

NATIONAL CONVENTION ON THE EUROPEAN UNION
WORKING GROUP FOR CHAPTER 35



2023

TOWARDS THE AGREEMENT

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At the end of 2022, when the previous edition of the publication „Towards the Agreement” was published, we did not expect that the following 2023 would be even more complex and dynamic, on several occasions on the verge of conflict, and certainly without the negotiating parties understanding the necessity of normalising mutual relations. The year started with the removal of barricades and the achievement of the long-awaited Agreement on the Path to Normalisation between Serbia and Kosovo, and soon after its annex on implementation, which all indicated that some kind of normality of life in the north of Kosovo would be reached. However, the situation soon became complicated again with the boycott of the extraordinary local elections for the mayors of four municipalities in the north of Kosovo, so those positions were occupied by local Albanians elected with only a few hundred votes.

In the remaining part of the year, the Government of Albin Kurti continued to change the circumstances in the Serb majority areas in the north of Kosovo by deploying special police units. Despite the opposition of the international community and local Serbs, special units forcibly invaded municipal administrative facilities, which resulted in violence in which several members of KFOR, journalists, and ordinary citizens were injured. In addition, numerous examples of wounding, beating, and mistreatment of local Serbs by special police forces, cases of violent expropriation of land, which received a court epilogue at the end of the year that it was done contrary to current Kosovo laws, as well as many other misconducts of Kosovo authorities, were recorded.

Local Serbs also retaliated several times with violence to the activities of the Kosovo Police. The most tragic case happened on 24 September 2023 in the village of Banjska near Zvečani, when one Kosovo policeman and three local Serbs were killed in an armed incident. On that occasion, a large quantity of weapons was also seized.

Having in mind all this, it is not surprising that the works presented in this publication deal with the problem of implementing the Agreement on the Path to Normalisation, but also with the identification and analysis of various cases of human rights violations in the north of Kosovo and southern Serbia, in areas where Albanians live. As in previous years, all papers were developed through the partnership of members of the Working Group. With the analyses presented in the publication, the Working Group for Chapter 35 attempts to give a high-quality contribution to the dialogue process through insight into empirical data and practical policy proposals in areas of importance for dialogue. The publication was translated into English in order to reach the readers and interested public as much as possible.

Working Group of the National Convention on the European Union for Chapter 35 brings together 20 civil society organizations and four persons acting in an individual capacity. With its activities, the Working Group for Chapter 35 tries to bring rationality and reasonableness to the public debate on politically sensitive issues related to the normalisation of relations with Priština and reconciliation between the Albanian and Serbian people.

The publication “Towards the Agreement” was developed, within the project Civil Society for Advancing Serbia’s Accession to the European Union – Europe ASAP, implemented by InTER in partnership with the Belgrade Open School, and with the support of Sweden, to whom I express my sincere gratitude for their assistance.

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

Dragiša Mijačić

Coordinator of the Working Group for Chapter 35



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This publication was developed within the project Civil Society for Advancing Serbia's Accession to the European Union – Europe ASAP, implemented by InTER in partnership with the Belgrade Open School, and with the support of Sweden. The authors' opinions and views expressed in this publication do not necessarily reflect the views of partners and donors.

**The Analysis of Increased Presence of
Security Structures in the Four
Municipalities in the North of Kosovo in
2021-2023**

Publisher

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INTRODUCTION

The idea behind the topic of this practical policy proposal - the analysis of the increased presence of security structures in four municipalities (Leposavić, Zvečan, Zubin Potok, and Severna Mitrovica) in the north of Kosovo in the period 2021 - 2023 - was to make an overview of how much the presence of Priština's security structures increased in this period, what is their composition, as well as what are the forms of their physical presence (checkpoints, bases, etc.), all with the aim of analytically presenting the new security system thus established in the territories of these four municipalities, then looking at the foundation for such an increase of security forces in Priština's valid regulations (including the problem of expropriation for the purpose of building bases), as well as assessing the impact of that increase on the deterioration of the security situation in the specified period.

While working on this proposal, there were no significant deviations from the starting point formulated in this way, with the caveat that, due to objective limitations, the work methodologically focused on the analysis of publicly available sources (predominantly electronic), without direct contacts with security structures (e.g. submitting requests for access to information of public importance) whose increasing presence in the north of Kosovo is the subject of this analysis. In addition, due to the limitation regarding the prescribed length, the paper focused only on the most important aspects of the mentioned thematic units.

Finally, this proposal uses the original terms used in Priština legislation, without presuming the status and/or the author's position on that status. Due to the length limitation, the proposal was written for an audience that has prior knowledge of the basic elements of the Kosovo and Metohija issues (such as the Brussels process or the most important events in the north of Kosovo), since the presentation of the basic elements of such a complex situation would require much more space.

THE CHRONOLOGY OF INCREASED PRESENCE OF SECURITY FORCES IN THE NORTH OF KOSOVO

One of the biggest misconceptions often presented as truth in the public space is that the increase in the number of members of the special units of the Kosovo Police of Albanian nationality in the north of Kosovo, as well as the construction of bases and checkpoints where they are located, happened after the Serbs from those municipalities took off their uniforms and left this institution. However, the first signs of changes in security were visible as early as the fall of 2021. Placement of containers not far from the Jarinje (Leposavić) crossing, at the place where the police base is now located, began on 18 September 2021.¹ At the time, the Kosovo Police stated that the containers were being placed “with the aim of improving the working conditions of police officers for border control”. At that moment, nobody could imagine that one of the police bases would emerge there in the coming months. Soon, the construction of concrete fortification started not far from the Brnjak crossing (Zubin Potok). Concrete blocks not far from this crossing for the needs, as explained, of the border police base, were placed on 26 February 2022², and the Kosovo Police announced at that time that the logistics equipment and containers “will serve the police officers of the border police for the performance of police duties, and in the interest of providing safety to citizens and the public”. It was stated that the action is carried out through various police units “for the purpose of creating better space and working conditions in the premises for the police”. It should be noted that these two bases are located about a kilometer from the official integrated crossings where all necessary control of goods and passengers is carried out.

The construction of police bases in these locations is announced in the plan of *Vetëvendosje* (Self-Determination Movement) from 2012 called

¹ Kosovo Sever Portal <https://kossev.info/kp-kontejneri-na-jarinju-se-postavljaju-radi-poboljsanja-uslova-za-rad-i-nadzor-prelaza/>

² Kosovo Sever Portal <https://kossev.info/betonski-blokovi-kod-brnjaka-kosovka-policija-postavlja-bazu-pogranicne/>

“Alternative for the North”. “The police presence in the north should be increased because of the state of emergency there.” The base of the special unit of the Kosovo Police should be in the Bosniak Quarter, in the former KFOR base, i.e. the former military overhaul facility. The other two bases of special units together with military forces should be near border points 1 [Jarinje] and 31 [Brnjak].”³

In addition to the bases in Jarinje and Brnjak, in 2022, five more police fortifications were built in the north of Kosovo, and at the moment there are seven in total. Of these, two are located on the main roads (at the locations of the Bistrica Bridge on the main road Leposavić - Zvečan, and near the Gazivode dam in Zubin Potok), and they were built as police checkpoints during the barricades in December 2022, and later expanded as a permanent police base.

At the same time, police officers of Albanian nationality started working in the police stations in the north of Kosovo due to the fact that the Serbs left the Kosovo Police.

There is a constant presence of the Kosovo Police in all seven police bases. Additional police forces were also deployed in the municipal buildings in Leposavić, Zubin Potok, and Zvečan at the end of May 2023 during the forced introduction of mayors into these municipal buildings.⁴

In July 2023, the Deputy Prime Minister of Kosovo Besnik Bislimi, and the EU Representative for the Dialogue Miroslav Lajčak agreed to reduce the number of police officers in the north, but only in municipal buildings. Three days later, Kosovo Prime Minister Albin Kurti explained that the number of policemen in municipal buildings had been reduced by 25

³ Alternativa e VETËVENDOSJE!s për Veriun – Lëvizja VETËVENDOSJE! (web-archive-org

⁴ Kosovo Sever Portal <https://kossev.info/ponovo-se-oglasile-sirene-u-kosovskoj-mitrovici-prestalo-zavijanje-nakon-pola-sata/>

percent, and that at that moment there were more than 800 policemen⁵ in the north of Kosovo who were not all Albanians.

According to available information, on 5 November 2022, 547 police officers from the Serb community who worked in police stations in the north of Kosovo left the Kosovo Police. Therefore, Kurti's statement that after the reduction of the police force in the north there are 800(!) policemen clearly speaks of the systematic militarisation of this area.

There is no official information on how many members of the Kosovo Police currently reside in the north of Kosovo, nor from which units. The constant presence of combat vehicles is visible on the ground, especially in police bases, and their patrols are also regular every day in the municipalities of Leposavić, Zvečan, Zubin Potok, and North Mitrovica. Also, every day, police officers with heavy weapons, in uniforms and insignia of special police units, stop citizens and check documents, which should not be their task, but the duty of the traffic police.

The process of building police bases generally came suddenly without prior information provided to the citizens and before the decisions on the expropriation of the land were made. This is why another, in a series of expropriations, caused citizens' concern when, in January 2023, heavy machinery and dozens of policemen appeared on their properties.⁶ Work on the plot of 80 hectares (cadastre plots Dren and Lešak, Leposavić municipality) began, and only after that a decision on expropriation was made (16 January 2023), and public hearings with citizens are held in February of the same year. The situation is similar with the construction of the access road to the already built base in the village of Jasenovik in Zubin Potok. At the organised public hearings, the citizens did not receive any answer from the authorities from the Ministry of Infrastructure in Priština

⁵ Kosovo online <https://www.kosovo-online.com/vesti/politika/kurti-na-severu-se-trenutno-nalazi-vise-od-800-policajaca-13-7-2023>

⁶ Kosovo Sever Portal <https://kossev.info/sta-se-valja-iza-80ha-leposavickog-brda/>

about what is being built on these plots and what is the public interest in the expropriation of their land.⁷

Judging by the plans of the Self-Determination Movement and the decision made at the end of last year, it can be expected that another Kosovo Police base will be built in North Mitrovica in the coming period. At the session held on 29 December 2023, the North Mitrovica Municipal Assembly adopted a decision assigning the plot near the military overhaul facility to the Kosovo Ministry of Internal Affairs.⁸ It is the plot number 02606-2, with a total area of 27,400 square meters. This item was added to the agenda of the Municipal Assembly just before the session started, which indicates that local self-government representatives often make decisions arbitrarily, non-transparently, and without essential communication with citizens.

⁷ <https://kossev.info/pocela-javna-rasprava-u-leposavicu-u-vezi-sa-eksproprijacijom-zemljista/>
<https://kossev.info/pocela-javna-rasprava-o-eksproprijaciji-u-zubinom-potoku/>

⁸ Kosovo Sever Portal <https://kossev.info/so-s-mitrovica-izglasala-zemljiste-kod-vojnog-remonta-dodeljeno-mup-u-kosova/>

LEGAL FOUNDATION

Since the presence of security structures in the north of Kosovo can be viewed dynamically (through the process of deployment of forces, the intensity of which depends on the security situation) and statically (through the forms of permanent presence of these forces - checkpoints and bases), the legal basis will also be analysed from the perspective of this division.

DEPLOYMENT OF FORCES

Regarding the deployment of the security forces, their structure should be determined first. Bearing in mind the mentioned methodological limitations, this question currently remains unanswered⁹, but the legal foundation will be examined in the widest possible way precisely because of this.

As a legislation of the highest hierarchy,¹⁰ the First Agreement on Principles Governing the Normalisation of Relations¹¹ (hereinafter: the First Agreement) regulates the presence of security forces in Serb majority municipalities in the north of Kosovo as follows:

- [7] *There shall be one police force in Kosovo called the Kosovo Police. All police in northern Kosovo shall be integrated in the Kosovo Police framework. Salaries will be only from the Kosovo Police.*
- [8] *Members of other Serbian security structures will be offered a place in equivalent Kosovo structures.*

⁹ There is no publicly available information about which units of the Kosovo Police are present in the municipalities in the north of Kosovo, except for the information presented by the Prime Minister of Kosovo, Albin Kurti, according to which there are over 800 police officers. In addition to the regular police, with the majority of Albanian nationality, due to the fact that the Serbs have left the Kosovo Police, the constant presence of members of special units is visible, especially in places where bases have been built.

¹⁰ Since it was ratified in the Parliament in Priština as an international agreement.

¹¹ The official text is available at the website of the Office for Kosovo and Metohija of the Government of the Republic of Serbia, <https://www.kim.gov.rs/lat/p03.php>. According to the reports from the Office for Kosovo and Metohija, during the dialogue, before the Serbs left the institutions, Serbia asked for the establishment of a special police unit for the northern region, which would reflect the ethnic structure of the population.

[9] *There shall be a Police Regional Commander for the four northern Serb majority municipalities (Northern Mitrovica, Zvecan, Zubin Potok and Leposavic). The Commander of this region shall be a Kosovo Serb nominated by the Ministry of Interior from a list provided by the four mayors on behalf of the Community/Association. The composition of the KP in the north will reflect the ethnic composition of the population of the four municipalities. (There will be another Regional Commander for the municipalities of Mitrovica South, Skenderaj and Vushtrri). The regional commander of the four northern municipalities will cooperate with other regional commanders.*

Due to the abandonment of the Priština institutions in the north of Kosovo by the representatives of Serbs in November 2022,¹² these provisions of the First Agreement are largely meaningless. This created a security vacuum, which was filled precisely by increasing the presence of members of the Priština security forces. In relation to point 9 of the First Agreement, it can be stated at this point that as a result of this abandonment, such an increase could only be made from two groups - members of the police force from the four municipalities of northern Kosovo who are not of Serbian nationality, or members of other police forces outside those four municipalities (local police stations in other municipalities, other regional directorates except the one for North Mitrovica, the general directorate, special forces or reserve forces) - and this is undoubtedly a violation of the First Agreement. Direct experiences with members of the police in the observed period confirm this statement - in the police stations in the municipalities in the north of Kosovo, both Serbs from other municipalities outside this area and Albanians from all over Kosovo can be seen.

¹² <https://kossev.info/zvecan-pocceo-sastanak-srba-sa-severa-ceka-se-odluka-o-nenapustanju-institucija/>

These provisions of the First Agreement are also reflected in Article 42 of the Law on Police,¹³ which elaborates in more detail the method of appointing commanders of police stations in municipalities where the Serb community is the majority ethnic community - in short, it is carried out by the Ministry of Internal Affairs, and upon the proposal of the assembly of the relevant municipality and the general director of the police. Until the formation of municipal bodies in 2023,¹⁴ this provision was also rendered meaningless with the abandonment of institutions, and after the formation of municipal bodies, it can be determined as not applied, since, according to publicly available data, the newly formed municipal bodies have not made decisions of this type.

Additionally, during the construction of the bases in the north of Kosovo, which will be discussed in more detail in the next section, it was publically mentioned that they will, among other things, serve the needs of the border police. As, due to the mentioned methodological limitations, it is unknown whether this is actually the case, attention should be drawn here to the provisions of Articles 42 and 44 of the Law on State Border Control and Surveillance,¹⁵ which stipulate that the exercise of competence of the border police is limited by this law to a strip of 500 meters from the border line.

Finally, the limitation of the presence of the Kosovo Security Forces (hereinafter: KSF) in the north of Kosovo was agreed in 2013 between the Prime Minister of the Government of Kosovo Hashim Thaçi¹⁶ and the Secretary General of NATO in the form of a letter addressed to the Secretary General, stating that KSF forces will not be deployed in the north of Kosovo without prior consent of KFOR. Similar to the previous

¹³ The text in English is available on the official website of the Kosovo Police, https://www.kosovopolice.com/wp-content/uploads/2021/03/LAW-No.-04-L-076-ON-POLICE_2-March-2012.pdf.

¹⁴ <https://kossev.info/ponovo-se-oglasile-sirene-u-kosovskoj-mitrovici-prestalo-zavijanje-nakon-pola-sata/>

¹⁵ The text in English is available on the official website of the Kosovo Police, https://www.kosovopolice.com/wp-content/uploads/2019/10/Ligji_Nr.04-L-72_per_kontrollin_dhe_mbikeqyrjen_kufirit_shtetror_31.Dhjetor_2011_Anglisht.pdf

¹⁶ The text in English is available <https://europeanwesternbalkans.com/2020/02/26/the-office-of-the-pm-of-kosovo-thaci-signed-a-secret-agreement-and-violated-the-constitution-dismissal-required/>, since it has been removed from the official webpage of the Prime Minister in Priština.

paragraph, as it is not known whether the KSF forces appeared in the north of Kosovo and to what extent, attention is only drawn here to this unilaterally undertaken, and due to the lack of direct sanction, political commitment.

CHECKPOINTS AND BASES

First of all, the forms of permanent police presence are, according to the division that is already largely present in everyday speech, checkpoints - which are temporary police facilities on roads, and bases - permanent facilities for accommodation and residence of police officers not only on roads, but also on other locations.

However, in July 2023, Kosovo Prime Minister Albin Kurti boasted at a session of the Kosovo Assembly that there were seven police bases in the North,¹⁷ which leads to the conclusion that he also included two checkpoints on the main roads, one in Leposavić, the other in Zubin Potok, which have been expanded after that statement, and now look like bases in terms of infrastructure.

Those are the following locations.

Municipality of Leposavić:

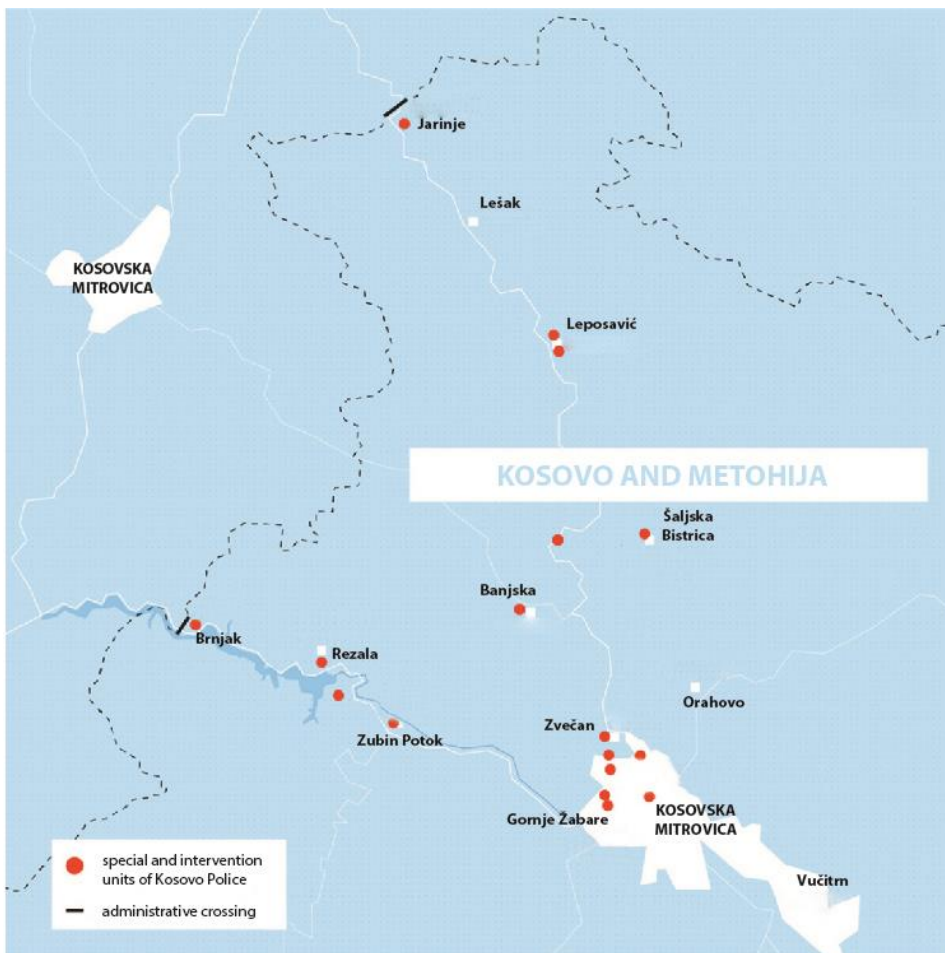
- Jarinje
- Šaljska Bistrica
- Košutovo
- Bistrica Bridge (main road Leposavić - Zvečan) was first a checkpont and then it was expanded with concrete blocks and the additional infrastructure.

¹⁷ Kosovo online <https://www.kosovo-online.com/vesti/politika/kurti-na-severu-se-trenutno-nalazi-vise-od-800-policajaca-13-7-2023>

Zubin Potok:

- Jasenovik:
- Gazivode (police checkpoint with constant presence of the police).

An outline of these facilities can be seen on the following map, with the caveat that it was taken from a publicly available source, without checking the exact locations, as well as their geolocation. In addition to the checkpoints and bases mentioned above, it also shows the security forces that are grouped in populated areas (Zubin Potok, North Mitrovica, Zvečan, Banjska, Leposavić). For the sake of orientation, it is a territory with a total area of about 1,006 km², with the population, according to all estimates, of no more than 50,000, so it can be concluded that it is a disproportionately large presence of security forces for such a small and relatively sparsely populated territory, which are distributed on all main roads, as well as in all larger populated areas.



Map 1. An outline of the presence of Kosovo police forces in the north of Kosovo¹⁸

Expropriation

For the legal analysis, the expropriation procedure carried out in the municipalities of Leposavić and Zubin Potok is of particular importance, and it was carried out afterwards, when the construction / installation of

¹⁸ Source: <https://lat.rt.rs/srbija-i-balkan/64056-kosovo-metohija-kurti-policija-vojska-pozicije/>

bases had already begun in those municipalities, which practically usurped the land in question contrary to the current legislation.¹⁹

Namely, on 2 February 2023, decisions on preparatory works no. 01/124 were adopted, as well as the decision “approving further consideration of requests for expropriation on one’s own initiative”, namely “for the implementation of infrastructure projects of public interest” no. 02/124²⁰.

These decisions are problematic both from the aspect of procedures and material and legal aspect. First, they are problematic because they are passed afterwards, when the construction/setting up of bases has already started, that is, the land has been usurped, which means that it was the attempt to legalise the usurpation afterwards.

In terms of procedures, they are problematic because they were adopted contrary to a number of provisions of the Law on Expropriation²¹ (hereinafter: LoE), as well as many other regulations, the most important of which we list here:

- Article 5 of LoE, since the preparatory works started before the decision was made,
- Article 8.1 of LoE, since the decision does not contain a detailed description of the public goal for which the expropriation is being carried out, or an explanation of its legitimacy, that is, the necessity of the expropriation,
- Article 8.5 of LoE, since the Government was not supposed to act on such an incomplete initiative for making a decision.

From a material and legal point of view, it is problematic that the purpose is stated to be the implementation of some kind of infrastructure projects of public interest, when in fact bases were (previously) built/placed.

¹⁹ Technically, only the base in Zubin Potok has been completely built on the additionally expropriated land, whereas in Leposavić, the works have only started.

²⁰ The Decisions are available in Albanian on the Official website of the Government, <https://kryeministri.rks-gov.net/wp-content/uploads/2023/02/Vendimet-e-mbledhjes-se-124-te-te-Qeverise-1.pdf>.

²¹ The law with the amendments is available in English on the official website of the Assembly, <http://old.kuvendikosoves.org/?cid=2,191&filter=4>.

Although the construction/installation of bases is not explicitly recognized in LoE as a valid goal of expropriation, it can be considered allowed if the general conditions are met, with the most important condition being that it is a legitimate public goal (Article 46.3 of the Constitution of Kosovo²², as well as Article 4 of ZoE), which, as stated above, was not done in the decision in this particular case.

Public hearings were also held in these two municipalities (on 15 February 2023 in Leposavić and on 21 February 2023 in Zubin Potok), with great attendance, and where the local population, the municipal leadership at that time, representatives of civil society organizations and lawyers expressed a number of objections to this procedure. Despite this, the Government continued with the procedure and made a preliminary decision no. 09/142²³ on 10 May 2023, which was followed by a series of court proceedings before the Administrative Department of the Basic Court in Priština, which were initiated by landowners affected by expropriation of exclusively Serb nationality.

It should be noted here that expropriation is performed in the following cadastre plots.

In the municipality of Leposavić:

- Šaljska Bistrica - on six (6) plots with a total area of 17,695 m², of which one (1) with an area of 592 m² is owned by Serbs, as well as on five (5) plots with a total area of 39,556 m², all of which are owned by Albanians,
- Dren - on six (6) plots with a total area of 391,020m², of which two (2) are with unknown areas (only the area of one is listed - 69,840m²) owned by Serbs,
- Lešak - on 13 plots with a total area of 427,533 m², of which 11 with an area of 178,178 m² are owned by Serbs,

²² Constitution with the amendments is available in English on the official website of the Assembly, <http://old.kuvendikosoves.org/?cid=2,1058>.

²³ The Decision is available in Albanian on the Official website of the Government <https://kryeministri.rks-gov.net/wp-content/uploads/2023/05/Vendimet-e-mbledhjes-se-142-te-Qeverise...pdf>.

- Košutovo - on one (1) plot with a total area of 156,614m².

A total of 1,032,418 m², of which at least 248,610 m² is owned by Serbs (and that includes pastures and forests), 39,556 m² is owned by Albanians, and the rest is state and public property.

In the municipality of Zubin Potok:

- Velji Breg (by mistake included in the decision in the municipality of Leposavić) - on 17 plots with a total area of 45,285 m², of which 14 with an area of 43,160 m² are owned by Serbs,
- Brnjak - on 11 plots with a total area of 22,151 m², of which four (4) with an area of 4,071 m² are owned by Serbs,
- Zubin Potok - on three (3) plots with a total area of 4,800m², all of which are owned by Serbs,
- Banja - on 18 plots with a total area of 126,898m², of which 12 with an area of 115,399m² are owned by Serbs,
- Gornji Jasenovik - on 38 plots with a total area of 150,568m², all of which are owned by Serbs.

A total of 344,092 m², of which 317,998 m² is owned by Serbs (and this includes houses with a garden, fields, meadows, pastures, and forests), and the remaining land is state and public property.

For both municipalities, the subject of expropriation is a total of 1,376,510m², of which 566,608m² (41.2%) is privately owned by local Serbs.

Until the conclusion of this proposal, its authors are aware that at least two judgments were passed in favour of the owners-plaintiffs, namely for a group of them from Leposavić in October 2023, and for a group of them from Zubin Potok in December 2023, which cancelled the preliminary decision, and the expropriation procedure was returned to the beginning. The court decisions confirm more or less all the identified legal deficiencies, except for the biggest one - that they had already started building/setting up the bases before the expropriation procedure was initiated, which the court did not comment. It remains to be seen how the

Government of Kosovo will act further, as well as whether the bases will be removed, that is, the works suspended, and the land returned to its previous state, which would be the only legally correct form of action.

At some point between the adoption of the preliminary decision and the judgments, the EU also expressed its negative views on expropriation, in three places:

- In the official statement of the EU representative from 12 May 2023²⁴ dedicated to expropriation,
- In the legal analysis of the expropriation procedure sent to the Priština government (text available to the authors), and
- In the Kosovo progress report for 2023.²⁵

On the other hand, the Priština authorities indirectly confirmed everything mentioned above with their actions:

- In March 2023, i.e. after the public hearings, a proposal for the Law on Amendments to the Law on Expropriation²⁶ was drawn up, which explicitly recognizes the construction of bases as a valid goal of expropriation, and which, at the time of writing this report, has not yet entered the parliamentary procedure, and
- The Government of Kosovo responded to the legal analysis of the EU, among other things by falsely stating that final court decisions had been made, although at that moment only the requests for temporary measures in the initiated court proceedings were rejected (text available to the authors).

In addition, there are examples, such as the decision on expropriation 19/67²⁷ of 9 March 2022, where the goal is explicitly stated to be the construction of the KSF training ground in Đakovica, so a similar situation (construction of facilities for security structures) is handled differently than

²⁴ Text in English available on the official website of the European External Action Service, https://www.eeas.europa.eu/delegations/kosovo/statement-governments-decision-expropriation-land-public-interest-municipalities-leposavi%C4%87leposaviq_en?s=321.

²⁵ Text in English available on the official website of the European Commission, https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_692%20Kosovo%20report_0.pdf

²⁶ All documents available at <https://konsultimet.rks-gov.net/viewConsult.php?ConsultationID=41809>.

²⁷ The Decision is available in Albanian on the Official website of the Government <https://kryeministri.rks-gov.net/wp-content/uploads/2022/05/Vendimet-e-mbledhjes-se-67-te-te-Qeverise.pdf>.

in the north of Kosovo (i.e. the expropriation decision explicitly - and truthfully - states the security goal).

Other types of property usurpation

In addition to expropriation, examples of other types of usurpation of property for security purposes have appeared in the north of Kosovo in the last few months. Given the limited information, we will only classify them by type without a deeper legal analysis:

- entrusting the police forces with the use of facilities that are under the jurisdiction of the Privatisation Agency (the case of the Rajska Spa in Banjska²⁸) or that are the subject of confiscation in criminal proceedings (the case of the seized private facility at Lake Gazivode²⁹),
- construction of the road between the villages of Vidomiriće and Banov Do³⁰ without the expropriation procedure and without marking the works, apparently based on the cadastral documentation that did not pass the mandatory comparison and verification procedure, and which could potentially have a security function, and
- allocation of a plot at the so-called military overhaul facility to the police by the new municipal leadership in North Mitrovica³¹.

The common denominator for all these forms of usurpation is that the expropriation procedure is bypassed, which should be mandatory by law, sometimes with an apparently valid legal basis, but questionable legitimacy (the case of military overhaul), and sometimes without any legal basis (the case of the Vidomiriće - Banov Do road), that is, without a legitimate purpose (cases of luxury buildings in Banjska and Gazivode). Certainly, all these cases deserve a deeper legal analysis when more official documents become available, as is the case with the expropriation proceedings in question.

²⁸ Kosovo Sever Portal <https://kossev.info/rse-rajsku-banju-pod-zakup-uzeo-kosovski-mup/>

²⁹ Radio 021 <https://www.021.rs/story/Info/Srbija/354360/Radoiciceva-vila-izgradjena-na-drzavnom-zemljistu-Kosovo-planira-da-je-oduzme-evo-sta-ce-napraviti.html>

³⁰ Media centar, Čaglavica <https://www.medijacentar.info/uprkos-protivljenju-mestana-nastavljeni-radovi-u-banovom-dolu/>

³¹ Radio slobodna Evropa <https://www.slobodnaevropa.org/a/parcela-severna-mitrovica-mup-kosovo-srbija/32752390.html>

THE SELECTED POLITICAL AND SECURITY ASPECTS

In this section, for the reasons stated above, we will single out only the most important political and security aspects of the analyzed situation.

POLITICAL ASPECT

Undoubtedly, the most important political aspect is the implementation of the mentioned “Self-Determination” political program (the leader of the ruling party in Kosovo is Kosovo Prime Minister Albin Kurti) from 2012, focused on municipalities with a Serb majority in the north of Kosovo.³²

Among other things, as stated in part 2 above, point 2 of this programme foresees:

- Increasing the police presence in the north due to the state of emergency that exists there,
- Construction of a base of special police forces near the military overhaul facility,
- Construction of two bases of special police forces near crossings 1 [Jarinjë] and 31 [Brnjak].

Based on all this, we can conclude that this program was fully implemented, chronologically, by implementing the following measures:

- Increased deployment of security forces in the north in the observed period,
- By usurpation and then expropriation for the purposes of building bases near the Jarinjë (Leposavić) and Brnjak (Zubin Potok) crossings,
- By awarding the military overhaul facility by the (illegitimate) North Mitrovica Municipal Assembly.

Although it took 11 years to implement this program, and the implementation of these measures did not follow the sequence outlined in

³² Text of the Programme in Albanian is available at <https://shqiptarja.com/lajm/alternativa-e-vet-euml-vendosje-s-p-euml-r-veriun>.

the program, this does not affect the fact that Kurti and his Minister of Police, Xhelal Sveçla, in their public appearances, do not show their intention to give it up.

SECURITY ASPECT

Trust in security structures in Kosovo has decreased significantly among the citizens in majority Serb areas, while at the same time the security situation is one of the biggest priorities they have identified during the last year. According to a survey conducted by the non-governmental organization New Social Initiative³³, as key challenges, citizens in municipalities with a Serb majority population emphasize general security and stability (35%), political freedom (34%), freedom of movement (32%), employment and economic conditions (28%) and democracy (22%), while freedom of movement was one of their biggest concerns in 2023. Based on this survey, there is a noticeable change in citizens' concerns because in earlier surveys, economic problems, unemployment, and corruption ranked highest on the list of priority problems, while security occupied a lower position. This leads to the conclusion that security challenges and crises involving violent events contributed to the change in the priority list. The greatest intensity of crises in the north of Kosovo was in the period of the past two years.

The first incident in which special units of the Kosovo Police clashed with citizens was in mid-October 2021³⁴ during a coordinated action in what the police said was the prevention of smuggling. A man was injured on this occasion³⁵. The outcome of this action and the judicial process is not yet known to the public.

With the beginning of the construction of police bases and the increased presence of Kosovo Police units that do not belong to regular patrols,

³³ Draft version of the analysis with processed data is available to the authors.

³⁴ Kosovo Sever Portal <https://kossev.info/akcija-hapsenja-u-vezi-sa-svercom-u-kosovskoj-mitrovici/>

³⁵ NI television <https://n1info.rs/vesti/jedna-osoba-tesko-ranjen-na-severu-kosova-i-zivotno-je-ugrozena/>

citizens' complaints about the inappropriate behavior of police officers also began.³⁶ In the statements made by the citizens to the media, it was emphasized that when entering the territory of Kosovo, policemen suddenly stopped them with long pipes, during the day, as well as at night, and treated them harshly.

The citizens also stated that the members of the special units of the Kosovo Police communicated with them exclusively in Albanian, as well as that it often happened that this inappropriate behavior was in the presence of children who were disturbed by it. These statements by citizens refer to the events at the police base located not far from the Brnjak crossing where police officers are already controlling the passage of vehicles, goods, and people.

In mid-November 2022, the non-governmental organization "Aktiv" announced that the executive director of that organization, Miodrag Milićević, was subjected to physical and verbal harassment by members of the special units of the Kosovo Police. The headquarters of the Kosovo Police in Priština denied that there was any incident or harassment.³⁷

One of the now former members³⁸ of the Serb community also stated that there was inappropriate behavior by the special units of the Kosovo Police even before the Serbs in the north left this institution. According to his testimony, during a police action in the middle of 2022, there was a shooting in the territory of Leposavić municipality, during which a large number of bullets were fired in the direction of a person who did not resist. The employed Serbs from the north of Kosovo left the Kosovo Police in the same year, on 5 November.³⁹

³⁶ Kosovo Sever Portal <https://kossev.info/gradjani-se-zale-na-maltretiranje-od-strane-specijalaca-kp-sluzbenici-ne-provociraju-vec-osiguravaju-bezbednost/>

³⁷ Radio Televizija Srbije <https://www.rts.rs/lat/vesti/drustvo/5019551/miodrag-milicevic-nvo-aktiv-napad.html>

³⁸ Video, meeting between the Serbs from Kosovo and the president of Serbia <https://www.youtube.com/watch?v=Gz0phktfP0M&t=2904s>

³⁹ Kosovo Sever Portal <https://kossev.info/zvecan-poceo-sastanak-srba-sa-severa-ceka-se-odluka-o-nenapustanju-institucija/>

At the end of January 2023, members of the Special Unit of the Kosovo Police fired at a vehicle in which two Serbs were at a checkpoint (which has now become a base) on the Bistrica Bridge, and on that occasion one of them was wounded.⁴⁰ According to the official statement of the police, the driver of the passenger vehicle hit the police vehicle and refused to stop. The two men who were in the same vehicle continued to central Serbia.

Three months later, a shooting happened again in the same place, during which one man was wounded in the chest.⁴¹ The Kosovo Police initially denied that the shooting had taken place, but later announced that there was still a suspicion that a police officer had participated in the shooting. Along with him, three other officials who are suspected of having participated in the incident were suspended. Four police officers were arrested after the suspension, and all of them have since been released pending trial.

One of the more serious conflicts between the Kosovo Police and citizens took place on 26 May 2023 in Zvečan⁴², when members of the special units of the Kosovo Police forcefully brought Albanian mayors into municipal buildings in Zvečan, Leposavić, and Zubin Potok. On that occasion, tear gas was used and there was a conflict between the Kosovo Police and the gathered citizens, who pointed out that the behavior of the police was inappropriate and that they used disproportionate force.

An even more serious incident occurred on 29 May, when citizens and members of KFOR clashed.⁴³ The conflict was preceded by several hours of tension, the arrest of two protesting men, and then a clash during which dozens of KFOR members were wounded. On the same day, not far from the municipal building in Zvečan, a member of the Serbian community from the north of Kosovo was wounded.⁴⁴

⁴⁰ Kosovo Sever Portal <https://kossev.info/bistricki-most-policija-pucala-nakon-sto-je-autom-udareno-u-njihov-auto-petkovic-mladici-nisu-zeleli-da-ih-iko-maltretira/>

⁴¹ Kosovo Online <https://www.kosovo-online.com/vesti/hronika/jovanovic-prosao-sam-pored-punkta-policije-cuo-se-pucanj-i-osetio-sam-bol-u-ramenu-11>

⁴² Radio Kontakt Plus <https://radiokontaktplus.org/vesti/video-zvecan-26-maja-nasilan-ulazak-specijalaca-u-opstinsku-zgradu/24919/>

⁴³ Al Jazeera Balkan <https://www.youtube.com/watch?v=5x-MC-el0bY>

⁴⁴ Radio KIM <https://radiokim.net/vesti/politika/184516-vucic-posetio-ranjenog-galjaka-u-bolnici-u-beogradu/>

In mid-June 2023, the Office for Kosovo and Metohija of the Government of the Republic of Serbia announced that members of the special units of the Kosovo Police in the village of Žitkovac, in the municipality of Zvečan, had beaten up two children, brother and sister K.R. (15) and D.R. (17).⁴⁵ The mother of these children also testified about this incident⁴⁶, while the Kosovo Police denied that the police beat the minors.⁴⁷

On 24 September 2023, an armed group of Serbs clashed with the Kosovo Police in the village of Banjska.⁴⁸ According to the information known so far, a group of Serbs entered this village from the direction of central Serbia and planted explosives at the entrance to the village. The first victim was a Kosovo policeman of Albanian nationality, after which there was an armed conflict between a group of Serbs and the Kosovo Police during which three men from the north of Kosovo, of Serbian nationality, were killed.

In November 2023, an activist of the civil initiative “Za Zubin Potok” (For Zubin Potok) was detained and released after several hours of detention and questioning at the police station in Zubin Potok.⁴⁹ He stated that he was beaten and had visible injuries, while the police stated that he shouted at the officers and resisted arrest, and that they had to “use the necessary physical force”.

Common to all the mentioned cases is that none of them has a legal epilogue yet. The two-year tensions are often cited as the reason why citizens from the north of Kosovo decide to leave. The number of people who moved out is mostly guessed, and according to the claims of the Serbian state leadership, in 2023, precisely because of the presence and

⁴⁵ Insajder <https://insajder.net/prenosimo/srpska-lista-decak-i-devojcica-pretuceni-u-opstini-zvecan>

⁴⁶ Kosovo online <https://www.kosovo-online.com/vesti/drustvo/majka-pretucene-dece-zatekla-sam-decu-sa-puskama-iznad-glave-18-6-2023>

⁴⁷ Radio Goraždevac <https://www.kosovo-online.com/vesti/drustvo/majka-pretucene-dece-zatekla-sam-decu-sa-puskama-iznad-glave-18-6-2023>

⁴⁸ Radio Slobodna Evropa <https://www.slobodnaevropa.org/a/kosovo-pucnjava-policijac-ubistvo-sjever-kosova/32606824/1b111bi0.html>

⁴⁹ Kosovo Sever Portal <https://kossev.info/priveden-aktivista-gi-z-potok-bisevac-pretukli-ga-ima-povrede-kp-upotreбили-smo-neophodnu-silu-opirao-se-privodjenju/>

behavior of the Kosovo Police, 11 percent of people from the north of Kosovo moved out. The analysed events show that the security in the north of Kosovo has become worse, and citizens are rightly expressing concern for their future in these municipalities.

CONCLUSION AND RECOMMENDATIONS

From everything mentioned above, it is clear that there is a security crisis in the north of Kosovo, which is closely related to the institutional one. This crisis can be seen on several levels, from the increase in the presence of security forces, their stationing through illegal expropriation and other forms of usurpation, all of which are either directly illegal or at least questionable, and through numerous incidents and, as a result of all this, the depopulation of the north Kosovo.⁵⁰ The only way this can be corrected is the withdrawal of security forces, along with the restoration of institutional and security arrangements that include members of the Serb community in a legal and legitimate manner.

The given framework for such correction is currently represented by the Brussels process, where the Implementation Annex of the Agreement on the Road to Normalisation of Relations between Kosovo and Serbia⁵¹ from March 2023 foresees both the revision of the content/criteria of Chapter 35 for Belgrade and the formulation of the agenda of the Special Group on Normalisation for Priština. Since the Agreement⁵² itself contains a provision on the implementation of all previously reached agreements, and that the First Agreement, as one of them, was rendered meaningless by the abandonment of the institutions, it is to be expected that the agenda will also include measures to resolve the institutional crisis.

Although the Brussels process does not deal directly with security matters, the deterioration of the security situation is very much mentioned as a necessary precondition for the full implementation of what was agreed, in the context of de-escalation in four municipalities in the north of Kosovo,

⁵⁰ These allegations are often made by citizens from the north of Kosovo, based on direct and indirect knowledge, and according to the claims of the President of Serbia, 11 percent of citizens left the north of Kosovo in 2023.

⁵¹ Text in English available on the official website of the European External Action Service, https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-implementation-annex-agreement-path-normalisation-relations-between_en.

⁵² Text in English available on the official website of the European External Action Service, https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-agreement-path-normalisation-between-kosovo-and-serbia_en.

in a series of official announcements by EU representatives - from 3 June 2023⁵³, 19 September 2023⁵⁴, and 3 October 2023⁵⁵.

Bearing in mind the dual nature of the current crisis in the north of Kosovo, as well as the current framework for its solution, i.e. Brussels process, the following recommendations can be made at this point regarding the resolution of both the institutional and security aspects of the crisis:

- Achieving a political agreement on the return to institutions, followed by a general and broad amnesty,
- Withdrawal of brought police forces, as well as removal of all checkpoints and bases,
- Conducting legitimate local elections in four municipalities in the north of Kosovo,
- Filling the police forces in a legal way that reflects the ethnic structure in the north of Kosovo (this includes the establishment of a special unit of the Kosovo Police for the northern region that reflects the ethnic structure in these four municipalities),
- Suspension of illegal expropriation, as well as invalidation of the aforementioned other forms of usurpation, with return to the previous state and compensation for damages,
- Formulation of effective international guarantees of application of all the above, and

⁵³ Text in English available on the official website of the European Commission, <https://www.consilium.europa.eu/en/press/press-releases/2023/06/03/statement-by-the-high-representative-on-behalf-of-the-eu-on-kosovo-and-latest-developments/>.

⁵⁴ Text in English available on the official website of the European Commission, <https://www.consilium.europa.eu/en/press/press-releases/2023/09/19/belgrade-pristina-dialogue-statement-by-the-high-representative-on-behalf-of-the-european-union-on-expectations-from-serbia-and-kosovo/>.

⁵⁵ Text in English available on the official website of the European External Action Service, https://www.eeas.europa.eu/eeas/kosovoserbia-speech-high-representative-vice-president-borrell-ep-assembly_en.

- Formulation of appropriate transitional arrangements that would be applied in the period between reaching appropriate agreements and implementing all the above.

In order for these recommendations to be methodologically more deeply grounded, the findings of this practical policy proposal should be supplemented by collecting more detailed data on the structure of the security forces in the north of Kosovo, as well as on other types of usurpation of property, through direct communication with Kosovo structures, and through the procedure of sending requests for the availability of information of public importance. On the basis of such completed data, a deeper analytical overview of the situation could be carried out, which would enable the topic that was only started in this text to be treated at the same level as, for example, expropriation, which would enable a more efficient operationalisation of the recommendations.



Key Challenges for Serbia in the Implementation of the Normalisation Agreement and How to Overcome Them

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INTRODUCTION

The dialogue between Belgrade and Priština, or Serbia and Kosovo,⁵⁸ which has been taking place under the auspices of the European Union (EU) since 2011, entered a new phase in 2023. Taking into account the geopolitical changes in Europe and the world after the start of the Ukrainian conflict, the instability in Nagorno-Karabakh (Azerbaijan), and the Israeli ground offensive in Gaza, the Kosovo issue has become very topical and has been high on the agenda of the EU and its member states, as well as the U.S. Preventing instability and potential new armed conflicts on European soil has become a security priority primarily for the EU, but also for the U.S. This was increased by a series of crises and tensions on the territory of Kosovo, but also between the governments in Belgrade and Priština, which threatened to turn into an armed conflict. The impossibility of agreeing on identity documents and license plates for Serbs in the north of Kosovo in 2022 caused, or rather revealed, the depth of the crisis. The exit of Serbs in the north from Kosovo institutions, the organisation of barricades, the boycott of local elections, the protest against illegitimately elected mayors, the rejection of the EU's de-escalation plan by the Kosovo Government, the punitive measures imposed by the EU and the USA on Kosovo, the arrest of Kosovo police officers by the Serbian security services were key events that marked the end of 2022 and 2023, which escalated with the event in Banjska on 24 September 2023.

In light of these events, France and Germany, as leading EU countries, launched an initiative to reach a new agreement and proposed the so-called Franco-German plan. Soon, the European Council unanimously accepted that plan, which made it a European proposal, which was presented to both parties in the dialogue. In February 2023, the European proposal became the Agreement on the Path to Normalisation of Relations between Kosovo

⁵⁸ This name does not affect the view on the status, and it is in line with the UN Security Council Resolution 1244 and the opinion of the International Court of Justice on the Kosovo declaration of independence.

and Serbia⁵⁹ (hereinafter: the Normalisation Agreement), and in March, it received the Annex to the implementation of the Agreement (hereinafter: the Annex)⁶⁰ during the round of negotiations held in Ohrid. The acceptance of the Normalisation Agreement represents the entry into a new phase of dialogue, as was the transition from technical negotiations to dialogue at a high political level in 2012. This Agreement represents a new stage in the Brussels dialogue in the sense that it opens the door for discussions on status issues as well, which was not the case before. What this agreement also represents is a potentially legally binding acceptance of the articles of the Annex, which would transform the Agreement from a political document to an essentially legal, i.e. binding document. In this context, the Agreement brings many challenges, both for Belgrade and Priština.

This paper starts from the assumption that it is necessary to consider ways of successful implementation of the Annex on implementation, given that the recent development of events once again only confirms the unsustainability of what is the *status quo*, and the necessity of commitment to the normalisation of relations. The attention of this paper is directed towards potential obstacles in the implementation of the Agreement for Serbia, and through the analysis key challenges are identified and recommendations are provided so that they can be overcome in the future.

⁵⁹ European Union, External Actions Service, “Belgrade-Pristina Dialogue: Agreement on the path to normalisation between Kosovo and Serbia”, available at: https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-eu-proposal-agreement-path-normalisation-between-kosovo-and-serbia_en

⁶⁰ European Union, External Action Service, “Implementation Annex to the Agreement on the Path to Normalisation of Relations between Kosovo and Serbia”, available at: https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-implementation-annex-agreement-path-normalisation-relations-between_en

MAPPING THE CHALLENGES

The Normalisation Agreement has 11 articles, and almost every one of them contains disputed issues, terminology, obligations, and terms that do not suit one or the other party. In the context of peace agreements, this is nothing new. However, bearing in mind the previous agreements, agreed and signed within the Brussels dialogue, as well as serious challenges in the implementation of certain parts of those agreements, an important question arises as to which parts of the Normalisation Agreement may be problematic during implementation, as well as what are the general challenges for the implementation of this important agreement in the dialogue. In this part of the paper, four key challenges related to the latest agreement are mapped, and each one is analysed in detail. Starting from general challenges such as the lack of will to implement the agreement in its entirety and Serbia's unwillingness to agree with Kosovo's membership in international organisations, through the impossibility of exchanging permanent diplomatic missions and the sensitivity of recognising national symbols, the reasons for these challenges were analysed as well, and recommendations were given for their overcoming.

CHALLENGE 1: DOES SERBIA WANT TO IMPLEMENT THE ENTIRE AGREEMENT

The representatives of Serbia in the negotiations, primarily the President of the Republic, expressed certain reservations regarding the proposed Normalisation Agreement from the beginning. The statements of the Director of the Office for Kosovo and Metohija (KiM), the Prime Minister of Serbia, and the President of the Republic indicated that Serbia is ready to implement some or a greater number of articles, but not the entire Agreement. Immediately after the end of the negotiations in Ohrid and the final acceptance of the Agreement and the accompanying Annex, the President of Serbia stated that Serbia “accepts the concept” and that they

will “work on implementation”, but within “our red lines”.⁶¹ In her statements on the topic of dialogue, the Prime Minister of Serbia almost always insisted on the implementation of previous agreements, primarily the provisions of the Brussels Agreement⁶² from 2013.⁶³ Finally, several weeks after the negotiations in Ohrid, the director of the Office for Kosovo and Metohija declared that Serbia will not cross its red lines and rejected the possibility of *de facto* recognition, as well as membership of Kosovo in the United Nations (UN).⁶⁴ Such statements by key political figures from Belgrade in the context of the dialogue are clear indicators that the Government of Serbia does not want to implement the Normalisation Agreement in its entirety.

The President of the Republic, as the informal leader of the negotiating team of Serbia in the dialogue process, repeatedly refused to sign the Normalisation Agreement. First, when the Agreement was reached in February 2023 in Brussels, then after the agreement on the Annex in March of the same year in Ohrid, and then during the round of negotiations in October 2023.⁶⁵ Instead of signing, the Serbian side accepted the Agreement orally.⁶⁶ There are several reasons for this attitude of the Serbian side. First, the signing of an international agreement with Kosovo could be implicitly interpreted as recognition, especially having in mind Article 2 of the Agreement, which talks about the sovereign equality of states. Second, the compliance of the Agreement itself with internal law

⁶¹ Kosovo Online, “Vučić: Radićemo na implementaciji sporazuma do naših crvenih linija”, 19 March 2023, available at: <https://www.kosovo-online.com/vesti/politika/vucic-radicemo-na-implementaciji-sporazuma-do-nasih-crvenih-linija-19-3-2023>

⁶² Kancelarija za Kosovo i Metohiju, Vlada Republike Srbije, „Prvi sporazum o principima koji regulišu normalizaciju odnosa“, 2013, available at: <https://www.kim.gov.rs/p03.php>

⁶³ Danas, „Ana Brnabić: Slažem se da bi trebalo hitno implementirati Ohridski sporazum“, 12 September 2023, available at: <https://www.danas.rs/vesti/politika/ana-brnabic-slazem-se-da-bi-trebalo-hitno-implementirati-ohridski-sporazum/>; see also: Kosovo Online, „Brnabić sa senatorima iz SAD: Puna primena Briselskog sporazuma“, 25 May 2023, available at: <https://www.kosovo-online.com/vesti/politika/brnabic-sa-senatorima-iz-sad-puna-primena-briselskog-sporazuma-25-5-2023>

⁶⁴ Danas, „Petar Petković: Kurti je nervozan, Srbija neće priznati Kosovo“, 1 April 2023, available at: <https://www.danas.rs/vesti/politika/petar-petkovic-kurti-je-nervozan-srbija-neece-priznati-kosovo/>

⁶⁵ Nova S, „Vlada Kosova: Kurti prihvatio sporazume iz Brisela i Ohrida, Vučić odbio da potpiše“, 26 October 2023, available at: <https://nova.rs/vesti/politika/vlada-kosova-kurti-prihvatio-sporazume-iz-brisela-i-ohrida-vucic-odbio-da-potpise/>

⁶⁶ N1, „Nova.rs: Kurti prihvatio ZSO, Vučić pristao na sporazum, ali traži da potpiše posle izbora“, 2 November 2023, available at: <https://n1info.rs/vesti/nova-rs-kurti-prihvatio-zso-vucic-pristao-na-sporazum-ali-trazi-da-potpise-posle-izbora/>

and the Constitution of Serbia is questionable, so the introduction of the Agreement as a legal instead of a political document could trigger its blocking and annulment by the Constitutional Court of Serbia. Third, the Agreement is extremely unpopular in Serbian public, so the decision not to sign it is also a tactical maneuver to prevent any outburst of discontent. In order to respond to these three problems, the Serbian side decided on a strategy of not signing and partially implementing the Agreement.

In addition to the statements, which serve as clear messages about Serbia's intentions, the refusal to sign the Agreement represents another strong indicator of the lack of desire for its implementation. The President of Serbia refused to sign the Normalisation Agreement, as well as the Annex on Implementation with the explanation that he does not want to create legal obligations for Serbia by signing an international legal agreement with the unrecognised Republic of Kosovo.⁶⁷ The lack of signatures on the Agreement reduces its strength, and the legal obligation of implementation in this case is missing. Regardless of the fact that the Vienna Convention on Diplomatic Relations⁶⁸ and the Vienna Convention on the Law of Treaties⁶⁹ recognise the oral agreement and statements of the head of state, prime minister, or minister of foreign affairs as an obligation, it has a much weaker legal foothold compared to a validly signed international treaty that has been ratified in domestic legislation. Precisely because of this problem, the Annex itself predicted a change in the Negotiating Framework for EU membership and Chapter 35 in Serbia's negotiations with the EU, in order to provide, at least indirectly, a legal basis for full implementation. However, the very change of the Negotiating Framework for Serbia showed a lot of difficulties and by the time of writing this analysis, it had not been carried out. Therefore, bearing all this in mind, the non-signing of the Normalisation Agreement represents a great challenge in terms of the implementation of the agreement.

⁶⁷ N1, „Vučić: Nisam potpisao, jer neću da pravim pravne sporazume sa Kosovom“, 19 March 2023, available at: <https://n1info.rs/vesti/vucic-nisam-potpisao-jer-necu-da-pravim-pravne-sporazume-sa-kosovom/>

⁶⁸ United Nations, “Vienna Convention on Diplomatic Relations”, 1961, available at: https://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf

⁶⁹ United Nations, “Vienna Convention on the Law on Treaties”, 1969, Član 11, available at: https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf

CHALLENGE 2: EXCHANGE OF PERMANENT (DIPLOMATIC) MISSIONS

The exchange of permanent missions is provided for in Article 8 of the Normalisation Agreement, which also stipulates that these missions will be located in the seats of government of Serbia and Kosovo.⁷⁰ Several problems arise in connection with this article of the Agreement. First, are the missions provided for in this agreement diplomatic? Second, is this part of the Agreement consistent with international law and national legislation? Third, the establishment of diplomatic missions in the seat of government is unclear and potentially problematic.⁷¹ Finally, the exchange of missions between Serbia and Kosovo potentially brings with it tensions that, as a result of a negative attitude in society, could produce dissatisfaction and citizens' protests.

Starting from the first problem related to permanent missions, there is again the use of language of creative or constructive ambiguity,⁷² which often led to difficulties in the implementation of previous agreements. Therefore, it remains unclear whether this is essentially a diplomatic mission or the beginning of something that should be a diplomatic mission between two independent states in the future. The Annex also does not offer a more specific answer or explanation of what permanent missions should look like. And while the Government in Priština, on the website of the Ministry of Foreign Affairs, lists the Liaison Officer in Belgrade on the list of foreign diplomatic missions,⁷³ on the other hand, official Belgrade denies the existence of a Kosovo diplomatic mission in Serbia and emphasizes that there will never be one.⁷⁴ Taking into account that the First Agreement on

⁷⁰ European Union, External Actions Service, "Belgrade-Pristina Dialogue: Agreement on the path to normalisation between Kosovo and Serbia", available at: https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-eu-proposal-agreement-path-normalisation-between-kosovo-and-serbia_en

⁷¹ The text of the Agreement is imprecise, so it can be interpreted as the establishment of diplomatic missions in the seats of governments or in cities with the seat of government, i.e. Belgrade and Priština.

⁷² Florian Bieber, "The Serbia-Kosovo Agreements: An EU Success Story?" in *Review of Central and East European Law*, 40(3-4), 285-319. 2015, available at: https://brill.com/view/journals/rela/40/3-4/article-p285_2.xml

⁷³ Republika e Kosovës, "Ambasadat", available at: <https://ambasadat.net/Serbi>

⁷⁴ The Government of the Republic of Serbia, "Pristina does not have, nor will it have diplomatic mission in Belgrade", 2 November 2023, available at: <https://www.srbija.gov.rs/vest/en/215100/pristina-does-not-have-nor-will-it-have-diplomatic-mission-in-belgrade.php>

Principles Regulating the Normalisation of Relations (Brussels Agreement 2013)⁷⁵ established liaison officers in Priština and Belgrade, the creation of permanent missions can be seen as upgrading this institution to a higher level, which still does not represent a permanent diplomatic mission having in view the fact that Serbia does not recognise Kosovo as an independent state (and the establishment of diplomatic relations can be considered *de facto* recognition), and therefore does not want to establish diplomatic relations. On the other hand, some of the countries that have not recognised Kosovo, such as Greece, Slovakia, and Romania, have established diplomatic relations (liaison offices), which negates the argument that the establishment of diplomatic relations necessarily means recognition.

Another problem is the inconsistency of the article of the Agreement that provides for permanent missions with relevant international law, as well as with domestic legislation in Serbia. Namely, permanent missions exist as a category exclusively as representative offices at international organizations. Permanent missions do not exist as a category even in the Vienna Convention on Diplomatic Relations⁷⁶ as a key source of international law in this area. It also envisages exclusively permanent diplomatic missions established between states by agreement.⁷⁷ Additionally, in diplomatic and consular missions in the country, the Law on Foreign Affairs of the Republic of Serbia⁷⁸ only includes permanent diplomatic missions and consular missions. Therefore, bearing in mind that the Normalisation Agreement stipulates the establishment of an institution that has no foundation in the national or international law, and that the Agreement itself has not been signed or ratified as an international treaty and therefore has no direct application, the question of the possibility of establishing a diplomatic mission of Kosovo in Belgrade remains open. That question becomes even more relevant when taking into account the

⁷⁵ Kancelarija za Kosovo i Metohiju, Vlada Republike Srbije, „Prvi sporazum o principima koji regulišu normalizaciju odnosa“, 2013, available at: <https://www.kim.gov.rs/p03.php>

⁷⁶ United Nations, “Vienna Convention on Diplomatic Relations”, 1961, available at: https://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf

⁷⁷ Ibid, Article 2.

⁷⁸ RS Official Gazette, “Law on Foreign Affairs”, no. 116/2007, 126/2007 - corr. and 41/2009, Article 7, available at: https://www.paragraf.rs/propisi/zakon_o_spoljnim_poslovima.html

position of the Ministry of Foreign Affairs of the Republic of Serbia, which clearly rejected any possibility of the existence of a diplomatic mission of Kosovo in Belgrade. On the other hand, the institute of liaison officers, which was established in 2013, also does not have a legal foothold in Serbian legislation, but it proves that when there is political will, anything is possible.

Another illogical thing is that the Agreement stipulates that these permanent missions are established in the seats of governments. This type of permanent missions is not standard in comparative practice, but having in mind the sensitivity of the issue and the intention not to presume the status of Kosovo, it was probably the assessment of the facilitators in the negotiations that the establishment of a permanent mission of Kosovo in the seat of the government in Belgrade is a better approach than the classic embassy. Also, the opening of a diplomatic mission outside the premises of the EU Delegation (where the liaison officer of Kosovo is currently located) and the Government of Serbia would have the potential to cause civil protests and endanger the work of this mission and its staff.⁷⁹ This leads to the last problem within the second challenge, which is the general opposition of the population in Serbia to the independence of Kosovo, and the establishment of a permanent mission could be interpreted as some kind of recognition. Therefore, there is the fear and potential for new violent protests like those in 2008.

CHALLENGE 3: KOSOVO'S MEMBERSHIP IN INTERNATIONAL ORGANISATIONS

Article 4 of the Normalisation Agreement states: *The Parties proceed on the assumption that neither of the two can represent the other in the*

⁷⁹ An illustrative example is the burning of the U.S. embassy in Belgrade in 2008, when protests organized on the occasion of the unilateral declaration of Kosovo's independence gathered thousands of people who went to the embassy of this country and on which occasion one person employed in this permanent diplomatic mission died. Also, on that occasion, the embassy of the Republic of Croatia and other diplomatic and consular missions were also targeted. More at: https://www.rtv.rs/sr_lat/politika/neredi-u-beogradu-zapaljena-ambasada-sad-zandarmerija-u-akeiji_50336.html

*international sphere or act on its behalf.*⁸⁰ Therefore, with this article, Serbia renounces the right to represent Kosovo and its membership in international organisations. This can be problematic from Serbia's point of view from several aspects. First, such a thing would represent a violation of the territorial integrity and sovereignty of the Republic of Serbia. Second, it seems that the political elite in Belgrade is not ready for such a move, despite the President of the Republic orally accepting the Agreement in its original form. It seems that this wording of Article 4 is unacceptable for Serbia, and therefore the question of whether this Article will be implemented at all deserves special attention.

It is exactly the point of the Agreement concerning membership in international organisations that is the most challenging for Serbia. This has represented Serbia's red line ever since the unilateral declaration of independence, hence the representatives of Serbia have actively worked to block Kosovo's membership in international organisations wherever possible. Indicative examples are Kosovo's attempts to join INTERPOL and UNESCO. Serbia also voted against Kosovo's membership in the Council of Europe (CoE) in 2023, although it failed to block the process of starting negotiations on Kosovo's accession to this organization. On the other hand, based on the Agreement on Regional Representation from 2012,⁸¹ Serbia did not oppose Kosovo's membership in regional organisations and initiatives such as the Regional Cooperation Council (RCC), the Common Regional Market (CRM), the Berlin Process, the Southeast Europe Cooperation Process (SEECP), etc. Kosovo's membership in these regional forums was conditioned by the use of an asterisk and a footnote next to the name, according to the 2012 Agreement. However, international organisations are not the same as regional ones, because membership in intergovernmental organizations such as the

⁸⁰ European Union, External Actions Service, "Belgrade-Pristina Dialogue: Agreement on the path to normalisation between Kosovo and Serbia", available at: https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-eu-proposal-agreement-path-normalisation-between-kosovo-and-serbia_en

⁸¹ Radio-televizija Vojvodine (RTV), „Tekst sporazuma Beograda i Prištine“, 25 February 2012, available at: https://rtv.rs/sk/politika/tekst-sporazuma-beograda-i-pristine_302491.html

Council of Europe, the European Union⁸² and the United Nations would somehow mean strengthening of statehood and universal recognition of independence for Kosovo. According to the statements of officials, such a thing is unacceptable for Serbia.

Despite the fact that in the negotiations with Kosovo, the representatives of Serbia, primarily the President of the Republic, accepted the Agreement which includes Kosovo's membership in international organisations, Belgrade's official position on this issue has not changed. This is supported by numerous statements, primarily by the President of the Republic, but also by the Prime Minister, as well as the Minister of Foreign Affairs, who are authorised by the Constitution and law to lead Serbia's foreign policy. Also, the reservation of the Prime Minister on the EU declaration after the December Western Balkans Summit⁸³ is another confirmation of the intention of the government in Belgrade not to implement this article of the Agreement. Immediately after the acceptance of the Normalisation Agreement and the Annex from Ohrid, the President of Serbia declared that "there is no implementation of the parts of the Agreement concerning Kosovo's membership in the UN."⁸⁴ The Minister of Foreign Affairs of Serbia also stated on two occasions, in November and December 2023, that Kosovo cannot become a member of the UN,⁸⁵ thus clearly defining Belgrade's position on this matter, which is diametrically opposed to what is written in the Agreement. Finally, during the debate in the UN Security Council in October 2023, the Prime Minister of Serbia emphasized in her speech that Kosovo is not a member of the UN.⁸⁶

⁸² In point 14, the Brussels Agreement (2013) stipulated that the two parties shall not block each other on the way to EU integrations.

⁸³ Tanjug, „Premijerka Brnabić uložila rezervu na deklaraciju EU, štiteći interese Srbije“, 14 December 2023, available at: <https://www.tanjug.rs/srbija/politika/64530/premijerka-brnabic-ulozila-rezervu-na-deklaraciju-eu-stiteci-interese-srbije/vest>

⁸⁴ Radio Slobodna Evropa, „Nema primene delova sporazuma koji se tiču članstva Kosova u UN-u, izjavio Vučić“, 21 March 2023, available at: <https://www.slobodnaevropa.org/a/vucic-sporazum-kosovo-un/32327686.html>

⁸⁵ Kosovo Online, „Dačić: Nema ulaska Kosova u UN i priznanja“, 2 December 2023, available at: <https://www.kosovo-online.com/vesti/izbori-u-srbiji/dacic-nema-ulaska-kosova-u-un-i-priznanja-2-12-2023> i Radio-televizija Srbije (RTS), „Dačić: Kosovo ne može u UN“, 21 November 2023, available at: <https://www.rts.rs/vesti/politika/1450798/dacic-kosovo-ne-moze-u-un.html>

⁸⁶ Radio-televizija Vojvodine (RTV), „Sednica Saveta bezbednosti UN o Kosovu i Metohiji; Brnabić: Priština sproviđi sistematsko nasilje nad Srbima“, 23.10.2023, available at: https://www.rtv.rs/sr_lat/politika/pocela-sednica-saveta-bezbednosti-un-o-kosovu-i-metohiji-sefica-unmika-predstavija-izvestaj_1486906.html

Therefore, Serbia's position on this issue is clear and unambiguous, Kosovo's membership in the UN and related organizations and agencies is not to be allowed. The fact that this position contradicts the Normalisation Agreement creates tension and challenges for its implementation, because this is one of the central points of normalisation. What appears to be a potential intermediate stage in the implementation of this Agreement is that Serbia could, not necessarily by acceptance, but by an approach that implies the absence of opposition, open space for Kosovo's membership in certain international organisations, as long as this does not mean membership in the UN or organisations and agencies which operate within the UN system. The Annex itself seems to point to this possibility, taking into account that, for example, membership in the European Union is left as an option to be pursued (and stipulated even earlier by the Brussels Agreement), while Kosovo's membership in the United Nations remains on the long side - primarily due to the likely opposition of two countries with the status of permanent members of the United Nations Security Council - Russia and China.

CHALLENGE 4: RECOGNIZING NATIONAL SYMBOLS

Article 1 of the Normalisation Agreement foresees the creation of good neighborly relations on the basis of equal rights and includes mutual recognition of national symbols and documents, including identity cards, passports, license plates, and customs stamps.⁸⁷ The recognition of symbols and documents by Serbia has been very problematic up to now, and delays in the dialogue regarding identity cards and license plates have been the cause of serious crises in the dialogue and tensions on the ground. Negotiations on customs stamps have been ongoing since the beginning of the dialogue in 2011, and there is still no agreement on this matter. Serbia currently does not recognise passports issued by the Kosovo authorities, as well as national symbols (flag, coat of arms, and anthem).

⁸⁷ European Union, External Actions Service, "Belgrade-Pristina Dialogue: Agreement on the path to normalisation between Kosovo and Serbia", available at: https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue-eu-proposal-agreement-path-normalisation-between-kosovo-and-serbia_en

The issue of national symbols is very sensitive considering that they are identified with symbols of statehood, so the non-acceptance of Kosovo symbols and documents by Serbia is clearly in line with the policy of non-recognition. Acceptance of state symbols of the so-called Republic of Kosovo would represent a kind of *de facto* recognition by Serbia. This was confirmed by the President of the European Commission during her visit to Belgrade and Priština, expressing the expectation that Serbia will *de facto* recognize Kosovo by implementing the provisions of Article 1 of the Normalisation Agreement.⁸⁸ On the other hand, there is no official definition of *de facto* recognition, or any EU document that mentions and elaborates on this concept. The term *de facto* recognition is the wording first mentioned in the joint statement of Scholz, Macron and Meloni,⁸⁹ and later also adopted by the President of the European Commission, Ursula von der Leyen. Although Serbia accepted Kosovo identity cards in 2022 with the reservation that this does not prejudice the recognition of Kosovo, and license plates with a decision to hide state symbols (and later recognized the plates following the principle of identity cards),⁹⁰ the acceptance of passports and state symbols such as the flag, coat of arms, and anthem of Kosovo represents a great challenge for the Serbian administration regardless of the correlation between recognition of state symbols and *de facto* recognition of independence.⁹¹

⁸⁸ N1, „Ursula fon der Lajen: Sprovođenje Ohridskog sporazuma je de fakto priznanje Kosova“, 31 October 2023, available at: <https://n1info.rs/vesti/ursula-fon-der-lajen-ohridski-sporazum-de-fakto-priznanje/>

⁸⁹ Nova S, „Makron, Solc i Meloni o pregovorima u Briselu: Pozivamo Srbiju na de fakto priznanje, a Kosovo da uspostavi ZSO“, 27 October 2023, available at: <https://nova.rs/vesti/politika/makron-solc-i-meloni-o-pregovorima-u-briselu-pozivamo-srbiju-na-de-fakto-priznanje-a-kosovo-da-uspostavi-zso/>

⁹⁰ At the end of 2023, the Government of Serbia decided to recognize license plates marked “Republic of Kosovo (RKS)” with the same reservation as with identity cards before. However, the recognition of Kosovo plates should be seen in the context of Serbia sending a positive signal to international partners, but that full *de facto* recognition, which implies the recognition of other state symbols (flag, coat of arms, anthem) and documents (passports, customs seals, court decisions) will still have to wait. The recognition of plates is certainly a step in the right direction in terms of implementation and can be an introduction to further steps in the recognition of state symbols of Kosovo.

⁹¹ Radio Slobodna Evropa, „Postignut dogovor Srbije i Kosova o ličnim dokumentima“, 27 August 2022, available at: <https://www.slobodnaevropa.org/a/postignut-dogovor-srbija-kosovo-licna-dokumenta/32007169.html>

Indicative examples of avoiding taking photos of Serbian officials next to the Kosovo flag⁹² represent Serbia's clear opposition to the recognition of Kosovo symbols. Bearing in mind the position of the main leaders in the EU (Scholz, Macron, Meloni, von der Leyen) for the *de facto* recognition of Kosovo, Serbia has not yet clearly formulated its position on the issue. However, what is clear is that Serbia opposes the plan for the Normalisation Agreement and the Ohrid Annex to become part of the negotiation chapter and a formal condition for Serbia's membership in the EU,⁹³ and within the EU itself it is looking for partners to prevent such a development.⁹⁴ So it is clear that there is resistance from the Serbian leadership towards this point of the agreement and that the recognition of national symbols will not be easy to implement.

⁹² N1, „Bnabić i fotografisanje sa učesnicima samita Berlinskog procesa: Šta se desilo u Tirani?“, 16 October 2023, available at: <https://n1info.rs/vesti/bnabic-i-fotografisanje-sa-ucenicima-samita-berlinskog-procesa/>

⁹³ Radio-televizija Srbije (RTS), „Vučić: Postoji mogućnost da Ohridski sporazum postane uslov prijema u EU“, 6 December 2023, available at: <https://rts.rs/vesti/politika/5323637/vucic-postoji-mogucnost-da-ohridski-sporazum-postane-uslov-za-prijem-u-eu.html>

⁹⁴ Danas, „Ko bi mogao da pomogne Vučiću da ceo Ohridski sporazum ne bude deo poglavlja 35?“, 3 December 2023, available at: <https://www.danas.rs/vesti/politika/poglavlje-35-ohridski-sporazum/>

CONCLUSION

Despite the challenges arising from the Normalisation Agreement between Kosovo and Serbia, its implementation is crucial for further steps in the process of establishing functional relations between Belgrade and Priština. The analysis of key challenges, such as the lack of clarity around full implementation, the exchange of permanent missions, Kosovo's membership in international organisations and the recognition of national symbols, indicates the need for a careful approach and resolution of issues that are of fundamental importance.

Signing, initialing, and ratification, along with possible changes to the Negotiating Framework of Serbia in the EU accession process, are necessary steps towards establishing a clear legal basis for implementation. The European Council clearly supported the full implementation of the agreement, which represents a clear signal from the European Union that the expectation is that the implementation will be carried out gradually.

Permanent missions and their exchange are a step towards achieving a higher degree of normalisation, but it is necessary to further elaborate what exactly this institution entails, and a good step in achieving this goal would be the adjustment of the national formative framework, and the adoption of a law that would precisely define the roles and tasks of these missions. And while the institution of permanent missions would be normatively and terminologically communicated with relevant actors, what could serve as a basis for formulating normative frameworks is the practice of (para)diplomatic missions, in order to avoid obstacles in implementation.

Kosovo's membership in international organisations should be developed gradually, and the precondition is a change in Belgrade's approach and acting under the principle of good faith. It should be more acceptable for Serbia and therefore the focus should be on regional organisations such as the EU and CoE at this stage. In that case, the issue of UN membership would be left for a later stage of implementation. With the fact that Serbia, through the Agreement, assumed the obligation not to oppose Kosovo's

membership in international organizations, should also assume its obligation to communicate with its partners about the possibility of Kosovo's membership in certain organizations, in accordance with the obligations from the implementation annex.

The recognition of national symbols is a complex issue primarily due to the fact that there is no gradual recognition, but the logical sequence is that by recognizing symbols at one level - for example, the European - they are recognized at all levels. However, recognition may differ from the use of symbols. The gradual approach to the use of symbols already has a basis in application, primarily at international gatherings at the regional and international level. Consensus on the use of national symbols at the regional and international level in the first phase, while they are left out at the national level, can serve as a step towards gradual normalisation and the possible beginning of use on the national level.

Overall, solving the above challenges requires responsibility, dialogue, and compromise on both sides. Only through joint efforts and commitment to the implementation of the agreement can stability, reconciliation, and prosperity be achieved in the Western Balkans region.

In the end, this paper did not include the attitude of the public in Serbia towards the Normalisation Agreement. Although almost a year has passed since the acceptance of the Agreement, there was no significant resistance by the public, nor was the Agreement itself a dominant topic during the election campaign for the parliamentary elections in 2023. However, the public opinion on this issue should not be taken lightly. This issue certainly has the potential to seriously affect implementation in the future, depending on the context and moment. Consequently, this question deserves a special analysis in the future.

RECOMMENDATIONS TO OVERCOME CHALLENGES

On the basis of everything elaborated above, the following recommendations have been singled out in order to overcome obstacles and continue the process of normalisation of relations between Belgrade and Priština.

Implementation of the Agreement in its entirety:

1. *Initialing, signing, and ratification:* It is recommended to carry out formal steps for initialing, signing, and ratifying the Normalisation Agreement. The adoption of an international agreement will provide a clear basis for dedicated action in order to achieve the agreement of relevant actors and demonstrate commitment to implementation.
2. *Amendment of the Negotiating Framework for membership in the European Union:* It is necessary to amend the Negotiating Framework for Serbia in order to create an adequate legal basis for the effective implementation of the Agreement. This change should be carefully designed to encourage the implementation of the agreed measures.
3. *Defining the time frame for the implementation of the agreement:* It is necessary to define clear timelines for the implementation of the elements of the Agreement, and based on the level of fulfillment, to define incentive and restrictive measures for the actors involved.
4. *Continuous and clear support of EU officials for the implementation of the Agreement:* Relevant representatives and institutions of the European Union (European Council, Commission, special representatives) should clearly and unequivocally provide support and continue to encourage both parties to fulfill their obligations in accordance with the agreements reached.

Exchange of permanent missions:

1. *Detailed elaboration of the concept:* It is necessary to conduct further dialogues in order to elaborate the concept of permanent missions. These missions should be clearly defined, taking into account their role and tasks in the process of normalising relations.
2. *Adoption of a special law:* It is recommended to adopt a special law that will precisely define the role and tasks of permanent missions. This legal framework will provide clear guidelines for the operations of the missions and ensure their effective implementation.
3. *Consideration of the practice of paradiplomatic missions:* to consider the existing practices of paradiplomatic missions as a model that does not imply *de iure*, or *de facto* recognition of independence. The potential establishment of permanent missions based on a principle similar to the establishment of paradiplomatic representations in the form of a *sui generis* model can be an efficient way to maintain diplomatic relations, without disrupting existing political positions.

Kosovo's membership in international organisations:

1. *Encouraging the process of joining the European Union in accordance with the provisions of the Agreement and the Brussels Agreement:* It is recommended to continue encouraging the European integration process of both parties in the agreement, with a special focus on defining Kosovo's perspective in the European Union and regional organisations. The recommendation as such is not new, however, in new geopolitical circumstances, as well as parts of the agreement, its relevance gains additional importance.
2. *Leaving the UN for a later phase of implementation of the Agreement:* Although part of the agreement on Serbia's non-opposition to Kosovo's membership in international organisations should apply equally to all international organisations, political complexity allows for looser interpretations and at the same time

focusing on those processes that are easier to implement. The issue of Kosovo's membership in the United Nations should be left for a later period, in order to avoid jeopardizing the implementation of the agreement at this stage. Focusing on the EU provides a viable path to international recognition.

3. *Transparent communication of Serbia's position with partners:* Serbia should transparently communicate its attitude and position within the process of implementing agreements and normalising relations with its international partners (primarily Russia and China). If Serbia takes a position that will not be contrary to the possible membership of Kosovo in international organisations, and in accordance with the obligation of non-opposition prescribed by the implementation annex, it is necessary to communicate this with these partners. The final position will be the sovereign decision of the partner.

Recognising national symbols:

The approach to the recognition of national symbols through the recommended route is based on the establishment of a consensus on their use at the regional and international level in the initial phase. This strategy allows for gradual normalisation, thus opening the way to the possible acceptance and full use of the symbols at the national level. It is important to emphasize that there is a logical sequence, and that recognition of symbols at higher levels can contribute to wider acceptance and integration at all levels.



**Analysis of Prosecution of Attacks on
Members of Minority Communities in
Serbia and Kosovo in 2023 in the Context
of the Belgrade – Priština Dialogue**

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INTRODUCTION

According to the European Commission’s progress report for Serbia for 2023, the dialogue on the normalisation of relations between Kosovo and Serbia with the mediation of the EU continued in 2023 with regular meetings at the level of leaders and chief negotiators. After several months of intensive negotiations and with the support of key partners, the parties reached the Agreement on the Path to Normalisation of Relations (the Agreement) on 27 February 2023 in Brussels, and agreed on the Annex on its implementation on 18 March in Ohrid, North Macedonia. As part of the Agreement, the parties stated that the Agreement and the Annex on its implementation will become an integral part of the respective EU accession processes of Serbia and Kosovo.⁹⁵

In the previous year, regardless of the declarative progress in the form of reaching the Ohrid Agreement and the Annex, the dialogue process was followed by crises in relations between Belgrade and Priština, characterised by violence.

The analysis before you is research on attacks or violence by the institutions of Serbia and Kosovo against members of non-majority or minority communities - the Serb community in Kosovo and the Albanian community in Serbia.

The subject of analysis are the most prominent cases of direct and structural violence committed by representatives of the institutions of Serbia and Kosovo against the Albanian and Serb communities, which we analyse according to the typology of violence introduced by the Norwegian sociologist Johan Galtung. According to Marija Babović, Galtung rejects the narrow understanding of violence as exclusively somatic incapacitation

⁹⁵ European Commission, Progress Report for Serbia 2023: https://www.mei.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/izvestaj_ek_23.pdf

or denial of health.⁹⁶ As Babović further states, Galtung believes that “violence is present when human beings are being influenced so that their actual somatic and mental realizations are below their potential realizations.” The author reminds that research on violence should not be limited only to the direct physical consequences of physical violence but should be seen as a way of restricting people in their daily life.⁹⁷

The focus of the analysis is on the institutions that produce violence, their processing, but also impunity and the consequences that this violence has on the lives of individuals - the victims and the communities from which they come, as well as the effect that violence has on the process of dialogue in the form of “crisis management” of the process of normalising relations between Belgrade and Priština. In the first part of the analysis, examples of the mentioned types of violence are presented, especially for Kosovo, as well as for Serbia, while the last part gives conclusions and recommendations for the institutions of Kosovo and Serbia.

⁹⁶ Marija Babović, *Teorijski i istraživački pristupi u proučavanju strukturalnog, kulturnog i direktnog nasilja*, 2015, Filozofski fakultet u Beogradu, p. 333: https://www.sociologija.org/admin/published/2015_57/2/448.pdf;

⁹⁷ *Ibid*;

ANALYSIS OF ATTACKS ON THE MEMBERS OF MINORITY COMMUNITIES IN KOSOVO

THE CONTEXT SINCE ALBIN KURTI CAME INTO POWER

The trend of an unstable political and security situation continued in 2023. Although there is no doubt that from the perception of minority communities, especially Serbian, each year since the end of the war has been challenging in its own way, with the establishment of the second Government of Albin Kurti, a period of permanent crisis began in three dimensions:

*In the relations between Belgrade and Priština,
In the relations between Priština and the Serb community in Kosovo,
In the relations between the Albanian and Serb communities in Kosovo.*

Although the following analysis refers primarily to the latter two aspects, it is difficult to make a clear distinction between these dimensions due to mutual causal intertwining and the spillover effect.

The period of permanent crisis begins in September 2021, when the Government of Kosovo decided to introduce reciprocity in relation to Serbia in the context of license plates, and declared the end of the validity of KM plates.⁹⁸ Special units of the Kosovo Police were deployed at the crossings with Serbia, and the local population set up the first barricades. However, as the final solution was not reached, the crisis spilled over into 2022. At the beginning of the year, immediately after the Russian aggression against Ukraine, the first bases of the Kosovo Police were formed in the north, as well as the permanent presence of special units in

⁹⁸ Milica Andrić-Rakić. Srbija i Kosovo: koga pogađa „reciprocitet“? DW. Available at: <https://www.dw.com/sr/srbija-i-kosovo-koga-poga%C4%91a-reciprocitet/a-59246670>, (accessed on 8 January 2024)

this region.⁹⁹ The failure to reach an agreement on plates was used by the Government of Kosovo as a reason to set a deadline for mandatory re-registration from KM to RKS plates.¹⁰⁰ In the northern municipalities, new barricades were placed, and the implementation of the aforementioned decisions, under the pressure of the American ambassador in Kosovo, was postponed for an indefinite period of time. Since there was no progress in reaching an agreement in the following period either, the Kosovo Government prescribed fines for the owners of vehicles that were not re-registered after 1 November of the same year.¹⁰¹ The commander of the Kosovo Police for region North declared that he would not implement this decision. He was then dismissed, which incited a revolt among members of the Serb community and initiated the abandonment of Kosovo's institutions in the North in which Serbs had been integrated until then - the police, the judiciary, and local self-government, but also institutions at the central level - the parliament and the Government.¹⁰² Although the problem of the plates has been solved in the meantime, the newly created requirements related to the collective exit from the institutions - the formation of the Community of Municipalities with a Serb majority and the withdrawal of special units of the KP from the North - have not been fulfilled, and, in this sense, the period of political and security vacuum in this region has continued.

This was followed by the call of new local elections by the President of Kosovo, which some Serbs tried to obstruct by attacking the offices of the municipal and central election commissions in the North.¹⁰³ The consequence of these actions was the arrest of people suspected of

⁹⁹ Betonski blokovi kod Brnjaka, Kosovska policija postavlja bazu pogranične policije, KoSSev. Available at: <https://kossev.info/betonski-blokovi-kod-brnjaka-kosovska-policija-postavlja-bazu-pogranične/>, (accessed on 8 January 2024)

¹⁰⁰ Nova faza spora oko tablica: Priština izdala uputstvo za preregistraciju vozila koja imaju srpske tablice, Euronews. Available at: <https://www.euronews.rs/srbija/drustvo/55417/nova-faza-spora-oko-tablica-pristina-izdala-uputstvo-za-preregistraciju-vozila-koja-imaju-srpske-tablice/vešt>, (accessed on 8 January 2024)

¹⁰¹ MUP Kosova: Od 21. novembra kazna od 150 evra za vlasnike vozila sa srpskim registracijama, Radio Slobodna Evropa. Available at: <https://www.slobodnaevropa.org/a/kosovo-tablice-kazne/32108991.html>, (accessed on 8 January 2024)

¹⁰² Srbi napuštaju kosovske institucije, Radio Slobodna Evropa. Available at: <https://www.slobodnaevropa.org/a/srbi-napuštaju-institucije-kosova/32117184.html>, (accessed on 8 January 2024)

¹⁰³ Nataša Latković. Ko je bacio dve bombe u Severnoj Mitrovici, Nova S. Available at: <https://nova.rs/vešti/politika/ko-je-bacio-dve-bombe-u-severnoj-mitrovici/>, (accessed on 8 January 2024)

committing an act that was classified as terrorist, that is, an act directed against the constitutional order of the Republic of Kosovo. Serbs erected barricades again and they would be lifted only after more than two weeks, at the end of December, however, without fulfilling the main demands. Thus, the new year 2023 was entered with more worries and challenges than the previous one.

It will turn out, however, that this was only a prelude to the culmination of the problem. Although negotiations on the Franco-German plan intensified at the beginning of 2023 and the parties agreed on the Agreement on the Path to Normalisation and its Annex, the failure to address the causes of previous crises logically led to the emergence of the new ones.

In the context of the unconstitutional permanent presence of special units of the Kosovo Police in the North, two injuries to members of the Serb community by these formations were recorded at the checkpoint established on the Bistrica Bridge.¹⁰⁴¹⁰⁵ The President of Kosovo called the new local elections, which were eventually held despite the boycott of the Serb community and their political representatives. For the first time in history, in municipalities with Serb majority, ethnic Albanians came to power.¹⁰⁶ During the protests against the inauguration of the new mayors, the protesters had a clash with the Kosovo Police, and a few days later, with the members of KFOR. However, the situation was not resolved even after that, and the mayors remained on duty. This was followed by the arrests of many Serbs who participated in these incidents. Finally, on 24 September, an attack took place in Banjska, when some members of the Serb community initiated a conflict with the Kosovo Police in the municipality

¹⁰⁴ Petković: Specijalci pucali na vozilo kod Bistričkog mosta, ranjen Srbin, Radio Goraždevac. Available at: <https://www.gorazdevac.com/2023/01/23/petkovic-specijalci-pucali-na-vozilo-kod-bistrickog-mosta-ranjen-srbin/>, (accessed on 9 January 2024)

¹⁰⁵ Ranjen Srbin na severu Kosova, Euronews. Available at: <https://www.euronews.rs/srbija/aktuelno/83937/ranjen-srbin-na-severu-kosova/vest>, (accessed on 9 January 2024)

¹⁰⁶ Lokalni izbori na severu Kosova: Glasalo ukupno nešto više od 1.500 ljudi, od toga samo 13 Srba - kaže Beograd, BBC news na srpskom. Available at: <https://www.bbc.com/serbian/lat/balkan-65362757>, (accessed on 9 January 2024)

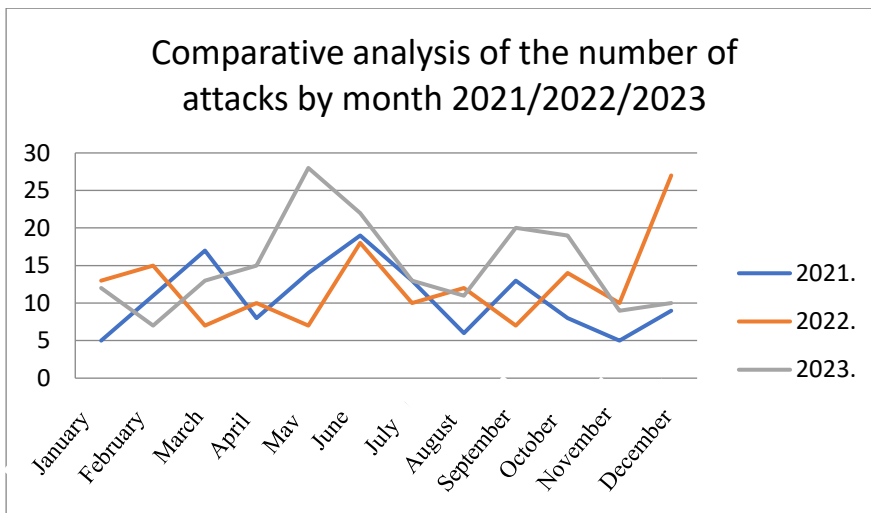
of Zvečan in the north of Kosovo. On this occasion, one member of the KP and three persons of Serbian nationality were killed.¹⁰⁷

CHRONOLOGY OF ATTACKS

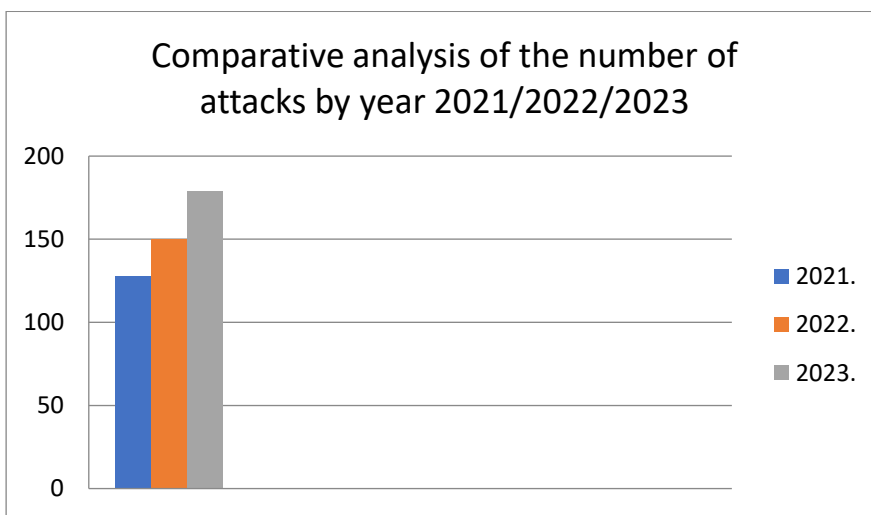
The development of the situation described in the lines above resulted in the continuation of the trend of direct and institutional violence directed at members of the Serb community in Kosovo. In this sense, the Office for Kosovo and Metohija of the Government of the Republic of Serbia recorded 179 “ethnically motivated incidents” in 2023, which is the highest number of cases since these statistics have been recorded. For example, 128 incidents were recorded in 2021, and 150 in 2022.¹⁰⁸ However, the stated data should be taken with a grain of salt because there is no clearly established methodology to determine how incidents are evaluated and categorized. For the purposes of this analysis, these data were also requested from the relevant institutions in Kosovo. As a response, on 13 November, the Kosovo Police sent the information that lists 16 ethnically motivated incidents. However, these statistics do not distinguish between attacks on members of the majority, Albanian community and attacks on members of minority communities, especially Serbs, which are of importance for this research. Also, information was requested from the State Prosecutor of Kosovo, as well as the Office of the Ombudsman, however, the answer had not arrived by the end of writing this paper.

¹⁰⁷ Nekoliko mrtvih na sjeveru Kosova, Vučić za sve krivi Kurtija, Radio Slobodna Evropa. Available at: <https://balkans.aljazeera.net/news/balkan/liveblog/2023/9/24/kosovska-policija-ubila-napadaca-opkoljen-manastir-banjska>, (accessed on 9 January 2024)

¹⁰⁸ Etnički motivisani incidenti na Kosovu i Metohiji, 2021-2024, Kancelarija za Kosovo i Metohiju. Available at: <https://www.kim.gov.rs/lat/incidenti-kim.php>, (accessed on 9 January 2024)



Source: Office for Kosovo and Metohija¹⁰⁹



Source: Office for Kosovo and Metohija¹¹⁰

As this research perceives attacks on members of minority communities as broader than mere physical violence, further analysis will be determined by the typology of violence offered by the German peace and conflict theorist,

¹⁰⁹ Ibid;

¹¹⁰ Ibid;

Johann Galtung, who recognizes three types of violence: direct, structural/institutional, and cultural.¹¹¹

DIRECT VIOLENCE

Based on the data of the Office for Kosovo and Metohija, 12 attacks on members of the Serb community were recorded which can be characterised as direct violence. In 6 of the mentioned 12 cases, Kosovo Police participated, that is, members of its various formations.¹¹² In this sense, we can see two types of incidents - incidents where the perpetrators are citizens and those where the perpetrators are members of the KP. As for the first group, the case that received the most attention and a certain epilogue is the wounding of two young men from the Serb community on Christmas Eve, 6 January, committed by a member of the Kosovo Security Forces, then off duty, Azem Kurtaj, in Gotovuša, Štrpce municipality.¹¹³ The suspect was arrested immediately after the incident took place. The Basic Prosecutor's Office in Uroševac requested the court to determine the measure of detention for the suspect, who, according to the prosecution's opinion, committed the criminal offense of "aggravated attempted murder" from Article 173, paragraph 1, subsection 1.1, 1.5. and 1.11 in connection with Article 28 of the Criminal Code of the Republic of Kosovo. The Basic Court in Uroševac accepted the Prosecution's proposal and ordered a detention measure of 30 days. However, the indictment was later amended, and he was charged with "using a dangerous weapon or tool" from Article 367 paragraph 1 and for "causing general danger" from Article 356 paragraph 1 of the Criminal Code of the Republic of Kosovo. The first hearing was held on 9 March, and on 16 March 2023, the court approved the request to change the measure of judicial custody to house arrest. According to the decision of the Basic Court in Uroševac from May, the

¹¹¹ Johan Galtung, *Mimim sredstvima do mira. Mir i sukob, razvoj i civilizacija* (Beograd: Službeni Glasnik, 2009), p. 273.

¹¹² Etnički motivisani incidenti na Kosovu i Metohiji, 2021-2024, Kancelarija za Kosovo i Metohiju. Available at: <https://www.kim.gov.rs/lat/incidenti-kim.php>, (accessed on 9 January 2024)

¹¹³ Ranjeno dvoje Srba kod Štrpca, na dečaka i mladića pucano iz vatrenog oružja; Nisu životno ugroženi, KoSSev. Available at: <https://kossev.info/ranjeno-dvoje-srba-kod-strpca-na-decaka-i-mladica-pucano-iz-vatrenog-oruzja-nisu-zivotno-ugrozeni/>, (accessed on 9 January 2024)

defendant Kurtaj was released pending trial. Namely, on 15 May of the same year, his house arrest measure expired, which the court did not extend.¹¹⁴ The mentioned decision did not reach the defender of the injured young men until October 2023, and the case did not have a final epilogue.

As for the second group of cases where the subjects of violence are members of the Kosovo Police, it is difficult to single out one of them. Namely, direct violence by security structures is particularly problematic because it has a significant impact on community relations with relevant institutions, i.e. citizens' trust in them, but also relations between communities, because the members of these formations, and the perpetrators of these acts, are ethnic Albanians. Wounding of a Serb near the checkpoint on Bistrica Bridge on 10 April attracted special attention of the public. Miljan Jovanović, a member of the Serb community, sustained gunshot wounds in the collarbone when he was shot while driving a vehicle on the Leposavić-Mitrovica main road. The Police Inspectorate of Kosovo (PIK) reported that four members of the Kosovo Police who were previously suspended on suspicion of committing the crime of “failure to report a crime” were arrested, and one of them is suspected of the crime of “attempted murder”.¹¹⁵ PIK also announced that by the decision of the prosecutor, the arrested members of the KP were detained for up to 48 hours. This case did not have a final epilogue either.

According to the same statistics, 3 serious PEMIs were also recorded, (potentially ethnically motivated incidents) against the property of members of the Serb community when houses of Serb returnees to Kosovo were set on fire.

¹¹⁴ Pripadnik KBS-a koji je pucao januara u Gotovuši pre šest meseci pušten da se brani sa slobode, KoSSev. Available at: <https://kossev.info/pripadnik-kbs-a-koji-je-pucao-januara-u-gotovusi-pre-sest-meseci-pusten-da-se-brani-sa-slobode/>, (accessed on 9 January 2024)

¹¹⁵ Suspendovana četiri kosovska policajca, jedan osumnjičen da je pucao na Jovanovića, Kosovo Online. Available at: <https://www.kosovo-online.com/vesti/hronika/suspendovana-cetiri-kosovska-policajca-jedan-osumnjicen-da-je-pucao-na-jovanovica-11>, (accessed on 9 January 2024)

STRUCTURAL/INSTITUTIONAL VIOLENCE

One of the most pronounced forms of this type of violence is the decision made in mid-June by which the Government of Kosovo banned the import of Serbian goods.¹¹⁶ The decision initially applied to all trucks with Serbian license plates, but later the decision was changed to allow the import of goods from foreign companies operating in Serbia. This decision caused the shortage of certain Serbian products in stores throughout Kosovo, primarily in Serb majority areas. These products were replaced by substitutes from other countries, such as North Macedonia.

However, these products are often more expensive than those imported from Serbia, which has put an additional burden on citizens' budgets, especially in the challenging times in which Europe and the region currently live. Also, as the decision refers to the import of print media/newspapers from Serbia, they are not available for sale in Kosovo, which is a violation of the right to information/freedom of information. With this decision, as well as other procedural and technical issues, the import of medicines and other medical supplies for health institutions that function within the system of the Republic of Serbia in Kosovo is impossible. At one point, the situation became alarming because in the Clinical Hospital Center (KBC) in North Mitrovica, as well as in primary health care institutions throughout Kosovo, there were no certain supplies, and for example vaccines that are mandatory for children.¹¹⁷ It is important to note that this decision of the Government of Kosovo actually represents a violation of the Central European Free Trade Agreement (CEFTA), but it also contradicts the spirit of the Stabilisation and Association Agreement

¹¹⁶ Na Jarinju i Merdaru zabrana ulaska na Kosovo za kamione iz centralne Srbije, nesmetano prolaze putnička vozila, KoSSev. Available at: <https://kossev.info/na-jarinju-i-merdaru-zabrana-ulaska-na-kosovo-za-kamione-iz-centralne-srbije-nesmetano-prolaze-putnicka-vozila/>, (accessed on 9 January 2024)

¹¹⁷ Već za sedam beba u KBC Kosovska Mitrovica nema be-se-že vakcina, nestale i protiv tetanusa, Kosovo Online. Available at: <https://www.kosovo-online.com/vesti/drustvo/vec-za-sedam-beba-u-kbc-kosovska-mitrovica-nema-be-se-ze-vakcina-nestale-i-protiv>, (accessed on 9 January 2024)

signed between Kosovo and the European Union.¹¹⁸ While the problem with medicines and other medical supplies has been solved, for everything else that was mentioned, the decision is still in force.

Due to the incident that happened on 29 May in front of the municipal building in Zvečan¹¹⁹, a series of arrests of citizens who were suspected of having participated in violent actions on that occasion followed. However, some arrests were made without a previously issued warrant by the prosecutor's office. This problem was also addressed by the EU High Representative for Foreign Affairs and Security Policy, Josep Borrell, stating that "arbitrary or unjust arrests and poor treatment of prisoners are absolutely unacceptable".

At the end of October, the abbot of the Devina Voda monastery was deported from Kosovo.¹²⁰ Although he was not a citizen of Kosovo and did not possess Kosovo documents, he had a residence permit that he renewed without any problems in previous years. This time, when he went to Priština to do that, he was told that he had to leave Kosovo and could not return for the next 5 years, with national security cited as the reason for his deportation. Representatives of OSCE and EULEX were also present there. This procedure is contrary to Article 7A.3 of the Law on Religious Freedoms in Kosovo which states that "there shall be no arbitrary ban on entry into Kosovo or residence in Kosovo for priests, candidates and clergy, monks, nuns and visitors".¹²¹

¹¹⁸ European Commission 2023 Report on Kosovo. Available at: https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_692%20Kosovo%20report_0.pdf, (accessed on 9 January 2024)

¹¹⁹ After Serbian political representatives boycotted local elections in the north of Kosovo in April 2023, ethnic Albanians were elected mayors in four Serb majority municipalities. The mayor's attempt to enter the municipal building in Zvečan, accompanied by special units of the Kosovo Police, resulted in a protest by Serbs who tried to block the entrance to the building. On that occasion, the police and the citizens clashed, and several citizens suffered minor or serious injuries. See more in: Kosovar Police Clash With Protesters In Serb-Majority Northern Towns, Drawing U.S., EU Rebukes, RFE/RL. Available at: <https://www.rferl.org/a/northern-kosovo-clashes-police-protesters-ethnic-albanian-mayors/32429637.html>, (accessed on 29 January 2024)

¹²⁰ Deportovan iguman manastira Devine vode sa Kosova u Severnu Makedoniju , KoSSev. Available at: <https://kossev.info/deportovan-iguman-manastira-devine-vode-sa-kosova-u-severnu-makedoniju/>, (accessed on 9 January 2024)

¹²¹ LAW NO. 04/L-115 ON AMENDING AND SUPPLEMENTING THE LAWS RELATED TO THE ENDING OF INTERNATIONAL SUPERVISION OF INDEPENDENCE OF KOSOVO, OFFICIAL

In May 2023, Kosovo institutions prevented members of the Diocese of Raška and Prizren and Kosovo and Metohija of the Serbian Orthodox Church (SPC) from accessing the Church of Christ the Savior in Priština and performing religious services. A few days earlier, the Diocese informed the Kosovo Police about the upcoming holiday and the intention to hold a liturgy in the church. However, the day before the event itself (23 May), the parish priest from Priština received a verbal/informal notification from the police that access to the church will not be possible until the procedure between the Serbian Orthodox Church and the University of Priština is completed. Until the end of the procedure, the owner of the property (The Diocese of SPC), in accordance with the presumption of innocence, should have unhindered access to the Church.¹²² The practice of denying access was also criticized by the US State Department in their 2022 report on religious freedom.¹²³

At the beginning of 2023, the Government of Kosovo made two more decisions on expropriation in the north of Kosovo, in the municipalities of Leposavić and Zubin Potok. It will turn out that the expropriated land, with a total area of 138ha, was intended for the construction of new Kosovo Police bases, and that the official decision was made only after the bases were built. The EU Office in Priština said at the time that “it is important to note that the expropriation process, according to Kosovo law, requires a period of public consultation and the possibility for affected citizens to challenge any expropriation decision in court before any expropriation decision becomes final”. The EU then called on the Government of Kosovo

GAZETTE OF THE REPUBLIC OF KOSOVA. Available at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2840&langid=2>, (accessed on 9 January 2024)

¹²² For the second year in a row, Kosovo authorities have banned a religious ceremony at the Christ the Saviour Cathedral in Priština, SPC ERP. Available at: <https://eparhija-prizren.com/en/statements/for-the-second-year-in-a-row-kosovo-authorities-have-banned-a-religious-ceremony-at-the-christ-the-saviour-cathedral-in-pristina/>, (accessed on 9 January 2024)

¹²³ US State Department 2022 Report on International Religious Freedom. Available at: <https://www.state.gov/reports/2022-report-on-international-religious-freedom/kosovo/#:~:text=The%20constitution%20provides%20for%20freedom,to%20join%20a%20religious%20community,> (accessed on 9 January 2024)

to “undertake all efforts to ensure that due process is followed and that the rights of property owners are fully respected”.¹²⁴

The deployment of monoethnic formations of special units of the Kosovo Police in the north, although contrary to Article 9 of the Brussels Agreement and Articles 61 and 128.4 of the Constitution of Kosovo, is still an issue. Also, Kosovo institutions decided to hold local elections in this region despite the announced boycott by Serbian political representatives. With a turnout of 3.47%, ethnic Albanians were elected mayors in four Serb majority municipalities in the north. At the same time, this represents a violation of the First Agreement on the Principles Regulating the Normalisation of Relations, the goal of which was the integration of local self-governments into the Kosovo system, which would be governed by Serb representatives. In this sense, the report of the European Commission for Kosovo for 2023 states that the mentioned elections “do not offer a long-term political solution for these municipalities”.¹²⁵

CULTURAL VIOLENCE

Many years of presenting the north of Kosovo and the Serbs who live there, but often the Serb community in general, as a criminal region/members of criminal groups, especially intensified after the incident in front of the municipal building in Zvečan in May 2023. Namely, after an initially peaceful protest by Serbs¹²⁶ that then evolved into a conflict with KFOR, the Prime Minister of Kosovo, Albin Kurti, called the participants of that event “fascist militia” on several occasions.¹²⁷ Also, such a formulation was

¹²⁴ EU zabrinuta zbog radova u LP, traže od vlade da poštuje zakon i imovinska prava, KoSSev. Available at: <https://kossev.info/eu-zabrinuta-zbog-radova-u-lp-traze-od-vlade-da-postuje-zakon-i-imovinska-prava/>, (accessed on 1 February 2024);

¹²⁵ European Commission 2023 Report on Kosovo. Available at: https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_692%20Kosovo%20report_0.pdf, (accessed on 9 January 2024)

¹²⁶ Protesters, Peacekeepers, Injured as Violence Erupts in North Kosovo, Balkan Insight. Available at: <https://balkaninsight.com/2023/05/29/protesters-peacekeepers-injured-as-violence-erupts-in-north-kosovo/>, (accessed on 29 January 2024)

¹²⁷ *Albin Kurti za CNN: Naše policajce i NATO vojnike napala je fašistička milicija, a ne mirni demonstranti*, Danas. Available at: <https://www.danas.rs/vesti/politika/aljbin-kurti-za-cnn-nase-policajce-i-nato-vojnike-napala-je-fasisticka-milicija-a-ne-mirmi-demonstanti/>, (accessed on 29 January 2024)

mentioned in a propaganda video published on the official profile of the ruling party in Kosovo, Self-Determination. In this video, it is noted that ‘Kosovo will not allow the “fascist militia” to establish constitutional order’.¹²⁸

Also, immediately after these events, in the Kosovo parliament, Kurti publicly read out the names of citizens who are claimed to have participated in violent actions, some of whom were on the list without any reason and in that sense were unjustifiably targeted by the main political figure in Kosovo.¹²⁹ This is not the first time that Kosovo officials violate the principle of the presumption of innocence, that is, that they find the accused guilty before passing a final verdict. The Minister of Internal Affairs of Kosovo, Xhelal Sveçla, used the same practice several times in the mentioned period, after the arrest of suspects for violence against members of KFOR.¹³⁰ Even before that, the mentioned minister used the term “criminals” for the inhabitants of the north of Kosovo.

The intensive use of similar terms after May caused even the media reporting in Albanian to adopt this terminology, and the journalist of the Atlantic Council, Ilva Tare, asked the EU Special Representative for Belgrade-Priština Dialogue, Miroslav Lajčak, and the U.S. Special Representative for Western Balkans, Gabriel Escobar, “how the USA responded to Prime Minister Albin Kurti’s concern about the presence of “fascist militia” in the North, which attacks journalists and KFOR soldiers.”

¹²⁸ *Samoopredeljenje: Kosovo neće dozvoliti da fašistička milicija utvrđuje ustavni poredak.*, Kosovo Online. Available at: <https://www.kosovo-online.com/vesti/politika/samoopredeljenje-kosovo-nevere-dozvoliti-da-fasisticka-milicija-utvrđuje-ustavni>, (accessed on 29 January 2024)

¹²⁹ *Kurti iščitao imena osoba za koje kaže da su organizatori nereda na Severu; Jedan od optuženih demantuje potvrdom iz bolnice, KoSSev.* Dostupno na: <https://kossev.info/kurti-u-skupstini-iscitao-imena-osoba-za-koje-tvrđi-da-su-organizatori-nereda-na-severu/>, (accessed on 29 January 2024)

¹³⁰ *Sveçlja nakon novog hapšenja: Kriminalci će se suočiti sa pravdom; Petković: Jedini kriminalci ste ti i Kurti, KoSSev.* Available at: <https://kossev.info/sveclja-nakon-novog-hapsenja-kriminalci-ce-se-suočiti-sa-pravdom-petkovic-jedini-kriminalci-ste-ti-i-kurti/>, (accessed on 29 January 2024)

Lajčak then replied that “we cannot say that 45,000 criminals live in the north”, and that the principle of collective guilt should not be applied to all Serbs living there.

The journalist still insisted on the mentioned term, and Escobar answered that he cannot call all the inhabitants of the north “fascist militia” and that it really does not help in creating an atmosphere of reconciliation.¹³¹

¹³¹ *Lajčak i Eskobar: Ili ćemo imati normalizaciju ili sukob, potencijalno regionalni*, KoSSev. Available at: <https://kossev.info/lajcak-i-eskobar-ili-cemo-imati-normalizaciju-ili-sukob-potencijalno-regionalni/>, accessed on 30 January 2024)

ANALYSIS OF ATTACKS ON THE MEMBERS OF MINORITY COMMUNITIES IN SERBIA

CHRONOLOGY OF ATTACKS

For the purpose of the analysis, we will present five cases of direct, structural, and cultural violence by the institutions of the state of Serbia against Albanians in 2023. The most significant case of direct violence was the attack on the Muharemi family, while the banning of movies in Albanian due to the symbol of Kosovo, and the abuse of passivation of addresses, which is carried out in a questionably legal manner against Albanians in Serbia, have been marking a new trend in structural and cultural violence against this community for years.

THE BAN ON SCREENING MOVIES IN ALBANIAN

The production company Colosseum Production from Preševo encountered a big problem, when their two short movies ended up in front of the High Court in Vranje, after the police received an anonymous report in June, ahead of their premiere in Bujanovac, that they incite hatred and discrimination, which the authors deny. These were the movies “The Unfaithful” and “Silence Kills” (Heshtja vret), by Albanian author Gani Veseli. Namely, by the decision of the High Court in Vranje, dated 14 August 2023, the screening of the movie “The Unfaithful” in Serbia is banned. The judicial council assessed that the proposal of the Public Prosecutor’s Office was well founded and that this act “incites and advocates for hatred”. By the same decision, the screening of the movie “Silence Kills” is allowed on the condition that, among other things, the symbol of the Republic of Kosovo is removed from the opening and closing

credits, and that it is indicated that the film is not recommended for people under the age of 16.¹³²

The public has not yet been presented with all the details of the decision made by the Council of the High Court in Vranje on 14 August. In the answer delivered to Radio Free Europe from the Court, it is stated that the Council found that the movie “The Unfaithful” (I pabesi) violates Article 28 of the Law on Cinematography. In that article, it is stated that the circulation and public screening of a cinematographic work that incites discrimination and spreads national, racial, and religious hatred is prohibited. It is also stated that a ban may be imposed on the public screening of a cinematographic work with pornographic content or content that advocates for or incites violence and openly insults human dignity.¹³³

Movie bans in this case also represent an example of cultural violence, given that this practice legitimizes forms of structural violence such as the misuse of address passivation. As Tepšić and Vukelić state, “cultural violence makes direct and structural violence seem morally acceptable, or hides the real nature of violence, so it does not seem to be violence.”¹³⁴ Accordingly, the quick action of the prosecutor’s office and the court in Vranje, and the presentation of the symbol of one state or territory that is not recognised by another state as an act that spreads hatred, aims to legalise and legitimise the view that the author of the movies is an “aggressor” towards the dominant culture.

¹³² Inicijativa mladih za ljudska prava, Pasivizacija adresa Albanaca kao diskriminatorska praksa, 2023, p: 41: <https://yih.rs/wp-content/uploads/2023/10/izvestaj-Pasivizacija-adresa-Albanaca-u-Presevske-dolini-ka-diskriminatorska-praksa.pdf>;

¹³³ RSE, Dušan Komarčević: Cenzura kulture, Sud u Srbiji zabranio filmove albanskog autora, 15 August 2023: <https://www.slobodnaevropa.org/a/cenzura-kulture-film-gani-veseli-srbija-sud/32549290.html>;

¹³⁴ Goran Tepšić i Miloš Vukelić, Kulturno nasilje kao proces dugog trajanja: od kolonijalizma do humanitarizma, Fakultet političkih nauka, Politička misao, god. 56, br. 1, 2019, p. 114: <https://hrcak.srce.hr/file/320995>;

ATTACK ON THE MUHAREMI FAMILY IN MEDVEĐA

On Sunday, 1 October, the Insajderi portal published the news that on 30 September 2023, a group of 15 masked young men singing Serbian nationalist songs threw stones and other heavy objects at the house and car of Ruhan Muharemi in Medveđa. The police in Medveđa, the OSCE Mission, and the Embassy of Albania were informed about the event.¹³⁵

The spokeswoman of the police department in Leskovac, Marija Sokolović, confirmed for JUG Media that a group of young minors was questioned in the presence of their parents on suspicion of throwing stones at the house of an Albanian family next to the kindergarten in Medveđa. According to her, there were no elements of criminal offense in this event, and the public prosecutor and the Center for Social Work had been informed about everything.¹³⁶ Despite the visit to the Muharemi family by Nenad Mitrović, Director of the Service of the Coordination Body for Bujanovac, Preševo and Medveđa, the prosecutor's office, the police, the Ombudsman, the Commissioner for Equality did not make any further announcements until the end of January 2024 to clarify this potentially ethnically motivated attack that happened only seven days after the attack in Banjska.¹³⁷ Having in mind the reactions of Albanian political parties and civil society organizations, as well as the fear that such attacks can produce, these institutions had to present to the public, at latest within one month, the decisions and/or reports on potentially ethnically motivated violence, especially bearing in mind how young are the perpetrators of violence.

¹³⁵ Insajderi, Serbët sulmojnë me gurë e mjete të rënda shtëpinë e shqiptarit në Medvegjë, Insajderi sjell pamjet, 1 October 2023: https://insajderi.org/serbet-sulmojne-me-gure-e-mjete-te-renda-shtepine-e-shqiptarit-ne-medvegje-insajderi-sjell-pamjet/?fbclid=IwAR3bJvE5MjlyoUTUQu5WaFU4Oe1LHuFS84L7cAQrdozUvQM-Wci_rjFmGQ;

¹³⁶ Danas, Leskovačka policija: Saslušani maloletnici koji su gadali kuću albanske porodice u Medveđi, 2 October 2023: <https://www.danas.rs/vesti/drustvo/leskovacka-policija-saslusani-maloletnici-koji-su-gadjali-kucu-albanske-porodice-u-medvedji/>;

¹³⁷ Bujanovačke, Mitrović posetio porodicu Muharemi u Medveđi posle incidenta, 14 October 2023: <https://bujanovacke.co.rs/2023/10/14/mitrovic-posetio-porodicu-muharemi-u-medvedji-posle-incidenta/>;

HATE SPEECH TOWARDS ALBANIAN NATIONAL MINORITY IN THE CONTEXT OF NEGOTIATIONS BETWEEN SERBIA AND KOSOVO

On 16 March 2023, several non-governmental organisations and part of the opposition from Serbia condemned the offensive posters that were pasted in front of the Faculty of Political Sciences in Belgrade. The posters showed the faces of several professors of the Faculty of Political Sciences for, as it says, “supporting separatism and terrorism by recognising the independence of Kosovo”. The insulting posters, on which Jelena Lončar, Stefan Surlić, and Marko Veković were called “traitors”, appeared ahead of the planned gathering of professors from the Faculty of Political Sciences of the University of Belgrade and the Faculty of Philosophy from Priština.¹³⁸

This meeting was supposed to take place on 16 March, but the day before, the Faculty of Political Sciences wrote in a press release that it was **cancelled**. In their statement on 16 March, the National Convention on the European Union and the Working Group for Chapter 35 condemned the pasting of posters with offensive content against professors of the Faculty of Political Sciences in Belgrade. They called on the Faculty of Political Sciences, the University of Belgrade, and the competent authorities to condemn these attacks and to immediately react to protect the teaching staff. **The Faculty of Political Sciences of the University of Belgrade** joined the condemnation of the attack on three of its professors and made a report about this attack and submitted it to the police with a request to immediately investigate the case.¹³⁹ This case is indicative because one of the causes of the collapsed or almost non-existent dialogue within the Serbian society is the defamation of critical voices as “traitors”.

In this case, we see the failure of the prosecutor’s office and the police to investigate the actions of the neo-Nazi group Zen Tropa Srbija, because

¹³⁸ RSE, Osude zbog targetiranja profesora Fakulteta političkih nauka u Beogradu, 16 March 2023: <https://www.slobodnaevropa.org/a/beograd-profesor-politi%C4%8Dke-nauke/32321395.html>;

¹³⁹ Ibid;

just a day before the cancellation of the event, this group stated in posts on social networks that the three mentioned professors were collaborating with “terrorists” from Kosovo and Metohija.¹⁴⁰

Hate speech against Albanians is still tolerated by the highest representatives of the government, such as the recent director of the Security Information Agency, Aleksandar Vulin, who is being prosecuted for hate speech before the Constitutional Court¹⁴¹. At the same time, certain media continue to use dehumanizing vocabulary and fake news in order to use hatred towards Albanians to gain or increase (political) power and influence. Thus, in May this year, the Youth Initiative for Human Rights submitted a complaint to the Commissioner for the Protection of Equality regarding the article from 16 May 2023 in the daily newspaper “Srpski telegraf” entitled “Albanians are poisoning our children - selling juice that causes cancer”. In the Commissioner’s opinion dated 14 November this year, “Srpski Telegraf” was recommended not to publish discriminatory content that represents a violation of the dignity of a person, or a group of persons based on nationality as a personal characteristic.¹⁴²

“Srpski telegraf” highlighted the nationality of “Albanians” in the title and text, implying that they poison children through juice imported from Kosovo, which represents a severe form of discrimination according to the Law on Prohibition of Discrimination. Such a title encourages stereotypes, generates prejudice, and discriminates against the entire Albanian population, which is not in accordance with the law.¹⁴³

¹⁴⁰ Instagram post Zen tropa Srbija, 15 March 2023: <https://www.instagram.com/p/Cp0Bkrxs2Xr/?hl=en>;

¹⁴¹ In December 2021, the Court of Appeals confirmed the High Court’s decision to reject the lawsuit filed by the President of the National Council of the Albanian National Minority against Aleksandar Vulin, then the Minister of Defense, for hate speech in 2019. The National Council filed a constitutional appeal, so the Constitutional Court’s decision on this case is pending. See: Beogradski centar za ljudska prava, Izveštaj o stanju ljudskih prava za 2022. godinu, p. 392: <https://www.bgcentar.org.rs/wp-content/uploads/2023/03/2023-04-24-Ljudska-prava-u-Srbiji-2022-web.pdf>;

¹⁴² Inicijativa mladih za ljudska prava, Mišljenje Poverenice za zaštitu ravnopravnosti: Srpski Telegraf povredio odredbe Zakona o zabrani diskriminacije, 21 December 2023: <https://yih.rs/bhs/misljenje-poverenice-za-zastitu-ravnopravnosti-srpski-telegraf-povredio-odredbe-zakona-o-zabrani-diskriminacije/>;

¹⁴³ Ibid;

Hate speech against Albanians in Serbia, which is encouraged by representatives of the authorities and thus normalised through fake news aimed at dehumanising the Albanian community in the media, undermines the minimum of trust, as well as the assumptions for the reconciliation process, which should coincide with the negotiations between the officials of Kosovo and Serbia, which is mediated by the EU. Also, the lynch campaign against the professors of the Faculty of Political Sciences, in which they are presented as “collaborators of terrorists”, shows a trend that has been going on for several years in Serbia, which is to silence critical voices that collaborate with representatives of Kosovo society within the academic community or civil society in various ways. In this way, the position of state officials is monopolized as the only citizens of Serbia who can communicate with the representatives of Kosovo, without being negatively represented in the media or sanctioned.

ILLEGAL DETENTION OF CITIZENS BELONGING TO ALBANIAN NATIONAL MINORITY AT BORDER CROSSINGS

In 2023, several cases of detention of members of the Albanian minority from the Preševo Valley were recorded at the administrative/border crossing with Kosovo. Detentions at border crossings are very frequent - several times within a few months, they last up to several hours, and they are carried out without clear explanations as to why they occur. On this occasion, we will mention two specific cases, for which we have permission for publication.

The first example is Nedžad Agušti, an English language teacher at the technical high school in Preševo and a court interpreter for English, Albanian and Serbian. From June to September 2023, Agušti was stopped at the administrative crossing with Kosovo three times, without any particular reason or explanation. Ardita Sinani, a politician from the Party for Democratic Action, had similar problems. During the conversation, Sinani pointed out that at the border crossing with Kosovo, in the period from 7 August to 5 September 2023, she was detained 20 times, also without explanation or reason. Such action by members of the Ministry of

Internal Affairs prevents the unhindered movement of these individuals and causes anxiety and fear with each subsequent trip.

ABUSE OF PASSIVATION OF ADDRESSES IN CASE OF CITIZENS OF ALBANIAN NATIONALITY IN THE PREŠEVO VALLEY

From July to September 2023, researchers of the Youth Initiative for Human Rights in Serbia conducted research in the municipalities of Bujanovac, Preševo, and Medveđa on the passivation of addresses of Serbian citizens of Albanian nationality. Based on interviews, insight into the decisions of the Ministry of Internal Affairs of Serbia (MUP) on the passivation of addresses, as well as on the basis of data on changes to voter lists and conversations with local activists and political parties, they came to the conclusion that 72% of respondents did not receive a decision on passivation but was only verbally informed, as well as that 80% of them lost their right to vote.

Two basic indicators that MUP violates the Law on Permanent and Temporary Residence are inconsistent and non-transparent data on passivation by the police, as well as the fact that at least 3,370 Albanians in the Preševo Valley were deleted from the voter list in the period from 2015 to 2022.

Despite the denial of allegations of abuse of passivation by the Ministry of State Administration and Local Self-Government from 1 December 2023¹⁴⁴, this Ministry did not provide the public with a sufficiently elaborated answer to the question of whether citizens of Albanian nationality are really deleted from the voter list after their addresses have been passivated. In addition, the police, which is essentially responsible for checking addresses and conducting the passivation procedure, did not make any statements at all on this occasion, which is particularly worrying considering the suspicions of voter migration in the elections for local,

¹⁴⁴ Ministarstvo za državnu upravu i lokalnu samoupravu, Pasivizacija nije diskriminacija, 1 December 2023: <https://mduls.gov.rs/saopstenja/pasivizacija-nije-diskriminacija/?script=lat>;

provincial, and parliamentary elections in Serbia from 17 December 2023. After the reports of local¹⁴⁵ and international election observers¹⁴⁶ who pointed to evidence and indicators of how the illegal change of residence influenced the rewriting of the electoral will, the statements about the use of passivation as discriminatory practice against Albanians gain even more importance because they show a wider range of electoral engineering and manipulation of public registers, such as the voter list.

¹⁴⁵ CRTA, Preliminarni nalazi Crte o organizovanoj migraciji birača uoči izbora u Srbiji održanih 17. decembra 2023. godine, 22 December 2023: <https://crt.rs/preliminarni-nalazi-o-organizovanoj-migraciji-biraca/>;

¹⁴⁶ INTERNATIONAL ELECTION OBSERVATION MISSION Republic of Serbia – Early Parliamentary Elections, 17 December 2023: https://www.osce.org/files/f/documents/6/8/560650_0.pdf;

CONCLUSIONS

The general conclusion of this analysis is that a small number of cases of direct violence against members of the Serb community in Kosovo have their epilogue, that is, the perpetrators are rarely brought to justice and prosecuted. This is supported by the marked discrepancy between the data on incidents held by the Kosovo Police and the real number of cases that are publicly available and verifiable. Of course, the methodology of the institutions may differ, but the complaint still remains about the lack of information even about the cases that have been processed. The available data from the media is not complete, and the relevant authorities did not respond to the inquiry about the number of cases and their status. On the other hand, structural/institutional violence is less intense, but particularly problematic because it is systemically determined and in combination with cultural violence, that is, aggressive rhetoric, provides fertile ground for the spread of direct violence. This type of violence cannot be prosecuted in the same way as direct physical attacks, and for that reason, the analysis indicated which laws/principles are violated by the presented, disputed decisions.

Although there have not been many direct attacks on members of the Albanian community in Serbia, the position and life of the members of this group is increasingly difficult due to the structural and cultural violence that is carried out through the abuse of the practice of passivating addresses as well as the normalisation of hate speech in the public sphere against Albanians. The trend of banning the screening of movies by Albanian authors, as well as stopping the citizens of Albanian nationality at the border by members of the Security Information Agency and MUP is worrying because it means derogating from freedom of expression and hindering freedom of movement.

RECOMMENDATIONS FOR KOSOVO INSTITUTIONS

In order to show a real commitment to respecting the agreements reached, as well as a serious intention to respect the rights of Serbs in Kosovo, to protect those rights and security, the recommendations that the institutions of Kosovo should implement are given below:

- To stop the use of aggressive and derogatory rhetoric by Kosovo officials towards the members of the Serb community,
- Greater involvement of the Kosovo Police in investigating cases of attacks on members of the Serb community, their property and the property of the Serbian Orthodox Church, because impunity encourages further violence,
- To stop the practice of arbitrary arrests and indefinite detention of persons in custody,
- To stop the violation of the right to the presumption of innocence by Kosovo officials, that is, declaring the persons guilty before a final verdict is passed,
- To publish the records of attacks on members of Serb and/or minority communities in general,
- To consistently apply punitive measures for unprofessional behavior of the members of the Kosovo Police.

RECOMMENDATIONS FOR SERBIAN INSTITUTIONS

The behavior of the institutions of Serbia must change so that the authorities in charge of security do not discriminate against citizens of Albanian nationality in cases of crossing the state/administrative border and during the process of passivation of addresses, and that, on the other hand, the judiciary in Serbia is focused on sanctioning hate speech against minority groups, including Albanians - and not to use the spread of hatred to derogate the freedom of expression of Albanians due to using the symbol of the Republic of Kosovo in the works of art such as movies.

- To stop the practice of unjustified detention of citizens by the Ministry of Internal Affairs and the Security Information Agency at border/administrative crossings with Kosovo,
- The Prosecutor's Office and the courts in Serbia should stop the practice of criminal prosecution of members of Albanian or other national minorities for using the symbols of another country or territory. This is particularly worrisome considering the provisions of the Ohrid Agreement that speaks of respect for the symbols of one or the other side,
- The Ministry of Internal Affairs of Serbia should publish all decisions and statistical data on the passivation of addresses of citizens of Albanian nationality from the Preševo Valley from 2011 to 2023 in order to remove all suspicions of illegal actions while respecting the Law Personal Data Protection.



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