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The UN-constitutional Constitution of the Republic of Kosovo: the Principle of the Double “Super”majority

Introduction: The path toward a modern Constitution?

The Constitution of one country is considered as the highest and most sacred legal act adopted by the people elected representatives. It entails the history and the will of the people, while it regulates all pores of the society.

Kosovo, throughout its history has been a subject of many Constitutional peculiarities and changes, first as an autonomous province within the auspice of the Federative Republic of Yugoslavia, then within the Serbian Republic, the constitutional declaration of Kaçanik,¹ the Constitutional Framework of the United Mission in Kosovo (UNMIK), and the modern Constitution of June 2008, where the fundamentals for the today's state of Kosovo are laid down.

All these multilayered processes to be examined in the paper more thoroughly, have endeavored to the persistent requirement of the majority Albanian population for self-determination and independence.

Nonetheless, the path to independence as well as to proper constitutional order has been long and violent, taking to consideration the time from the London conference after the World War I, where Kosovo was annexed from its natural Albanian state to the territory of Yugoslavia all the way to the 1999 conflict, which has ultimately ended with a 71 day of NATO led bombing on military and other strategic targets of Serbia in order to end another humanitarian catastrophe in the Balkans.

The liberation of Kosovo was succeeded with the Resolution 1244 of the United Nation Security Council (UNSC 1244), which did stipulate an installation of an international civilian UN mission that will conduct tasks such as, organization and supervision of the provisional self-government institutions as well as the transition of powers to those institutions while mediating a political process which is aimed at

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¹ Constitution of the Republic of Kosovo, adopted on 7 September 1990, in Kaçanik.

determining a final status solution for Kosovo, taking into consideration the Rambouillet accords.²

Intervening into post conflict countries, since the end of the Cold War, has been an ambitious project for the international community which has strived to fundamentally reshape the societal landscape by building new state institutions, helping on the economic development and revival, as well as the support for other pillars of the state building architecture. In Kosovo, this started with the adoption of the Constitutional Framework of the Republic of Kosovo, a quasi-constitution, which foresaw developing meaningful self-government pending a final settlement, and establishing provisional institutions of self-government in the legislative, executive and judicial fields through the participation of the people of Kosovo in free and fair elections.³

Nevertheless, the power vested in the Special Representative of the Secretary General (SRSG), serving as the Head of UNMIK, was limitless. The exercise of the responsibilities of the Provisional Institutions of Self-Government under the Constitutional Framework shall not affect or diminish the authority of the SRSG to ensure full implementation of UNSCR 1244(1999), including overseeing the Provisional Institutions of Self-Government, its officials and its agencies, and taking appropriate measures whenever their actions are inconsistent with UNSCR 1244(1999) or this Constitutional Framework.⁴

While the UNSCR 1244 and the Rambouillet Agreement did reaffirm the territorial integrity of the Yugoslav Federation over Kosovo, the Constitutional Framework made no explicit reference to it nowhere in the text. However, the ambiguity did stand in the mere fact that the Framework did not also explicitly prevent or allow the Declaration of Independence – being that the ultimate powers of decision making lied in the hands of the SRSG, who had the power to annul any decision taken by the Parliament of Kosovo, moreover to even dissolve the Assembly single handedly.⁵

This inconsistency in the power sharing roles, brought the country to the wide spread violence of March 2004, where 19 civilians were killed and hundreds were wounded. The violence erupted in the split city of Mitrovica, soon to spread all around Kosovo, aimed against the Serbian minority, as well as isolated cases of Roma minority inhabitants.⁶ The riots were triggered after reports were broadcasted of the drowning of three Albanian children in the river Iber in northern part of Mitrovica who were allegedly chased by local Serbs with dogs.

This marked the first failure of the international community, i.e. UNMIK to protect the human rights and the rights of the minorities, something that was envisaged in all the documents pertaining to their mandate and operations. In the aftermath of the riots, to better illustrate the impatience of the Albanian majority population with the status-quo imposed by UNMIK, was a statement from Democratic Party of Kosovo (PDK) Member

² UNSC Resolution 1244. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf?OpenElement> (2017. 03. 14.)

³ Constitutional Framework for Provisional Self-government in Kosovo – signed on March 15, 2001. http://www.assembly-kosova.org/common/docs/FrameworkPocket_ENG_Dec2002.pdf (2017. 03. 14.)

⁴ Constitutional Framework for Provisional Self-government in Kosovo. Chapter 12: Authority of the SRSG.

⁵ Constitutional Framework for Provisional Self-government in Kosovo. Chapter 8: Powers and Responsibilities reserved to the SRSG.

⁶ Failure to Protect: Anti-Minority Violence in Kosovo. *Human Rights Watch* Vol. 16., 6 (2004)

of Parliament, Arsim Bajrami: "The barbaric act of the killing of the children has provoked a legitimate revolt by the Albanian population. This should be a lesson for the international community."⁷

So, soon after the violence, and returning to normal, the UN unable to maintain the status quo, hailed at a start of negotiations for the resolution of the final status of Kosovo, which years after struggling to find common ground between Kosovar and Serbian representatives, but always bearing in mind the Resolution 1244 in place and the obstructions from China and Russia in the Security Council, did finalize with the Marti Ahtisaari's Comprehensive Status Proposal for Kosovo,⁸ where an enhanced provision for the protection of the Serbian minority was induced, in exchange for a recognition of the "supervised independence of Kosovo" by the UNSC.

In a statement, issued on the same day of 2nd of February, 2007, the White House praised the report: "The United States thanks UN Special Envoy Martti Ahtisaari for his efforts to produce a Comprehensive Proposal for a Kosovo Status Settlement. This Settlement Proposal, the product of over a year of negotiations, is fair and balanced. It is a blueprint for a stable, prosperous and multi-ethnic Kosovo. The Settlement Proposal's broad provisions to protect the rights of all citizens will help advance Kosovo's democratic development."⁹

I will discuss in the subsequent chapters, briefly the transfer of responsibilities from the UN to the EU, the process of sponsored Constitution of Kosovo, which will have a central emphasis, especially discussing the provisions that were not subject of negotiation during the drafting of the Constitution, conditions that had to be entailed in order to have a wide spread support of the Declaration of Independence. However, the questions to be answered in the paper are, did these conditions of over protecting the Serbian minority created caveats for future problems in the legislative inoperability. How do other Balkan states treat minority groups in their constitutions, being EU or non-EU members? And ultimately, what the super-double-majority principle means for Kosovo's parliament now and in the future?

Historic development of constitutional changes across the years

The republic of Kosovo throughout the years has been a subject of a range of legislative and constitutional changes as it was envisaged by the oppressing regimes, such as the Turks and Yugoslavs respectfully the Serbs.

Since the World War II, the constitutional position of Kosovo has gone through 5 stages: period from 1946-1953; period from 1953-1963; period from 1963-1968; period from 1968-1971 and the latest period from 1971-1974.¹⁰ After the wide autonomy granted with the Constitution of 1974 under the Josip Broz Tito ruling of Yugoslavia, Kosovo has been the right to govern itself just as the six Republics of the Federation. However, the death of Tito and the fall of Communism in Yugoslavia did debunk the radical nationalistic forces in Serbia. It was only then when Slobodan Milosevic as the president of Yugoslavia, did impose the constitutional amendments of 1989, which stripped Kosovo off any executive powers, and put the province under military and police control of Serbia.

⁷ OSCE Report: *The Role of the Media*. OSCE, 2004. 12-13.

⁸ The Comprehensive Status Proposal of President Ahtisaari presented to the Kosovo leaders on February 2, and to the UN General Secretary on March 26. <http://www.kuvendikosoves.org/common/docs/Comprehensive%20Proposal%20.pdf> (2017. 03. 14.)

⁹ Press Statement: Sean McCormack – Spokesman Washington, DC: February 2, 2007.

¹⁰ BAJRAMI, Arsim: *Constitutional Law*. University of Pristina, Pristina, 1998. 21.

In 1987, the Yugoslav president Ivan Stambolic was asked to travel to Kosovo and talk to the Serbian and Montenegrin nationalists who were planning a large scale protest to be sent to Belgrade in order to demand more rights for them in Kosovo. Stambolic reluctant to enter a hostile bear-pit (he had already made several speeches criticizing Serbian nationalism), sent his deputy, Slobodan Milosevic instead.¹¹

In the rally organized, there was a clash between the Serbian nationalists gathered in front of the House of Culture in Fushe Kosove (Kosovo Polje) and the Police, provoked and carefully organized by the former. Milosevic rushing out of the meeting, spoke the words on the camera that will define his entire subsequent political career: “*No one should dare to beat you*”.¹² This transformed him from a little known Communist party apparatchik into a demagogic and vicious political leader.

Anticipating the rising of the nationalist sentiment in Serbia, and the takeover of the Communist party by Milosevic, would mean also annulment of the privileges that the Kosovo province at that time did enjoy with the Constitution of 1974. This put the miners of the biggest coal mine in Kosovo, Treпча, into a hunger strike, on February 1989, demanding for Kosovo to be left within the margins of its independence as prescribed in the 1974 Constitution.

However, the delegates of the 23 March 1989, Provincial Assembly, did vote for the constitutional changes, and placed Kosovo as a province within the Republic of Serbia, unlike the 1974 constitution that foresaw Kosovo as an autonomous territory within the Yugoslav Federation.

Constitution of 1974

The Constitution of 1974 was structured as usual into two parts: the preamble and the normative part. The preamble of that constitution looks like the preamble of the countries of the communist block and it therefore conveys the communist spirit, referring to workers and villagers, socialist and social relations, relations based on self-governance and national equalities, furthermore, the Constitution of the Province further strengthened the constitutional system, on the unique socialist self-governance basis, because these were some of the objectives for the adoption of this Constitution.¹³

The Constitution of the Socialist Autonomous Province of Kosovo of 1974 consisted of fundamental principles, general provisions, state regulation, and bodies of the Socialist Autonomous Province of Kosovo. The fourth part comprised of the amendment to the Constitution of the Socialist Autonomous Province of Kosovo and the fifth, respectively the fifth part consisted of the transitional provisions, which were concluded by Article 402.

The Constitution of 1974 was representing the independence of Kosovo on a highest ever scale, within its hybrid position, because except the fact that Kosovo was a part of Yugoslavia, was also within a federal unit, but not a constituent part of it,¹⁴ which meant that according to the document Kosovo was not an integral part of Serbia and under the sovereignty of the latter, being the mere reason of Serbia’s opposition of these changes.

¹¹ MALCOLM, Noel: *Kosovo: A short history*. Macmillan, London, 1998. 341.

¹² Id. 341.

¹³ KRYEZIU, Kadri: General comparative overview of constitutional acts of the Republic of Kosovo over the years. *Academic Journal of Business, Administration, Law and Social Sciences* Vol. 2., 1 (2016)

¹⁴ The Constitution of the Autonomous Province of Kosovo 1974. *Official Gazette number 4 of the Autonomous Province of Kosovo*. 27 February 1974.

The provisions of this constitution did allow Kosovo a wide range of sovereign and self-determining prerogatives, such as conducting its own bilateral agreements with other Republics or even states outside of the Federation, had a robust mechanism of protection of the human rights and freedoms, taking all the attributes for a democratic and modern Constitution. However, the Constitution did not recognize the Albanian population that consisted 90% of the territory as an equal constitutive nation of the Yugoslav Federation, nor the status of Kosovo as a republic, which led to expression of dissatisfaction by the native Albanian population especially the students.

Constitutional amendments of 1989

The rise in power of Milosevic, and the nationalist sentiment in Serbia, triggered by a carefully planned course of events taking place in Kosovo, orchestrated by the nationalist leaders of both Belgrade and the province, helped Milosevic to raise into power, taking control the Communist League of Yugoslavia and subsequently taking over the Presidency from Ivan Stambolic.

Milosevic did start consolidating his powers in Serbia and Montenegro, the latter seen as a Serbia's natural ally and satellite, everywhere proclaiming his policy in the defense of the Serbs sacred rights in Kosovo. At that moment, everyone knew that Kosovo is next on his hit list.

By the autumn of 1988 he removed two leading Albanians in the provincial Party machinery, Azem Vllasi and Kaqusha Jashari in order to replace them with more compliant figures who would cooperate in dismantling of Kosovo's autonomy.¹⁵ His protégé in Kosovo was the highly infamous police chief, Rrahman Morina installed as the new party president.

On March 23, 1989, the provincial assembly, a body that was established under the 1974 Constitution, met under siege of armored cars and tanks, where the changes of the Constitution were voted, restricting severely Kosovo's powers, and enabling Serbia to take over the control of the Police, Courts and Civil Defense, matters of social and educational policy, power to issue administrative instructions as well as ultimately use of the language. The Constitution adopted in Belgrade in 1990 placed Kosovo under its supremacy, taking away every form of autonomous regulation, and at the same time, reaffirming the old denomination for Kosovo used only by the nationalist Serbian forces, Kosovo and Metohija.¹⁶

The Constitution of Kaçanik 1990

The protests and the vigorous objection of the Constitutional amendments of 1989 led by the students and the miners in Kosovo, came to an epilogue of hundreds deaths and thousand arrests, as the situation was becoming more and more tense.

In order to respond to the oppression, 114 out of 123 Kosovo delegates in the Kosovo Provincial Assembly, gathered on 2 July 1990 in front of the locked – up assembly building and passed a resolution, albeit with no legal binding force, but with a strong political signal that Kosovo is “*an equal and independent entity within the framework of the Yugoslav federation*”.¹⁷

¹⁵ MALCOLM, 1998. 343.

¹⁶ The Constitution of Serbia, adopted in 1990. http://digitalna.nb.rs/wb/NBS/Tematske_kolekcije/Srpski_ustavi/RA-ustav-1990?search_query=ustav%201990#page/26/mode/1up (2017. 03. 14.)

¹⁷ The Constitutional Declaration of 1990. Document accessed from the Archives of Kosovo.

Subsequently in September 1990, the delegates met in Kaçanik, where they proclaimed the Constitution for a Republic of Kosovo, representing one of the most important milestones in the history of Kosovo, its institutional organization and a step towards the independence of Kosovo.

The changes in the constitutional order of Kosovo has brought the province to a fully scaled war against the Serbian regime. The changes made to the 1974 autonomy, albeit vesting some powers into the province legally, politically were not viable and thus unacceptable for the Albanian majority population which was considered as a minority by the Milosevic regime. The power of decision making lied in the hands of the Serbian elected representatives and those Albanians loyal to the regime, with a disregard for basic human rights, rights for employment, education and social welfare. All that subsequently changed in 1999, when the UN installed its administration, adopted the Constitutional Framework, and paved the way to the Declaration of Independence of 2008, when the Constitution of the Republic of Kosovo was adopted. However, the NATO intervention ended the Serbian repression in Kosovo but never did heal the gap over the final status.

The Ahtisaari Constitution – the not well thought provision of minority protection
The discussions about the legal regulative architecture in Kosovo have been echoed since the installation of the UNMIK in its territory.

Inside the international circles the possibility for a new constitution of Kosovo started in year 2000, only one year after UNMIK assumed control over the territory.¹⁸

However, having a proper constitution in place in such a short period after the resolution 1244 enter into power, was an unrealistic prospect, mainly facing a vigorous objection by Russia in the UNSC, something which also the Quint states (contact group minus Russia) have expressed concern over.

In light of establishing a proper power transitional mechanism, acceptable to all sides, UN came up with the Constitutional Framework which will allow the establishment of the institutions of self-governance in Kosovo and transfer of powers into them however making no reference to the final status of Kosovo.

At that time, the main driving force for the processes ahead, taking into the consideration the violent ethnic conflicts in the territory of former Yugoslavia, was the protection of minorities, especially the Serbian minority in Kosovo, seen by the international community as the most vulnerable ethnic group. Thus, a large set of mechanisms were put in place for their protection. However, the international community was overwhelmed by the challenges posed by a combination of post-conflict reconstruction and post-Communist transition. The outbreak of violence in March 2004, rather than the substantial headway made in preparing the province for self-rule, precipitated steps towards finalizing the status of Kosovo. As the Albanian majority turned on the minorities, 19 people were killed and thousands displaced, while private property and cultural heritage sites, including a number of Orthodox churches and shrines, were destroyed.¹⁹

This led to the start of negotiations about the final status, chaired by the President Marti Ahtisaari, in Vienna in 2006. The Albanians entered the process insisting on independence, the Serbs on unspecified substantial autonomy for Kosovo. Due to such

¹⁸ WELLER, Mark: *Contested statehood: Kosovo's struggle for independence May 2009*. Oxford Scholarship Online.

¹⁹ KOSTOVICOVA, Denisa: Legitimacy and international administration: the Ahtisaari settlement for Kosovo from a human security perspective. *International Peacekeeping* Vol. 15., 5 (2008) 631-647.

diametrically opposed views the talks focused on non-status issues: decentralization, cultural heritage, community rights and economic matters,²⁰ nonetheless, backed up by the US and the majority of the EU member states, Kosovo did declare its independence on February 2008. However a range of processes, including the drafting of a new Constitution had to be taken into account for the days ahead of the Declaration of Independence, as many of these provisions were stipulated in the Ahtisaari plan who gave Kosovo supervised independence.

The very first word in the Ahtisaari plan, was Kosovo shall be a multi-ethnic society,²¹ followed by “The exercise of public authority in Kosovo shall be based upon the equality of all citizens and respect for the highest level of internationally recognized human rights and fundamental freedoms, as well as the promotion and protection of the rights and contributions of all its Communities and their members.

Article 1, paragraph 1.3 further states that Kosovo shall adopt a Constitution. The Constitution of Kosovo shall prescribe and guarantee the legal and institutional mechanisms necessary to ensure that Kosovo is governed by the highest democratic standards, and to promote the peaceful and prosperous existence of all its inhabitants. The Constitution shall include, but not be limited to, the principles and provisions contained in Annex I of this Settlement.²²

It was clear for Kosovo that the protection of minorities (or as all the legal documents refer by the term of communities) will be of an imperative importance for the international actors when deciding whether they should allow and/or recognize the declaration of independence.

This meant that the political class in Kosovo need to allow lot more leverages for the particularly protection of the Serbian minority, so that the appetites of the international community would be fulfilled and in addition it will give them an additional argument vis-à-vis Serbia, Russia and China in order to obtain endorsement of the UNSC for the Ahtisaari plan.

Nonetheless, the plan was never endorsed by the UNSC facing veto from China and Russia, but Kosovo backed up by the Western powers, especially the United States, did declare independence on February 17, 2008.

The drafting of the Constitution as it was envisaged in the Ahtisaari plan, was to be done in 120 days from the day the Plan was presented and adopted. This required a robust international role in advising as well as pressuring the Government elected working group members from the Albanian majority, to concur to the requests for adoption of special provisions that will incentivize the Serbian minority to participate in the institutional life in Kosovo, and so acknowledge the new reality on the ground that Kosovo is now an independent country fully detached from Serbia.

There were attempts to consult widely the population of Kosovo, there is an overwhelming feeling about the lacking of local ownership over the process. Bottom line, the process of drafting the constitution was conducted by a group of only 21

²⁰ Id.

²¹ The Comprehensive Status Proposal of President Ahtisaari presented to the Kosovo leaders on February 2, and to the UN General Secretary on March 26. <http://www.kuvendikosoves.org/common/docs/Comprehensive%20Proposal%20.pdf> (2017. 03. 14.)

²² Id.

representatives supported by a team of advisors from the international enforcing agencies in Kosovo and the robust management of the American mission in Kosovo.²³

The drafting and the adoption of the 2008 Constitution

Kosovo is observed by many as an international project, led by the United States, and taken over in time by the European Union. It's clear European perspective was echoed since the consolidation of the institutions of self-government, established by the UNMIK, and in 2008, this culminated with the Ahtisaari plan, that gave Kosovo independence, albeit supervised one.

The plan provided broad guarantees for the protection of the Serbian minority in a sovereign Kosovo, including a deep decentralization process that favored the Serbian minority.²⁴

Expecting endorsement by the Security Council, which did not happen, the Ahtisaari plan determined the norms and prerogatives for the Kosovo statehood, even though supervised for a limited period of time. Annex I of the plan was also imposing the Kosovar legislation the obligations deriving from the key instruments of the human rights that shall be directly applied in Kosovo.

The Plan stipulated that the Constitution shall provide that the rights and freedoms set forth in the following international instruments and agreements shall be directly applicable in Kosovo and have priority over all other law; no amendments to the Constitution shall diminish these rights: Universal Declaration of Human Rights European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols; International Covenant on Civil and Political Rights and its Protocols; Council of Europe Framework Convention for the Protection of National Minorities Convention on the Elimination of All Forms of Racial Discrimination; Convention on the Elimination of all Forms of Discrimination Against Women; Convention on the Rights of the Child; Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment.²⁵

Further to the Plan, as specified the President of Kosovo appointed a multi-ethnic Constitutional Commission, responsible for composing and proposing a draft of the Kosovar Constitution.²⁶

The process of drafting of the Constitution was conducted in secrecy, sponsored and led by the American mission in Kosovo. And the bargain unveiled later in the public discussions was clear – Kosovar leaders had to adopt unequivocally all the provisions of the Ahtisaari plan into the text of the Constitution, including those of the protection of minorities, while, a specific article in the Constitution did stipulate that in case of any inconsistencies in interpretation between the Kosovo legal documents including the Constitution and the Ahtisaari plan, the latter will have supremacy over them.

In this sense, the principle of, we will call it, the super-double majority, was introduced where the Constitution of Kosovo sets forth that the Constitution's amendment "*shall require for its adoption the approval of two-thirds (2/3) of all deputies of the Assembly, including two-*

²³ WELLER, 2009.

²⁴ KOSTOVICOVA, 2008. 631., 647.

²⁵ The Comprehensive Status Proposal of President Ahtisaari. Article 2. par. 2.1.

²⁶ Decree of the President of Kosovo on the appointment of the Kosovar Constitutional Commission. 19 February 2008.

*thirds (2/3) of all deputies of the Assembly holding reserved or guaranteed seats for representatives of communities that are not in the majority in the Republic of Kosovo.”*²⁷ This meant that no amendment of the Constitution shall be possible without the vote of the Serbian representatives in the Assembly.

Therefore, the ethnic communities’ position in the constitutional amendment process is equal with that of the majority. Given this equality, the ethnic minorities’ members in the Assembly can veto a constitutional amendment, thereby totally blocking it. This provision of the Constitution has ensured that the constitutional guarantees for ethnic minorities cannot be altered unless the ethnic minorities themselves agree to it,²⁸ however in practice has been proved to be a blocking and destructive mechanism rather than altering and conciliating one.

Further, The Constitution makes a distinction between usual laws and vital interest laws. In that context, the Constitution determines that a law of vital interest requires a double majority in the Assembly for adoption. Laws of vital interest can be adopted, amended, or abrogated only if the majority of the Assembly, and majority of those holding guaranteed seats (i.e., reserved seats) in the Assembly, vote in favour of it. This double-majority for laws of vital interest, as opposed to a common majority, makes the participation of ethnic minorities crucial in the adoption process of vital laws. If the vital interest law fails to garner a double-majority, this essentially constitutes an ethnic minority veto of any law that might constrain their interests.²⁹

International and Kosovo’s legal framework for minority’s protection

European Union, has a long withstanding tradition of promoting unity in diversity, thus emphasizing the principles of treatment with dignity, non-discrimination and other rights that the EU safeguards.

With the enter into power of the Lisbon Treaty, the term “minority” for the first time is included, with a specific reference as it reads, “*The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail*”.³⁰

However, researchers do imply the lack of scrutiny and challenges of robust monitoring of these rights.

Taking an example of the Hungarian minority living in Slovakia, the Commission in its 1997 report about Slovakia, before it approached the EU, concluded about ongoing tensions between Hungarian minorities and the Slovakian government and the constitutional and legal framework lacked in that, while “*It is true that other texts govern those of minority languages in specific fields (public life, courts, radio and television, public schools and road signs) but these do not cover all situations and there is still no overall [comprehensive text]*”. These legal omissions have resulted in a political vacuum where discriminating policy such as cutting

²⁷ Kosovo Constitution 2008. Article 144. par. 2.

²⁸ DREN, Doli – FISNIK, Korenica: Calling Kosovo’s Constitution: A Legal review. *The Denning Law Journal* Vol 22., (2010) 51-85.

²⁹ Id.

³⁰ European Union Treaty of Lisbon. Article 2. <http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-european-union-and-comments/title-1-common-provisions/2-article-2.html> (2017. 03. 14.)

back on subsidies and funding for Hungarian cultural associations and the discontinuation of reports and records in bilingual (Hungarian/Slovakian) schools. Accession cannot take place until the treatment and lack of protection of Hungarian minorities in Slovakia is improved.³¹

Thus, the acceptance of 'group-specific' cultural and linguistic rights, power-sharing arrangements, and socio-economic rights is seen as central to the accommodation between minorities and majorities in democratic states, but such policies are often highly contested and controversial.³²

So, herewith taking into consideration this simple example, a clear conclusion can be reached that the EU does impose to an extent the respect for minorities in the acceding countries, however, this is confined to the fundamental rights and freedoms, such as language and culture.

When it comes to the prospect of Kosovo adhering to the European Union has strong reflect also on the legislative agenda of the country. Starting with its constitution, and the myriad laws, it has ensured the best possible mechanisms for protection of the minority rights in Kosovo.

With the dissolution of Yugoslavia and the newly formed independent states in the Balkan Peninsula the previously settled ethnic communities (nationalities) rise up not as 'new' minority groups but as autochthonous minority groups distinct from each other by language, religion and culture. The obligations to respect the signed declarations, conventions and treaties as a consequence of their membership in international governmental organizations (IGOs) such as the UN and Council of Europe, forced these countries to introduce legal measures for human rights protection and in specific to form corpus of minority rights' protection.³³

As Weller puts it, Kosovo has been proactive in the issue of protection of communities. The substance offered with the legal instruments for the rights of the minorities is broad and has overarching protection against discrimination in full compliance with the EU advanced judicial standards in this issue.³⁴

According to Article 58.2 of the Constitution, Kosovo is obliged to respect the standards in the European Charter for Regional or Minority Languages (hereinafter 'the European Charter'), which sets forth that states should adopt policies that ensure "*the provision of appropriate forms and means for the teaching and study of regional or minority languages at all appropriate stages*".

Furthermore, the Council of Europe's Framework Convention for the Protection of National Minorities (FCNM) is one of the most important international legally-binding instruments designed to protect the rights of people belonging to national minorities.³⁵ The rights and freedoms as set out in the FCNM are directly applicable to Kosovo, according to its Constitution.

³¹ Agenda 2000 – Commission Opinion on Slovakia's Application for Membership of the European Union.

³² HOROWITZ, Donald: *Ethnic Groups in Conflict*. Berkeley, LA: University of California Press, 1985. 563-652.

³³ ANDEVA, Marina: *Trends of minority rights' protection in the countries of the Adriatic area and the Republic of Macedonia: comparative analysis and perspectives*. EU Policy briefs N. 1. 2012.

³⁴ WELLER, 2009. 413.

³⁵ SOOS, Edit. *New modes of governance*. In: Robert Wiszniowski – Kamil Glinka(ed.): *New Public Governance in the Visegrád Group (V4)*. Torun, 2015. 298.

Although Kosovo is not a signatory to the Convention, it is subject to a specific monitoring arrangement in conformity with a 2004 Agreement between UNMIK and the Council of Europe. Currently, reporting to the Council of Europe is carried out by UNMIK, through OSCE Kosovo. The monitoring arrangement takes place every five years and involves three main phases. First, UNMIK prepares a report on Kosovo’s compliance with the FCNM to the Council of Europe; second, an independent commission (the Advisory Commission) provides an expert opinion on the report issued by UNMIK, which is also given a chance to comment on this opinion. Finally, a resolution is adopted containing conclusions and recommendations to Kosovo concerning the implementation of the Framework Convention.³⁶

The institutions such as the Consultative Committee on Communities (CCC) under the Office of the President of Kosovo, whose mandate is defined by Article 60 of the Constitution of Kosovo and the Law on the Protection and Promotion of the Rights of Communities and their Members in Kosovo, then after the Office for Community Affairs within the Office of the Prime Minister, Office of the Language Commissioner, the Ministry on Communities and Returns as well as the permanent Assembly Committee on Rights and Interests of Communities and Returns, are numerous safeguard mechanisms in the central level governance towards the implementation of the provisions of protecting the minorities as prescribed in the relevant legal documents all aligned with the EU legislation.

On the other Laws, such as the one on Local Self Government foresees the provision of enhanced participatory rights in the selection of the local police station commanders and enhanced competencies in the area of culture to municipalities with Serb-majority population. In reference to health and education, it outlines the provision of enhanced competencies regarding university education in the municipality of Mitrovica North, as well as in secondary health care in the municipalities of Mitrovica North, Gračanica, Štrpce. Significantly, it also expressly allows municipalities to cooperate directly with institutions of the Republic of Serbia.

All this leverages given to the minorities in Kosovo, after the 1999, have been brokered by the EU and other relevant institutions, with the silent but robust engagement of the Kosovo political spectrum, in order to gain the participation of the Serbs in the political system of Kosovo, reflecting the multiethnic composition of the state, with that maintain an acceptance policy from Belgrade and receive sympathy of the international community. However, as the conclusion will show, many of these have proven to be more of a blocking mechanism by the Serb political leadership in Kosovo directed by Belgrade, rather than a meaningful participatory system for the wellbeing of all communities residing in the country.

– International legal framework³⁷

Universal Declaration of Human Rights (Art. 2); International Covenant on Civil and Political Rights (Art. 27); Council of Europe’s Framework Convention for the Protection of National Minorities; OSCE Copenhagen Document; OSCE Lund Recommendations; OSCE Oslo Recommendations

³⁶ ECMI Kosovo – The legal framework analysis. <http://www.ecmikosovo.org/en/Kosovo's-Legal-Framework> (2017. 03. 14.)

³⁷ SOÓS, Edit – PAP, Tibor: Regional and minority policy responses to the challenges of the EU accession. *Deturope* Vol. 7, 1 (2015) 30.

- European Union Framework
Charter of Fundamental Rights of the European Union; Art. 2 – Treaty of Lisbon (European Union)
- Kosovo Framework
Constitution of Kosovo; Law on the Protection and Promotion of the Rights of Communities and their Members in Kosovo; Law on Anti-Discrimination; Law on Local Self Government.
Law on the Use of Languages

Comparing the countries

The fear deriving from the ethnic conflicts in ex-Yugoslavia, which brought to the birth of 7 independent states, has made the international community aware of the new order in the Balkan Peninsula. The new states had a long and withstanding cohabitation with different ethnicities, and after the peace accords – many of them continued residing in their respective states. As we will see below, there is a large number of Serbian minority living in Croatia, as well as a large Albanian minority living in Macedonia and Montenegro. In order to avoid any other potential conflict, the international community pledged their commitment to recognize the independence of the newly formed states, but in exchange to have a robust mechanism for the protection of the minorities living in them.

In this sense, all of them did embrace and reflected to its legislative agenda the basic values of freedom, peace, tolerance, respect for human rights and liberties, multiculturalism, democracy and rule of law, however in different scale. (See table II at the bottom of the document for reference)

Minorities in Croatia

Croatia was the first of the Republics alongside Slovenia to secede from the Yugoslav federation, in 1991. The foreign ministers of the European Community, who were urged by the United Nations to tidy their own neighborhood, did endeavor into series of negotiating series. With regard to resolving the conflict, the Carrington-Cutileiro Plan, submitted in February 1992 as a result of the peace conference held since September 1991 under the auspices of the EU, aimed to prevent war breaking out in Bosnia. The European proposal took into account the desire for independence already expressed by Slovenia and Croatia, and, subsequently, by Macedonia (15 September 1991) and Bosnia and Herzegovina (15 October 1991), abandoned the continued existence of a Yugoslav Federation but made recognition of the Republics conditional upon a general agreement on minority rights, guaranteed by a Court of Justice, upon the special status of certain regions and upon a common customs policy.³⁸

Since the Serbian leadership did refuse the plan, the international recognition of Croatia and Slovenia was postponed until December 1991, in the run up of the Maastricht Treaty signing by the European Community, the Twelve decided to recognise every Republic that wanted to be recognized as such, on condition that it respected human rights, minority rights and the right to arbitration. Proceeding in this manner, however, had the drawback

³⁸ GERBET, Pierre: The vain attempts of the European Community to mediate in Yugoslavia. CVCE.EU. 2016. http://www.cvce.eu/content/publication/2003/5/15/cf4477b6-87a5-4efb-982d-fb694beac969/publishable_en.pdf (2017. 03. 14.)

of eliminating the previous global agreement between the parties that had been the subject of the peace conference. On 23 December 1991, Germany unilaterally recognized Slovenia and Croatia. It was followed, on 15 January 1992, by its partner countries after the conference’s Arbitration Commission had decided that these two Republics satisfied the requisite conditions.³⁹

Since then, the Croatian government has extended the human rights legislation and the rights of the minorities living in Croatia, by granting equal rights, language and culture rights as well as the two thirds majority vote in the Croatian parliament for adopting laws regulating the rights of national minorities.⁴⁰

In addition according to the Constitutional Law on Human Rights and Liberties and Rights of Ethnic or National Communities or Minorities in the Republic of Croatia special rights guaranteed to the minority groups in Croatia (enjoyable on individual or a collective basis) are established by Art. 7, in particular in terms of: 1) linguistic rights; 2) education; 3) use of symbols and insignia; 4) culture; 5) practice of religion; 6) media; 7) self-organization and association; 8) representation; 9) participation in public life and local self-government; 10) protection of their existence and exercise of their rights and freedoms.⁴¹

Ultimately, the minorities have reserved seats in the Croatian parliament according to the abovementioned Law. Article 15 of the Law foresees that “*the members of national minorities in the Republic of Croatia shall have the right to elect eight representatives to the Parliament, who shall be elected in a special constituency being the territory of the Republic of Croatia*”. According to the subsequent Article 16, members of the Serbian national minority shall elect three representatives to Parliament consistent to the Constitutional Act on the Rights of National Minorities, while the other seats will be equally divided among other recognized ethnic groups.

Even with this provision at hand, none of the ethnic groups, represented in the Parliament, has the veto power over the legislative agenda of the Croatian Parliament, as the conclusion shows us is the case with Kosovo.

Even though there is a sheer part of legislative structure in protection of minorities, the Amnesty International report from 2016/2017 did conclude that “*UNHCR recorded that about 133,000, over half, of the ethnic Serbs who fled the country during the war had returned by the end of 2016, but it expressed concern about persisting obstacles for Serbs to regain their property. The number of ethnic minorities employed in public services was below the national targets. Serbs faced significant barriers to employment in both the public and private labor market. The right to use minority languages and script continued to be politicized and unimplemented in some towns*”.

Minorities in Montenegro

Montenegro is a rather diverse country with a small number of inhabitants. It is the smallest of the Republics, and the last one to secede from the Yugoslav Federation, i.e. the Serbia-Montenegro Union formed as a successor of SFRJ.

In the Constitution of Montenegro (Art. 79) are guaranteed the following ‘special minority rights’: 1) the right to exercise, protect, develop and publicly express national, ethnic, cultural and religious particularities; 2) the right to choose, use and publicly post national symbols and to celebrate national holidays; 3) the right to use their own language

³⁹ Id.

⁴⁰ Ustav Republike Hrvatske. Clan 83. <http://www.zakon.hr/z/94/Ustav-Republike-Hrvatske> (2017. 03. 14.)

⁴¹ ANDEVA, 2012.

and alphabet in private, public and official use; 4) the right to education in their own language and alphabet in public institutions and the right to have included in the curricula the history and culture of the persons belonging to minority nations and other minority national communities; 5) the right, in the areas with significant share in the total population, to have the local self-government authorities, state and court authorities carry out the proceedings also in the language of minority nations and other minority national communities; 6) the right to establish educational, cultural and religious associations, with the state financial support; 7) the right to write and use their own name and surname in their own language and alphabet in the official documents; 8) the right, in the areas with significant share in total population, to have traditional local terms, names of streets and settlements, as well as topographic signs written also in the language of minority nations and other minority national communities; 9) the right to authentic representation in the Parliament of the Republic of Montenegro and in the assemblies of the local self-government units in which they represent a significant share in the population, according to the principle of affirmative action; 10) the right to proportional representation in public services, state authorities and local self-government bodies; 11) the right to information in their own language; 12) the right to establish and maintain contacts with the citizens and associations outside of Montenegro, with whom they have common national and ethnic background, cultural and historic heritage, as well as religious beliefs; 13) the right to establish councils for the protection and improvement of special rights.

Montenegro doesn't hold reserved seats for their minorities in the Parliament, while their rights are limited extensively to the preservation of language, culture, tradition and within the local self-government units where they constitute the majority of the population, ex. the Albanian minority living in Ulcin.

Minorities in Macedonia

An interethnic short conflict between the Albanian minority and the Macedonian armed and police forces sparked in spring 2001, with the former demanding more rights as being the largest minority group in Macedonia, with 509.083 out of 2.022.547⁴² of total population according to the 2002 census.

The 2001 conflict ended with the Ohrid Framework Agreement (OFA signed September 2001) where important guarantees have been provided for ethnic Albanians, particularly as regards language use and participation in public life, including public-sector employment.

The Albanian-language University of Tetovo established in 1994, however suppressed by a brutal police and military force where several Albanians were killed during the clashes, has been recognized by Macedonian authorities with the OFA.

However, ethnic Albanians remain overrepresented amongst the unemployed, still underrepresented in state employment, and those who live in areas where they do not constitute 20 per cent of the population face problems with language use in public administration and access to education in their mother tongue. Ethnic Albanians are often victims of hidden discrimination, including by public officials. As all groups in Macedonia,

⁴² State Statistical Office of Republic of Macedonia. Results. http://www.stat.gov.mk/pdf/kniga_13.pdf (2017. 03. 14.)

they face problems because the education system is segregated and heavily influenced by political parties.⁴³

However, with the Constitutional and legislative amendments after the entry into force of the OFA, the Albanian minority enjoys highly protected linguistic rights, guaranteed by the Macedonian Constitution and regulated by special laws, in first place, by the Law on the use of a language spoken by at least 20% of the population and in the units of local self-government. This law ascertains the use of the language (spoken by at least 20% of the citizens in the country) in the Parliament, in the communication with ministries, judicial and administrative proceedings, enforcement of sanctions, communication with the ombudsman, in electoral processes, issuance of personal documents, in keeping personal files records, police force, infrastructure facilities, local self-government, finances, economy, education and science, culture and other areas according to this law (Art.2,par.2)

The Macedonian Constitution does not foresee reserved seats for the minority groups however what Croatia and Macedonia have in common is the proportional representation. Whereas Macedonia has a double majority voting for laws regulating the rights of the minorities, the Croatian and the Montenegrin Constitution establish a two-third majority voting.⁴⁴

The double majority voting (the Badinter principle) basically gives the Albanian minority a veto over the laws concerning their community. Taking into consideration the mere fact that insofar every Government in Macedonia has been into coalition with one of the dominant Albanian political parties represented in the Parliament, the "veto" powers were not used as the laws were discussed beforehand by the coalition partners. Moreover, this provision does not apply to the amendments of the Constitution. (See table I Annex).

Conclusion

The EU Strategy for a 'Multiethnic Kosovo' The 'Ahtisaari Plan' of March 2007, which was fully supported by UN Secretary-General Ban Ki-moon, proposed that Kosovo be led towards 'independence, supervised by the international community', but on the condition that a constitutional framework guaranteed that the new state would be a 'multiethnic' one, with protections and privileges for the Serb and other minority communities.⁴⁵

The power sharing mechanism in the post ethno conflicts has been often useful tool towards reconciliation. Lijphart argues that proportional presence of ethnic groups in political institutions and ethnic power-sharing are necessary to secure peace and democratic stability in deeply divided societies.⁴⁶

Contrary to Lijphart, Roeder and Rothschild, referring directly to Kosovo, but also other civil war affected countries, have concluded that the power sharing attempt to be established for four and a half years has brought to the collapse of Kosovo.⁴⁷

⁴³ Minority Rights Group International. World Directory of Minorities and Indigenous Peoples. <http://minorityrights.org/country/macedonia/> (2017. 03. 14.)

⁴⁴ ANDEVA, 2012.

⁴⁵ HUGHES, James: *EU conflict management policy: comparing the security-development model in the 'sui generis' cases of Northern Ireland and Kosovo*. Originally presented at: European Consortium for Political Research general conference, Potsdam, Germany, 10-12 September 2009.

⁴⁶ LIJPHART, Arendt: Constitutional Design for Divided Societies. *Journal of Democracy* Vol. 15., 2 (2014) 96-109.

⁴⁷ ROEDER, Philip G. – ROTHCHIL, Donald S.: *Sustainable Peace: Power and Democracy After Civil Wars*. Cornell University Press, Ithaca-London, 2005.

Nine years after the declaration of the independence, and the adoption of the Constitution of Kosovo, the country struggles with building its institutions and internal divisions.

The power vested in the minorities with the Constitution of Kosovo, is depriving the state to form its own Army.

According to the Comprehensive Status Proposal of Ahtisaari, the Kosovo Security Force shall have its mandate reviewed after 5 years, by the North Atlantic Treaty Organization (NATO). In 2013, NATO stated that the KSF has reached its full operational capabilities, while the US and the political forces in Kosovo has urged for it to be transformed into a proper military force, named the Kosovo Armed Forces.

This, has been a thorn in the eye for the Serbian representatives in the Kosovo Assembly and the Government who, despite being part of the institutions of Kosovo, do still oppose its independence, and with that, have vigorously opposed the creation of the Kosovo Armed Forces.

Dalibor Jevtic, Minister for Returns in the Government of Kosovo in a statement given in February 2016, has stated that “*our position is that Kosovo doesn’t need an army since it has KFOR*”. Furthermore, Branimir Stojanovic, a deputy Prime Minister in the Government stated that the members of the Parliament from the Serbian minority, will not vote the Constitutional amendments that will lead to the creation of the Kosovo Armed Forces, same as statements coming from the officials in Belgrade.

Taking all of the above into consideration, the conclusion achieved is that Kosovo will not be able to have an Army, without the votes of the Serbian members of the Parliament, that hold hostage the constitutional amendments needed for such an action.

This as an illustration, proves that the power sharing mechanism in Kosovo, and the extensive minority protection, i.e. inclusion prerogatives given post declaration of independence, have only deepened the division among ethnic lines between the Serbs and the Albanians, at the same time, giving power to Belgrade to interfere into the internal political processes of Kosovo, through its elected members into the Parliament, and ultimately creating a dysfunctional environment for legislative reform that would be beneficiary to all the Kosovo citizens.

In comparison to other countries as it was seen above, both in Macedonia and in Croatia, the minorities do hold reserved seats, and do have some veto powers according to the Badinter criteria, however, those are only reserved for questions pertaining minority issues only, linked mostly with the use of the language, preservation of culture and history, unlike Kosovo, where the 10 guaranteed seats of the Serbian minority hold hostage any amendment of the Constitution, regardless its substance, alongside the adoption of vital laws⁴⁸, which are directly or indirectly linked with them.

As Marko puts it, no institutional arrangement can guarantee effects as long as good neighborly relations are not developed with Serbia. The rights of the Serb community in Kosovo allow for integration as the conation in Kosovo but the integrative effects

⁴⁸ Laws of vital interest of the communities are, according to the Constitution, considered: “(1) *Laws changing municipal boundaries, establishing or abolishing municipalities, defining the scope of powers of municipalities and their participation in inter-municipal and cross-border relations;* (2) *Laws implementing the rights of Communities and their members, other than those set forth in the Constitution;* (3) *Laws on the use of language;* (4) *Laws on local elections;* (5) *Laws on protection of cultural heritage;* (6) *Laws on religious freedom or on agreements with religious communities;* (7) *Laws on education;* (8) *Laws on the use of symbols, including Community symbols and on public holidays*” (Kosovo Const. Art. 81).

following from the constitutional provisions must be made use of and cannot be effective as long as the Serb community in Kosovo – under instruction from Belgrade – boycotts participation in Kosovo institutions.⁴⁹

LORIK PUSTINA

The UN-Constitutional Constitution of the Republic of Kosovo:
the Principle of the Double “Super”majority

(Summary)

The Constitution of Kosovo has entered into power in June 2008, 5 months after the Declaration of the Independence of Kosovo (February 2008). The declaration of independence came after years of negotiations conducted between the political leaders of both Kosovo and Serbia, where no common ground for a mutually accepted result was reached. It was at that time the Special Envoy of the United Nations, President Marti Ahtisaari who proposed the Comprehensive Status Proposal settlement both to Serbia and Kosovo, giving Kosovo a time-limited “supervised independence” with enhanced protection of the minorities, emphasis on the Serbian minorities living in Kosovo.

One of the provisions to be critically argued in the paper will be the one of the reserved, i.e. guaranteed spots for the minorities in the Kosovo parliament, which is 20 out of 120. While the other one, arguably representing a provision that makes Kosovo legislative agenda dysfunctional in terms of constitutional amendments and passing or amending laws of a crucial importance, is the requirement of 2/3 majority of the Parliament and in addition the 2/3 of the minority reserved seats. In the legislative practice since the declaration of independence we have evidenced many cases where the Serbian minority representatives, directed by Belgrade policy, have halted the adoption of many important laws, as well as the amendment of certain Constitutional provisions, imposing different conditions that in many cases have infringed different laws and other legislative documents adopted by the Parliament.

The paper will prove that such provisions in the original text of the Constitution, represent by all means a precedent to the constitutional norms, creating a gap between the policy makers and the legislative bodies, as well as compare those provisions to the Constitutions in other countries such as Macedonia, Croatia and Montenegro by analyzing as well as providing solution to possible Constitutional amendments in order to drift from the dysfunctional legislative process.

⁴⁹ MARKO, Joseph: The new Kosovo Constitution in a regional comparative perspective. *Review of Central and East European Law* Vol. 33, (2008) 437-450.

Table 1: Comparison of constitutional arrangements for minority protection in the Western Balkans

Country	Number of ethnic albanian	Constitutional rights	Representation of Albanians in the national parliament	Represent-ation of Albanians in the Government	Rights in the local level government
Croatia	17.513 (0.41%)	Two-thirds majority vote in the Croatia Parliament for adopting laws regulating the rights of national minorities. The special rights guaranteed to the minority groups in Croatia are established by Art. 7, in particular in terms of linguistic rights, education, culture, religion, use of symbols, participation, exercise of their rights and freedoms.	Currently 1 MP. Law guaranteeing three seats in the Croatian Parliament for the minorities accounting for more than 1.5% of the total population, while those minorities accounting less than 1.5% have the right to vote for five deputies within their own special constituencies.	No representation in the central Government.	A threshold of one third of the population in the territory of a local self-government unit is established (under Art. 12(1) of the Const. Law) for an official use of a minority language.
Macedonia	509.083 (29.1%)	The Macedonian Constitution includes an explicit acknowledgement of Albanian and other minorities in the Preamble. The Albanian minority in Macedonia enjoys special minority rights (pursuant to the Ohrid Framework Agreement) in particularly in terms of language use.	20 MP's by proportional representation (no reserved seats)	In the 2014-2018 Government, albanian were given 5 ministerial and 2 deputy ministerial positions. In addition there is a fair representation in the civil administration being in the local or the central Government as well as the diplomatic cor.	In the municipalities where there is a number of more than 20% of Albanian population, the Albanian language is an official one.
Montenegro	30.439 4.91%	The Montenegrin Constitution as well as the supporting legislative provisions have foreseen among language and cultural rights, also the right to choose, use and publicly post national symbols and to celebrate national holidays; 3) the right to use their own language and alphabet in private, public and official use; 4) the right to education in their own language and alphabet in public institutions and the right to have included in the curricula the history and culture of the persons belonging to minority nations as well as the right to authentic representation in the Parliament of the Republic of Montenegro and in the assemblies of the local self-government units in which they represent a significant share in the population.	1 MP (the lowest representation of Albanians in 25 years. 5 reserved seats, but only if the threshold is passed)	1 ministerial position for Human Rights and Protection of Minorities in the previous Government held by Ferhat Dinosha. Currently, mr. Dinosha serves as an Ambassador of Montenegro to the Republic of Albania.	In the areas with significant share in the total population, to have the local self-government authorities, state and court authorities carry out the proceedings also in the language of minority nations and other minority national communities

Source: Constitutions of Montenegro, Croatia and Macedonia

Table 2: Serb minority Rights principles and Kosovo Constitution
 Total number of Serb minorities living in Kosovo is 7.8% (146,128 residents). Since the Serb community boycotted the census, these figures are derivate of the OSCE reports.

Profile	Rights	Representation in the Parliament	Representation in the Central Government	Other
Largest minority in Kosovo. The two largest municipalities are Mitrovica North and Gracanica	10 Reserved seats in the Parliament. One deputy president of the Parliament has to be from the Serbian minority. One third of the composition of the Committee on the Rights and Interests of Communities has to be from the Serbian minority. The ammendments of the Contitution and the adoption/ammendment of vital laws require the two thirds majority of the MP's as well as the 2/3 of the minority reserved seats.	Lista Srpka represented with 10 MP's.	One minister in the government has to be from the Serb community and at least one from other minority communities. If the government has more than 12 ministers it should include the third minister with minority ethnic background. Communities are also entitled to at least four deputy ministerial seats shared equally among the Serb and other non-majority communities. If the government has more than 12 ministers, an additional third deputy minister should be appointed both from the Serb community and other non-majority communities. Currently the incumbent Government has one deputy PM post, and two Ministerial posts given to the Serbian minority.	in municipalities with at least 10% of population belonging to nonmajority communities in those municipalities, a post of Vice President of the Municipal Assembly for Communities is reserved for a representative of these communities

Source: Constitution of the Republic of Kosovo