



## Student Chapter at University of Ljubljana, Slovenia

### KOSOVO CULTURAL AND JUSTICE CONSIDERATIONS

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#### 1. OVERVIEW OF KOSOVO

The 1999 Kosovo crisis produced possibly the fastest mass exodus and rapid return of refugees in modern history as an estimated 860,000 ethnic Albanian Kosovars fled or were deported to neighboring states within weeks and then returned just as quickly later in the year. It was also one of the most complex operations in UNHCR's experience, with humanitarian considerations inextricably linked with global military and political developments, and the first exodus-return of ethnic Albanians followed by a second massive flight of 230,000 Serbs and Roma as the fortunes of war changed dramatically.<sup>1</sup>

Kosovo today is a province of Serbia which has been under United Nations administration since 1999. That year the *UN Security Council Resolution 1244* placed Kosovo under transitional UN administration pending a determination of Kosovo's future status. This Resolution entrusted the **United Nations Interim Administration Mission in Kosovo (UNMIK)** with sweeping powers to govern Kosovo, but also directed UNMIK to establish interim institutions of self-governance. Resolution 1244 permits Serbia no role in governing Kosovo and since 1999, Serbian laws and institutions have not been valid in Kosovo. NATO has a separate mandate to provide for a safe and secure environment.

In May 2001, UNMIK promulgated the Constitutional Framework, which established Kosovo's **Provisional Institutions of Self-Government (PISG)**. The PISG replaced the Joint Interim Administrative Structure (JIAS) established a year earlier. Since 2001, UNMIK has been gradually transferring increased governing competencies to the PISG, while reserving some powers that are normally carried out

<sup>1</sup> <http://www.unhcr.org/cgi-bin/texis/vtx/balkans-country?country=kosovo&display=background>, 06.02.2008

by sovereign states, such as foreign affairs. Kosovo has also established municipal government and an internationally supervised Kosovo Police Service.

With an area of 10,887 square kilometers and a population of nearly two million, Kosovo internationally borders Montenegro to the northwest, the Republic of Macedonia to the south, and Albania to the southwest, while internally Central Serbia to the north and east.<sup>2</sup> The largest city is Prishtina (Priština), the capital, with an estimated 600,000 inhabitants. Much of Kosovo's terrain is mountainous. The climate of Kosovo is predominantly continental, resulting in warm summers and cold winters with Mediterranean and Alpine influences.<sup>3</sup>

According to the Kosovo in Figures 2005 Survey of the Statistical Office of Kosovo<sup>4</sup>, Kosovo's total population is estimated between 1.9 and 2.2 million in the following ethnic proportions: 92% Albanians, 4% Serbs, 2% Bosniaks and Gorans, 1% Roma and 1% Turks.

Sunni Muslims account for more than 90% of the population in Kosovo. Three religions – Islam, Orthodoxy, and Catholicism, have long coexisted in Kosovo. A large majority of Kosovo Albanians consider themselves, at least nominally, to be Muslim. A minority, about 60,000, is Catholic. Most Kosovo Serbs, even those who are not active religious believers, consider Orthodoxy to be an important component of their national identity.<sup>5</sup>

Slavic and Albanian peoples have co-existed in Kosovo since the eighth century. The region was the centre of the Serbian empire until the mid-14th century, and Serbians regard Kosovo as the birthplace of their state. Over the centuries, as the ethnic balance shifted in favor of Albanians, Kosovo came to represent a Serbian golden age, embodied in epic poetry. Serbia's defeat at the Battle of Kosovo in 1389 ushered in centuries of rule under the **Muslim Ottoman Empire**. Serbia regained control of Kosovo in 1913 through the London Agreement, and the province was incorporated into the **Yugoslav federation**. The Serbian authorities planned a recolonization of Kosovo.<sup>6</sup> Numerous colonist Serb families moved-in to Kosovo, equalizing the demographic balance between Albanians and Serbs. Many Albanians fled into the mountains and numerous Albanian and Turkish houses were razed. The Province of Kosovo was formed in 1945 as an autonomous region to protect its regional Albanian majority within the People's Republic of Serbia as a member of the **Federal People's Republic of Yugoslavia** under the leadership of the former Partisan leader, Josip Broz Tito, but with no factual autonomy. In the 1960s, the suppression of Albanian national identity in Kosovo gave way to a more tolerant line

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<sup>2</sup> Independent Commission for Mines and Minerals, available at <http://www.kosovo-mining.org/kosovoweb/en/kosovo/geography.html>

<sup>3</sup> *Ibidem*.

<sup>4</sup> [http://www.ks-gov.net/esk/esk/pdf/english/general/kosovo\\_figures\\_05.pdf](http://www.ks-gov.net/esk/esk/pdf/english/general/kosovo_figures_05.pdf), 06.02.2008

<sup>5</sup> International Crisis Group, Religion in Kosovo, Europe Report N\*105, 31 January 2001, available at <http://www.crisisgroup.org/home/index.cfm?id=1591&l=1>

<sup>6</sup> Elsie, R. (ed.) (2002): "*Gathering Clouds. The roots of ethnic cleansing in Kosovo. Early twentieth-century documents*", available at <http://www.elsie.de/pdf/B2002GatheringClouds.pdf>

from Belgrade. Ethnic Albanians gained a foothold in the Kosovan, and Yugoslav, administrations. The 1974 Yugoslav constitution laid down Kosovo's status as an autonomous province, and pressure for independence mounted in the 1980s after the death of Yugoslav President Tito. However, the future leader, Slobodan Milosevic, harnessed resentment over Kosovan influence within the Yugoslav federation. After becoming president in 1989, he proceeded to strip Kosovo of its autonomy. A passive resistance movement in the 1990s failed to secure independence or to restore autonomy, although ethnic Albanian leaders declared unilateral independence in 1991.<sup>7</sup>

In context of disintegrating Yugoslavia in 1991-1995, Belgrade neither fully reasserted nor fully relinquished authority in Kosovo. Police and army had security mastery, but allowed Albanians' parallel institutions to function. Kosovo Albanian diaspora channeled funds to institutions through Bujar Bukoshi's "government" in exile. Kosovo's exclusion from 1995 Dayton peace agreement damaged Rugova's credibility with Kosovo Albanian radicals, who formed clandestine **Kosovo Liberation Army (KLA)**. Rugova's LDK initially discounted KLA as invention of Serbian security services. Fighting between KLA and Serbian police and security forces broke out early 1998, and quickly swept Kosovo. In west Kosovo Bukoshi's exile government fielded forces – the **Armed Forces of the Republic of Kosovo (FARK)** – initially cooperated with, then fell out with KLA's western command, led by Ramush Haradinaj. Following from UN Security Council resolution, NATO demanded end to violence and ceasefire. U.S. envoy Richard Holbrooke brokered deal with Milosevic October 1998 to reduce Yugoslav security force presence, allow in OSCE observers, and accept NATO aerial verification.<sup>8</sup>

International negotiations began in 2006 to determine the final status of Kosovo, as envisaged under **UN Security Council Resolution 1244** which ended the Kosovo conflict of 1999. Whilst the international community recognizes Serbia's continued sovereignty over Kosovo, a clear majority of the province's population would prefer independence. On 10 December 2007, the final round of negotiations between Prishtina and Belgrade — led by the **Troika of the EU, U.S. and Russia** — ended without a compromise on Kosovo's future status. With options for a bilaterally agreed settlement now fully exhausted, the international community must coordinate a political process to bring about Kosovo's conditional, or supervised independence.<sup>9</sup>

From economic view, Kosovo today has one of the most under-developed economies in Europe, with a per capita income estimated at EUR 1,243 (2005). Despite substantial development subsidies from all Yugoslav republics, Kosovo was the poorest province of Yugoslavia. Additionally, over the course of the 1990s a blend of poor economic policies, international sanctions, poor external commerce, and ethnic

<sup>7</sup> BBC News, Regions and Territories: Kosovo, available at [http://news.bbc.co.uk/2/hi/europe/country\\_profiles/3524092.stm](http://news.bbc.co.uk/2/hi/europe/country_profiles/3524092.stm), 06. 02. 2008

<sup>8</sup> International Crisis Group, Conflict: Kosovo, available at [http://www.crisisgroup.org/home/index.cfm?action=conflict\\_search&l=1&t=1&c\\_country=58](http://www.crisisgroup.org/home/index.cfm?action=conflict_search&l=1&t=1&c_country=58)

<sup>9</sup> International Crisis Group, Kosovo final status, available at <http://www.crisisgroup.org/home/index.cfm?id=3225&l=1>

conflict severely damaged the economy. Most economic development since 1999 has taken place in the trade, retail, and the construction sectors. The use of foreign exchange has been legalized for all domestic transactions, establishing the Euro as the de facto local currency. This has provided a stable exchange rate and low inflation.<sup>10</sup> The economy is hindered by Kosovo's still-unresolved international status, which has made it difficult to attract investment and loans.<sup>11</sup> The province's economic weakness has produced a thriving black economy in which smuggled petrol, cigarettes, and cement are major commodities. The prevalence of official corruption and the pervasive influence of organized crime gangs have caused serious concern internationally.

Circumstances on the ground remain unstable, and the longer status uncertainty lasts, the more agitated the region around Kosovo will become and the more a sense of developing security crisis will grow. This situation cannot drift comfortably into “frozen conflict” status.<sup>12</sup>

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<sup>10</sup> The World Bank, Country brief 2007: Kosovo, <http://web.worldbank.org> , 06. 02. 2008

<sup>11</sup> BBC News, Brussels offers first Kosovo loan, 5 May, 2005, <http://news.bbc.co.uk/2/hi/business/4509781.stm>

<sup>12</sup> International Crisis Group, Kosovo final status, available at <http://www.crisisgroup.org/home/index.cfm?id=3225&l=1>

## **2. HISTORY OF KOSOVO REGION**

### **2.1. Kosovo under Byzantine, Bulgarian, Serbian and Ottoman empire**

The region of Kosovo was first known as Dardania (*dardha* = pear in Albanian). It was conquered by Alexander the Great 300 years B.C. and became part of the Roman province of Dardania in the 4th century A.D. Both Greeks and Romans called the earliest known inhabitants of Kosovo Illyrians. Albanians today claim to be direct descendants of the Illyrians, on the contrary Serbian scholars claim that Albanians appeared on the scene in the early Middle Ages as a result of intermarriage between nomadic shepherds and unromanized remnants of Illyrians and Dardanians from Thrace. Tracing such descents is difficult; however, people that were living in the region before the arrival of the Serbs from the North are likely to have had some genetic relationships to Albanians. Slavs crossed the Danube and moved into the Balkans by the 6th century. The Slavic tribes, although nominally under Byzantine dominance, essentially ruled themselves.

By 850 A.D., Kosovo became part of the expanding Bulgarian Empire until 1018, when the Byzantine Empire regained its dominance. Stefan Nemanja achieved the full Serbian liberation of Kosovo from the Byzantines as late as in 1208. During that time Kosovo became the administrative, cultural, religious, and political center of the medieval Serbian state.

In the second half of the 15th century, Turkish invasion signified a fatal turning point in Serbian history. Serbs did everything possible to stop the Turkish invasion toward south Eastern Europe in the famous **battle of Kosovo Polje in 1389**. Islamic Ottoman Turks conquered Serbia, including Kosovo, in 1459. Later on, in Serbian national conscience the battle of Kosovo has acquired mythical dimension of a crucial historical event. Nevertheless, Turkish invasion of south Eastern Europe has brought Islamisation and fall of Christian civilization, which resulted in first migration of Serbs. Migrations of Orthodox people from Kosovo area continued throughout 18th century. On the other hand, some Serbs gradually fused with other groups, mostly Albanians, adopting their culture and language, leaving a predominantly Islamic presence in Kosovo. Nearly five centuries of Ottoman rule essentially led to a drastic change in ethnic and demographic composition.

The opening of a Serbian seminary in Prizren in 1871 strengthened the Serb presence in Kosovo, culminating in Serbian reoccupation and control of Kosovo by 1912. The defeat of Ottoman Turks in the Russo-Ottoman War in 1878 gave Serbs control of Mitrovica and Prishtina in Kosovo, outside jurisdiction of the Ottoman authorities, while the rest of Kosovo remained under Ottoman control. As a response, Albanians formed a nationalistic and conservative "**Prizren League**" later that year. Delegates from Kosovo and Macedonia discussed issues concerning protection of Albanian populated regions. The League was supported by the Ottoman Sultan because of its Pan-Islamic ideology as a counterbalance to Christian and Slavic influences, as well as political aspirations for unified Albanians under the Ottoman

umbrella. The movement gradually became anti-Christian, spreading great anxiety among Christian Albanians and Serbs. At this time, Muslim leadership encouraged what today would be termed as "ethnic cleansing". As a result, more and more Serbs were leaving Kosovo and moved north to Serbia.

Most Albanian lands were restored to **Ottoman control**. On the other hand Serbian forces had to retreat from Kosovo along with some Serbs that were expelled. By the end of the 19th century, Albanians replaced Serbs as the dominant people in Kosovo.

## **2.2. Kosovo during World War I and II**

During **the first Balkan War in 1912** Albania was attacked by Montenegro, Serbia, Bulgaria, and Greece. Albanians were allied with Ottomans. Serbs joined the army in large numbers in order to avenge their defeat at the Battle of Kosovo Polje in 1389. At that time, Kosovo was mostly Albanian. However, the Serbian authorities planned a recolonization of Kosovo. Numerous colonist Serb families moved in to Kosovo, equalizing the demographic balance between Albanians and Serbs. Serbs entered Prishtina as Albanians retreated to the mountains. The Serbian army destroyed Turkish and Albanian houses and there was a lot of plundering and killing as well. Serb peasants followed the army into Kosovo reoccupying the land. The Albanians lost the war and Kosovo came under Serbian authority. At the **Conference of Ambassadors in London in 1912**, Serbia was given sovereignty over Kosovo, which it has retained till the present day. Albania was for the first time internationally recognized and by the Treaty of London in 1913 became a fully independent and sovereign state. Within Kosovo, there was much anti-Serbian sentiment since the population was still mostly Albanian.

In 1915-1916, during the **World War I**, Bulgarians and Austro – Hungarians, occupied Kosovo. Serbian army was defeated against Austro- Hungarians. Later Serbs again gained control over Kosovo and the Monarchy of Serbia was transformed into the **Kingdom of Serbs, Croats, and Slovenians** (*Kraljevina Srba, Hrvata i Slovenaca*). After the end of the World War I, a part of it unified with Metohija (province of Montenegro), Bosnia and Herzegovina, Macedonia, and Montenegro. In 1929, the Kingdom was transformed into the **Kingdom of Yugoslavia**.

The seeds for ethnic conflict had been re-sown in 1921, when Kosovar Albanians requested the League of Nations to take steps to unite Albanian populated lands, claiming that 12,000 Albanians had been killed and 22,000 imprisoned in Kosovo since 1918. As a result, an armed *Kachak* resistance movement was formed, seeking annexation to Albania.

During the period 1918-1941 Serbian settlers attempted to colonize Kosovo. The land was appropriated from Albanians illegally; therefore, Albanians were encouraged to leave. Nevertheless, 63% of the population in Kosovo remained Albanian in 1931.

The most drastic changes in the demographic sphere of Kosovo happened during the **World War II**. The greatest part of Kosovo became a part of Italian controlled Albania. As a result, many Serbs were killed and expelled, while on the other side Albanians settled in those Serbian lands, tipping the balance of the population into Albanian favor.

Before the surrender of fascist Italy in 1943, the German forces took over direct control of the region. Kosovo was liberated after 1944 with help of Albanian partisans and became a province of Serbia within Yugoslavia.

### **2.3. Kosovo during Yugoslavia**<sup>13</sup>

The Kosovo-Metohian area was as autonomous province first formed in 1945. Its intention was to protect its regional Albanian majority within the **Republic of Serbia** (which was a member of the Federal Republic of Yugoslavia under the leadership of Josip Broz Tito). In the 1974 constitution, the Province of Kosovo's government received higher powers, including the highest governmental titles. After Josip Broz Tito's death in May 1980, an Albanian nationalist movement pursued full recognition of the Province of Kosovo as the seventh republic of Yugoslavia.

In response to widespread intimidation, pressure, and violence, many Serbian families moved out of the region. On the other hand, massive immigration of Albanians, with a very high birthrate resulted in over 90% of Albanians in the population of Kosovo. A continuous demographic explosion on one side and low income with poor education on the other side left Albanians dependent of the government, which increased financial drain and resentment from other regions. Moreover, even in public schools the evident islamization of Kosovo took place. Several cultural monuments were also destroyed.

The first organized protest on the part of Kosovar Serbs took place in 1986. A group of Serbian intellectuals called for a revocation of Kosovo autonomy and for a de-Albanianization of Kosovo (in the so-called **SANU memorandum**). It was a warning to the Serbian President and the Assembly of the existing crisis and to where it would lead. Besides, a strong underground movement for the "National Liberation of Kosovo" developed along with other underground Albanian groups.

As the protests and violence continued and the situation worsened, Serbian leaders (with Slobodan Milosevic ahead) suggested centralization of power in Kosovo (to make Serbia more powerful). In 1990, the constitution was changed and Kosovo was taken its autonomy, which lead to several demonstrations. Milosevic dissolved the Assembly of Kosovo and activated police and army troops. The Assembly of Kosovo adopted **The Declaration of Independence** in a secret meeting, which was in Serbia declared as unconstitutional. The Declaration was affirmed in 1991 through a referendum (which was not recognized internationally) and Kosovo became a republic, with Ibrahim Rugova as the president. Consequently, two nations were

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<sup>13</sup> Bieber, Daskalovski: *Understanding the War in Kosovo*, Frank Cass, London, 2003;

formed in Kosovo, Serbian, and Albanian, with their own rules, government, schools, etc. At that time, the war in Croatia and Bosnia took place, which postponed resolving problem in Kosovo.

#### **2.4. War in Kosovo and the Security Council Resolutions**<sup>14</sup>

As rebels became more frequent and violent in 1997, international community became active. In March 1998, Milosevic was given 10 days to remove his police troops from Kosovo and to let the international forces to enter. After the meeting with Boris Jelcin, Milosevic let Kosovo Diplomatic Observer Mission (KDOM) stay in Kosovo. Despite presence of international observers, the combats continued and around 300.000 people left their homes.

The UN Security Council demanded Yugoslavia through **Resolution 1160** (March 1998) to find a political solution in dialogue with Kosovo. The Resolution suggested territorial sovereignty of Yugoslavia and stronger autonomy for Kosovo. It forbade sales of weapon in Yugoslavia. A month later, Yugoslavia's accounts and wealth in foreign countries were frozen, and international investments were forbidden.

Further **Resolution 1199** (September 1998) found acts of Yugoslavia as a threat to international peace and security. It demanded all the participants in the conflict to refrain from violence and especially Yugoslavia to remove its forces from Kosovo and to let international observation. In case Yugoslavia would not respect those demands, additional measures to restore peace and stability would be considered.

Moreover, in September 1998 NATO threatened with violence (even without consent of the UN) and gave an ultimatum, should Serbia not remove its forces. Milosevic let NATO supervision.

As the situation worsened in October 1998 and more combats took place, **Resolution 1203** once more demanded Yugoslavia to implement its agreements with NATO and OSCE. However, no resolution of the Security Council considered use of force in Kosovo.

#### **2.5. NATO intervention**<sup>15</sup>

Negotiations between Serbian and Albanian government started in February 1999 in Paris castle **Rambouillet**. The Serbian delegation did not agree with placing NATO forces in Kosovo. On March 21, Serbia was given last chance to sign the agreement. Three days later NATO began its aerial bombing attacks, which lasted almost two months. On June 2 1999, the agreement was reached between ally forces and Russia

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<sup>14</sup> Jerše: *Zakonitost in legitimnost humanitarne intervencije s posebnim ozirom na Kosovo*, Univerza v Ljubljani, Pravna fakulteta, Ljubljana, 2007

<sup>15</sup> Jerše: *Zakonitost in legitimnost humanitarne intervencije s posebnim ozirom na Kosovo*, Univerza v Ljubljani, Pravna fakulteta, Ljubljana, 2007

(and later affirmed by Yugoslavia), which predicted retreat of Yugoslav forces, return of the refugees to their homes, the arrival of forces under UN and territorial integrity of Yugoslavia. On June 20 1999, NATO attacks officially ended.

## **2.6. Consequences of the attacks in Yugoslavia and Kosovo<sup>16</sup>**

After the NATO attacks there were enormous ecologic and material damage in Yugoslavia – many schools, hospitals, kindergartens, factories, bridges, airports, railway stations, television, infrastructure etc. were destroyed. Even churches and cultural monuments (some of them under UNESCO protection) were burnt down. Thousands of houses and apartment units were destroyed and more than 500.000 people lost their employments. From 500 to 1,800 people died during attacks and around 7,000 were hurt.

Only two days after NATO attacks Yugoslav para-military groups vigorously killed 112 men aged from 13 to 35 in a small village (Mala Kruša) with mostly Albanians, in revenge – this is only one of the stories of Albanian villages in Kosovo. During the attacks nearly 10.000 Albanians were killed, around 863.000 people left Kosovo, 590.000 people left their homes but stayed in Kosovo. Furthermore, numerous cultural and historical objects were destroyed because due to their Albanian origin. The pattern of the logistical arrangements and the coordination of actions by the Yugoslav army and para-military groups show that this huge expulsion of Kosovar Albanians was systematic and deliberately organized.

On the other side, several Serbian monasteries and churches were destroyed and robbed by Albanians after the NATO campaign.

The Independent International Commission on Kosovo concluded that the NATO air campaign did not provoke the attacks on the civilian Kosovar population but the bombing created an environment that made such an operation feasible.

The aim of NATO to prevent humanitarian catastrophe was not achieved. However, the policy of Kosovar Albanians was achieved – soon after Rugova won presidential elections in 2001, he announced fight for independency of Kosovo.

In the first year after the peace troops entered Kosovo, more than 1,000 people were killed and 350.000 non-Albanians moved out – only 8% of Serbs remained in Kosovo. Since 1999, KFOR is responsible for the security of Serbian minority.

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<sup>16</sup> Independent International Commission on Kosovo: The Kosovo Report (<http://www.reliefweb.int/library/documents/thekosovoreport.htm>)

In 2001, UNMIK promulgated a Constitutional Framework for Kosovo that established the Provisional Institutions of Self-Government (PISG) (see Section 4: Constitutional Status of Kosovo).

### **3. RELIGION**

#### **3.1. Religious Demographics**

Kosovo has an area of approximately 4,211 square miles and a population of 2 million, although the last credible census was taken in the 1980s. Islam is the predominant faith, professed by most of the majority ethnic Albanian population; the Bosniak, Gorani, and Turkish communities; and some of the Roma/Ashkali/Egyptian community, **although religion is not a significant factor in public life.**

Most Kosovo Serbs, even those who are not active religious believers, consider **Orthodoxy** to be an important component of their national identity. Nevertheless, despite this essential division of religious activities along ethnic lines, it cannot be said that religion per se was an important contributing factor in the conflict between Serbs and Albanians.<sup>17</sup>

Religious rhetoric was largely absent from public discourse in **Muslim** communities, mosque attendance was low, and public displays of conservative Islamic dress and culture were minimal. The Serb population, estimated at 100,000 to 120,000 persons, is largely Serbian Orthodox. Approximately 3 percent of ethnic Albanians are Roman Catholic. **Catholic** communities are concentrated around Catholic churches in Prizren, Klina, and Gjakova. Protestants make up less than 1 percent of the population and have small populations in most cities, with the largest concentration located in Prishtina. There are no synagogues or **Jewish** institutions; there are reportedly two families with Jewish roots. The numbers of atheists or those who do not practice any religion are difficult to determine, and estimates are largely unreliable.<sup>18</sup>

#### **3.2. Legal Regulation of Religion**

Kosovo continued to be administered under the civil authority of UNMIK, pursuant to U.N. Security Council Resolution 1244. UNMIK, the Organization for Security and Cooperation in Europe, and the PISG officially promoted respect for religious freedom and tolerance in administering Kosovo and in carrying out programs for its reconstruction and development. UNMIK, as the final administrative decision-maker, sought to protect religious freedom in full.

UNMIK recognizes **as official holidays** some but not all Orthodox, Islamic, and Catholic holy days, including Eid-al-Adha, Orthodox Easter Monday, the beginning of Ramadan, Eid al-Fitr, Orthodox Assumption Day, Orthodox Christmas, and Western Christmas.

There are no mandatory registration regulations for religious groups; however, to purchase property or receive funding from UNMIK or other international

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<sup>17</sup> International Crisis Group, Religion in Kosovo, Europe Report N\*105, 31 January 2001, available at <http://www.crisisgroup.org/home/index.cfm?id=1591&l=1> (2/9/08)

<sup>18</sup> International Religious Freedom Report 2007, Released by the Bureau of Democracy, Human Rights, and Labor, U.S. Department of State.

organizations, religious groups must register with the Ministry of Public Services as nongovernmental organizations (NGOs). Religious leaders have complained that they should have special status apart from that of NGOs.

### **3.3. Restrictions on Religious Freedom**

UNMIK and KFOR policy and practice contributed to the generally **free practice** of religion. However, Protestants continued to report that they experienced discrimination in media access, particularly by the public Radio and Television Kosovo (RTK). Protestants also reported that Decani Municipality denied them permission to build a church facility on privately owned land they had purchased, citing negative reaction from local citizens, and that the Ministry of Environment and Spatial Planning upheld the decision. The legal case over issuance of the building permit was before the Supreme Court at the end of the period covered by this report. Protestants also reported that the lack of a tax exemption for importing donated charitable goods hindered their efforts.

In September 2006, UNMIK and UNESCO signed an umbrella **Memorandum of Understanding (MOU)** on reconstruction and conservation of cultural heritage sites, including religious sites. In January 2007, SRSJ Joachim Rücker and UNESCO signed the first of several supplemental agreements under the MOU to allow UNESCO to go forward with the reconstruction and conservation of seven cultural heritage sites. The sites include the Church of the Presentation of the Virgin in Lipjan/Lipljan, the St. Sava Church in Mitrovica, the Hadum Mosque in Gjakove/Djakovica, the Church of St. Archangel Michael in Shtime/Stimlje, the Budisavci Monastery in Kline/Klina, the mosque in Decan/Decani, and the "hamam" (Turkish bath) in Mitrovica.

In March 2007, the European Agency for Reconstruction signed a contract for the reconstruction of Bishop Artemije's official residence--the Episcopal Residence of Prizren--and the adjacent Orthodox Seminary. Construction began shortly thereafter and was expected to last approximately 12 months.

Kosovo officials and Serbian Orthodox Church (SOC) religious leaders actively participated in status negotiations led by UN Special Envoy Ahtisaari. The negotiations related to the protection of Kosovo's cultural and religious heritage were considered to be among the most productive.

The multiethnic **Reconstruction Implementation Commission (RIC)** for Orthodox Religious Sites in Kosovo, funded by the PISG and chaired by the Council of Europe, continued to reconstruct religious sites damaged during riots in 2004. The RIC, considered one of the best examples of effective multiethnic cooperation in Kosovo, includes representatives from the SOC; the Kosovo Ministry of Culture, Youth, and Sport; Serbia's Institute for the Protection of Cultural Monuments (IPM); and Kosovo's Institute for the Protection of Monuments. Having completed "emergency interventions" on 31 sites in 2005, the RIC's 2006-work program included extensive renovations on 8 sites identified as priority sites by the Serbian

IPM. The PISG provided \$2.9 million (2.2 million EUR) for these efforts. During the period covered by this report, the RIC completed extensive renovations on 8 of the 35 religious sites damaged in 2004, including reconstruction work at the Episcopal Church of St. George in Prizren and a perimeter wall around the destroyed Church of the Assumption of the Holy Virgin Mary in Gjakova/Djakovica. The RIC planned to conduct extensive renovations on an additional 18 sites through 2007, including the reconstruction of at least 1 iconostasis, although its efforts were slowed by changes and disputes within the Serbian Government.<sup>19</sup>

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<sup>19</sup> International Religious Freedom Report 2007, Released by the Bureau of Democracy, Human Rights, and Labor, U.S. Department of State.

## **4. CONSTITUTIONAL STATUS OF KOSOVO**

### **4.1. AFTER WORLD WAR I**

After the liberation in 1918 Kosovo became a part of the **Kingdom of Serbs, Croats, and Slovenes** (Serbo-Croatian: *Kraljevina Srbov, Hrvatov in Slovencev*). The Kingdom was made up of the formerly independent kingdoms of Serbia and Montenegro (which had unified in the previous month), the lands previously in Austria-Hungary – Croatia, Slavonia, and Vojvodina from the Hungarian part of the Empire, Carniola, part of Styria and most of Dalmatia from the Austrian part, and the crown province of Bosnia and Herzegovina. Before the election of the Constituent Assembly, a Provisional Representation served as a parliament that was formed by delegates from the various elected bodies that had existed before the creation of the state. Later has passed the electoral law for the constituent assembly and the elections were held on the 28 November 1920, won by the Democrats with the slight majority.

On 28 June 1921, *the Vidovdan (St Vitus's day) Constitution* was passed, which established a unitary monarchy with King Alexander I. Karađorđević to the throne. The king governed the state with limits to his power along with a directly elected unicameral national assembly. Unitarian state was not in accordance with the multicultural structure of the state. Even more, the pre-World War I traditional regions were abolished and 33 new administrative "*oblasts*" (provinces) ruled from the center were instituted, among which none of them actually conformed to the nations' borders. The Constitution granted no right to political autonomy to any of different nations united in the Kingdom.

Kosovo was split into four provinces, three being a part of the entity Serbia, and one of Montenegro. The Albanian national movement on Kosovo opposed the annexation to the Kingdom due to its tendency to become a part of the *Great Albania*. Nevertheless, the Albanian population was annexed to the Kingdom against its own will. Its opposition to the new state was amplified with the loss of the privileges gained under the Ottoman Empire.

The tension between the tendencies of some nations to gain independence and the Serbo-centric policy led King Alexander to abolish the Constitution, prorogue the Parliament and introduce a personal dictatorship (known as the **January 6th Dictatorship**, *Šestojanuarska diktatura*). He also changed the name of the country to **Kingdom of Yugoslavia** and changed the internal divisions from the 33 "*oblasts*" to nine "*banovinas*". In 1931, Alexander decreed a new Constitution, which diminished the political rights of internal divisions and increased the executive power of the King. The national assembly was now bicameral, where the King directly appointed half of the members of the upper house. The legislation could become law with the approval of one of the houses alone if also approved by the King.

Most of Kosovo was allocated to the Zeta banovina (*Zetska banovina*), with its capital in Cetinje, Montenegro. The *banovinas* all had a similar constitutional status, without special privileges or rights of autonomy.

#### **4.2. WORLD WAR II. AND AFTER**

During the World War II the Yugoslavian government and the Royal family escaped abroad to England. The World War II Axis invaded Kingdom of Yugoslavia.

The majority of Kosovo region was conquered by Italians and was united to the Italian-controlled fascist Albania. The northern part of the region belonged to Nazi-German occupied Kingdom of Serbia and the eastern part were occupied by Bulgaria.

Over the course of war effective power changed into the hands of Josip Broz Tito's Communists Partisans who organized a resistance against the occupation powers and created temporary governmental bodies. In 1945, the temporary national assembly passed different laws, which enabled the elections for bicameral constitutional assembly. The constitution was adopted on 31 January 1946 and created **the Federative People's Republic of Yugoslavia (FPRY)**. The state was a federal democratic republic rested on the dictatorship of proletariat. *De jure* People's Assembly held the superior government authority with presidium attending all the functions of Assembly. *De facto*, all the power was in the hand of the Government.

The state was divided into six People's Republics (PRs), and two Autonomous Provinces that were part of PR Serbia. The constitution, adopted in 1946, stated: "The People's Republic of Serbia includes the autonomous province of Vojvodina and the ***autonomous Kosovo-Metohijan region***." It did not spell out the rights and scope of the autonomous provinces, instead stating that this was a matter to be "determined by the constitution of the [parent] republic" (Art. 103)<sup>20</sup>. The autonomous provinces were aloud to adopt their own autonomous statutes in conformity with the federal constitution and the constitution of PR Serbia. Based on the statute the autonomous province could pass other laws but always in conformity with the laws of PR Serbia<sup>21</sup>. The government authority in the autonomous Kosovo-Metohijan province (AKMP) was in the hands of Regional Committee and the Regional Executive Committee. Both were subordinate to the authorities of PR Serbia. Whereas the autonomous province of Vojvodina had its jurisdictional autonomy with its own Supreme Court, the AKMP was granted no such right<sup>22</sup>.

On April 7 1963, new federal constitution was adopted changing the name of the state into the **Socialist Federal Republic of Yugoslavia**. The Constitution again provided for republics to "found autonomous provinces in accordance with the constitution in areas with distinctive national characteristics or in areas with other

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<sup>20</sup> See [http://www.worldstatesmen.org/Yugoslavia\\_1946.txt](http://www.worldstatesmen.org/Yugoslavia_1946.txt)

<sup>21</sup> M. Jovičić: *Ustavnopravni položaj pripadnika albanske nacionalnosti u Jugoslaviji*, in A. Mitrović eds: *Srbi i Albanci u XX. veku*, 1991, Beograd: Srpska akademija nauka i umetnosti, p. 147-148

<sup>22</sup> *Enciklopedija samoupravljanja*, 1979, Beograd: Savremena administracija and Izdavački centar Komunist

distinguishing features, on the basis of the express will of the population of these area" (Art. 111). The details of the rights and scope of the provinces was, again, reserved to the republics' constitutions<sup>23</sup> (Art. 112). With the new constitution, both autonomous provinces gained equal status, namely the same number of representatives in the Nations' Assembly of Federal Assembly<sup>24</sup> (under the previous Constitution Vojvodina had 5 representatives more) and equal jurisdictional autonomy granting AKMP its own Supreme Court.

The amendments to the federal constitution in 1968 and 1971, amendment to Serbia's republic constitution in 1969 and the Constitutional Laws on provinces adopted in 1969 were gradually strengthening the autonomous status of the provinces. Latter process coincided with the reformation of Yugoslavian federal system and the atmosphere of the then Yugoslavian society – nations' tendencies to gain more independence and pretensions to liberalization and decentralization of the country's economy.

The abovementioned constitutional amendments dictated a radical revision of the Federal Constitution. Thus the new Federal Constitution was ratified in 1974 which granted more autonomy to the individual republics. One of the provisions of the new constitution was that each republic officially had the right to self-determination and option to secede from the federation. The new constitution also increased the autonomy of Kosovo and Vojvodina; nevertheless, under the constitution both provinces were still territorial part of Social Republic Serbia. The Federal Constitution stated in its Article 4:

»The Socialist Autonomous Province is an autonomous, socialist, self-managing, democratic, socio-political community based on the power of and self-management of working people, where working people and citizens, nations and nationalities exercise their sovereign rights in the interest of all working people and citizens, all nations and nationalities of the whole republic under the Constitution of the Socialist Republic of Serbia and the Socialist Federal Republic of Yugoslavia. «

Under the new Federal Constitution and the Constitution of SR Serbia the autonomous province of Kosovo was entitled to:

- adopt and amend its own constitution – Constitution of the Socialist Autonomous Province of Kosovo,
- sovereign decision-making on its territorial borders – the territorial borders of the province cannot be changed arbitrarily by the Federal or Republican Authorities but only with a consent of the Autonomous Province,
- independently form its government and accordingly have its own assembly, presidency, constitutional and supreme court and central bank,
- pass its laws,
- its own provincial prosecution office,

<sup>23</sup> See [http://www.worldstatesmen.org/Yugoslavia\\_1963.doc](http://www.worldstatesmen.org/Yugoslavia_1963.doc)

<sup>24</sup> Each of the republics had 30 representatives and the autonomous provinces 20 each.

- cooperate with the foreign states' institutions and bodies and international organizations in conformity with the external relations of the Federation,
- have its own representatives in all federal institutions,
- be accountable for its economic development and the development of the Federation as a whole.

The new Constitution provided the equal status of the autonomous provinces and the republics, especially due to the principle of consensus by adopting the more important decisions at the federal level. The main difference between the autonomous provinces and the republics was the different level of sovereignty – whereas the republics were formed as sovereign states the autonomous provinces were only social-political communities, parts of the republic, without their own national symbols; their citizens had the republican but no special provincial citizenship. The provincial constitution and laws were inferior to and had to be in conformity with the republics' ones.

Nevertheless, the provinces had a strong influence on SR Serbia since any of the provinces could veto a decision pertaining to entire Serbia, while the parliament of Serbia could not influence decisions of the provincial parliaments<sup>25</sup>.

#### **4.3. FROM 1989 TILL THE END OF KOSOVO WAR**

Due to the tensions between the Albanian and non-Albanian population on Kosovo fortified with severe social and economic problems the amendment of the Serbian Constitution occurred. Consequently, the autonomous status of Kosovo was radically reduced. In 1990, new Serbian Constitution was enacted, returning the province to the status predating the 1970s. The autonomous provinces lost their right to adopt the provincial constitution (they were only entitled to adopt the statute), their legislation powers, and own institutions. The status of the provinces was reduced to the level of a simple local community.

The 1990 Constitution was strongly opposed by Kosovo Albanians who boycotted state institutions and elections and established separate Albanian schools and political institutions. On July 2, 1990 an unconstitutional Kosovo parliament declared Kosovo an independent country, although this was not recognized by Belgrade or any foreign states, except Albania. Two years later, in 1992, the parliament organized an unofficial referendum that was observed by international organizations but was not recognized internationally. With an 80% turnout, 98% voted for Kosovo to be independent.

After the Dayton Agreement in 1995, some Albanians organized into the Kosovo Liberation army (KLA), employing guerrilla-style tactics against Serbian police forces and civilians. Violence escalated in a series of KLA attacks and Serbian reprisals into the year 1999, with increasing numbers of civilian victims. At this stage, international community still did not support independence for Kosovo. The UN Security Council

<sup>25</sup> V. Pešić: *Rat za nacionalne države*, in N. Popov eds: *Srpska strana rata*, 1996, Beograd: Republika, p. 31

passed Resolution 1160 on March 31, 1998 urging the parties to reach a peaceful settlement and rejecting any unilateral attempts to redraw borders.

Since the parties were not capable of reaching a cease-fire, the escalation of violence in the region eventually triggered NATO campaign of air strikes in 1999. On June 2, 1999, a joint Finnish-Russian team headed by former Finnish president Martti Ahtisaari presented a set of proposals to Serbian President Milosevic. These included a commitment to establish "an interim political framework agreement providing for substantial self-government for Kosovo, taking full account of the Rambouillet accords and the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other countries of the region." Under severe pressure from the ongoing NATO bombing, Milosevic agreed to withdraw Yugoslav forces from Kosovo and permit the establishment of an UN-led administration in the province, with security to be provided by a NATO-led force (KFOR)<sup>26</sup>.

#### **4.4. CURRENT CONSTITUTIONAL STATUS**

Kosovo's current constitutional status was established by **UN Security Council Resolution 1244**, adopted on June 10, 1999<sup>27</sup>. The Security Council placed Kosovo under the temporary administration of the **UN Mission in Kosovo (UNMIK)**, under the leadership of a Special Representative of the Secretary General (SRSG)<sup>28</sup>. It also explicitly upheld the existing sovereignty of Serbia over Kosovo, "reaffirming the commitment of all Member States to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia<sup>29</sup> and the other States of the region, as set out in the Helsinki Final Act and annex 2 [the Finnish-Russian proposals]." It also established a requirement that the post-conflict constitutional process must take full account of "the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia". However, the nature of Serbian sovereignty over Kosovo was purely nominal due to the sweeping governmental powers of UNMIK. Resolution 1244 permits Serbia no role in governing Kosovo since 1999 Serbian laws and institutions have not been valid in Kosovo.

UNMIK acts as the transitional administration for the region and is working closely with Kosovo's leaders and citizens. According to the Resolution 1244, UNMIK has the duty to:

- perform basic civilian administrative functions,
- promote the establishment of substantial autonomy and self-government in Kosovo,
- facilitate a political process to determine Kosovo's future status,

<sup>26</sup> R. Groom, P. Taylor: *The United Nations system and the Kosovo crisis*, in A. Schnabel, R.C. Thakur eds.: *Kosovo and the Challenge of Humanitarian Intervention*, 2000, United Nations University Press, p.303

<sup>27</sup> See <http://www.nato.int/kosovo/docu/u990610a.htm>

<sup>28</sup> SRSG is appointed by the Secretary-General under the advice of UN member states. Currently this function is served by Joachim Rucker, a German diplomat.

<sup>29</sup> In that time the Federal Republic of Yugoslavia comprised solely of the entity of Serbia and the entity of Montenegro.

- coordinate humanitarian and disaster relief of all international agencies,
- support the reconstruction of key infrastructure,
- prevent new outbreaks of violence,
- disarm the KLA,
- maintain civil law and order,
- promote human rights,
- assure the safe and unimpeded return of all refugees and displaced persons to their homes in Kosovo.

UNMIK is also competent to pass legislative acts in the form of regulations and to administer movable or immovable property, including monies, bank accounts, and other property of, or registered in the name of the Federal Republic of Yugoslavia or the Republic of Serbia or any of its organs, which is in the territory of Kosovo. (UNMIK/REG/1999/1)

In 2000, UNMIK established an interim administrative body – ***Joint Interim Administrative Structure (JIAS)***<sup>30</sup>. The JIAS was divided into:

- 1) *Administrative departments* entitled to perform public administrative functions. Each was co-headed by an UNMIK co-head and a Kosovo co-head<sup>31</sup>.
- 2) *Municipal boards* - Municipal Boards headed by UNMIK Municipal Administrators administered the municipalities of Kosovo.
- 3) *Interim Administrative Council* composed of 8 members, 4 nominated by the UN, 3 representatives of Kosovo Albanians and 1 representative of Kosovo Serbs. The Kosovo Albanian representatives were Ibrahim Rugova, Hashim Thaçi and Rexhep Qosja. The Serb member was Rada Trajkovic. This council was entitled to advise SRSG by adopting laws and passing policies for the Administrative departments.
- 4) *Kosovo Transitional Council* - a 35 member "legislature style" advisory body to represent the views of Kosovo stakeholder groups including political parties, religious organizations, national minorities and groups representing civil society<sup>32</sup>. The Council was convened by SRSG and had powers of scrutiny over the Interim Administrative Council and Administrative departments.

In May 2001, JIAS was replaced by ***Kosovo's Provisional Institutions of Self-Government (PISG)*** established by the Constitutional Framework<sup>33</sup> promulgated by UNMIK. The Constitutional Framework represents the current Kosovo Constitution and will be in force till the adoption of new Kosovo constitution expected to be ratified after the issue of Kosovo's status is resolved<sup>34</sup>. Under the Constitutional Framework, local administrative bodies were established to which UNMIK was gradually transferring increased administrative competencies. UNMIK reserved the

<sup>30</sup> UNMIK/REG/2000/1 available at: [http://www.unmikonline.org/regulations/2000/re2000\\_01.htm](http://www.unmikonline.org/regulations/2000/re2000_01.htm)

<sup>31</sup> See: <http://www.unmikonline.org/1styear/jiasdept.htm>

<sup>32</sup> See: <http://www.unmikonline.org/1styear/ktc.htm>

<sup>33</sup> UNMIK/REG/2001/9 available at: <http://www.unmikonline.org/constframework.htm>

<sup>34</sup> See: <http://www.kushtetutakosoves.info/>

authority over the foreign affairs and the final authority is still in the hands of the SRSG.

The Provisional Institutions comprise:

1) *Assembly of Kosovo*<sup>35</sup>

The Assembly is the highest law making and representative body of PISG. It has 120 members; 100 of these are directly elected by popular democratic vote whereas the rest 20 seats are reserved for the representatives of minorities (10 for Serbs, 4 for Roma, Ashkali and Egyptians, 3 for Bosniaks, 2 for Turks and 1 seat is reserved for Gorans).

Parliamentary elections were held three times in 2001, 2004 and the latest on November 17, 2007<sup>36</sup>. These elections were conducted under international supervision, with the OSCE and other observing groups concluded that these elections were generally fair and free.

Democratic Party of Kosovo (DPK) won the majority (34%, 37 seats) in the latest elections. The party stands for an independent, free and democratic Kosovo and like all other ethnic-Albanian political parties does not take part in the general elections in Serbia nor any other election or referendum organized by the Serbian parliament. Hashim Thaçi, former leader of the KLA, heads it.

25 seats were won by the Democratic League of Kosovo (LDK). Current president of the party is Fatmir Sejdiu. It is the largest political party in Kosovo founded in 1989 by a group of Albanian intellectuals. One of the founding members of the party was Ibrahim Rugova, former president of Kosovo (died in 2006). It is a party that called the Albanian people to leave and boycott all state institutions in 1990 and was one of the chief organizers of a poorly organized referendum for self-determination in 1992.

13 seats in the Assembly belong to the New Kosovo Alliance (AKR), a party founded in 2006 by a successful businessperson Behgjet Pacolli owner of Mabetex.

Democratic League of Dardania (LDD) established in January 2007, holds 11 seats. Current leader is Nexhat Daci.

10 seats belong to the Alliance for the Future of Kosovo (AAK). Like DPK, the party does not take part in elections or referendums in Serbia. The current president of the party is Ramush Haradinaj, who is currently at the ICTY in Hague to face war crimes charges.

<sup>35</sup> See: <http://www.assembly-kosova.org/?lang=en>

<sup>36</sup> For details on Kosovo elections and results see: <http://www.kosvoelections.com>

The Assembly has 19 committees for different administrative domains, Presidency of 8 members and the President. At present, the President is Nexhat Daci. The responsibilities of the Assembly are amongst others:

- approving laws and resolutions in the fields of responsibilities of PISG,
- advising on Government on preparing Draft-laws,
- electing the Presidency and the President of the Assembly,
- approving the candidate for the Prime Minister together with the list for the Ministers proposed by the former,
- electing the President of Kosovo by 2/3 majority.

## 2) *The President*<sup>37</sup>

The President of Kosovo represents the unity of the people and guarantees the democratic functioning of PISG. With SRSG, it represents Kosovo and takes action in the field of external relations. Its duty is also to propose the Assembly the prime Minister, after the consultations with the political parties represented in the Assembly, and to present the Assembly a report on the general state of affairs in Kosovo at least once a year.

The first post-war president was Ibrahim Rugova, who served until his death in January 2006. The present President is Fatmir Sejdiu, member of LDK. Dr Fatmir Sejdiu was born on October 23, 1951. He graduated Law at the University of Prishtina, where he latter on served as a Professor at the Faculty of Law and School of Political Science. In 1992 and 1998 elections, he was elected member of the Parliament of the Republic of Kosovo holding the positions of the General Secretary of the Parliament and Chairman of the Constitutional Issues Committee. In the first post-war elections in 2001 and 2004, Mr. Sejdiu was elected member of the Kosovo Assembly and a member of the Presidency of the Assembly. He was also a member of the Parliamentary Committee on Judicial, Legislative and Constitutional Matters and the Committee for International Cooperation and EU Integration.

## 3) *The Government*<sup>38</sup>

The Government represents the executive arm of PISG. It consists of the Prime Minister, 2 Deputy Prime Ministers, and 15 Ministers. Two of the Ministers have to be the representatives of the minorities (one for Serbian and one for other minorities). The majority of the members of the Assembly elect members of the Government. The Government is responsible for implementing Assembly laws and proposing draft laws to the Assembly at its own initiative or at the request of the Assembly.

The current Prime Minister is Hashim Taçi, member of DPK, who took office on January 9, 2008. Hashim Taçi was born on April 24, 1968. After he graduated from philosophy and history at the University of Prishtina, he immigrated to Switzerland.

<sup>37</sup> See: <http://www.president-ksgov.net/?id=1,67,67,67,e>

<sup>38</sup> See: <http://www.ks-gov.net/pm/Fillimi/tabid/36/Default.aspx>

There he joined the Kosovar Albanian political emigrants and became one of the founders of the People's Movement of Kosovo (LPK), a political party in Kosovo devoted to Albanian nationalism and the movement to unify all Albanian-populated areas into one state. It is said he has also founded the "Drenica-Group" an underground organization that is estimated to have controlled between 10% and 15% of all criminal activities in Kosovo (smuggling arms, stolen cars, oil, cigarettes and prostitution)<sup>39</sup>. He was a member of KLA's inner circle from 1993 and became its political leader in 1999. As such, he participated at the Rambouillet negotiations as the leader of the Kosovar Albanian team.

#### 4) *Administration of Justice*

The Administration of Justice falls within the competence of the Supreme Court of Kosovo, District Courts, Municipal Courts, and Minor Offense Courts. Courts and Judiciary are under the responsibility of special independent professional body Kosovo Judicial Council, which is composed of 7 judges and 4 *ex officio* members. Amongst other duties, the Council proposes the list of candidates for judges and prosecutors. The list has to be endorsed by the Assembly and finally judges and the prosecutors are appointed by the SRSG.

#### 5) *The Kosovo Police Service*<sup>40</sup>

The Kosovo Police Service (KPS) is responsible for maintaining security and public order in Kosovo. It functions under the authority of the SRSG and under the supervision of UNMIK Police. The command authority over both the KPS AND the international police is in the hands of the police commissioner. The trainings of the candidates for KPS are performed by OSCE. First recruitment and training took place in 1999 and today the KPS has nearly 7,000 officers. About 85% of KPS officers are ethnic Albanians, 15% are ethnic Serbs as well as other smaller ethnic minorities.

#### 6) *The Kosovo Protection Corps*<sup>41</sup>

The Kosovo Protection Corps (KPC) is a civilian emergency organization, established under the law, which carries out in Kosovo rapid disaster response tasks for public safety in times of emergency and humanitarian assistance. It was created on September 21, 1999 through the promulgation of UNMIK Regulation 1999/8<sup>42</sup> upon the completion of the demilitarization of KLA and due to the need to define the KLA's role in accordance with the new situation in the province. Initially KPC was created with 5052 members from whom 10% had to be minorities; the majority of the members were demilitarized veterans of the KLA.

<sup>39</sup> See: <http://www.axisglobe.com/article.asp?article=561>

<sup>40</sup> See: [http://www.kosovopolice.com/english/index\\_english.html](http://www.kosovopolice.com/english/index_english.html)

<sup>41</sup> See: <http://www.tmk-ks.org/new/english/fillimi/index.php>

<sup>42</sup> See: <http://www.unmikonline.org/regulations/1999/reg08-99.htm>

The tasks of KPC are: to provide a disaster response capability to tackle major fires, industrial accidents or toxic spills; to conduct search and rescue operations; to provide humanitarian assistance; to assist in de-mining; and to contribute to rebuilding infrastructure and communities. The KPC is not allowed to take part in law enforcement or the maintenance of law and order, political activities or to hold offices. It exercises its tasks under the supervision of the KFOR commander whereas the direction, funding, administrative authority over the KPC, and final authority over the selection and appointment of the KPC-members are in the hands of SRSG. The present commander of KPC is Sylejman Selimi who succeeded Agim Çeku.

### ***Administrative Divisions***

Under UNMIK administration, also new districts were formed in Kosovo. Thus, Kosovo is divided into 7 districts and 30 municipalities. In general the municipalities have a very substantial Albanian majority except the municipality Štrpce in the south of Kosovo and three municipalities (Leposavić, Zubin potok and Zvečan) in the north district of Kosovska Mitrovica each have an overwhelmingly Serbian majority constituting more than 90% of the population of that municipality. For each of the municipalities OSCE made municipal profile containing basic information such as: a description of the political, economic and social landscape, contacts of local administration and international actors, organizations active in civil society, the judicial and public services systems<sup>43</sup>.

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<sup>43</sup> <http://www.osce.org/kosovo/13982.html>

## 5. ORGANIZATIONS IN KOSOVO

From the early 1990s onwards, governments, and international institutions were aware of the impending conflict in Kosovo. There were plenty of warnings, and the Kosovo conflict was part of the unfolding tragedy of the break-up of Yugoslavia. Yet, before 1998, the international community failed to take sufficient preventative action. There were some diplomatic initiatives especially in 1992 and 1993, but they were confused and not backed by sufficient high-level pressure. More importantly, insufficient support was provided to the non-violent resistance movement, which created its own parallel institutions and which managed to prevent large-scale violence in Kosovo up to 1997.<sup>44</sup>

### 5.1. UNITED NATION INTERIM ADMINISTRATION MISSION IN KOSOVO – UNMIK

UNMIK was born on 10 June 1999 when the Security Council in resolution 1244 authorized the Secretary-General to establish in the war-ravaged province of Kosovo an interim civilian administration led by the United Nations under which its people could progressively enjoy substantial autonomy.<sup>45</sup>

UNMIK and its functionaries are working closely with leaders and people in Kosovo and are providing essential administrative functions and services in various areas of life –health, education, banking and finance, post and telecommunication, law and order etc.

#### **Operational Framework:**

To implement its mandate, UNMIK initially brought together four "pillars" under its leadership. Currently, the pillars are:

**Pillar I:** Police and Justice, under the direct leadership of the United Nations

**Pillar II:** Civil Administration, under the direct leadership of the United Nations

**Pillar III:** Democratization and Institution Building, led by the Organization for Security and Co-operation in Europe (OSCE)

**Pillar IV:** Reconstruction and Economic Development, led by the European Union (EU).

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<sup>44</sup> Independent International Commission on Kosovo: The Kosovo Report: <http://www.reliefweb.int/library/documents/thekosovoreport.htm>

<sup>45</sup> <http://www.unmikonline.org/intro.htm>

Responsibility for enforcement of Pillars I and II has now been transferred to the institutions of provisional self-government in Kosovo. The UN, however, still monitors this enforcement.

The head of UNMIK is the Special Representative of the Secretary-General for Kosovo. As the most senior international civilian official in Kosovo, he presides over the work of the pillars and facilitates the political process designed to determine Kosovo's future status.

More information about UNMIK work and achievements are presented in the section 4 above.

## **5.2. THE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE – OSCE MISSION IN KOSOVO**

The OSCE Mission in Kosovo was established in July 1999 and it is active on three main fields: i) Support to democratic institutions, ii) help to domestic authorities to adhere to human rights, good governance and communities and iii) Public safety and security. With Decision no. 305, the OSCE Mission replaced Task Force for Kosovo.

It forms a component of UNMIK. As UNMIK's Pillar III it is responsible for promoting of human rights and the rule of law and institutional and democracy building – specific tasks of the OSCE Mission, by Decision no.305 in July 1999 are:

- democratization and governance, including the development of a civil society, nongovernmental organizations and political parties;
- election organization and supervision, including voter registration, political party services, training and education and elections operations;
- media affairs, including independent media support; regulations, laws and standards; media monitoring, and Radio-TV Kosovo;
- human rights monitoring, as well as protecting and promoting human rights, including the establishment of an Ombudsman institution, in co-operation, inter alia, with the United Nations High Commissioner on Human Rights;
- rule of law, including helping re-establish a judicial system based on democratic principles and human rights, and developing a culture of respect for a rule of law;
- police education and development, including the training of a new Kosovo police service at the Kosovo Police Service School.<sup>46</sup>

The OSCE Mission in Kosovo is in its work guided by the importance of bringing about mutual respect and reconciliation among all ethnic groups in Kosovo and of

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<sup>46</sup> <http://www.osce.org/kosovo/13197.html>

establishing a viable multi-ethnic society where the rights of each citizen are fully and equally respected.<sup>47</sup>

The mission applies a proactive monitoring police in four-step process: monitoring, analyzing, reporting, and recommending remedial action for observed shortcomings.

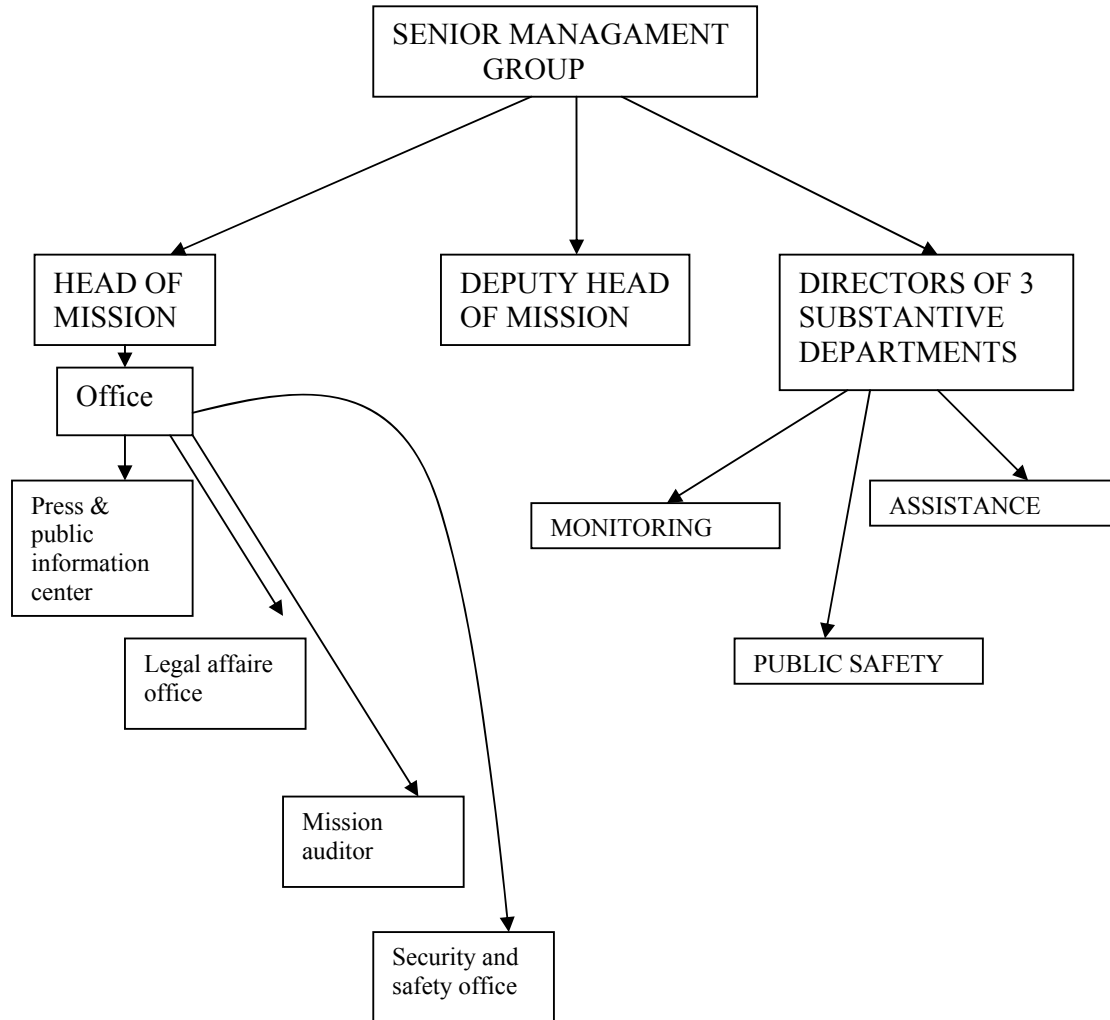
The Mission is in partnership with other international organization and it is the first project of OSCE, which is an integral part of an operation led by United Nations. For the Mission OSCE also interacts with its other major partners such as United Nations High Commissioner for Refugees, the United Nations High Commissioner for Human Rights, the Council of Europe, and the European Union. The Mission co-operates also with Kosovo Force (KFOR), the NATO-led peacekeeping force, which provides a secure environment for OSCE activities in Kosovo.

In October 2007 Tim Guldemann from Switzerland took office as Head of The Mission.

### **Composition of the Mission:**

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<sup>47</sup> <http://www.osce.org/kosovo/13268.html>



OSCE Mission in Kosovo has Headquarters in Prishtina and it has a network of five regional centers and 33 municipal teams that cover Kosovo's 30 municipalities and three pilot municipal units.

The Mission was established for one year but its work in Kosovo was prolonged each year until end of January 2008 with Decisions of Permanent Council, after last extended mandate, Mission's mandate will be extended at the end of every month unless one of the Participating States objects.

### Activities of the Mission:

#### 5.2.1. MUNICIPAL GOVERNANCE

In Kosovo there are 30 municipalities and three pilot municipal units. These are basic units through which inhabitants of Kosovo get contact with authorities and through

which people of Kosovo receive governmental services and are able to exercise their civic rights.

In each municipality the Mission has its own municipality team which has to monitor the work of municipalities to help local authorities uphold good governance and human rights principles, with special attention to minority communities and return process.

In addition, the Mission is also engaged in municipal governance reform, which is becoming increasingly important as the municipalities are preparing to assume additional responsibilities under the new Law on Local Self-Government expected in 2008. The Mission also assists local level legislators with drafting municipal statutes and regulations

- *Proactive monitoring*, part of this first activity is a four-step process that includes monitoring, analyzing, reporting and recommending remedial action for observed shortcomings in the work of municipal authorities. National and international staff members observe daily work of municipalities, executive and advise them on how to improve municipal operation, besides that staff members have contact with population in addition to improve municipal governance.
- *Local governance reform* - the Mission provides advice on how to better plan municipal budgets, increase transparency and include the public in decision-making.
- *Local – self-regulation* – although law in Kosovo is 'produced' by ministries and Assembly of Kosovo and that municipalities are bound by these laws, municipalities still develop their own municipal statutes and regulation. This development is monitored by the Mission, which also assists municipalities with development of their law in order to ensure that human rights and good governance principles are fully taken into account and to support the inclusion of minorities and municipal regulations being in line with applicable legislation.
- *Co-operation with Central Government* - stimulates co-operation between the two levels of governance with a view to ensuring that local needs are reflected in the legislation.<sup>48</sup>

### 5.2.2. CENTRAL GOVERNANCE SUPPORT

The Mission supports the development of both legislative and executive branches of Kosovo's Provisional Institution of Self-Government - the Assembly, the Office of the Prime Minister, the ministries, and the independent institutions. It also supports political party development.

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<sup>48</sup> <http://www.osce.org/kosovo/29389.html>

- *Assembly Support Initiative* – The Mission must ensure that parliamentary procedures are being respected and that all parliamentary bodies are made operational, committees in particular.
- *Executive branch* - the Mission advises the Prime Minister's Office on how to better uphold human rights and good governance principles, and fight corruption.
- *Political parties* - the Mission is helping to develop their internal democracy and the ability to represent the interests of their electoral basis. Emphasis is placed on the participation of woman and youth in decision-making within parties, as well as on managerial issues. The Mission especially works with minor parties, which play a significant role in securing and respecting minority rights.
- *Supporting independent institutions* - Since 1999, the Mission has supported the establishment and development of a number of independent institutions, most notably the Kosovo Judicial Institute, the Independent Media Commission, the Ombudsperson Institution, the Central Election Commission, the Internal Oversight Board, and the Kosovo Anti-Corruption Agency.

*5.2.3. YOUTH AND EDUCATION SUPPORT UNIT* was established within the Department of Democratization in January 2006 which is trying to develop an effective education and youth support system.

- *Institution building for higher education* – The Mission supports and helps Ministry of Education, Science, and Technology in order to achieve higher level of education. Mission participates with Education Committee of the Assembly of Kosovo what concerns the legislation and creation of governmental strategies and also supports the University of Priština in implementing the Bologna reform etc.
- *Institution building and human resources development* - The Mission assists the Provisional Institutions of Self Government (PISG) in developing a co-ordinated strategy and programs for youth employment in partnership with the civil society. The Mission supports the development and implementation of the Kosovo Youth Policy and Action Plan, which presents a detailed list of commitments to the youth of Kosovo by the Kosovo public authorities.
- *Youth empowerment* - The OSCE promotes the effective involvement of young people from all ethnic communities in institutional decision- and policy-making processes. The Mission supports representative youth organizations such as the Municipal Youth Networks, Youth Assemblies, and cross-boundary Youth Networks by providing them with insights into the mechanisms of the PISG and municipal institutions. It seeks to help them understand their role as citizens of a democratic society and their duty to apply lawful means in articulating their interests and concerns, etc.

#### 5.2.4 OTHERS

Besides activities written about above OSCE is also very active in helping to ensure the mechanism for protecting *HUMAN RIGHTS*, which are still widely violated in Kosovo, to executive, judicial and legislative branch, in developing *LEGAL SYSTEM*, *SECURITY SECTOR* (more about this in another section of research) and *MEDIA STANDARDS*.

### 5.2.5. CONCLUSION

As a Pillar of UN and one of the most important international organization, working on Kosovo to help arise conscious for human rights and legal awareness, we think, that this organization could be a candidate for Mediators beyond borders to establish contact with it in bringing mediation to Kosovo.

## 5.3. MEDIATION IN KOSOVO

### MEDIATION AND SIMILAR ORGANIZATIONS IN KOSOVO

#### 5.3.1. NANSEN DIALOGUE NETWORK

##### 5.3.1.1. ABOUT

Nansen dialog network is an organization from Norway founded by Norwegian Ministry of foreign affairs, which started as a project in 1995 with its own first interethnic dialog concerning war in Bosnia in Herzegovina with purpose of establishing a place for dialogue between representatives of the various ethnic groups involved in the conflict. It was founded to work on locations in Balkan.

Nansen dialog network consist of **Nansen dialog centers** in Western Balkans and **Nansen dialog Academy** in Norway. One of first centers was opened in Kosovo by two women from Prishtina in 1998 and organized dialogue seminars for Albanians and Serbs from Kosovo throughout 1998 and 1999, until NATO's bombing of Yugoslavia ended these activities temporarily. Later Nansen dialog center was again established in year 2000 and today there are Nansen dialog centers in ten cities in Western Balkan.

Main objective of Nansen dialog network is reconciliation and peace building through dialog in interethnic problems. Nansen dialog centers therefore organizes meetings between 'parties' in conflict where dialog can resolve conflicts.

Mission of Nansen dialog network is:


- wish to empower people who live in conflict situations to contribute to peaceful conflict transformation based on democracy and human rights.
- wish to provide a neutral space where people from opposite sides in serious conflicts can meet face to face in honest dialogue.
- through dialogue, participants gain new understanding of each other's experiences, perspectives, and needs. Enemy images may be broken down and relationships rebuilt.
- on this foundation, they explore alternative solutions to joint challenges.

As already said, Nansen dialog centers (NDC) are established in cities of Balkan countries, those are: NDC Skopje, NDC Montenegro, NDC Serbia, NDC Mostar, NDC Osijek, NDC Banjaluka, NDC Bujanovac and KND Kosovo.

### 5.3.1.2. KOSOVAN NANSEN DIALOGUE - KND

Is non-profit, non-political and non-governmental organization, part of Nansen dialog network and it's purpose follows purposes, goals and mission of Nansen dialog network, that is to contribute to reconciliation and peace – building through interethnic dialog between individuals and groups. The focus is on how to build a respect for democratic principles, human rights and peaceful conflict resolution for the future improvement of society.<sup>49</sup>

KND's projects:

- Municipalities inter – ethnic dialogue
  - Dialogue in education on Kosovo
  - Dialogue on returns
  - Work with Kosovan Serbs community
  - Network projects – joint project of Nansen dialog network.
- 
- activities focused only

### 5.3.1.3 CONCLUSION:

Nansen dialog network is focused on inter – ethnic conflicts and resolving them with peaceful dialog between hostile parties.

Its work is important for lives of Kosovo's inhabitants. We will write more about their program and project in further research and establish contacts with their representatives, to find out if they are prepared to co –operate wit other mediation organizations such as Mediators Beyond Borders and if they think that mediation is a proper way of resolving conflicts on that area.

### 5.3.2. CSSPROJECT – INTEGRATIVE MEDIATION IN SOUTH EASTERN EUROPE

CSSProject (CSSP) was established by Dr. Christian Schwarz-Schilling (former German minister and former member of German parliament, in 1995 he was working as International mediator in Bosnia and Herzegovina), Dr. Juan Armando Diaz (director of CSSP) and Dr. Dieter Wolkewitz (worked for the OSCE, specializing also in Balkan). It is non-profit association from Berlin, Germany.

CSSP's main focus is on integrative mediation in South Eastern Europe. Integrative mediation was developed by CSSP as a conceptual framework out of the experience of the Office of the International Mediator in Bosnia and Herzegovina. Integrative

<sup>49</sup> <http://www.kndialogue.org/>

mediation combines different conflict resolution activities, grassroots mediation, consultation, facilitative training, research and analysis, and integrative advocacy.

Elements of integrative mediation:



Integrative mediation helps to clarify to civil society why certain measures are needed, and enables communities to participate actively in the local peace process. Furthermore, it brings the general and hierarchical process of conflict resolution down to the local level.

Targets areas of CSSP are Bosnia and Herzegovina, Macedonia, Republic of Serbia, Kosovo, Sri Lanka, and Vietnam.

The main pillar of CSSP integrative mediation efforts is Kosovo, focused on strengthening the existing conflict resolution mechanisms, mediation at the local level, conflict prevention activities, and negotiation and mediation workshops. Since early 2005, CSSP meets with international and Kosovo leaders, which have welcomed the contributions of CSSP. OSCE and UNMIK have been instrumental in facilitating our activities in several municipalities in Kosovo.

As a result of a networking workshop organized by the CSSP in Sarajevo in October 2005 South Eastern European Mediation Forum was founded.

### **5.3.3. SOUTH EASTERN EUROPEAN MEDIATION FORUM - SEEMF**

SEEMF is an association of mediators and other experts from Albania, Montenegro, Serbia, Croatia, Slovenia, Macedonia, Croatia, and Kosovo to network and establish sustainable mediation frameworks in South Eastern Europe. It was founded in Sarajevo 2005.

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<sup>50</sup> <http://www.cssproject.org/Elements%20of%20Integrative%20Mediation.html>

To expand mediation in this region there is a need to strengthen cooperation, exchange, and capacity of the already established projects and organizations. Mediators and representatives from Albania, Bosnia and Herzegovina, Croatia, Council of Europe, European Agency for Reconstruction, Germany (German Bar Association), Kosovo, Macedonia, Montenegro, Norway (Nordic Forum for Mediation and Conflict Resolution), Serbia, and Slovenia met at this Workshop to share information, discuss questions and difficulties, develop partnerships, and explore the possibility of forming or strengthening Mediators Associations in their respective regions.<sup>51</sup>

#### **5.3.4. KOSOVO LAW CENTER**

The Kosovo Law Centre (KLC) was established in June 2000, as an independent, nonprofit, non-governmental organization (NGO). It was founded by the Organization for Security and Cooperation in Europe's Mission in Kosovo (OSCE/OMIK), Department of Human Rights and Rule of Law. The goal in creating KLC was to cultivate the professional skills of local legal talent in order to establish a locally run, independent and sustainable NGO that embodies, develops and promotes democratic principals, multiculturalism, high ethical standards, the rule of law and respect for human rights. Since its founding, KLC has served as a legal think-tank devoted to the implementation of these principles.<sup>52</sup>

KLC's basic mission is to provide to the people of Kosovo - legal professionals and lay citizens- the understanding, knowledge, skills, and resources necessary to fully participate in Kosovo's society. To establish sustainable civil society, based on respect for human rights and the rule of law in Kosovo, this international community designs wide range of programs activities, which assist people in Kosovo to understand law and legal process and to strengthen skills and legal talent of all professionals on law area in Kosovo. In that spirit, KLC organizes legal researches and analysis, legal education and legal training for Kosovo's minority and at-risk communities and publishes materials such as *Kosovo Legal Studies journal*, *Bulletin of Kosovo*, *Supreme Court Case Law*, and *Compilations of Applicable Laws*. KLC employs various type of professionals besides lawyers also librarians, translators, interpreters, security, international interns, etc.

KLC long-term goal is to continue to serve the needs of the international and local communities of Kosovo.

##### **5.3.4.1. LEGAL EDUCATION**

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<sup>51</sup> <http://www.seemf.cssproject.org/seemf.html>

<sup>52</sup> <http://www.kosovolawcenter.org/>

The main activities of KLC in legal education are **Law faculty Support Program (LFSP)** and **Traffic education**; both programs are designed for younger generation of Kosovar's.

In the first program – LFSP KLC is working along with Law Faculty at University of Priština with a support programme which includes Practical Legal Clinics, Law faculty library development, publications like Student's handbooks on samples of different legal acts, compilations etc. KLC also involved Curriculum Development in past with assistance in implementing Bologna process, exchange programmes, etc.

In the second programme – Traffic education KLC is providing education in traffic regulations and basic children rights for children from 6 to 14 years in order to establish obedience of the law and respect for Kosovo's legal system already at early age of individual.

#### *5.3.4.2. LEGAL TRAINING*

Main activities of KLC in providing legal training for different institutions and/or groups of individuals in Kosovo are:

- *Practical Legal Clinics*, which provide practical assignments and lectures for students of Law Faculties at University of Priština and at University of Mitrovica in three main modules: Criminal Law, Civil Law and Administrative Law. In this programme, KLC is trying to bond and work with Kosovo's institutions such as Courts, Public Prosecutors Offices, Chamber of Advocates, and Prisons in order to provide legal practice for students.
- *Continuing Legal Education for Civil Servants*, project that implements legal education training for civil servants in Kosovo's municipalities, and assisting the municipalities in shaping and realizing their agenda for legislative local government reform. The goal of Continuing Legal Education project is to provide a forum for discussing and resolving difficulties appeared in Kosovo's Administrative Law. Besides the forum this project also provides improvement of the theoretical and practical legal knowledge of trainees and legal officers from municipalities.
- *Legal training for the Kosovo Protection Corps* provides basic information of constitutional law, human rights, humanitarian law and other basics of legal system to legal officers of Kosovo protection corps. Besides education of applicable law in Kosovo, this programme also provides explanations of international law. This project concluded in summer 2003.

#### *5.3.4.3. LEGAL RESEARCH AND ANALYSIS*

KLC employs lawyers specialized in various fields of law such as civil, criminal, criminal procedure, human rights, property, etc. The KLC comments on the applicability of prior and post-1989 domestic laws and regulations. In addition, the

KLC drafts comments and opinions on draft legislative acts and their respective conformity with international standards and domestic legislation<sup>3</sup>. In addition, this programme includes two programmes; one is **Human Rights Violations Regarding Minorities in Kosovo**, in which KLC plans to undertake a research project to examine the situation of minority communities in Kosovo, in order to create a detailed picture of the current human rights situation in partnership with the Finnish OHCHR Human Rights Support Programme for Kosovo.

The other project is **Research on Murders in Post-war Kosovo** for which KLC recruited professional staff and law faculty students (young researchers) to undertake a comprehensive study of murders that have taken place in post-war Kosovo. Data on murders was collected from the criminal registry offices and criminal cases of the five district courts of Kosovo.

#### *5.3.4.4. LECTURES, CONFERENCES, SEMINARS*

Kosovo Law Centre provides lectures, conferences, and workshops to the legal community in Kosovo by inviting local and international lawyers and judges to share or present their working knowledge and skills to interested participants.

#### *5.3.4.5. CONCLUSION*

This organization was, according to their website [www.kosovolawcenter.org](http://www.kosovolawcenter.org), active in years 2000 – 2003 and its goals to help Kosovars in establishing legal system and their relationship are very promising. We think the organization would be suitable to work with mediators, if still active, which we will find out in further research.

### **5.3.5. PARTNERS FOR DEMOCRATIC CHANGE – PARTNERS**

#### *5.3.5.1. ABOUT*

Is an international organization set up for building sustainable local capacity to advance civil society and a culture of change and conflict management worldwide?

Activities of this organization, which purpose is also to prevent and resolve conflicts are:

- Develop and Strengthen Institutions (building new local institutions and improvement of skills of existing institutions);
- Train and Teach;
- Build Consensus & Resolve Conflict (help in resolving local issues);
- Promotion of Public Policies (promoting new legislation that legitimizes mediation etc.);
- Develop Curricula (establishing of academic and training curricula on changed management and conflict resolution).

Partners have worked in over 50 countries and provinces in the world, like Argentina, Mexico, Peru, Iraq, Lebanon, Yemen, Slovakia, Albania, Kosovo and others.

Partners' Centers for Change & Conflict Management are independent and locally staffed, managed and registered organizations. Its work is to develop democracies committed to advancing civil society and a culture of change and conflict management. Each Center provides a range of services to local, regional and international communities. Centers are located in every area where Partners are currently active. Centers work with civil society, government, business, and other sectors to address a range of issues, including good governance, citizen participation, economic development, civil society building, minority rights, women and youth leadership, the environment, and public safety. Each Center shares Partners' mission and a common set of programs

Partners and Centers are also a part of Partners for democratic change International (PDCI) through which Partners help to Centers.

Headquarters of Partners and PDCI is located in Washington D.C.

#### *5.3.5.2. PARTNERS – KOSOVA CENTER*

Partners - Kosova Center for Conflict Management was founded in 2001 to foster a culture of peaceful conflict resolution. Since then, the Center has worked with Kosovar citizens of all ethnicities to facilitate the resolution of disputes and build consensus on neighborhood, business, majority-minority, and citizen-government issues. The Center provides services ranging from mediation to training courses in anti-discrimination and ethnic integration. Today, the Center has become a respected institution in the community and has helped expand the acceptance of alternative and peaceful conflict resolution. Partners-Kosova's main areas of work are:

- *Mediation*  
As the most active mediation center in Kosovo, Partners-Kosova's services include mediating family, property, business, blood feud and other cases; training in basic and advanced mediation skills; and expert consultation in setting up mediation programs for schools, municipalities and other groups. The Center has been instrumental in drafting Kosovo's pending Mediation Law, which will integrate mediation into the court system and establish a professional group of mediators who are trained in accordance with international standards and ethics. The Center has developed a highly effective Kosovar mediation methodology that blends modern mediation concepts such as voluntary participation and mediator neutrality with Kosovo's centuries-old traditions of mediation by a trusted third party.
- *Local Government Reform*  
Partners-Kosova's Local Government Initiative empowers municipal leaders to manage social change and conflict in their municipalities. The Center has trained hundreds of municipal leaders in conflict management and citizen

participation. One of the most significant results of this program is the creation of a Code of Ethics for Municipal Inspectors.

- *Ethnic Integration & Conflict Resolution*  
With the Ethnic Integration and Conflict Resolution program, Partners-Kosova supports the reestablishment of Kosovo as a multi-cultural and multi-ethnic society. Partners-Kosova trains citizens to engage in “Cooperative Planning” processes, where majority and minority citizens collaboratively identify integration challenges, and form partnerships with government and civil society to implement creative, sustainable solutions.<sup>53</sup>

### **5.3.6. INTERNATIONAL CRISIS GROUP – CRISIS GROUP**

Crisis group an independent, non-profit, non-governmental organization, on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis group is also working in Balkan, one of its programmes is Kosovo where this organization has been active since 1997; its headquarters are located in Prishtina. Team there is focused on peace process by examining issues such as legal status of Kosovo.

### **5.3.7. FORUM FOR ETHNIC RELATIONS**

Forum for ethnic relations is non governmental organization that brings together experts from countries of former Yugoslavia, Europe and USA for democratization of ethnic relations and help in reconciliation process of ethnic, culture and religious groups. It was founded in 1989 and it is located in Montenegro. One of their programs/project is also Kosovo crisis question. Besides other experts services they also offer mediation.

### **5.3.8. CONCLUSION**

There is a lot of NGO's and similar organizations in Kosovo, trying to help Kosovo to build legal democratic system, public services, education system etc. These organizations are either foreigner or domestic. Until now, researches did not show any co-operation between these organizations. This point of view continues in further research, in which we will also establish if there is a chance of bringing partnering these organizations and if that and mediation overall is necessary there.

Although it seems as mediation was not as successful in Kosovo we have to know that culture is very different of western and people are not so aware of what can mediation brings to them. The first step to resolving conflicts with mediation would be arising awareness of people and their view of resolving conflicts.

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<sup>53</sup> [http://www.partnersglobal.org/centers/centers\\_kosova.html](http://www.partnersglobal.org/centers/centers_kosova.html)



## 6. **PRESENT SITUATION IN KOSOVO**

After UNMIK failed to transform Kosovo into society in which all citizens could live in dignity and security (UNMIK for example could not build system of social security and economics in Kosovo could not be developed as it should be). Some experts think that the reason why democratic legal system cannot be established in Kosovo is Albanian culture being clan – based. After all Kosovo was harmed also with genocide by Albanians against Serbs. Consequence of all this was that Serbs living in Kosovo abandoned the region and now there is just 120.000 Serbs living in 2 million inhabitants Kosovo.

There exist other reasons why the UNMIK failed in its mission. Experts explain that there is no foundation of multiethnic society. Even more, there are illegal construction and occupation of home, corruption, etc. The European Commission once in years 2005, 2006 stated that Kosovo's society is dysfunctional and not prepared for independence.

But never the less the UN Security Council (UNSC) appointed a special **UN Envoy** to mediate in interethnic conflict. The man chosen for this work in the end of February 2006 was former Finland president called Martti Ahtisaari. There has been series of negotiations organized in Vienna to determine the future status of Kosovo. Nevertheless, negotiations between Serbs and Albanians led by him were not successful and ended in March 2007. Ahtisaari proposed his plan in May 2007 that Kosovo govern itself democratically and be allowed to make international agreements while remaining, at least temporarily, under international supervision – in future the EU should replace the UN as main protagonist of the international community in Kosovo.

In 2007, Russia stated that could not be agreed to any Kosovo settlement that Belgrade would opposed. With that Russia shown her support to Serbia which is not only based on its Slavic friendship and long term co – operation but also on Russia's national interests (Russia has similar conflicts with South Ossetia, Abkhazia and Transnistria) including economy.

In the same year, Russia wanted that Ahtisaari delivers report to UNSC. In this report Ahtisaari recommended Kosovo's independence supervised by EU with continuing presence of NATO, because he was certain that independence without supervision would not be safe.

Washington, Brussels, Berlin, UK, and others, put a proposal of new resolution in UNSC, which would enable Kosovo to become independent, but Russia and other nations of UNSC such as China, Indonesia, and South Africa were against it. Last three nations claimed that a keystone to the international law should be rule of law and therefore allowing Kosovo's independence this statement would be violated because independent Kosovo would be established on 15% of Serbian territory.

In August 2007, after negotiations of Ahtisaari were not successful, Contact Group set new mediation by **troika: US, EU and Russia**. Mediators' (Frank Wisner, Wolfgang Ischinger and Alexander Botsan – Hercenko) task was getting Serbs and Albanians to agree on Kosovo future status. These negotiations were limited to 120 days and ended in November without any suitable agreement. Although the mediation ended and Serbs were determined that they will not let an inch of its territory to be taken away, Russia still insisted on further negotiations. From report of troika it was seen that US and Russia have different standpoints. In report it was also shown that there were various options that parties discussed, such as fully independence of Kosovo, supervised independence, territorial partition, substantial autonomy, etc. However, as already said, the parties, Belgrade and Prishtina, were unable to reach agreement on final status of Kosovo. Some sources are sure that Serbs were ready to give up a big amount of their demands to resolve this conflict and that Albanians with US on its side were the one who was not able to give up some of their demands.

On one side there is a support of US and UK for Albanians to declare independence of Kosovo, on the other hand, there is support of Russia and some other for Serbian who are determined that unilateral declaration of independence would mean a violation of international law and are certain of annulling that kind of declaration and recognitions of other countries.

In the middle is the EU about question on how to recognize the Kosovo. By its law all 27 members are supposed to reach unanimity. However, opinions of the EU members are divided on this conflict, some of them (France, Germany...) are ready to recognize and resolve problem of Kosovo as soon as possible but others are reserved (Greece, Romania) because of respecting the rule of law or fear of war or their national interest (such as being in similar position of another province). Another problem for the EU is also Serbia's negotiations for the EU membership. On one hand, the Kosovo conflict should not be the reason for stopping the negotiations, but on the other hand Serbia is determined to put on hold the negotiations for the EU membership because of Kosovo. The latter is not suitable for the EU, because the EU is very interested in Serbia becoming its member.

Nevertheless, the EU decided to establish a special mission - **EULEX** in Kosovo that would replace UNMIK. The EU Council has already affirmed legal and financial grounds for this legal- police mission in Kosovo in which there are 1800 members. Final decision on establishing the mission will be on 18th February 2008 on assembly of the EU's Ministers of foreign affairs. From this day 120 days long term will start running until formal start of mission. The legal ground for EULEX will remain the resolution no. 1244.

The purpose of EULEX is to help police and judicial system in Kosovo and to resolve problems with organized crime.

It is already known that Kosovo is going to declare unilateral independence on February 17, or March 9, 2008. It depends on decisions and speculations whether it

is better that assembly of Ministers of foreign affairs of EU first formally approves the civil mission of EU or should declaration take place on Sunday so that Russia would not be able to demand UNSC to assemble etc.

Kosovo's medias are reporting that Brussels gave Prishtina green light to declare independence for February 17; Washington confirmed the same. The Prime minister of Kosovo Hashim Thaçi confirmed these statements. He also commented that over 100 states are ready to recognize the independence of Kosovo. In Kosovo, there are preparations for selection of national flag, anthem, and other national symbols. There is also the need to secure Serbian minority by legal recognition.

It is expected that almost all European members will recognize Kosovo's independence and new country. At the beginning only Romania and Cyprus (because of political problems with its north part of island) were against the independence of Kosovo, but now Greece and Slovakia have joined them by stating their reservation to the question of Kosovo. It is expected UK, France and Germany will be the first EU members recognizing Kosovo as an independent country.

New elected and also former president of Serbia, Boris Tadić declared that in the case of unilateral declaration of Kosovo independence and its recognition Serbia will use all legal diplomatic means to annul this declaration and threatens with lawsuits against countries which would recognize Kosovo's independence. He is certain that this action would mean a violation of international law and illegal act.

Kosovo's president Fatmir Sejdiu visited Vatican on a private audience and Pope Benedict XVI. Purpose of this audience was getting information about Kosovo. The Pope stated that Vatican expects that conflict would be resolved with respect to rules of international law and rights of all involved parties.

Kosovo is preparing for declaring independence in co-operation with EU and US. The Kosovo's Prime Minister Hashim Thaçi for example visited Serbs living in Kosovo and assured them that in new country they will be treated right and will not feel lack of rights and respect.

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