instance at the Venice Biennial. It is the Venice Biennial itself, its very paradigm of (national) presentation of art, which is the best example of contemporary nationalism today" (Buden, 2007, 17).

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It is safe to suggest that, with the success of these events and surrounding discourses in contributing to Kosovo's national image construction abroad, cultural diplomacy has become established as an important policy tool in Kosovo today.



**IMAGINARIES AND MEDIA  
CONSUMPTIONS OF  
OTHERNESS IN KOSOVO:  
MEMORIES OF THE SPANISH  
CIVIL WAR, LATIN AMERICAN  
TELENOVELAS AND SPANISH  
FOOTBALL**

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— JUAN MANUEL MONTORO

## — JUAN MANUEL MONTORO

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## ABSTRACT

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This chapter explores the ways in which Kosovar Albanians perceive, feel and consume Spanishness in everyday life vis-à-vis how they and their country are perceived in Spain. It seeks to explain a paradox discovered during the research process: regardless of Spain's non-recognition of Kosovo and a clear lack of Spanish institutional interest in the region, Kosovar Albanian interviewees display highly appreciative attitudes towards, and consumption of, Spanishness in terms of culture and society, which extend beyond a focus on the country of Spain and its politics alone. Underpinned by insights from symbolic interactionist theory, current developments in the study of everyday nationalism as well as classic, Foucauldian discourse analysis, three key tropes of identifying the Spanish-speaking world emerged as relevant: (1) Albanian historical engagement in the Spanish Civil War; (2) Latin American *telenovelas* (soap operas); and (3) contemporary global football. Religion as a factor of identification or differentiation, however, is conspicuously absent. In contrast, in the Spanish-speaking world perceptions of Kosovo, its people and culture, where any knowledge exists at all, emerge as prejudicial, featuring associations in terms of war, Islam and other Balkanist stereotypes. Often, Albania and Kosovo are conflated in these perceptions. The analysis considers how symbolic hierarchies, situated within wider geo-political asymmetries of power, might inform unequal knowledge about, and sympathies for, each other. It also pays attention to possible generational variations of the perspectives discovered in, and about, Kosovo. The study is based on critical ethnography, a qualitative method including multi-sited text and discourse analyses, field observations and in-depth, semi-structured, open, theme-guided interviews with Kosovar Albanians in Kosovo's capital, Prishtina in September 2019. In addition, several interviews were conducted of Kosovars in Spain, and with Spanish expats living in Kosovo, between June and October 2019.

# INTRODUCTION

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*“The eye you see is not  
An eye because you see it.  
It is an eye because it sees you”*

Antonio Machado 1988<sup>1</sup>

This paper explores how Kosovar Albanians perceive, feel and consume Spain and the Spanish-speaking world in everyday life and how this relates to the way Kosovar Albanians, their culture, and their country Kosovo are perceived in Spain. The focus of this research is not arbitrary, as Spain’s non-recognition of Kosovo’s independence limits the two countries’ bilateral relations. As one of the five EU member states which do not recognise Kosovo, Spain is widely perceived as one of the major obstacles for Kosovo’s integration into the EU and international institutions. Several studies<sup>2</sup> suggest as reasons for non-recognition Spain’s general lack of geo-political interests in the region as well as Spanish concerns over risks arising from potential analogies that could be drawn between Kosovo and the separatist movements at home (Basques and, fundamentally, Catalans). Consequently, Spain not only rejects Kosovo’s statehood but also has discouraged any type of relation, either diplomatic or cultural, with this Balkan nation. This wider context might explain why little, if any, knowledge about Kosovo and its people can be found in Spain. That little awareness, which can be identified in everyday discourse, seems to be based on Balkanist stereotypes rather than any true understanding of human experiences on the ground in Kosovo (Roán 2020).

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1 My translation from the original in Spanish: El ojo que ves no es / ojo porque tú lo veas; / es ojo porque te ve. (Machado 1988[1917], 148).

2 For reviews on the matter see Johansson-Nogués (2008), Borgen (2010, 1018–1021), Jamar and Vigness (2010), Ferrero-Turrión (2017), Vila Sarriá (2019), Vila Sarriá and Demjaha (2019).

Yet it is exactly the human dimension in everyday life, which is of interest to this paper. This study seeks to explore the ways in which Kosovar Albanians and Spaniards mutually view each other, given the unequal, wider geopolitical context. In this, it reveals an apparent paradox: regardless of the fact that Spain still denies Kosovo its formal recognition of statehood and Spaniards' widespread ignorance of all things Kosovar, the perception and consumption of Spanishness in Kosovo is overwhelmingly sympathetic. Furthermore, it emerged that Kosovars' constructed ideas of Spanishness/Hispanicity often much wider than the condition of being from Spain, such as when including cultural exports from Latin America. Vice-versa, ordinary Spaniards and Latin Americans would often not distinguish between Albanians from Kosovo or Albania. By the same token, the interviews revealed that Kosovar Albanians' positioning of Self ranged from a distinct Kosovar identity to wider, ethno-cultural Albanian identifications, depending on a person's given situation. Hence, this paper's focus expanded to identifying mutual perceptions of Spanishness and Albanianess which were geographically, cognitively and semiotically much wider than originally assumed.

## **HOW TO STUDY THE NATIONAL SELF AND THE NATIONAL OTHER: IMAGINARIES AND MEDIA CONSUMPTION**

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Clearly, mutual perceptions of otherness are not limited by the boundaries of existing nation-states. Not only do perceptions travel with people and media, but perceptions themselves flow across boundaries of states. In order to study global cultural flows, social-cultural anthropologist Arjun Appaduraj (1990) suggested a framework of differently situated 'scapes'. Of these, particularly the concepts of 'ethnoscapes', 'mediascapes' and 'ideoscapes' correspond directly with our interest in people, media and perceptions. Such 'scapes' are indicative of such flows as well as of the situatedness of ideas (including perceptions) and people. It is for this reason that the

underpinning method was critical and multi-sited ethnography (Dutta 2014; Marcus 1995; detailed methods mix described further below). Following Appadurai (1990), in this contribution, the wider fields of perceptions to be described are subsumed under the terms 'Hispanoscape' and 'Albanoscape'<sup>3</sup>.

Critical and multi-sited ethnography methodology is theory-guided and cognizant of underpinning structural inequalities within the wider global field (Dutta 2014). Critical ethnography, for its strong theoretical and comparative underpinnings, allows for a qualitative analysis of the situatedness and complexity of mutual perceptions and interpretations. It can indicate emerging patterns of respondents' symbolic worlds, even where based on relatively few observations. Bilateral relations between Spain and Kosovo have been scarce, occasional and heavily dependent on individual grassroots initiatives. Hence, they have produced only limited occasions where the story, idea or people can be traced across multiple sites (Bocagni 2019). Yet the findings are still valid and evocative.

The theoretical frameworks applied draws on symbolic interactionism in combination with the discourse analysis of national imaginaries (also called *Imagology*, see Beller and Leerssen 2007; Zacharasiewicz 2010). While symbolic interactionism and discourse analysis offer strong theoretical guidance for what otherwise might seem elusive and difficult to describe, the concept of national imaginaries helped sharpening the focus on the construction of cultural differences and their respective meanings in the interplay between Self and Other (what it means to be Kosovar, what does one think when thinking of Spain).

Following symbolic interactionism, ideas of Self and Other are constructed and performed in interaction with others and their perceptions in everyday life (Goffman

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3 The decision of using these concepts is not arbitrary since these fields of perceptions are not synonymic to 'Spanishness' or 'Albanianness', respectively. Throughout this paper I will use these terms when referring to this gap and the possibility that interviewees are drawing a wider set of values and perceptions that are applicable not only to Spain. Therefore, the term 'Spanishness' will be restricted only to the condition of being from Spain when it is clearly differentiated from other Spanish speaking cultures. The same applies to the term 'Albanoscape', which is preferred over 'Albanian' or 'Albanianness' in order to not oversimplify the differences between Albania and Kosovo in terms of their contemporary histories, politics and international relations, not to mention respondents' individual experiences and perceptions.

1956; Goffman and Berger 1974). Postmodernist approaches reveal that, contrary to nationalist constructions of fixed, primordialist identities, these are always fluid in social reality (Bauman 1996, 18). Individuals shift their identities depending on the person or situation they are confronting. Goffman (1956) compared social interactions to performances in a theatre where individuals adapt their 'face' to match social expectations and judgement. The social norms underpinning these interactions are reflected in a shared set of symbols that shape behaviors and give predictability and intelligibility to others' actions.

The study uses discourse analysis to identify recurring patterns and shared tropes of significance to the respondents. Foucault's (2002) concept of 'discourse', relates not just to language, but includes the institutionally established ways of organizing knowledge following social practices, forms of subjectivity and wider power relations that naturalise a certain order of the world (and which then are expressed through language). Personal statements containing feelings and perceptions will thus relate to shared, wider structures of meaning. Moreover, discourses can be found, produced and consumed across a wide range of material products, cultural practices and media experiences: videoclips, novels, films, fashion, songs, flags, TV shows, street billboards, museums and comics are potentially all units of analysis by virtue of having the capacity of providing mediated interactions between producers and audiences.<sup>4</sup> Exactly because producers and audiences might not engage in individual face-to-face communications, discourses reveal cultural facts in which different productivities and strategies converge (Kristeva 1980; Eco 1981). For this reason, discourse analysis allows encoding/decoding and assigning agency and meaning to a set of syncretic messages that appear deferred from human encounters. As a matter of fact, people have opinions, ideas and expectations regarding nations they have never visited or people who they never met, either for considering them as their co-nationals or as foreigners. Indeed, Benedict Anderson's key concept of nations as imagined communities (1990) relies on a series of media interactions (i.e. reading the same news daily, distributing books in a shared language). Media contribute to

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4 In Semiotics and Communication Studies, the notion that encloses all these units of analysis is 'text'. For some definitions of 'text' see O'Sullivan et al. (1994, 317), Lotman and Piatigorsky (1978, 233), Eco (1994, 2).

creating powerful *imaginaries* which draw distinctions about who *we* are and who *they* are. As the reality of this research project showed, many respondents also widened the 'national' categories to wider 'scapes' as already mentioned above.

The construction of Spanish national identity and, especially, its wider, geopolitical self-positioning both in Europe and the modern world, spans at least five centuries and has varied across time and space and with different actors.<sup>5</sup> Equally, stereotypes of otherness are not necessarily fixed and derogatory. They shift and change through time and space, contingent on wider contexts and situations (Beller and Leerssen 2007). They can evoke a spectrum of attitudes, ranging from xenophilia to xenophobia, utopia to indifference, condescendence to fear or hatred. Both collective and individual motivations and desires for engaging with the national Other can play a major role in either stressing or avoiding any (inter-)cultural consumption. Meanwhile, countries have different margins of influencing each other's people's national perceptions and sympathies. Specifically, soft power strategies aim at structuring a situation so that other countries develop preferences based on their cultural or ideological attractiveness (Nye 1990, 168). However, these might not always be reciprocal or symmetrical.

The ways in which unequal and asymmetrical, geo-political relations of power can affect interpersonal presentations of Self, mutual perceptions and notions of belonging and identity in transnational encounters between Kosovars and members of an established Western nation, here in the UK, has already been demonstrated (Luci and Schwandner-Sievers 2019). But does this fact alone explain why many Kosovars tend to see Spain as a nation worth admiring despite Spain's sociocultural unawareness and institutional hostility towards Kosovo?

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5 For an exhaustive and detailed account on Spain's self-image in recent times across different cultural domains, see Moreno Luzón and Núñez Seixas (2015). For a selection of some well-informed readings about the historical construction of Spain's national identity see Álvarez Junco (2002), Inman Fox (1998) and Pérez Viejo (2015).

# RESEARCH METHODOLOGY AND LIMITATIONS

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As indicated above, this study relies on critical, multi-sited ethnography, which included ten open, semi-structured, theme-guided and in-depth interviews. Following initial desk research, I collected data from June to October 2019 in Kosovo and Spain. Starting with desk research, I began by searching for random, informal clues of the Spanish/Hispanic presence in Kosovo online (eateries, dancing clubs, language courses, cultural centers, online press clipping, testimonials regarding the Spanish contingent of KFOR). I also searched for open-source evidence in the available literature regarding any historical or contemporary evidence of cultural exchanges between Spain and Kosovo as well as between the wider Hispanoscape and Albanoscape. In result, I identified and contacted three Spaniards who used to live in Kosovo. They served as entry points for arranging the interviews in Prishtina, conducted in September 2019.

Out of the ten respondents, seven were men and three women; three in the age range from 20 to 30; five from 30 to 45; and two from 45 to 60 years; one had lived shortly in Spain; five had visited Spain at least once and four had never been to Spain; six were originally from Prishtina; four grew up in different areas (Istok, Belgrade, Peja and the Preševo Valley). Two of them were company executives, the others, respectively, a sportsman, teacher, economist, student, surveyor, researcher, contractor and a marketing specialist. Eight interviews were recorded and conducted face-to-face; one through a videocall and one was non-recorded and conducted in an informal meeting. All interviews were conducted in English, except for one conducted in Spanish. In line with basic standards of research ethics, research participation was voluntary and based on informed consent with respondents retaining the right to withdraw at any time. All real names were replaced by pseudonyms in order to preserve the participants' anonymity.

The focus of these interviews was to understand motivations, aspirations and perspectives in the interplay between respondents' self-positioning as Kosovar Albanians and the imaginaries they projected on Spain and the Hispanoscape through cultural consumption, travel experiences or any other kind of mediated encounters. When starting the interviews, I decided not to call upon a given cultural domain in advance in order to avoid predetermining respondents' preferences. Thus, interviews followed inductive techniques that enabled me to readapt questions according to expressed preferences, thereby narrowing the topic along the tropes emerging as relevant from the interviews. It soon became clear that the most salient cultural tropes evoked related to 1) collective memories of participants from the Albanoscape in the Spanish Civil War; 2) Latin American *telenovelas* (soap-operas); and, most prominently, 3) football. The second and third themes, both, emerged from respondents' references to a wider Hispanoscape when constructing Spanish cultural similarities or differences beyond the culture of Spain alone.

While the sample might have been biased in that the respondents were selected for having previously expressed interest in engaging with the Hispanoscape, the emergence of these three tropes as relevant demonstrates the merits of a qualitative approach aimed at identifying patterns of cultural significance. However, limitations apply regardless. For example, my persona as researcher entailed, both, methodological chances and risks. On the one hand, being an Italo-Uruguayan citizen rather than a citizen of Spain, potentially allowed respondents to speak more critically of Spain than they might have done if I were Spanish by nationality. On the other hand, this fact might also have caused the Kosovar respondents' emphasis on the wider Hispanoscape, rather than Spain alone. In Kosovo, little else is known about Uruguay other than its international role in football. I stressed my different and dual citizenship in the introductions. Similarly, when the talk turned to Latin America, I drew distinctive similarities between Uruguay and Kosovo, different from other Latin American countries and Spain (e.g., their peripheral condition in global geopolitics and some historical parallelisms on how statehood was reached). Establishing friendly communication between strangers through identifying similarities and points of connection is a universal social strategy (Rosenberg 2015), including in interview situation. For the Albanoscape, whose auto-image relies on strong notions

of being hospitable, practices of constructing similarity in ethnographic encounters has previously been pointed out (Schwandner-Sievers, 2003, 201). In my research, this may have led respondents to adapt some of their answers so as to please what they believed might be key to my own cultural background. However, while these potential biases might affect the quantitative validity of my findings and their proportional representativity, they do not affect the qualitative analyses, overall, and its value in evocating future research questions that can built on the cultural logic discovered.

## **SPAIN AND KOSOVO: STORIES AND ENCOUNTERS REFLECTING UNBALANCED NATIONAL RELATIONS**

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In Spanish public opinion Kosovo is mostly still regarded as a war zone relating to the breakup of Yugoslavia. Along with Bosnia, Kosovo is associated with war and political instability in the 1990s, much like Iraq and Afghanistan in the 2000s or Syria in the 2010s. The phrase ‘This looks like Kosovo’ when referring to a disastrous and messy place is still widespread in everyday parlance in Spain and Latin American countries. For an average Spaniard, Kosovo seems to lack cultural value. Where there is empathy towards Kosovars, it is indissociable from the ‘political empathy’ for victims (Dunn 2004) that citizens of the developed world feel towards those who suffer catastrophic hardships depicted in the international news. For this reason, once the war ended and locals were charged with peacekeeping, strengthening civil society, and developing political institutions, attention to Kosovar Albanians dramatically dropped in Spanish society.

Unlike other European countries such as Germany, Switzerland, the UK or Italy, Spain was not a major destination for migrants from the wider Albanoscape (includ-

ing all ex-Yugoslav countries and Albania proper). This is one reason why post-conflict issues in the Balkans do not appear as part of Spain's political agenda. In the initial post-war period, the country maintained a key presence as part of international missions in Kosovo, most notably with a contingent of KFOR that was stationed in Istok for ten years (1999-2009). However, following Spain's non-recognition of Kosovo's 2008 Declaration of Independence, the Spanish Government gradually dismantled every official presence in the newly independent state. According to Ferrero-Turrión (2017, 53-54), "Spain was the sixth largest donor to UNMIK and KFOR until 2009. However, it refused to participate in the missions led by NATO and EULEX due to the fact that they both contribute to building a new state." As of today, state-sponsored cultural exchange institutions like *Instituto Cervantes* or *Red de Centros Culturales* are not present in Kosovo despite the fact that they have delegations in neighboring countries.

Spain's official policies towards Kosovo are particularly hostile even when compared to other non-recognizing EU members such as Greece, Slovakia, Romania and Cyprus.<sup>6</sup> Ferrero-Turrión (2017, 54) points out that, in Spain, travel restrictions for Kosovar passport holders are particularly strict, independent of whether they reside in, or travel from, a Schengen member state or not.

Probably the clearest display of Spain's soft power is its contestation of Kosovar delegations in international sport competitions in recent years. From 2008 to 2017, Kosovo gained affiliation in at least 28 international governing bodies and 14 European federations, most notably the International Olympic Committee (IOC) in 2014 and International Federation of Football Association (FIFA) in 2016. This coincided with a rise in Catalan separatism and a sharpening of tensions over the struggle for cultural unity in domestic politics.

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6 While Greece has shown a strong policy of engagement with Prishtina (Armakolas 2017;2020), Slovak officials have had regular contacts with their Kosovar counterparts (Nić 2017, 37-38), and Romania has contributed significantly to international missions in Kosovo (Ivan 2017, 44), Cyprus and Spain emerge as the non-recognizing EU members that are least interested in engaging with Prishtina. In a comparison between these latter two countries, one should note that in Cyprus some cooperation – though limited– is taking place between respective civil societies and engagement could increase if the two sides find the right moment in the near future (Ioannides 2017, 50).

Recognizing Kosovo and hosting Kosovar athletes in Spain are increasingly inevitable for Spanish sport authorities. In recent years, some disagreements arose between international federations like the IOC that demanded Spain to integrate Kosovar athletes and Spanish official diplomacy that rejected treating Kosovo as other members due to the potential that this could be interpreted as an endorsement of Kosovo's statehood (Arribas and González 2018; Ojeda 2018).

Furthermore, the assumed scope of Spain's soft power lies in the eyes of the beholder. On the one hand, Spain can be seen as a solid, developed nation as well as a cultural mediator between Europe and Latin America. On the other hand, it is not a lead EU policymaker if compared to Germany or France. A historical analysis reveals that European élites constructed the image of Spain ambiguously, oscillating between an Orientalist stereotype identifying it as the exotic and barbaric Other, on the one hand; and as the most loyal defender of the Catholic faith, a pillar of the European pre-modern identity, on the other (Álvarez Junco 2001). The same ambivalence seems to drive Spaniards sometimes to position their nation according to a symbolic hierarchy which is marked by a feeling of superiority and condescendence towards the so-called Global South (including Latin America and the Balkans); and a sense of inferiority vis-a-vis wealthier and stronger nations, especially those of Anglo-Saxon and Nordic backgrounds.

As a result of this broader sociopolitical context, Spain has neither a diplomatic agenda nor strong geo-political interests in the Balkans and, although the war in Kosovo ended in 1999, Spain has struggled to frame Kosovo outside any tropes of the 'suffering Other'.

## BOTTOM-UP ACCOUNTS AND MEMORIES REFLECTING SYMBOLIC HIERARCHIES

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The bottom-up perspective from a number of Kosovar interviewees in this research stressed that Schengen visas stamped in Kosovar passports state ‘Minus Spain’. They identified that stamp as an icon of Spain’s harsh diplomatic stance towards Kosovo. Spanish citizens, however, have little to no problems with administrative issues or daily experiences if they move to Kosovo. The Spanish expats living in Kosovo whom I approached told me that in almost every daily encounter the issue of non-recognition emerges, half-seriously and half-jokingly. Despite this frequent mention of Spain’s non-recognition in everyday conversations, they have never been treated rudely for being Spaniards. However, if they were Americans or Germans, they would expect greater displays of affection.

The situation is different, however, for Kosovar Albanians who had more intimate experiences with Spaniards during or immediately after the 1999 war. In Istok, the village where the Spanish contingent of KFOR was stationed for ten years, the imprint of this intimacy is clearly visible. One of my interviewees from Istok told me that one could find dozens of stories there about Kosovar women who fell in love with Spanish soldiers and went to live with them because, ‘They [Spanish soldiers] were part of our village.’ If this account is generalizable, it would be an interesting finding that contrasts with the importance of traditional family, endogamy and keeping a homogeneous identity in Kosovar Albanian society (see Drosopoulos 2019, 221-222). According to the same respondent, the word *karamela* (from Spanish, *caramelo*) survives even today as the Istok term for *candy* because they have the vivid memory of receiving Spanish soldiers who used this word when handing candies to children upon entering Istok after the war.

Although it was not in my original plan, I took the time to make a day trip to Istok. I realised how touching the exchange with Spaniards had been for villagers during those years. In a single morning I found three people who regretted having forgotten Spanish language because, according to them, they used to speak it fluently when Spanish soldiers were stationed in Istok. I talked to a woman who was engaged to a Spanish soldier. She confessed that for her village Spain was not only a country, but a bringer of modernity in all respects.

Similarly, one of my interviewees who was a war refugee in Spain in 1999 stressed that as an adolescent she remembers her stay in Ávila (autonomous community of Castile and Leon) and Amposta (Catalonia) as some of her happiest moments in life:

It was in Spain where I got my first Barbie. I was 12 and a bit grown-up for dolls, but it was a dream for me. People were awesome. We had everything. (...) After the war ended my parents didn't get their diplomas validated so we had to return to Kosovo. I was angry and I could not understand then why we had to leave Spain, where we were so happy (Luriana, aged 33).

In all these cases, the respondents' thinking about Spain meant remembering sensitive experiences that deeply touched people's individual and collective biographies. At those moments, non-recognition seems not at the forefront of their mind.

# KOSOVAR ALBANIANS RECOGNIZING SPANISHNESS: COLLECTIVE MEMORY AND MEDIA CONSUMPTION AS A MEANS OF BRIDGING GAPS

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When asked about whether resentments exist among Kosovar Albanians regarding Spain's refusal to recognise Kosovo's Statehood, one respondent told me the following joke:

There is a ship with people from many nationalities. People go out to the dock and among all the people there are two Kosovars. One of them only speaks Albanian so he asks the other to ask a man in the dock which country he is from. The man answers 'Germany' so the first Kosovar hugs him and says, 'Oh, you recognise us!' The same happens with people from France and many other countries and at the end, a Spanish guy comes up... The first Kosovar hugs him without saying anything, so the second Kosovar orders, 'Release him, he doesn't recognise us!'... Then the first Kosovar replies, 'Maybe they don't recognise us, but they discovered America' (Jeton, aged 58).

Many interviewees reframed the relation between the Albanian and Spanish/Latin American cultural landscapes by highlighting similar, essentializing character traits. In some cases, this might complement an existing political solidarity. "My second soul is Latin... I've never been to Spain and I'd like to go, but before I want to go to Costa Rica because that was the first country that recognised Kosovo" (Bashkim, aged 36).

Clearly, recognition may enhance a country's lovability among Kosovar Albanians, but it is not a condition for affection. In most cases Spain's lovability is supported by a feeling of cultural likeness regardless of foreign relations and historical interactions. Many respondents constructed cultural solidarity between Kosovar Albanians and Spaniards because both cultures are perceived to be more relaxed, passionate and authentic compared to northern European nations, especially Germany. In that sense, the experiences of an interviewee, who spent six months living in Spain as a war refugee, are particularly insightful. Upon her return to Kosovo, she kept contact with many of her Spanish acquaintances from that time and gained new friends among the Spanish expat community in Kosovo. She suggests feeling at ease among Spaniards because "we, as southern Europeans, are pretty similar. We're passionate, we enjoy life and we're direct." According to her, "here [in Kosovo] everything goes slowly and in Spain it is much the same."

In drawing similarities between the Albanoscape and the Hispanoscape, respondents' reveal that Kosovar Albanians do not perceive religion as a significant factor differentiating the associated cultures. The identification of the Albanoscape with Islam was rejected at some occasion, like the instance when Jeton (aged 58) stresses that "We [Albanians] are the only nation that has three faiths: Catholics, Muslims and Orthodox. And people never had problems because of their faith. We are brothers."

In most interviews, respondents stressed that religion was neither an indicator of an individual's personality nor a difference of particular significance between the cultures compared. For example, Besa (38), a Kosovar Albanian woman from Istok in Western Kosovo, who married a former Spanish soldier and set up her family in Spain, states:

Albanians and Spaniards have more in common than one could imagine. I think the biggest difference is religion. Albanians are Muslim and Spaniards are Christian. But apart from that, the character is the same. People have a relaxed mood and family is the center of the society in both places (Besa, aged 38).

By contrast, Luriana (aged 33) remembers her original expectations when arriving as a war refugee in Spain. She was surprised to find Spanish people so hospitable because “coming from a Muslim tradition, it was the church and the Red Cross who actually sent us there.” From this fact she learnt that “no religion was a problem in-between.” Overall, however, the downplaying of religion as a marker of difference between Albanians and Spaniards was not as recurrent in the interviews as three other topics: Albanian collective memory of the Spanish Civil War, popularity of Latin American *telenovelas* around the world in the 1990s-2000s, and the fast-growing passion around Spanish football.

## THE SPANISH CIVIL WAR IN ALBANIAN COLLECTIVE MEMORY

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As in the previously mentioned joke, Kosovar Albanians have historically associated Spain with stories of affection, love, and passion. The most impactful reference to Spain in the Albanoscape’s collective memory is the participation of soldiers of Albanian ethnicity in the Garibaldi Battalion of the International Brigades during the Spanish Civil War. From 1936 to 1938, hundreds of Albanians from the Kingdom of Yugoslavia and the Kingdom of Albania supported the left-wing Republican faction in Spain and fought against Nationalists led by dictator Francisco Franco. This history of Yugoslavs/Albanians in Spain was institutionalised in the context of Tito’s ‘Brotherhood and Unity’ and of international solidarity with partisan movements across Europe. For this reason, several generations of Kosovar Albanians grew up hearing heroic stories of how volunteers fought fascism in Spain. Today a number of schools across Kosovar and Albanian cities are named after some of these activists, reflecting the role that these memories had in their education systems during socialism and the way they have been preserved in post-socialist collective memory.

Whether in a more detailed or generalised version, almost all interviewees framed such educational encounters with the Hispanoscape as an important background to bilateral relations and to how students from the Albanoscape are learning about Spain at an early age. The costs of Albanian participation in the Spanish civil war were high, according to Jeton (aged 58): “In 1939, when it was the Revolution here [in Spain] many people come to fight and died here. At least two people died! And we know it because in our cities we have statues of them.” Such stories might evoke the notion of an Albanian historical sacrifice for Spain and, by extension, construct a moral duty owed by the Spanish nation to the Albanoscape. As Blerim (aged 45) suggested in relation to Kosovo, “[the Spanish non-recognition] is ridiculous! We went to Spain to fight for freedom. It was 70 years ago, not a long time. And now one of the harshest positions towards Kosovo comes from Spain proper.” Here, the palpable sense of injustice is based on equating Spain’s failure to fulfil this perceived moral obligation, as arising from the historical Albanian sacrifice, with its contemporary failure to recognise Kosovo.

However, Albanian reflections about the historical Albanian participation in Spain’s Civil War do not necessarily create such a sense of injustice and national debt. For instance, Edon (aged 33) emphasised that the Spanish Civil War is not that important in Albanian historiography today. He remembers that, during school, he read “about Albanian soldiers, but it was more about how brave we are, more about us, than about the Spanish people themselves.” In another version of this trope, Kujtesa (aged 27), related those school memories about Spain to universal liberal values, since for her “it was important because of the sense of fighting for people’s rights and for building democracy.”

The Spanish Civil War seems to be more meaningful for older generations who were educated under socialism. For young people, these early contacts with Spain appeared not to be integrated as part of any lived, everyday encounters with the Spanish-speaking world. For Kosovar Albanian culture, participation in the Spanish Civil War may have become a ‘realm of memory’ (Nora 1989), a fuzzy entity by which community members share a symbolic heritage, here often perpetuated through history class in school only. However, the fact that these memories underpin Albanian Petro

Marko's novel *Hasta La Vista* (1958) shows modern Albanian literature fostering sympathetic memories towards Spain. Petro Marko's book provided Albanian-speaking communities with a culturally distinct social frame to remember (Halbwachs 1992) and to make sense of historical and intersubjective relations with Spain. Spanish literature does not have a similar work about Kosovar or wider Albanian participation in the Civil War from a Spanish perspective. There also exists no translation of *Hasta La Vista* into Spanish. These facts demonstrate not just the extent to which Kosovar Albanians, arguably, culturally nourish affections towards Spain (or, at least, the role which Spain plays in Kosovar Albanians' self-descriptions), but also that the Spanish cultural gaze on the Albanoscape does not correspond in any notable depths.

## LATIN AMERICA AS PART OF THE HISPANOSCAPE: HOW TELENOVELAS PROJECTED THE EXOTIC OTHER

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One of the most striking experiences for a Spanish speaking person visiting countries of the former Yugoslavia is the number of people who speak reasonably fluent Spanish having taken any language course. This is particularly significant in Kosovo where no courses are available. One of the ways they learned and practiced Spanish was through television soap operas called *telenovelas* both in Latin America and in the Western Balkans. They had a boom from the early 1990s to early 2000s across the wider region.

The success of *telenovelas* in East and Central Europe during that period is a relatively acknowledged fact in the specialised literature (see Stan 2003; Mato 2005; Vujnovic 2008; Medina and Barrón 2011; Štetka 2012). The popularity of *telenovelas* could be due to their simplistic plots that mimic real life through twists and melodramatic exaggerations in a way that is aligned to audience's expectations and beliefs (Pear-

son 2005). TV-based *telenovelas* became the most commercially successful media production in Latin America, as opposed to the film industry that domestically competed with Hollywood (López 1995, 260). This happened because media producers were able to export *telenovelas* in more competitive conditions than mainstream TV contents, resulting in a *telenovelas* boom that coincided with the emergence of cable television across post-socialist markets.

While respondents agreed that watching *telenovelas* was a fashionable practice in the 1990s and 2000s, some stated that learning Spanish language was a motivation to continue following them. This pattern is common in other former Yugoslav countries (see Jovanovic and Matic 2008). For respondents aged 25 to 40, *telenovelas* are linked to nostalgia for their teenage years and a vague sense that fellow teenagers followed them in the same passionate way. Kujtesa (aged 27), for example, remembers that “Once in high school I needed to call my teacher and I said to him aloud “Hey, Profe!” I did it unconsciously, but everybody laugh at me because they thought I was too influenced by Rebelde Way [a fashionable *telenovela* at the time]”. Similarly, the following recollection illustrate this feeling:

Latin *telenovelas* were a kind of collective passion for all... I started watching them at six years old because it was something new and strange. And later I followed them because I really liked the language... Now we have Turkish ones, but it is different. They have similar characters, love stories and so on but people really don't like them the same (Vlora, aged 30).

Not all interviewees talked about *telenovelas*, but all of them agreed that along with football, they are the most prominent media encounters with the Hispanoscape. Respondents tended to superficially organise consumption around gender (‘men love football, women loved *telenovelas*’), but we can find more complex motivations as to why Kosovar Albanians projected an image of Spain through those media.

All respondents associated *telenovelas* with Spain even though they were aware that *telenovelas* came from Latin America. Indeed, one of the most successful ones in terms of TV rating, *O Clone*, was not in Spanish. It was produced in Brazil and

the characters spoke Portuguese. Interviewees also reported loving *telenovelas* like *Kassandra* (Venezuela) or *Muñeca Brava* (Argentina), but only one interviewee remembered their specific country of origin. Spain, on the other hand, appeared as the clearest geographical reference. For this reason, the disentanglement of Spain from the *telenovelas* universe occurs only when people travel to Spain. ‘When I went to Spain as a teenager, I expected to see all those tropical landscapes and big farmhouses that in *telenovelas* were called *estancias*. But instead of it I got surprised on how different it was. Later I realised that those landscapes were from Latin America’ (Luriana, aged 33).

Television content in Latin America, especially *telenovelas*, has been studied as a means for audiences to collectively dream about social mobility (Sánchez Vilela 2000; Orozco 2017). Audiences from lower socioeconomic classes project their own desires into the humble characters’ happy ending. However, in the case of Kosovar Albanian audiences one can observe an experience of national self-positioning. Respondents agree they were amazed at the strangeness of Latin American personalities, landscapes and social dynamics. They did not expect to be represented as subjects in the plots nor to assimilate the characters’ problems as their own. This is important because consumers may engage with characters’ problems at an intimate level but not as members of a Kosovar Albanian collective.

According to some respondents, during the years that the *telenovela* boom lasted, Latin Americanness was perceived as a trendy style that enabled individuals to perform Otherness by emulating its exotic manifestations. This is evident in Kujtesa’s (aged 27) family memories: ‘It’s not only I speak Spanish. I taught my little brothers some words and sometimes at dinner we all spoke a bit in Spanish. I remember my father complaining to my mother: ‘Can you believe it? Now we have the house full of Latin Americans!’ “

If non-Western producers, especially the Japanese video game industry, strategically erase the traces of their cultural backgrounds in media exports in order to please the Western cultural taste (Iwabuchi 2002), the opposite is true of *telenovelas*. *Telenovelas* became a global success in part because delocalised audiences found in their

content strong associations with the Hispanoscape and its imaginaries (for example, intricate love stories and overt displays of affection embodied in Latino characters). More knowledgeable consumers may unravel Spanishness from Latin Americanness, but those who have less contact with the Hispanic cultural sphere probably collapse the symbolic values altogether. Even if a product is geographically produced in Spain but organizationally funded by a multinational corporation, the Spanish cultural resemblance diminishes in favor of a more commoditised experience or a benchmark in global audiovisual production. According to Bashkim (aged 36), this is what happens with the Netflix series *La Casa de Papel*: “I don’t believe people love it because it’s Spanish. We watch it because it’s very good technically. It’s not the same feeling of understanding a new culture, like *telenovelas* had”.

For Kosovar citizens who are used to facing economic and diplomatic barriers to free travel, media consumption can acquire an important role in making sense of the rest of the world. Some accounts reflect how Spain is reachable mostly only through media experiences with Spanish-language productions. *Telenovelas* facilitated wider contacts with the Hispanoscape and the internet provided opportunities to bring this Spanish speaking cultures closer to home, as explained by Kujtesa (aged 27): “After watching *telenovelas* I’ve learned to differentiate the Argentinean accent... I’d want to go to Argentina because I love their accent... In Kosovo we don’t have Spanish lessons, so I learned it by myself, surfing the internet, chatting with Latin Americans.”

Considering these restrictions and the historical character of their consumption, *telenovelas* in Kosovo may represent a ‘realm of memory’ for many young to middle-aged Kosovar Albanians similar to educational stories about the Spanish Civil War for older generations.

## 'IT'S MORE THAN JUST FOOTBALL': SPANISH FOOTBALL AS EUROPEAN AND GLOBAL INTEGRATION

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For Kosovar Albanians, *telenovela* consumption is a way to make sense of Spain and the wider Hispanoscape. Interviewees did not expect to be nationally portrayed in their plots, characters, landscapes and customs. On the contrary, they enjoyed learning about the Other. That is not the case for football, or sports in general, where clubs and national teams are seen as cultural representatives of collective identities.

Once considered a stage for banal nationalism (Billig 1995), football is undoubtedly a keystone, albeit potentially conflict-provoking, in contemporary national identity politics and soft power public diplomacy, including in the Western Balkans (Brentin 2016). International football tournaments are privileged modes to globally access Otherness and to initiate intercultural exchanges, at least in terms of media encounters. Just as an example, once every four years, 32 nations are placed in the media spotlight as participants in the recurrent FIFA World Cup. Meanwhile, the average football fan engages with distant countries which, outside the limited time period of the World Cup period, rarely capture their interest or attention.

The centrality of football discourses in media agendas and popular culture derives from a curiosity about other nations which emanates during the World Cup. Footballers embody their respective nations and their inspiring life stories are read as testimonials of others' lives. This may include stories of transnationalism, family migration, mixed ethnicities, economic underdevelopment and health problems. In this way, footballers serve as models of how one can overcome difficulties.

Routinely, domestic leagues and club international competitions encourage this narrative and fuel passion through it. In that regard, the delocalization of football fandom is a key driver in its worldwide profitability. It is imperative to concentrate audiences on a select number of leagues and competitions in order to converge market efforts (see Giulianotti and Robertson 2007). Within those top leagues, the Spanish *Primera División* clubs have gained an uncontested hegemony in the last two decades, mainly distributed between rivals Real Madrid and FC Barcelona. This hegemony gives Spain incredible influence in the popular globalised cultural domain of football.

Unlike *telenovelas*, football is not limited by an already expired boom. Rather, football is part of a continually growing collective passion. The international admission of a Kosovo national team, far from discouraging international viewership, encouraged Kosovar Albanian audiences to mingle international and local perspectives:

Some years ago, I would say that football was for men and *telenovelas* were for women, but in recent times football gets all the attention. Before Kosovo had a team, all the attention went to Real Madrid, FC Barcelona, Juventus or Milan. But today also the national team is important (Vlora, aged 30).

Almost all respondents stressed the current moment for the Kosovar national team and felt enthusiastic regarding its promising results when I conducted these interviews in September 2019. Shortly before my fieldwork, the team had just won two Euro qualifying games in a row that placed it in a strong position. However, in order to avoid contextually biased accounts, I paid attention to how Spanish football fans were organised.

*Penya Kosovar* is the official fan club of FC Barcelona in Prishtina. Although I found some Kosovar fan clubs of Real Madrid online, they did not seem to have a structure like the FC Barcelona ones, and I was not able to contact them. As one fan of the FC Barcelona explained, “There are fans of Real Madrid like us. We are even in numbers. You can also find fans of Atlético de Madrid or [Athletic] Bilbao” (Blerim, aged 45). Another FC Barcelona fan elaborated, “There is a strong rivalry between us and them.

El Clásico is quite an event here. Pubs are packed, everybody is very nervous. We respect each other but when we won them, or they win us, mocking may last even for a month” (Gezim, aged 20).

According to my interviewees, two main factors drive support for either Madrid or Barcelona. On the one hand, supporting a club can result from idolizing a particular celebrity. For example, Kujtesa (aged 27), explains, “I support Real Madrid because as a teenager I watched the matches with my brother but, more importantly, their goalkeeper was Iker Casillas. And I liked him.” Similar motives, combining social experience and celebrity cult, are evident in this statement:

Our group grew with the emergence of [Lionel] Messi as a superstar. People of my age may find coincidences at a rooted level but for younger generations FC Barcelona is Messi. And most of fans of Real Madrid supported it because of Cristiano Ronaldo. The hottest moments of the rivalry in Kosovo between FC Barcelona and Real Madrid were when Messi and Ronaldo competed for who was the best footballer in the world (Blerim, aged 45).

On the other hand, love of a specific team can derive from a sociopolitical interpretation for what FC Barcelona and Real Madrid stand in the Spanish or international contexts in relation to Kosovo. For example, some fans associate FC Barcelona with opposition to Serbia and sympathy for Kosovo. Edon’s (aged 33) love of the FC Barcelona developed after the 1998 World Cup, when he discovered that many players of the Dutch team played for the FC Barcelona. Edon explained that he initially sympathised with these Dutch players in the Spanish team, because the Dutch had eliminated Yugoslavia during the same tournament.

Though overtly rejecting the political parallelism ‘Catalonia is like Kosovo’, some respondents accepted that their football preference was slightly influenced by the idea of defying a centralist power, whether interpreted as a national struggle or not. This sympathy towards Barcelona’s more peripheral position within the Spanish state was even more present when the interviewee identified as politically active. One respondent, Blerim (45), remembers how the FC Barcelona suffered under Franco’s regime

and insisted on the club's motto of 'being more than a club' (*més que un club*, in Catalan). He explained, "for us football bridges peoples and societies. That's our true spirit". Similarly, another interviewee stated that, for him, FC Barcelona projects:

something that is more than a club. It's international. It's about love of other nations. And they can have some kind of relation with us. In diplomacy and international relations there are a lot of differences between the cases of Catalonia and Kosovo [but] I see Real Madrid as representing the stronger, the more central and also the friendship between Spain and Serbia (Gezim, aged 20).

As expressed in these last two citations, FC Barcelona fans in Kosovo take their narrative frame from the club's corporate slogan as being 'more than a club'. This message allows them to envisage football as a means to address values beyond football:

FC Barcelona is more involved in politics and that's something people can easily read. Nobody here is talking about the Basques, for example. The whole idea of the Catalan gets some kind of empathy. But for us Spain is Spain, whether Catalans go for independence or not. We all put them in a single pot (Edon, aged 33).

Since sport discourses are not easily separated from the social discourses that surround them, the same club preferences are sometimes projected towards the associated cities, Barcelona and Madrid. Some interviewees, along that line, recounted their personal travel experiences independent from football:

Probably (Kosovar Albanian) people feel more comfortable and understood with a group that demands for independency like Catalonia.... That's the reason I believe people tend to go to Barcelona instead of Madrid. We had the idea that we are going to be treated better there.... I went there with such mindset myself, but I was a bit disappointed (Vlora, aged 30).

A notable difference from the consumption of *telenovelas* emerges. Kosovar Albanians find in sports a mode of constructing, highlighting and expressing their own national identity in relation to Spain. Respondents identified the wider field of football as an opportunity to gain respect and attention by the Spanish media and by the Spanish population. The clearest example of this is a statement provided by a football fan:

It would be a dream come true if we face Spain in a competition and we win against them. Sometimes I think it could unease relations because recently we won against the Czech Republic and their President said they would no longer recognise us. But, at least, that would force Spain to look at us (Gezim, aged 20).

The emergence of Kosovar national delegations in the international sports world during the last five years seems to have encouraged sports as a means to express national identification. During the past two decades Kosovar Albanians have supported other national teams that either share their cultural identity (Albania) or feature several Kosovar Albanian players from the diaspora (Switzerland). Take for instance the celebration of Granit Xhaka and Xherdan Shaqiri, two Swiss players of Kosovar Albanian origin. After these players scored against Serbia in a 2018 World Cup game, Kosovar and international discussions centered around the question of Kosovo's national representation despite the fact that Kosovo proper was not even playing during that tournament.

Though respondents affirmed that they support the Albanian national team, all of them showed enthusiasm for the progress towards creating a Kosovo national team. There were some nuances, however, which related to the interviewee's place of origin in the wider Albanoscape that are worth researching further. For example, Gezim (aged 20), a respondent originating from the Preševo Valley, which is beyond Kosovo's current jurisdiction and home to ethnic Albanians in Southern Serbia, expressed indifference regarding whether to favor more a team from Albania or Kosovo. Based on a sense of wider, ethnic Albanian solidarity, he felt "we have two national teams.... Now Kosovo is performing better, so it's like our Team A". However, Dritan (aged 36),

a respondent from Istok in Western Kosovo, declared that he didn't feel his country "to be fully represented until Kosovo started to play internationally."

Inclusion in European football and the opportunity to play stronger nations like Germany, France, Italy, UK and Spain put Kosovo on the sporting map, globally and within Europe. This was challenged when Kosovars were called to play against Albania. Kosovar Albanian cultural identity may belong to a broader Albanoscape, but on a global scale, Kosovo's nationhood becomes salient in everyday interaction (Fox and Miller Idriss 2008) when performing separately from Albania in sports. That seems to be one of the reasons why interviewees like Blerim (aged 45) expressed that 'for 24 years we were out of all competitions' (although Kosovar Albanian footballers have played for Albania since 1998). Along the same line, Jeton (aged 58), an executive from a Kosovar sporting federation, proudly celebrates that 'there are many bigger states that have not won a single gold medal, and we have', referring to Kosovar Majlinda Kelmendi's Judo triumph at the Olympics in Rio 2016. While that medal was won representing Kosovo, the wider Albanoscape identified with it affectionately, including in Albania proper, which have never won a single medal in any discipline since its first Olympic appearance in 1972. Yet it seems that specifically to Kosovars, sports successes achieved under the Kosovar flag hold a particular identification potential, not least for the sense of international recognition involved. As one interviewee explained:

Competing officially at FIFA and UEFA are incredible opportunities to have some fun.... This is the first time we see Kosovo mentioned in certain tabloids. If we talk about politics the regular person doesn't want to be involved. But when sports comes to the plate, we are talking about something you can relate to, you can get to know (Edon, aged 33).

The emergence of young talent also in the Kosovar Albanian diaspora, from where football players are now eligible to play for the Kosovo national team, encourages home audiences to see their domestic football competing at highest European standards. It might still be too early to decide whether Kosovars may realistically afford to dream of reaching top standards such as that of Spanish football any time soon.

However, as three interviewees stressed, Kosovars can afford to love Spanish football because “it’s the best in the world”. Meanwhile, many Kosovars might already feel satisfied and proud with finally having sportspersons and competing at international level under the Kosovar flag, just like Spain.

## CONCLUSIONS

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Despite the Spanish state’s continued non-recognition of Kosovo, intercultural exchanges are taking place that influence how Kosovar Albanians value Spain, Spanish people and their culture, and the wider Hispanoscape at large. This research has four interesting findings that suggest the possibility for future research. The first finding is that interviewees tended not to bring up religion as a significant point of difference between Albanian and Spanish identities. If they did comment on religion, interviewees did not believe this to cause significant differences in culture, respectively. In fact, when looking for European models of identification, Kosovar Albanians tend to sympathise with Spain because they regard it as an example of a relaxed southern European culture that is globally recognised for its cultural heritage. Secondly, memories about the Spanish Civil War were found to be relevant. They feature a generational gap as they are more meaningful to those educated in Socialist Yugoslavia. However, this trope still remains as one important means to learn about Spanishness at an early age in present day Kosovo. Thirdly, Latin American *telenovelas* and Spanish football clubs provide two notable forms of cultural consumption of Spanishness among Kosovar Albanians. *Telenovelas* offer a model of Otherness; while football clubs (mainly FC Barcelona, to a lesser degree Real Madrid) increasingly offer a model of global integration and world-class sportsmanship. Fourthly and finally, the cultural consumption of football, in particular, enables Kosovar agency within existing, mutual imaginaries of the Other. Respondents felt Spanish football provides ways for Kosovo to be known, accepted, and integrated in the global world, including in Spain.

Future research should address how Spanish sport authorities can continue their practices of institutional avoidance and cultural ignorance towards Kosovo even though Kosovo has been fully integrated into most international sport federations. Spanish authorities may see this as a problem of foreign relations, but Spain could start to consider the human dimensions mentioned in this paper in order to depoliticise the unavoidable fact that, at least in sports, they must have some kind of engagement with Kosovo, whether this could be interpreted as some kind of diplomatic recognition or not. Perhaps recognition of the fact that there is so much sympathy of Spain in Kosovo, still, regardless of Spain's non-recognition of Kosovo, could help Spain gaining a different perspective on its own nationhood and the role it plays in the wider Hispanoscape. This would be like pointing a mirror at themselves and thereby discovering something new about the Spanish nation itself.

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Despite the Spanish state's continued non-recognition of Kosovo, intercultural exchanges are taking place that influence how Kosovar Albanians value Spain, Spanish people and their culture, and the wider Hispanoscape at large.



**LIVED RELIGIOUS  
PERSPECTIVES FROM  
KOSOVO'S ORTHODOX  
MONASTERIES:  
A NEEDS APPROACH FOR  
INCLUSIVE DIALOGUE**

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— JULIANNE FUNK

## — JULIANNE FUNK

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# ABSTRACT

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The protection of the Serbian Orthodox Church's (SOC) religious and cultural heritage is a key variable in the dispute over Kosovo's status between Serbia and Kosovo. Despite this fact and also as the primary local voice representing Kosovo Serbs, the SOC in Kosovo is not engaged in the discussion or decision-making about Kosovo's future. The first question in this research was: How do Kosovo Serb monastics perceive their situation in this conflict, both as caretakers of these historical sites and as representatives of a wider Serbian church whose official position opposes the reality in which they live? Based on qualitative, empirical peace research, this paper elicits these perspectives through thematic ethnographic vignettes: (1) the monasteries as places of gathering, (2) two territorial disputes at Dečani Monastery, (3) the SOC in dealing with the past and (4) the secretive, alleged proposal of border changes between Serbia and Kosovo. Secondly, given the perceptions, claims, and behaviours that came to light in the research, what fundamental needs arise that may be important to a sustainable end to the conflict? According to these voices, I assessed a basic need for physical safety, as expressed through the wish that the rule of law in Kosovo be implemented, plus a need for identity acceptance, as demonstrated by the desire for recognition of the monasteries as Serbian.

# INTRODUCTION

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The Brussels dialogue may be familiar to those interested in Kosovo: an EU initiative to bring Kosovo and Serbian authorities to 'normalized' relations. However, few are likely to be familiar with another (non-)dialogue which is also significant for a peaceful solution on Kosovo's status with Serbia: that with the Serbian Orthodox Church (SOC) in Kosovo, which cares for significant cultural and religious heritage sites in Kosovo and is arguably the only local voice representing Kosovo Serbs collectively. Although the Ahtisaari Plan for Kosovo, which Kosovo accepted in its constitution, included a significant role for the SOC and its heritage, the Serbian leadership has failed to raise the topic of protecting these Serbian heritage sites in Kosovo during the Brussels dialogue. This has disheartened the SOC actors in Kosovo and is likely a motivation for their initiative to speak out in their own defence, as described in this paper.

As an influential and staunch opponent to Kosovo's 'partition' from Serbia (i.e. national independence of Kosovo, rather than the recently proposed territorial exchange), the Serbian Orthodox Church proves a significant obstacle to an agreement on Kosovo's statehood. Its official stance is that because Serbs and their sacred sites reside in Kosovo, Kosovo must remain part of Serbia. The church is well known to be a key stakeholder in the matter, with a historical socio-cultural and unofficial political influence over issues related to the Serbian nation. While the SOC may not have participated in the oppression of Kosovo Albanians during Milošević's ethnic cleansing campaign in the 1990s, their local presence and perceived stance against local Albanians (e.g. more recently the opposition to Kosovo's UNESCO membership) makes them anything but a neutral player in the current discussions. One might argue that the SOC, as a religious and civil society actor, has no place in elite political discussions of this nature, but this misses the heart of the Kosovo dispute. This dispute is not only about land (as may seem to be the case in Presidents Vučić and Thaçi's 2018 alleged consideration of a 'border correction'), but is also perceived, crucially, as being about Serbia's social and spiritual capital in Kosovo. Serbs claim Kosovo as the birthplace of their na-

tion, whose roots are found in the 13<sup>th</sup>- and 14<sup>th</sup>-century Orthodox monasteries.<sup>1</sup> For them, therefore, Kosovo is the ‘Serb Jerusalem’ and Serbian collective identity stems from this very ground. According to the Serbian Orthodox abbot of Dečani Monastery in Kosovo, Father Sava Janjić,<sup>2</sup> many local Serbs also remain in Kosovo due to the presence of these sites. International stakeholders assert that the protection of the SOC’s religious and cultural heritage – as a key variable in the dispute between Serbia and Kosovo – will need to be a fundamental factor of any final agreement between them. However, whereas Western states, like France, Germany, the US and UK, recognize the monasteries’ value as heritage sites and even engage with their residents regarding their protection, the Serbian government and many other local players avoid dialogue with the local bishop and the monasteries’ caretakers. The only space where the Kosovo SOC has an official voice is on Kosovo’s Implementation and Monitoring Council (IMC),<sup>3</sup> which seeks to protect cultural heritage sites, though its capacity for enforcement is questionable.<sup>4</sup> As we will see in the vignettes, however, adding the voices of the SOC in Kosovo complicates matters significantly.

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1 According to the comprehensive, if out-dated “official site of the Serbian Orthodox Church in the southern Yugoslav province of Kosovo” ([www.kosovo.net](http://www.kosovo.net)), there are some 20 living religious communities, brotherhoods and sisterhoods, but according to my local interlocutors, there are 40 historic Serbian Orthodox sites in total. Three are UNESCO world heritage sites — Bogorodica Ljeviška Cathedral near Prizren is a UNESCO site in addition to three monasteries: the Peć Patriarchate, Visoki Dečani and Gračanica — and the others are protected under Kosovo law.

2 Unless otherwise noted, all comments from Father Sava come from an interview with the author on 23 September 2019 in Dečani Monastery. Fr. Sava has given his permission to use the direct citations and consented to my further presentation of his views.

3 I wish to thank Arno van der Pas, Special Adviser on Non-Albanian Communities and Outreach Co-ordinator at the OSCE’s Head of Mission in Kosovo, for noting this and providing many helpful contributions to my field research.

4 The Implementation and Monitoring Council’s mandate states that it “monitors and facilitates the implementation of the provisions of the Republic of Kosovo legislation relating to the protection of the Serbian religious and cultural heritage in Kosovo.” In practice it is a forum in which everything to do with the Serbian Orthodox Church, who legally owns most of these heritage sites, was dealt with. According to Arno van der Pas of the OSCE (personal communication 30 March 2020), the IMC’s initial functioning (2010–2013) was challenged due to a “lack of commitment and clarity about its decision-making authority and procedures” (resolved with a 2013 Administrative Order) and from 2015/16–2017 due to increasing political tensions. With a new government in 2018 and OSCE advocacy, the IMC again convened regularly until mid-2019 when the government resigned, and has yet to meet with a new government. The IMC is made up of five members: Kosovo’s Ministries of Culture, Youth and Sport and of the Environment and Spatial Planning, the Office of the EU’s Special Representative (EUSR) in Kosovo, the OSCE Mission in Kosovo and the SOC’s Bishop in Kosovo. According to Ambassador Dimitris Moschopoulos (personal communication 20 March 2020) – who, in his capacity as EU Facilitator for the Serbian Religious and Cultural Heritage in Kosovo, participated in setting up the IMC and co-chaired it on behalf of the EUSR Office – the SOC was initially reluctant to engage in a body of the Kosovo government, but its Bishop’s direct interaction with Kosovo government ministers was (mutually) constructive, and the experience proved very fruitful. Moschopoulos considers the Kosovo government to have systematically undermined and downgraded the IMC’s work. Van der Pas, however, who is currently engaged with the OSCE representation on the IMC, not only finds the law constituting the IMC unclear/contestable”, but also pointed out that the Kosovo government officials might see the body as alien to an independent state and not wish to allocate it legal power.

Conflict analysis proposes that even the most challenging or oppositional stakeholders – in this case, representatives of the SOC monasteries – need to be included in the conflict transformation process for a sustainable peace settlement (Lederach 1997). As I explored in the case of post-war Bosnia & Herzegovina (Funk Deckard 2012), while religions tend to divide groups in the Balkans because of their intrinsic tie to national identity, they are, by the same measure, “unquestionably crucial for relations and cannot simply be ignored or avoided if the ultimate goal is peace. If the roots of this conflict draw nourishment from religion, then religion[s] must also be involved in the conflict’s transformation” (Funk Deckard 2012, 4). While a top-down settlement between Serbia and Kosovo might initiate new political and legal arrangements, this will only be “effective for as long as it wields convincing force” (Funk Deckard 2012, fn 3). By contrast, “[t]ransformation is a sustainable change in the actual system such that external incentives are no longer necessary” (Funk Deckard 2012, fn 3). Peace research and theory asserts that meeting stakeholders’ needs in conflict is essential for a sustainable ‘solution’ (Fisher and Ury 2011). Basic needs will continue to be expressed as grievances until they are met, and are therefore crucial to a conflict’s transformation.<sup>5</sup>

It is easy to judge as politically problematic the confluence of religion and ethno-nationality and especially in the national Orthodox Churches, however this reveals a secular, Western and liberal bias towards religions that I have sought to avoid in my research. Without any doubt, this confluence produces a significant challenge, but it is also the fundamental way this church has operated, not only in contemporary Serbia, but in most of the eastern churches for centuries. The research therefore tries to understand the logic or worldview that drives these actors and institutions, as a way of drawing closer to cooperative approaches and decisions that meet the basic needs of all parties.

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5 Needs theorists, such as peace scholar John Burton, claim that there are “certain universal needs rooted in the biological conditions of man [sic],” which, unfulfilled or unsatisfactorily fulfilled, “distort” and “mutilate” individual development and, at the macro level, infuses society and social relations with conflict (Roy 1990, 125). A harmonious society therefore requires needs satisfaction. Maslow’s hierarchy of needs posit that physiological needs are the most basic, with safety needs of subsequent priority, then the needs of love and belonging, esteem and self-actualization. “Any thwarting or possibility of thwarting of these basic human goals, or danger to the defenses which protect them, or to the conditions upon which they rest are considered to be psychological threats. It is such basic threats which bring about the general emergency reactions” (Maslow 1958, abstract).

As such, this research delves into monastic perspectives and concerns in hopes of understanding their perceptions and ascertaining unmet needs that may be obstructing cooperation. I look at how Serb monastics in Kosovo act in a context of conflict and towards the other stakeholders involved. How do they perceive themselves, the caretakers of these historical sites as well as representatives of a wider Serbian church whose clear, formal stance staunchly opposes the reality in which they live (a *de facto* state of Kosovo)? What are the main grievances? What rhetoric and behaviours are used to (try to) achieve their goals in the midst of conflict? To elicit these perspectives, I conducted brief qualitative, participatory observation and semi-structured interviews within two monasteries – Dečani and Draganac.<sup>6</sup> Additionally, I made visits to Gračanica (2019) and the Peć Patriarchate (2012).<sup>7</sup> Besides listening to monastic voices, I also interviewed people involved in Kosovo's religious and cultural heritage work, including experts from the OSCE, UNDP and the US Embassy, plus NGOs and relevant scholars.<sup>8</sup>

This research revealed a tense field of competing claims that challenge conciliatory inclinations or hopes felt by Kosovo SOC monastics and Kosovo Albanian actors. As can also be seen in Bosnia & Herzegovina, where members of different ethno-religious groups have lived alongside one another, any strategic tolerance and implicit social contract (*suživot*, see Funk 2019) is very difficult. The presence of Serbs in Kosovo – after the 1990s ethnic cleansing campaign of Albanians from Kosovo by Milošević's Yugoslav/Serb regime and subsequent special status negotiated for the Serbian minority in Kosovo – has much potential to rankle Kosovo Albanians, not to mention the highly symbolic presence of Serbian sacred sites, which a faction of

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6 In September 2019 I interviewed the abbots of both monasteries plus Fr. Petar Rojević who is in charge of welcoming international visitors and VIPs to Dečani, alongside short conversations with other monks / novices as well as Kosovo Serb and other visitors to the monasteries. I stayed overnight at Dečani, participating in meals alongside these visiting local believers and attended Morning Prayer. In November 2019 I also attended Dečani Monastery's slava – St. Stefan's Day – which was attended by two to three thousand visitors from the region and outside (KoSSev 2019).

7 In September 2019, I visited Draganac, with its twelve brothers, and Dečani with twenty-four monks and five novices. When I visited Gračanica, near Prishtina, I was told that around thirty nuns were currently present, though some of these were visiting from other sisterhoods in Kosovo. The UNESCO site of the Peć Patriarchate, the seat of the SOC and the location of the graves of the medieval Serbian kings, is also inhabited by and cared for by a sisterhood. I did not yet succeed in interviewing any sisters in Gračanica, Peć or Sokolica monasteries.

8 My thanks go to those who willingly provided their perspectives in interviews.

Kosovo Albanians claim as their own.<sup>9</sup> On the one hand, Fr. Sava sees the Orthodox monasteries' delicate position in Kosovo as a "hostage-like situation amid two sides [Serbian and Kosovo authorities] which make secret deals and don't show any interest for the needs of the ordinary people."<sup>10</sup> On the other hand, he perceives their own monastic approach to the reality of their situation as pragmatic, in comparison to Kosovo Albanian responses:

We respect all Kosovo laws, are ready to have Kosovo documents, don't restrict access to our sites while the Kosovo Albanian community responds often with ... open hostility (damaging of cemeteries, preventing access of pilgrims from Serbia, problems with getting Kosovo documents and open rejection of the Constitutional Court decision on Dečani Monastery land).<sup>11</sup>

This paper demonstrates not only the mismatched perceptions and claims, but digs deeper to the roots of the conflict from the standpoint of the SOC in Kosovo. This analysis uses ethnographic vignettes reflecting everyday experiences to give voice to the living communities in Kosovo's SOC monasteries. This is not only an identified lacuna in the dialogue between Serbia and Kosovo, but is a means to reveal grievances and unmet needs of this community, which fester within the ongoing conflict dynamics. I also employ this method because it is 'elicitive' rather than prescriptive; this is a standard peace research approach established by Lederach (1997). Probing insiders' 'natural knowledge of implicit meanings, contextual interpretations of reality and trusted ways of handling conflict... this knowledge can be the basis for identifying needs and creative and legitimate conflict transformation processes' (Funk Deckard 2012, 31). Thus, the four vignettes reveal perspectives that could ideally assist a needs-based conversation.<sup>12</sup> This prioritization of grounded knowledge is also very different than the top-down dialogue in Brussels under the aegis of the EU.

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9 Most outspoken of these are the so called Historians of Deçan (Historianët e Deçanit)

10 Personal communication, 13 March 2020.

11 Ibid.

12 Needs stand in comparison to a party's interests and positions, which are more often expressed in conflict.

The four vignettes, which structure the rest of the paper, move from small-scope (monastery-specific) to issues of broader reach (bilateral relations). I chose four vignette topics because they arose repeatedly in my empirical research and seem to encapsulate the current situation. The first vignette looks at the self-understanding and claimed purpose of the monasteries as places of gathering, which is foundational knowledge for any discussion with or about these monastic communities. It also considers their potential to be transformative spaces of social conflict. The second vignette considers two points of territorial conflict between the biggest monastery, Dečani, and its neighbouring town, despite legal rulings that should have ended the dispute. This topic is important because it is understood very differently from an Albanian or a Serb perspective; it is also paradigmatic of the conflict in Kosovo. Dealing with the past, vignette 3, is included because it was noticeably *lacking* as a topic arising from my empirical research, given the recent and intense violence and suffering in Kosovo. It considers the role of the SOC in the post-war reckoning, which is significant to all that arises in today's post-war conflict. Lastly, vignette 4 explores the involvement of the monasteries in the 'partition' or 'land swap' issue. The SOC bishop in Kosovo and Fr. Sava have made themselves visible (and 'political') in opposing the secret 'deal.' Following these four vignettes, the conclusion reflects on the local knowledge arising from these studies: the monasteries' perceptions and claims, as well as the behavioural dynamics between the monasteries and their interlocutors, both locally and further afield. This paper should not be read as an endorsement of any position, including that of the Serbs. Rather, its purpose is simply to describe how the Serb Orthodox monks perceive their situation and grievances with the hope that this deeper understanding may enlighten further conflict transformation.

## VIGNETTE 1. MONASTERIES AS PLACES OF GATHERING

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How the monasteries perceive themselves in relation to those around them seemed an important primary query in my research – what do these places and their living communities intend to be or seek to do? According to the abbots of both Dečani (Fr. Sava) and Draganac (Fr. Ilarion), the purpose of the SOC's monasteries is to provide space for gathering, despite their obvious intention to be places where monastics withdraw themselves from the world. This purpose quickly became evident to me during my visits, where I found myself joining other ordinary folks (mostly Kosovo Serbs) for a meal and, in the case of Dečani, also including an overnight stay. More dramatic was participating in Dečani's *slava*, an annual celebration of the monastery's patron Saint Stefan, with thousands of visitors from all over Kosovo and beyond. At lunch in a grand banquet hall, I sat near VIPs and KFOR soldiers in addition to monks from across the country and beyond, though local Serbs seemed to be the primary attenders. At Draganac, I learned that among other visitors, a young group of international volunteers have come the last four or five years, organized by the NGO Gaia<sup>13</sup> and facilitated by the monastery. A Gaia representative told me that they lend their hands in preparation of Draganac's *slava* in July, cleaning, cooking and hosting guests.

As a repeated visitor of Kosovo's monasteries myself over the years, I realized that many foreigners and internationals do visit especially Dečani and the other UNESCO sites, but I wondered how many local Kosovo Albanians 'gather' there. Guest-master of Dečani, Father Petar Rojević,<sup>14</sup> showed me the monastery's photo album

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13 Gaia is a Kosovo NGO that aims to 'work towards peace, social and environmental justice by being an example for alternative and regenerative ways of living' (see <http://gaiakosovo.org/>).

14 Unless otherwise noted, all comments from Father Petar come from an interview with the author on 23 September 2019 in Dečani Monastery. Fr. Petar has given his permission to use the direct citations and consented to my further presentation of his views.

and guestbook from the early 20<sup>th</sup> century, which displayed the diversity of local and foreign visitors, also the mix of Ottomans, Albanians, Serbs and foreigners who had come to see the beautiful site and interact with its residents. Reminiscent of Ger Duijing's (2000) accounts of pre-war visits of Albanians to Christian shrines, Fr. Petar told me how Albanians come to big feasts such as Ascension Day, St. Stefan's Day (24 Nov), Assumption Day as well as the first of May, which, though not a religious celebration at the monastery, is enjoyed with picnics around the monastery's grounds, as done everywhere in the former Yugoslavia. Fr. Ilarion claimed that "During the Ottoman period, Muslims were coming to pray, and this tradition still exists ... Albanians are coming constantly to Dečani monastery." While it seems there was more local Albanian presence previously, I did not observe this interaction during my visits.

As places of gathering, the SOC's monasteries are potentially committed, nonviolent space of social contact with people one would not normally encounter. Meaningful encounters can alter attitudes and prejudice and even establish relationships. As such, and as indicated above, monasteries have the capacity to be 'transformative spaces' of social conflict (Lederach 1997). As an example, Abbot of Draganac, Fr. Ilarion Lupulović,<sup>15</sup> claimed that "the most important thing" about the annual volunteer camp at Draganac is the social interaction of "young Albanians and young Serbs and Croats," ethnic groups that would normally avoid contact and be distrustful of one another. He himself experienced these encounters as a "deep" and "beautiful experience" where he felt comfortable to speak openly. The Gaia representative I spoke with, herself a non-religious Serb, commented that these camps changed her opinion about the SOC. Contrary to the reputation SOC leaders had of doing their job simply for affluence and privilege, as she put it, she witnessed the brotherhood at Draganac living according to their radical monastic principles, which surprised and transformed her attitude towards at least these representatives of the SOC.

While the monasteries can be places of gathering and transformative social spaces, not all feel welcome or are ready to take the risk of visiting. Fr. Sava claimed "We have

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<sup>15</sup> Unless otherwise noted, all comments from Father Ilarion come from an interview with the author on 22 September 2019 in Draganac. Fr. Ilarion has given his permission to use the direct citations and has consented to my further presentation of his views.

more Albanians from Albania coming to visit this monastery than Kosovo Albanians. ... many children from Dečani have never seen this place.” He told me about a recent encounter in front of the monastery with two young Albanian men in which he welcomed them inside and discovered they were not aware they could enter. They visited for the first time and “were impressed,” according to Sava. Encouraging them to let others know that they are welcome, Fr. Sava nevertheless recognized the danger for them in their own environment to be associating with Serbs who are clearly perceived as the enemy.

One Kosovo Albanian (a representative of an NGO) from western Kosovo (near Dečani) with whom I spoke agreed that there had been previous interaction between the monasteries and the Muslim community, noting that since there were so few Serbs in that region, Dečani Monastery had been the main place of interaction. However, he recalled that the monastery’s “doors were closed after 1989 for Albanians”, when Milošević revoked Kosovo’s autonomy within Yugoslavia. He interpreted this as part of the regime’s aim to isolate Serbs from and limit their interaction with Kosovo Albanians. Fr. Sava, on the other hand, who was present throughout the war, claimed that the monastery did not close its doors, which shows that perceptions of reality can be as powerful as reality itself. This Kosovo Albanian also recalled an experience in the early 1990s when he went with a friend, who had a skin problem, to a stream near the monastery whose mineral contents are believed to have healing effects. Ten minutes after they arrived, he told me, a group of heavily armed police arrived and beat them up, saying “this place is not for animals.” His assessment is that the twenty years of no communication between Kosovo Serbs and Albanians “is enough to disconnect everything. So I see that now the young generation are not identified at all [with Dečani monastery] and they do not feel that this is part of their heritage.” This coincides with Fr. Sava’s recent experience with the young men who had never visited or expected they would be allowed to do so. Fr. Sava noted that these days, on the other hand, the wall around the mineral spring is painted with an Albanian flag and monks no longer go there “for fear of provocation.”<sup>16</sup>

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16 Personal communication, 13 March 2020.

These days, human rights groups organize visits of Kosovo school children to Dečani Monastery, increasing contact between the otherwise divided ethnic groups and promoting mutual understanding. While the monks expressed their pleasure at such visits, I noticed that neither of the monasteries mentioned an outreach plan or proactive invitation. Instead, they welcomed the initiatives of others and were happy to host. The closest thing to an explicit welcome to locals was Fr. Petar's request, at the safety committee of Dečan<sup>17</sup> municipality, where he is a member, to have school children from the town of Dečan visit the monastery. When I asked why it had not happened, he acknowledged that no one, including the monastery, had taken up the task.

The importance of increasing this contact for mutual understanding was clear to me when I heard Fr. Sava tell of one such visit by children who were "shocked" that the accompanying Albanian nun identified Dečani's church as Serbian Orthodox; they claimed it was an Albanian church. Fr. Sava says that the idea of the monasteries being Albanian is new: "Never [before] ... did any of these Kosovo Albanians ever raise the claim that this monastery is not what it is." He sees this as arising from "the idea of the unification of the so-called Albanian lands," which he opposes as "equally as I oppose partition scenarios, Milošević's policy, Vučić's policy..." (see vignettes 3 and 4). Instead, as with the visiting children, he tries to explain that calling it a "Serbian Orthodox church doesn't mean that it is something against Albanian people," though he says communicating this is really difficult. Fr. Ilarion believes this is challenging because Albanians feel subconsciously that the monasteries are part of their own tradition, but find their Serb identity problematic since Serbs are seen as "a symbol of everything evil." While it is not entirely clear whether Fr. Ilarion's comment is influenced by the *arnautaš* thesis (Malcolm 2006, 19-22)<sup>18</sup> or whether he is aware of the fluidity and ambiguity of pre-national identifications (Duizings 2000), he recognizes that the label 'Albanian' provides them with 'goodness' in Kosovo Albanian eyes,

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17 'Dečan' is the name of the town in Albanian language variant, which I use to denote the town /municipality since 99% of its inhabitants are Albanian, whereas 'Dečani,' the Serbian language variant, refers to the SOC monastery.

18 The *arnautaš* thesis, dating from the nineteenth century, considers Kosovar Albanians as original Serbs who were 'Albanized' (see Malcolm 2006).

which points to an underpinning ethno-national construction of religion. This overwhelmingly prevalent perspective across the Balkans and with all ethnic communities – simply, that ‘our’ people, mostly delineated by religion, are superior – contains the cultural violence of labels, stigma and prejudice that are often institutionalized.

Nowadays, Father Sava is “concerned with pseudo-historical interpretations, included in Albanian textbooks, which deny Serb identity” (Helsinki Committee 2012, 43). He told me:

this monastery has been for centuries the place where different people would come together, and the role of this place is to bring people together rather than drive them apart. But at the same time, we want to preserve our identity, which is very much at stake, because we are dealing with certain circles among Kosovar Albanian politicians who somehow see these holy sites as a kind of Serbian Trojan horse, which will be an obstacle for the future of Kosovo.

If Father Sava’s concern is generally held, the monasteries’ and Serbian community’s presence and claims may need to be addressed. This would not merely be an issue of protecting tangible heritage as universal human capital, as is important for internationals/UNESCO. Rather, Fr. Sava is concerned with the monasteries as symbolic heritage sites (Pasamitros 2018) for the Serbian community of believers, which he claims “goes much beyond the regular meaning of cultural heritage sites elsewhere.” This is evidenced in his fear that the local Kosovar Albanians would turn the monasteries into museums, proclaim them as Albanian churches, or simply leave them without monks, thereby destroying their basic spiritual purpose in his eyes. Strong forces in Kosovo, Father Sava fears, would try to make the place purely ethnic Albanian or a majority Muslim territory, which he sees as a fundamental threat to all resident Serbs.

The goals, claims and perceptions of Kosovo Serbs and Kosovo Albanians regarding the monasteries seem completely unaligned, due, at least in part, to the lack of contact and mutual understanding over the last three decades. Add to that the deeply

engrained ethno-national framing of the other community as the cause of suffering or the obstacle to a peaceful future and one can imagine it very difficult for all visitors to feel truly welcome in the monasteries as safe spaces of gathering. For the Serbian side, it is likely that the sense of threat from those who claim the monasteries as Albanian could produce a (quite natural) counter-emphasis on their ethno-national identity. The possibility of the monasteries as shared, nonviolent places and spaces would further recede, as a result.

## VIGNETTE 2. DEČANI MONASTERY'S SPECIAL PROTECTIVE ZONE

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Kosovo's legal framework on cultural and religious heritage provides official protection to the SOC monasteries. A number remain under Kosovo police protection while Dečani Monastery is the only site that still maintains a NATO (KFOR) military guard. One of the legal protection mechanisms is via Special Protective Zones (SPZ): areas "safeguarded from any development or activity which could damage its historical, cultural, architectural or archaeological context, natural environment or aesthetic visual setting."<sup>19</sup> Dečani Monastery and 38 other SOC heritage sites, as well as four secular sites and two wider areas of special significance for the Kosovo Serb community, are protected by an SPZ, which aims to provide "peace" to the site, "preserve the monastic way of life of the clergy," and "preserve the character and appearance of the site ... while ensuring the best possible conditions for harmonious and sustainable development of the communities inhabiting the areas surrounding."<sup>20</sup> The law specifies the prohibited (illegal) activities<sup>21</sup> as well as potentially restricted ac-

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<sup>19</sup> Kosovo Law on Special Protective Zones, NR 03/L-039, Article 2.

<sup>20</sup> Kosovo Law on Special Protective Zones, NR 03/L-039, extracts from Articles 1-3.

<sup>21</sup> Article 5 specifies the following prohibited new activities: 'industrial construction or development, such as the exploration and exploitation of mineral resources and the building of dams, power plants or power lines, kilns and factories, and transit roads in rural areas; and construction or development leading to deforestation or pollution of the environment.'

tivities,<sup>22</sup> about which a municipality should “seek the agreement of the Serbian Orthodox Church” and, failing an agreement, request a review by the Implementation and Monitoring Council responsible for monitoring and enforcing the law and who reviews the issue according to its mandate.<sup>23</sup>

One can quickly see a point of conflict in the law: the sites are protected *from* development alongside a legal expression of support *for* sustainable development for residents nearby. Practically speaking, in most cases this contradiction pits the SOC, and potentially the minority Serbian community with it, against Kosovo Albanians. This vignette presents two such conflicts that have disturbed good relations between Dečani monastery and the town of Deçan.

## The land issue

The first local conflict is about the monastery's ownership of 24 hectares of land, which is contested by the local municipality of Deçan. The land was taken away from the church in 1946 at the beginning of communist rule (*KoSSev* 2019a) and later given by the Serbian government back to the church in 1997 (Nikçi 2016a). Kosovo Albanians contest the latter act as illegal since they were at that time “oppressed by the Serbian government” (Nikçi 2016a). Indeed, very few Kosovo Albanians had decision-making positions between 1989 and 1999. After the war, in 2000, two Kosovo companies claimed the land. The disputed land then underwent litigation for 16 years and in 2016, the Constitutional Court ruled in favour of the monastery, upholding a previous, 2012 Supreme Court decision. In response to both the 2012 and 2016 decisions, Kosovo Albanians of Deçan protested, encouraged by local municipal leaders such as then-mayor Rasim Selmanaj. While Selmanaj threatened to never

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22 Article 6 specifies restricted activities to include any new: 'commercial constructions or development such as structures or edifices taller than the monastery/church/cultural monument to be protected; road/street construction; construction of warehouses, workshops, shops, restaurants, bars, cafes, hotels/motels, food stalls and kiosks, petrol and automobile repair stations, supermarkets, night clubs, and any other large scale construction in rural areas; public gatherings, recreation and entertainment; and urbanization of agricultural land.'

23 According to Article 4, the IMC enforces this law through supervising the zones, recommending changes to the boundaries and restrictions when fitting, 'facilitat[ing] the resolution of disputes' over these zones as well as advising Kosovo law enforcement on security issues related to the SPZs.

implement the decision because of its ‘injustice,’ SOC Bishop Teodosije expressed satisfaction about the Kosovo court’s “competence and readiness to make an impartial judgement” (Nikçi 2016b). To this day, the land has still not been registered in the cadastral records of Deçan, despite the Kosovo constitutional court ruling more than three years ago, and there is no sign that this will change. Local attitudes remain hardened towards such an action and no enforcement has come from Kosovo’s authorities.

Fr. Sava recalled to me that, on the one hand, some Kosovar Albanians registered their dissatisfaction with the court ruling via “a media campaign against the monastery with all gruesome and totally unacceptable kinds of accusations” due to this dispute.<sup>24</sup> For him, it was this that led to a loss of trust, whereas US, EU and other international actors fully supported implementation of the ruling:

we do not have any problems ... with local people ... except for the fact that most of them are constantly bombarded with propaganda against the monastery, which is presented by the press and the municipality as if it is its only problem within the municipality. We are the ones that are preventing the economic development of the municipality [they claim].

This is reminiscent of Fr. Ilarion’s comment that Serbs are used as scapegoats for everything that fails to work in Kosovo. Other responses towards the monastery, possibly due to this contested ruling, were physical attacks, according to Fr. Sava: three mortar attacks, one attack with a rocket-propelled grenade (RPG), plus threatening graffiti (in 2016 and 2018) and a confrontation with armed ‘extremists’ in 2018. The OSCE Mission in Kosovo confirmed these examples of insufficient “implementation of ... [Kosovo’s] legal framework on cultural heritage protection” as well as “the failure to prevent illegal constructions affecting heritage sites” (OSCE 2014, 5) as seen in the road issue, next.

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<sup>24</sup> For example, Skodran Nikçi’s ‘Kosovo Albanians Protest Against Court Ruling on Decani,’ *Balkan Transitional Justice*, 26 May 2016 (<https://balkaninsight.com/2016/05/26/protest-against-court-s-ruling-on-land-case-in-deceni-05-26-2016/>) or Tanjug, ‘Albanian protesters claim Serb monastery as “their heritage,”’ *b92*, 18 December 2015 ([https://www.b92.net/eng/news/politics.php?yyyy=2015&mm=12&dd=18&nav\\_id=9641](https://www.b92.net/eng/news/politics.php?yyyy=2015&mm=12&dd=18&nav_id=9641)).

## The road issue

The second conflict at Dečani monastery is over the construction of a road connecting the towns of Dečan in Kosovo and Plav in Montenegro. The contestation, according to Fr. Sava, regards the road's route: whether it would pass directly in front of the monastery, as initiated by Dečan municipality, or bypass the SPZ, as Fr. Sava and the Implementation and Monitoring Council insist. Fr. Sava pointed out that the law on SPZs lists "transit roads in rural areas" as a prohibited activity. "When we raised a voice against this," he told me, "we were immediately accused of preventing the development of the municipality. We were presented as enemies of the people." He says the monastery had "greeted" the IMC and Kosovo government's 2014 decision to build instead a bypass road "as a reasonable decision, which would avoid heavy traffic through the [monastery's] Special Protective Zone" (Popova 2018). *Kosova Press* (2014) reports the bypass road's inauguration by then Prime Minister Thaçi. However, in 2018 Fr. Sava said he reported to the EU and OSCE representatives in the IMC that "illegal work began inside the Special Protective Zone and that was confirmed by the OSCE monitoring team and KFOR" (Popova 2018, see video interview with Fr. Sava). This construction is also documented with photos on the diocese's website.<sup>25</sup> This then led to negative reactions by IMC members and international actors who considered road works within the SPZ in clear breach of Kosovo law, which resulted in halting them inside of the SPZ but nevertheless continuing beyond its borders, according to an OSCE representative.

The conflict seems to be perceived differently, however, from a Kosovo Albanian perspective. According to *Balkan Insight* (Morina 2018), then Prime Minister Ramush Haradinaj wrote on Facebook in response to the monastery's "protest" that "misinformation about the work on one of Decan's roads," existed and insisted that "the road is being renovated," meaning this is not a new activity prohibited by law, but instead normal maintenance. When I raised the topic with the Kosovo Albanian

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25 See the website of the Serbian Orthodox Diocese of Raska-Prizren and Kosovo-Metohija, Diocesan Communique: By construction of the transit road in the Visoki Dečani Monastery zone Kosovo Government directly violates the law and endangers the UNESCO World Heritage Monument. 26 May 2018. <http://www.eparhija-prizren.com/en/statements/diocesan-communique-construction-transit-road-visoki-decani-monastery-zone-kosovo-governm>.

member of Cultural Heritage without Borders, he told me that he supported the idea of paving the gravel road that runs past the monastery to provide better access between the town and the mountain villages, rather than a transit road to Montenegro. However, Fr. Sava, in a video interview with *Prishtina Insight* (Popova 2018), reported that the project sign at the construction site states that this is for a Deçan–Plav road, rather than simply maintenance of the local road.<sup>26</sup>

Therefore, the basic facts about the conflict seem to be obscured. The newspaper sources speak of the monastery halting construction of a road to Montenegro, but the fact of two roads – the bypass road agreed in 2014 and the road that passes in front of the monastery where the construction in 2018 began – was not always or clearly noted. Meanwhile, as is the case with all ‘fake news,’ tensions rise between opposing sides based on assumptions of bad intentions and hostility from the other party. While I do not discount intentional misinformation or misdeeds, the effect is that the presentation of this conflict heightens the distrust and deteriorates further the already strained relations.

As if a sign of these strained relations, monks from Deçani say they do not go out or do any shopping in Deçan even though it is only one kilometer away. Instead, they travel to the bigger cities of Peja/Peć or Prizren (also majority Albanian locales), where there is a better selection of goods and services, but also where they do not feel threatened or unwelcome.<sup>27</sup> Given this obvious tension and having heard Fr. Sava heralded as a peacemaker,<sup>28</sup> I asked him a couple of questions about his conciliatory efforts with people in Deçan. For example, had he invited the mayor to visit

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26 Photo provided on the page of the Diocesan Communique (2018), from which I transcribed the following text: ‘Republika e Kosovës, Ministria e Infrastrukturës, ndërtimi i rrugës rajonale R108, Deçan – Kufiri me Malin e Zi (Plavë), Segmenti 1, L=14.510 m’. This was translated for me by a colleague as: ‘Republic of Kosovo, Ministry of Infrastructure, building of the regional road R108, Decan – Border of Montenegro (Plav)’

27 Says Fr. Sava: “there are practically no Serbs living in Peć on a permanent basis, but they have a much more normal kind of life. They can normally go to the shop, they can normally use their property in the town, they are renting some of their property. It’s quite different than Deçani. In Deçani Serbs cannot even access their property and also we never go shopping in Deçani. ... Deçani is also seen by many Kosovo Albanians as a no go place. They say it has a different mentality.”

28 Fr. Sava is one of the Tanenbaum Foundation’s peacemakers. See his profile on their website (<https://tanenbaum.org/peacemakers-in-action-network/meet-the-peacemakers/father-sava-janjic/>) and the chapter dedicated to him in their book (Tanenbaum 2007).

the monastery? And would he visit the town of Deçan (assuming it would not be dangerous) simply to walk about there or have coffee? In reply to my question regarding the mayor, he said: "When they respect the law and register our land, then we can restart our relations and live normally. Otherwise, we cannot just behave as if nothing has happened, because this will keep us in a totally untenable situation, because the municipality will not accept what we are."<sup>29</sup> In answer to my query about his visiting the town for unofficial, trust-building purposes, he replied that while it would not be dangerous, he would "feel unpleasant" in a place where the rights of Serb families to access their own property has not been granted. His hesitation was clear: "I don't know, it's probably some kind of personal feeling that we are rejected, it is something that we have to struggle with." The monastery's position, therefore, according to its key representative, is that "we can establish a normal relation only when they respect the law."

As this paper presents the monastics' perspective, I cannot speak to the feeling of the Kosovo Albanians in Deçan, except what I encountered, for example, speaking with my taxi driver to and from the monastery. He affirmed Fr. Sava's sense that it would not be dangerous for him to drink coffee or walk in town, but that Kosovo Albanian people would not likely welcome him. Interestingly, he expressed his feeling that the monastery belonged to all in Kosovo, that it was "ours." I am unsure whether this follows the narrative of Albanian cultural appropriation or rather, to some memory of *suživot* (a shared life). Are there memories of good relations remaining alongside the polarized media and distanced or non-existent social relations? This case displays the controversial and polarized nature of relations between a Kosovo Albanian municipality and one of the Serbian monasteries, which can be viewed as paradigmatic of the poor quality of relations between these communities in Kosovo in general, despite living in close proximity. While these issues need addressing locally, the enactment of justice and a positive transformation of these conflicts could shore up the bilateral dialogue by building confidence and reducing distrust, however little.

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29 Fr. Sava alluded to conciliatory actions when he said: "We were trying to offer to the [Deçan] municipality a friendlier approach, to put proper signs for the monastery, because many people cannot even find the way to the monastery from the town center ... but of course, the condition for this is that they ... recognize our land... [T]hey practically keep us under a kind of siege. ... This makes it really difficult to have any further cooperation."

On the other hand, as a party in the conflict, these SOC representatives are unlikely to play a role of peace broker or moderating bridge between Serbia and Kosovo. To quote Fr. Sava, “The lack of implementation of the Constitutional Court decision and the insistence on the transit road construction (which is prohibited by the Kosovo Law) naturally leads to the inevitable request of extraterritoriality in the course of Kosovo dialogue.”<sup>30</sup>

## VIGNETTE 3. DEALING WITH THE PAST

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The actions and involvement of the Serbian Orthodox Church during the years of conflict in Kosovo is significant for the current postwar period and relations in Kosovo between the two former enemies – Serbs and Albanians – even if the church was not a direct perpetrator of violence. Because the Orthodox Church aligns itself closely to the Serb community as its protector and representative, it may easily be implicated in Albanian minds in Serbia’s aggression in Kosovo in the 1990s. How the SOC positions itself towards these events is significant. Before the dissolution of Yugoslavia in the 1990s, the Albanian population had become a weighty majority in Kosovo, having more decision-making capacity in the state institutions and the civil sector. However, fears of an Albanian separatist movement led to harsh crackdowns. Milošević revoked Kosovo’s autonomous status and Albanians lost their jobs in the civil sector. An organized nonviolent movement created and sustained parallel institutions and even education for Kosovar Albanians for years, until the militant Kosovo Liberation Army (KLA) broke off and staged what were then called terrorist attacks (Bieber and Daskalovski 2003). Milošević responded to the Albanian separatist rebellion, according to Fr. Sava, with brutal force that backfired, providing motivation for more Albanians to support the KLA. NATO intervened against Serbia with air strikes in 1999 to bring an end to the conflict (Bieber and Daskalovski 2003).

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30 Personal communication 13 March 2020.

Fr. Sava and Fr. Ilarion were both residents of Dečani during the war, with the current Bishop Teodosije as the monastery's abbot at the time. Fr. Sava is still known as the 'cybermonk' for "supplying journalists and diplomats with their only reliable on-the-ground perspective of the conflict" during the war through daily emails and translations of local news, "cut[ting] through the rhetoric of nationalist news sources" and the regime's media manipulations (Tanenbaum Center 2007, 129). Fr. Sava also engaged in diplomatic efforts. For example he, jointly with Bishop Artemije and another political opponent to Milošević, Momcilo Trajković, drafted a peace proposal that they then advocated for in Washington DC (Tanenbaum Center 2007).

On the ground, reportedly the monks of Dečani assisted all in need (Tanenbaum Center 2007). Fr. Ilarion, then a novice, told me how they "hosted 150 Albanians at the perimeter of the monastery, Albanian families from Dečani village, because they were endangered from Serbs." This wartime assistance seems to be generally known in Kosovo, although a Kosovar Albanian perspective is more likely to claim that these sheltered Albanians were loyal to the Yugoslav regime, or collaborators (i.e. traitors to the Kosovo Albanian cause).<sup>31</sup> The monastery allegedly also helped nearby Serbs driven from their homes by the violent practices of the KLA as well as local Albanians who were harshly targeted by Milošević's heavy-handed reprisals (Tanenbaum Center 2007; Nikolic 1999). Fr. Ilarion claims this choice of action during the war reflects the purpose of monasteries as places of gathering:

the most profound aspect of our life is to share this [monastic, religious] experience with somebody else. And having in mind the frustration, the pain of the Albanians and ... the wounds of their souls, we have to behave in a way that they are welcome. That is the point, which we were constantly missing. This is some kind of a messianic role of our nation, our church, is to testify Christ; it is not about making a big state, achieving political goals and so forth. ... If I do not have a need to reach out to somebody else, it is a question if I am really Christian or not.

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31 Personal communications with staff members of the Kosovo Foundation for Open Society and Cultural Heritage without Borders, 24 April 2020.

This assertion, that the church does not seek political goals or a great Serbia, stands in stark opposition to a general international perception of the SOC's positioning alongside the Serbian state and seeking its national goals. Similarly, Fr. Sava recalled to me how they also organized humanitarian distribution and humanitarian aid, primarily to Kosovo Albanians. Abbot Teodosije and Fr. Sava would have been seen as traitors by fellow Serbs for hosting these many local Albanians from Deçan who were in danger from Serbs. On the other hand, the monastery has been critiqued for allowing Serb military and paramilitary troops to shelter in the monastery and attend mass there before they “committed the most serious crimes on the territory of Deçan and beyond.”<sup>32</sup>

Despite opposition in Serbia, it seems Fr. Sava had the full support of Bishop Artemije, who himself was “extremely direct in criticizing the Milošević regime’s violent tactics against the Kosovo Albanians” to such an extent that he “exposed a serious split in the Serbian Orthodox hierarchy” (Johnston 2003, 190-191). Reminiscent of the current hard-line stance of the SOC in Kosovo as compared with the position of the Patriarch in Belgrade (see vignette 4), at the time, Patriarch Pavle “also made statements calling for an end to violence and demanding the resignation of Milošević. While it can certainly be argued that such statements came too little, too late” (Johnston 2003, 190-191), they strongly contrast with the official stance of the SOC. According to Serbian commentator Srdjan Garcevic (2018), regarding Serb violence in the 1990s,

the Church has never fully condemned those in its ranks who spread jingoistic attitudes or helped with the oppression of the non-Serbian population. Instead of condemning crimes against Bosniak, Kosovo Albanian and Croatian civilians, its statements about the wars are often tinged with relativisation of the suffering of non-Serbian victims and with a refusal to condemn Serbs who were found guilty of war criminals.

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32 Historianët e Deçanit: Igumeni Sava Janjiq mashtron, 2014, Illyria, 27 October, <http://illyriapress.com/historianet-e-decanit-igumeni-sava-janjiq-mashtron>; Manastiri i Deçanit i respektuar dhe i ruajtur prej shqiptarëve sepse është monument historik ilir, 2014, AA, 3 November, <https://www.aa.com.tr/sq/kultur%C3%AB-dhe-art/manastiri-i-decanit-i-respektuar-dhe-i-ruajtur-prej-shqiptar%C3%ABve-sepse-%C3%ABsht%C3%AB-monument-historik-ilir/105237>.

In comparison, Fr. Sava recalled to me that:

we constantly expressed, even before the beginning of the war, opposition against violence. We spoke, I also personally, against violence during the war and expressed regret for what the Kosovo Albanian community suffered, but also very bravely witnessed the suffering of Serbian people after the war and we have been very outspoken, about all things Serbian community has been facing in the last 20 years.

Today, Fr. Sava's critique is directed against the Kosovo authority's perceived unreliability insofar as it allowed the 2004 riots during post-war 'peacetime': the expulsion, kidnapping and killing of Serbs in addition to "150 churches, which were destroyed or seriously damaged." He told me sympathetically that he "was disappointed not so much by Kosovo Albanians who committed that, they were extremist thinking people, ... but also by the reaction of the politicians, and the failure of the internationals to do something to stop it" despite many warnings. Fr. Sava critiques the current governance in Kosovo: "A mistake was made at the very beginning with the KLA, there was an idea that ... they would become doves of peace. They actually consolidated their position, they developed organized crime, the developed gangs, so now all of Kosovo is a hostage to this system. ... Now they are a serious obstacle to the future of Kosovo." While the beneficiaries of such policies would disagree, of interest here is the untapped potential of critical analysis and insistence on the rule of law, which Fr. Sava shares with many contemporary Albanian-led civil society organizations, the media and national and international analysts.<sup>33</sup>

It seems Fr. Sava's idea for a path towards peace requires the acknowledgement of truth by both sides. Reconciliation, he told me, "is to speak openly about the suffering, so that the Kosovo Albanians can really feel that Serbs understand what they went through. That they were not just travelling on vacation in 1999. That they were really expelled from their homes, they were forced out, that they suffered lots of diffi-

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33 Thanks to Stephanie Schwandner-Sievers for this point in addition to many comments that improved this paper.

cult things.” Immediately, he added that Kosovo Albanians also “have to understand that Serbs also suffered after the war.” He advocates that both Serbia and Kosovo take a stand in acknowledging their violent pasts and holding those responsible for criminal activities accountable:

Serbia [should] speak more openly, with more compassion about the suffering of Kosovo Albanians during the war, to distance itself from these paramilitary criminal structures, which were running the Serbian society at that time. It is important for Kosovo Albanian politicians to distance themselves from those in the KLA, who were responsible for crimes, as well.

In a setting where corruption and force take precedence, Fr. Sava’s critical position gains him very few friends (the main ones being international actors). His perspective certainly seems unusual coming from the SOC. It would be powerful if other SOC actors would more widely use their position to foster healing through acknowledgment and forgiveness-seeking rather than avoiding responsibility. Their voices might be welcome at the negotiating table if they did so.

## **VIGNETTE 4. THE ‘BORDER CORRECTION’ / ‘LAND SWAP’**

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When I started my research in 2019, the most obvious point of conflict in Kosovo involving a religious dimension was the so-called land swap. In 2018, Presidents Thaçi of Kosovo and Vučić of Serbia allegedly entered into secret negotiations about a territorial exchange (called a ‘border correction,’ ‘land swap,’ ‘partition,’ etc.) in hopes of resolving the standoff between Serbia and Kosovo about the latter’s independence – a possibility the SOC rigorously opposes. Kosovo’s independence has been recognized by more than one hundred countries, though not by five EU member states nor Serbia, Russia or China, who inevitably oppose Kosovo’s mem-

bership in most international organisations. Serbia, on the other hand, must resolve the dispute before it will be considered for EU membership. The proposal reportedly was an exchange of territory: pockets within southern Serbia's Presevo Valley, with a majority Albanian population, would join Kosovo while "Serbia would re-establish full control over the majority ethnic-Serb area of Kosovo to the north of the River Ibar, which runs through the heart of Mitrovica" (Delauney 2018). According to the New York Times, "Mr. Thaci believes that 'such an agreement would result in Serbia's recognition of Kosovo' " which seems to have some ground, given that "Serbia has insisted on it ever since the 1990s"<sup>34</sup> according to Serbia's Helsinki Committee (2019).

This 'border correction' was welcomed by some as an end to the long conflict, especially by some politicians in the West, who favour demarcation along ethnic lines as a more pragmatic solution, given Serbia's support for this (Helsinki Committee 2019, 15). Federica Mogherini, as European Commission Vice President and High Representative of the Union for Foreign Affairs and Security Policy, allegedly backed the proposal, allowing it to gain traction on an international level, while the US expressed its general support of "any mutually acceptable agreement that would not destabilize the region" (Helsinki Committee 2019, 12). However, there was also strong international opposition, concerned about the wider impact of ethnically motivated border changes.

When the general gist of these negotiations was leaked in the summer of 2018, Fr. Sava, supported by Bishop Teodosije, was the first local Serb voice in opposition according to a number of people I spoke to. The SOC monks' keen sense of responsibility towards the Serb minority,<sup>35</sup> whose needs and concerns also go unheard by

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34 The Helsinki Committee for Human Rights in Serbia claims this is "part of the state strategy the Serbian Academy of Arts and Sciences" (2019, 12-13), was supported by former President Boris Tadić before President Vučić and is also the opinion of the influential writer, Dobrica Ćosić, who commented in an interview in 2008: "I have always seen a compromise between historical and ethnic rights as a solution to centuries long antagonism between Serbs and Albanians. Such compromise implies Albanians' right to unification with their motherland, Albania, unification of the territories in where they are in majority. Territorial partition of Kosovo and Metohija and demarcation [sic] between Serbs and Albanians should be realized without any aspirations for ethnically pure territories and reciprocity of contents and forms of guaranteed national and civil rights of minority communities" (2019, 13, footnote 17).

35 A variety of people, Kosovo Albanians included, confirmed to me that Fr. Sava is the only one defending the needs of these ordinary Serbs in Kosovo.

decision-makers,<sup>36</sup> are likely why he expressed that a territorial exchange “would amount to abandoning 80,000 Serbs [in Kosovo], leaving them with a very low and dubious level of security and protection” (AFP 2019). To me personally, Fr. Sava bemoaned the – in his view – flawed perspective behind the ‘land swap’ “that Serbs and Albanians cannot live together, they have to be totally separated. ... [T]hat we have to make a final cut and simply divide these populations once and forever. ... that this might be the end of this drama.” This idea is unsustainable, he says, “because population exchange costs lives and it will [practically] empty Kosovo of Serbs.” From his monastic perspective this is crucial: the “monasteries have no meaning without the people who gather here ... our population.” He found it difficult to understand “how they think that we [Serbs] can survive in such a scenario because we are surrounded by Kosovar Albanians.” On the other hand, does the fear of being “surrounded by Kosovar Albanians” not betray a more basic distrust about the relations between the two communities?

The Kosovo branch of the SOC was not alone in its opposition to this idea of exchanging land; fierce resistance arose from a variety of stakeholders. An OSCE representative pointed out the ‘strange bedfellows’ joining Fr. Sava and the bishop in opposition to the proposed settlement. Kosovo’s then Prime Minister Ramush Haradinaj also strongly opposed the idea as unconstitutional, a “shortcut to tragedy” and representing President Thaçi’s interest rather than that of the country (Surk 2019). Serbia’s Helsinki Committee for Human Rights (2019) referred to the ‘partition’ as undermining multi-ethnicity and noted that this change of agenda spelled the end of the Brussels dialogue and of the discussion on a Serb community of municipalities in Kosovo. Generally, this proposal proved “profoundly unpopular both with Serbs — most of whom continue to consider Kosovo a part of Serbia, one that holds a foundational place in its national story — and with Kosovars, who regard what is under discussion as a partition of their young country along ethnic lines” (Surk 2019). People I spoke with in Kosovo and Serbia, both Albanians and Serbs, were very worried

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36 The Serb community is represented in Kosovo’s government by members of the party ‘Srpska Lista’ which is known to be the arm of Vučić’s Serbian Progressive Party and widely considered by Kosovar Serbs as “a party acting against their interests ... [and] car[ing] little about real-life problems of ordinary [Serb] people’ in Kosovo” (Helsinki Committee for Human Rights in Serbia 2019, 18).

about the potential new violence that might erupt as a result of the displacement of people from these swapped areas.

Fr. Sava's vehement opposition to the covert deal created a rift between him and Serbia's political establishment, including the Serbian media. As one of few to publicly oppose Vučić, Fr. Sava was then targeted as a traitorous advocate for an independent Kosovo.<sup>37</sup> As he recounted it me:

Bishop Teodosije and I decided to come out in public and speak openly against this plan and we were attacked openly by all Serbian state media as traitors, as foreign agents. We were put under special measures of the Serbian Intelligence Service. Everyday there was something: that I also worked in NATO to allocate the exact targets of bombing in Serbia; that I had [held] an umbrella... for Madeleine Albright ... on a rainy day, so ... I am not to be trusted ...; that my mother is Croatian; all kinds of disgusting things. Of course all these show that we hit the wasp nest. That we were really on the right track and, thank God, this plan did not work, for many reasons.

Fr. Sava and Fr. Ilarion both remonstrate the lack of consideration of the SOC's perspective in overall negotiations about the future of Kosovo. Whereas "the church was officially invited by the Serbian government to participate in the dialogue" with the Ahtisaari discussions over Kosovo in 2008, according to Fr. Sava, he adamantly told me that "no Serbian government has ever, ever ... discussed with the Serbian Orthodox Church about the protection of the churches and the holy sites in Kosovo." He repeated that not once has any state official asked about the monasteries' needs or problems<sup>38</sup> nor "exposed any of their plans either to the patriarch nor to any of our bishops."

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37 The Belgrade tabloid Alo! published photos of opponents to the deal, including Fr. Sava Janjić with the front page headline "Thank You For Preserving Kosovo, Whole and Independent" (Rudic 2018)

38 Even in cases when Serbia has needed to report to UNESCO on its heritage sites, no one actually visited the site or asked a resident of the monasteries for information. Instead, Fr. Sava assumes they must have simply used what they could glean from websites.

Serbian President Vučić accused Bishop Teodosije, according to Fr. Ilarion, for meddling in politics, whereas Fr. Ilarion claims “this is not politics” for the SOC. Imagine, he prompts:

you are a bishop and you hear that there is a plan to provoke conflict, so that conflict could be a cover up for a political project of the partition of Kosovo. And you know that, and people are getting killed who are your flock and you are keeping silent. ... A man with integrity could not live for the rest of his life with the awareness that they did not stop something of this sort.

On the other hand, Fr. Ilarion does recognize that “Christianity was political from the beginning and still is, because everything is about ... people living together in an organized society.”

Given Fr. Sava and his bishop’s opposition from Kosovo, I was curious whether they were acting essentially alone.<sup>39</sup> How did the patriarch and other key representatives in Belgrade respond to this issue? Fr. Ilarion informed me that “Basically these attitudes of Bishop Teodosije and Sava, they are accepted as a formal attitude, formal standings of the Serbian Orthodox Church. ... [In] a formal declaration by the Assembly of the Bishops it is specifically uttered that the church is opposed to the partition of Kosovo.” I asked Fr. Sava whether he had the support of Patriarch Irinej and he confirmed his knowledge and full support. As for the SOC leadership as a whole, he said: “[t]he position of the Serbian Orthodox Church against partition is 100%: not a single vote for partition [in the Assembly of Bishops].’ It is crucial to point out that what the official SOC position means by partition – the severance of Kosovo and Metohija from Serbia – is quite different than what the political leaders were proposing in the ‘land swap’ – allocating north Mitrovica to Serbia and part of Serbia to a *de facto* and, therefore, implicitly or explicitly recognized state of Kosovo.<sup>40</sup> On the other hand, Fr. Sava acknowledged, “I know that it is not easy for [the Patriarch], he has to really handle things and keep a balance” – from which I infer balancing this position

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39 Thanks goes to Dana Landau for suggesting this question.

40 I thank Dimitris Moschopoulos for pointing this out (personal communication 20 March 2020).

with his relationship with the current regime of President Vučić. Fr. Sava clarified that the difference only rests in the ways the position is expressed, as there are different ways of being diplomatic.

It seems that Patriarch Irinej and the other bishops have not risked themselves publicly like their colleagues in Kosovo. On the one hand, the Serbian Orthodox Church 'expressed concern' in late 2018 at the proposal to change the borders because "the alleged demarcation between Serbs and Albanians imposes the possibility of separating part of Kosovo Serbs from Serbia" and the Assembly of Bishops claimed that "Serbia's sovereignty and integration in Kosovo and Metohija could not be called into question at any cost" (*Agencije* 2019). On the other hand, while SOC representatives from Kosovo are excluded, President Vučić seems to have engaged the patriarch in this discussion. Patriarch Irinej commented after emerging from a meeting together with the president in March 2019 that: "it is important that we have the same opinion about these problems and how we can respond in these circumstances" (*Agencije* 2019, my translation). Political scientist, Filip Ejduš, at the University of Belgrade confirms that "[t]he government knows very well that without the support of the Church, which controls the powerful clerical discourse on Kosovo myth and national identity, no agreement will be sustainable" (Velebit 2019). Evidence of this alignment seems easy to find. For example, in 2018 Patriarch Irinej claimed President Vučić was "fight[ing] like a lion for the Serbian people" (Vasovic 2019). He also recently bestowed upon Vučić the Order of St. Sava award for the president's "active love for the mother church, unwavering commitment to the unity of the Serbian people and the tireless struggle for the integrity of Serbia, especially for the preservation of Kosovo and Metohija within its borders" (Zivanovic 2019). This seems contrary to Fr. Sava's assertion that the patriarch supports his own strict position against Vučić's approach to Kosovo. Ambassador Moschopoulos, however, had a different interpretation of the patriarch's valorization of Vučić: instead of praise for his heroic acts, it may instead be a cajoling tactic or even a warning that the church is alert and watching that the president not stray from the 'right' way.<sup>41</sup> Whether or not the patriarch is pandering to the government, there-

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41 Dimitris Moschopoulos, personal communication 20 March 2020.

fore, “statements released by the Serbian Orthodox Church are far stronger than what Irinej himself says publicly... [and] directly contradict government policy” (Vasovic 2019). They are also more aligned with Fr. Sava and Bishop Teodosije’s positioning in Kosovo.

## CONCLUSION

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Through four vignettes, this paper illustrated the contested stakeholder claims within which the Serbian Orthodox Church’s monasteries in Kosovo aim to secure their identity and place in the current conflict dynamics. These dynamics are significant because the monasteries are central to the conflict between Serbia and Kosovo, whereas we can see that the monastics are sidelined from the dialogue about their own perceptions and needs. Instead, negotiations happen at the top level – the disputed secret presidential discussions or the Brussels dialogue for normalizing relations – thereby missing local players such as the SOC. Kosovo SOC leaders might not need to be only an obstacle for a top-down solution, as recently occurred and presented in vignette 4. My query is whether, by expressing their unmet needs, new ideas and possibilities around the monasteries’ and Serb minority’s future might become evident. As needs theory suggests, addressing and satisfying universal human needs is an essential element of a positive and sustainable peace.

As noted in vignette 1, the monks envision their monasteries as vibrant locales where a diversity of people come together. However, their capacity to create such a space has diminished significantly over the last decades of cultural and social distance between Kosovo Serbs and Albanians. The monastic residents feel stigmatized and scapegoated because of their Serb identity, but they themselves sometimes exhibit suspicions and lack of interest or even unwillingness to engage with Kosovo Albanians, as shown in the two situations between Dečani Monastery and its municipality. Fr. Sava claims that human rights violations and the lack of a proven rule of law

in Kosovo make better relations all but impossible. As such, it seems that Serbs in Kosovo still lacks satisfaction of the basic need for safety.

With regard to the cases described in vignette 2, I wonder whether a discussion about concrete needs – rather than hard-line positions from Fr. Sava and the authorities in Deçan municipality – perhaps facilitated by a third party, might open some space for movement out of the standoff. At the same time, outreach from the monastery to locals via non-political avenues (e.g. organizing visits of school children or organizing cultural festivities for locals) might break down some of the attitudinal barriers such as fear of the unknown/imagined other, providing a further basis for personal safety. While this costs personnel and effort, it may be a worthy investment by the SOC to improve local relations.

Kosovo's recent history of increasing segregation and growing distrust between Serb and Albanian communities since 1980, in addition to the unacknowledged injustice and suffering explored in vignette 3, may provide isolation from the other community and therefore some sense of safety. But this is, at best, a temporary solution. Despite wishes from some hard-liners on both sides to 'cleanse' society of challenging and unwanted 'others,' these ethnic communities will eventually need a sustainable way to live together (*suživot*) according to international norms of liberal, multicultural societies, if a peaceful reality is the goal. Kosovar Albanians have been able to embrace Kosovo's independence and exert their capacity towards statehood, which includes dealing with internal divisions and domestic demands after a long period of Yugoslav neglect. These demands may overshadow the concerns of non-Albanians in Kosovo, who have been (self-)marginalized into their own communities for many years. I wonder whether representatives from the monasteries – who already advocate for local Serbs and whom Kosovo Serbs seem to accept as their advocates – might be well placed and trusted actors to officially represent Kosovo Serbs in negotiations regarding their needs. Their strength or asset here for such an intervention is their committed presence, although this might also be regarded a point of provocation by local Kosovo Albanians. On the other hand, however, the inherent hierarchical structure of the SOC means that Kosovo SOC representatives would not be independent actors and therefore not have much freedom to respond to and interact

with the other's needs. Rather, they would have to remain aligned with the strictest position on Serbs' national interests. And even with a proper democratic system of equal representation for all groups, the monasteries would still exercise influence, especially among the Serb minority.

For the SOC actors in Kosovo's monasteries, it is not only key to find a peaceful means to coexist, but also to achieve the monasteries' more vibrant purpose: to create some space where all may feel welcome to gather, Kosovar Albanians included. For this to be possible, it seems, from the monastic perspectives expressed in this research, they still feel a need for security. This is so despite Kosovo's constitutional provisions and court decisions in their favour. As such, further consideration of how and why these legal measures are not experienced as satisfactory may be merited. Additionally, a need for the security provided by an acknowledgement of the monasteries' Serbian Orthodox identity arises also from the monastic input of this research. Again, the perceived lack of security – which the monastics consider a failure of the government – would need to be addressed seriously by the government. Why does this perception exist? How might it change? I would suggest that these unmet safety needs are not only about legally binding measures but are related to a profound lack of trust, which is part of the fabric of security. As such, I think further research and practical work is needed on this invisible and fundamental casualty of war.

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Through four vignettes, this paper illustrated the contested stakeholder claims within which the Serbian Orthodox Church's monasteries in Kosovo aim to secure their identity and place in the current conflict dynamics.



# LOCAL INTERPRETATIONS OF INTERNATIONAL RULES

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— **Meris Musanovic**

The Specialist Chambers in Kosovo: A Hybrid Court between Mounting Expectations and Domestic Contestation

— **José Carpintero Molina**

Civil Society Contribution to Sustainable Peacebuilding in the City of Mitrovica: Finding a Niche between Donor Priorities, Ethnic Divisions, and Social Needs

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Corruption and Women's Access to Politics: Quotas and Party Funding in Kosovo



# **THE SPECIALIST CHAMBERS IN KOSOVO: A HYBRID COURT BETWEEN MOUNTING EXPECTATIONS AND DOMESTIC CONTESTATION**

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— MERIS MUSANOVIC

## — MERIS MUSANOVIC

Meris Musanovic is a Legal Analyst at the Humanitarian Law Center (HLC), a non-profit organization in Belgrade, Serbia, that supports post-Yugoslav societies in the promotion of the rule of law and acceptance of the legacy of mass human rights violations. Prior to engaging with the HLC, Meris worked at a law office in Sarajevo. He graduated from the Faculty of Law at the University of Sarajevo and received master's degrees in Democracy and Human Rights at the University of Bologna on the topic: "Dealing with the Past: Challenges of Co-existence and Prosecution of War Crimes in Serbia", and in International Public and European Law at the American University in Bosnia and Herzegovina, on the topic: "The role of victims before the Hague Tribunal - search for justice". Meris has completed several informal trainings in the field of transitional justice and human rights.

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# ABSTRACT

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This study examines why the Kosovo Specialist Chambers and its specific attributes, which are widely heralded as a promising hybrid solution to transitional justice, remain heavily contested in Kosovo. The analysis shows that this institution, given its attributes as hybrid court, originates high expectations both from the international community and the Serbian community in Kosovo that it will allow access to justice for those victims ignored by the previous tribunals. The Albanian community in Kosovo does not share these expectations. This, like all previous attempts to investigate war crimes in Kosovo, was initiated and mostly managed by various structures of the international community. Yet, differently from the previous attempts, the Specialist Chambers qualifies as hybrid court that fuse international and local elements. As such, it can play a useful role in shoring up the legitimacy and capacity of criminal proceedings of those accused of war crimes.

## INTRODUCTION

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Making justice for crimes and human rights abuses committed during the Balkan conflicts of the 1990s has been a painful, slow and in many ways an unfinished process. Kosovo, the location of the last major Balkan conflict, has been the target of various international-led efforts to investigate and prosecute war crimes. The International Criminal Tribunal for the former Yugoslavia (ICTY), the United Nations Mission in Kosovo (UNMIK), local courts and then the European Union Rule of Law Mission in Kosovo (EULEX) have endeavoured to share the task of investigating and prosecuting perpetrators of grave war crimes at different points in time. Most of these investigations never reached trial or the accused were acquitted due to lack of evidence. The entire process was arguably permitted by accusations of political interference, intimidation and lack of cooperation from local authorities and witnesses.

The failure of multiple missions to ensure prosecution of war crimes prompted the international community to envisage new hybrid instruments that combine international and local features - the so-called Kosovo Specialized Chambers (SC) and the Special Prosecution Office (SPO) – in order to bring perpetrators of war crimes to justice. By fusing local and international elements, the hybrid courts can arguably avoid the disadvantages of each, while adding legitimacy to the process, but also contributing to domestic capacity-building and norm dissemination in the field of transitional justice and the rule of law more broadly. Despite the promised attributes of such courts in theory, they remain heavily disputed in the local society where they are supposed to bring justice, attesting to the challenge of overlapping tasks, loaded expectations and ethnically-charged accounts.

This study questions: why the SC and its specific attributes, which are widely heralded as a promising hybrid solution to transitional justice, remain heavily contested in Kosovo proper? Specifically, what are the real and perceived challenges it faces in the local context? The analysis draws on secondary literature regarding hybrid courts, primary legal documents relevant to the work of the institution and related laws, qualitative and quantitative data from non-governmental organizations and institutions that focus in the area of transitional justice in Kosovo, and ten interviews with members of the international community, civil society activists, journalists and academics working on SC. Since the work of SC is an ongoing process – the chambers have been operational since the end of 2017 and sent their first legal invitations in early 2019 – the analysis covers only the contestation of their legal mandate and operation.

This analysis proceeds in three sections. Section one examines the origins and evolution of hybrid courts and why they are heralded as a better solution than pure international or local courts but also criticized on other aspects. Section two outlines various attempts to deal with war crimes in post-war Kosovo and why another special court that fuses local and international features was proposed to amend the failures of the past missions. Section three explores the gap between high expectations and the many challenges it faces in the Kosovo context -its vulnerability to the cooperation of local institutions, its central target, ‘fuzzy allegations’ it builds on, the secrecy of its work and securing fair investigations in an ethnically charged society.

# THE HYBRID COURTS: A PROPOSED SOLUTION TO THE WEAKNESS OF INTERNATIONAL AND DOMESTIC COURTS

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The last two decades have seen the rise of ‘internationalized’ tribunals established by international and domestic authorities, typically in post-conflict cases where there is wide-scale international involvement (Bruch 2010). These hybrid courts represent the third generation of international criminal bodies, with the Nuremberg and Tokyo Tribunals being the first generation; and the ICTY, the International Criminal Tribunal for Rwanda (ICTR), and the International Criminal Court (ICC) being the second generation. Although the concept itself does not have a single definition, the notion of hybridity signifies the blended nature of national and international aspects, both in structure, composition, and functions (Andersen 2017). Commonly, these institutions are comprised of foreign and domestic judges. Additionally, they may apply domestic law, international law or a combination of both. They also operate within the jurisdiction of the country where the crimes occurred (Bruch 2010). Finally, the legal basis for founding a hybrid court is established *via* a consensual agreement between the international community and the state in question. The specific combination of the international and national features, however, may vary in each particular case (Bennetch, Sellers and McGuire 2015).

The arrangements that qualify a court as hybrid, and yet case specific, draw on the experience of the previous two generations of international tribunals and are specifically designed to address their perceived failure in providing justice for violations of international humanitarian law. The most noted shortcomings of second generation *ad hoc* tribunals and the ICC include their limited mandate, narrow jurisdiction, and political and judicial infrastructural problems including lack of capacity to handle complex criminal cases (Dickinson 2002). Oftentimes, trials organized by purely in-

ternational courts also fell short of legitimacy because the people most affected by the crimes in question lacked ‘ownership’ in the process (Nouwen 2006). Typically, the investigation and prosecution conducted by the international tribunals take place in faraway courtrooms, where the key actors lack familiarity with the conflict and the broader context in which the crimes were committed. Likewise, legal proceedings at the national level were burdened with fear of bias or lack of judicial independence (Dickinson 2002). These challenges have undermined the legitimacy of domestic trials too (Higonnet 2015). Consecutively, as Raub (2009, 1042) notes, “[n]on-hybrid courts are seen by the affected population as lacking both legitimacy and accountability.”

### **Expectations of legitimacy, capacity building and norm dissemination**

Hybrid courts’ unique status as institutions that blend national and international features allows them to avoid the disadvantages of each, while attributing them more legitimacy, but also contributes to domestic capacity-building, and norm dissemination (Higonnet 2015). By combining the strengths of *ad hoc* tribunals with the benefits of local process and ownership, hybrid courts add legitimacy to the process. By using international judges and rules, they also contribute to the wider international efforts of capacity building and norm diffusion, i.e. assisting post-conflict states to incorporate effective rule of law elements into their often dysfunctional domestic legal systems.

The existing literature suggests specific advantages in having the affected community or state being involved in the implementation of international criminal justice besides international judges. As Higonnet (2015, 349) notes, “[h]ybrids can harness the credibility of international law and the legitimacy of culturally appropriate institutions lending them a degree of authority as a mechanism for holding perpetrators accountable and ... building social trust within the state.” Dickinson (2003, 296) similarly argues that, “[c]ombining international and local processes may have enhanced the perceived legitimacy of hybrid tribunals, and that these processes may facilitate greater penetration and development of the international humanitarian law norms.”

Besides gains of legitimacy, the domestic-international cooperation that hybrid tribunals entail can contribute to strengthening the target state's domestic legal infrastructure, and transferring norms of transparency and due process in the judicial proceeding. Although, the hybrid tribunals have a limited time mandate, the facilities and resources they build will outlive their time-limited legal activities. So will the human resources, staffing, funds, expertise, detention and trial facilities that these tribunals have amassed (Andersen 2017). Some of the helpful sources that the domestic system will inherit include training and mentoring of domestic jurists about international criminal law and impartial judging. The mix of national and international judges can also help enforce international and domestic standards against accused perpetrators, particularly those with high level political links. The hybrid courts, thus, offer the chance to mend the domestic culture of impunity that often characterizes post-conflict situations, demonstrating to war criminals and others that illegal actions bear consequences (Bennetch, Sellers and McGuire 2015).

Given their promised advantages, the hybrid tribunals have been generally embraced by the international community as a normative and pragmatic strategy for dealing with post-conflict situations. Yet, they have also come under critique for striving to achieve various, sometimes overlapping and sometimes conflicting goals. As Nouwen (2006, 191) suggests, the hybrid tribunals face immense expectations “to offer legitimacy by providing ownership without affecting independence and impartiality; to be able to prosecute more perpetrators in less time and at lower costs while also building domestic capacity; to be able to implement domestic justice while upholding international law and to comply with international fair trial standards....” After all, the most critical element of the hybrid courts is striking a difficult balance between a state's national sovereign order and the international legal system (Nouwen 2006). Both national and international judges in these hybrid courts face the challenging application and interpretation of national and international laws, and possible dilemmas to choose between two sets of laws in order to provide legal certainty. At the political level too, the need to strike an agreement with local actors, including power holders who may be the very target of those courts, will necessarily create channels of resistance and interference in the process of setting and running such courts (Dickinson 2003; Elbasani 2019).

# VARIOUS ATTEMPTS TO INVESTIGATE WAR CRIMES IN POST-CONFLICT KOSOVO

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Following the collapse of former Yugoslavia, the tension between Serbs and Kosovo Albanians escalated, culminating in the violent conflict of the 1999. The conflict itself, evolved into two phases: 1) the internal conflict between Albanian fighters - the Kosovo Liberation Army (the KLA) and the Yugoslav military and police forces, which lasted from February 28, 1998 to March 23, 1999; and 2) the subsequent NATO intervention in the period March 24 to June 10, 1999 (NATO 1999). In the course of the armed conflict, the civilian population suffered many casualties (OSCE 1999). The ICTY's verdicts later on confirmed that many of these crimes were related to the use of excessive force by the Army of Yugoslavia and Serbian special police forces (Boelaert-Suominen 2000). State-led violence, including casualties against civilians, occurred especially after the failed diplomatic negotiations and subsequent NATO intervention in March 1999. In response to NATO intervention, the Serbian police, military and paramilitary units retaliated against Kosovo Albanians by using widespread violence, forced deportations, mass murder, robbery, rape, destruction of religious buildings and even entire settlements. More than 800,000 Kosovo Albanians were forced to flee the country in a short period of time (NATO 1999).

Officially, the armed conflict and much of the retaliation against Kosovo Albanians ended on June 9, 1999, when NATO/KFOR, the forces of the Federal Republic of Yugoslavia (FRY) and the Republic of Serbia (RS) signed a Military Technical Agreement, the so-called Kumanovo Agreement. Accordingly, the armed forces of Serbia and Yugoslavia committed to withdraw from the territory of Kosovo within the next 11 days (Humanitarian Law Center 2018). Following the signing of the Kumanovo Agreement, the United Nations Security Council (UN Security Council) passed Resolution 1244 which obliged the army of the FRY to hand sovereignty over Kosovo to a UN mission - UNMIK. Once the Serbian troops withdraw, most of the Kosovo

Albanian refugees came back while 100,000 Serbs left Kosovo in fear of retaliation (NATO 1999). On June 11, 1999 a NATO force, KFOR, entered the country with the mandate to ensure peace and security. Still, the international presence seemingly failed to prevent retaliatory crimes against Serbs, especially after the withdrawal of Serbian troops (Zaum 2013).

The 1244 resolution had extended the jurisdiction and mandate of the ICTY to Kosovo (Humanitarian Law Center 2018, 284). Neither ICTY, nor UNMIK expansive authority nor its reforms of the Kosovo judicial system, however, proved sufficient to deal with various allegations of war crimes. Initially, most suspects of war crimes, mainly Serbs, were to be adjudicated in trials composed mainly of Albanian judges. A few months after its arrival in the country, however, UNMIK engaged international judges and prosecutors in order to avoid ethnic biases. By 2003, trials concerning war crimes were adjudicated before mixed panels, and presided almost always by international judges (Zaum 2013). Initiatives to establish a special tribunal – the Kosovo War and Ethnic Crimes Court – were also discussed, however, soon dropped due to budget issues, and the existence of the ICTY, which already had jurisdiction over the war crimes committed in the territory of former Yugoslavia. UNMIK has envisaged that the ICTY would handle principal perpetrators, and local and UNMIK courts, lower-level perpetrators. In reality, most of the investigations at the ICTY or local level never reached trial or the accused were acquitted due to lack of evidence (Humanitarian Law Center 2018, 286). The key reason for widespread acquittals was witnesses' altering of their testimonies, raising suspicions of systematic intimidation.

After 2008, the European Union Rule of Law Mission in Kosovo (EULEX) took over most competences of the UNMIK, including in the area of rule of law. Despite being armed with immense sources and army of international employees and expansive authority, EULEX did not improve the poor record in the investigation of war crimes, mostly because the investigators faced a shield of silence, political pressure and witness intimidation (Humanitarian Law Center 2018, 286). Bringing commanders of the KLA, now turned powerful politicians, before the courts proved to be a particularly tough job. Prosecutors could secure convictions only for their involvement in minor incidents and isolated crimes. Again, during the EULEX-led trials,

the witnesses commonly changed their testimony, recounting what they said during the investigation phase. Furthermore, the witness protection programme failed on multiple occasions to provide adequate security and anonymity for key witnesses (Stjepanovic 2016). Even members of the local judiciary serving on those panels reported various threats of violence to them and their families. Pressure took the form of public intimidation and often direct political threat (OSCE 2009).

The failure of international missions to ensure prosecution of war crimes without political interference prompted the international community to envisage new instruments to investigate war crimes - the SC and the SPO (Martinez and Hoxha 2018). The establishment of the SC followed after the Special Investigative Task Force (SITF) conducted a criminal investigation into allegations raised by rapporteur Dick Marty (2011) in his January 2011 Report on Inhuman treatment of people and illicit trafficking of human organs in Kosovo (Marty's report). On August 3, 2015, the Parliament amended the Constitution of Kosovo, so that the SC and SPO would have the authority to investigate crimes against humanity, war crimes and other criminal offenses provided for in Kosovo laws, as indicated in the Marty's report (Humanitarian Law Center 2018, 288).

The SC represents the legal 'fusion' of various elements from similar courts that have operated in the last two decades more than the Kosovar judicial system (Humanitarian Law Cetner 2018). That is why its set up necessitated the creation of a whole new structure. Since its seat is in the Hague and it employs purely international staff and judges, the SC has many of an international court features. Nonetheless, its legal regime makes it a hybrid one. Specifically, its legal basis is established in Article 162 of the Constitution of Kosovo, and later on refined in the 2015 Law No.05/L-053 (the Law) (Martinez and Hoxha 2018). Accordingly, "Specialist Chambers shall be attached to each level of the court system in Kosovo: the Basic Court of Prishtina, the Court of Appeals, the Supreme Court and the Constitutional Court" (Law No.05/L-053). In this way the SC is connected with the justice system of Kosovo and has primacy over all other laws, as the ICTY once had over local courts in the former Yugoslav countries. The judging panels at all court levels, are composed of three international judges, although they are not permanent, and are only called upon when required.

The only permanent judge is the president of the court. On March 2017, the judges finally met in Plenary to adopt the Rules of Procedure and evidence of the Court (Rules of Procedure). On July 5, 2017, the adopted rules were deemed final and entered into force while the Chambers became operational (Martinez and Hoxha 2018, 2). By the end of 2018, three years after its establishment, the SC finally initiated its first legal invitations. The first interviews with ‘witnesses’ took place in January 2019 (Martinez and Hoxha 2018, 4).

## THE ONGOING CONTESTATION OF SPECIALIST CHAMBERS

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As a new effort that legally and structurally amends previous attempts at justice, the SC has aroused many expectations that it will end the widespread sense of impunity, especially among the main victims, key players of international community and ethnic Serbs. Expectedly, the facts determined by the courts can contribute to legal norm diffusion via the creation of a historical record, combating denial, preventing attempts at revisionism, and creating the foundation for future initiatives in the field of transitional justice in the country. Also, in terms of capacity building, the SC work could help in providing legal clarity and opening a route for judicial institutions to assume responsibility for the investigation of unpunished crimes (Visoka 2017).

Similar to the previous international attempts to do justice, the SC too reflects a huge gap between what an ethnically charged society and particularly the targeted victims are expecting and what it can achieve, mounting to overloaded expectations. For one, it needs to offer a counter narrative to the existing one where both ethnic groups see justice as mechanisms to hold the other side accountable and in that way prolong the cycle of victimhood (Visoka 2017). Much of its legitimacy will finally depend from the SC’s general capacity to conduct fair and comprehensive investigations for a wide range of complex crimes - crimes against humanity (murder, extermination,

enslavement, deportation, imprisonment, torture, rape, enforced disappearance and other persecution on political, racial, ethnic or religious grounds), war crimes and other violations - which fall under its jurisdiction. Reconstructing the pattern of crimes that took place will certainly be a massive task, particularly with the passing of time. The fact that the society is deeply divided regarding what happened in the past and who is responsible makes the SC's work highly contestable. That the court targets a specific group, former KLA fighters, makes it susceptible to politically- and ethnically-charged agendas.

### **Embedness in the local system and vulnerability to political cooperation**

Despite the initial parliamentary approval of SC back in 2015, its establishment, the target and even more so its functioning proved to be a highly contested political issue. At first, the international community insisted that the SC be constituted as an international tribunal and be based in the Hague. Prishtina authorities refused this version, believing that yet another international tribunal adjudicating war crimes would harm the Kosovo's image (Van den Berg 2014). International pressure on Kosovo authorities to create a body able to investigate allegations of Marty's report intensified when the EU included the issue in the framework of negotiations for the Stabilization and Association Agreement with Kosovo. It was only after extensive diplomatic and political pressure on Kosovo's institutions, that the deal was struck to set up a special court within the Kosovo legal framework (Visoka 2017).

Amending the Kosovo Constitution, in order to provide the legal basis for the SC, proved to be another difficult task. The first parliamentary attempt to pass the amendments in June 2015 failed; a second attempt taken under heavy pressure from the EU and US on August 2015 was contested by the opposition. The Constitutional Court's decree that the amendment was indeed in accordance with the relevant constitutional provisions paved the way to the entry into force of the Law on SC and SPO. The adoption of the legal basis for the operations of the SC, however, did not end political and institutional contestation. Efforts to undermine the functioning of the SC lasted for another 2 years. In 2017, the Association of KLA veterans submitted a petition backed by approximately 15,000 signatures asking for an amendment

of the 2015 Law (Martinez and Hoxha 2018). Subsequently, 43 parliamentarians of the ruling coalition asked for an extraordinary session to repeal the Law through accelerated procedures. Mounting international pressure on the Kosovo Assembly prevented it to achieve the necessary quorum to amend the Law. Only by the end of 2017, the SC was finally up and running (Visoka 2017).

Still, its embeddness in the Kosovo legal system, usually an attribute of hybrid courts, makes the operation of chambers vulnerable to collaboration and possible resistance from Kosovo institutions. As a Kosovo political analyst Haxhibeqiri puts it:

its existence can be shaken every moment if there is no political willingness from the Kosovar institutions. Even if the revocation of the Law is not a scenario that can easily happen, due to its *lex specialis* nature, it is possible. The 2/3 of the Assembly members can call an urgent meeting the same way they did at the end of 2017, the Constitution can be changed and even if these do not happen, the Kosovar institutions can still deny cooperation if they want to.<sup>1</sup>

## Doubting the legitimacy of chambers' target

The vulnerability of court's collaboration with Kosovo institutions, is particularly relevant given the target of SC jurisdiction. Specifically, according to Article 6 of the Law, the SC jurisdiction covers all crimes set out in Articles 12 to 16, which relate to Marty's report and that are considered extremely grave (crimes against humanity, war crimes under international law and other crimes under Kosovo and FRY law). Article 7 of the Law limits its temporal jurisdiction to crimes that took place between January 1, 1998 and December 31, 2000 (Law No.05/L-053). This time period clearly extends over the official end of the Kosovo conflict and thus allows taking into account the aftermath of the conflict, when UNMIK and KFOR had yet to establish full control over the territory (Muharremi 2016).

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1 Interview with Njomza Haxhibeqiri, Prishtina, 28 August 2019.

Regarding territorial jurisdiction, Article 8 of the Law establishes that the SC presides over crimes, which were either committed or commenced in the territory of Kosovo. The specific wording is done with the aim to extend its jurisdiction to crimes committed partially in the territory of Albania or another bordering state, which accounts for most of the alleged crimes described in Marty's report. The personal jurisdiction is regulated in Article 9 of the Law, which extends the jurisdiction of the SC over all natural persons fulfilling the prescribed criteria, citizens of Kosovo or the Federal Republic of Yugoslavia (Martinez and Hoxha 2018). Given its focus on Marty's report, "the SC's main shortcoming is its subject matter jurisdiction, which targets only KLA members, thus causing problems of being perceived as invalid from the Kosovo Albanians perspective", according to Haxhibeqiri.<sup>2</sup>

For many Kosovo Albanians this one sided focus of the SC's mandate constitutes selective justice that targets the weaker and mostly the victim side of the conflict. A poll from April 2017 shows that 76.4 percent of Kosovo Albanians believe it is unfair that the SC will mainly prosecute war crimes and crimes against humanity by focusing only on the KLA (Visoka 2017). Furthermore, the international pressure placed on Kosovo's institutions to establish the SC, in this format, has repercussions for its acceptance and legitimacy. As analyst Haxhibeqiri working on this issue puts it,

if the Law on the SC expands its scope not only to Marty's report, but to try crimes committed by others as well, it would first save itself a lot of troubles. It would also be considered as legitimate from the Kosovo Albanian population and kind of close the accountability gap. In this way, it will have Kosovo's support and it might indeed contribute to a full-fledged truth instead of concentrating to only a portion of it.<sup>3</sup>

Similarly, another Albanian analyst, Agon Maliqi, believes that such a focus may create more resentment than justice:

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<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

the work of the SC, if the prosecution is successful, could produce some sense of justice among the Kosovo Serb community and Albanians who were targets of the KLA. Yet, targeting only the perpetrators of crimes from one side will eventually feed further resentment and a sense of injustice among the wider Albanian community.<sup>4</sup>

Serb activist Aleksandar Rapajic, however, suggest that the SC targets individuals more than an ethnic group as a whole and contestation of the courts arises from those who fear justice:

The perception that the SC is established against Kosovo Albanians comes from those that fear that they might be tried and sentenced by this institution. The role of the court is to determine responsibility of an individual and not one ethnic group as a whole. These individuals that committed war crimes and gained substantial financial gains are calling upon 'higher interests' to avoid their own responsibility. The ...society as a whole in Kosovo should distance itself from individuals that will eventually be prosecuted and convicted for war crimes.<sup>5</sup>

## **'Fuzzy allegations' and scepticism in international investigations**

Doubts on the target of the SC are exacerbated by the 'fuzzy allegations' suggested in the very document that it builds upon - Marty's report. Since its publication, the report has been questioned, due to the limited evidences offered to back it up. That past international rule of law missions in Kosovo failed to confirm war crimes mentioned in this report backs up such doubts (Hoxha 2019, 7). As an analyst Haxhibeqiri working on this issue puts it,

Dick Marty's report on inhumane treatment and illicit organ trafficking, clearly sets recommendations in its 19<sup>th</sup> Article to: Kosovar institutions,

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4 Interview with Agon Maliqi, Prishtina, 22 August 2019.

5 Interview with Aleksandar Rapajic, Prishtina, 26 August 2019.

Serbian institutions, and most importantly EULEX. Marty's report has been public since 2010 and the Law on SC has been adopted in 2015. For five years, EULEX had the required time and the mandate to shed light to the alleged crimes in the Dick Marty's report, however, it did not.<sup>6</sup>

The failure of EULEX to uncover those allegations makes it even more difficult for the SC to justify its necessity and even more so to prove that it is capable to shed light on the alleged crimes.

Kosovo Serbs also doubt the latest international efforts at justice, although for all other reasons. The long wait for the SC to raise its first indictments made even victims lose their patience and faith that they will ever find justice. According to the 2017 poll, 69 percent of Kosovo Serbs believe it is unlikely or very unlikely that the SC can bring justice to those who committed serious war crimes (Visoka 2017). Scepticism that the SC will be able to do what other well-endowed missions could not, weakens the cooperation of possible witnesses that are necessary to secure convictions. Many possible witnesses among victims themselves believe that this institution if it eventually starts with trials will prosecute only a handful of former KLA members, thereby omitting other unpunished crimes (Visoka 2017).

The passing of time is another factor that tests the potential of SC to make justice. According to Haxhibeqiri, "the problem with the establishment of SC decades after the war is that witnesses' memories fade away and this might limit the means to establish the full picture of what happened while committing the crimes."<sup>7</sup> Leonora Aliu, a journalist who has reported on the court, confirms that

almost 20 years have passed since the war and all the institutions that started investigations or charges for war crimes, before the SC was established, had a better chance to bring justice and war criminals to trial. There were more chances to find witnesses alive, with fresh memories, and evidences. Year by

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<sup>6</sup> Interview with Njomza Haxhibeqiri, Prishtina, 28 August 2019.

<sup>7</sup> Ibid.

year, it is harder to find legal evidences that can prove that the crimes really happened. Therefore, this institution will be a bigger disappointment.<sup>8</sup>

Hajdari, another legal analyst, also believes that,

the passing of time negatively affects the process of realizing the right of victims to justice. That is why the courts that are formatted immediately after the war, while the memories are still fresh, are more successful with regards to securing evidence for prosecution.<sup>9</sup>

For the Group of Legal and Political Studies (2019), which regularly reports on later SC developments too, “with every year that passes without comencing with trials it will be more difficult to administer justice and defend its existence”. Serbian activist Rapajic, seemingly rebuff the impact of time:

The war crimes do not have a statute of limitation, and some previous experiences in international justice provide us with examples that it is possible to conduct war crimes trials even after a long period of time. This gives us hope that cases that the SC has the mandate to adjudicate will be processed and that the victims’ families will receive justice, despite the passing of time.<sup>10</sup>

## Merged in secrecy

Since much of the scepticism and contestation that the SC faces are by-products of previous failures to deliver the expected justice, the chambers face the need to publicise the case for offering a different and better solution of hybrid justice. Yet, in the words of analyst Agon Maliqi working on the issue,

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8 Interview with Leonora Aliu, Prishtina, 24 August 2019.

9 Interview with Anka Kurteshi Hajdari, Prishtina, 25 August 2019.

10 Interview with Aleksandar Rapajić, Prishtina, 26 August 2019.

the outreach has been extremely minimal. There does not seem to have been any effort to address perceptions about the selective nature of the court. The SC has been extremely wary and secretive in its external communications, and the almost inexistent number of leaks is proof.<sup>11</sup>

The limited relation of the SC with the society it is supposed to serve justice is arguably enforced by its location in the Hague.

According to Haxhibeqiri,

in its outreach activities so far, they have been quite reserved, not close to the society or to the media. They do not even have an office in Kosovo, which could be considered odd. Even if the mandate was not biased, this distanced behaviour causes the population to see them as an external influence and not something driven from the inside. Their reactions remain inexistent and public appearances, highly limited.<sup>12</sup>

In general, the Kosovo public has been at dark even about the scope and aims of the SC. According to Leonora Aliu,

after all, even the local authorities in Kosovo, such as the Ministry of Justice and also the SC itself failed to inform the public in an effective way about the role of the SC, its jurisdiction and aims. All of a sudden, the public has news almost every week that X, or Y former KLA member is invited to testify in front of the prosecutor office. It is confusing and people ...are beginning to consider it as something normal and without any results. Each time a very known former KLA leader goes to the Hague and comes back, he is saying in front of TV's cameras nothing else but that this process is against the KLA and unfair. Right now, all what people can know about the SC and the SPO work are either what they hear in the news, mostly the heroic state-

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11 Interview with Agon Maliqi, Prishtina, 22 August 2019.

12 Interview with Njomza Haxhibeqiri, Prishtina, 28 August 2019.

ments from former KLA members, or rumours. However, nothing concrete that would help people build a logical, realistic opinion about the SC.<sup>13</sup>

The 2017 poll confirms that 60.4 percent of Kosovo Albanians and 59.2 percent of ethnic Serbs do not believe that they have received enough information about the establishment and role of the SC (Visoka 2017). Lack of information is commonly replaced by many myths and negative narratives that have come to influence public perceptions. The result is an inhospitable social and political context for its work. Per the Group of Legal and Political Studies (2018), the SC outreach office needs to cooperate more with the Government of Kosovo, civil society groups and the international community in delivering a comprehensive and inclusive programme of public dialogue that would counter the general perception of SC as an insult or even conspiracy against the KLA and to its struggle for freedom.

## Securing fair investigations in an ethnically-charged society

Being caught between divergent ethnic agendas, impacts institution's capacity in securing witnesses, as the main instrument of evidence in these types of cases. In a context where the KLA members are perceived as heroes and testifying against them an act of treachery the risk of potential witnesses being ostracized remains. As a Serbian analyst Rapajic puts it,

at the moment the atmosphere in Kosovo is such that is apparent that witnesses, especially Kosovo Albanians ones, will be exposed to great pressure not to testify. Certain newspapers/tabloids are even mentioning names of potential witnesses, which represents a serious problem to their safety.<sup>14</sup>

That the SC is situated at the Hague gives it a possibility to advance where previous institutions have failed. This setting, where the witnesses are far away from home, makes it a lot easier to secure impartial, fair and efficient criminal proceedings and non-interference. According to Rapajic,

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13 Interview with Leonora Aliu, Prishtina, 24 August 2019.

14 Interview with Aleksandar Rapajić, Prishtina, 26 August 2019.

the location of the SC represents an advantage because all of the previous courts that have operated in Kosovo were subjected to constant political pressure that represented one of the main obstacles to process high level officials.<sup>15</sup>

Also, this time around the SC has established a rigorous and highly securitized witness protection arrangement to overcome the challenges encountered by the ICTY regarding witness intimidation and deaths. Sheremeti, a Kosovar analyst, believes that “The way rules of procedure have been set allows for much better witness protection compared to all the other judicial establishments thus far (UNMIK, EULEX, ICTY).”<sup>16</sup> The SC has further improved witness protection measures by granting witnesses full privileges and immunities from legal processes regarding their spoken or written testimonies and by avoiding immigration restrictions when they travel to provide testimony or appear before the courts (Visoka 2017).

Given its focus target, advocates of SC expect that its side effect will be to remove key former KLA leaders from positions they hold in government and business, reshuffle the political scene and bring a certain moderation in the Kosovo political arena. The summoning for questioning of key political leaders, including the then PM Ramush Haradinaj, in 2019, has already caused serious turmoil on the political scene. The resignation of the PM Haradinaj and subsequent fresh elections of June 2019 (Balkaninsight 2019) marked a radical shift of power from the axis of governing parties related to KLA to the opposition parties related to the pacifist wing of the struggle for independence. Still, as a court whose primary task is to hear a case, to examine the evidences, to establish the level of responsibility and guilt and to decide the sentence, any ‘political’ role that goes beyond a fair legal process may jeopardise its claims to independent judgment.

This context of ethnically-charged distrust in the work of the SC is furthered by the widespread perception that the EU, the key international player in assisting tran-

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<sup>15</sup> Ibid.

<sup>16</sup> Interview with Furtuna Sheremeti, Prishtina, 23 August 2019.

sitional justice in the former Serbian province, is not applying similar pressure to challenge the culture of impunity and denial in Serbia (Humanitarian Law Center 2019). Moreover, Kosovo Albanians tend to share a common perception that the EU has traded Serbia's participation in the Brussels talks with Kosovo for a reduction of pressure on Belgrade in areas such as war crimes, which has left many Kosovo Albanian victims frustrated at the international mediated efforts of transitional injustice (Visoka 2017). Accordingly, the EU should make wider issues of transitional justice part of the dialogue in normalization of relations between Kosovo and Serbia too (Martinez and Hoxha 2018).

## CONCLUSIONS

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This paper questioned why the SC and its specific attributes, which are widely heralded as a promising hybrid solution to transitional justice, remain heavily contested in Kosovo proper? Specifically, it asked what are the real and perceived challenges it faces in the local context? The study showed that SC, like all previous attempts to investigate war crimes in Kosovo, was initiated and mostly managed by various structures of the international community. Yet, differently from the previous attempts, the SC qualifies as hybrid court that fuse international and local elements. As such, it can play a useful role in shoring up the legitimacy and capacity of criminal proceedings of those accused of war crimes. Given the attributes of hybrid courts, both international community and the Serbian community in Kosovo share high expectations that the SC will allow access to justice for those victims ignored by the previous tribunals.

Also, the analysis showed that the Albanian community in Kosovo does not share those expectations. Instead, the SC remains heavily contested. The many critics of the court highlight its key challenges - its vulnerability to the cooperation of local institutions, its central target, 'fuzzy allegations' it builds on, the secrecy of its work and the challenge of securing fair investigations in an ethnically charged society.

Those challenges coalesce around the problem that many Kosovo Albanians see the court as one sided administration of justice established with the aim of prosecuting only KLA members. Other issues like remoteness of the court constituted by foreign judges, lack of communication about its proceedings, and absence of political support further decrease the likelihood of social acceptance of its work in the long-term. Lack of transparency regarding the rationale for its establishment, its mandate, and the nature of the allegations raised in the Marty's report also create space for conspiracy theories rather than overcoming the problem of denial and self-victimization in Kosovo.

Given its contestation, a major challenge for the court is securing witnesses collaboration and protection. To motivate them to participate in criminal proceedings the SC needs to convey a message that its witness protection measures differ from those associated with previous national and international judicial institutions, thereby boosting public confidence and the confidence of witnesses themselves. Ultimately, the biggest test for the SC will be in issuing verdicts, which clearly establish the individual responsibility of the accused war criminals. This can be used as a powerful weapon against denial and ethnically-charged contestation of the SC mandate and work.

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Anka Kurteshi Hajdari, Project Coordinator WCT Monitoring in Kosovo, Humanitarian Law Center Kosovo, Prishtina, 25 August 2019.

Njomza Haxhibeqiri, former Legal Analyst, Humanitarian Law Center in Kosovo and author, Prishtina Instight, Prishtina, 28 August 2019.

Agon Maliqi, policy analyst, civil society activist, media writer, creator and co-founding editor of sbunker.net, Prishtina, 22 August 2019.

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**CIVIL SOCIETY CONTRIBUTION  
TO SUSTAINABLE  
PEACEBUILDING IN THE CITY  
OF MITROVICA: FINDING A  
NICHE BETWEEN DONOR  
PRIORITIES, ETHNIC  
DIVISIONS, AND SOCIAL NEEDS**

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— JOSÉ CARPINTERO MOLINA

## — JOSÉ CARPINTERO MOLINA

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# ABSTRACT

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This chapter explores the role of civil society in facilitating peacebuilding processes in the ethnically divided city of Mitrovica. Specifically, it analyzes how civil society organizations navigate between international donor priorities and deeply divided ethnic groups to overcome cultural and structural dimensions of violence that undermine sustainable peace in Mitrovica and Kosovo more broadly. The empirical analysis focuses on three organizations - Mitrovica Rock School, Diakonie Kosova and NGO Aktiv –each involved in different sectors of peacebuilding activities. Through the analysis of these organizations, it is possible to observe the complexity of the ethnic relations in this city of Kosovo, but also an array of activities that seek to address the different dimensions of violence. The results reveal how international organizations contributed to a strong, but also dependent civil society in Kosovo. Likewise, it explores how civil society organizations reproduce division and encounter the challenge of having to carry out multi-ethnic activities in a city that is physically and ethnically divided. The study opens up the possibility of using this case study for comparisons with other divided locations in Kosovo and beyond.

# INTRODUCTION

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The violent Balkan conflicts of the 1990s have left behind deeply divided societies undermining both state authority and functioning institutions. Post-war Kosovo is probably the epitome of the ongoing frictions between two major ethnic communities, Albanians and Serbs. Myriads of international attempts, including generous financing to patch the society together have not delivered. To some extent, the divisions among the two ethnic groups have further exacerbated and even institutionalized since the end of war. Mitrovica, a territory divided sharply between Serbs leaving in the north and Albanians in the south, is testimony to the physical, administrative and political divisions still running strong in the country. The international intervention has seemingly failed to bridge the communities or create the basis of sustainable peace, despite the ample resources invested and the myriad activities in the field.

The meek results of international intervention in Kosovo coincides with an increasing critique of liberal peacebuilding approach, as exclusive of local actors and solutions of peace. Alternative bottom-up approaches to peacebuilding emphasize the cultural and structural dimension of violence, besides direct violence, which is usually emphasized by the liberal peace approach. They also ponder more on inclusion of specific local actors, which help to tackle cultural and structural dimensions of peace while ‘embodying’ international solutions into the local milieu where they are transferred. The civil society, as a potential intermediate between the society and international and local policy makers, is attributed a crucial role in the process. Specifically, it can facilitate development and implementation of new creative ideas while building communication channels with groups difficult to reach.

This chapter analyses how civil society contributes to peacebuilding activities and complements the official narrative of peace in the ethnically divided context of

Mitrovica. Specifically, it seeks to analyze how civil society organizations navigate between international donor priorities and deeply divided ethnic groups to overcome cultural and structural dimensions of violence that still undermine sustainable peace in the city and Kosovo more broadly. We focus on three organizations - Mitrovica Rock School, Diakonie Kosova and NGO Aktiv – each involved in a different array of peacebuilding activities. The analysis is based on secondary sources, five semi-structured interviews and one open-interview with members of civil society, informal conversations with participants and activists of civil society, and lengthy fieldwork carried out in Kosovo during the period October–December 2019. Residing in Kosovo proved helpful to establish a running communication with the civil society organizations under analysis and observe their activities and challenges more closely.

The chapter is organized in three sections. Section one outlines various approaches to and related dimensions of peacebuilding while focusing on the role of civil society as a key mediator between social, international and political actors. Section two provides a short background on Mitrovica and the cultural and structural divisions that underpin a fragile peace vulnerable to frequent incidents of violence. Section three then analyses the contribution of civil society in the context of the challenges it faces – a deeply divided society and donor dependency.

## **BOTTOM UP ALTERNATIVES TO PEACEBUILDING**

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### **Multidimensional concepts of peace and peacebuilding**

Peace and peacebuilding are complex long-term processes. Yet, as Galtung (1998, 13) explains, peace is often perceived merely as the absence of direct violence. Such a simplistic understanding of peace that ignores subtler forms of violence is often an impediment to the realization of peace in the long-term. Hence, any concepts of sustainable peace should incorporate deep-rooted even if implicit forms of violence:

cultural and structural. Cultural violence consists of a combination of myths, glory, trauma, etc. or any aspect of culture - religion, ideology, language, art, symbols - that can legitimize the use of violence (Galtung 2016). Meanwhile, structural violence is built into structures of unequal power – economic and political – that lend themselves to divisions and easily translate into direct violence (Galtung 1969, 170-175). Moreover, structural and cultural dimensions of violence are interrelated particularly in the context of exploitation and repression, or in other words, unequal exchanges (Galtung 1998, 15; 1969). Efforts to solving violent structures through more violence, for example, simply feeds into a culture of war, thus, creating cycles of violence. As Galtung (1990, 302) points out, “[when] violent structure is institutionalized and the violent culture internalized, direct violence also tends to become institutionalized, repetitive, ritualistic, like a vendetta”.

Similarly, the concept of peacebuilding includes various dimensions, and is subject to different definitions (Paffenholz 2009, 3-6). The concept itself originates in the Agenda for Peace (1992) presented by the former Secretary-General of the United Nations, Boutros Boutros-Ghali, but it has undergone several modifications since (Darweis and Rank 2012, 2-3). The twenty-first century particularly has witnessed new dynamics of intervention which assert the ‘responsibility to protect’ as well as the obligation to end conflicts (Gelot and Söderbaum 2009, 76). Yet, the evolution of international led peacebuilding missions has more often than not followed a rather paternalistic approach to peacebuilding commonly known as ‘liberal peace’. It implies that the transfer, if not imposition, of standard Western values of democracy and free market is the remedy to conflict-torn polities (Ramsnotham et. al. 2011, 235 cited in Darweis and Rank 2012, 4). The vast majority of cases in which there has been an intervention, however, show that although international peacebuilding activities might have stopped another war, tensions have continued and even proliferated (Fjelde and Höglund 2012, 16).

In that context, more recent alternatives to liberal peace ponder more on domestic causes of violence, and therefore solutions, thus advocating for inclusion of local actors and solutions of peace. Lederach (1997), for example, describes peacebuilding as a process that involves all levels of society - particularly those actors that can

serve as a nexus between ordinary people and international entities. In other words, the empowerment of the middle level actors would help to influence both the micro level, i.e. the broad societal base and the macro level i.e. the local and international decision makers (Paffenholz 2009, 5). Similarly, Mac Ginty's (2012, 55-62) concept of 'everyday peace' seeks to come to terms with the one sided international narrative of liberal peace and counterbalance the policies of international intervention with a more bottom-up approach, involving local agents and solutions of peace. Accordingly, the involvement of the local communities helps to redefine and embody Western concepts of peace in the local milieu where they are transferred. Including local communities would, thus, open the doors to a new, more emancipatory epistemology that goes beyond Western values of peace thinking (Mac Ginty and Richmond 2013, 763-781).

In the bottom-up approach to peacebuilding, the civil society plays a crucial role by offering alternatives and pursuing specific activities: interethnic dialogues, peace education, multi-ethnic projects, democratic governance, capacity-building, media and psychosocial programming among others. Those activities help to 'localize' international ideals and create an environment where participants learn by doing (CDA Collaborative Learning Projects 2006, 14-17). During the process, the civil society serves as an intermediate level connecting local and international narratives and activities of peace. As an intermediate level, NGOs can additionally facilitate development and implementation of new creative ideas while creating communication channels between those groups who are difficult to reach otherwise (Reimann 2005; Debiel and Sticht 2005, cited in Fischer 2011).

### **Civil society as an intermediate linking different actors**

Kosovo, one of the most high-profile cases of peacebuilding show the limits of the liberal peace, but also the potential of civil society to bring in domestic solutions to peace activities. As Visoka (2017, 11) shows, the adopted 'fluid interventionism', where failures provide the justification for yet another intervention, has been unsuccessful in realizing lasting peace. On the contrary, some of the international peacebuilding solutions such as promotion of power-sharing and extensive ethnic

rights have fuelled confrontation and consolidated institutionalized divisions between communities (Picciano 2019). Specifically, while Albanians interpreted those internationally-built institutions as ceding rights to minorities and protecting them in exchange for independence, the Serbian community saw them as providing opportunities for increased autonomy from Kosovo authorities and institutions. One can add here direct local resistance to internal interventions from movements such as Lëvizja Vetëvendosje (LVV), which perceived it as anti-democratic and contrary to the self-determination rights of Kosovo citizens or the reconstruction of multi-ethnic social tissue (Visoka 2017, 114). The Serbian community too resisted such international efforts, especially throughout the creation of parallel administrative structures sponsored by Belgrade. The clash between what internationals aimed to realize and what locals pursued led to the creation of mono-ethnic institutional structures that defy the main goal of creating a multi-ethnic society (Pickering 2007; Picciano 2019, 174). It also enabled further divisions and some sort of ungovernable peace. Indeed, two decades of massive international investment in Kosovo has not sufficed to build functioning state institutions, facilitate the integration of various communities or reconstruct the multi-ethnic social fabric of the country (Elbasani 2018, 151).

At the same time, post-conflict Kosovo has become scene to a rich and diverse array of civil society organizations working on various aspects of peace and reconciliation, and thus complementing the efforts of the international community. The strength of civil society goes back to the heritage of the powerful civic movement that organized a parallel system of disobedience towards the Serbian government prior to the war (Gashi 2019). Since the end of the war, bilateral actors and international organizations have promoted NGOs activities as means to facilitate multi-ethnic forums, contact groups, and channels of communication. EULEX mission, particularly, became a powerful sponsor of civil society sector (Agani 2012, 15). Some of those civil organizations have been active in informing and updating policies of international actors active in the country (Hogić 2019; Philipps 2018). As Visoka (2016, 148) puts it, “civil society in Kosovo was one of the only platforms used to promote peace formation under the difficult conditions of the disjointed international focus on peacebuilding, statebuilding, and state formation”.

Despite its potential the international actors have often considered civil society as agents to carry out the peace agenda that they want to impose, by funding organizations that adopt to their priorities (Visoka 2017, 150-151). This kind of donor sponsored and donor oriented civil society lacks a critical approach to the performance of international missions, or real links with the society which would be necessary for their functioning as a genuine local mediating actor. Besides, this kind of donor oriented civil society has sidelined more indigenous social mechanisms such as community networks or smaller organizations that are not interested or focused on pitching international donors (Pickering 2007, 174; Elbasani and Sabic 2017). Likewise, donor sponsored activities have focused on easily accessible groups rather than less approachable ones such as people behind parallel structures, which are seen as the domain of political activity (Visoka 2017, 152). Previous research in this area highlights that no great efforts have been made to include hard-to-reach groups of people besides youth and women that are typically seen as the most likely bearers of peace (CDA 2006, 50-52).

## MITROVICA - A CASE OF 'FROZEN' CONFLICT AND INTENSE PEACEBUILDING ACTIVITIES

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In the aftermath of the Kosovo war, socio-political developments have de facto formalized the existence of ethnic enclaves, particularly those inhabited by Serb majorities only. The best known example is Mitrovica, a territory divided sharply between 12,153 Serbs living mainly in the North and 69,248 mostly Albanians living in the South (Kosovo Agency of Statistics 2019). The bridge that crosses the river Ibar, the main symbol of the city, in fact marks and emphasizes the division between Albanians and Serbs. The divisions certainly go beyond the presence of the bridge, and are reflected in sharply different cultural and structural divisions that inform 'hidden' dimensions of violence: different language, competing narratives of others, separate telephone lines, schools, currencies, provision of electricity and other govern-

ing services (Picciano 2019; Santora 2018; Istrefi and Idrizi 2012, 60). The only place where Albanians and Serbs seem to ‘cohabit’ are a limited number of supermarkets (Zaragovia and Plesch 2018).

Those deep-rooted cultural and structural divisions can easily escalate into violence, a problem which justifies the ongoing presence of international military troops, especially the NATO Kosovo Force (KFOR). Indeed, since the end of the Kosovo conflict, Mitrovica has been scene of overt and covert acts of violence. In February 2000, for example, an escalation of violence between the two communities resulted in the death of several citizens and other wounded including KFOR soldiers and UNMIK police. At the time, around 1900 Albanians were displaced from North Mitrovica to the South (UNHCR 2000). Subsequently, UNMIK and KFOR decided to increase the number of police officers and soldiers in order to preserve the safety of those few Albanians living in the North and even fewer Serbs living in the South. Other potentially explosive cases of violence took place in March 2004, causing fatalities in both communities. In 2010 too eruption of violent protests resulted in injuries of various citizens. In 2011, Serbs set up barricades to block the communication with Albanians, measures that lasted until 2016, when the last barricade was removed. In 2014 again, the Serbs decided to install a “Peace Park” in the middle of the bridge, causing an eruption of protests from Albanians and several wounded. Cases of violence continue although they are more sporadic. According to the Kosovo Police only between April and July 2017, 11 incidents have occurred between Albanians and Serbs (ADRC 2017, 6).

The more recent EU sponsored negotiations between Albanian and Serb authorities, the so-called normalization process, has helped to take small steps in order to integrate the communities, but major divisions remain (Russell 2019). According to the report elaborated by Alternative Dispute Resolution Center – ADRC – (2017, 4), the freedom of movement is one of the core aspects that remains to be solved by the negotiations. In 2015, the first efforts were made to facilitate freedom of movement in both parts of the city. Citizens themselves remain sceptical about the scope of such measures and their achievements. An ADRC survey (2017) shows that 41.20% of the population believe that the final decision about what to do with the bridge should be

taken by the local communities; 43.50% think that the negotiations in Brussels have led nowhere. Both communities, even when they may admit to some development, tend to interpret the changes as loss and gain for one of the parties.

In general, Albanians and Serbs share contrasting interpretations of possible peace-building solutions and even what the agreements signed in the context of normalization entail. Albanians seemingly fear the complete partition of the city; Serbs fear to be under the mandate of Albanian majority authority (Istrefi and Idrizi 2012, 59; Troncota 2018). Those different interpretations have necessarily obstructed various initiatives, including substantial progress in the EU led negotiations (Troncota 2018). In January 2019, Agim Bahtiri, mayor of South Mitrovica, for example, sent a petition to the President of the Assembly of Kosovo with thousands of signatures asking for the unification of the city. The petition was met with protests in Serb-inhabited North Mitrovica. Meanwhile, the leader of the Serbian List in Northern Mitrovica, Goran Rakić, denounced the Albanian argument that unification of the city will lead to economic development as a lie (N1 2019).

The sharp division along ethno-religious lines that still marks the city, despite two decades of international liberal peace building activities, is particularly interesting to analyse because it represents in a nutshell the barrier that cultural and structural dimensions pose to peace as well as ongoing persistence and intensity of conflict between the main ethnic groups in the country. As the very centre of the ongoing clashes between the two major ethnic groups, the city is also at the centre of myriad international efforts to build peace and sponsor local mediators able to work with local groups. A very generously sponsored civil society, has thus taken over the key role in mediating between international donors, local decision makers and ordinary people in order to improve ethnic relations (Istrefi and Idrizi 2012, 60). As such Mitrovica serves as a test case to assess how the NGO activity can contribute to the integration of communities and to some extent the future of Kosovo, but also the limitations they have in dealing with the most controversial issues and less moderate parts of the society.

# CIVIL SOCIETY BETWEEN DONOR PRIORITIES AND DIFFICULT TO REACH ETHNIC GROUPS

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One of the first regulations issued in post-war Kosovo was the law on the registration of NGOs, which launched a dense field of civic activity, often sponsored by international donors. From the beginning the link between NGOs and foreign sponsors contributed to seeing the second as foreign agents more than local actors. As Dren Puka, director of Research and Advocacy at the Kosovar Civil Society Foundation, stresses, even if it is very important to include local voices, due to donations and staff, NGOs in Kosovo have from the very beginning been perceived as ‘foreign’<sup>1</sup>. On the other hand, the donor support was necessary to rebuild a weak sector. A Serbian experienced civil society practitioner from Mitrovica, explains that at first, foreigners were involved and controlling everything, however, over the time, the international staff has gradually changed to local staff, which can be seen as a positive sign for the development of the sector.<sup>2</sup> According to Puka too, the Kosovo civil society shows a positive trend of growth:

Just as the war ended, we found a new version of civil society starting to implement projects and work with communities... This is how you can increase active and participatory citizens in civil society... Opinion polls show consistently that citizens trust in civil society organisations follows immediately after religious institutions, the police and the army, and ranks higher than trust in government.<sup>3</sup>

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1 Interview with Dren Puka, Director of Research and Advocacy at the Kosovar Civil Society Foundation, Prishtina, 18 October 2019.

2 Interview with an experienced Serbian civil society practitioner from Mitrovica, North Mitrovica, 25 October 2019

3 Interview with Dren Puka, Director of Research and Advocacy at the Kosovar Civil Society Foundation, Prishtina, 18 October 2019.

The features of civil society as both a donor-sponsored sector, but also a necessary actor to carry out services and goals that the other institutions cannot reach, shape its role in the divided context of Mitrovica.

Although some of the needs of Serbs and Albanians in many cases coincide, Mitrovica represents two antagonistic 'local' visions about the future of the city and Kosovo, more generally. These divergences are underpinned by a cultural and structural dimension. The cultural dimension is shaped by a strong nationalist symbology, the fear of speaking in your language when you are on the other side of the river or stereotypes about others in each of the parts of the city. Structural divisions, likewise are shaped by the sharp political and administrative separation of the communities.

As the Serbian practitioner puts it,

Mitrovica is a totally divided town, and therefore, also the NGO sector is divided. There are not that much true multi-ethnic organizations dealing with problems from both sides.<sup>4</sup>

Possible collaboration faces a wall of divisions:

The only way in which Serbian and Albanian organizations connect is when they emphasize shared problems: employment, social care, services etc. But when we talk about municipalities, improving the education system, health care, etc., there are two different systems. You can't even have one project. And then you have specific problems of the Serbian community that only Serbian organizations are dealing with. Albanian community doesn't see it as a problem. They don't care because it's not their problem.<sup>5</sup>

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<sup>4</sup> Interview with a Serbian experienced civil society practitioner from Mitrovica, North Mitrovica 25 October 2019

<sup>5</sup> Ibid.

Per Puka, too, the divisions are deep rooted in the community's psyche and kept alive by political interests:

One of the main characteristics that define Mitrovica is the absence of hope of being able to do something, because once you return home after participating in an activity, you are still surrounded by fear, a fear that is used to keep the city isolated because of political needs.<sup>6</sup>

Even if a considerable number of people cross one of the bridges that divide the city every day, either for work or for shopping - something quite frequent - many still believe to be in danger of being attacked or insulted if they cross to the other side of the city. Faced with such a scenario underpinned by cultural and structural divisions and kept alive by political interests, very little can be done to bridge the communities without the involvement of high-level solutions.<sup>7</sup> NGO initiatives and activities that create spaces for contact and debate between members of the different communities, but also provide common 'structural' services, however, are helpful in preventing escalation of violence, if not resolving long term causes of conflict.

In this study, we consider three organisations working in Mitrovica - *Mitrovica Rock School*, *Diakonie Kosova* and *NGO Aktiv* – which focus on various aspects of peace-building and creating channels of communication by enabling better understanding between the different communities, solving the basic needs of respective citizens to providing inclusive, or creating permanent spaces that provide citizens with the necessary tools to better integrate with each other.

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<sup>6</sup> Interview with Dren Puka, Director of Research and Advocacy at the Kosovar Civil Society Foundation, Prishtina, 18 October 2019.

<sup>7</sup> Ibid.

	<b>Structural Dimension</b>	<b>Cultural Dimension</b>
<b>Mitrovica Rock School<sup>8</sup></b>	<ul style="list-style-type: none"> <li>- Sound engineering</li> <li>- Traineeships</li> </ul>	<ul style="list-style-type: none"> <li>- Daily lessons</li> <li>- Mixed-bands</li> <li>- Training weeks</li> <li>- Workshops</li> <li>- Concerts</li> <li>- Summer school</li> </ul>
<b>Diakonie Kosova<sup>9</sup></b>	<ul style="list-style-type: none"> <li>- Vocational skill courses</li> <li>- Professional advice</li> <li>- Empowering to enter in the labour market</li> <li>- Language courses</li> </ul>	<ul style="list-style-type: none"> <li>- Low-level room</li> <li>- Games</li> <li>- Movies</li> <li>- Music (guitar)</li> <li>- Academic support</li> <li>- Dancing activities</li> <li>- Academic support</li> </ul>
<b>NGO Aktiv<sup>10</sup></b>	<ul style="list-style-type: none"> <li>- Discrimination to non-majority communities</li> <li>- Monitoring laws</li> <li>- Language rights</li> <li>- Mock trials</li> <li>- Advocacy</li> </ul>	<ul style="list-style-type: none"> <li>- TV Debates</li> <li>- Mitrovica Social Club</li> <li>- Roundtables</li> <li>- Movies</li> </ul>

**Figure 1:** Activities of each organization regarding cultural and structural dimensions of violence

8 Mitrovica Rock School website: <https://www.mitrovicarockschool.org/about-us-2/>

9 Diakonie Kosova website: <https://www.diakoniekosova.org/about-us/>

10 NGO Aktiv's website: <http://ngoaktiv.org/about>

## Mitrovica Rock School: The sustainability of focused and popular activities

Mitrovica Rock School is an NGO that seeks reconciliation between young Serbs and Albanians in the city of Mitrovica through music and education as well as the recovery of the city's rich musical heritage.<sup>11</sup> Mitrovica is historically one of the cities carrying a rich and diverse musical culture. Mitrovica Rock School created with the initiative of local musicians is one of the best known organizations seeking to keep alive the city's rich multi-ethnic musical tradition. The school has scored particular success in organizing concerts outside Kosovo, but recently also within Kosovo. Typically, its activities include members of different ethnic communities and cultural influences.<sup>12</sup> Its objective is to create music regardless of the origin of its participants. By emphasising a common theme, in this case, interest in music, they seek to connect adolescents from different communities in a setting of mutual respect and tolerance. As can be seen in Figure 1, activities of the organization - daily lessons, mixed-bands, training weeks, workshops, and concerts- aim to create permanent spaces where students from the Albanian and Serbian communities can interact on a daily basis, thus helping to overcome the divisions and fears that persist in the city.

According to Milizza Kosova, director of operations,

Due to the political upheaval in 2008, the beginnings of Mitrovica Rock School have not been easy at all, so two branches had to be built in North and South where students would learn and rehearse, meeting only outside Kosovo, in Skopje during a summer school.<sup>13</sup>

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11 Mitrovica Rock School website: <https://www.mitrovarockschool.org/about-us-2/>

12 Ibid.

13 Interview with Milizza Kosova, Director of Operations in Mitrovica Rock School, South Mitrovica, 15 October 2019

The choice of Skopje followed the failure of finding a common local point of meeting:

We found a location, the basement of the cultural centre, which is immediately next to the main bridge that connects or divides the two sides. We hoped that youth from the two sides would come there for music lessons, but this was naive. People in Mitrovica don't cross the bridge, specially not for something like music lessons.<sup>14</sup>

Things have moved since on through a mix of collaborative projects. Their focused activities, not only help to connect people through a common theme, but also facilitate collaboration in a multi-ethnic environment that offers professional skills in the field of music.<sup>15</sup> Since 2016, the rock school has started activities inside Kosovo.<sup>16</sup> After a visit to the facilities of Mitrovica Rock School, I was able to observe how these innovative projects provide students with the opportunity to attend classes at their respective school, where they practice an instrument. Subsequently, through weekly workshops and trainings held every two months, students form mixed bands and create their own songs which they rehearse by gathering in the north or south, something that a few years ago was unthinkable.<sup>17</sup> Other appealing activities carried out by the same organisation, such as meetings with parents and provision of transport from one part of the city to the other for security reasons, has also helped to create an atmosphere of trust among pupils, parents and staff. In some cases it even led to the establishment of friendly relations between participants of different groups.<sup>18</sup>

These activities that proved effective in 'connecting people' are also the most sustainable ones. Today, students take the initiative to organize rehearsals on their own, have decided to dispense with transportation and instead wait for each other on the bridge. Parents, too, have become part of those voluntary activities and collab-

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14 Ted Talk in Tirana by Wendy Hassler-Forest, Project manager in Mitrovica Rock School, 4 June 2014: [https://www.youtube.com/watch?time\\_continue=7&v=AK90B\\_x77-8&feature=emb\\_logo](https://www.youtube.com/watch?time_continue=7&v=AK90B_x77-8&feature=emb_logo)

15 Ibid.

16 Interview with Milizza Kosova, Director of Operations in Mitrovica Rock School, South Mitrovica, 15 October 2019

17 Ibid.

18 Ibid.

orate and communicate with counterparts from the different ethnic group during the preparation of trips or activities they attend.<sup>19</sup> In some cases, Serbian students have shown their desire to take classes with a teacher from the other community or vice-versa.<sup>20</sup>

Another feature of the success of the school is finding a niche of services appealing to various groups, which makes their cultural activities sustainable in the long run. Since there is no public institution offering classes beyond the classical music that is taught in the schools, the Rock school has developed various activities that provide students with different skills such as sound engineering or training for senior students. ‘To cite an example, some of the school’s oldest students are now teaching future generations. This helps junior teachers, aged between 25 and 30, to be more cohesive with the students and better assist them in the integration process.’<sup>21</sup> The organization has thus created spaces where the youngest and their parents communicate, collaborate and even forge friendships. The acquired trust has been the product of much time and joint effort. Today, those participants that few years ago shared many prejudices and stereotypes towards the other activity, try to do their best to keep their mixed bands and other musical activities running.<sup>22</sup>

Indeed, if there is one thing that differentiates the school from other organizations, it is that they have become a permanent running project, focused solely on one niche appealing and cross-ethnic activity, the Rock school. The organizers consider themselves to be first and foremost a school.<sup>23</sup> Given its focus and consistency the project has broken many barriers. In 2018, for the first time a well-attended concert was held in Mitrovica. ‘The concert in Mitrovica was the biggest wall, we didn’t want to do something and then regret. But, we had three concerts so far and it went really well’.<sup>24</sup>

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19 Ibid.

20 Ibid.

21 Ibid.

22 Ibid.

23 Ibid.

24 Ibid.

## Diakonie Kosova: Multiple activities and the limits of reach

Diakonie Kosova is an organisation running several projects across different areas.<sup>25</sup> The Diakonie Youth Center (DYC) and Diakonie Training Center (DTC) are the two main projects that deal with the main transversal needs of both communities. Both centres are located in the south of the city. The DYC self-defines itself as an ‘open-door home’ trying to create permanent contact spaces among the city’s children and adolescents.<sup>26</sup> When it comes to the cultural activities, the centre provides many opportunities ranging from film screenings to a low-level room with free access, where children can play at any time of the day.<sup>27</sup> Given its focus on teenagers, the centre’s facilities are well endowed to create a comfortable space where children, from a young age begin to interact with children from other communities. Other activities include political, inter-religious and inter-ethnic dialogue intended to create an atmosphere of tolerance and learning about others. Other leisure activities, such as free dance and guitar courses, attract youth groups from different communities.<sup>28</sup>

The DTC also seeks to improve the participation of young people from the city of Mitrovica in the labour market. The niche of the centre activities consists of providing services that may alleviate unemployment as one of the main problems plaguing the youth in Kosovo, and particularly in Mitrovica. To this end, different activities are carried out focused on teenagers, providing professional skills helpful in the job market: photography, web-development, nail courses, courses to apply for a job, to be a DJ or a cook. These activities are carried out according to the interests of the youngest, which have been previously surveyed through ‘street work’.<sup>29</sup> Additionally, the organization manages a range of low-cost courses, students from different communities have the opportunity to come together and learn about a topic in which they want to build their professional future together with other participants. Courses usually last 3 months - 5 in the case of the hairdressing course - and that have 60% of practical

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25 Diakonie Kosova website: <https://www.diakoniekosova.org/about-us/>

26 Ibid.

27 Ibid.

28 Ibid.

29 Interview with staff member from Diakonie Kosova, 16 October 2019

hours, 30% theoretical and 10% evaluation. At the end of these courses, you can learn the craft of carpenter, electrician, plumber, hairdresser, seamstress and many more. All these courses are accredited by the competent institution.<sup>30</sup> As one of Diakonie's staff members explains on a visit to the centre, the teaching of vocational skills in Mitrovica and Kosovo is not complete. In fact, they have an agreement with some institutes to which they lend their facilities to carry out the practical part.<sup>31</sup>

Upon successful completion of the course, the students receive a certificate that is useful for them to get a new job or even start their own business. According to a staff member,

Unemployment in Mitrovica is probably one of the biggest issues. In the past Mitrovica was one of the most economically developed cities. After the war, it has changed quite a bit and many people find it really hard to get a job. So, those courses help people to start a business or gain different knowledge helpful in the market.<sup>32</sup>

The skill-oriented activities of the centre are not only confined to education courses. The centre provides concrete assistance to help with professional orientation of young people and their chances of finding a job.<sup>33</sup> Although the main objective of these courses is to integrate young people into the labour market, one of the side effects is the gains of students from communicating with others in a multi-ethnic environment. Still, during my visits to both centres, I could notice that the participants were mostly from the Albanian community. The staff mentioned that the Serbian community has participated on some occasions. Both centres, however, had students from the Roma, Ashkali or Gorani communities during my different visits. The Serbian community, besides not wanting to cross to the other side of the city, has little knowledge of the centre even if it opens the doors to all the community, offers very good possibilities to enter the labour market and help the youngest to work in a multi-ethnic environment.

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30 Conversation with Alma Murati during a visit to the facilities, staff member from Diakonie Kosova, South Mitrovica, 31 October 2019

31 Ibid.

32 Interview with staff member from Diakonie Kosova, 16 October 2019

33 Ibid.

## NGO Aktiv: Ethnically-focused activities and the challenge of catering to specific communities

North Mitrovica is strongly associated with Serbian parallel structures sponsored by Belgrade that exist in the city. NGO Aktiv, which began its activity in 2009 has made those structures the focus of its attention. Specifically, the organization aims at the inclusion of the Serb community in Kosovo institutions in order to build a participatory, peaceful and prosperous future in the region.<sup>34</sup> Known as one of the main organisations representing the interests of the Serbian community, NGO Aktiv also seeks to promote a civic framework for Serbs participation in Kosovo's local and central institutions, while also fostering economic development and good relations between the different communities.<sup>35</sup> To this end, the organization pursues a wide array of projects addressing challenges of integration, participation and debate. The main office of this organization is located in northern Mitrovica where much of its staff is located, and all come solely from the Serbian community. NGO Aktiv also has a contact office in Prishtina, where it has a multi-ethnic staff.

The organization operates in a challenging environment, sceptic to Kosovo institutions. As Miodrag Milicevic, the executive director of NGO Aktiv, notes:

the percentage of people that do not see themselves in the next following 5 years in Kosovo is growing... People are obliged to emigrate due to the current economic situation... The political elite is the main factor who can solve this situation.<sup>36</sup>

In line with their mission, the executive director also warns that the legal framework is not sufficient and calls for additional measures of social integration to help prevent migration and promote development.<sup>37</sup>

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34 NGO Aktiv's website: <http://ngoaktiv.org/about>

35 Ibid.

36 Conference "Crucial Interest of the Kosovo Serb community", 4 October 2019. Prishtina, Kosovo.

37 Ibid.

Aiming to improve this situation, NGO Aktiv carries out in-depth research and polls to find out what the needs of the Serbian community are. Similarly, the organization monitors the work of the institutions or of the different political actor's positions on issues that affect Serbs. Besides they run a wide array of projects that seek to increase contacts and cooperation among various communities. 'Creating bilingual Kosovo' project, for example, seeks to identify the failures in the institutions that make it difficult for citizens to access them. One of the main pillars of the project is revising the Law on Use of Languages in Kosovo.<sup>38</sup> Although Serbian is one of the official languages recognized by the constitution, Slavisa Mladenović, the language commissioner, notes that there are cases in which linguistic rights are not respected.<sup>39</sup> Practical restrictions apply to both communities: "If you go north being Albanian, you cannot be sure to be attended in Albanian. Similarly, if you are a Serb and are tried in Prishtina, you cannot be sure to be understood correctly".<sup>40</sup> Another example of Aktiv's work to improve the state of Serb integration in Kosovo is research on 'Access to documents in Kosovo: the main obstacle to the integration of non-majority communities'.<sup>41</sup> The report shows the community's demands for access to Kosovo's documents as one of the most basic civil rights.<sup>42</sup> Although the activities of the organisation are mostly focused on tackling structural divisions, they also run an extensive programme of cultural activities that encourage debate and address inter-ethnic relations. For this purpose, they engage in projects such as 'TV show SporaZoom' or 'Mitrovica Social Club 2019/20', where political debates and related issues that affect both communities are publically and openly discussed among different sectors of the population.<sup>43</sup> These activities are published through the website and its social networks, and usually take place in northern Mitrovica, with participants from both communities.

In general, NGO Aktiv is a well-known organisation focusing on affecting northern Mitrovica, but also other minorities in Kosovo. However, during my fieldwork, I have

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38 NGO Aktiv's website: <http://ngoaktiv.org/>

39 Conference "The importance of intercultural understanding, Human Rights and Peacebuilding", 17-18 October 2019. Prishtina, Kosovo.

40 Ibid.

41 NGO Aktiv website: <http://www.ngoaktiv.org/news/the-problem-of-access-to-identity-documents-in-kosovo-should-be-resolved-as-soon-as-possible>

42 Ibid.

43 NGO Aktiv website: <http://www.ngoaktiv.org/projects>

noted that many Albanians see it as an organisation that works solely for Serbian minorities, leaving aside other minorities or other issues in Kosovo. The conferences and forums they hold in Prishtina are not well attended from the Albanian community. Their activities too show a limited or even lack of participation of Albanian panellists.<sup>44</sup>

## DONOR DEPENDENCY AND RELATIONS WITH INTERNATIONAL DONORS

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Beyond local divisions that undermine its activities, the NGO sector has to face the challenge of dependence to internal funding and sometimes also orientations towards donor-set priorities. The relation between civil society and donors is a complex one. Most organizations operate and depend on donor funding for their existence. The activities of the three organizations we analysed are also mostly funded by various donors. In general, as Dren Puka explains,

Civil society has good relations with the international community, since once programmes are designed and sent to donors, different exchanges of opinions take place... In spite of this, it is true that we do find some situations in which a certain organisation accommodates itself with a donor in order to continue receiving funds in a more permanent way. When one adopts a more critical attitude towards the international donors or the donor specific requirements are not met, the task of obtaining funds becomes more complicated and inaccessible.<sup>45</sup>

Donor dependency and related requirements might also be responsible for the lack

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<sup>44</sup> There were no Albanian panelists in the “Annual Report on the state of language rights in Kosovo”, “Crucial Interest of the Kosovo Serb Community” or “Trend Analysis 2019: Attitudes of the Serbian community in Kosovo”, which I had the opportunity to assist.

<sup>45</sup> Interview with Dren Puka, Director of Research and Advocacy at the Kosovar Civil Society Foundation, Prishtina, 18 October 2019.

of a critical attitude towards state institutions. As the Serbian practitioner explains, “for some years now, some international donors have required civil society organisations to work together with institutions. ...they do not take into account the context of institutional corruption in Kosovo”.<sup>46</sup>

Other challenges arise due to the nature of calls for proposals and the way the grant awarding process functions. The lack of flexibility in planning and implementing projects may delay the essential moments when a project needs to be launched, and once that moment is wasted, the project becomes less relevant. Moreover, there is not a strong private sector which is interested in financing NGO activities, leaving the international donors the only possible channel of financing.<sup>47</sup> Provision of small amounts of money through small concessions that save time in procedures and responsiveness would help in this regard. For example, both Kosovar Civil Society Foundation (KCSF) and Kosovo Foundation for Open Society (KFOS), offer short-term grants at the same time as they interact with their beneficiaries (Pula 2005, 11).

To ensure that aid goes to necessary activities, it is extremely important that both civil society organizations and international donors are in contact with their target group, not only asking what they need, but also having constant communication.<sup>48</sup> At the same time, it is important that civil society is also able to adapt to new forms of funding, given the withdrawal of donations by international donors. As Dren Puka explains, “there is certainly a decrease in the number of organizations receiving funds, but it is not certain whether this corresponds to a decrease in funds or whether they have simply been concentrated in a smaller number of organizations”.<sup>49</sup>

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46 Interview with a Serbian experienced civil society practitioner from Mitrovica, North Mitrovica 25 October 2019

47 Ibid.

48 Interview with Dren Puka, Director of Research and Advocacy at the Kosovar Civil Society Foundation, Prishtina, 18 October 2019.

49 Ibid.

# CONCLUSIONS

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This chapter explored how civil society contributes to peace-building activities in the ethnically divided context of Mitrovica. Specifically, it analyzed how civil society organizations navigate between international donor priorities and deeply divided ethnic groups to overcome cultural and structural dimensions of violence that still undermine sustainable peace in the city and Kosovo more broadly. We focused on three organizations - Mitrovica Rock School, Diakonie Kosova and NGO Aktiv – each involved in a different array of peacebuilding activities.

The analysis showed that all the analysed groups play an important role when it comes to efforts to uniting different ethnic groups and tackling the cultural and structural dimensions of violence. Their activities are rich and extend to both cultural and structural dimensions of violence. The international community, through its manifold interventions, has systematically promoted, in one way or another, the creation of a strong civil society that tackles the divisions and groups they cannot reach. International donors' support, however, has also created a sector that is almost totally dependent on foreign donations and thus vulnerable to their priorities, policies and withdrawal.

The analysis also shows that Mitrovica is not only physically and socially divided. Civil society too more often than not is divided along ethnic lines. Although the three organisations under analysis focus on different cultural and structural activities intent to bridge the divided communities, they also face the challenge of divisions and are themselves perceived as working for one community or the other. While the Mitrovica Rock School seems to have found a niche that appeals to both communities and has transformed into a sustainable organization, the other two organizations' activities are mostly attended by members of one community and perceived as serving to only one community.

# LIST OF INTERVIEWS

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Alma Murati, staff member from Diakonie Kosova, South Mitrovica, 31 October 2019

Drenk Puka, Director of Research and Advocacy at the Kosovar Civil Society Foundation, Prishtina, 18 October 2019.

Lulzim Peci, Founder and Executive director of Kosovar Institute for Policy Research and Development, Prishtina, 8 October 2019.

Milizza Kosova, Director of Operations in Mitrovica Rock School, South Mitrovica, 15 October 2019

An experienced Serbian civil society practitioner, North Mitrovica, 25 October 2019

Staff member of Diakonie Kosova, 16 October 2019

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# **CORRUPTION AND WOMEN'S ACCESS TO POLITICS: QUOTAS AND PARTY FUNDING IN KOSOVO**

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— LILJANA CVETANOSKA

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# ABSTRACT

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Although many studies have made connections between corruption and gender, few explore the impact that corruption has on women. This study aims to get a better understanding of the impact that corruption has on women's access to politics by focusing on the case of Kosovo, a country characterised by male dominated patronage networks and systemic corruption. The analysis focuses on gender quotas and electoral funding, two closely related issues crucial for women's involvement in politics. The study argues that women's political participation is negatively affected by closely tied insider patronage male dominated networks and identifies direct and indirect obstacles to women's access to politics in Kosovo. The findings confirm that corruption disproportionately negatively impacts women, and particularly those from marginalised groups. Specifically, the introduction of quotas in Kosovo has paved the path for descriptive representation of women in politics, but these efforts are limited by legal discrepancies and lack of women in leadership positions. Moreover, party funding regulations are short of provisions on distribution of funds between male and female candidates for office, which hampers women's involvement in politics. The study relies on documentary analysis and semi-structured interviews with professionals working on corruption and/or gender-related issues.

# INTRODUCTION

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Corruption has a negative impact on the economic, social and political development of societies where it occurs (Rose-Ackerman and Palifka 2016). Gender equality is one of the areas affected by corruption as women are more likely to be disproportionately exposed to corruption compared to men (Transparency International 2014). Corruption, and more specific patronage networks it relies on, tend to affect particularly women's access to politics, thus reducing female participation in decision making processes, both directly and indirectly. This paper focuses on gender quotas and electoral funding in Kosovo, two closely related issues, in order to explore how male dominated patronage networks and the institutional control they enable have a detrimental impact on women's access to politics.

In post-war Kosovo, the international community has attempted a massive state-building experiment. Improving rule of law and fight against corruption have been at the core of this attempt. Efforts have also been made to reduce gender inequality, by introducing relevant legislation and gender-oriented policies, including the adoption of quotas of political representation. However, international efforts at state-building failed to break down the role of hierarchical patronage networks that dominate and control all levers of power (Tadic and Elbasani 2018; Jackson 2018). Patronage relations, parallel state structures and systemic corruption remain a characteristic feature of the Kosovo's governance system (Elbasani 2018). Similarly, despite dense institutional efforts to increase the number of women in politics, gender inequality remains a problem (OECD Social Institutions & Gender Index 2019). Specifically, legal inconsistencies tend to undermine women's access to political power and discrimination based on gender remains widespread (Arapi, Vardari and Gashi 2017).

The analysis of how corruption and patronage networks impact women's access to politics relies on a range of primary sources – relevant reports, field research con-

ducted in September 2019 and twelve semi-structured interviews with professionals working on corruption and/or gender related issues, including NGO representatives, public officials, and officers from international organisations, as well as researchers. The interview data were triangulated with documentary analysis, where possible, to add validity to the findings.

The analysis is structured in four sections. Section one examines the theoretical debate concerning the relations between corruption and women's access to politics, including the role of quotas and political party funding. Section two provides a background information on the state of corruption and party patronage in Kosovo. Section three examines the introduction of quotas and how they have worked in the country. Section four explores how party patronage impacts women's access to party funding and, therefore, access to political positions despite the existence of formal quotas.

## **CORRUPTION AND ACCESS TO POLITICS: SHADOWY AGREEMENTS AND MALE-DOMINATED NETWORKS AS OBSTACLES TO WOMEN'S POLITICAL PARTICIPATION**

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Corruption affects negatively women's participation in political life (Esarey and Schwindt-Bayer 2018) and creates obstacles to women's access to key political and institutional positions (Stensota and Wangnerud 2018, 8-9). High level corruption particularly tends to restrict women's access to political party roles because corrupt leaders seek to maintain established loyalty networks, typically male-dominated, and the spoils of corruption that come with those networks, thus keeping women out of politics (Grimes and Wangnerud 2012; Stockemer 2011). As Sundstrom and Wangnerud note, "where levels of corruption are high, the number of women elected

is low” (2014, 355). The mechanisms through which corruption influences women’s access to politics, however, remain opaque and multifaceted.

Sundstrom and Wangnerud (2014) have made initial efforts to identify specific mechanisms through which corruption influences women’s political participation. They use Johnson’s et.al. (2013) definition of corruption as ‘shadowy arrangements’ which benefit those that are already privileged. Consequently, they identify two mechanisms –direct and indirect - through which those ‘shadowy arrangements’ impact the recruitment of women in politics. Accordingly, shadowy agreements “pose a direct obstacle to women when male-dominated networks influence political parties’ candidate selection, and they pose an indirect obstacle when they influence everyday life experiences and make them[women] reluctant to engage in political matters” (Sundstrom and Wangnerud 2014, 355). Hence, the channels through which corrupt patronage networks influence women are both direct and indirect. And corruption becomes a factor via the shadowy hierarchical patronage networks it relies on. Patronage here is defined as “political rulers’ distribution of benefits – public jobs and resources, in return for personal and political loyalty” (Tadic and Elbasani 2018: 189). The relation between corrupt politicians, control of electoral institutions and group and family voting is a derivative of patronage networks that play the levers of the political system (Stockemer 2018). Given the dominance of men leaders, those top-down patronage networks are not conducive to inclusion of women nor do they provide them with the benefits that the hierarchical system of patronage entails (Sundstorm and Wangnerud 2014).

A direct obstacle to women’s political participation arises in cases where hierarchical political networks, that organize around one key male leader, determine the selection of candidates for political positions within political parties. In such cases, key political positions, nominations and funding for electoral campaigns will go to the close circle of the leader’s political or personal network, usually men. This is because political parties, which are the main gatekeepers to political office, are often reluctant to put women as candidates in equal numbers to men (Goetz 2003), especially in under-institutionalised parties which are often based on male-dominated clientelist networks (Stockemer 2011). These formal and informal patronage networks narrow

down the institutional incentives for women's access to the political arena, thus enabling gendered social inequalities to persist (Beck 2003). Hence, if the selection of candidates is reliant on close patronage networks of loyalty and service, instead of formal rules and criteria, gender equality will suffer to the extent that it is men that usually domineer such networks. Altogether, the existence of such networks and the fact that already women are excluded from high-level decision-making processes, makes it more difficult for them to gain access to networks and privileges related to grand corruption (Bauhr et.al. 2018).

Indirect obstacles, meanwhile, may arise when corruption and its shadowy arrangements are so omnipresent in a country that it makes women reluctant to take part in political life and the networks of power and loyalty it entails (Sundstorm and Wangnerud 2014). Patriarchal values, moreover, often inform a women's decision to stay away from those networks and therefore participation in political life. Corruption itself is often rooted in patriarchal values and both have to be addressed in order to increase women's participation in political life (Merkle and Wong 2019). Likewise, corruption and patriarchy negatively impact even women's active electoral right, that is – the right to vote. This is demonstrated both by institutional mismanagement of electoral process but also family and group voting (Stockemer 2018). In patriarchal societies, instances of men accompanying women to the ballot box and casting the vote for them are frequent (Stockemer 2018). This undermines women's right to freely select their preferred political representative. It also sends signals that women cannot be trusted to make political choices for themselves, and that they need a male patriarch to cast the vote for them. In addition, if women are not being trusted to make an independent choice when casting their vote, it is unlikely that they will be supported as candidates for political office. Therefore, patriarchy often opens the path to patronage-based male dominant recruitment whereas women are typically side lined and not given the opportunity to take part in political life.

# GENDER QUOTAS IN POLITICS

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In the context of corruption-related restrictions on women participation and women's possible break down of men-dominated patronage networks, gender quotas become a useful tool for encouraging women to get involved in politics. They allow for a minimum appropriate number of different genders to be included in decision-making processes. Such quotas have recently become a popular tool used by the EU in order to increase the election of female members of national parliaments and the European Parliament and to promote gender equality in politics (European Parliament 2013).

The application of quotas is generally aimed at promoting increased descriptive representation, that is “compositional similarity between representatives and the represented” (Schwindt-Bayer and Mishler 2005, 407). This is in line with the argument that the composition of political offices should reflect the composition of the wider populations and specifically allow for political inclusion of marginalised groups (Phillips 1995). Given that corrupt economic and political processes reduce the opportunities for women to seek and hold public office (Transparency International 2000), the introduction of quotas should mitigate if not eliminate their exclusion from political participation. Gender quotas also provide an opportunity for women to be part of parliamentary decision-making processes and reduce exclusion in the process of proposing candidates for parliamentary seats. Nevertheless, descriptive representation, or quotas, should be complemented by additional measures so as to ensure substantive representation while making sure that the representatives' actions promote the interests of those represented (Schwindt-Bayer and Mishler 2005, 407). This is because, in politics, women are often given nominal roles with little effective power. As a result, the introduction of quotas doesn't always result in substantive representation. Additional measures, such as providing equal funding opportunities for all candidates, can ensure such effective power (see more on this below).

Finally, the quality of quota-related legislation and how quota laws are implemented in practice are crucial to control the role that corruption has on women's access to politics. Clear legal provisions without discrepancies between the various laws regulating women's access to politics, demonstrate political will (Brinkerhoff 2002) in addressing the problem of corruption from a gendered perspective. In summary, when applied appropriately, quotas may reduce the direct negative influence that male-dominated political networks have on women's access to politics by reserving part of public offices for women. Indirectly too, the introduction of quotas may empower women to get involved in politics as it signals that male-dominated patronage networks are becoming more open to the inclusion of women. However, when quotas are not implemented as intended in the law, their positive impact will be limited at best.

## **PARTY FUNDING AND WOMEN'S ACCESS TO POLITICS**

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Regulating how money in politics are being obtained and spent are two very important corruption-related issues for women's access to politics as they allow for transparency and oversight of money in politics. Lack of transparency and audits of money in politics increases the risks of 'shadowy agreements', such as quid-pro-quo situations and promises for future favours in exchange for donations. Given that financial resources are necessary for funding electoral campaigns, lack of funding hampers women's participation in political life (Muriaas, Wang and Murray 2019). Providing appropriate funding for women's political campaigns will allow the composition of political offices to be more inclusive and to allow for political inclusion of marginalised groups (Phillips 1995). The inclusion of different groups, especially minority and/or marginalised women will reduce the risks of ethnolinguistic fractionalisation, which increases political instability and favouritism of members from the same group (Esarey and Schwindt-Bayer 2018).

Party funding of electoral campaigns also facilitates who gets to the finish line. Because of patronage networks, women tend to receive less funding for electoral campaigns from their respective parties. Hence, the introduction of quotas doesn't always facilitate women representation or gender equality in political decision making. After all, the functioning of quotas is dependent on, and often limited by existing broader institutional frameworks, including political culture and electoral systems (Muriaas, Wang and Murray 2019). Those challenges can be mitigated by supporting quotas with other measures, such as gendered electoral financing. Gendered electoral financing refers to "interventions that use funding as a remedy to promote balance in political office" (Muriaas, Wang and Murray 2019, 3). This is done either by financially incentivising political parties to nominate women and by punishing parties financially when they fail to do so (party-directed incentives), or by providing financial support, so called candidate-direct incentives, to support women electoral campaigns (Muriaas, Wang and Murray 2019).

## CORRUPTION AND PARTY PATRONAGE IN KOSOVO

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Various corruption indices have placed Kosovo among the most corrupt countries in Europe. In the Worldwide Governance Indicators published by the World Bank, Kosovo maintains a low score of 38 on the corruption control indicator for the year 2017. According to the World Bank data, a country can score between 0 (highly corrupt) and 100 (very clean). Kosovo's score is significantly below the average of 63 for Europe and Central Asia, in which Kosovo is grouped. The country has also dropped in Transparency International's (TI) Global Corruption Barometer ranking from 85th place in 2017 to 93rd place in 2018 (TI 2018). The European Commission (EC) in its 2018 Report on Kosovo noted that the country has made some progress in regard to anti-corruption efforts, but still "corruption is widespread and remains an issue of concern" (European Commission 2018, 4). Similarly, research on Kosovo confirms

that corruption is an important challenge (Belloni and Strazzari 2014; Grodeland 2013; Zabyelina and Arsovska 2013; Arsovska 2008). At the same time, the country continues to face issues with gender inequality and the political life is largely dominated by men, with women only having a marginal role in the public sphere (Haug 2015).

Kosovo's anti-corruption framework is well developed and is complemented by a number of anti-corruption institutions, such as: the Office of the State Prosecutor, the National Council Against Corruption, the Anti-Corruption Task Force and others (Elbasani 2019). Nonetheless, in reality most anti-corruption reforms encounter various forms of resistance particularly during the process of implementation (Elbasani 2019). Both grand and petty corruption remain a serious concern for the country and arguments have been put forward that the country's fight against corruption has been secondary to maintaining stability (Beha and Selaci 2018). Specifically, various international structures that led institutional reforms, including the United Nations Mission in Kosovo (UNMIK), turned a blind eye to local criminal structures (Kostovicova 2008, 637). So, did the follow up EU mission on Rule of Law (EULEX), currently still operating in the country. Abuse of power by the police has been noted in dealing with human trafficking (Shaipi 2016), and concerns about political corruption, including state capture have been raised in the academic discourse (Elbasani 2018).

The prevalent corruption, even state capture, is often related to the hierarchical and patronage-based structure of political parties (Jackson 2018). The hierarchical party system is then mirrored in the consolidation of (frequently informal) patronage networks across the entire state institutional framework (Tadic and Elbasani 2019). "Patronage has been a long-term feature of sociopolitical relations across the Balkans" (Diamandouros and Larrabee 2000, 29–33 in Tadic and Elbasani 2018). Yet, it has become the dominant principle of governance in the context of state collapse, institutional vacuum and ineffective international interventions across the region. Given that those who control party leadership and its related patronage structure are almost all exclusively men, women have to confront these hierarchical closed groups of loyalty and control when trying to get involved in politics. As such, women's access to politics, especially to senior level positions, is rather limited by men who control

those levels of power. The prevalent corruption cum patronage networks that permeates the political and governing system has its bearing on both dimensions analysed in this chapter - (i) the implementation of women's quota regulations, and (ii) the impact that party funding regulations have on women's political participation.

## THE REGULATION OF GENDER QUOTAS IN KOSOVO

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Kosovo has made efforts to enhance female participation in public life. Kosovo's Constitution considers gender equality as a fundamental principle, while expressing a commitment to equal opportunities for both female and male participation in the political, economic, social, cultural and other areas of societal life (Article 7). It also extends protection against gender-based discrimination (Article 24). Furthermore, the Constitution asserts that the composition of the Assembly of Kosovo shall respect internationally recognized principles of gender equality (Article 71). These principles are additionally elaborated in the Law on Gender Equality in Kosovo (Law No. 2004/2). An updated Law on Gender Equality was later introduced in 2015 (Law No. 05/L-020). The revised Law requires equal participation in legislative, executive and judiciary bodies, which is achieved by having a representation of 50 percent for each gender in these bodies (Article 6, Law NO. 05/L-020). Legislative, executive, judicial and other public institutions are required to adopt and implement special measure to ensure such equal representation in politics (Article 6, Law NO. 05/L-020). Still, in practice this has still not been achieved: "the effective implementation of the Law on gender equality is lagging behind. Completion of secondary legislation aimed at institutionalising gender-responsive budgeting is still pending. Breakdowns of data by gender are lacking and the mainstreaming of gender in laws and policies is not systematic. The Kosovo Programme for Gender Equality has not yet been adopted" (European Commission 2019, 28).

The 2008 Law on General Elections in the Republic of Kosovo (Law No. 03/L-073) has further introduced gender quota requirements in the process of elections. Article 27 of the Law imposes a gender requirement: “in each Political Entity’s candidate list, at least thirty percent shall be male and at least thirty percent shall be female, with one candidate from each gender included at least once in each group of three candidates, counting from the first candidate in the list” (Law No. 03/L-073). This requirement is further elaborated in Article 111 of the Law, in order to ensure that women as the minority gender will receive at least 30 percent of the seats in the Assembly. This is organised by replacing candidates from the majority gender with candidates from the minority gender, until quotas are fulfilled. In the Kosovo’s Assembly 33 percent of members of parliament are women (Idea 2017) and the requirements as set out in the Law on General Elections have been respected. However, quotas are fulfilled only because of the law. Yet, even though the introduction of quotas in Kosovo has helped in increasing women’s representations, parity has still not been achieved and political parties prefer to follow the Law on General Elections as opposed to the Law on Gender Equality.<sup>1</sup>

The discrepancy between the two laws, both imposing different quotas enables policy holders to choose and evade responsibility for upholding the law on gender Equality and its system of quotas. Namely, even though the Law on Gender Equality requires 50 percent representation of women generally, the Law on General Elections only requires 30 percent of all candidates to be from the less represented gender. This suggests that even though equality is guaranteed in the law, legal overlaps and uncertainly enable selective application in practice. Such legal discrepancies increase women’s vulnerability to corruption when accessing public offices as it provides legal uncertainties in male-dominated party structures.

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1 Interview with Shpend Emimi, Executive Director of Democracy for Development, Prishtina 17.09. 2019.

Since both central and local institutions in Kosovo can evade the Law on Gender Equality, women are especially missing from leadership positions both in central and local government. Additionally, the applied 30 percent quota in national and local assemblies has not managed to achieve greater involvement of non-elected women in politics (Kosovar Gender Studies Center 2017). As it stands, “ [decision makers] take for granted that they deserve their positions and see women as unworthy but as a numerical fulfilment, which then undermines the law” (Nika Luci 2017 in Morina 2017). Women’s quotas where applied are, thus, seen as a pro-forma measure without providing substantive representation or senior level positions in politics and state institutions.

Moreover, because at least 30 percent of women will have a guaranteed seat at the Assembly of Kosovo, there have been encouragements to avoid voting for women, as they will get elected anyway.<sup>2</sup> Such calls influence in voting preferences and enhance the perception that women are not worth voting for. In turn, this further inhibits women’s substantive representation and in general women’s positions in political life. Moreover, some male candidates went as far as to the Supreme Court to argue that their right to be political representatives have been undermined by the introduction of quotas, as they did not get a seat in the Assembly (as per Article 111 of the Law on General Elections), even though they accumulated a higher number of votes.<sup>3</sup>

Finally, political parties as gatekeepers maintain a crucial role in selecting candidates, often appointed due to personal political connections. In Kosovo, “most leaders in institutions and most decision makers are men, and they function based on patriarchal values – the same values that placed them in those positions” (Nika Luci 2017 in Morina 2017). A 2017 report found that there are no real female party leaders, presidents or deputy presidents in political parties in Kosovo, nor do women lead any of the branches of political parties in Kosovo (Kosovar Gender Equality Center 2017).

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2 Interview with Pranvera Lipovica, Senior Program Manager, National Democratic Institute, Prishtina 19.09.2019.

3 Interview with Shpend Emini, Executive Director of Democracy for Development, Prishtina 17. 09. 2019.

In such circumstances, women often discouraged by family and the limited access to politics, are even less likely to attempt to engage in politics due to the closeness of party structures<sup>4</sup>. Overall, the introduction of quotas in politics, has recorded some success but additional efforts are needed in order to achieve parity representation as sought by the Law on Gender Equality. Other improvements may include the introduction of voluntary quotas among political parties. Such quotas will send a message that parties are open to supporting candidatures of female candidates and that efforts are made to reduce the negative impact that party patronage and patriarchy have on women's access to politics.

## KOSOVO PARTY FUNDING REGULATIONS

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Party funding in Kosovo is regulated through Law No. 03/L-174 on Financing Political Entities adopted in 2010. This law provides more substantial regulations on making funds of political parties transparent as compared to the previous 2004 UNMIK regulation on the topic. Article 4 of the Law specifies that political parties are funded by membership fees, contributions, the budget of the Republic of Kosovo and incomes from activities of political parties. Party funding is executed via the so-called Fund for supporting political parties and administered by the Central Election Committee (Article 7, Law No. 03/L-174 on Financing Political Parties). According to the same Law, up to 0.17 percent of Kosovo's budget can be used for funding political subjects for pre-election and election activities, and regular activities of parties and their working groups.

The initial Law did not have any gendered aspects to party funding, however, a 2012 amendment to the Law specified that party funds may be used to fund the respective units of organisation of women and youth in political parties (Article 3, Law

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<sup>4</sup> Interview with Ismet Kryeziu, Director of Kosovo Democratic Institute - Transparency International, Prishtina 20. 09. 2019.

No. 04/L-058 on Amending and Supplementing the Law No. 03/L-174 on Financing Political Parties). However, this is the only gendered element in the Law and neither the Law nor the amendments provide regulations on how party funds, especially those from the Budget should be distributed among political candidates. On annual basis, around 5 million euros are distributed among political parties from the Budget (Demhasaj 2018). However, it is not clear how these funds are distributed between male and female candidates. What is clear, however, is that decision making process is determined by top-down and male-dominated structures: “nepotism is present in all segments of the society, and everything is controlled by the top structures of political parties” (Ifimes 2019). Therefore, lack of regulation in this area suggests that funds are unequally distributed among male and female candidates. Males are seen as more desirable and reliant candidates and political parties do not see women as leaders of processes:

Political parties nominate people for the electorate management bodies. These are the management bodies that will administer and manage the election process. Usually there should be equal nomination, so parties should nominate both man and women. But they nominate more men because they consider that if they have more men they will have the muscle[...] They will consider [sic] why should we put women as they are more [sic] softer [...]. So, it starts there, in the perception and mentality of political parties than men are the ones with muscles [...] In my opinion, it is because of this mentality in political parties that they do not see women as a very strong factor for changes, for development, for fighting corruption, but they see them rather as someone who will be there for the administrative work and when you go within political parties you see that women participation is very low.<sup>5</sup>

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5 Interview with Shpend Emini, Executive Director of Democracy for Development, Prishtina 2019.

Moreover, male candidates have better access to resources to support their electoral campaigns:

They [political parties] would allocate resources equally, let's say like taking the picture, the business cards and certain materials that would be necessary for the campaign, but you do not have any proof that they are financing activities for some candidates and not the others, be that a men or a woman. What happens is that the male candidates have more access to resources that parties have because they have most of the positions, if let's say they are in government and they have access they use it, even though it is not ethical. [...] Women do not support women, there is no proper networking.<sup>6</sup>

Men also have better access to donors' support, due to discrimination of women in the workplace and issues with women's access to the workplace<sup>7</sup>. For these reasons, men receive more funds for electoral campaigns.

Another overarching issue related to party funding is the transparency of how money have been spent. In Kosovo "political parties are required by law to compile a special list of all donors that offer products and services to public institutions, but according to auditing reports, parties regularly do not fulfil this requirement" (Demhasaj 2018). The weakness of institutions in charge of auditing enables the parties to get away with it. Specifically, the Commission for Overseeing Public Finances within Kosovo's Assembly failed to appoint auditors which were supposed to review parties financial reports and spending: "annual finance overviews for 2013, 2014, 2015 and 2016 respectively, and spending declarations for the local elections in 2013 and the national elections in 2014 have not been made public precisely because of this failure to select the personnel required to independently audit them. By not selecting auditors to perform this task, the Kosovo Assembly is considered to have breached its legal requirements." (Demhasaj 2018).

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6 Interview with Pranvera Lipovica, Senior Program Manager, National Democratic Institute, Prishtina 19.09.2019.

7 Interview with Shpend Emimi, Executive Director of Democracy for Development, Prishtina, 17.09.2019.

Political parties may receive contributions from natural (2,000 euro per year) and legal persons (10,000 euro per year), and if a party receives a donation, they should notify the relevant authorities and if the origin of the money cannot be proven, the funds should end up in the Budget (Law on Financing Political Parties). However, in practice this is not always the case<sup>8</sup>. What is more, electoral candidates are not required by Law to declare where they have received donations for their campaigns (Demhasaj 2018). Such legal gaps provide opportunities for them to evade transparency. It also creates 'quid pro quo' situations through which powerful individuals and businesses provide funding for electoral campaigns in expectation that once those individuals are elected, they will protect their private interests. Considering the privileged position that men have in political parties, and the perception that men will get more votes in elections, such donations usually end up in the hands of men.

The problem of candidate funding is even more pertinent given that political parties in general "had significant amounts of unverifiable income and expenditures, persistent violation of financial accounting, internal control and reporting standards and showed instances of being in violation of the tax laws and the Law on the Prevention of Money Laundering" (Travers 2019). Moreover, donations in Kosovo are still being received in cash, which is not tracked, and it is not clear how citizens have made contributions larger than their annual incomes (Venice Commission 2018). Such a system makes it virtually impossible to track the source and allocation of funds donated to political campaigns.

The problem of electoral funding, further impacts some women more than others. Not all women have equal access to funding and there are substantial discrepancies on the amount of funds they receive: "the barriers to office that cause women's underrepresentation, e.g. money and networks, often affect certain women more than others and are not adequately addressed by quotas, resulting in wealthy (white) women benefitting more than others from quotas. Hence, we also need measures that encourage and materially assist women representing more marginalised groups to step forward" (Muriaas, Wang and Murray 2019, 4). Minority women, marginal-

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8 Ibid.

ised women, especially those who lack education and are exposed to poverty are even less likely to receive funding to run an electoral campaign. According to an interviewee, intersectionality is a serious problem for Kosovo, and women from minorities are even at a higher risk<sup>9</sup>. This is because relevant laws do not account for these discrepancies whereas certain categories of women are even less likely to be considered as candidates worthy of donations.

In summary, women are more likely to have restricted access to electoral funding for the following reasons: (i) lack of regulation on how funds are being distributed among candidates within political parties, (ii) lack of transparency in how money in politics are being spent, and (iii) lack of provisions that would allow positive discrimination for women from marginalised groups. All of above are related to corrupt party patronage which prefers male candidates and gives them a prioritised access to party funding.

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<sup>9</sup> Interview with Habit Hajredini, Director of the Office for Good Governance, Human Rights, Equal Opportunities and Anti-Discrimination, Office of the Prime Minister Republic of Kosovo, Prishtina, 19.09.2019.

## CONCLUDING REMARKS

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This chapter examined the impact that corruption has had on women's access to politics in Kosovo. It focused on two issues pertinent to women participation – the role of quotas and party funding. Specifically, it assesses how corruption directly and indirectly impacts women's access to politics in these two aspects. The paper argued that corruption as shadowy arrangements are closely tied to insider patronage networks, which controls who enters and thrives in the system. Given that such networks are usually male dominated particularly in context of patriarchal societies, they tend to restrict women access to politics.

The analysis provides evidence of direct and indirect obstacles to women's political participation. The direct obstacles are demonstrated through the existence of shadowy agreements that allow for laws to be selectively applied in practice so as to maintain the party patronage networks which are deeply embedded in Kosovo's politics. The indirect obstacles are rooted in the patriarchal features of Kosovar politics which discourages women from taking part in public life.

Those obstacles show themselves in both issues under study – the system of quotas and party funding. Specifically, in Kosovo, a certain mandatory inclusion of women in politics is guaranteed by the existence of the quota system. The quota system explains the growing number of women in politics in the country. However, this increase doesn't necessarily mean neither gender equality nor having rights guaranteed on paper are also protected in practice. As this paper demonstrates, women in Kosovo are still underrepresented in public life. Parity has still not been achieved mostly because of legal discrepancies in regard to the quota requirements as regulated by different laws. Corruption in the appointment of female candidates for public office can occur in different forms and at different stages of the selection and appointment process. First, there are corruption risks when candidates' lists are be-

ing proposed and agreed among party organs. In the case of Kosovo, at least 30 percent of candidates in general elections have to be females so the risk of not putting forward a sufficient number of woman candidates is mitigated for, but still it falls short of the equal representation of males and females, as required per the Law on Gender Equality. Also, quotas in Kosovo mainly allow for descriptive representation of women in politics and, women are especially missing from leadership positions both in the Government and in the municipalities.

In regard to party funding, tight party patronage networks reduce the opportunities for women to receive funding. This is demonstrated by insufficient regulation on how funds are distributed among male and female party members, which tends to prioritise male candidates and enhance the lack of transparency regarding how money is distributed by political parties. On the one hand, males are seen as more desirable candidates as they are more likely to receive higher number of votes in elections, thus, more money are allocated to them. The Law on Financing Political Parties in Kosovo, on the other hand, has serious shortcomings which makes party funding un-transparent and prone to corruption. How much an individual candidate may receive from the party, how much allocation should be dedicated to women for party funding, and lack of implementation of regulations regarding party spending reports and audits of party spending are all corruption and transparency related risks that have negative impact on women's political participation. Still, it is worth noting that quotas in Kosovo, even though in a limited manner, have paved the path for descriptive representation of women in politics. However, to ensure an effective and long-lasting change, additional measures are needed to ensure women's equal participation in public affairs.

# LIST OF INTERVIEWS

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Shpend Emini, Executive Director of Democracy for Development, Prishtina, 17.09.2019

Habit Hajredini, Director of the Office for Good Governance, Human Rights, Equal Opportunities and Anti-Discrimination, Office of the Prime Minister Republic of Kosovo, Prishtina, 19.09.2019

Ismet Kryeziu, Director of Kosovo Democratic Institute - Transparency International, Prishtina, 20.09.2019

Pranvera Lipovica, Senior Program Manager, National Democratic Institute, Prishtina, 19.09.2019

Shqipe Neziri Vela, Lecturer at Rochester Institute of Technology Kosovo, Prishtina, 17.09.2019

Rrezearta Reka Thaci, National Coordinator, UNDP, Prishtina, 19.09.2019

Anonymous interviewee 1, Rule of Law Practitioner/ Adviser, Prishtina, 20.09.2019

Anonymous interviewee 2, Representative of an international organisation, 19.09.2019

Anonymous interviewee 3, Representative of an international organisation, 19.09.2019.

Anonymous interviewee 4, Representative of an international organisation, 19.09.2019

Anonymous Interviewee 5, Representative of an international organisation, Prishtina, 19.09.2019

Anonymous Interviewee 6, Representative of an international organisation, Prishtina, 19.09.2019

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The direct obstacles are demonstrated through the existence of shadowy agreements that allow for laws to be selectively applied in practice so as to maintain the party patronage networks which are deeply embedded in Kosovo's politics.



# FACETS OF RELATIONS WITH THE EU

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— **George Kyris**

Recognition and the European Union Statebuilding in Kosovo

— **Gentiola Madhi**

Diluting Principles, Darkening EU Accession Perspective:  
Politicization of Kosovo's Visa Liberalization Process

— **Svjetlana Ramic Markovic**

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Kosovo's Stressful Multilateralism: Can the Berlin Process  
Serve as a Remedy?



# RECOGNITION AND THE EUROPEAN UNION STATEBUILDING IN KOSOVO

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— GEORGE KYRIS

## — GEORGE KYRIS

George Kyris (PhD) is a Lecturer at the POLSIS department, University of Birmingham, UK. He has been a Leverhulme Research Fellow (2016–2020), a Research Fellow at the London School of Economics and taught at the Universities of Warwick and Manchester, where he completed his doctorate in 2011. His research agenda lies at the intersection of International Relations theory, security and global governance. His expertise is on state recognition, international organisations and sovereignty, especially with reference to conflicts over statehood and unrecognised states, and the EU. He has published many articles in peer reviewed journals, such as the *Journal of Common Market Studies*, *Geopolitics*, and the *British Journal of Politics and International Relations*. His first book was published by Routledge in 2015.

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# ABSTRACT

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This chapter explores the assumption that international statebuilding activities in Kosovo are linked to a titular recognition, i.e. a recognition that Kosovars have a right to state independence. It does so by conducting a historical analysis of the role of the EU in specific issue. Analysis confirms the hypothesis and offers two further interesting findings: first, a recognition of a right to statehood might co-exist with the support of other alternatives ways to solve a dispute (e.g. autonomy); second, the relationship between titular recognition and statebuilding is more dialectic and less linear: as institutions were developed and introduced, Kosovars' demands for independence grew, which seems to have diminished the room that international organisations had to support other options for resolving the dispute with Serbia. In this regard, the paper makes a manifold contribution. Firstly, the paper focuses on Kosovo's recognition by international organisations, therefore contributing to the state-centric literature on Kosovo and more generally. Secondly, the paper moves away from binary understandings of recognition by exploring titular recognition as a different type of recognition. Thirdly, and most importantly, the paper cross-fertilises the topics of recognition and statebuilding in Kosovo, therefore helping us understand better their inter-relation.

# INTRODUCTION AND METHODS

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This chapter explores whether the statebuilding activities undertaken by the European Union (EU) in Kosovo are informed by a titular recognition, i.e. a recognition of a right to statehood for the people of Kosovo. Such a hypothesis is informed by my preliminary research that shows that in the majority of independence-seeking territories where international organisations engaged with statebuilding activities there was also titular recognition for the state-seeking group. Although different international organisations have been involved with statebuilding in Kosovo, I focus on one organisation in order to prioritise depth over breadth of research, which would facilitate the better use of congruence analysis, the main method used in this study. I chose the EU because of my previous study of the organisation that allows me better knowledge and comparisons with my existing research in other cases. As such, the purpose of this paper is not to explain Kosovo's recognition or argue in favour or against it. Instead, the purpose here is to move a step further and look at the impact of recognition, rather than its causes or explanations.

The way I explored the possibility of a causal relationship between titular recognition and statebuilding was the following: I began by investigating my empirical material and conducting a historical analysis of the case of Kosovo in relation to my question and I proceeded to construct a rich narrative of the events unfolding. My empirical material included primary and secondary sources that helped me understand the recognition afforded and the statebuilding activities developed. Primary sources included statements of politicians in press releases, interviews or otherwise, legal documents and documents of international organisations, such as all European Council Resolutions and United Nations Security Council Resolutions (UNSCR) since 1989 when Serbia abolished Kosovo's autonomy and which I treat as a schematic milestone, as well as all EU Reports on Kosovo. Secondary sources included, amongst else, books, articles and film documentaries. From the narrative

I constructed, I extracted a series of observations of the causal link between titular recognition and statebuilding, which I triangulated with interviews I conducted with officials from the EU, the UN and the OSCE in Prishtina in May and September 2019; the interviews are presented in the main body of this chapter. The interviewees were selected based on their professional capacity and their relevance to this research; the interviews were all semi-structured with open-ended questions and they are anonymised. In order to strengthen my argument about causality, I focus on a series of different observations. The chapter proceeds as follows: in the following section, I elaborate on the concepts of titular recognition and statebuilding, before I offer a short contextual overview of how international organisations and the EU in particular treated Kosovo. Next, I present the main study and the number of observations that I have used to test the hypothesised relationship between titular recognition and statebuilding, before my conclusion summarises the arguments and the paper's contribution.

Findings suggest that, indeed, EU statebuilding activities are causally linked to the titular recognition of Kosovo, which has been more or less consistent in the past twenty years or so. Interestingly, the study of Kosovo suggests that this recognition of a right to statehood might co-exist with the support of other alternatives ways to solve the dispute. Lastly, the relationship between titular recognition and statebuilding is more dialectic and less linear. In this regard, the paper offers an analysis of Kosovo's recognition by international organisations, therefore contributing to the state-centric literature, and also explores titular recognition, which has attracted less research attention. Most crucially, the paper helps understand better the inter-relationship between recognition and statebuilding in Kosovo.

## A LINK BETWEEN RECOGNITION AND STATEBUILDING?

Recognition has often been seen in absolutist terms. On the one end of the spectrum stands state recognition, usually afforded via the issuing of a statement, the adoption of a legal text or the establishment of diplomatic relations (see also Ker-Lindsay 2012). On the other end of the spectrum we have the policy of non-recognition (see also Raič 2002; Crawford 2007). This refers to the explicit denial of recognition to aspiring states and it is usually done in a collective way, especially via international organisations and with reference to unilateral secessions. So, while international organisations do not have a clear explicit competence to recognise states, they are nevertheless important for recognition and this is a neglected issue that this paper seeks to explore more. International organisations seem particularly concerned with non-recognition, which can take the form of a statement, such as various UNSCR that recognise the sovereignty of a state that faces a secession challenge (e.g. UNSCR 822 on Azerbaijan) or explicitly name the secessionists to which recognition is not afforded (e.g. UNSCR 367 on Cyprus). More rarely, non-recognition can take the form of rejection of membership to an international organisation.<sup>1</sup>

However, the practice of international relations shows that there are, in fact, different degrees and types of recognition. Kosovo, which is recognised by *some* states and takes part in *some* international organisations as a state illustrates that very well. Other examples of varied recognition include Abkhazia (recognised by four UN members), the Sahrawi Arab Democratic Republic in Western Sahara (recognised by

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<sup>1</sup> In that case, the rejection of membership must not be related on issues other than statehood. For example, the expulsion of Taiwan from the UN and the consequent denial for readmission has been justified on the basis of not recognising the administration of the island as a state- in this case, rejection of membership can be seen as non-recognition. Oppositely, the rejection of Turkey's application to join the EU in 1987 cannot be regarded as non-recognition, since it was not on the basis of Turkey's statehood but on other criteria for opening accession negotiations, which do not relate to statehood.

43 UN members and member of the African Union) or Palestine (recognised by 136 UN members and member to international organisations such as the Organisation of Islamic Cooperation or the Arab League). What is more, a type of recognition that might be considered as somewhere in between non-recognition and full recognition is what Crawford (1979) and Geldenhuys (2009) refer to as 'titular recognition': the acceptance of an entity's *right of or title to* statehood rather than recognition of statehood per se. Rather similarly to non-recognition, international organisations seem keener than individual states to highlight titular recognition, often as a commitment to values and the mission of the organisation. For example, the UN Declaration on the Granting of Independence to Colonial Countries and Peoples makes a link between the proclamations of the UN and the right to independence and self-determination of dependent people (UN General Assembly Resolution 1514, 1960).

Preliminary research suggests a potential causal link between titular recognition and statebuilding and the test of this link in the case of Kosovo is the aim of this paper. An overview of past and present groups that have engaged in a sustained effort to state independence but have not enjoyed full diplomatic recognition for some time shows five cases of titular recognition. Three out these, Timor-Leste, Palestine and Kosovo, seem to coincide with a recognition of a right to statehood for the independence-seeking group; the remaining two, Eritrea with light statebuilding activities, and Western Sahara, do not seem to fall in that category. In other words, titular recognition might not be a necessary condition for statebuilding but it seems to be sufficient. In the next part, I will explore whether this hypothesis holds in the case of Kosovo.

# A PREHISTORY OF KOSOVO'S RECOGNITION

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The first time Kosovo declared independence in 1991 no international actor apart from Albania offered diplomatic recognition.<sup>2</sup> When Kosovo declared independence again in 2008, the situation was very different. Within the first year, 58 UN member states recognised independence, this was almost doubled within five years and a decade later Kosovo is recognised by the majority of UN member states. Kosovo also became member to some international organisations, including the World Bank and International Monetary Fund (IMF) shortly after its declaration of independence. What happened in between those years has already been the focus of extensive research that has focused, amongst else, on the conflict between Kosovo Albanians and Serbs (see for example Surroi 1998 on the constitutional dispute; Maliqi 1998 on the independence movement; Malcolm 2002), the role of external actors (see Bellamy 2002) especially the 1999 North Atlantic Treaty Organization (NATO) intervention and international involvement since then (Bolton and Visoka 2010; Lemay-Hébert 2012; Skendaj 2014; Hehir 2019; Musliu 2019). What is important to sketch out here as a preamble to the part of this analysis is the evolution of the recognition of Kosovo's claim to statehood, especially by international organisations and the EU. As we will see below, this changed over the years from ambiguity to an implicit or explicit understanding by many actors of the international community that Kosovo could become an independent state.

Following the declaration of independence in 1990/1<sup>3</sup>, the Commission on Security and Cooperation in Europe (CSCE) was the first and for years only international organisation involved on the ground and even this was done in a very light fashion

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2 In July 1990 the assembly declared Kosovo a republic within Yugoslavia and in October 1991 a declaration of an independent sovereignty Republic of Kosova state was adopted. For a good overview of the different positions within Kosovo Albanian society around that time, see Kekezi and Hida (1990).

3 For an overview of the Kosova parallel state see Pula (2004).

since 1992.<sup>4</sup> In the mandate of the CSCE Mission of Long Duration to Kosovo, Vojvodina and Sandjak there is no reference to sovereignty or territorial integrity, which suggests that the understanding of the organisation of the potency of those issues locally or their potential to have security implications was limited. The text merely spoke of ‘communities in these regions’ and the Kosovo Albanians did not cooperate with the Mission so as not to endorse the sovereignty of the Federal Republic of Yugoslavia (FRY) over Kosovo (OSCE 2019). UNSCR 855 (August 1993) expressed support for the mission in a way that clearly recognised Kosovo as part of the FRY, and it was the first resolution to address the conflict- this was more than three years after the declaration of independence and consequent separate elections in the Republic of Kosovo. During the same period, NATO (1992) also referred to autonomy within Serbia as the only way to end the conflict.

With reference to the EU, the non-recognition of statehood claim is even more obvious because, in fact, the early nineties were a rare period where the international organisation was heavily preoccupied with issues of state recognition, namely the recognition of the states seceding from the FRY. The European Conference on the Yugoslavia and the Badinter Arbitration Commission that was set up to facilitate this process recognised a right to statehood at the federal level (Croatia, Macedonia, Slovenia, Bosnia Herzegovina, Serbia and Montenegro) but not for Kosovo- only the European Parliament (EP) and Germany<sup>5</sup> were apparently open to the idea of recognising the right of secession. When the freshly-elected (1992) president of Kosovo Ibrahim Rugova wrote to the chair of the Conference Lord Carrington asking for state recognition, he received no response (Bellamy 2002, 26).<sup>6</sup> The Conference then became the International Conference on the Former Yugoslavia (ICFY), co-led by the UN and the EU, which too did not recognise the Kosovo Albanian claims to statehood. This was also reflected in ICFY proposals for resolving the dispute, encouraging the better integration of the Kosovo Albanian education system into Serbia (see also Troebst 1998).

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4 The mission was active between September 1992 and July 1993, when it was terminated by decision of the FRY. The Mission aimed at monitoring and reporting on security developments and improving human rights situation.

5 On the position of the German government then and later see Himmirch (2019)

6 Less formally, the head of the Conference’s Working Group on Ethnic and National Communities and Minorities Geert Ahrens tried to mediate between Serbs and Albanians in Kosovo and some progress was secured in matters of education, although never fully materialised into an agreement (see Troebst 1998).

Following the 1995 Dayton Agreement, the conflict between Serbs and Kosovo Albanians turned more violent and this has been seen as an explanation for a slightly more sympathetic ear of the international community to claims for independence by the Kosovo Albanians.<sup>7</sup> In April 1997, the EU spoke of ‘*large* (my emphasis) degree of autonomy to the Kosovo (European Council 1997)’, a departure from the organisation’s earlier declarations on Kosovo, where the European Council favoured simply *restoring* Kosovo’s autonomy (European Council 1992). At the same, the EU was becoming more interested in getting involved in the region by tasking the Conflict Prevention Network to evaluate the situation in Kosovo (Troebst 1998) and also by exploring the possibility of opening an office in Prishtina. The Sarajevo-based European Community Monitoring Mission also monitored the situation in Kosovo (Committee of Ministers 1998).

We can also see a similar trajectory in the way in which the UN addressed the issue: UNSCR 1160 of 31 March 1998 continued to treat Kosovo as part of FRY but was much more explicit than previous Resolutions on the acknowledgment of a right to self-determination as the Security Council “*expresse[d]* its support for an *enhanced* (my emphasis) status for Kosovo which would include a substantially *greater* (my emphasis) degree of autonomy and *meaningful self-administration* (my emphasis)”. Yet, during the same period, leading US diplomats were explicitly opposing independence as an option (see for example International Crisis Group 1998, 42). UNSCR 1199 of September 1998 repeated the same commitment to self-determination, but was more strongly worded against aggression by the Serbs. The Organisation for Security and Cooperation in Europe (OSCE)-led Kosovo Verification Mission (October 1998-June 1999) was again opposed by the Kosovo Albanians on the basis that it legitimised the status quo and FRY’s sovereignty claims but, in practice, trained Kosovo Albanians in police matters – this is important for the focus of this study because police training and security reform are usually first steps towards statebuilding.

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7 For a discussion on UÇK see for example Kubo (2010).

# KOSOVO'S TITULAR RECOGNITION AND STATEBUILDING

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In the rest of the chapter I zoom into a series of causal observations in order to test the hypothesis that statebuilding in Kosovo appeared because of titular recognition. I constructed a detailed narrative of events unfolded and within it I coded events on how they score in terms of the presence of titular recognition and statebuilding. The observations below are moments where both titular recognition and statebuilding activities scored high, i.e. they were more clearly present. Then I qualitatively analysed those observations to explore causality between titular recognition and statebuilding. Some observations are weaker than others, but, overall, I find that there is a strong likelihood that the recognition of a right to statehood for Kosovo explains the statebuilding activities developed by the EU.

## The Rambouillet Agreement

The Rambouillet Agreement is the first milestone we see titular recognition and institution building linked with reference to Kosovo, albeit very loosely, therefore suggesting a practical element of statebuilding. Elements of 'light' international assistance towards this aim were the provision for an Implementation Mission (to be led by the EU and the OSCE), which was given the authority to monitor and advise as well as direct action in the area of law enforcement and train, coordinate and develop law enforcement institutions, before transferring those and their responsibilities to locals. This was towards the fulfilment of the main institutional objective of the proposal, which was to allow Kosovars' self-government through legislative, executive, judicial, and other institutions.

This aim of self-government was linked to a relatively implicit understanding that Kosovars should be given the option for independence, i.e. a recognition of a right to statehood. While the plan underscored the ‘respect for the territorial integrity and sovereignty of the Federal Republic of Yugoslavia’, it had an interim nature and provided that:

three years after the entry into force of this Agreement, an international meeting shall be convened to determine a mechanism for a final settlement for Kosovo, *on the basis of the will of the people* (my emphasis), opinions of relevant authorities, each Party’s efforts regarding the implementation of this Agreement, and the Helsinki Final Act.

The reference to the ‘will of the people’ (which will come back many times in discourse on Kosovo, see later) is important for titular recognition: discussing Kosovo, Dugard (2013) argues that the term ‘people’ in the context of self-determination claims usually relates to a recognition of a right to statehood for the group. What is more, the then US Secretary of State Madeleine Albright had sent a separate letter confirming that “we will regard this proposal (i.e. the Rambouillet Agreement)... as confirming a right for the people of Kosovo to hold a referendum on the final status of Kosovo after three years” (House of Commons 2002). Similarly, the interim character of the agreement, allowed Kosovo Albanians to interpret the respect of FRY’s sovereignty as applying only to the specific timeframe of three years (see also Weller 2009). Indeed, the view of Kosovo Albanians was that the period of international protectorate will be followed by independence (Shala 2000). Serbs could also interpret the wording of the extract above as offering them the option to reject the referendum result (‘opinions of relevant authorities’).

In the end, Kosovo Albanians accepted the agreement but the Serbs did not; Milosovic himself latter called the agreement a “recipe for the independence of Kosovo” (Buckley 2000, 241). Following the failure of talks, in March 1999 the EU iterated that “the international community’s only objective is to find a political future for Kosovo, on the basis of the sovereignty and territorial integrity of the FRY, which does justice to the concerns and *aspirations* of all *the people* (my emphasis) in Kosovo” (Europe-

an Council 1999). The reference to people can be read as yet another reference to a unit worthy of independence (see also before), and the reference to aspirations also relates to Kosovo Albanian wishes for independence, especially when it is read in conjunction to the understanding that their leadership in Rambouillet had about the agreement been an interim plan before a referendum.

## UNSC Resolution 1244

The UNSCR 1244 shows stronger links between titular recognition and institution building, therefore leading to statebuilding at a practical level. As yet another compromise document, Resolution 1244 is subject to many interpretations, including from international organisations.<sup>8</sup> And yet, there are two ways in which we can identify a link between titular recognition and statebuilding. First, the reference to ‘autonomy and meaningful self-administration for Kosovo’ and ‘people of Kosovo’ (the second term being correlated with groups worthy of independent statehood, see also earlier) suggests that the instructions for institution-building were potentially for *state* institutions. Secondly, the *state-building* rather than simply institution-building activity was further reinforced by the fact that, despite the nominal respect of FRY’s sovereignty,<sup>9</sup> UN became the effective sovereign, i.e. the ultimate authority in the area. According to United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No 1999/1, “all legislative and executive authority with respect to Kosovo, including the administration of the judiciary, is vested in UNMIK and is exercised by the Special Representative of the Secretary-General” (UNMIK 1999).<sup>10</sup> According to leading officials,<sup>11</sup> the UN was motivated to take sovereignty over Kosovo in order to prevent Milosevic from creating precedents on the ground. Yet, this

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8 Interview with official working in an international organisation, Prishtina, May 2019

9 Vidmar (2009) argues that the content of the resolution had practical implications irreconcilable with the respect of the sovereignty of FRY, while Crawford, in his nominal study on statehood and international law, also suggests that the respect of territorial integrity was only nominal (Crawford 2007, 253). Besides, the effective undermining of sovereignty was also a reason for states such as Russia and China to contest UNMIK actions (Yannis 2001, 35).

10 UNMIK had a structure of four pillars: The Humanitarian Assistance pillar was led by the UN High Commissioner for Refugees, the Civil Administration pillar was led by the UN, the Democratisation and Institution Building pillar was led by OSCE and the EU led the Reconstruction and Economic Development pillar. For more see for example (Yannis 2001) on how division of competence between those organisations.

11 Interview with official working in an international organisation, Prishtina, May 2019

passing of sovereignty from FRY to the UN and the preparations of institutions for Kosovars to inherit allows room to suggest that, at least in practice, international activity had a certain character of *state* rather than simply *institution* building, since one day Kosovars would take over UNMIK institutions and the sovereignty vested in them. The importance of the removal of Serbia's sovereignty for Kosovo's eventual recognition of statehood claims has also been highlighted by officials from international organisations working on the ground.<sup>12</sup> Finally, some comparisons are also helpful here: where we see interim UN administrations with statebuilding elements, these have resulted in either the assisted state remaining the sovereign (e.g. UNTAC in Cambodia or UNMIBH in Bosnia Herzegovina) or the assisted group gaining state independence via a referendum (e.g. UNTAET in Timor-Leste). Never there has been a case where statebuilding has resulted in the territories returning to a different sovereign, such as FRY in the case of Kosovo. Only UNTAES included some statebuilding in territories that they were returned to Croatia but there are some important differences: first, UNTAES explicitly recognised Croatia's sovereignty over the territories where the institution building took place (unlike UNSCR 1244 that recognised FRY sovereignty but not explicitly over Kosovo and definitely not in practice). Secondly, UNTAES did not provide for a right to institutional autonomy for the Serbs and the territories of Eastern Slavonia, Baranja and Western Sirmium (unlike to Kosovo).

## The Ahtisaari Plan and EULEX

Following the 2004 riots, which have been mentioned by many as a catalyst towards intensifying the search for an agreement on Kosovo's final status (Ernst 2011; Pond 2010)<sup>13</sup>, and more specifically advancing the claim of independence, the UN-proposed Ahtisaari Plan (2006) spelled clearly independence as the recommended outcome. The plan resembled earlier proposals (Bolton and Visoka 2010), particularly the proposal by the Independent International Commission on Kosovo (2000), an independent body comprised mostly of jurists and academics, for a 'condition-

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<sup>12</sup> Ibid.

<sup>13</sup> Interview with official working in an international organisation, Kiev, November 2018 and Interview with official working in an international organisation, Prishtina, May 2019

al independence' in the form of a self-governing Kosovo outside the FRY but with the international community having responsibility for security of borders and for minorities' protection. The Ahtisaari Plan also reflected an emerging view in many countries that independence was inevitable: see, for example, statements by Ahtisaari himself (Reuters 2008), the US secretary of State Condoleezza Rice (Reuters 2007) or the Portuguese Foreign Minister Luis Amado that Kosovo's independence had become 'irreversible' (Balkan Insight 2008).

The Ahtisaari Plan was not only clear on recognising a right to statehood, but also linking the actualisation of this right to further statebuilding, this time led by the EU, which was designed to take over from the UN. Indeed, while mediation efforts failed, the EU Rule of Law Mission in Kosovo (EULEX) institution-building activities since 2008 are based on the institutional provisions of the Ahtisaari Plan, which the EU clearly supported (Council of the EU 2007). While, as we will see below the EU operates in a neutral manner, the EULEX remained a statebuilding mission as it was originally designed - informed by the Ahtisaari Plan provisions (see also Greiçevci 2011). EULEX, the EU's largest ever Common Security and Defence Policy (CSDP) mission (European Court of Auditors 2012), aims at assisting implementation of the rule of law in Kosovo through monitoring, mentoring and advising, but also certain executive responsibilities. Subsequent mandates perpetuated the EU's crucial role in governance, often extending the remit of authority, such as executive powers over northern Kosovo.

Serbia's rejection of the plan meant that the EU had to be clear of its neutral stance on statehood so it does not look to to promote a solution that is not accepted by both parties of the conflict- this neutrality had to do a lot with the fact there were still five EU members that did not recognise Kosovo and the EU was not able to have a common position on recognition. For a start, the timing of the decision to introduce EULEX, shortly before Kosovo was expected to declare independence in February 2008, is telling for the effort of the EU to avoid state recognition issues. Moreover, EU documents, such as the Joint Action that introduced EULEX, include a footnote next to Kosovo that reads 'Under UNSC Resolution 1244'. Following the International Court of Justice (ICJ) ruling, this asterisk has become more elaborate: 'this designa-

tion ('Kosovo') is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence'.

But, although the EU is operating in status-neutral manner, this does not undermine the titular recognition afforded to Kosovars. The asterisk does not actually suggest a non-recognition of Kosovo but it highlights a neutrality with reference to the statehood status (rather than non-recognition). As also acknowledged by officials of international organisations<sup>14</sup>, this status-neutral approach is different to earlier recognition stances, which were nominally (e.g. UNSCR 1244), and earlier even more substantially, in favour of FYR's sovereignty over Kosovo (e.g. UNSCR 855). Lastly, the titular recognition becomes even clearer once we start comparing Kosovo to other cases. We see that international organisations have reacted to independence claims by other groups with a policy of non-recognition: they issue statements that explicitly call for the non-recognition of independent statehood and in the dealings they might develop with those entities they emphasise those dealings are not recognition (see also previous section). Neither of those things happen in the case of Kosovo. In this context, the actual work of the EU on the ground is that of building an independent state, despite the persistent lingo of *capacity-* or *institution* rather than *statebuilding*. Indeed, officials of international organisations acknowledge that EULEX was also seen as a transition from UN protectorate to a more independence existence for Kosovo.<sup>15</sup>

## EU enlargement and Kosovo

Finally, links between institution building and titular recognition, and therefore a practical presence of *state-* rather than *institution* building, are also evident in the fact that Kosovo is included in the EU enlargement policy. Soon after the establishment of UNMIK, the EU started considering Kosovo within its broader remit of enlargement policy, the policy via which the EU assists states in meeting a series of criteria that will allow them to eventually become members of the organisation. This

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<sup>14</sup> Interview with official working in an international organisation, Prishtina, May 2019

<sup>15</sup> Ibid.

was a time in which the EU placed a big emphasis on incorporating the Western Balkans and completing the puzzle of a united Europe, following the imminent accession of several post-communist states along with Cyprus and Malta in 2004/7. Early on, Kosovo was included in agreements and processes that the EU typically reserves for states, most notably the Stabilisation and Association Process and the list of candidates for EU enlargement.<sup>16</sup> In 2016, a Stabilisation and Association Agreement (SAA, Council of the EU 2015) was the first contract to be signed between the EU and the government of Kosovo.

As a result of the divisions on the issue of recognition amongst EU member states the agreement was signed by the European Commission, unlike the rest of enlargement cases where member states are the signatories on the side of the EU. What is more, and like with EULEX, efforts were made to disassociate the inclusion of Kosovo into the enlargement policy and a position on statehood- for example, the 2016 SAA agreement included the usual asterisk (see above) but also a more detailed disclaimer:

None of the terms, wording or definitions used in this Agreement, including the Annexes and Protocols thereto, constitute recognition of Kosovo by the EU as an independent State nor does it constitute recognition by individual Member States of Kosovo in that capacity where they have not taken such a step.

All these types of relations, in essence identical with how other states are treated by the EU within the policy of enlargement, make very difficult to not acknowledge that Kosovo too was, for all intents and purposes, dealt with as a state. This is also acknowledged by leading officials of international organisations on the ground,<sup>17</sup> who highlight that instruments like the SAA are dealing with the government and are helping Kosovo become a state. Some comparisons are useful here too. No case other

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<sup>16</sup> A useful comparison here is the Turkish Republic of Northern Cyprus: when Cyprus joined the EU, the Turkish Cypriot community, resident in the north and under the control of the TRNC, became beneficiary of the EU. Initially, the EU Taskforce responsible for managing the aid to the Turkish Cypriots was under the DG Enlargement. After protests from the Greek Cypriots that such set-up is not fitted because it gives the impression that the north is a separate territory on its way to join the EU, the taskforce was moved to the DG Regio.

<sup>17</sup> Interview with diplomat, Prishtina, September 2019

than a sovereign country has been part of the enlargement process. What is more, in other cases where the EU wanted to ensure that independence claims were not recognised, they specifically avoided using the framework of enlargement. The Taskforce for Northern Cyprus (a territory controlled by the Turkish Republic of Northern Cyprus, a self-declared state that is not recognised by no state or international organisation apart from Turkey) initially operated under the Enlargement Directorate General but was soon moved under the then Directorate General for Regional Policy due to the objections of Greek Cypriots - who control the recognised Republic of Cyprus Republic as the de jure sovereign in northern Cyprus - that an enlargement framework is not appropriate for an EU member state - therefore seeking to highlight that northern Cyprus is part of the Republic of Cyprus, rather than a separate state going through the enlargement process (see also Kyris 2018).

Finally, there are also clear links between statebuilding, EU enlargement and titular recognition, the recognition that independence is one of the possible, if not the most likely, scenario for Kosovo. The coupling of statebuilding and a European perspective for Kosovo was clear from the start. Strategically, the passing of institution building responsibilities from the UN to the EU was linked to the objective of strengthening institutional capacity in Kosovo towards preparation for EU integration. This also informed the institutional set up of the EU's involvement in the area, with institutions such as the EU Office/ European Special Representative in Kosovo, which aims to promote Kosovo's approximation to the EU and the realisation of its European perspective, being introduced alongside EULEX. All of these institutions being informed by the Ahtisaari Plan for an independent Kosovo suggest that the role of the EU in strengthening institutions was informed by the wish to allow the possibility of an independent Kosovo integrating more with the EU. Kosovo moved from 'UN's statehood' (Chopra 2007) during the first decade or so after the end of the war to 'EU member statebuilding' (Ker-Lindsay and Economides 2012) more recently.

## CONCLUSION

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This study has sought to explore whether international statebuilding activities in Kosovo, and particularly by the EU, relate to a titular recognition, i.e. a recognition of a right to statehood. The analysis found a strong likelihood that statebuilding in Kosovo is explained by a relatively consistent titular recognition by the EU, albeit the relationship between these two concepts is more complicated than it might look. Titular recognition has taken a few forms. We find more implicit titular recognition in the support of a referendum of independence (e.g. Rambouillet agreement) or the fact that the EU's enlargement framework within which Kosovo is included is reserved for states. The support for independence based on the Ahtisaari Plan as evidenced in the 2007 statement by the European Council is the most explicit titular recognition that the EU has offered. And yet, this is a very important moment for the question of this chapter, because the EU's institution building activities are largely informed by the Ahtisaari Plan, suggesting therefore a link between titular recognition and institution building, which, in turn, suggests that institution building takes the practical form of statebuilding in Kosovo. UNSCR 1244, which in 1999 set off the process of institution building that the EU inherited in 2008, is also indicative of links between titular recognition and statebuilding: this is because of the reference to 'people' of Kosovo, a term often used for groups considered worthy of independence. If we read this alongside the fact that the UN started institution building for Kosovo people to inherit in an area that was no longer *de facto* under the sovereignty of FRY, then, it is very difficult to not see the institutions built potentially being those of a state.

Interestingly, the analysis of the case of Kosovo does not suggest that whoever confers such recognition of a right to statehood (the EU in the case of this study) necessarily supports independence as the only outcome. Kosovo shows that titular recognition exists where the possibility of independent statehood is supported,

even if other ways of resolving the dispute are also contemplated. In the words of Tim Judah (2000, 213), as early as the Rambouillet agreement a process began that “might (or might not) end in independence”. This is why we should consider titular recognition as being constant from the time when the EU supported independence as the final status of Kosovo proposed by the Ahtissaari Plan (2007) to when they moved to a more neutral position once Serbia rejected the plan, but still not oppose independence if eventually agreed (2008 and until today). Indeed, there have been other cases where international organisations have supported independence as one of the possible outcomes for the resolution of a dispute. For example, the UN Committee for Decolonisation proposed solutions for the resolution of the Western Sahara dispute that include elements of both external (independent statehood) and internal self-determination (integration with or autonomy within Morocco). Also, the referendum that gave Timor-Leste its independence was a choice of supporting or rejecting autonomy within Indonesia (and, by implication, rejecting or supporting independence respectively).

Finally, there is also some evidence to suggest that the relationship between titular recognition and statebuilding in Kosovo is less linear and more dialectic. We see that as statebuilding activities progressed over the years, and with the emergence of institutions that Kosovars started to adopt, the international community started supporting independence more clearly, often seeing it as inevitable. The apogee of this process was the Ahtisaari Plan, where Kosovars were finally given by the international community, including the EU, a clear prospect of independence. It is also interesting to note that after the failure of the plan to win the support of Serbia and the move of Kosovo to declare independence nevertheless, the EU’s recognition seems to have retracted a bit, with EU for example standing neutral rather than explicitly supporting independence. As a result, this paper has made a number of contributions towards understanding Kosovo, its recognition and statebuilding.

This study of international organisations contributes to what has been a very state-centric analysis of recognition in Kosovo. This might be a result of the dominance of international law perspectives over the study of recognition, for which they adopt a very state-centric approach that sees international organisations as irrele-

vant. Yet, this paper has showed that, international organisations *are* important for recognition, even if it is beyond their competence strictly speaking. This is important for better appreciating how international organisations have engaged with Kosovo in the past and how they will do in the future and demystifying their often very complex position on Kosovo's statehood.

Analysis also moves beyond binary understandings of recognition in Kosovo and elsewhere. The majority of the literature sees recognition not only as a state competence only, but also in binary terms. This means that the discussion on Kosovo has concentrated on those who do or do not recognise its statehood. Instead, this paper looked at titular recognition, i.e. the recognition of a right to statehood, as a type of recognition sitting somewhere between full recognition and non-recognition. This is very important for understanding better the issues of recognition in Kosovo, which continue to have major implications for politics and society in Kosovo but also regional relations and stability more generally (see, for example, Visoka 2019 for the more recent debate surrounding derecognition).

Last but not least, the paper contributes to understanding better how recognition might relate to statebuilding. While there has been an extensive literature on statebuilding by international organisations, its relation to recognition has not been discussed in depth. This is an issue of ongoing importance. Two decades after the start of statebuilding activities from the UN and later the EU in Kosovo, international organisations are challenged to find an exit strategy, whilst the European influence as well as its appeal in the region seems to be waning, along with the promise of European integration. Understanding better why and how the EU and other parts of the international community assisted institution building is of paramount importance for appreciating Kosovo's statehood and international relations in the past, present and the future.

# LIST OF INTERVIEWS

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Anonymous Interviewee 1, official working in an international organisation, Kiev, November 2018

Anonymous Interviewee 2, official working in an international organisation, Prishtina, May 2019

Anonymous Interviewee 3, official working in an international organisation, Prishtina, May 2019

Anonymous Interviewee 4, official working in an international organisation, Prishtina, May 2019

Anonymous Interviewee 5, official working in an international organisation, Prishtina, May 2019

Anonymous Interviewee 6, diplomat, Prishtina, September 2019

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The analysis found a strong likelihood that statebuilding in Kosovo is explained by a relatively consistent titular recognition by the EU, albeit the relationship between these two concepts is more complicated than it might look.



**DILUTING PRINCIPLES,  
DARKENING EU  
ACCESSION PERSPECTIVE:  
POLITICIZATION OF KOSOVO'S  
VISA LIBERALIZATION  
PROCESS**

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— GENTIOLA MADHI

## — GENTIOLA MADHI

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# ABSTRACT

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This chapter seeks to investigate the politicization of EU enlargement in the light of the decoupling between the Commission's technical positioning and member states' stalling behaviour. The empirical analysis focuses on the case of visa liberalization for Kosovo. The analysis traces the shifting positions and contrasting tendencies of France, the Netherlands and Germany vis-à-vis the Commission's recommendations on Kosovo's case. France tends to delay enlargement on the grounds of pure domestic political calculations. Justified on the basis of the 'strict and fair' approach, the Netherlands' approach is shaped by the citizens' increasing skepticism towards enlargement, Eurosceptic parties' positioning and protection concerns over normative EU values. By contrast, Germany has maintained a consistent commitment towards the Balkans, while demanding tough conditions given the domestic questioning of the transformative power of conditionality in the region.

# INTRODUCTION

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The last years have seen a certain decoupling between EU technocratic and more politically-oriented institutions when it comes to deciding about the pace of enlargement. Frequently, the recommendations of the European Commission to update the state of EU institutional relations with a specific candidate or prospective candidate country have met with resistance from different member states, and are ultimately blocked in the EU Council. The decoupling of the EU decision-making, even when target countries have passed the stage of EU systematic monitoring, shows that the process reflects ad hoc political and national interests, in addition to rule-bound evaluations. However, how and when specific member countries national and political agendas influence the progress of EU enlargement remains unexplored given the explicit focus of enlargement literature on EU conditionality, the process of EU monitoring and the institutions in charge.

This chapter seeks to shed light on the contestation of the process of accession conditionality and the increasing influence of single member states at the expense of technocratic decision-making process in the course of EU enlargement towards the Western Balkans.

The empirical analysis focuses on the case of visa liberalization with Kosovo, as an integral part of the EU accession perspective. Specifically, we trace how politicization plays out and informs EU decisions on visa liberalization with Kosovo by comparing and contrasting the positions of different EU actors: 1) the European Commission, representing the rule-bound bureaucratic decisions of the Union; and 2) three EU member states – Germany, France, and the Netherlands – who often carry their specific political concerns to the EU decision-making level. Specifically, the Commission, in charge of monitoring and evaluating target countries' progress, is seen as an advocate of further enlargement and visa liberalisation with third

countries, although its position varies based on findings of progress reports it issues on an annual basis. On the other side of the spectrum, we consider the shifting positions of key member states and resulting politicization of enlargement. All three countries under analysis have shown different and contrasting tendencies towards approving visa liberalisation to Kosovo even after the Commission's reporting of the fulfilment of the required technical benchmarks. Having in mind the internal 'logic of diversity' of member states' interests (Balfour 2013, 23), visa liberalization with Kosovo constitutes an emblematic example of how member states manoeuvre and pilot the speed of the process, on the basis of their national priorities and concerns.

The empirical investigation relies on primary and secondary sources: the academic literature on politicization of European integration, official documents, reports and official statements issued by EU and the analysed member states on relevant issues, media coverage of related events, and ten semi-structured interviews with experts and officials based in Kosovo and in the three member states during the period September-October 2019. We analyse only the official positioning of the European Commission, and the national governments of the selected countries, as represented by the head of state or government and Minister of Foreign/European Affairs. It is those actors that are relevant in the Council's decision-making process to the extent that they: i. manage relations between the respective country and EU institutions; ii. constitute a channel of representation and a direct link between national and European politics; and, iii. influence the path of an aspirant country via their decision making power in the Council (Ares et. al. 2016).

The chapter is organized in three sections. Section one reviews the literature on politicization of the EU decision-making and why it has become particularly relevant in the course of EU enlargement towards the Western Balkans. Section two explores the case-tailored conditionality attached to visa liberalization process with Kosovo and the Commission's monitoring of the process since 2012. Section three traces the politicization of member states' positions towards visa liberalization process and enlargement in general, with a focus in the period during the 2019 European parliamentary elections.

The analysis shows that, with the exception of Germany, the countries under analysis have adopted an inward approach towards enlargement that reflects domestic concerns and calculations more than EU policy. The French position to delay enlargement displays pure domestic political calculations in a context of citizens' increasing scepticism towards enlargement, centralization of power and volatile political landscape marked by the rise of far right populist parties. The Netherlands' 'strict and fair' approach to enlargement is also shaped by unpopularity of enlargement amongst its citizens, a systematic concern to protect the normative values of the Union and the need to respect the position of the parliament, including Eurosceptic parties. By contrast, Germany has maintained a consistent commitment towards enlargement, while calling for tough conditionality given the increasing doubts about the transformative power of conditionality amidst citizens, political parties and governing authorities. Overall, politicization of enlargement explains the decoupling between technical assessments and respective recommendations of the European Commission and member countries' approval, thus stalling and delaying enlargement process.

## **POLITICISATION OF EU'S DECISION-MAKING**

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Politicisation of the EU decision-making is a widespread phenomenon, which is part and parcel of the EU institutional structure since its very establishment. The institutional set up of the Union permits a degree of politicization to the extent that the various actors involved do engage in continuous political negotiations on a daily basis. Politicization does not exclude even the technocratic arm of the Union, the European Commission, which frequently finds itself divided between the exercise of independent policy-making powers needed in ensuring the supranational interest of the Union, and the continuous political pressure it endures from political actors representing individual states' interests, thus often resulting in a 'politicized bureaucracy' (Christiansen 1997 quoted in De Wilde 2011, 561). The European Parliament, on the other hand, epitomizes a hybrid body divided between standing

for the supranational interest of the citizens, who elect its members, and a shared co-legislating power with the Council. The Council, the most powerful EU decision-making body, is a political institution par excellence to the extent it is constituted by representatives of member countries and functions as a common denominator of their political interests and related decisions.

Yet, this inbuilt politicization of EU structures has become more explicit and dominant during critical moments of integration process, such as the revision of the EU treaties, Brexit or the migration crisis. During those critical junctures of integration, ‘a return to politics’ has accompanied, and at times trumped, the usual EU ruled-based decision-making framework (Van Middelaar 2016; De Wilde et. al. 2016; Hutter and Kriesi 2019). Although politicization may take different shapes, in the broad sense it entails a process “through which European integration has become the subject of public discussion, debate, and contestation” (Schmidt 2019, 1). As De Wilde (2011) suggests, such a process features at least three dimensions: salience of the issue, expansion of actors involved and polarisation. The *salience dimension* refers to the increased visibility of a given issue in terms of the importance it commands among citizens and political actors’ range of priorities (Grande and Hutter 2016, 26). The *expansion of the number of actors* involved entails a wider number of social and political actors mobilizing around the issues at stake. Finally, the *polarization dimension* refers to the existence of diverging and contrasting positioning of those political actors on an issue salient for the public debate. Usually, it is the public sphere, where the political actors interact with each other on the basis of respective priorities and/or strategies, that provides the main playground of such politicization.

Recent developments, like Brexit and particularly the 2015 migration crisis, have exacerbated the processes of politicization in all its three dimensions. On the salience dimension, they have contributed to emphasizing new issues or policy areas that were previously not in the radar of citizens or main political parties’ agendas. Coupled with the emergence of nationalism and populist movements in key member states, those developments have contributed to the expansion and growth of anti-EU sentiments, particularly among Eurosceptic parties (Hutter and Kriesi

2019). The result is the expansion of actors involved, thus furthering politicisation at the domestic level. Those domestic processes have spilled over the European arena, marking a radical shift from the traditional EU technocratic governing approach, characterized by '*policy without politics*' (Schmidt 2019), to politics as the main driver of EU governance.

Hence, much of today's politically charged EU-wide politics gets its source from the populist movements of specific EU member states, which capitalize on issues salient to the citizens, contribute to expanding the array of public actors and exacerbate polarization amidst engaged actors in order to plea to the domestic audiences. Such processes have created more space for citizens to become relevant in the field of integration and allowed the EU to gain visibility in the eyes of its citizens (Rauh 2019). Moreover, the rapid escalation of polarized debates since at least 2010 has directly impacted the pace and direction of European integration process (Hutter and Kriesi 2019).

## **Politicization of the enlargement process**

EU enlargement policy has not escaped the politicization of both the EU public sphere and its governing structures to the extent it has become a subject of increasing contestation at the domestic level of some key member states (Hobolt and De Vries 2016). While the 2004 enlargement wave in the post-communist Europe was widely perceived by the public as a historical opportunity of unifying the divided continent, the ongoing enlargement in the Western Balkans is generally perceived as premature and at times a burden for the Union already struggling to absorb the post-communist newcomers. Differently from the past waves of enlargement, the Western Balkans have also emerged as a salient 'problem' across various EU member states' domestic audiences. This is compounded by citizens' general negative attitudes towards what they perceive as scarce public debates and a lack of transparency in decision-making process of enlargement (Dimitrova and Kortenska 2017, 274). Scepticism towards enlargement is also linked to the so-called 'enlargement fatigue' and a general perception that the EU has expanded too rapidly. In the case of the Balkans, moreover, enlargement 'fatigue' often takes the shape of specific issues that worry EU citizens and decision-makers such as the state of the

Union, challenging migration flows, but also issues pertinent to candidate countries such as poor state of development, rule of law and ethnic bickering. Still, there is a division among Central and Eastern European countries, which joined the Union in 2004 and 2007 and some of the founding EU members regarding attitudes towards enlargement: the former group sharing a neutral or positive approach towards the potential expansion of EU in the Balkans (Ministry of Foreign Affairs of Poland 2019) and the latter group, including France and Germany, where enlargement can be a quite divisive issue (Grande and Hutter 2016).

Scepticism of EU citizens and decision-makers regarding Balkan enlargement have already impacted the enlargement strategy, including the range of conditions that aspirant countries are required to comply with in order to step up in the ladder of institutional relations with the Union. At the technocratic level, the enlargement criteria has now become “clearer in what is required, better focused on priority areas, more consistent and systematic in monitoring progress, deeper embedded in structures of dialogue and more credible in associating progress with rewards at stake” (Elbasani 2019, 188). At the political level too, the effects of politicization have loaded, and to some extent slowed down the decision-making process within the Council structures, where enlargement-related decisions are ultimately taken (Manu 2019). Accordingly, member states represented in the Council remain the real pilots of the pace of enlargement especially in the context of increased politicization and preference for unanimity.

The politicisation of the national arenas has turned them into a ‘mine field’ to take into account when gathering in the Council meetings. National governments randomly feel under pressure “to defy the EU consensus in order to score points at home” (Schmidt 2019, 23). As Mair (2013) argues, the governments feel divided between delivering to the national constituencies on electoral promises and acting according to the responsibilities deriving from EU membership and related policies. Enlargement-related issues may fall easily into member states’ commitment to EU policies, but not so easily into member states’ commitment to their audiences.

# RULES VS. POLITICS IN THE PROCESS OF VISA LIBERALIZATION WITH KOSOVO

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Visa liberalisation is an instrument of EU external relations that is extended to third countries, regardless of the presence or not of a European perspective. Initially conceptualised as an ad hoc toolbox targeting the Eastern candidate countries, it has now expanded into a 'hybrid' policy framework matching together the security dimension (such as readmission agreements and protection of EU borders from potential external threats) with normative value-based concerns (such as promotion of fundamental rights, democracy and rule of law) (Delcour and Fernandes 2016; Manners 2002). Given the clear and well-established conditions attached to visa liberalisation, the Union commands a powerful leverage to incentivise justice and home affairs reforms in the target countries (Trauner and Manigrassi 2014). Specific conditionality proved to be a useful tool for setting clear benchmarks for reform (Mutluer 2018, 161).

In Kosovo, which does not have yet a clear membership prospect because of its disputed statehood, the visa liberalisation constitutes the most powerful and tangible EU reward to entice domestic reforms. The Visa Liberalisation Dialogue with Kosovo was launched in 2012. The Commission followed up by preparing a roadmap, which set the milestones required to proceed with visa liberalisation. The EU requirements on what a country needs to do in order to get to the finish line build around four major blocks of conditionality: document security, border and migration management, public order and security, and fundamental rights related to the freedom of movement. Particular attention was paid to the requirement that Kosovo concluded readmission agreements, seen as a key policy instrument to curb irregular migration (Trauner and Kruse 2008). Yet, given that five member states do not recognize Kosovo as a state, the country could not conclude a general agreement with the EU. Instead, Kosovo faced the surmounting task of negotiating

separate bilateral agreements with various member states – a total of 24 readmission agreements, out of which 20 are with EU member states or members of the Schengen area (European Commission 2019).

The European Commission, as the technocratic institution in charge of following up authorities' compliance with EU criteria, has regularly monitored the implementation of the roadmap indicators via annual progress reports published in the period 2012-2016. In its final 2016 report, which summarised satisfactory progress on all four blocks of criteria, the Commission recommended that the Council lifts Kosovo's visa regime pending on two additional criteria: 1) ratification of the border demarcation agreement with Montenegro; and 2) intensification of the fight against organized crime and corruption (Manu 2019). Both criteria were perceived as extra demands, leading to the contestation of the process in Kosovo.

Yet, within the framework of the 'new approach' to the Balkan enlargement, the EU is entitled to add additional country-specific requirements as they arise, particularly on those issues that have emerged as key priorities such as the solution of bilateral border disputes and rule of law concerns (Elbasani 2019). As Trauner and Manigrassi (2014) note on the case of visa liberalization too, the EU has 'enriched' the visa liberalisation action plan by introducing a system of 'two tiers of benchmarks', namely benchmarks on planning and alignment, and benchmarks on related implementation. The move reflects the Commission's response to its critics suggesting that it employs a one-dimensional approach, which insisted only on planning and privileging primarily the security aspects developed in the first three blocks of the roadmap requirements (Trauner and Manigrassi 2014, 135). As the last country in the region to be subjected to visa liberalization process, Kosovo became the first country subject of lessons learned, which entails adoption of a more nuanced set of benchmarks and strengthened monitoring of all four blocks of related conditionality. It has had to go through a specific case-tailored process, where the required criteria doubled in number due to higher precision and detailness, in comparison to the other countries of the region (Nechev with Nikolovski 2019, 314). Nevertheless, in terms of content, Kosovo has to satisfy the implementation of the same set of reforms as the other countries (Nechev with Nikolovski 2019, 314).

Even when Kosovo authorities seemingly complied with the increasing number of benchmarks assessed by an increasingly vigilant Commission the approval of the visa liberalisation with the country remained blocked in the EU Council (Manu 2019). In July 2018, two years after its first recommendation, the Commission published its fifth report, an updated account on the Kosovo's implementation of the remaining benchmarks, particularly the two additional requirements outlined in 2016.<sup>1</sup> Based on its assessment, the Commission recommended once more that the Council proceed to amending Regulation (EC) No. 539/2001 and lift the visa regime with Kosovo (European Commission 2018b). The Commissioner for Migration, Home Affairs and Citizenship, Dimitris Avramopoulos, also addressed specifically one of the key pending issues of the last report -Kosovo had shown full commitment in fighting organised crime and corruption and has strengthened the requested track record for investigations, prosecutions and convictions (European Commission 2018a). Few months later, in March 2019, the European Parliament backed the Commission's recommendation by approving the proposal. Procedurally, the decision is now pending on a final decision from the Council. However, in June 2019 the Council announced that Commission's recommendation may not be sufficient by suggesting that "[c]orruption and organised crime need to be resolutely addressed" (Council of the European Union 2019). The Council has thus questioned the responsibility of the Commission to assess the process, but also the lifting of the visa regime with Kosovo in the near future.

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<sup>1</sup> In particular, Delcour & Fernandes (2016) argue that some EU member states had been rather reluctant to expand the visa free regime to other third countries, following the experience in the Western Balkans.

# MEMBER STATES' DOMESTIC POLITICS SPILLING OVER TO EU POLICY

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Granting visa free movement in the Schengen area “has always been a politically contested decision”, despite the level of preparation of the applicant third country (Trauner 2017, 2). In the case of Kosovo, the issue is even more complex considering its disputed statehood and non-recognition by five EU member states. Even if visa liberalisation falls within the qualified majority voting in the Council –i.e. a positive vote of more than 55% of EU member states representing at least 65% of the total population– the weight of key member countries becomes crucial. Excluding the chance of having a positive vote from the five non-recognizers, a negative vote from France and the Netherlands prevents the necessary qualified majority to be reached in the Council. Besides voting calculations, the position of key member states has an important weight given that the Council tends to prefer consensus among its members. In this context, politicization of member states’ positions may foster internal disagreements, redirect Council’s decision-making process towards specific agendas and override Commission’s rule-based recommendations.

## France: A politically charged approach

France has consistently adopted a certain degree of ambiguity over further expansion of the EU in a context where enlargement policy is rather unpopular amongst the domestic public opinion. Typically, enlargement has been perceived as “something very technocratic [with the EU] deciding on its own without consulting the citizens”.<sup>2</sup> This ‘closed’ technocratic process, moreover, “has fuelled fear and frustration ever since, not to mention the perceived failure of the 2007 integration of Romania and Bulgaria”

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<sup>2</sup> Interview with Sebastien Gricourt, Director of Observatoire des Balkans, Fondation Jean Jaures, Online interview, 16 October 2019.

(Tregoures 2019). Public scepticism has informed President Macron's now public resistance towards advancing EU enlargement. France's refusal to opening of the accession negotiations with Albania and North Macedonia in mid-October 2019 was probably the most significant moment showing country's resistance to enlargement in function of specific domestic debates and electoral agendas. In line with its hesitant position towards enlargement, France has also been reluctant to granting Kosovo visa liberalisation.

The key reasons for this 'radical' orientation towards enlargement combines with public scepticism and country's volatile domestic political landscape in the last two years since President Macron came to power (Downes 2019). At the beginning of his term, Macron appeared an enthusiastic supporter of enlargement when suggesting that "the EU will have to open itself up to the Balkan countries, because our EU is still attractive and its aura is a key factor of peace and stability on our continent" (France Elysee 2017). He seemingly shifted gears soon after. During the Sofia Summit of May 2018, he positioned himself against further enlargement, by linking it to the problems facing the EU: "[t]hese last 15 years have shown a way that weakens Europe by thinking of enlarging it" (Peel 2018). Macron's discourse progressively shifted to the point that he considered 'absurd' for EU to spend energy in debating Brexit while simultaneously starting accession negotiations with any Western Balkans country (France Diplomatie 2018). His positioning against enlargement, however, is seen as part of a wider French vision to initially promote a deep reform of the EU before the Union is ready to accepting new member states. Still, the revival of the old debate of deepening versus widening is also in function of country's efforts to take control of enlargement process, in the context of increasing domestic politicization of the issue.<sup>3</sup>

The hierarchical decision-making power in France has further contributed in this direction. As the interviewed expert noted, with President Macron there has also been a shift in further verticalisation of the decision-making process on key policy areas, where the last word is not said by the competent minister anymore but by the President.<sup>4</sup> The centralization process narrows down French government's response to

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3 Interview with Sebastien Gricourt, Director of Observatoire des Balkans, Fondation Jean Jaures, Online interview, 16 October 2019.

4 Interview with Sebastien Gricourt, Director of Observatoire des Balkans, Fondation Jean Jaures, Online interview, 16 October 2019.

the increasing salience of the issue among the public around electoral calculations. Macron's mandate coincided with the evolution of a major migration crisis, which called for political solutions, including curbing irregular migration and repatriation. In the context of the challenge of migration, opening up a public debate on an EU enlargement towards the Balkans would certainly constitute a risky card in favour of the far right, which stood for radical solutions to curbing migration. Le Pen's led National Rally Party, by playing the card of Euroscepticism, Brexit and refugee flows, experienced a sharp electoral increase during the 2017 elections (Downes 2018). She seemingly topped the votes by merging the discourse against migration with the EU failure to reform itself (Downes 2019). Subsequent 'gilet jaunes' protests starting in November 2018 tensed the domestic political climate. The resulting widespread discontent, expansion of involved actors and polarization of the debate informed Macron's declining popularity ratings, which reached the lowest point in December 2018 (Focraud 2019). In view also of the 2020 local elections, and to be able to pursue his own reform agenda, Macron needed to ensure wider support for elected mayors.<sup>5</sup>

During the imminent European elections of May 2019, which constituted a mid-term test for Macron, he framed his arguments within the "struggle of 'progressives against nationalists'" (Tregoures 2019), while opening up a 'grand debate' with the domestic audiences leaning increasingly towards rightist alternatives. He further undertook an innovative EU-wide campaign addressing all Union's citizens 'for the future of the continent' in an attempt to achieve a European public sphere beyond national borders. His list of European Parliament candidates positioned themselves against Serbia joining the EU in 2025, in a message meant for the entire Balkan region. The Former Minister of European Affairs heading Macron's EP candidates list, Nathalie Loiseau, also stated openly that it was her blocking the opening of the accession negotiations with two Balkan countries in June 2018 (Barigazzi 2019). Besides Macron's attempts, the results of the European elections ended with a slim margin in favour of Le Pen, whose party got 22 seats at the EP vis-à-vis 21 of Macron's.

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<sup>5</sup> Interview with Isabelle Ioannides, Europe's Futures Fellow, Institute for Human Sciences (IWM) Vienna, Online interview, 17 October 2019.

The European elections results shaped an even more cautious attitude towards enlargement. While Macron's veto against Albania and North Macedonia may still constitute "a lowest common denominator approach to enlargement", in view of France taking a leadership role in the post-Brexit phase (Bassuener and Vogel 2019), the position on Kosovo's visa liberalisation appears like a political collateral damage. The French Ambassador in Kosovo, Didier Chabert, has made clear the French official position that Kosovo still needs to work on the fight against corruption and organized crime (Veriu Info 2018). The French Minister for European and Foreign Affairs, Jean-Yves Le Drian, has insisted on the same position. Although recognizing the Commission's recommendation on Kosovo's fulfilment of the required conditions, the minister noted that "France, together with some other member states, believes that in this phase not all of the conditions are fulfilled. In the rule of law area, some recent progress has been made, but not enough to stop the corruption" (Senat 2019).

French authorities have been largely illusive on what exactly they expect from Kosovo, but experts working on the issue underlined that in July 2019 the Kosovar and French Ministries of Interior have agreed to establish a joint technical committee to work on the matter.<sup>6</sup> The details of this committee's work are not public to date. On the Kosovo's side, the establishment of this joint committee is considered 'an episode' as it allows for the reopening of the visa liberalisation roadmap after the Commission's recommendation that the country has fulfilled them, besides creating a dangerous precedent on which other member states can follow.<sup>7</sup> The process risks turning detailed benchmarks on new issues –such as on the fight against corruption– in a sort of general 'gatekeeping mechanism' to check the readiness of the country to approach the EU but also stall the process (Delcour and Fernandes 2016).

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6 The issue was raised during a personal conversation with a person who works on the issue, 10 October 2019. All interviews were conducted in confidentiality, and the names of interviewees are withheld by mutual agreement.

7 Interview with anonymous government official from Kosovo, Prishtina, 19 September 2019.

Source: Eurostat, Asylum and first time asylum applicants by citizenship, age and sex Annual aggregated data (rounded) [migr\_asyappctza], 2019.

Source: Eurostat, Asylum and first time asylum applicants by citizenship, age and sex Annual aggregated data (rounded) [migr\_asyappctza], 2019.

Besides rule of law issues, French authorities have repeatedly raised the problem of asylum-seekers to recast and in a way take control of EU enlargement and visa liberalization policy. According to French authorities, visa liberalization would enable Kosovo citizens to benefit from the asylum system as Albanians and Georgians.

Country/Time	2015	2016	2017	2018	Variation in % (2018 vs. 2015)
Kosovo	4,285	2,965	3,340	2,670	-37.69%
Albania	3,650	7,445	12,130	9,665	164.79%
Serbia	460	655	1,730	2,640	473.91%
North Macedonia	340	430	1,115	1,670	391.18%
Georgia	1,325	1,165	2,100	7,000	428.30%

**Table 1:** Asylum seekers' requests in France divided by country, 2015-2018<sup>8</sup>

Against this expectation, Eurostat data illustrated in table 1 show that the number of Kosovo citizens requesting asylum in France has diminished by almost 37.7% in 2018 with respect to 2015. For the same period, citizens of Albania have experienced an increase of nearly 165% while Serbs 474%. At the EU28 level, Kosovo has followed a continuously decreasing trend, marked by the highest level of decrease of asylum requests with -93.6% in 2018 with respect to 2015 (as shown in table 2). Albania too shows a decreasing trend of around -67%, while Georgia a sharp increase of +148.5%.

<sup>8</sup> Interview with Wouter Zweers, Research Fellow, Clingendael-Netherlands Institute of International Relations, Online interview, 27 September 2019.

Country/Time	2015	2016	2017	2018	Variation in % (2018 vs. 2015)
Kosovo	72,480	11,680	7,410	4,620	-93.63%
Albania	67,950	32,465	25,745	22,455	-66.95%
Serbia	30,065	13,185	8,065	6,255	-79.20%
North Macedonia	15,855	8,465	6,735	4,695	-70.39%
Georgia	7,765	8,320	11,135	19,295	148.49%

**Table 2:** Asylum-seekers requests in EU28 divided by country, 2015–2018

From the data it can be deduced that the asylum requests follow country-specific patterns and it is not possible to presume a priori that Kosovo will follow the same trends. At the present state of research, there is no conclusive evidence to show that the increasing number of asylum-seekers is attributed to visa liberalisation (Elbasani and Sabic, n.d.). Hence, the French position on visa liberalisation with Kosovo is more of a political decision driven from domestic concerns and calculations rather than policy output. Still, French authorities have sought to revise that policy too. During a gathering in Toulouse, Macron referred to the visa-free issue with Albania as a 'bizarre' move: "We [EU] give visa liberalization, the right to move freely between our countries, before we even open the negotiations" (Momtaz and Gray 2019). He failed to acknowledge that per EU policy, visa liberalisation is granted also to third countries that cannot have a membership perspective at all, like Georgia, Ukraine or the USA.

## The Netherlands: Red lines before red carpets

The Netherlands is another sceptic country vis-à-vis EU enlargement towards the Western Balkans. Here, the enlargement policy is considered not simply as an EU foreign policy instrument, but first and foremost about domestic policies given that

the acceding country becomes part of a collective community of values (Blockmans 2015, 213). Moreover, the Dutch have been generally assertive in promoting their national interest within the EU (Dekker et. al. 2019), and historically the country is distinguished for having delayed the enlargement processes (Rrustemi and Jovetic 2019). Differently from France, however, the country's approach to enlargement reflects a systematic normative push to protect common European values. By prioritising a 'strict and fair' conditionality, the Netherlands seeks to press that each negotiating country will strictly meet the rules and conditions required before becoming a member of the club. The approach reflects "a kind of self-centeredness", as Union's and country's interest should be prioritized over that of the acceding country.<sup>8</sup>

Similarly to France, the Western Balkans region is not a primary area of interest for the Dutch government or politics. Currently, the Dutch authorities are concerned with Brexit and shifting balance of powers at the EU level as well as on the rule of law problems in some member states like Hungary and Poland (Herszenhorn and Schaart 2019). Enlargement and related challenges tend to pop up in the political agenda when referring to salient themes for the public and the wider political spectrum such as migration, Muslims, and security. Given its association with unpopular topics, it is not surprising that the Netherlands leads the EU member states with 60% of the respondents opposing possible expansion in the near future (European Commission 2019b).

The Dutch scepticism extends towards the EU as a whole and involves various political actors. The entire political spectrum is concerned that further expansion of EU powers risks making it uncontrollable (Blockmans 2017). The failure of the 2005 Dutch referendum on the EU Constitution, and the 2016 referendum on EU-Ukraine Association Agreement were reminders of country's sceptic approach towards the EU. The national elections of 2017, moreover, saw the rise of the Eurosceptic populist parties, which received at least 48 out of 150 parliamentary seats. The empowered radicals have adopted a hard-line on both enlargement and EU powers, thus exerting pressure on the government to position itself.

The polarised atmosphere in the Dutch Parliament informs a generally negative mood towards rapprochement with the Western Balkan countries. An analysis of the political parties' programmes during the 2017 elections shows that only two parties (DENK and D66) support the enlargement policy, while all the other parties are reluctant or against it (Hargaitai 2017). The 2019 local elections, further confirmed the rise of another right wing populist party, the Forum for Democracy (FvD), created in 2019 during a campaign against the EU-Ukraine association referendum. The European elections of May 2019 did not bring in a majority for the Eurosceptic parties as feared, but they do remain an important section of the political spectrum and appeal to a considerable portion of the Dutch electorate, who prefers an inward-looking national approach to pressing issues.

The large number of actors involved in the debate regarding enlargement is exacerbated by the proportional representation system that does not allow any political parties to get the absolute majority in the Parliament (Papalamprou, Fengwei and Steenland 2019). The coalition government, in power since 2017, is composed of four parties and the Prime Minister Mark Rutte cannot overrule the ministers of his cabinet. Three out of four coalition parties are rather reluctant on the prospects of Western Balkans' enlargement, although they follow a generally constructive behaviour.<sup>9</sup> This plethora of actors gain influence in the context where the Dutch politics tend to prefer a consensus-oriented decision-making process (Schout 2018). Because of the general approach to consensus, the governments tends to comply with Parliament's position, which has taken "an increasingly strict stance on enlargement based on the principle of 'strict and fair'" while raising the bar for the next rounds of accession (Blockmans 2015). It is in this spirit that a recent parliamentary motion by the Christian Democrat Party (CDA) against the opening of the accession negotiations with Albania, despite going contrary to Commission's recommendation was followed up by the government authorities in the Council's meeting of October 2019. At times, the government has even opted for personal assessments of the progress made by the Western Balkan countries. This is the case of the "liberal party [VVD] visiting Al-

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<sup>9</sup> Interview with Wouter Zweepers, Research Fellow, Clingendael-Netherlands Institute of International Relations, Online interview, 27 September 2019.

bania to make assessments themselves”,<sup>10</sup> so as to compare and contrast their findings with that of the Commission.

Checking up the evaluations of the Commission seem to have become an informal procedure when the government meets contestation in the parliament. In October 2018, a high level official from the Dutch Ministry of Foreign Affairs travelled to Prishtina to discuss the progress made with regards to the visa liberalisation process. Upon the request of Kosovo’s media, an official statement of the Dutch Ministry of Foreign Affairs underlined that the Dutch government is currently scrutinizing the Commission’s report on visa liberalisation and it has asked the Commission to further clarify some points contained therein (Kqiku and Ibrahimimi 2019), without providing any additional details. The latest Dutch government communication released to the Parliament, however, made it clear that the Dutch authorities are not happy with country’s record against corruption, while stressing that despite some progress corruption remains a serious problem.<sup>11</sup> The wording of the Dutch position corresponds to the French official position, but nowhere is it explained how to monitor progress and when and how the fight against corruption would be considered as satisfactory for a country to move on the next stage of the process. What is clear is that during the “next five years the ‘strict and fair’ policy will be maintained with regard to [Balkan] countries” (Government of the Netherlands 2019, 16). The Dutch authorities have also suggested a possible revision of the general EU policy to include more coercive tools: “efforts must be made at EU level to impose visa restrictions when progress is lacking, especially when countries fail to cooperate on return” of illegal migrants (Government of the Netherlands 2019).

## Germany: A consistent but cautious support

Unlike France and Netherlands, Germany is one of the founding member states showing consistent commitment to Balkan enlargement. As German Chancellor

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10 Interview with Wouter Zweers, Research Fellow, Clingendael–Netherlands Institute of International Relations, Online interview, 27 September 2019.

11 Interview with Wouter Zweers, Research Fellow, Clingendael–Netherlands Institute of International Relations, Online interview, 27 September 2019.

Merkel recently reiterated “[i]f you look at things geo-strategically and also look at the map then there will only be a truly united Europe with the states of the Western Balkans” (Mischke 2019). Nevertheless, Germany also insists on a rigorous conditionality as an instrument of encouraging sustainable reforms and avoiding “potential attempts of any aspiring country from cutting corners” (Toegelhofer and Adebahr 2017, 4). Tough conditionality seemingly reflects a common denominator between different parties’ positions and general scepticism about enlargement (Toegelhofer and Adebahr 2017).

The German public opinion, similarly to other EU member countries, has been affected by the rise of anti-establishment parties and general scepticism towards the EU. Growing domestic scepticism is mostly oriented towards the EU rather than enlargement policy, but the latter remains a hard-to-sell issue given migration-related pressures that the country is facing.<sup>12</sup> Over the past year, the Balkans have been part of the public debate mostly with regards to the issue of land swap between Kosovo and Serbia and the opening of the accession negotiations with Albania and North Macedonia.<sup>13</sup> Albania in particular has been randomly mirrored by the media, especially Bild tabloid, as a ‘land of organized crime’ raising the issue as to what extent the Balkan countries are mature enough to adopt the EU acquis and EU norms more generally.<sup>14</sup> Corruption scandals in Romania and Bulgaria, or the rule of law issues faced by Poland and Hungary, have added to perplexities over the preparedness of the former communist countries, and reflexively the Western Balkans. There is less and less trust in the criteria and sustainability of the post-accession transformation process across these countries.

Besides the occasional public salience of the problem of rule of law and other transformation issues in the Balkans, the German government and wider political spectrum in general does not question the enlargement perspective (Burazer 2019). As a German expert put it, “in France we have seen a number of politicians questioning

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12 Interview with anonymous expert no. 2 from Germany, Online interview, 7 October 2019.

13 Interview with anonymous expert no. 2 from Germany, Online interview, 7 October 2019.

14 Interview with anonymous expert no. 2 from Germany, Online interview, 7 October 2019.

enlargement per se during their campaigns for the European parliament elections. This is not really the case in Germany, where enlargement is considered strategically important and in our own interest".<sup>15</sup> The rising Eurosceptic parties, particularly AfD (Alternative für Deutschland) have demanded a national referendum prior to any future enlargement of the Union (Schulz 2019), which constitutes a rather moderate positioning with respect to similar populist parties in France or the Netherlands. Among the parliamentary groups, only the liberal democrats, Free Democratic Party (FDP), initially a supporter of enlargement, has now aligned with Macron's rhetoric on the need to reform the EU first. The Social Democratic Party (SPD) and Alliance 90/The Greens continue to favour enlargement policy and have voted for the opening of the accession negotiations with Albania and North Macedonia; CDU/CSU also supports the admission of new member states, but on the basis of strict conditionality, especially with regards to rule of law. CDU/CSU has suggested a compromise to open accession negotiations with Albania – a row of specific conditions to be fulfilled prior to the next intergovernmental conference deciding on opening accession negotiations with the country. Bundestag, in general pays specific attention to the conditions surrounding accession negotiations, as once opened it has not a say anymore.

The government authorities tend to consult the Bundestag on the issue of enlargement, but maintain more leeway when it comes to visa liberalisation with third countries. In the case of Kosovo's visa liberalisation, the German government has been hesitant to take an official position, despite the positive recommendation of the Commission (Schengen Visa Info 2018). Germany's 'lack of appetite' to discuss the visa issue has been primarily related to the stalling of dialogue between Prishtina and Belgrade.<sup>16</sup> From the very start Germany took the lead in adding the 'normalisation of relations with Kosovo' to the range of conditions required for the advancement of Serbia's accession negotiations as much as progress of Kosovo's relations with the EU, including visa liberalization (Toeglhofer and Adebahr 2017, 7). The hesitation was compound by concerns related to the state of security and organized

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<sup>15</sup> Interview with anonymous expert no. 2 from Germany, Online interview, 7 October 2019.

<sup>16</sup> Interview with Demush Shasha, Executive Director, Epik Institute, Online interview, 24 September 2019.

crime as well as the sharp rise of applications for works visas to Germany's from the Balkans (Wiedmann-Schmidt 2018). Formally, however, the Federal Government relied on the postulation that the visa liberalisation would take place after Kosovo would have satisfied all the standard visa-related conditions (Von Bubrowski 2019). Eminent politicians like the Minister of State for Europe, Michael Roth and the Minister of Foreign Affairs, Heiko Maas, have repeated on a personal capacity that "the promises made must be kept" (Top Channel 2019). At the the end of April 2019, the German government confirmed its positive response to the visa liberalisation with Kosovo (Schneider 2019), without any further preconditions (Von Bubrowski 2019). The first meeting of the joint working group composed of representatives of Kosovo Government and German Ministry of Internal Affairs, which is expected to address technical modalities and harmonising standards related to visa liberalisation took place in June (Gazeta Express 2019). The content of the working group mandate are considered as classified information, but they are confined to technical issues.

Despite the German support, the Council is not expected to set the visa liberalisation in the agenda, in the near future. Minister Roth confirmed that there is no "chance [...] in the Council to reach unanimous agreement" on this (Shuka 2019). In the face of Brexit and the new institutional cycle, it is difficult even for the German Chancellor to find the political space and will towards achieving a wide consensus regarding the visa issue.<sup>17</sup> Given the present institutional dynamics and political fragmentation at the EU level, the decision would need to be considered at the highest political level amid concerned countries including France and the Netherlands. But present disagreements in the Paris-Berlin axis make it unlikely for Germany to invest in bargaining with other member countries on Kosovo's visa issue.

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<sup>17</sup> Interview with Demush Shasha, Executive Director, Epik Institute, Online interview, 24 September 2019.

# CONCLUSIONS

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In this chapter we analysed the decoupling between the EU technocratic and political institutions regarding the enlargement policy. The analysis focused on juxtaposing the technical position of the Commission vis-à-vis three member states' politicized behaviour towards the Western Balkans and particularly Kosovo's visa liberalisation process. This decoupling of EU decision making showed that the process reflects ad hoc political and national interests in addition to rule-bound evaluations. In the case of Kosovo, the Council has questioned the responsibility of the Commission to assess the process, but also the lifting of the visa regime in the near future. The same is valid also for the considered member states -France, the Netherlands and Germany- although they follow a different lines of thought.

Firstly, we showed how France has politicized enlargement in the function of specific domestic debates and electoral calculations. The reasons are linked to the current volatile domestic political landscape, electoral calculations and growing influence of the far right, which have contributed to a greater polarization of the debate. Although France does not question enlargement per se, it has concerns over the current format of the process. According to the French viewpoint, Kosovo's visa liberalisation issue appears a 'political collateral damage' as the present domestic politics has the primacy over the given strategic foreign policy objective. The national authorities have followed an illusive approach towards what exactly they expect from Kosovo, on the basis of the assumptions that it might constitute a potential risk for asylum or the furthering of fight against corruption and organized crime, beyond Commission's assessments.

Secondly, we found that the Dutch authorities have also politicized the enlargement process, given the pressure of the new EU balance of power in the aftermath of Brexit as well as the rise of Eurosceptic populist parties at the domestic level. The 'strict and

fair' approach of the Netherlands reflects the unpopularity of enlargement process at the domestic level, the prioritization of the need to protect common European values as well as the alignment with the general positioning of the national Parliament on the issue. This approach, even in defiance of EU policy, has seemingly shaped the country's double scrutiny of Kosovo's visa liberalization process.

Thirdly, Germany has followed a more coherent and consistent approach towards further enlargement in the Balkans. Differently from France and the Netherlands, enlargement towards the Western Balkans is not questioned by the political spectrum to the same extent. However, the German government has called for a tougher conditionality in the light of the slow transformative power of the EU conditionality in the region.

All the three countries share a common pattern with regards to the questioning of EU by the domestic audiences, which in turn reflects the general perception on a prospective expansion towards the Balkans. Moreover, the rise of populist and Euro-sceptic parties have played a certain role in the Union's enlargement debate.

Overall, the politicization of the EU enlargement policy shows that the recent decoupling of the EU technical versus the politically-oriented institutions has created a fertile ground for the stalling and delaying of the enlargement process by the member states. The distrustful approach towards the Commission's assessments risks to legitimize other countries' derailment of the enlargement on the basis of domestic politics issues. Concerning Kosovo's visa liberalisation, despite the German support, the issue remains highly sensitive in France and the Netherlands. In front of the pressing political issues at EU level and disagreements between France and Germany on the Union's reform agenda, the decision to grant Kosovo visa liberalization needs to be considered at the highest political level, and it is hardly probable in the near future.

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The analysis focused on juxtaposing the technical position of the Commission vis-à-vis three member states' politicized behaviour towards the Western Balkans and particularly Kosovo's visa liberalisation process.



# THE ROLE OF CIVIL SOCIETY ORGANIZATIONS IN THE PROCESS OF KOSOVO'S INTEGRATION INTO THE EUROPEAN UNION

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# ABSTRACT

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Civic participation in public decision-making is one of the basic pillars of democracy. The traditional approach to building a post-conflict society where a strong dialogue of authorities with civil society organizations is crucial is neglected in Kosovo and therefore more has to be done in order to foster the partnership between government and CSOs in all democratization processes including EU accession that Kosovo strives for. In 2015 a Stabilization and Association Agreement between the European Union and Kosovo was signed and it is in the country's national interest to focus on getting closer to the EU. This chapter aims to demystify current legal procedures and practices related to the EU enlargement process and CSOs' participation in order to reinforce interaction between key actors in the legislative and policy framework and public debates and relevant consultations on the Kosovo's path to the EU. The paper uses the theoretical framework of triangular model of building democratic societies in transitional countries based on developing and strengthening cooperation between government and market (European Union as a political and economic union) on the one hand, and civil society, as a recognized third sphere/sector of society on the other. In-depth semi structured interviews have been conducted with several CSOs from Kosovo as well as with the EU office in Kosovo.

# INTRODUCTION

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As stated by the 'European Commission Strategy for Western Balkans' published in February 2018, Kosovo, together with the other five Western Balkan countries have a clear European perspective and could become part of the EU family after 2025. Having in mind the turbulent past of the region and constant political challenges, European integration is a key strategy for achieving peace and development in the Balkans as well as civic participation which is one of the basic pillars of democracy (Wanis and Kew 2008).<sup>1</sup> The presence of a stable civic engagement in the process of Kosovo's EU integration is rather feeble, even though it is a requirement for a strong political culture that actively and dynamically encourages changes in the political climate. Even though it is in Kosovo's national interest to focus on getting Kosovo closer to the EU (National Strategy for European Integration Kosovo 2020), the process itself is not inclusive and participatory enough, and therefore, more has to be done in order to foster the partnership between government and CSOs; the aim would be to promote civic participation that sets forth and encourages public decision-making. European Commission is typically extending the regular Stabilization Association Process dialogue to civil society, and the civic responsibility and meaningful involvement in the process was mentioned through several key documents, such as the 'EU Enlargement Agenda for Western Balkans Civil society 2014-2020' (Guidelines for EU support to civil society in enlargement countries 2014-2020), the 'EC 2018 Progress Report for Kosovo' as well as in the 'Strategy for cooperation with civil society organization 2019-2023' adopted in February 2019 by the Government of Kosovo.

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1 The Lisbon Treaty states that the EU has been established as a representative democracy based on direct and indirect public participation and builds a democratic model that includes horizontal and vertical civic dialogue, European Commission consultations with stakeholders, and European Citizens' Initiative (Article 11 of EUE).

Support of civil society within the enlargement policy should be focused on enabling and stimulating participatory and deliberative democracy. In this regard, this chapter aims to look into existing models of communication and consultation with civil society organizations in order to analyze the effectiveness of tripartite the model, involving CSOs, relevant state institutions (the National Council for European Integration) and the European Union Special Representative in Kosovo. A functional tripartite model is considered as one of the important indicators of democracy. Similarly, the experience from Eastern European countries that have joined the EU reveals that countries with a more participative civil society have had more influence on the process itself (Sterland 2006). Having in mind the diversity and opportunities of civil society when it comes to the process of EU integration, this chapter focuses on democracy criteria, singling out political criteria and rule of law as elements of the European political identity.

The main research questions of the study are as follows: What is the range Kosovo civil society organizations' involvement in the process of the country's integration into the EU, and when it comes to political criteria and rule of law? What are their main advocacy activities and initiatives towards government and EU office in Kosovo, and is there any structured or formalized partnership? How functional is the partnership between government and CSOs (low level, medium level or high level of cooperation) and is there any existing cooperation with EU Office in Kosovo, from CSOs perspective?

In order to provide relevant background and understanding of the context, we are using qualitative research methods, and mainly in-depth semi structured interviews that were conducted with several CSOs from Kosovo as well as with the EU office in Kosovo and the Ministry of EU integration. The study also engaged in analysis of relevant documents published after signing the SAA agreement in 2016 (e.g. Kosovo National Strategy for European Integration 2020) and examined the existing academic. Overall, the study offers an analysis of civil society contribution in EU integration process in Kosovo, aiming to make a contribution to scholarly analysis as well as policy thinking.

The paper is organized in sections. Section one gives an overview of Western Balkans' progress along the European path, addressing the specific challenges the region faces. Section two provides a short background on EU-Kosovo relations, emphasizing the relationship that the EU is maintaining with the civil society organizations. The following section identifies the importance of political criteria and rule of law for the process, which are among the compulsory conditions that all candidate countries must achieve to become a member state. Section four provides analysis of the role of civil society as participant within the EU process and one of the most important democratic factors upon which the EU is founded. Furthermore, section five reflects on the important legislative and policy framework for CSOs' participation in EU enlargement process, while section six is summarizing the role of civil society in enhancing EU enlargement in Kosovo. This section identifies several levels of cooperation and activities between the tripartite model actors: cooperation between CSOs and the Government, inter-organizational cooperation and relations between CSOs and the EU official representative in Kosovo. Finally, section seven represents the analysis of in-depth interviews with civil society organizations with the aim of analyzing existence and functionality of tripartite model. The research focuses on the structure and composition of cooperation between civil society organizations, Government of Kosovo and the EU office in Kosovo, the existing environment for action, the values that interviewed sides are sharing, and any relevant Impact of their cooperation.

# THE WESTERN BALKANS ON THE PATH TO ACCESSION TO THE EU: AN OVERVIEW

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It has been seventeen years since Western Balkan became a priority of EU enlargement.<sup>2</sup> These turned out to be seventeen years of uncertainty, delay, and various negotiations. Croatia's entry into the EU in July 2013 has given momentum to other countries in the region to start to look more realistically at the EU accession process. Kosovo is, as the youngest 'candidate' on this road, together with Bosnia and Herzegovina, among Western Balkan countries still having a status of potential candidate, while Montenegro and Serbia are negotiating accession to the EU, and Albania and North Macedonia are official candidates. Additionally, Kosovo, as well as other Western Balkan countries are part of a diplomatic initiative called Berlin process<sup>3</sup> related to the future enlargement of the EU. Various political challenges such as refugee crises and Brexit, have seriously staggered the foundations of the European Union. This has, in turn, negatively influenced the overall enlargement process. The 2018 European Commission's Western Balkans Strategy provided a major boost for the region's European path and it reconfirmed the future of the Western Balkans as an integral part of the EU. Even though the latest 'Western Balkans Summit' held in Poznan in July 2019, has sent a clear message that the Western Balkans enlargement will remain a top priority of the next European Commission (Popowski 2019), during recent EU Summit, the European Union failed to open the EU accession talks with Albania and North Macedonia after France, Denmark, and the Netherlands blocked the decision (only France vetoed North Macedonia). It seems apparent that current enlargement fatigue has created certain apathy among political elites in WB countries as well.

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2 The 2003 European Council summit in Thessaloniki set integration of the Western Balkans as a priority of EU expansion [http://europa.eu/rapid/press-release\\_DOC-03-3\\_en.htm](http://europa.eu/rapid/press-release_DOC-03-3_en.htm)

3 The Berlin Process is an initiative aimed at stepping up regional cooperation in the Western Balkans and aiding the integration of these countries into the European Union. It was launched in 2014 by the German Chancellor Angela Merkel.

Frequent elections and volatile power elites have certainly contributed to existing inconsistency in regards to meaningful involvement of third sector counterparts in creating an enabling environment for civil society participation. For instance, Kosovo is struggling with the politicization of civil servants that very often enables certain civil society groups to take part in consultation processes.<sup>4</sup> Similarly, besides existing legislative and policy framework for civic engagement Kosovo is lacking political will to implement those and moreover, the Government is failing to encourage CSOs to fully engage in the process.<sup>5</sup>

## BACKGROUND ON EU-KOSOVO RELATIONS

Although five EU member states have still not recognized Kosovo's independence (Spain, Slovakia, Cyprus, Romania, and Greece), similarly to the other Western Balkan countries, Kosovo has a clear European perspective. Prior to the Declaration of independence in 2008, European Commission has stressed the importance of Kosovo's future in Europe, and in 2005 a document 'A European Future for Kosovo' has been published (Communication from the Commission 2005). Furthermore, in 2006, UN Special Envoy launched status negotiations, followed by establishing EU Rule of Law Mission in Kosovo in 2008 (EULEX). The Commission issued communication 'Kosovo\*- Fulfilling its European Perspective' following year (2009) emphasizing that a more structured approach is needed to ensure strategic reforms to fulfill its readmission requests and implement an effective reintegration strategy. Structured Dialogue on the Rule of Law was launched in 2012, the same year when the dialogue regarding visa liberalization has started. Stabilization and Association Agreement between the EU and Kosovo in Brussels was signed in 2014 and entered into force

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4 Interview with Besnik Vasolli, Skype interview, October 1, 2019

5 Interview with Bardha Tahiri, Skype interview, September 30, 2019

in 2016. European Commission is regularly publishing Progress Reports on Kosovo (Country Reports) with the aim to monitor and report on key areas when it comes to progress made by a candidate or potential candidate countries in fulfilling the conditions and objectives set by the European Union (usually structured by the Copenhagen criteria).

Moreover, the Report encompasses a summary of the operational measures to be taken on the basis of the established action plans. Many CSOs are contributing with their own data to the Report, and this practice is characterized as successful by all actors. Still, many organizations are not having sufficient understanding of the process itself; hence the contribution of many rural-organizations still seems to be wanting in the whole process. With the aim to encourage smaller organizations and develop local activism outside of Prishtina, EU office has shifted its structure when it comes to providing financial assistance, focusing more on sub-grants schemes and not direct financing of larger projects of established and well-known organizations in the capital.<sup>6</sup> It would be very interesting to follow up on this decision as one of the major remarks of many organizations in Kosovo is that “non-Prishtina located” organizations have insufficient resources and knowledge to participate in all forms of the consultation process with the Government and the EU, and are quite excluded from them. Most of them are rural and not having sufficient knowledge of the process and are not able to take fully participation in ongoing structured dialogue consultation processes.

The EU is active in Kosovo through its Special Representative (EUSR), and the European Security and Defense Policy (ESDP) mission in the rule of law area (EULEX). The EU is also present through member countries’ Embassies and Liaison offices (European Union Office in Kosovo). Accordingly, the EU related reforms in the context of SAA are monitored and guided through European Reform Agenda (ERA) that was published in 2016. At the same time, the EU Office in Kosovo is holding a structural policy dialogue with the Kosovo authorities, under the SAA and special Stabilization and Association Council (SAC) is established to supervise the application

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6 Interview with Felix Rathje, Skype interview, August 20, 2019

and implementation of the Agreement and may take decisions and issue recommendations in this regard. Stabilization and Association Committee (composed of representatives of the EU and Kosovo), is another body under the SAA agreement established to assist the work of SAC. Furthermore, Stabilization and Association Committee has created six subcommittees that deal with all issues under the EU acquis and two special groups cover various political criteria that are not part of the EU acquis but still important for structural dialogue.<sup>7</sup> Direct discussions are open only to member states, while civil society organizations are not directly part of such dialogue. However, prior to Subcommittee or Special groups' meetings, the EU office is holding regular parallel consultations with Civil society representatives. During this process, the official agenda is shared with them so they can "feel they are part of the process as well".<sup>8</sup> Accordingly, EU Office accepts written contributions to the agenda and follow up with them on technical and political issues, including rule of law. Finally, joint conclusions from meetings are published and made available to media and other third sector counterparts. Yet, the challenge is that, very often comments and motions of CSOs are not included in the reports and other important policy documents arising from these meetings. According to some of the organizations, the EU is currently having more 'carrots and sticks approach'<sup>9</sup> when dealing with political issues in Kosovo. Having in mind the latest political decisions when it comes to WB enlargement, it is more than obvious that the EU is not having consistent accession approach and in general, it is very unpredictable when it comes to Kosovo. Dialogue with Belgrade contributes to this anxiety<sup>10</sup> and in practice, this means that other regional actors can linger the relationship between EU institutions and Kosovo if needed.

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7 Ibid.

8 Ibid.

9 Interview with Ariana Qosaj-Mustafa, Skype interview, August 27, 2019

10 Interview with Artan Çollaku, Skype interview, October 26, 2019

# THE IMPORTANCE OF POLITICAL CRITERIA AND RULE OF LAW

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Political and economic criteria as well as the administrative and institutional capacity to effectively implement the *acquis* are the compulsory conditions that all candidate countries must achieve to become a member state. The requirement to achieve the political criteria is defined in the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities. The essence of all legal acts and planning documents is precisely the rule of law, and the role of civil society that is active in this field is crucial for stabilizing Kosovo's democracy. European Commission puts an increasingly high premium on Justice and Home Affairs (JHA), that is, chapters 23 and 24 (out of 35 *acquis* chapters). Chapter 23 on the judiciary and fundamental rights covers the judicial system, anti-corruption policies, and human rights. In turn, Chapter 24 focuses on justice, freedom and security, and includes other sub-fields such as migration. It is ensured by respecting the fundamental values on which the European Union was formed, hence the importance of this Chapter is boundless. Many CSOs are specifically overseeing and evaluating reforms achieved in this sector and yet, institutions of Kosovo are still very hesitant in allowing civil society to monitor their work and activities in this field.<sup>11</sup> Since 2012, the EU and Kosovo are participating in a structured dialogue on the Rule of Law with the aim to strengthen the rule of law, while focusing on the judiciary, and fight against organized crime and corruption. CSOs are part of this dialogue but the intensity of their cooperation is still below medium. In general, no joint actions and projects are initiated between government and civil society, and the whole process is still lacking meaningful and direct measures and partnership besides existing policy dialogue they have.

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11 Interview with Mentor Vrajolli, Skype interview, August 22, 2019

In its annual enlargement strategy, presented in the autumn of 2011, the EU outlined a new approach to enlargement policy, which envisages that Rule of Law Chapters are usually being first opened and last closed in the negotiations as these issues and areas are most important to the daily life of citizens. The main purpose of this policy is to allow more time to the candidate countries to implement needed measures in order to be fully legislatively prepared to join the EU as these chapters are showing the candidates' capacities to introduce and enforce European legislation. Additionally, it was also determined that the process of harmonization and implementation of regulations in these areas are monitored through the negotiation process and it is legitimate to block the negotiations in other chapters if the State has not made satisfactory progress in the Rule of Law chapters. These questions are constantly monitored by all EU actors and institutions in the negotiation process (Sinanovic 2016). Hence, the importance of CSOs monitoring of the process in this area is crucial as well, and for NGOs to maintain a 'watchdog position' more capacity building is needed.<sup>12</sup> EU enlargement is certainly long and dynamic process and it represents a certain test for CSOs' capacities in all WB countries. Most likely, the Government of Kosovo, EU member states and the EU itself will have to find a way to build these capacities more within human rights-based CSOs that are recognized as important third-sector counterparts and are expected to function as democratizing and civilizing agents in developing societies.

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12 Interview with Besnik Vasolli, Skype interview, October 1, 2019

# CIVIL SOCIETY IN KOSOVO: FROM BETWEEN THEORY TO PRACTICE

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Building on Madison's liberal democratic conception of civil society and on the thesis of de Tocqueville classification of civil society as separate from the formal structures of government and state, scholars like Cohen and Arato (1992) provided broader approach of defining civil society within the frame of democratic sphere, as active citizenship and self-organization outside formal political circles. They were motivated with the rise of civil society movements after the collapse of the Soviet Union in Eastern Europe and in this context, they delineate "civil society as an intermediate sphere between the economy and state...institutionalized and generalized through laws and independent action" (Pagoulatos and Kastritis 2013, 5). As such, they conceptualize civil society as a 'third sphere-sector' of society, separate from the public and the private sector, which is explicitly apolitical and market-free conception. At the same time, the EU institutions were officially recognizing the importance of the third sector in the process of creating new Europe and just a few years later civil society organizations were rejoicing among Western Balkan region too.<sup>13</sup> Accordingly, Robert Putnam's (1993) "*Making Democracy Work*" was reflecting Western civil society scholarship that promotes civil society as a reinforcing democracy actor, which holds states accountable, fosters pluralistic and tolerant values, and represents community interests (also Muller and Seligson 1994; Clark 1995), as well as fosters economic prosperity (Putnam 1993, 157). In this manner, civil society is conceived as an arena of pluralism and contestation (Kaldor 2003, 8) where according to Madison (1988) the institution of civil society becomes the necessary condition of a polycentric democratic order.

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<sup>13</sup> The role of non-profit organizations in European integration process was discussed in Resolution on non-profit-making associations in the European Communities from 1987. Available at: <https://uia.org/archive/legal-status-4-12>

In the same manner, the European Commission's consultation regime with civil society ranged from the term 'consultation', which was used in official documents of the 1960s and 1970s, through 'partnership', a term used in the 1980s and 1990s, and finally to the term 'participation' from the late 90s and 2000s (Quittkat and Barbara Finke 2013). Finally, the exact role of civil society was recognized by the Treaty of Lisbon from 2007, wherein in its second chapter, parliamentary democracy (the role of political parties) and participatory democracy (the role of civil society) set out the basic democratic principles on which the EU is founded. Bearing in mind various forms of organization and citizen activities, the focus of this paper is on organized forms of civil society in the so-called civil society organizations that are an asset for building tripartite-model of cooperation with Government and the EU.

Considering this, it is important to emphasize that the civil society sector in the Western Balkans had transformed itself since the 1990s, when it was mainly having humanitarian feature, into a sector involved in the major political and societal process (e.g. human rights endorsement). Civil society organizations today are seen as a key factor in enhancing civic engagement and the multifarious civic sector is reflecting advanced democracies to which the post-conflict and deeply divided societies in Western Balkans aspire. The civil society as one of the four pillars of Democracy continues to be a separate section within the Political criteria for EU accession in each Country report. Even though the role of the civil society organizations in Southeast Europe is often neglected and they frequently operate in a very hostile political environment, together with government and economic sector they build cohesive force and define political conditionality of the EU accession process. In this paper, the EU will be observed as an economic society with autonomous political and financial institutions on one side, and Kosovo as a political society with sovereign legal and economic system on the other side. In the end, CSOs will be considered as part of the third sphere or civil society, together with various non-governmental organizations, sports clubs, peace organizations, etc. (Morje 2003).

# EXISTING LEGISLATIVE AND POLICY FRAMEWORK FOR CSOS' PARTICIPATION IN KOSOVO'S EU ACCESSION PROCESS

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Since establishing contractual relations with the EU, the Government of Kosovo has published several key documents to encourage and ensure the participation of civil society organizations in the process. In such a context, we can differentiate legislative framework that is specifically focusing on support to civil society in enlargement process, and framework which is initiating a positive environment intending to embrace civil society in existing political processes. For instance, the first Government strategy for Cooperation with Civil society 2013-2017 was adopted in July 2013 with the aim to increase participation of civil society actors across policy-making and to improve governments' cooperation with the third sector. With the purpose of ensuring effective monitoring of the implementation of the Strategy, the Government established a joint Council for implementing the strategy. Additionally, the Office of Good Governance, human rights, equal opportunities and non-discrimination (Office of Good Governance)<sup>14</sup> was initiated within the Office of the Prime Minister (OGG-OPM). One of the purposes of the Office was to monitor the implementation of the Strategy in the area of consultations and coordination of participation of civil society representatives in various processes including policy-making, good governance, human rights, equal opportunities, and anti-discrimination issues. Furthermore, new Government Strategy for cooperation with civil society 2019-2023 was adopted early this year, to establish functional mechanisms for structured cooperation between government and CSOs. According to the Strategy, in order to achieve this goal, four strategic objectives have been determined based on consultations with

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<sup>14</sup> Find out more on: <http://kryeministri-ks.net/en/the-prime-minister-office/offices/office-of-good-governance-ogg-2/>

civil society, for the 2019-2021 implementation period: 1. Increase civil society participation in policy-making; 2. Increase accountability and transparency in public funding for CSOs; 3. Develop practices and procedures of contracting of CSOs for the provision of public service and 4. Increase volunteering in public benefit programs.

In January 2017, the Regulation on Minimum Standards for Public Consultation (No.05/2016) was adopted as well, which obliges the Government of Kosovo to engage civil society in the public consultation process at the early stages of drafting laws and policies. Besides, the Regulation defines a minimum standard in terms of the consultation process. Early-Stage draft laws and consultations are available through the Online Platform for public consultation<sup>15</sup> which is managed by the Office for Good Governance and represents an instrument of ongoing dialogue tool between civil society and the Government. The platform itself is striving to ensure the communication process between public authorities, stakeholders and the public for an inclusive participation in the decision and policy-making process of public interest and the improvement of transparency and accountability of public authorities towards stakeholders and the public (Platform for public consultations webpage). However, the Kosovar Institute for Research and Development (KIPRED), having monitored the Platform, argues that the latter is quite accessible but it seems like the Government is usually considering comments from well-known organizations while citizens' comments are usually not taken into account.<sup>16</sup> Having this in mind, it is more than obvious that the Platform itself reinforces communication but filtered inputs do not guarantee in practice long-lasting expectations from the European Commission: to build a trustworthy partnership within multifaced channels of communication and more importantly, cooperation.

According to the Ministry of European integration, CSOs are actively participating in both phases of consultations within the Subcommittee and Special groups consultation framework. Consultations with civil society organizations are organized

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<sup>15</sup> The platform is launched in January 2017 and it is available in Albanian, Serbian and English language: <http://konsultimet.rks-gov.net/index.php> (Retrieved: October 12, 2019)

<sup>16</sup> Interview with Ariana Qosaj-Mustafa, Skype interview, August 27, 2019

parallel, in most cases together with the EU office in Kosovo. Besides, civil society participation is stressed within the National Strategy for European Integration Kosovo 2020 participatory approach, which was adopted by the National Council for European Integration (Presidential level)<sup>17</sup> where CSOs are seen as main Government's stakeholder, together with academia, media, trade unions and similar. It is important to emphasize that in the Strategy CSOs are seen as part of the tripartite model and key collaborator of the Government on this issue. As described in the Strategy, CSOs can participate in the process through structured and formalized public consultations, through various state-body policy-making structures like National Council for European Integration, the Task Force for European Integration, etc; and finally, in monitoring process that is crucial for the prosperity of the integrations. One of the main objectives of the National Strategy is to make consultation mechanisms between state and non-state actors operational and sustainable.

However, most of the CSOs do not value the consultation mechanism as mentioned above. "Repeatedly we were mentioning in our contributions to Progress/Country reports that the Strategy is forgotten in our country"<sup>18</sup> while the ongoing structural dialogue is seen as less viable, selective, in terms of the CSOs that are included in the process, and ad hoc initiated.<sup>19</sup> Hence, it is obvious that the Strategy outcomes were not serviceable in the eyes of their beneficiaries, civil society actors in this case. In the Kosovo Assembly, the Parliamentary Committee for European Integration was established in order to monitor the process of harmonization of the legal system of Kosovo with the legal system of the European Union and a civil society liaison officer was recently appointed, with the aim to serve as a contact point for CSOs that are interested in becoming involved in the work of the Assembly and its committees. In the favor of NGOs that are operating in Kosovo goes a new Law on Freedom of Association in Non-Governmental Organizations which improves the legal environment for NGOs in many ways, adopted in April 2019.

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17 The National Council for European Integration represents an institutional coordinating mechanism led by the President of the Republic of Kosovo. In accordance with the Constitution and the laws of the Republic of Kosovo, the Council coordinates the building of institutional and social consensus and recommends concrete actions in the process of European integration. Available at: <https://www.president-ksgov.net/en/national-council-for-european-integration>

18 Interview with Bardha Tahiri, Skype interview, September 30, 2019

19 Interview with Ariana Qosaj-Mustafa, Skype interview, August 27, 2019

Beyond the domestic legislative framework, it is important to mention that the European Union is equally actively supporting CSOs participation in the process through various legislative initiatives. For instance, the Guidelines for EU Support to Civil Society in Enlargement Countries, 2014-2020 adopted by the DG Enlargement of the European Commission emphasize the importance of setting clear objectives, results, and indicators for monitoring the progress of governments in this field. In the case of Kosovo, the latest policy documents are emphasizing that Kosovo should put the political focus back on advancing on its European path (2019 Communication on EU Enlargement Policy, 11). Being part of the Enlargement Package 2019, the Communication on EU Enlargement policy specifically emphasize the stagnated status of Kosovo, particularly in the areas of the rule of law and fundamental rights, highlighting that these shortcomings often correlate with a lack of political will, institutional resistance and an increasingly hostile environment for civil society. related to the areas of fundamental rights, rule of law, justice and security.

According to the 2019 Progress Report for Kosovo further progress was made in improving cooperation between civil society and the central government, and civil society monitoring of the process. Hence, the opinion of some civil society representatives is quiet opposite, and they are mainly emphasizing quiet aggravated position for action having in mind several factors: frequent change of government, exclusion of “non-Prishtina located” organizations, above mentioned challenges facing comments filtering through Online platform, fragmented civil society and many more that is shrinking space for civil society participation.

Close engagement in European reforms remains key to Kosovo's progress on its European path (2019 Communication on EU Enlargement Policy, 9). In the same manner, major civil society organizations and networks that are part of this research believe in the European perspective in Kosovo and are actively engaged in the process through various consultations and advocacy activities. Most of them are having active communication with the EU office in Kosovo, and very volatile collaboration with the Ministry of EU integration of Kosovo, which is a major factor in supporting Kosovo's transformation and reforms in its path towards the European Union. According to the some of the civil society representative that have taken part in the

research, participation with the EU office is ongoing and mainly inclusive, but cooperation with the Ministry of EU integration, within the political criteria and rule of law scheme, is still very unstable and ad hoc, despite the progress in existing legal framework and opinion of the EU) that the further progress when it comes to cooperation between civil society and central government (Progress Report 2019).

In general, all legislative conditions for civil society participation are formally fulfilled, since, as already explained, there are no legal obstacles for CSOs to engage in a tripartite model of cooperation with the Government. The participatory legal environment is created for third sector actors to engage in current political proceedings. Drawing on previous legislative assessment, it can be terminated that it has been a structural progress in this field indeed. However, the issue of establishing a dialogue with the civil society sector is still a very topical and uncertain matter in all Western Balkan countries today. As said, most of the organizations in Kosovo are aware of the existing framework, but it is still quite vague for many how to use legislation to keep the Government accountable in the whole process. Additionally, the struggle is how to include larger number of organizations and citizens at this stage of advancement in integration with the EU.

The European Integration process has set the matter of cooperation between the governmental and non-governmental sectors as one of the top priorities that (potential) candidate countries must meet to become a full member of the EU. Kosovo's institutions have developed a variety of mechanisms that should enable civil society organizations to participate in the current processes, but still these mechanisms are perceived as inefficient and inadequate. In the opinion of the representative of GIZ (The Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH),<sup>20</sup> who is actively involved in the capacity building process of Kosovo's Government and consultation processes with civil society, the obstacles are having two sides. On one side the Government doesn't come well prepared for the meetings and on the other side, organizations are not coming to the meetings. "This is more lack of trust and they

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20 GIZ is a German State Own organization that supports Government of Kosovo in EU integration process, one component of the project involves cooperation and inclusion of civil society in the EU integration process.

are missing the opportunity of using the available tools, structures and mechanisms which have been established"<sup>21</sup>. These obstacles have to be resolved as upcoming enlargement phase will be even more challenging for both sides.

## THE ROLE OF CIVIL SOCIETY IN ENHANCING KOSOVO'S EU ACCESSION PROSPECTS

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The role of CSOs in enhancing the process of EU may vary, from distribution of public and EU funds towards final beneficiaries, to monitoring and evaluation of the process and meaningful participation of civil sector in defining reform policies, including raising awareness about values and public policies of the EU. Furthermore, CSOs may have a very active role in initiating a dialogue about relevant issues with the government and the EU, as well as conducting alternative reports about progress and monitoring further negotiation process individually or through various networks, coalitions and initiatives. Despite the fact that the countries are responsible for strengthening and maintaining positive relations with CSOs, the EU is continuously aiming to support the influence of civil society on the process, both normatively and in practice. According to Fukuyama (1999), a dense civil society is a necessary condition for healthy and stable democracies, and as such civil society continues to play an important role in the democratic debate and the design and implementation of public policy (Kosovo Progress Report 2019, 9). In Kosovo we can differentiate several levels of cooperation and activities between tripartite - model actors: cooperation between CSOs and the Government, inter-organizational cooperation, and CSOs-EU official representative in Kosovo relations. It is noteworthy that the state apprehends the importance of the development and cooperation with the third sector organizations, through promotion of above-mentioned legislative policies and strategies and maintains a communication channel with appointed bodies.

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21 Interview with Besnik Vasolli, Skype interview, October 1, 2019

Government institutions organize various consultation processes under SAA structures and other consultation activities. These are currently the most important activities that they have, including monitoring of the process and written contribution via online Platform that most of the interviewed organizations are contributing to. When it comes to the CSOs-EU office relations, it is crucial to mention that civil society is mainly having communication with the EU Representatives in candidate countries, participating in ongoing SAA consultation processes as well. In terms of Government cooperation, the EU office in Kosovo has structural policy dialogue with the Kosovo authorities, under the EU-SAA agreement.

According to the EU office in Prishtina, parallel dialogue with CSOs is held usually a week in advance prior to the civil society consultations. Joint conclusions of the policy dialogue meeting are shared and made available online to allow civil society and media to see what has been achieved.<sup>22</sup> Additionally, under the Instrument for Pre-accession Assistance (IPA) and the European Instrument for Democracy and Human Rights (EIDHR), European Commission is providing financial assistance to civil society projects, including various consultation processes with specific civil society representatives.

The key role of the dialogue, consultations or partnership with CSOs and their meaningful involvement in decision making processes are mainly defined by better informed and prepared public about policies, laws and challenges that life in the EU will bring. Overall, the presence of CSOs is based on participatory democracy and eventually, it creates a setting for the permanent and active involvement of citizens through informational and educational projects and engagement in public life, which eventually makes democratically elected bodies more transparent. As such, CSOs are using different methods of communication with citizens aiming to include citizens in their work, from annual survey<sup>23</sup>, online media tools<sup>24</sup>, through public debates, television appearances or press conferences.<sup>25</sup> On the other hand, the process of researching and

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22 Interview with Felix Rathje, Skype interview, August 20, 2019

23 Interview with Mentor Vrajolli, Skype interview, August 22, 2019

24 Interview with Nicole Farnsworth, Skype interview, August 21, 2019

25 Interview with Ariana Qosaj-Mustafa, Skype interview, August 27, 2019

defining the effects of work of CSOs is mainly focused on the scope of their research activities (e.g. human rights organizations are mainly scholarly observed through scope and effects of their project work), but “whether or how these civil society organizations influence other social processes-inequality, competition, mobilizations, or migration, for example, is often left unexplored” (Viterna, Clough and Clarke 2015, 182). The notion of the EU enlargement has been in political conditionality that encompasses the adaptation of certain conditions before joining the EU. A vibrant civil society is perceived as evidence of democracy and good governance (Perez-Solorzano Borraran 2016) and one of the political requirements for joining the EU is functional democracy which implies stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.

The mission of the Directorate-General for Neighborhood and Enlargement Negotiations (DG NEAR) is responsible for monitoring mechanism for fulfilling these criteria. In the case of Kosovo, concretely DG NEAR monitors the SAA, while compliance with EU acquis is monitored in the annual Progress report produced by the Commission, which presents an assessment of what each candidate and potential candidate has achieved over the last year. According to Vachudova (2005) this monitoring represents a merit-based approach, but it also reflects the ability of the European Union to exercise pressure over the aspiring candidate countries to implement reforms to ensure compliance with the EU's norms in return for EU membership (Perez-Solorzano Borraran 2016),

With the attention to accordingly participate in the process, many CSOs believe that Kosovo is not in full administrative and policy capacities to reply on requirement of EU membership, lacking knowledge and human capacities to support the transformation efforts and tackle the irreversible reforms (KIPRED, Women's Network). With the purpose of empowering the government and the civil society sector in tackling pre-accession challenges such as lack of sufficient resources, skills or information, the EU is actively supporting various capacity building initiatives in Kosovo.<sup>26</sup> As one interviewee put it,

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26 Mainly in the form of financial assistance through Instrument for Pre-accession Assistance (IPA) and the Technical Assistance and Information Exchange instrument of the European Commission (TAIEX). While TAIEX is mainly focused on the application and enforcement of EU legislation as well as facilitating the sharing of EU best practices through workshops, expert study visits and twinning initiatives, IPA targets reforms within the framework of pre-defined sectors. These sectors cover areas closely linked to the enlargement strategy, such

the EU office encourages civil society to be open, and obtain critical engagement with them. There are a number of support mechanisms in terms of enabling civil society to participate in the process. But a lot of the discussions are technical and broad and not in all areas we have established CSO's that have capacities to engage.<sup>27</sup>

## IS TRIPARTITE MODEL OF COOPERATION FEASIBLE?

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The power of civil society in the Western Balkans as a normative and democratizing force is evident in citizens' participation in monitoring and evaluation of active political processes, especially when it comes to defining public policies, policy analysis, and rising awareness on particular issues. This research has identified several channels of ongoing communication that are part of the structural dialogue under the SAA, participation and collaboration in relation of CSOs with the Government as well as the EU Commission and EU Special Representative in Kosovo. With the aim of analyzing the existence and functionality of the tripartite model based on existing channels of communications, the author was guided with the following dimensions of civil society assessments created by Malena and Heinrich (2007): structure or composition of cooperation, existing environment for action, Values that sides are sharing, and any relevant impact of their cooperation.

First part of the research was related to the type of activities they organized and the structure of cooperation among all actors to increase civic participation in the enlargement process, with the aim to analyze if the tripartite model of cooperation is existing or not. Consultation activities within the SAA framework, organized by the

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as democracy and governance, rule of law or growth and competitiveness.

27 Interview with Felix Rathje, Skype interview, August 20, 2019

Ministry of EU integration and consultations organized by the EU office in Kosovo are ongoing activities since the SAA entered into force. Organizations that were involved in the research are participating in both processes, which sometimes are organized in cooperation and sometimes independently (e.g. when drafting laws). However, the majority of interviewed organizations are not satisfied with the communication channels and procedures related to consultations that the Ministry of EU integration is practicing.

Even though KIPRED is maintaining a formal tool of communication with the Ministry, through a Memorandum of Understanding, they still believe that most of the correspondence is performed by the EU office in Prishtina. "We are in direct communication with them (meaning EU office), but when it comes to the Ministry they are still quite rigid and slow".<sup>28</sup> KIPRED organized monitoring of the public consultation regulation and the results showed that when well-known and well-established CSOs are usually providing inputs through the Online Platform, the Government is more ready to provide feedback, while on the other hand citizens' comments are not taken into account. The same problem is faced by the Kosovar Civil Society Foundation that is part of National Council consultations. They believe that the invitation procedures for consultations are not done in a way that results in reduced participation of organizations in the meetings. "It is mostly about fulfilling the Guidelines, but still they are not succeeding even to fulfill the minimum of them," says Bardha Tahiri, a representative of KCSE.<sup>29</sup>

In the opinion of Women's Network of Kosovo, ineffective consultation processes is mainly result of insufficient capacities of NGOs to contribute to the process, since organizations are lacking not only knowledge of the EU accession process, but also resources and overall understanding to participate fully. Additionally, they believe that the EU process is not understood well at the local level, whilst most of the consultations take place among English speaking Prishtina-based organizations. The Kosovo Centre for Security Studies is not actively dealing with EU integration issues, but it is

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28 Interview with Ariana Qosaj-Mustafa, Skype interview, August 27, 2019

29 Interview with Bardha Tahiri, Skype interview, September 30, 2019

still participating in the EU-led consultation processes prior to EU Country report or discussing various Reform Agenda and SAA challenges related to the security sector. They face various obstacles when dealing with rule of law and good governance topics, where usually institutions “demonstrate reluctance” when providing data.<sup>30</sup>

When it comes to consultation processes that are organized by the EU office in Kosovo, communication with CSOs is quite regular and more organized. Some of the organizations are regularly invited to participate in any consultation they have on EU processes. For example, consultations are organized while drafting EU Country/Progress reports, or when certain laws are being drafted, policies being amended, specifically in the areas of anti-corruption, combating organized crime and independence of the judiciary.<sup>31</sup> Similarly, they are welcomed during the process of writing policy briefs and providing inputs on Country Reports and draft laws from a gender perspective<sup>32</sup>, or more non-formal annual basis consultations on different issues and challenges that arrive from Country reports.<sup>33</sup>

Other activities that CSOs in Kosovo are implementing include monitoring and evaluation of legislative framework, such as the visa liberalization roadmap, the action plan to implement a feasibility study for an SAA, the EC annual progress reports, the EC enlargement strategy, the SAP dialogue conclusions, the contribution to EC Country Reports, policy papers and briefs as well as producing specific reports. In addition, some organizations are pursuing research-oriented activities that can contribute to the understanding of EU integration process like Women’s Network study ‘Mind the Gap’ and Kosovo Security Barometer, an annual survey with specific EU agenda questions conducted by KCSS. Moreover, all interviewed organizations are also implementing various advocacy activities toward the EU, such as advocacy activities related to the adoption of SAA, individually or as part of the joint initiative of a group of organizations. For example, Women’s Network Kosovo is acting regionally as part of broader women’s rights coalition in the Western Balkans, working on issues of joint concern (e.g. how EU

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30 Interview with Mentor Vrajolli, Skype interview, August 22, 2019

31 Interview with Ariana Qosaj-Mustafa, Skype interview, August 27, 2019

32 Interview with Nicole Farnsworth, Skype interview, August 21, 2019

33 Interview with Mentor Vrajolli, Skype interview, August 22, 2019

approaches gender-based violence). They have implemented some advocacy-related activities in the region and in Brussels as well, showing the strength and coordinated cooperation for the same cause: engendering the process of EU integration.

Civil society organizations also provide capacity building support for CSOs, EU office in Prishtina and Government officials in the field they are lacking expertise (e.g. Women's Network is providing training on how to gender-mainstream IPA programming). On the variety of activities, it is worth mentioning that civil society organizations are regularly participating in conferences and workshops related to the enlargement process (like the 2019 Western Balkans Summit in Poznan or workshops organized by EU office in Kosovo). In regards to the existing level of cooperation among CSOs, Government bodies and EU office in Kosovo, the research shows that cooperation is not consistent and predictable. According to the in-depth interviews medium level of cooperation is achieved, and most of the cooperation with institutions is ad hoc. Collaboration among CSOs is not constant and stable, they usually partner on advocacy and research issues, either on EU funded projects or articulating their interest through networks (like CIVIKOS<sup>34</sup> platform or Women's Network) or informal coalitions on specific issues of interest.<sup>35</sup>

The second section of the research was related to the existing environment for actions. The objective of the analyses of the environment was to see if the current political and legislative environment is enabling active citizenship and encouraging third sector to engage or is more excluding. Most of the organizations agreed that there is a positive legislative framework for CSOs participation but a very negative and disabling political environment. "The political situation when it comes to the EU integration process is completely unpredictable"<sup>36</sup> considering the five EU non-recognizers and the unstable political scene. Additionally, some of the documents are not translated into Albanian and Serbian and "if you do not know when certain pro-

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34 CivilKos Platform gathers 207 various civil society organizations, working closely with the Government on drafting and monitoring the implementation of Government Strategy for Cooperation with civil society. <http://www.civikos.net/en/background>

35 Interview with Ariana Qosaj-Mustafa, Skype interview, August 27, 2019

36 Interview with Artan Çollaku, Skype interview, October 26, 2019

cesses are happening or where to look for them (meaning documents) you probably do not have an opportunity to become engaged".<sup>37</sup>

The following part of the research was related to the values that interviewed stakeholders are sharing in order to verify if the tripartite model in Kosovo is characterized by a plurality of social values and norms. All participants declared to share democratic and progressive values, reflecting bottom-up communication that they are having with citizens and other community members. Some organizations are focused on the inclusion of marginalized women groups (Women's Network) and transparency is reflected through the usage of various channels of communication in order to provide results of advocacy or monitoring processes (e.g. KIPRED is sharing information through public debates, press conferences, live streaming via social media, etc.). KCSS is conducting an annual survey on EU perception and results are promoted in public through various old media channels and social media networks. KCSF is using their Resource center to advise and assist CSOs to register or take part in certain legislative process, while providing educational and research support for students and other interested parties.

Last part of the research was related to the impact of their cooperation and the challenges they are facing. According to the analysis of the in-depth interviews, it is very hard to measure the impact of their cooperation at this stage of Kosovo's path to the EU. The impact is mostly reflected through the contribution to the Progress reports and advocacy actions towards the implementation of SAA. One of the biggest challenges that was repeatedly emphasized is the uncertainty of the process and the quite unique position of Kosovo considering the five EU non-recognizers.<sup>38</sup> As an interviewee put it,

there is enlargement fatigue in general and the problem is that there is not much driving force, because of the lack of vision of what will happen to the Western Balkans and especially in Kosovo not having candidate status and still having five EU counties not recognising it.<sup>39</sup>

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37 Interview with Nicole Farnsworth, Skype interview, August 21, 2019

38 Interview with Ariana Qosaj-Mustafa, Skype interview, August 27, 2019

39 Interview with Besnik Vasolli, Skype interview, October 1, 2019

Openness and readiness of political institutions to involve CSOs in the dialogue with the EU and making the process more consistent, predictable and properly implemented, is another substantial issue for civic participation. As one interviewee put it,

the CSOs do not have full capacities and are not aware of the guideline in order to be able to take advantage of it and use it. This is one of the biggest struggles, just to get the CSOs on board and provide them with room for contribution, and when they provide room to take their contribution and recommendation seriously.<sup>40</sup>

KCSS believes that some Government institutions are still very hesitant to allow civil society to monitor their work and their activities, especially Security sector institutions.

## CONCLUSION

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The promotion and support for CSOs has been at the core of the EU's enlargement strategy since the 1990s. At the same time, scholars increasingly emphasize the democratizing effects of civil society organizations' advocacy work on behalf of their 'constituents' (Viterna, Clough and Clarke 2015). In order for Kosovo's CSOs to maintain their autonomous role in the EU enlargement process, their participation in the process has to be considered more seriously, beyond the existing legislative and policy framework.

Overall, the situation of the civil society Kosovo has been improved in legislative terms, having a more accessible legal framework for CSO's participation in the process. Formally, legitimate conditions were established for the tripartite model to exist. CSOs remain distinct and independent from the market and the state, and they

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<sup>40</sup> Interview with Bardha Tahiri, Skype interview, September 30, 2019

are a separate entity. However, the research shows that more has to be done to ensure substantial involvement and cooperation of civil society at the local level. In this regard, more effort is needed to include 'specialized focus NGOs' to contribute to the process. One of the key challenges is to improve implementation of the existing legal framework and enforcement of the CSOs' inputs in a properly coordinated, continued and in a timely manner. Moreover, when it comes to collaboration with the Government, the environment for CSOs' participation is not always welcoming and supporting and some of the CSOs are feeling marginalised. A partnership between the sectors remains ad hoc and the requirement of CSOs is to be included in the process at an early stage of drafting public policies for which, according to the Ministry of EU integration organizations are lacking capacities. More political will has to be demonstrated in order for National Strategy outcomes to be operational.

Another remaining challenge is the unpredictability of the domestic and international political situation that is agitating Kosovo's integration process into the EU. Frequent elections and volatile leadership provide no basis for lasting political stability, which is key for further EU enlargement. On the other side, communication and collaboration with EU office is ongoing, but still lacking structural dialogue and continuity. The existence of the functional tripartite model is vague, and all parties seem to face certain challenges in order to actively take part in the process. Moreover, civil society organizations are lacking financial resources and capacities to fully participate in the process.

An additional problem is the exclusion of 'non-Prishtina' and rural organizations that are almost eliminated from the process. This is a significant problem having in mind that there are 8,000 registered CSOs in Kosovo. On the other hand, institutions are inconsistent and civil servants sometimes are bypassed by political parties. Institutional cooperation with CSOs is normatively regulated and taking place within official institutions through various consultation processes, but still very little is achieved when it comes to actual value and recognition of civil society's contribution. The EU office in Kosovo is playing the role of major mediator in establishing and maintaining the communication between Government and CSOs, but more has to be done in order to include more civil society organizations in the policy and deci-

sion-making process. They have to build structural partnership with CSOs and help more local CSOs to take full participation in the process. The role of the EU office is key when arbitrating and preserving a watchdog role of CSOs, especially during monitoring and evaluating processes related to Justice and Home Affairs.

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Ariana Qosaj-Mustafa, Program director, Kosovar Institute for Policy, Research and Development (KIPRED), Skype interview, 27 August 2019

Nicole Farnsworth, Program Director, Lead researcher, Kosovo Women's Network, Skype interview, 21 August 2019

Mentor Vrajolli, Executive director, Kosovo Centre for Security Studies (KCSS), Skype interview, 22 August 2019

Bardha Tahiri, European Integration Expert, Kosovar Civil Society Foundation (KCSF), Skype interview, 30 September 2019

Mirjeta Ademi, Research assistant, Kosovar Civil Society Foundation (KCSF), Skype interview, 30 September 2019

Felix Rathje, Policy officer, European Union Special Representative in Kosovo, European Union Office in Kosovo, Skype Interview, 20 August 2019

Besnik Vasolli, Component manager, The Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), Skype interview, 1 October 2019

Artan Çollaku, Department of Coordination of the Stabilization and Association Process, Ministry of European Integration, Government of the Republic of Kosovo, Skype interview, 26 October 2019

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# **THE ROLE OF THE EU IN FRAMING AND REFRAMING THE BELGRADE-PRISHTINA NEGOTIATIONS: THE CASE OF LAND SWAP PROPOSAL**

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**— BOSKO STANKOVSKI**

## — BOSHKO STANKOVSKI

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# ABSTRACT

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This chapter examines the role of the EU as a mediator in the Belgrade-Prishtina Dialogue. Established with a “technical” and “political” component, the Dialogue was derailed after a proposal for a land swap between Serbia and Kosovo was put on the table. Considering this, the article argues that in order for the EU as a principal mediator in the Belgrade-Prishtina Dialogue to maintain the possibility for finding a solution, it needs to reframe the negotiations process after the initial proposal for land swap has become part of the official discourse. The study consists of three parts. The first analyses the way the negotiations have been framed by the mediator and its approach to use constructive ambiguity in the process. The second part explores if and how the Dialogue undermined the original framework as established with the Ahtisaari plan, especially in the light of the proposal for territorial exchange between Serbia and Kosovo. Finally, the third part examines whether it is possible to use international law to create a new narrative for the negotiations and reframe the process. From a theoretical perspective, this study relies on negotiation theory and international law. The research argues that the Belgrade–Prishtina Dialogue was constructed on the basis of an inherent framing deficiency. Therefore, that it needs to be ‘reframed’ in accordance with international law, taking into consideration the international community’s approach towards Kosovo thus far.

# INTRODUCTION

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The First Agreement on Principles Governing the Normalization of Relations between Belgrade and Prishtina (hereinafter: the First Brussels Agreement) was concluded on 19 April 2013. It was initially praised by the President of the European Commission as a “historic” because it “paves the way for a better future of all citizens in Serbia and Kosovo” and reflects the “European spirit” of building bridges and cooperation (Barroso 2013). Although, some progress has been made in the following period, more than six years since this statement, the enthusiasm has almost expired: the process has been derailed by the proposal for exchange of territories between Serbia and Kosovo from August 2018, and the Dialogue has eventually been halted after Prishtina adopted a measure to tax Serbian goods imported to Kosovo with tariffs in the amount of 100 percent. The idea for territorial exchange, also known as land swap or, using the euphemism by Kosovo President Thaçi - “a border correction” (Morina 2018), caused a rift within the EU itself as mediator of the process and created serious concerns among the neighbouring countries (Plusinfo 2019).

This chapter argues that in order for the EU as a principal mediator in the Belgrade-Prishtina Dialogue to maintain the possibility for finding a solution, it needs to reframe the negotiations process after the initial proposal for land swap has become part of the official discourse. The structure of the paper is divided into three parts. The first analyses the way the negotiations have been framed by the mediator and its approach to use constructive ambiguity in the process. The second part will argue if and how the Dialogue undermined the original framework as established with the Ahtisaari plan, especially in the light of the proposal for territorial exchange between Serbia and Kosovo. Finally, the third part examines whether it is possible to use international law to create a new narrative for the negotiations and reframe the process. From theoretical aspect, this research relies on negotiation theory and international law. In fact, the concepts of ‘framing’ and ‘reframing’ are used in nego-

tiation theory. This study focuses particularly on the question of ‘construction’ and ‘reframing’ as described by Zartman (2007), and the process of negotiations framing outlined by Lewicky, Barry, Sounders and Minton (2003, 30-73). In that direction, in order for the negotiations to be concluded successfully, mediators have to ‘frame’ the process. This entails that the parties to the dispute must share the same understanding of the issues that are being negotiated. This is especially the case when it comes to complex negotiations which include multiple questions. Possible ‘misconceptions’ about the issues being negotiated can sometimes develop during the negotiation/mediation process itself, usually because of occurring subsequent events. In that case, the mediator has to ‘reframe’ the negotiations/mediation in order to ensure that the parties have not developed different understandings of the key concepts pertinent to the process.

The Belgrade–Prishtina Dialogue was initiated in 2011 and was officially divided into two components – technical and political – although, as it will be further explained, this division should be understood only provisionally and within the context of the adopted mediation technique. The technical part of the talks resulted in agreements on the integrated border/boundary management, regional representation, freedom of movement, customs stamps, civil registry books, cadastral records, mutual recognition of university diplomas, and official visits.

The second round of political dialogue started in 2012 and included the already mentioned First Agreement of Principles Governing the Normalization of Relations, concluded in April 2013, which also included a detailed Implementation Plan and a document of the Scope and the Mandate of the Management Team for the Establishment of Association/Community of Serbian Municipalities. In August 2015 the parties concluded the Agreement on Association/Community of Serb majority municipalities in Kosovo – general principles/main elements, as well as agreements on energy, telecommunications and justice. Other agreements focussed on insurance, civil protection, agreement between the chambers of commerce, and on the Mitrovica Bridge. The state of implementation of these agreements varies, ranging from full implementation with some contentious issues, through partial implementation, all the way to suspended and/or not implemented at all (Beysoylu 2018, 204). This

research, however, mainly focuses on analysing the First Agreement and the way the Dialogue has been framed by the EU so as to expand from the Ahtisaari framework which was originally envisaged by the international community at the time of the recommendation for supervised independence of Kosovo.

There is proliferating literature on the Belgrade–Prishtina Dialogue predominately in the field of international politics, but there is almost no analysis of the issue from the aspect of international law. For Bieber, who studied the process in 2015, the dialogue can be seen a success story only because of the constrained framework within which it had been established: it did not “sought to produce a comprehensive and conclusive settlement” nor tried “to transform Serb-Albanian relations in Kosovo”, but, instead, it was an attempt by the EU “to gradually build a number of agreements [...] that would result in a long-term process in which relations would normalise” and the two countries would eventually join the Union (Bieber 2015, 317). For Gashi, Musliu and Orbie (2017, 548), the EU kept facilitating the negotiations despite the questionable effectiveness when it came to resolving the main issues because the “overarching ideal” of EU membership served as an “end-purpose”, motivating the parties to simply talk to one another while, at the same time, legitimising the EU as mediator. The subsequent literature is critically analysing the lack of success of EU engagement. Troncotă (2018, 233) pinpoint the insufficient progress, if not the failure of the entire process, on the EU’s mediation strategy to rely solely on the incentive of prospect membership and the use of “constructive ambiguity” which resulted in alienating the local elites and a situation in which “dividers” outnumber the “connectors.” For Beysoylu (2018, 214-215), it is the EU hybrid approach of mediation and lack of local ownership which turned part of the local elite to act as “spoilers” and resort to “subversive strategies to undermine the implementation process.” Overall, as Demjaha (2018, 17) argues, the Brussels dialogue has undermined Kosovo’s external sovereignty from the start, while for Bergmann (2018, 254) it “demonstrates the limits of [the EU’s] manipulative strategy and the conflict parties’ willingness to compromise.” All these writings point out to the use of constructive ambiguity by the EU. However, there is a gap in the literature on how the use of constructive ambiguity is related, not only regarding the different understandings of the provisions by the parties, but how the parties see the negotiation process and its outcomes *per se*. Or,

according to negotiation theory, how the Dialogue has been framed and, even more importantly, how can it be re-framed after the idea for exchange of territory has been presented.

When it comes to the question of the role of the EU in framing the Belgrade–Prishtina Dialogue three issues emerge. First, the Dialogue has been transformed into a negotiation between Albanians and Serbs in general. As Gashi, Musliu and Orbie (2017, 550) point out, since the negotiations focused on the “normalisation of relations” between Serbia and Kosovo while casting aside the Kosovo Serbs, one can ask the question for “whom is this dialogue intended for”. This was only confirmed with the proposal for land swaps. Suddenly, it is not only Serbia which represents Kosovo Serbs and intends to improve their rights in Kosovo, but Kosovo represents the Albanians in Southern Serbia as well. This, along with the increased involvement of the Albanian Prime Minister Rama, is changing the process into overall demarcation issue between Serbs and Albanians in the Balkans. Second, the use of constructive ambiguity and dual interpretation has been expanded to such a level that the two parties developed different understanding of the entire process. Finally, the negotiations went out of the Ahtisaari framework, thus, in a way, undermining the entire approach of the international community in relation to Kosovo. It should be noted here that one of the issues that the organised international community was adamant during the status talks in Vienna was that Kosovo will not have territorial claims towards other countries and that it will not seek union with another state, i.e. Albania (Weller 2009, 213). The fact that Albanian Prime Minister Rama has recently become more vocal on the issue of possible reunification of Albania and Kosovo, additionally supports the argument that the entire approach adopted since then has been put into question. Namely, referring to the trade war between Kosovo and Serbia he called the foreign ministers in Tirana and Prishtina “to begin working on a common strategic draft that will unite Albanians by the year 2025”, additionally urging the EU to “stop employing a two-faced approach” (Gotev 2018).

# CONSTRUCTIVE AMBIGUITY AND DUAL INTERPRETATION IN THE BELGRADE-PRISHTINA DIALOGUE

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Although the existing literature considers constructive ambiguity as one issue, it should be differentiated between constructive ambiguity and dual interpretation. While constructive ambiguity refers to the entire process, dual interpretation is used on the outcome. As such, dual interpretation is a sub-category of constructive ambiguity. Namely, constructive ambiguity is a technique in which vague language is used in order to allow the negotiating parties to resolve particular issue(s) at a later stage. However, these issues are not completely casted aside, but only the agreement over them is postponed. In other words, the parties can move along in the peace process achieving progress while subsequently re-negotiate the question over which constructive ambiguity was used. On the other hand, dual interpretation in its narrow meaning refers to the end result of a peace process. In this case the provisions of the agreement allow both parties to save face and declare victory by developing their own understandings. The issues are usually not re-negotiated and the parties, at least the political elites among them, are aware and somewhat tolerant with the opposite interpretations of the other side. This applies as long as it does not interfere or create fractions in the domestic political discourse or, in case of an international agreement, raise questions in their international affairs. There are several examples to illustrate the difference between constructive ambiguity and dual interpretation (Stankovski 2019). In case of the negotiations between Serbia and Kosovo, the dual interpretation is a consequence of the constructive ambiguity used by the EU throughout the process.

The EU established the Belgrade–Prishtina Dialogue in a way that allowed it to use what in negotiation theory is called ‘sequencing technique’ (Weiss and Rosenberg 2003). This would imply negotiating issue by issue in a previously carefully established order. That is why the Dialogue was provisionally divided into technical and political, although in the words of the first mediator, Robert Cooper (2015), that is somewhat “nonsense” as “all issues have both political and technical aspects.” However, he continues, sometimes “it is useful to focus on the technical and to pretend that it is nothing to do with politics” (Cooper 2015). This approach has been described as an attempt to reach a ‘neo-functional peace’ and, as such, it aims to avoid dealing with issues of the past by deconstructing the larger political issues into smaller technical decisions in order to achieve spillover effects and shift the parties from the previously entrenched positions (Visoka and Doyle 2016, 873).

According to Mitchell (2009, 323), there are three reasons why constructive ambiguity can be used. First, it can prepare the ground to “return to the problematic issue in the future when improved relations may aid resolution.” Second, in case of violent conflict, it allows the mediators “to push for the earliest possible agreement and to defer time-consuming issues.” And third, it allows the parties “to claim that a concession has been obtained on an important issue” and, as such, ease the relations with their constituencies. But, at the core of use of constructive ambiguity is the fact that this “deliberate use of imprecise language” (Berridge and James 2003, 51) is Churchman’s (1995, 9) view that the technique should only be used when negotiating less controversial issues of particular peace process (see also Mitchell 2009, 17). Nonetheless, these issues still have the capacity to either put the process to a halt or completely derail it. None of these conditions have been adhered to in the case of EU-led mediation process between Kosovo and Serbia. What this study argues is that constructive ambiguity cannot be used as a tool when it comes to substantive parts of the Agreement, i.e. for issues which are at the core of the dispute between the parties.

In other words, constructive ambiguity cannot be applied for the major issue of the negotiations, especially if the parties have different understandings of the process itself and its outcomes. This is exactly what happened in the EU approach to the

Belgrade–Prishtina Dialogue. Namely, Kosovo entered the negotiations as a technical dialogue leading to the First Agreement from 2013 with the expectation that it will result in mutual recognition between the two states (i.e. Kosovo and Serbia), as well as a removal of the parallel Serb structures by reintegrating/employing former members of these structures to Kosovo institutions.<sup>1</sup> In other words, re-gaining the control of the Serbian majority municipalities in the northern part of Kosovo.<sup>2</sup> For Serbia, on the other hand, the process was seen as “institutionalisation of the ethnic Serb political units within Prishtina’s state structures by creating a rather autonomous community” (Beysoylu 2018, 9). In that regard, following the dilemma about the interpretation of the Community/Association provision, representatives from the North have stated that they see South Tyrol as models closest to what Serb municipalities should look like (Trancota 2018, 10). Moreover, the Government in Belgrade has maintained the narrative towards the ethnic Serbs in the North that the integration of these majority Serb municipalities within Kosovo institutions is “only temporary” as they are working on ensuring “best possible outcome” from the negotiation process.<sup>3</sup> It is not far-fetched to argue that this “best possible outcome” can be interpreted as eventual separation of Northern Kosovo. In that context, the campaign slogan of the Serbian Government supported the ‘Srpska Lista’ (Serbian List) also implied that a vote for the list would translate into autonomy similar to that of Republika Srpska in Bosnia and Herzegovina (Bieber 2015, 309). Therefore, it is not a surprise that the opposition political parties in Prishtina regarded the First Agreement as one leading to ‘Daytonisation’ of Kosovo, i.e. creating a new Republika Srpska within its borders (Trancota 2018, 9).

Generally, the EU used constructive ambiguity or allowed dual interpretation over issues which would directly touch upon Kosovo statehood in, at least, three instances. The first one is the Agreement of Regional Representation (2012), also known as ‘footnote’ or ‘asterisk’ agreement. Namely, the Agreement was concluded in order to allow Kosovo to participate in international organisations without objections from

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1 Interview with Edita Tahiri, Prishtina (via WhatsApp), 26 September 2019.

2 Ibid. Also, interview with Donike Qerimi, Prishtina, 20 September 2019.

3 Interview with a NGO representative from Mitrovica, Prishtina, 18 September 2019.

Serbia, as long as an asterisk is used after the name of Kosovo stating that the designation is “without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo declaration of independence.” However, although Kosovo negotiators expected that this will allow Kosovo to obtain membership to international organisations where Serbia is also a member,<sup>4</sup> this was not entirely the case in practice. Namely, Serbia, and the EU, differentiated between “participation”, as stipulated in the Agreement, and “membership.”<sup>5</sup> As a result, Serbia continued blocking Kosovo accession into international organisations as an overall tactic to prevent possible collective recognition or restrict Kosovo access to particular international instruments, as illustrated by the examples of the failed applications to UNESCO and Interpol.

The second instance refers to the Agreement on Integrated Border/ Boundary Management (IBM) from December 2011.<sup>6</sup> While establishing an IBM was important in order to stop smuggling and other illegal activities, the very use of the acronym ‘IBM’ was another example of dual interpretation: for Kosovo it stood for ‘integrated border management’, but for Serbia, on the other hand, it meant ‘integrated boundary management’ (Bieber 2015, 302). As Bieber concluded, although these different interpretations allowed the negotiation process to continue, they could not resolve opposing views that were not merely semantic. As a result, the implementation process was considerably more difficult than reaching an agreement in the first place (Bieber 2015). The final example regards the issue with the so-called ‘Association/Community’ of Serbian municipalities (First Agreement on Principles Governing Normalization of Relations 2013). As the latest one is most complex, it will be elaborated in more detail in the next section of this chapter.

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4 Interview with a civil society activist, Prishtina, 17 September 2019.

5 Ibid.

6 For Kosovo see, Integrated Border Management [emphasis added], at <<http://kryeministri-ks.net/en/documents/integrated-border-management-december-2-2011/>>. For Serbia see, Integrated Boundary Management [emphasis added], at <<http://www.kim.gov.rs/eng/p13.php>>.

In addition to these issues, during the negotiations on the judiciary, a question was raised about the location and scope of the courts in the municipalities where the Serbian community is a majority, especially the ones in the northern part of Kosovo.<sup>7</sup> In that direction, some of Kosovo negotiators involved in the process feared that the initial proposals made during the negotiations process potentially created a pretext for parallel institutions in the North because the location of the ‘premises’ of the courts was not clearly established.<sup>8</sup> This concern was only amplified when discussions were opened about the law these institutions will apply.<sup>9</sup> Namely, Kosovo wanted to have ‘Kosovo Law’ directly mentioned, while Serbia insisted only on using the term ‘applicable law’.<sup>10</sup> In that direction, Kosovo argued that, the Basic Court in Mitrovica should include seven municipalities as provided by Kosovo Law, while Serbia claimed that this basic court should only include four northern municipalities with Serb majority.<sup>11</sup> According to Edita Tahiri, with this, Serbia aimed “to create ethnic courts” in this part of Kosovo.<sup>12</sup> In its final version, the Agreement on Justice specifically mentions Kosovo Law and, through it, establishes the Basic Court in Mitrovica for seven municipalities.<sup>13</sup> On the other hand, it also provides branches in the four majority Serb municipalities in the North. This allowed for removal of the parallel courts and prosecution structures of in the northern Kosovo. There was also a compromise in the sense that the number of ethnic Serb judges in the courts was increased as a confidence-building measure.<sup>14</sup> Although Tahiri claims that location of the courts was not any serious matter of dispute as they operate in several buildings located in North and South Mitrovica, the Agreement, nonetheless, either precisely states the location or a provision was added that a particular court might be seated in “another building to be agreed by both sides” (Agreement on Justice 2011).

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7 Interview with Donike Qerimi, Prishtina, 20 September 2019.

8 *ibid.*

9 Interview with Edita Tahiri, Prishtina (via Skype), 26 September 2019.

10 *Ibid.*

11 *Ibid.*

12 *Ibid.*

13 *Ibid.*

14 *Ibid.*

# FIRST AGREEMENT AND CONSTRUCTIVE AMBIGUITY

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Ambiguity in the First Brussels Agreement does not emanate only from the simultaneous use of the words ‘Community’ and ‘Association’ where the former is preferred by the Serbian Government as it implies territorially defined autonomous entity, while the latter is preferred by the Kosovo Government because it equates to an organisation of municipalities, a type of an NGO. The Articles 2 and 3 additionally provide ground for different interpretations. Namely, Article 2 stipulates that the Association can only be dissolved by a decision of the participating municipalities, giving it constitutive powers which are ought to be constitutionally protected and further reinforced with the 2/3 double majority rule (First Agreement on the Principles Governing Normalization of the Relations 2011). Article 3, on the other hand, states that the “structures of the Association/Community will be established on the same basis as the existing statue of the Association of Kosovo municipalities [...]” (ibid.), thus supporting the view of official Prishtina that the First Agreement merely creates an Association of municipalities, but not a federal type of entity. Additionally, the Agreement also allows the municipalities to cooperate among themselves and collectively exercise their powers through the Association/Community in accordance with Kosovo law and the European Charter on Local Self-government, giving it ‘full overview’ in the areas of economic development, health, education, urban and rural planning (ibid.). However, even the phrase ‘full overview’ was described as ambiguous by the Kosovo Constitutional Court as it was translated differently in the Serbian and Albanian texts which the Court interpreted to equate to a mere ‘review’ or an ‘audit’ (Judgement in Case No. KO 130/15 2015, para. 143).

The European Charter indeed states that the “[p]owers given to local authorities shall normally be full and exclusive” which can be interpreted as implying executive powers, but only for the separate units of the local self-government and not the Association/

Community as a whole. When it comes to the issue of inter-municipal cooperation, it leaves it to be regulated entirely “within the framework of the [domestic] law” (European Charter of Local Self-government 1985, Articles 4(4) and 10(1), respectively). The status negotiations in Vienna discussed these issues. The idea for federal-type system for Kosovo was rejected, establishing municipalities as the basic units of self-government (Weller 2009, 214). While they were granted “full and exclusive powers” over a range of issues, these powers were “to be exercised within the framework of central legislation” (Weller 2009, 214). Ahtisaari proposal reflects this approach. But, his final document ignored the objection made by Kosovo that the “decision-making body” comprised of the representatives of the Serbian municipal assemblies might effectively create “a third layer of Government between the central and the local” (Weller 2009, 214).

Additionally, regarding the question of composition of the courts, the Agreement goes against the ruling of the European Court of Human Rights in *Sejdić and Finci v. Bosnia and Herzegovina Case* (2009), which states that institutions should not be ethnically based, thus repeating the mistake of the international community with the Dayton Agreement. On the other hand, the Kosovo Constitutional Court missed the opportunity to answer some of the key questions such as whether the proposal over the Association/Community incorporates separate level of governance with executive authority and whether the “linkage between ethnicity and territoriality violates the fundamental principles of non-discrimination” (Weber 2016, 5).

According to Edita Tahiri, Chief Negotiator for Kosovo in the Brussels Dialogue, she was aware about the different understandings by both Kosovo and Serbia and therefore, just a day before the Brussels Agreement was concluded, she sent a letter to the EU High Representative Mogherini asking her to interpret these provisions. Although Edita Tahiri for the purpose of this research did not agree to disclose this correspondence and make it available to the public, she claims that she received a reply on the same day (i.e. prior to reaching the Agreement) which read that, for the EU, the Association would not have executive powers and would never become a third layer of governance.<sup>15</sup>

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15 Ibid.

# BELGRADE – PRISHTINA DIALOGUE AND THE AHTISAARI FRAMEWORK

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The independence of Kosovo came after almost ten years of UN administration followed by the implementation of the UNSC framework known as ‘Standards for Kosovo’. The final status negotiations were authorised by the UN Security Council and held in March 2007 in Vienna, mediated by the UN Special Envoy Martti Ahtisaari. After two unsuccessful rounds of talks, he recommended supervised independence as the best possible option for Kosovo.

What is particularly interesting to underline here is that the Ahtisaari Report, referring to the so-called March riots in 2004, an event that left a “profound legacy” for both Kosovo and the international community, stated that there is an obligation for the Kosovo authorities to “reach out to Kosovo Serbs”, but also for the Kosovo Serbs to “engage actively in [the] Kosovo institutions” (Report of the Special Envoy of the Secretary-General on Kosovo’s Future status 2007). When it comes to the decentralisation issues, the Proposal considered the specific needs and concerns of the Kosovo Serb community further indicating that:

[...the Serb community] shall have a high degree of control over its own affairs. The decentralization elements include, among other things: enhanced municipal competencies for Kosovo Serb majority municipalities (such as in the S/2007/168 07-27223 7 areas of secondary health care and higher education); extensive municipal autonomy in financial matters, including the ability to receive transparent funding from Serbia; provisions on inter-municipal partnerships and cross-border cooperation with Serbian institutions; and the establishment of six new or significantly expanded Kosovo Serb majority municipalities (Report of the Special Envoy of the Secretary-General on Kosovo’s Future status 2007, Annex, II, 4).

The Comprehensive Proposal for the Kosovo Status Settlement (2007) was drafted in a way as to carefully include both internal and external stabilisation challenges and objectives. The external dimension was influenced by Contact Group's previous position that the final solution for Kosovo cannot envisage return to the pre-1999 status, partition or union of Kosovo with another country (BBC 2006). It can be concluded that the latter two preconditions were put in order to preclude possible 'domino effect' to the regional stability. In this regard, Ahtisaari has referred to the political situation in Kosovo and the security implications it might have in the Balkans (D'Aspermont 2007, 658).<sup>16</sup> The approach made some authors to argue that he was looking for a solution outside international law, warning that a solution that is "designed to deal with a unique case is not part of the law" (Bing Jia 2009, 34). This view cannot be accepted, as the doctrine of constitutional self-determination offers an explication of Kosovo independence without setting a precedent (Stankovski 2011).

When, encouraged by the Ahtisaari recommendation, Kosovo declared independence, it unilaterally accepted, *inter alia*, the Ahtisaari Plan and, through UNSC Resolution 1244, the Rambouillet Accords as well (Kosovo Declaration of Independence 2008, paras. 5, 8). It can be argued that this created *erga omnes* obligations for the new self-declared state. It is also noteworthy to mention that the Kosovo's Declaration of Independence promotes Kosovo as a multi-ethnic state of all peoples living within its borders, not only of Albanian ethnicity.

The Dialogue with Serbia was an outstanding obligation from the 'Standards for Kosovo' approach by the international community (Standards for Kosovo 2003), which the Ahtisaari Report was building upon as it concluded that Kosovo needs to become independent state with an EU perspective in order to be able to continue fulfilling these internationally established criteria (Report of the Special Envoy of the Secretary-General on Kosovo's Future status 2007). Based on this, Kosovo continued to implement measures on decentralisation and minority protection while, at the same time, being engaged in a dialogue with Serbia.

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16 In that respect, D'Aspermont argues that Kosovo's independence is part of a pragmatic approach by the international community and not of the exercise of the right of (remedial) self-determination.

To summarise, there are four aspects about how the Ahtisaari Report and the period of internationally supervised independence framed the Belgrade–Prishtina Dialogue and shaped Kosovo understanding of the process. First, the Ahtisaari plan defines Kosovo borders further stating that the new state “shall have no territorial claims against, and shall seek no union with, any State or part of any State” (Comprehensive Proposal for the Kosovo Status Settlement 2007), something which was later enshrined in Kosovo’s Declaration of Independence (2008, para 8).<sup>17</sup> Second, it outlined the decentralisation process, especially when it comes to the issue of the municipalities with Serbian majority. Third, by relying on the Standards for Kosovo, it actually established what the “normalisation” processes with Serbia entails (standards for Kosovo 2003, 14). Finally, the Ahtisaari-outlined plan was the basis of the entire approach of the international community in post-independence Kosovo.

Considering all of this, it is not a surprise that the Kosovo Government at the time, as well as the members of the negotiating team, also adopted the view that the origin of the Brussels Dialogue was in the Ahtisaari Plan.<sup>18</sup> In that direction, Edita Tahiri defined, right from the start of the negotiation process, what she called “three red lines.” They were: no status discussions, no discussions on constitutional order of Kosovo, and no competences to Serb community beyond what was established with the Ahtisaari Plan.<sup>19</sup> In other words, according to members of the negotiating team of Kosovo, the framework for the Dialogue, in the view of Prishtina, was based on the Plan.<sup>20</sup> This also included the understanding that the concept of the Agreement regarding the creation of “Association/Community” of Serbian municipalities was “anchored in the Ahtisaari Proposal” as well.<sup>21</sup>

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17 “Kosovo shall have its international borders as set forth in Annex VIII of the Ahtisaari Plan, and shall fully respect the sovereignty and territorial integrity of all our neighbours [...].

18 Interview with Edita Tahiri, Prishtina (via Skype), 26 September 2019.

19 Ibid.

20 Interview with Fisnik Rexhepi, Prishtina, 20 September 2019.

21 Interview with Donike Qerimi, Prishtina, 20 September 2019.

## COMPETING VIEWS ON THE DIALOGUE AND THE ROLE OF THE EU IN FRAMING THE PROCESS

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Since the start of the Belgrade-Prishtina Dialogue the expectations of the Kosovo negotiating team was that the process will be led depending on the principles of international law and result in mutual recognition between the two countries.<sup>22</sup> Considering this, it is not a surprise that for Kosovo negotiators the most important agreement reached during the technical dialogue was on the IBM in 2011, something which was regarded as a necessary precondition for setting a border between two sovereign nations.<sup>23</sup> However, as it was already explained, the EU in this instance blurred the lines with the use of constructive ambiguity.

Serbia, on the other hand, agreed to start the dialogue after the ICJ decision which found that, the unilaterally adopted independence of Kosovo, as such, did not violate international law (Advisory Opinion of 22 July 2010). The *Advisory Opinion* also gave the EU the necessary leverage to pressure Serbia to start negotiations. However, taking into consideration Serbia's conduct during the process, it can be argued that for official Belgrade, the Dialogue was seen as a type of continuation of the status talks. The fact that even the name of the talks, i.e. 'Belgrade-Prishtina dialogue' and not 'Serbia-Kosovo dialogue', was established in order not to imply statehood (Gashi et. al. 2017, 540) can be regarded as contributing towards the aforementioned interpretation by Serbia.

The EU presented the Dialogue as a necessary precondition for advancing the aspirations of Serbia to join the Union; and for Kosovo to obtain recognition from the five EU non-recognisers and eventually be placed on the path toward EU integra-

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22 Interview with Edita Tahiri, Prishtina (via Skype), 26 September 2019.

23 Ibid.

tion. With this, it can be argued that the Union attempted, at least publically, to value-frame the negotiation process. However, statements from Brussels towards Serbia were also contradictory. The President of the European Commission Barroso said that Belgrade's position towards Kosovo would be taken into consideration when assessing Serbia's application and progress towards the EU, while for the EU Commissioner on Enlargement Štefan Füle it was "normalisation" which was required, not "recognition" (Plänitz 2018, 81).

Nevertheless, the public in Kosovo did not regard it in that way. Instead, the process was seen as a continuation of the state-building activity as outlined by the country's strategic partners before independence was declared (i.e. with the 'Standards for Kosovo' approach and the Ahtisaari Plan) and, as such, as an initiative that will strengthen Kosovo's statehood and ultimately lead to obtaining recognition from Serbia.<sup>24</sup> For the negotiators, it also represented an "aftermath of the Ahtisaari Process" and an opportunity for Kosovo to "re-establish control of the North again."<sup>25</sup>

As this research points out, the Belgrade–Pristina Dialogue was constructed on a base with an inherent framing deficiency. However, if initially the process was somewhat able to be contained, it was completely derailed when in August 2018 the idea for 'land swap' or 'border correction' was proposed. Although, it has been sporadically mentioned in the discourse before, usually only to be immediately discarded, it was the first time that it was referred to by a high representative of the negotiating parties, i.e. the President of Kosovo, Thaçi (Morina 2018). However, the biggest surprise came after the White House National Security Adviser, John Bolton backed the idea stating that:

[o]ur policy, the U.S. policy, is that if the two parties can work it out between themselves and reach agreement, we don't exclude territorial adjustments. It's really not for us to say. [...] We would not stand in the way, and I don't think anybody in Europe would stand in the way if the two parties to the dispute reached a mutually satisfactory settlement (Radio Free Europe 2018).

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24 Interview with a civil society activist, Prishtina, 17 September 2019.

25 Interview with Donike Qerimi, Prishtina, 20 September 2019.

This prompted Germany to step up and publicly denounce the idea. As German Chancellor Merkel put it, “[t]he territorial integrity of the states of the Western Balkans has been established and is inviolable [...]. This has to be said again and again because again and again there are attempts to perhaps talk about borders and we can’t do that [...]” (Gray 2018).

However, the EU High Representative Mogherini, as the principal mediator of the process, did not discard Bolton’s idea. Although she emphasised that “the EU would only accept a deal in line with international and EU law”, she further continued that if a possible agreement meets those conditions, the EU would recognise it (Barigazzi 2018). However, the High Representative underlined that the “European history is based on overcoming and preventing any idea of ethnically pure nation states” (Barigazzi 2018). Nonetheless, this was interpreted as giving support to Bolton’s position. Her statement created a rift among the EU member states, which prompted the German Foreign Minister, as well as the foreign ministers of Luxemburg and Austria to denounce the idea (Barigazzi 2018). But, the strongest opposition came from Kosovo Prime Minister Haradinaj whose statement, in fact, illustrates Kosovo’s concern about the framework of the negotiations as he protested that “[i]nstead of talking about an agreement with Serbia for recognition, [Mogherini] has deviated the discussion on territories and borders”, thus her “discussions have destroyed the EU’s opportunity to forge an agreement” (Emerging Europe 2019).

Interestingly, civil society in both Serbia and Kosovo played an important role in confronting the plans for a land swap. In a letter to HR Mogherini, more than two dozen civil society organisations from the two countries have warned her that the idea for land swap sends a dangerous message to the citizens of Serbia and Kosovo, and can furthermore destabilise the entire Balkans (Radio Free Europe 2018). Even more importantly, the NGO sector in Kosovo was instrumental in the aftermath of the land swap idea. Namely, it mobilised quickly and without international help, and was very vocal in publicly criticising the President. The majority of the civil society organisations in Kosovo also saw the proposal as dangerous and, if accepted as such,

a reason for undermining the fragile peace both in Kosovo and the entire region.<sup>26</sup> This attempt for public pressure was done in order to shame the political elites with the purpose to ensure that no political party will consent to such an option in the future.<sup>27</sup> When it comes to the Kosovo Serbs, especially the ones living in the municipalities in the South, the land swap idea created a negative sentiment that they have been sacrificed by the international community and used as a bargaining chip by everyone involved, including Serbia.<sup>28</sup>

After the deadlock with the land swap idea, it is vital that the negotiations are re-framed. In other words, it is of particular importance that the EU, as mediator, defines what the negotiations are about. As this research argues, constructive ambiguity and dual interpretation proved to be counterproductive if used for issues substantial for the negotiations. As one of the negotiators interviewed for the purpose of this research points out:

[w]e urgently need a [new] framework of the negotiations. That framework should be designed as the international community did in Vienna during the final status negotiations [i.e. the conditions established by the Contact Group]. In that case it stated which options were not possible - no going to the pre-1999 status, no change of borders, no joining another country. The same should be done now. It has to say at least which solutions are nonviable. If the idea for land swaps is not an option, tell us that it is not an option. We need to know what we are negotiating about.<sup>29</sup>

As Bergman stated, “[i]f there is no overlap of conflict parties’ preferences and, consequently, a zone of potential agreement does not exist, mediation strategy will not have an influence on the effectiveness of the mediation effort at all” (Bergmann 2018, 424). He further argues that in that case the mediators can try to expand the zone of possible agreement by offering new incentives (Bergmann 2018). This cannot

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26 Interview with a civil society activist, Prishtina, 17 September 2019.

27 Interview with Ilir Deda, Prishtina, 17 September 2019.

28 Interview with Miloš Milovanović, Prishtina, 19 September 2019.

29 Interview with a civil society activist, Prishtina, 17 September 2019.

be applied in the case of Kosovo, not since August 2018. Therefore, in answering the question of how to reframe the dialogue after the process has been derailed with the land swap idea, it is important to argue that the international community has to create a new narrative which will be in line with the international law. Also, this new narrative needs to consider the international community's approach implemented in the case of Kosovo thus far, which can be provisionally called an attempt to securitise the process of secession.

Therefore, after the land swap idea halted the negotiations, going back to the Ahtisaari framework might be, in fact, a step forward for Kosovo. It seems that, at least part of the international community is aware of this. In the words of a representative of the international community interviewed for the purpose of this research, but who insisted on remaining anonymous: "when I want to look into the future, I go back and read Ahtisaari's Proposal." Generally, the possible solution would be either to preserve the existing territorial organisation of Kosovo and reinforcing it by putting a cap on the issue of federalisation and land swap, i.e. respecting the Ahtisaari Proposal, or re-negotiate everything, in which case, the provisions on minority guarantees or limitations of territorial re-composition, i.e. merging with Albania, does not apply.<sup>30</sup>

From the aspect of civil society, the EU needs to 'reset' the principles upon which the negotiation process is established.<sup>31</sup> This includes three prerequisites. The first one is the clarification of the principles of the Dialogue, i.e. what is exactly being negotiated. The second one is clarification of the Union's enlargement policy and establishing guarantees about the EU integration perspective of both Serbia and Kosovo. The third one is dealing with issues of the past, particularly the question of missing persons, the war crimes committed by both side, and the repatriation of the displaced persons.<sup>32</sup> The question of reconciliation has been regarded as pertinent by Kosovo public and the non-opening of this issue is one of the reasons for the prevail-

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30 Interview with Donike Qerimi, Prishtina, 20 September 2019.

31 Interview with a civil society activist, Prishtina, 17 September 2019.

32 Ibid.

ing scepticism that exists among Kosovo citizens regarding the Dialogue.<sup>33</sup> Moreover, if the land swap idea is supported, it will create a perception that the EU is ready to back up a plan that goes against its basic values and its investment in a multi-ethnic state in Kosovo over a decade, making the conversation about multi-ethnic states in the Balkans redundant.<sup>34</sup>

It is entirely a different question, however, if the EU still has credibility after the idea for land swap was presented as well as whether the Union can continue its role as a mediator without interference from other countries. On the one hand the EU has been, and will most likely remain as the least common denominator between Belgrade and Pristina. This is because of multiple reasons, three of which are most important. First, the combination of recognisers and non-recognisers among the member states allows it to be acceptable to both sides. Second, both countries have clear EU aspirations. Third, it is highly unlikely that the two parties will agree over another mediator in the process. If the US joins, which will without a doubt be accepted by Kosovo, Serbia would insist that also Russia takes role as a mediator. This can only further derail the process. Therefore, no matter that many countries have vested interest in the Region in general, and this dispute in particular, it is probable that the EU will remain as a formal mediator regardless of additional interference by other countries. On the other hand, in addition to the way that EU approached the mediation process, the mistrust is also amplified because of the undelivered promises previously made to Prishtina like, for example, the still not approved visa liberalisation for the Kosovo citizens.<sup>35</sup>

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33 Ibid.

34 Interview with Eraldin Fazliu, Prishtina, 15 September 2019.

35 Interview with Ilir Deda, Prishtina, 17 September 2019.

## CONCLUSION

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As this research has argued, through its role as a mediator in the Belgrade–Prishtina Dialogue, the EU has managed to undermine the Ahtisaari Plan and the approach adopted by the international community when it comes to Kosovo's supervised independence. The Union used constructive ambiguity and dual interpretation extensively, over the core issues of the dispute. With that, it has contributed in creating an entirely different understanding of the negotiation process by the two parties. The result of this has only brought the two sides further apart. Moreover, when the idea for land swap was introduced, the process has been completely derailed. If, by any chance, Kosovo and Serbia do agree on territorial exchange, the consequences to Kosovo and the wider region will be devastating. It will undermine the entire progress made by the international community thus far. To begin with, it will allow drawing borders within ethnic lines by completely discarding the *uti possidetis* principle which was applied since the dissolution of former Yugoslavia. This is something that the international community has always tried to prevent, ever since the beginning of the conflict in Yugoslavia (Owen 1997, 34). Additionally, the implications for other secessionist conflicts including the ones in Ukraine, Georgia and Moldova cannot be clearly envisaged.

The EU and the international community involved in Kosovo have two possible solutions at hand. One is to fully adhere to the Ahtisaari framework and preserve the existing territorial organisation of Kosovo, discarding the ideas for federalisation and land swap. The other option would be to negotiate everything. In this case both the provisions on minority guarantees, as well as the limitation on possible merging with other countries (i.e. Albania) will not apply. Therefore, the EU needs to 'reset' the principles on which the Dialogue has been established. In addition to this, there is the question whether the EU has the credibility to continue its role as a mediator without the interference from other countries. There is a need, therefore, to re-frame

the negotiations and to create a new narrative in the process. As this article argues, the mediator should rely on the approach of the international community to securitise Kosovo statehood and re-invoke the Ahtisaari Plan in order to achieve this. In other words, the only opportunity to create this new narrative is by strictly adhering to the norms of international law.

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## DISCLOSURE STATEMENT

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No potential conflict of interest was reported by the author.

## LIST OF INTERVIEWS

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Ilir Deda, former Member of Parliament of Kosovo; Vice-president of political party Alternativa, Prishtina 17 September 2019.

Eraldin Fazliu, Editor-in-chief, Pristina Insight, Prishtina, 15 September 2019.

Civil society activist, Prishtina, 17 September 2019.

Miloš Milovanović, civil society activist from Southern Kosovo, Prishtina, 19 September 2019.

Donike Qerimi, former Deputy Advisor to Deputy Prime Minister Kuçi and member of the technical negotiation team from 2012 to 2015, Prishtina, 20 September 2019.

NGO Representative from Mitrovica, Prishtina, 18 September 2019.

Fisnik Rexhepi, former Chief Policy Advisor for the Ministry of Foreign Affairs, Prishtina, 20 September 2019.

Edita Tahiri, Chief Negotiator for Kosovo in the Belgrade-Prishtina Dialogue in the period March 2011–September 2017, Prishtina, 26 September 2019.

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Kosovo and Serbia do agree on territorial exchange, the consequences to Kosovo and the wider region will be devastating. It will undermine the entire progress made by the international community thus far.



# **KOSOVO'S STRESSFUL MULTILATERALISM: CAN THE BERLIN PROCESS SERVE AS A REMEDY?**

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**— DONIKA EMINI**

## — DONIKA EMINI

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# ABSTRACT

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Among many regional cooperation mechanisms led either by the EU or the member states sharing keen interest in the Western Balkans, to date, the Berlin Process represents one of the most laudable and comprehensive political initiatives in the Western Balkans that engages a plethora of interlocutors and stakeholders. Initiated in Berlin, the process not only included all Western Balkan countries on equal footing, but it created a snowball effect by including a noteworthy number of EU countries in the process in the course of five years. This chapter aims at identifying the ways in which the Berlin Process has served as a remedy for Kosovo's stressful multilateralism, due to the non-recognition by two Western Balkan countries (Serbia and Bosnia-Herzegovina) and five EU member states (Spain, Cyprus, Romania, Slovakia, and Greece). More specifically the analysis offers an overview of all agreements signed in the framework of the Berlin Process and assess the success of Kosovo in maximizing the benefits alongside its counterparts. This study shows that Kosovo did relatively well in being included in the agreements, being represented with its state symbols - albeit under the asterisk which puts the Kosovo statehood into question. But the this progress is rather symbolic. The political elite of Kosovo has treated the Berlin Process initiative equally to other existing multilateral cooperation initiatives, and has therefore, failed to understand the potential of this Process to further consolidate its statehood. Kosovo followed a passive approach that allowed it to participate in existing initiatives, but it hardly took a leading role or proposed specific project that would positively contribute to the internal development of the country and its better positioning regionally. Furthermore, Kosovo lacked clear objectives and goals in the Berlin Process. Failure to materialise from the Vienna Declaration on Bilateral Disputes followed by London Declaration on Good Neighbourly relations, reflects the lack of strategic vision of Kosovo in the Process.

# INTRODUCTION

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The diplomatic initiative known as the Berlin Process has been launched in 2014 at the initiative of the German Chancellor Angela Merkel and the Foreign Minister Frank-Walter Steinmeier. The conference in Berlin has been hosted by the German government, however, it was strongly supported by France and Austria, the EU representatives, the Western Balkans six alongside Croatia and Slovenia. The Final Declaration derived from the conference outlined the objectives and the four-year timeframe of the Berlin Process. The initiative was formally endorsed and supported by all participatory parties vowed to “make additional real progress in the reform process, in resolving outstanding bilateral and internal issues, and in achieving reconciliation within and between the societies in the region of the Western Balkans” (Bundesregierung 2014). Henceforth, the Berlin Process in its form represents an intergovernmental cooperation initiative aiming to strengthen multilateral ties among all parties involved.

Launched in the midst of crisis of relations between EU and Western Balkans triggered by the so-called enlargement fatigue, the Berlin Process placed regional cooperation high on the agenda through active multi-frontal engagement (Emini 2016, 10-12). Regional cooperation, however, was not a new idea for the Western Balkan countries. The Berlin Process has landed on several existing multi-sectorial regional cooperation mechanisms sharing various missions and having different degrees of success. Building up on the already existing initiatives, the Berlin Process strives to intensify and facilitate regional cooperation through economic growth and increased mobility and connectivity between Western Balkan countries. As such, understandably, connectivity became the buzz-word and one of the key pillars of the Berlin Process.

Differently from other initiatives, the novelty of the Berlin Process relies on the fact that it is not limited to the high-level political cooperation between political elites of the participatory EU member states and Western Balkans, but it manages to effectively include diverse stakeholders such as civil society and the business sector (Lilyanova 2016, 2-3). This innovative multi-stakeholder approach gradually pushed the Berlin Process beyond its connectivity agenda, thus turning it into an effective platform of communication between the EU member states and the Western Balkans countries.

By tackling all issues relevant to the region and its relations with the EU, the Berlin Process aims at serving as the main catalyst for regional cooperation. However, its success highly depends on the existing open bilateral issues between countries of the Western Balkans countries, and their relations with the neighbouring countries bordering the region. Facing the 'elephant in the room', the hosting countries of the first summits, Germany and Austria, made solving bilateral disputes an integral part of the Berlin Process agenda. This multilateral approach of solving bilateral disputes has been considered a strategic way of dealing with long-lasting problems that hinder regional cooperation (Mirel 2018, 6-7). Subsequently, the Berlin Process offered a unique approach by focusing on solving the open disputes and aiming reconciliation through dynamic engagement with youth organizations and grassroots level initiatives promoting the bottom up approach to solving disputes in the region (Marciacq 2017, 22).

In addition to the limitations of Kosovo to thrive regionally, mainly caused by the two non-recognizers in the region (Serbia and BiH), the EU integration process for Kosovo does not seem to have a better scenario. The lack of recognition from the five EU member states, Cyprus, Greece, Romania, Slovakia, and Spain, have created political obstacles for the EU to offer a tangible and clear EU perspective to Kosovo (BPRG 2018, 2). Given the listed complexities and Kosovo's multilateralism under stress caused by strong political limitations as a result of non-recognitions, this chapter seeks to analyse the ways in which the Berlin Process has offered a platform in which Kosovo has had the unique chance to be represented on equal footing with other countries and whether it did offer a solution for its compromised positioning in the region and with regards to the EU.

## Research objectives and methodology

The key research question of this chapter is: Did the Berlin Process offer a remedy for Kosovo 'stressful multilateralism'? This question is supplemented by three sub-questions:

- What were the benefits that Kosovo has yielded from the Berlin process?
- Could the Berlin Process serve as an effective platform to solve the bilateral dispute between Kosovo and Serbia?
- How did the Berlin Process serve to improve Kosovo's regional participation and where does Kosovo stand in the bilateral relations between Albania and Serbia?

This chapter aims to analyse the Berlin Process as one of the most laudable and comprehensive political initiatives in the Western Balkans, and one that engages a plethora of interlocutors and stakeholders. It aims at identifying the ways in which the Berlin Process has served as a remedy for Kosovo's stressful multilateralism. More specifically the analysis will offer an overview of all agreements signed in the framework of the Berlin Process and assess Kosovo's effectiveness in maximizing the benefits alongside its counterparts. Moreover, it will explore whether the Berlin Process provides an opportunity for Kosovo to increase cooperation with the non-recognizers, or the EU members that have not yet established diplomatic relations with Pristina, as is the case with the host of the 2019 Berlin Process Summit, Poland.

The methodology of this study combines desk research and the semi-structured interviews conducted with the relevant stakeholders in Kosovo, Western Balkan region, and EU experts. In desk research, the paper is based on the review of national and international sources such as strategic documents, the reports and policy papers launched from various institutions, especially ones commissioned by civil society organisations, as well as media reporting. Other sources examined include the agreements signed in each Summit, official documents from the governments of the Western Balkans and the EU, progress reports with special focus on solving bilater-

al disputes produced by the signatory parties of the Vienna Declaration.. Research papers and recommendations deriving from Civil Society Forum – especially those focusing on Kosovo will also be used as a key material for the study. In addition, semi-structured face-to-face and flexible interviews, which allowed for questions to be brought up during discussions, have been used for data collection. In depth interviews have also been conducted with key local and international stakeholders. Finally, the analysis is informed by the author’s participation in key events and initiatives, such as the annual summits, forums, conferences and seminars and other events linked to the Berlin Process.

## Regional cooperation in theoretical perspective

Theories of regional cooperation have been mainly developed in the framework of the European integration. Most of the literature on European Integration places intergovernmental cooperation and regional cooperation as a starting point (Hooghe and Marks 2019, 1114-1115). From the perspective of regionalist theories, there is a list of elements conducive to regional cooperation which can include shared regional issues, the immediate neighbourliness, shared past, and interdependence. The theoretical framework of this study will be new regionalism as a rather flexible cooperation between diverse groups of states, economies, and cultures aiming to promote interdependence (Cottey 1999, 185). According to Hettne, Inotai and Osvaldo, new regionalism is different from other regional cooperation theories because cooperation takes place below and within the region. In addition, according to new regionalism, cooperation is multi-dimensional including many fields of such as economy, politics, security, economy, social development, and culture (Hettne, Inotai and Osvaldo 2000, 1-24). Having the ‘thematic’ cooperation a key priority within the Berlin Process paves the way for the ‘new regionalism’ approach in which non-state and informal institutions’ role is as important as that of state actors.

The role and the importance of the EU in starting ‘new regionalism’ has been paramount. Furthermore, the EU provided a role model for this theoretical framework. Regional cooperation, as a matter of fact, has been one of the most effective enlargement strategies of the EU. In this regard, the Visegrad Countries (Poland, Czech

Republic, Slovakia, and Hungary) known as the Visegrad Four (V4) is considered as a successful approach to creating solid and interconnected regions in the framework of the EU accession process (Dangerfield 2011, 21-22). To date, at least in relation to the Western Balkans, the V4 model has been used as a foreign policy tool of the EU, especially through the 'Europeanisation' process of the Western Balkan countries (Obydenkova 2006, 5-8). This is reflected in the establishment of the Western Balkans Fund (WBF) based on the model of the International Visegrad Fund (IVF). The Western Balkans Fund is an initiative led and sponsored by the six Western Balkan countries aiming to increase interaction and strengthen cooperation in the region using the Visegrad model (WBF 2015).

Regional cooperation in Western Balkans started as an externally driven EU-led initiative, dominated by security and stability concerns and gradually became an integral part of the region (Minic 2009, 13-31). In the case of the Western Balkans, in spite of the growing regionalist approach driven by the EU integration process as the main impetus for good neighbourly relations, the countries in the Western Balkans have made a modest progress in strengthening cooperation (Bojicic-Dzelilovic and Anastasakis 2002, 36-40). The Berlin Process landed in the region aiming to boost regional cooperation in a complex environment and scattered cooperation among countries by introducing a more hybrid and proactive regional cooperation scheme.

# LANDING ON BILATERAL DISPUTES: VIENNA AND LONDON SUMMITS IN ACTION

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Good neighbourly relations is a condition that is deeply embedded in the EU integration process for the region (Armakolas 2018). This was further emphasized in the latest EU Commission Strategy on Western Balkans adopted in 2018<sup>1</sup> (European Commission 2018), but it is also deeply embedded in each country's EU integration process. The strong emphasis of good neighbourly relations derives from the fear caused by the level of polarization in the region, which is aggravated by existing open bilateral issues. Bilateral disputes in the Western Balkans represent one of the most sensitive issues to tackle. The level of complexity relies on the characteristics of the disputes and the extent to which these disputes are politicised. Immediately upon its launch, it became clear that the success of the Berlin Process would highly depend on the political willingness of the countries to cooperate with each other. As such, it was imperative for the Berlin Process to not only include the solving of bilateral disputes on the agenda, but also place them among its top priorities.

The need to tackle bilateral disputes on a higher political level was materialized during the Vienna Summit, which was the second that took place in the framework of the Berlin Process. In Vienna, the participatory countries signed the Vienna Declaration on Bilateral Disputes (Vienna Declaration 2015). The declaration seeks a commitment to resolve all outstanding disputes between Western Balkans countries in the spirit of good neighbourly relations and commitment to EU integration (European Commission 2015). The document indicated that the actual disputes were left to the parties to bilaterally tackle them. While the ceremony of signing the declaration was considered another milestone in solving bilateral disputes in a multilateral set-

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1 Original name: A credible enlargement perspective for and enhanced EU engagement with the Western Balkans

ting, the implementation of such commitments would require manifold bilateral engagements by all signatories. The lack of concrete action plan to put this agreement into practice and follow-up mechanisms to monitor action plan to keep parties committed to the actual implementation directly impacted on the effectiveness of this initiative. In addition, the lack of a follow-up strategy or sanctioning mechanisms for parties failing to implement the commitments created a convenient environment for the respective governments to avoid meeting obligations (Nechev, Mameledžija and Nicić 2016, 9-11). Lacking structure or permanent secretariat, which would follow up on the progress of implementation, has meant that the effectiveness of the Berlin Process to deliver on this objective was rather limited. Many experts consider that the Berlin Process has not only failed to solve bilateral issues, but it has gradually faded and lost its meaning.<sup>2</sup>

The Vienna Summit has provided a unique opportunity for Kosovo to create yet another avenue through which it would improve its regional participation and inclusion. In addition, the Berlin Process provided a unique chance for Kosovo to not only improve its presence regionally.<sup>3</sup> Moreover, the Berlin Process created a conducive multilateral and political environment to build on the Kosovo-Serbia relations as the key factor paving the way for the EU integration process of both countries (Himmrich 2017, 17-25). In the case of Kosovo, the Vienna Declaration was not utilized to unblock its regional participation. This was partly due to the fact that the declaration itself was not legally binding and the above-described implementation challenges. Local ownership, which in normal circumstances would be considered as positive, in the case of Western Balkans it did not contribute to improving relations among Western Balkan countries (Rudan 2017).

In such a difficult environment, with Kosovo and Serbia representing one of the most complex parts of the regional cooperation jigsaw in the Western Balkans, the only success of the Berlin Process can be considered the implementation of the so-called

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2 Interview with Marika Djolai, Member of Balkans in Europe Policy Advisory Group (BIEPAG), Bled, September 2019.

3 Interview with Jelica Minic, Vice-President of the European Movement in Serbia, Online, December 2019.

‘Footnote Agreement’ signed through a facilitated dialogue under the auspices of the EU (Russell 2019). Regardless of the challenges related to Kosovo’s representation in multilateral platforms, its participation in the Berlin Process has been regulated through the ‘Footnote Agreement’, which in principle does provide an avenue for it to be equally partaking in the process. However, while, it has been considered successful in ensuring full inclusiveness of all Western Balkan countries in the Berlin Process, the asterisk itself as a symbol contributed to creating an uneven cooperation setting (Armakolas 2018, 151-53).

The Berlin Process hosts’ commitment to deal with open issues continued in the London Summit in 2018, during which the participatory countries renewed their commitment to solving bilateral disputes. Taking into consideration the specific nature of the conflicts in the Balkans, the *Joint Declaration on Regional Cooperation and Good Neighbourly Relations* signed in the framework of the London Summit has been further detailed by specifically including the *Joint Declaration on Missing Persons* and *Joint Declaration on War Crimes* – and urged further progress and proactive follow up in this area (Western Balkans Summit - London 2018). Similarly, the *Joint Declaration on Regional Cooperation and Good Neighbourly Relations* signed under the auspices of the London Summit marked yet another agreement from which Kosovo had limited benefits. This does not only reflect the lack of capacities to materialize on one of the key obstacle in relation to Serbia, the missing people and war crimes, but it really reflects complete lack of political will to address this issue using multilateral . This marks yet another missed opportunity to push the EU and the Western Balkans agenda to deal with very sensitive issues in which proactive engagement of all parties involved is needed.<sup>4</sup>

In the timespan of five years, since the Berlin Process was launched, only two open disputes have been resolved. The first was the dispute over the border demarcation between Kosovo and Montenegro (European Commission 2018), which has held Kosovo visa liberalization process on hold for three years, was resolved in 2018 as a result of the change in government in Kosovo and EU pressure. This has been con-

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4 Interview with Kosovo Government Official, Prishtina, July 2019.

sidered a positive outcome and one of the developments that could be attributed to regional cooperation and the Berlin process, but was primarily a result of the will and efforts of both sides in the dispute.<sup>5</sup> The second dispute was the so-called name issue between Greece and North Macedonia, which has been solved with immense political will deriving from political elites in both countries (Duncan 2019). This event paved the way for Greece to get involved in the Berlin Process.

## **KOSOVO IN THE BERLIN PROCESS SUMMITS: BENEFITS AND MISSED OPPORTUNITIES**

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Indeed, the Berlin Process has promoted multi-layered cooperation in the Western Balkans through various projects – mainly infrastructural – aiming to improve the lives of the citizens while also connecting political elites of the region. With full equal representation in all Summits, Kosovo has been a signatory party in all agreements deriving from the Berlin Process. As such - at least on paper - the process has brought substantial benefits regarding projects but also by putting the country on the map in political terms. Berlin Process marks one of the first frameworks in which Kosovo became part of a large EU-backed initiative on equal footing with the rest of the Western Balkan countries, the EU institutions and member states.<sup>6</sup>

Kosovo has benefited from the connectivity agenda of the Berlin Process by receiving projects on transport, participating in the free-roaming agreement deriving from the Berlin Process regardless of the limitations caused with by delays in the implementation of the Telecommunication Agreement with Serbia signed in 2013 (Emini and Stakic 2018, 4-5). Besides, Kosovo has been a signatory part in larger region-

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5 Interview with Jovana Marovic, Executive Director Politikon Network, Budapest, December 2019.

6 Interview with Zoran Nechev, Head of the Integration at the Institute for Democracy 'Societas Civilis', Skopje, Prishtina, December 2019.

al level initiatives such as Regional Youth Cooperation Council (RYCO), Transport Community Treaty (*TCT*), the Trans-European Transport network (TEN-T) (Minic 2019). While for many this is considered a minor development, these initiatives have immensely contributed to bringing Kosovo closer to its two non-recognizers, Serbia and BiH. For instance, BiH does not recognize Kosovo's independence so if there were no regional initiatives such as the RYCO or EU-backed meetings at the regional level (Berlin Process or the April 2019 meeting in Berlin) there would be little or no interaction at the political or technical and institutional level between two countries.<sup>7</sup> While this is a remarkable step for Kosovo, the idea of utilizing this platform to increase cooperation with non-recognizers, never took off. Kosovo has been incapable of using the Berlin Process politically for marking significant progress in ensuring good-neighbourly relations as well as benefitting from the inclusiveness in the regional and EU level. This failure can be largely attributed to the internal political crisis and instability, the weak institutions, lack of awareness about the Berlin Process.

## Paris Summit: RYCO and local ownership

Inspired by similar initiatives undertaken between France and Germany after the World War II, RYCO has been signed in the framework of the Paris Summit in 2016 (RYCO 2016). Aiming to reach the level of French–German dialogue leading to reconciliation, a model that has been widely referred to when dealing with the case of Kosovo and Serbia, RYCO has aimed at reaching stability through proactive cross-border cooperation among young people. The novelty of this initiative relies on the fact that it emphasizes local ownership as it is an initiative led and financially maintained by the contributions of the Western Balkan countries. RYCO is based in Tirana with local branches in all the capitals across the region. The Deputy Secretary General of RYCO is from Kosovo. RYCO has held three rounds of calls for proposals out of which Kosovo-based organizations benefited with many projects to be implemented in partnership with other NGOs from the region. The tensions between Kosovo and Serbia, however, did have an impact on RYCO's work. For instance, the Serbian Youth Representative to the Board of the RYCO has been dismissed by the

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7 Interview with Adnan Cerimagic, Analyst European Stability Initiative (ESI), Online, December 2019.

Serbian government ahead of the Board meeting planned to take place in Prishtina (Škiljević 2019). The bilateral tensions between countries have limited the success of the multiple projects within RYCO. Similar negative impact has had the obstacles to mobility of the Kosovo citizens due to freedom of movement restrictions within the region and lack of visa free regime with the EU (Representative from Youth Organization 2019).<sup>8</sup> This is also where the implementation of the Agreement of the Recognition of Diplomas, signed between Kosovo and Serbia under the auspices of the Brussels dialogue (Emini and Stakic 2018, 7-8), gains importance. Effective implementation of this agreement would further contribute to improve the environment for cooperation in the framework of RYCO.

### **Trieste Summit: connecting the dots of economy, transport and energy**

Connectivity agenda was materialized in the Trieste Summit which focused on the economic cooperation of the region, transport, and energy. Kosovo has been included in the Transport Community Treaty (TCT) signed in 2017, which aims to connect Western Balkan countries' infrastructures (Signature of a Transport Community Treaty with Western Balkans 2017). In this regard, Kosovo has signed two contracts – railway and highway – which will connect the country with North Macedonia and Serbia. More specifically, Orient/East-Med Corridor: Rail Interconnection between Macedonia – Kosovo – Serbia; and the highway, the Orient/East-Med Corridor in Serbia and Kosovo includes the Niš, Merdare, and Prishtina. The potential to develop in infrastructure is rather high, but the connectivity agenda would not be successful without lifting the barriers of moving goods and people – which are present between Kosovo and Serbia (Zogiani, Madhi and Zerjav 2018, 21-25). In this regard, Kosovo is the only country in the region dealing with immense limitation in freedom of movement and goods. Another project that is left on hold as a result of the Kosovo–Serbia dispute is the power grid<sup>9</sup> between Albania, Kosovo and Serbia. This project is a 42

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8 Interview with Representative of Regional Youth Cooperation Initiative (RYCO), Brussels, December 2019.

9 Serbia and Kosovo signed an agreement on operating their mutual power grid in 2015 but it has yet to be enacted. This power grid row slowed down European clocks (EURACTIV 2018).

million Euros investment by the German Government through the KfW Bank (WBIF 2016) which is not yet operational due to obstacles in registering the transmission entity by the Kosovo authorities due to the fact that Serbia does not recognize Kosovo's system operator.

During the Trieste Summit, the government of Kosovo, has shown reluctance in relation to the common Regional Economic Area (Hopkins 2017). This stance derived from the fear of being overshadowed by bigger economies in the region and with the intent to protect the fragile economy of Kosovo. That problem notwithstanding, the Trieste Summit included topics such as the mobility between citizens of the Western Balkans, digital integration, and trade, thus offering the platform for Kosovo to discuss its limitations in implementing agreements mainly caused by Serbia and BiH. This Summit, furthermore, paved the way for finding a solution for Kosovo engagement in a multilateral environment and in the spirit of the good neighbourly relations in the region.

### **Poznan Summit: An avenue to strengthen bilateral ties**

Poland hosting the Berlin Process Summit in 2019 created a fertile ground for Kosovo to establish diplomatic communication with Poland. Since the declaration of independence, Poland offered recognition without further interest to establish bilateral ties with Kosovo. The lack of Polish presence in Kosovo impacted cooperation on many levels, including business and civil society (Wiśniewski 2020). The Poznan Summit contributed positively to strengthening communication between Kosovo and Poland in a multilateral environment. The dialogue between Ministries of Foreign Affairs during the coordination phase, during the summit, and the post summit phase was manifested by various expert level meetings.<sup>10</sup> Another important positive contribution deriving from the Poznan Summit is the establishment of cooperation between the think tanks and CSO communities in both countries. The Summit initiated cooperation platforms in which think tanks have produced research papers and

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<sup>10</sup> Interview with Valdet Sadiku, Head of the Department for Regional Issues, Ministry for Foreign Affairs, Prishtina, January 2020.

recommendations. In addition, the period marked an intense phase of cooperation with Visegrad Four, which also includes Slovakia, a country that has not recognised Kosovo (Nič 2020). This is indeed a symbolic victory of Kosovo and its efforts to connect with non-recognizers and countries reluctant to establish bilateral ties with Kosovo (Dopita 2020).

## **BERLIN PROCESS: CAN IT SERVE AS A REMEDY FOR KOSOVO'S MULTILATERALISM UNDER STRESS?**

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Lacking clear EU integration perspective makes Kosovo dependent on the high level initiatives such as the Berlin Process to ensure statehood consolidation within the region and the EU level. But did Kosovo manage to not only be visible in the process but use it as an avenue to consolidate its status on regional and EU level? The level of success highly depends on whether it is considered a victory for Kosovo to only be present in the meetings and become an equal signatory party, or to grasp deeper and more solid results by using this high level multilateral platform to proactively work on resolving bilateral disputes, ensuring recognitions, or establishing bilateral diplomatic ties with countries hesitating to cooperate diplomatically with Kosovo (Armakolas 2018).

The Berlin Process has been communicated as a story of success by political elite in Kosovo. Moreover there was a tendency to use the limited success for daily domestic political consumption. Albeit limited, there is an element which qualifies Kosovo as victorious and that is related to its representation – although with the asterisk – as an equal party on the table. Being a German-led initiative (Himmrich 2017, 17-25) it was rather difficult for Serbia and Bosnia and Herzegovina to leave the meetings as a sign of protest toward Kosovo's participation, or in other cases to use the right

to veto Kosovo's participation in regional initiatives. If analysed through this prism, Kosovo has been successfully represented and has been participating in all Summits creating the perception that Kosovo stands on equal footing with all other regional countries. In this regard, the Process did contribute to the overall consolidation of Kosovo's image. But this is a rather limited contribution to an intractable problem of Kosovo's statehood.

A deeper analysis on the diplomatic relations of Kosovo with regional and EU countries shows a rather different picture. Kosovo had limited success in utilizing the Berlin Process to assert its statehood in the regional and the EU level. This limitation is best reflected in the Spanish reluctance to participate in the EU-Western Balkans Summit in Sofia in 2018 because of Kosovo. In addition, Kosovo's reluctant and inactive approach toward Poland during the Poznan Summit reflects lack of strategic vision of the government on Kosovo. On the other hand, the lukewarm stance toward Slovakia (Nič 2020) – a non-recognizing EU state, member of the V4, which never hesitated to provide assistance for the EU integration path of Kosovo – reflects the inability of Kosovo to utilize the Berlin Process as a foreign policy tool.<sup>11</sup>

While many argue that the Berlin Process created an acceptable environment for Kosovo to cooperate with Serbia and Bosnia and Herzegovina, implementation of the agreements has been very challenging task. In this regard, another important factor seriously challenging the success of the Berlin Process is the events occurring in the framework of the EU facilitated Dialogue between Kosovo and Serbia. Albeit, a separate process, the political environment created around political representatives from Kosovo and Serbia has put into risk the regional spirit triggering potential ethnically driven violence (Demjaha 2019, 20-21). The idea of land swap between Kosovo and Serbia as a potential outcome of the dialogue has slightly changed the course of the Berlin Process. This has been followed by the decision of the government of Kosovo to impose 100 percent tariffs on products of Serbia and Bosnia and Herzegovina as a response to the Serbia's de-recognition campaign and after Serbia

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11 Interview with Zoran Nechev, Head of the Integration at the Institute for Democracy 'Societas Civilis', Skopje, Prishtina, December 2019

blocked Kosovo's efforts to join Interpol (BBC 2019). Following series of tensions and distractions from the process of the Dialogue, the German Chancellor Angela Merkel and French President Emmanuel Macron hosted talks, attended by several Western Balkan leaders and the European Union's foreign policy chief, Federica Mogherini (BIRN 2019). The Berlin Summit, held in April 2019 marks yet another parallel initiative aiming to restart negotiations on the normalisation of relations between Kosovo and Serbia. Present in the meeting were all Western Balkans leaders with the aim of boosting the regional spirit before the Summit in Poznan in July 2019.

## INTERNALLY DRIVEN LIMITATIONS

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The limited success of Kosovo in the Berlin Process can also be attributed to lack of engagement of the Kosovo political elite in this process. This internal distraction was a result of political unrest and the polarisation between the government and the opposition on key issues pertaining Kosovo's foreign policy. Kosovo was not ready to invest energy and focus on the Berlin Process due to internal multi-frontal political crisis driven by the Dialogue between Kosovo and Serbia , and more specifically, the Agreement on Association of the Serbian Municipalities of 2013, and the border demarcation with Montenegro, which created internal inter-elite problems in Kosovo and almost disrupted bilateral cooperation with Montenegro, thus working against the principles of the Vienna Declaration (Armakolas 2018).

Further, the government of Kosovo underestimated the political importance of the Berlin Process. Considering it as just another regional initiative, the government of Kosovo delayed the setting of objectives and preparing to consolidate the regional presence of Kosovo. To date, this process is not seen as a unique opportunity to make Kosovo a notable factor in regional politics and establish cooperation in the EU level through bypassing the limitations caused by the non-recognizers. In hindsight, Kosovo did not manage to perceive this process beyond the small infrastructure and connectivity projects, which proved to be limited use due to the immense tension

caused by bilateral disputes and questioned statehood.<sup>12</sup> The failure to see the Berlin Process beyond infrastructure projects led to one of the biggest missed chances for Kosovo to become a factor in the region.<sup>13</sup> Another crucial internally driven factor is Kosovo's weak diplomacy which has been falling short in maintaining solid diplomatic bilateral relations with the recognizers. Engaging with non-recognizers in many fronts and regions of the world consumed Kosovo's foreign policy capacities.

## THE TWO POLITICAL EPICENTRES: PRISHTINA CAUGHT IN BETWEEN TIRANA AND BELGRADE

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The Berlin Process has created two political epicentres in the Balkans. During the timespan of four years, Belgrade and Tirana gradually emerged as key regional factors. Before the Berlin Process, Belgrade was traditionally considered as the centre of the region, at least for the international community due to the size and importance of Serbia. Tirana, on the other hand, was never considered to be Brussels favourite, moreover it was an unknown territory for the Western diplomacy. The emergence of Belgrade and Tirana can be attributed to President Vucic of Serbia and Prime Minister Rama of Albania, who did not hesitate to take the advantage of the platform for their own agenda. Both leaders were widely accepted and praised in the West – among EU member states engaged in the Berlin Process – and the US administration. These relations did not change in spite of the continuous red flags raised by the civil society in the region, not only for the level of corruption but also the authoritarian tendencies in both countries.<sup>14</sup>

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12 Ibid

13 Interview with Fitim Gllareva, Former Director of Kosovo's department for Regional Issues at the Foreign Ministry, Prishtina, January 2020,

14 Interview with Kosovo Civil Society Expert, Prishtina, July 2019.

Rama and Vucic were considered as the political leaders who can deliver, not necessarily in reforms, but in terms of opening a new avenue for the 'Serbian-Albanian' question to be solved in the Balkans. The new setting gradually sidelined Kosovo in the Berlin Process (Armakolas 2018). Being overshadowed by the progress in the 'Serbian-Albanian' relation and the novelty of establishing strong diplomatic ties between Serbia and Albania, the weak Kosovo political leadership and diplomacy gradually disappeared from the regional picture. The level of enthusiasm among the EU, which were craving for some positive results in the region, was skyrocketing as – seemingly – talking to Tirana and Belgrade instead of Prishtina and Belgrade was a significantly easier diplomatic task (Emini 2018, 12). The new developments and over-emphasis on Albania and Serbia was acceptable for Kosovo considering the fact that, at least in the beginning, there were expectations that the proactive involvement of the Albanian political leadership would be an added value to the Kosovo–Serbia relations. However, this enthusiasm turned sour as the tendencies of Serbia to escape from Kosovo–Serbia dispute changed the course of the process. Seemingly, for Serbia it was easier to discuss the 'Serbian–Albanian' relations with Albania, a country that it recognized. The new set up would contribute to the Serbian approach, according to which Kosovo would be discussed between Albania and Serbia, completely sidelining Prishtina.

The involvement of Albania triggered debates in Kosovo, with the public opinion being divided between those who perceived Albania as an ally of Kosovo positively contributing to solving the dispute between Kosovo and Serbia and those who believed that Rama is using the situation for personal political benefits. For the public opinion, and sporadically even for the political elites in Kosovo, the active involvement of Albania has been considered to further undermine the statehood of Kosovo, something that did not go unnoticed also by analysts (Armakolas 2018). For many Kosovar pandits, the personal involvement of Rama, a politician who lacks deep knowledge about former Yugoslavia or particularly as a newcomer into the dialogue between Kosovo and Serbia, would not necessarily give an extra impetus to the process. Needless to say, Rama emerged as a leader due to the vacuum left by the polit-

ical leadership in Kosovo. The lack of capacities or interest to take the Berlin Process seriously and use the window of opportunity created for Kosovo to strengthen its statehood and presence in the region, placed Kosovo leaders in the passenger seat. This reflects also the reluctance of Kosovo to take ownership in important processes for the future of the country, an attitude widely shared among Kosovo political elites.

## CONCLUSIONS

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The Berlin Process represents by far the most important cooperation initiative launched in the region. Five years after the launch of the Berlin Process, it is evident that it did contribute to strengthening the presence of Kosovo in the region, the EU level, as well as with individual member states included in the Process. The Berlin Process has offered a platform for Kosovo to consolidate its statehood by not only being represented equally, but by making itself a factor in the region and beyond. But the question is whether this opportunity was effectively used by the Kosovar political elite?

Kosovo did relatively well in being included in the agreements, being represented with its state symbols - albeit under the asterisk which puts the Kosovo statehood into question, however, this progress has been rather symbolic. The timespan of five years did not improve Kosovo's statehood question with two non-recognizers in the Western Balkans. On the contrary, Kosovo failed to use the Berlin Process to increase cooperation with Serbia and Bosnia and Herzegovina. Further, during this period, Kosovo imposed 100 percent tariffs toward Serbian and Bosnian products. Moreover, Kosovo had rather limited and very symbolic results from the Poznan Summit and the opportunity to engage bilaterally and proactively with Poland and Slovakia.

On the another issue, Kosovo was presented with some limited gains in terms of projects. In comparison to other Western Balkans countries, Kosovo has gained a minimum number of connectivity projects – some of which are on hold with their fate depending on the Kosovo-Serbia dispute. Kosovo has rejected the project of Regional Econom-

ic Area (REA) proposed in the Trieste Summit due to the challenges it would pose to its small economy. Moreover, the limited freedom of movement would also limit the significance of this initiative for Kosovo. The political elite of Kosovo has treated the Berlin Process initiative equally to other existing project level multilateral cooperation initiatives, and has therefore, failed to understand the potential of this Process to further consolidate its statehood. Kosovo followed a passive approach which allowed it to participate in existing initiatives, but it hardly took a leading role or proposed specific projects that would positively contribute to the internal development of the country and its better positioning regionally. Furthermore, Kosovo lacked clear objectives and goals in the Berlin Process. The failure to materialise commitments of the Vienna Declaration on Bilateral Disputes and the London Declaration on Good Neighbourly relations reflects the lack of strategic vision of Kosovo in the Process.

The next Berlin Process Summit will be co-hosted by Bulgaria and North Macedonia; a clear sign of growing local ownership in the Process. Bringing the Berlin Process closer to the Kosovo-Serbia dialogue can serve as a good opportunity for Kosovo to gradually become more proactive and stop lining up behind Albania. For all Western Balkan countries, the Berlin Process can be considered just another random EU-led regional initiative in the region, but for Kosovo the Berlin Process represents one of few avenues through which Prishtina can reach out to Brussels and member states.<sup>15</sup>

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<sup>15</sup> Interview with Zoran Nechev, Head of the Integration at the Institute for Democracy 'Societas Civilis', Skopje, Prishtina, December 2019

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