

Kosovo: State-building in the Making

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Introduction

In February 2018, Kosovo celebrated its first decade as an independent state. Ten years earlier, Kosovo members of parliament signed the declaration of independence from Serbia. The major EU powers, like Germany, the United Kingdom, France and Italy, as well as the United States were among the first to recognise Kosovo as an independent state. Serbia strongly opposed the Kosovo independence and even sought the opinion of the International Court of Justice (ICJ), claiming that the unilateral declaration of independence of Kosovo is in violation of international law. ICJ delivered its opinion on 22 July 2010, concluding that the declaration of independence of 17 February 2008 did not violate the general international law because international law contains no “prohibition on declarations of independence”, nor did the declaration of independence violate UN Security Council Resolution 1244, since this did not describe the final status of Kosovo, nor had the Security Council reserved for itself the decision on the final status.¹

The decision for the unilateral declaration of independence came as a result of the inability of the international community to reach a consensus over the political status of Kosovo. The United Nations, the European Union, the United States and Russia were divided in their opinions over the future of Kosovo. In November 2005, the Secretary-General appointed Martti Ahtisaari, the former President of Finland, as his Special Envoy for the future status process for Kosovo. After leading a long process of direct talks and bilateral negotiations between the leadership of Serbia and Kosovo who were unable to reach an agreement on the future status of Kosovo, in 2007 Ahtisaari submitted his report with concrete recommendations. He stated that Kosovo is a unique case that demands a unique solution and does not create a precedent for other unresolved conflicts.² Therefore he suggested that: a) integration into Serbia is not a viable option after the repression of Serbia that involved the tragic loss of civilian lives and the displacement and expulsion of a massive scale of Kosovo Albanians from Kosovo; b) continued international administration is not sustainable – although the United Nations Interim Administration Mission in Kosovo (UNMIK) had made considerable achievements in Kosovo, especially in creating Kosovo institutions and assisting them to take on the responsibility of managing the affairs of Kosovo. UNMIK has not been able to develop a viable economy, because the uncertain political status of Kosovo has

¹ UN News 2010.

² OBER et al. 2007.

left it unable to access international financial institutions or fully integrate into the regional economy and attract foreign capital. Under UNMIK Kosovo, unlike its neighbours, was also unable to participate effectively in any meaningful process towards admission into the European Union. Therefore, the only viable option, suggested by Ahtisaari, is independence with international supervision.³

Based on Ahtisaari's proposal,⁴ on 17 February 2008 the Kosovo Assembly adopted the declaration of independence. The number of recognitions gradually rose to 115 as of today.⁵ But, the success of Kosovo in the international arena has been modest, with only a few memberships in the international organisations, most notably in FIFA and UEFA. Kosovo did not become a member of the United Nations either, and since it has still not been recognised by two thirds of UN member states, with two permanent members (Russia and China) even imposing their veto, Kosovo's chances for UN membership remains slim. Even UN's cultural agency UNESCO, rejected Kosovo's membership in 2015, "handling a sizable political victory to Serbia which had fought a fierce battle against the bid for months".⁶ Kosovo's path towards the European Union has been equally unclear. The enlargement strategy of the European Commission for the Western Balkan countries states that "Kosovo has an opportunity [...] to advance on its European path once objective circumstances allow".⁷ However, apart from the Stabilization of Association Agreement (SAA) signed between the European Union and Kosovo, no other concrete steps have been taken towards EU membership.

Kosovo's membership in international organisations, to some extent, depends on the progress of the dialogue between Serbia and Kosovo, which has been going on since 2011 under the auspices of the European Union. The ultimate goal of the Brussels dialogue between Belgrade and Pristina was to normalise the relations between the two states and reach mutual recognition, which would enable Serbia to accelerate its EU membership process and gain numerous financial benefits, while for Kosovo it would open the door to UN membership.⁸ However, the dialogue itself has created more confusion than solution. The technical dialogues that started in 2011, culminated into "landmark"⁹ agreements. After 10 rounds of talks chaired by Catherine Ashton, the EU high representative, both prime ministers signed the 15-point agreement¹⁰ that aims to normalise relations between the two countries. Global

³ OBER et al. 2007.

⁴ Proposal 2007.

⁵ Kosovo Thanks You 2018.

⁶ BRUNWASSER 2015.

⁷ European Commission 2018.

⁸ Ifimes 2018.

⁹ BBC 2015.

¹⁰ The 15 point agreement consists of the followings: 1. There will be an Association/Community of Serb majority municipalities in Kosovo. Membership will be open to any other municipality provided the members are in agreement. 2. The Community/Association will be created by statute. Its dissolution shall only take place by a decision of the participating municipalities. Legal guarantees will be provided by applicable law and constitutional law (including the 2/3 majority rule). 3. The structures of the Association/Community will be established on the same basis as the existing statute of the Association of Kosovo municipalities e.g. President, Vice President, Assembly, Council. 4. In accordance with the competences given by the European Charter of Local Self Government and Kosovo law the participating municipalities shall be entitled to cooperate in exercising their powers through the Community/Association collectively. The Association/Community will have full overview of the areas of economic development, education, health, urban and rural planning. 5. The Association/Community will exercise other additional competences as may be delegated by the

political organisations, such as the UN, NATO, the European Council and others, considered this a historical event and praised both leaders for their courage. Four U.S. congressmen even officially nominated Ashton, Thaçi, and Dačić for the 2014 Nobel Peace Prize for their efforts in improving relations between Kosovo and Serbia. So far the dialogue has shown only modest results due to obstructions caused by the participating parties in their attempts to achieve certain goals.¹¹

The prolongation of the dialogue has enabled political survival to certain politicians. That is why the deadline has been set to end the dialogue and reach the legally binding agreement between Serbia and Kosovo in the first half of 2019. Now the dialogue is carried out by the presidents of two countries, Aleksandar Vučić and Hashim Thaçi, who, by an arbitrary action, took over the dialogue which should be led by the prime ministers of Serbia and Kosovo. A permanent solution to bring peace and stability between the two countries, according to Vučić and Thaçi, is to redefine state borders, according to which the two countries would exchange territories and inhabitants so that northern Kosovo would belong to Serbia, while most of the Preševo valley would belong to Kosovo. According to Vučić and Thaçi this would solve the problem by enabling a permanent demarcation of borders between Serbs and Albanians. However, analysts warn that this would not be a solution but instead it may cause new conflicts, and at least two million new refugees.¹²

This is a descriptive paper that aims to provide an overview of the latest political history of Kosovo and the transition from international supervision to self-governance. The paper shows the transition of competences and governance from the international community to local authorities. It uses a chronological approach of major developments, with special emphasis on institutional building since the end of the 1999 war.

central authorities. 6. The Community/Association shall have a representative role to the central authorities and will have a seat in the communities' consultative council for this purpose. In the pursuit of this role a monitoring function is envisaged. 7. There shall be one police force in Kosovo called Kosovo Police. All police in northern Kosovo shall be integrated in the Kosovo Police framework. Salaries will be only from the KP. 8. Members of other Serbian security structures will be offered a place in equivalent Kosovo structures. 9. There shall be a Police Regional Commander for the four northern Serb majority municipalities (Northern Mitrovica, Zvečan, Zubin Potok and Leposavić). The Commander of this region shall be a Kosovo Serb nominated by the Ministry of Internal Affairs 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 in the four municipalities. (There will be another Regional Commander for the municipalities of Mitrovica South, Srbica and Vucitran). The regional commander of the four municipalities will cooperate with other regional commanders. 10. The judicial authorities will be integrated and operate within the Kosovo legal framework. The Appellate Court in Pristina will establish a panel composed of a majority of K/S judges to deal with all Kosovo Serb majority municipalities. A division of the Appellate Court, composed both by administrative staff and judges, will sit permanently in northern Mitrovica (Mitrovica District Court). Each panel of the above division will be composed of a majority of K/S judges. Appropriate judges will sit dependent on the nature of the case involved. 11. Municipal elections shall be organised in the northern municipalities in 2013 with the facilitation of the OSCE in accordance with Kosovo law and international standards. 12. An implementation plan including time frame shall be produced by April 26. In implementing this agreement, the principle of transparent funding will be addressed. 13. Discussions on Energy and Telecoms will be intensified by the two sides and completed by June 15. 14. It is agreed that neither side will block, or encourage others to block, the other side's progress in their respective EU paths. 15. An implementation committee will be established by the two sides, with the facilitation of the EU.

¹¹ Government of the Republic of Kosovo 2015.

¹² Ifimes 2018.

Kosovo under International Supervision

After 78 days of NATO airstrike campaigns on Serbian military forces in both Kosovo and Serbian territory, the former government of Yugoslavia eventually accepted the armistice on 10 June 1999.¹³ On the same day, the Security Council of the United Nations adopted Resolution 1244, which became the juridical foundation for the international administration in Kosovo. According to Resolution 1244, the Secretary-General was requested to appoint an international representative who became known as the Special Representative of the Secretary-General (SRSG). He was in charge of a new civil administration in Kosovo, the UNMIK and became the main international civil authority. SRSG was given full legislative, executive and legal authority.¹⁴ In the following years, the SRSG would sign UNMIK Regulations, which were legislative provisions; would make executive decisions and would appoint and remove prosecutors, as well as decide when to arrest and take into custody anyone suspected of violating the law.

Resolution 1244 paved the way for the creation of local self-government institutions. In January 2000, the SRSG adopted a regulation¹⁵ which nullified all local institutions like the Presidency, the Interim Government and the Kosovo Assembly. These were the primary institutions which during the 1990s had been operating as parallel institutions assisting the people of Kosovo with their political, social and military organisation. According to this Regulation, all these institutions should cease to exist by 31 January 2000 and the representatives of these institutions would be part of the Joint Interim Administrative Structure, which involved the Kosovo Transitional Council (KTC) and the Interim Administration Council (IAC).

IAC was composed of eight members with voting right: four international and four local. The IAC meetings were held every two weeks and were chaired by the SRSG or his deputy. According to some observers, IAC aimed to increase the cooperation between international and local members, lowering the enmity between Albanians and Serbs, as well as lessening the tensions between newly formed Albanian political parties.¹⁶ IAC could provide recommendations on amending certain regulations or propose new regulations. Decisions were made based on a consensus or at least 1/3 of the votes. If both a consensus and the 1/3 voting failed, the SRSG had the authority to make a decision based on his own judgment.

As KTC had no decision making competences, its sole objective was to deal with political discussions. KTC was composed of IAC members, representatives of religious institutions, ethnic communities, and civil organisations; KTC had 36 members and was a “shop of unlimited chatting, but also, a precursor of normally created institutions”.¹⁷ IAC and KTC had symbolic roles but never succeeded in challenging the absolute legislative, executive and legal power of the SRSG.

¹³ This is known as the “Kumanovo Treaty”, named after the Macedonian city where the agreement was signed between the International Forces for Security (KFOR) and the Government of the Federal Republic of Yugoslavia.

¹⁴ UNMIK Regulation 1999.

¹⁵ UNMIK Regulation 2000.

¹⁶ KING–WHIT 2006, 127.

¹⁷ KING–WHIT 2006, 127.

Independence with International Supervision

The ad-hoc bodies like IAC and KTC were replaced with a more formal agreement as stipulated in the Constitutional Framework for Provisional Self-Government in Kosovo.¹⁸ The working group assigned for drafting the Constitutional Framework was composed of 15 members from both international and local representatives. The Constitutional Framework was passed with the majority of votes from the IAC. This document paved the way towards the implementation of the first national elections and the functioning of the Provisional Institutions for Self-Government (PISG) in Kosovo. The Constitutional Framework foresaw the establishment and functioning of the Kosovo Assembly, the Presidency, the composition and competences of the Government, the functioning of the local self-government institutions and independent agencies. Nevertheless, the SRSG continued to have huge competences and as the years passed, UNMIK transferred its capabilities to the local institutions.

The transition of UNMIK competencies to the governmental institutions was successful, which eventually led to the declaration of independence. On 17 February 2008, members of the Kosovo Assembly adopted the declaration of independence. The plan for the declaration of independence was outlined in Martti Ahtisaari's proposal, officially known as the Comprehensive Proposal for the Kosovo Status Settlement. According to this document, which was adopted by the Security Council in March 2007, he suggested that the only viable option for Kosovo was independence, and the achievement of it has to be supervised for an initial period by the international community. It also suggested that Kosovo, or part of it, could not join any other country, its armed forces should be limited and Serb minority protection should be guaranteed. Based on such recommendations and the political will, members of the Kosovo Assembly officially declared Kosovo an independent state. On 9 April 2008, the Constitution of Kosovo was ratified at the Kosovo Assembly and came into effect on 15 June 2008. The flag of Kosovo together with the national anthem were also adopted by the Assembly soon after the declaration of independence. The Constitution makes a clear separation of powers among the executive, legislative and judiciary powers. Kosovo identifies itself as a parliamentary democracy, where political parties participate freely in national and local elections.

To ensure that Kosovo will fully implement the Ahtisaari Plan, the International Civilian Office (ICO) was opened in Kosovo. During its mandate from 2008 until 2012, the OIC made sure that everything the Plan foresaw was turned into a law. Thus, all that was required by the Ahtisaari Plan, especially suggestions regarding minority protection, was either integrated into the Constitution or integrated into several subsequent laws passed by the Kosovo Assembly.

¹⁸ UNMIK Regulation 2001.

Building Its Own Institutions

The Parliament

According to the Constitution of the Republic of Kosovo,¹⁹ the Assembly is the legislative institution of the state directly elected by the people. The Assembly has 120 deputies elected by secret ballot on the basis of open lists. A political party, coalition of political parties, or citizen's initiative, that has applied to be certified to participate in the elections should submit a candidate list to the Central Elections Commission. At least 30% of the candidates on each list should be female.²⁰ Each certified political entity appears on an "open list" ballot. According to the law, the electors vote for one certified political entity and for a specified number of individual candidates from the chosen political entity's candidate list. During the 2007 general elections, electors had the right to vote for up to ten candidates from the chosen political entity's candidate list. This form of voting, however, created room for the manipulation of ballots, as the elections administration staff could easily write on a ballot without leaving any trace. The same voting system was applied during the 2010 elections except that this time electors could vote for up to five individual candidates. The same system is applicable until today.

The seats in the Assembly are distributed amongst all parties, coalitions, citizens' initiatives and independent candidates in proportion to the number of valid votes received by them in the election to the Assembly. In the framework of this distribution, twenty of the one hundred twenty (120) seats are guaranteed to the representatives of the minority communities: 1. Parties, coalitions, citizens' initiatives and independent candidates having declared themselves representing the Kosovo Serb Community have the total number of seats won through the open election, with a minimum of ten seats guaranteed in any case; 2. Parties, coalitions, citizens' initiatives and independent candidates having declared themselves representing the other Communities have the total number of seats won through the open election, with a minimum number of seats in the Assembly guaranteed as follows: one seat to the individual representatives of Roma, Ashkali and Egyptian communities and one more extra seat to that community the candidate of which gets the highest overall votes (all together four seats); three seats to the representatives of the Bosnian community; two seats to the representatives of the Turkish community and one seat to the representative of the Gorani community. The mandate of the legislature lasts for four years.²¹

As the highest representative and law-making institution, the Assembly has the following responsibilities: adopts laws, resolutions and other general acts; makes decisions to amend the Constitution by two thirds of all its deputies, including two thirds of all deputies holding seats reserved and guaranteed for representatives of communities that are not in majority in Kosovo; announces referenda in accordance with the law; ratifies international treaties; approves the budget of the Republic of Kosovo; elects and dismisses the President and Deputy Presidents of the Assembly; elects and may dismiss the President of the Republic of Kosovo in accordance with the Constitution; elects the Government and expresses no confidence in it;

¹⁹ Constitution of the Republic of Kosovo 2008, Chapter IV.

²⁰ Law No. 03/L-073 2008.

²¹ Law No. 03/L-073 2008.

oversees the work of the Government and other public institutions that report to the Assembly in accordance with the Constitution and the law; elects members of the Kosovo Judicial Council and the Kosovo Prosecutorial Council in accordance with the Constitution; proposes the judges for the Constitutional Court; oversees foreign and security policies; gives consent to the President's decree announcing a State of Emergency; decides with regards to general interest issues as set forth by law.

Committees of the Assembly constitute one of the main bodies of the Assembly. There are standing, functional and ad hoc committees, and as of today the Kosovo Assembly has overall 14 Committees. Although according to the Constitution, the Assembly stands on top of the hierarchy of powers, in reality the Kosovo Assembly does not enjoy that position and is not at the same level as the Kosovo Government. The Assembly has not developed to such a level of being able to process in time and in a responsible manner all the documents and propositions that come from the Government. In other words, the Assembly's administration is not at the same competitive level with the Government's administration. As a result, most of the draft-laws, strategies and other documents sent to the Assembly are approved without any substantial change with regards to the content of laws and strategies.

The Government

The Kosovo Government is one of the largest governments in South East Europe in terms of ministries. The number of ministries has been increasing since 2001, from 9 to 19 ministries in 2012, and to 21 today. UNMIK's Regulation 2001/19 describes the role and functions of the Prime Minister's Office and the ministries that had to be created at first: Ministry of Economy and Finances, Ministry of Trade and Industry, Ministry of Education, Science and Technology, Ministry of Culture, Youth and Sport, Ministry of Health, Environment and Spatial Planning, Ministry of Labour and Social Welfare, Ministry of Transport and Telecommunication, Ministry of Public Service, Ministry of Agriculture and Rural Development. UNMIK's Regulation 2001/19 was amended 9 times, making the number of ministries multiple each time. In 2002, the number increased to 10 when the Ministry of Environment and Spatial Planning was separated from the Ministry of Health. In 2005, another 5 ministries were formed: Ministry for Communities and Return, Ministry for Energy and Mines, Ministry of Local Governments, Ministry of Justice and Ministry of Internal Affairs. After the declaration of independence in 2008, the Government created two additional ministries: Ministry of Force and Security and Ministry of Foreign Affairs. In 2010, the Government took a decision to create the Ministry for European Integration. In 2011 the Ministry of Energy and Mines discontinued its operation, while the Ministry of Economy and Finances was divided into two. In the same year, the Ministry of Diaspora was set up, as well.²² Later on, the Ministry of Regional Development and the Ministry of Innovation were created.

There is no doubt, that the relatively huge number of ministries bears a huge financial cost on Kosovo. Today, the Government consists of the Prime Minister, 6 Deputy Prime Ministers, 21 Ministers and over 70 Deputy Ministers. All of them are allowed to have political advisors. The huge number of ministries is mainly due to the absence of a law on

²² More on the chronology of the creation of ministries see GAP Institute s. a.

Government. Such a law would make it possible that instead of the Government, the Kosovo Assembly would have the ability to make decisions about the ministries. As the Constitution of Kosovo describes, the competencies of the Government are the following: proposes and implements the internal and foreign policies of the country; promotes the economic development of the country; proposes draft laws and other acts to the Assembly; makes decisions and issues legal acts or regulations necessary for the implementation of laws; proposes the budget of the Republic of Kosovo; guides and oversees the work of administration bodies; guides the activities and the development of public services; proposes to the President of the Republic of Kosovo the appointment and dismissal of the heads of diplomatic missions of the Republic of Kosovo; proposes amendments to the Constitution; may refer Constitutional questions to the Constitutional Court; exercises other executive functions not assigned to other central or local level bodies.²³

Kosovo has held five national elections after the war, in 2001, 2004, 2007, 2010, 2014 and 2017. The following politicians served as prime ministers: Bajram Rexhepi (2002–2004), Bajram Kosumi (2005–2006), Agim Çeku (2006–2008), Hashim Thaçi (2008–2014), Isa Mustafa (2014–2017) and Ramush Haradinaj (2004–2005 and 2017 –). Most of them have not finished the regular four year term in office due to several reasons. It is worth noting that all governments were based either on pre-election or post-election coalitions. The biggest and most relevant coalition parties, from which prime ministers of the country were elected, are the following: the Kosovo Democratic Party (PDK), or the Alliance for the Future of Kosovo (AAK), or the Kosovo Democratic League (LDK). The former two were formed after the demilitarisation of the Kosovo Liberation Army after the end of the war in 1999, while the latter was formed as a pacifist movement during the 1990s. Smaller political parties were always part of the government coalitions, too. Among the four largest political parties in Kosovo, LDK, PDK and AAK, identify themselves as a centre-right oriented parties, while the opposition party, the Self-Determination Movement positions itself as a leftist party. However, the political identity and ideology of most political parties in Kosovo is not well-established, as there is often a mismatch between their political identity and their public policies.

Local self-governments

Kosovo is divided into 38 municipalities. There are five basic laws that regulate the legal functions and competences of municipalities, namely the Law on Local Self-Government, Law on Local Government Finances, Law on Administrative Municipal Boundaries, Law on Public Private Partnership and the Law on Local Election. The Law on Local Self-Government²⁴ establishes the legal basis for a sustainable local self-government system in Kosovo. The territory of a municipality includes settlements of cadastral zones within the municipal boundaries.²⁵ Settlements include towns, urban neighbourhoods and villages. Hence the division of municipalities is based on geographical circumstances and not on

²³ Constitution of the Republic of Kosovo 2008, Chapter VI.

²⁴ Law No. 03/L-040 2008.

²⁵ Law No. 03/L-041 2008.

ethnic components. The governing body of each municipality is the Municipal Assembly and the Mayor. The Mayor is the highest institution of the municipality and he/she is directly elected by the citizens of that municipality for a four-year term. In Kosovo's post war history there has been only one female mayor, Mimoza Kusari-Lila, who was the mayor of the city of Gjakova. The members of the Assembly and the Mayor are elected by a direct election organised in every four year.²⁶

There are two main financial resources for municipalities: own source revenues and operating grants. Operating grants are allocated from the Kosovo Budget and are divided into three types of grants: a general grant, a specific grant for education and a specific grant for health. The general grant amount consists of ten percent of budgeted central government total revenues.²⁷ According to the law, each municipality receives a lump-sum amount of 140,000 Euros per year, less than 1 Euro for each member of the population, or zero Euro for municipalities with a population that equals or is greater than 140,000 inhabitants.²⁸ The specific grant for education is meant to finance the cost of providing a minimum standard level of pre-primary, primary and secondary education and the amount is based on the students' enrolment. The specific grant for health is meant to finance the costs of providing a minimum standard level of public primary healthcare and the amount is based on the normalised population. Municipalities are also entitled to have their own source revenues, which are revenues from the following categories: municipal taxes, fees and other payments for public services; rents of immovable property situated in the municipality; revenues from the sale of municipal assets; revenues from undertakings wholly or partially owned by the municipality, etc. It should be noted however, that central government grants are the main source of municipal revenues representing 80% of the total municipal revenues, while municipal own source revenues make up the remaining 20%.²⁹

There have been six local elections organised in Kosovo since the end of the 1999 war. These local elections were held in 2000, 2002, 2007, 2009, 2013 and 2017. After the amendment of the Law on Local Self-Government in 2007, the local election system was changed. Today, the Mayor is elected directly by the people and not by the Municipal Assembly. According to the Law on Local-Government, the mayor's term ends when he resigns or when he has been missing from work for more than a month without any valid justification, or for violating other laws. Kosovo mayors represent different political parties. In addition to mayors coming from political parties like PDK, AAK and LDK, other political parties, such as Vetëvendosje (Self-determination in English), the Alliance New Kosovo (AKR), the Social Democratic Party (PSD), Nisma and the Serb List, also govern in some municipalities. There are independent candidates who have managed to win electoral campaigns as well. Like in the central level, political parties enter into government coalition at local level, too. The political map of municipalities has been constantly changing, with Pristina offering the biggest change when in 2013 Shpend Ahmeti, a candidate from Vetvendosje managed to win the capital from Isa Mustafa from LDK. LDK had won Pristina in all past elections.

²⁶ Law No. 03/L-072 2008.

²⁷ Law No. 03/L-049 2008.

²⁸ The law contains a formula that specifies how the remainder of the general grant is allocated among municipalities.

²⁹ EBEL-PÉTERI 2007.

The President

The President is the head of state and represents the unity of the people of Kosovo. The President of Kosovo, who should be older than 35, is elected by the Assembly in secret ballot.³⁰ The President is elected by a two thirds majority of all deputies of the Assembly and has a five year term in office. The first President after the war was Ibrahim Rugova, who served until his death in 2006. Rugova was a prominent Kosovo Albanian political leader, who advocated for a peaceful resistance to Serbian rule and led a popular struggle for independence since he entered into politics in 1989. His peaceful approach earned him the nickname “Gandhi of the Balkans”. His successor, Fatmir Sejdiu served until his resignation in 2010. Sejdiu was found guilty by the Constitutional Court for violating the Constitution for being the President of the country and the President of the Democratic League of Kosovo political party at the same time. In 2011, Behxhet Pacolli became the third president. After two months he stepped down because his election was found unconstitutional. The next president was Atifete Jahjaga, who previously served as Deputy Director of the Kosovo Police, holding the rank of Major General. Jahjaga was essentially proposed and supported as a consensual candidate of the U.S. Ambassador in Kosovo, Christopher Dell. Although she had a good reputation as a police commander, most of the political leaders had been uninformed about her political leanings. This, however, did not stop the Parliament from voting her as President. In fact, she is the only president to be elected in the first round of the elections and became the first female head of state in Kosovo. She is also the first President to end her full term in office. Her successor and current President is Hashim Thaçi, the former Prime Minister. Thaçi’s election as President was done under heavy objections made by the opposition party Vetëvendosje, who considered him to be unfit for a consensual president of the country.

The judicial system

The judicial power in Kosovo is exercised by the courts, while the highest judicial authority is the Supreme Court of Kosovo. At least 15% of its judges are from minorities, and its president is appointed by the President of Kosovo for a non-renewable term of seven years.³¹ The independence and impartiality of the judicial system is ensured by the Kosovo Judicial Council, a non-partisan institution that ensures that Kosovo courts are independent, professional and fully reflecting the multi ethnic nature of Kosovo. Another important and independent institution is the State Prosecutor with the authority and responsibility for the prosecution of persons charged with criminal acts. Another significant institution in Kosovo is the Constitutional Court, which is the final authority for the interpretation of the Constitution and the compliance of laws within the Constitution. The Constitutional Court is composed of nine judges, of whom three are internationals. Since its foundation in 2008, the Constitutional Court has made certain important decisions, including the dismissal of two Kosovo Presidents, Fatmir Sejdiu and Behxhet Pacolli. Other courts in Kosovo apart from the Supreme Court include, the Commercial Court, District Court, Municipal Court and High Court.

³⁰ Constitution of the Republic of Kosovo 2008, Chapter V, President of the Republic of Kosovo.

³¹ Constitution of the Republic of Kosovo 2008, Chapter VII, Judicial System.

With regards to the laws of power in Kosovo, from 1999 until 2010 there were three sets of laws applicable in Kosovo, namely: non-discriminatory pre-1989 laws of former Yugoslavia, UNMIK Regulations and laws adopted by the Kosovo Assembly after the declaration of independence on 17 February 2008. Since 2010, the only applicable laws are those of the Kosovo Assembly and a limited number of UNMIK regulations. Among the most significant laws adopted after the declaration of independence are the so-called “Ahtisaari laws”. The Final Comprehensive Proposal for a Kosovo Status Settlement, also known as the Ahtisaari Package, contained a number of recommendations for the Kosovo Government to follow after the declaration of independence, including the approval of specific laws within the first 120 days, including Kosovo’s most basic laws that guarantee the statehood. Between 20 February – 16 December 2008, a total of 49 laws were approved with an accelerated procedure.³²

When speaking about the rule of law in Kosovo, one has to consider the role of the EULEX, too. The European Union Rule of Law Mission in Kosovo (EULEX) was the largest civilian mission ever launched to assist and support the Kosovo authorities in the rule of law area, specifically in the police, judiciary and customs areas. With regard to the judiciary, EULEX has two main functions: one is to investigate crimes and bring suspects to justice and second to mentor, monitor and advise its Kosovo colleagues. EULEX is an expensive and large mission, with a total staff of 3,200 at some point. The mission was deployed in 2008 and ended its mandate in mid-June 2018.

Conclusion

In the past two decades, Kosovo went through a transformation period during which from a post-war country, it became an internationally supervised territory, and later transferred into a self-governmental country. In this period, peacekeeping and institutional building has been given priority over economic development and social welfare. The transition of power and competences from the Special Representative of the Secretary-General to Kosovo authorities was done in a smooth and gradual manner. Although UNMIK still exists in Kosovo, its role has significantly diminished. The power and authority today is distributed according to the provision of the Constitution of the Republic of Kosovo. There is a clear distinction between the three estates, the legislative, the executive and the judiciary. After the declaration of independence in 2008, the Kosovo Assembly has managed to adopt a significant number of laws, including the “Ahtisaari laws”, which are necessary for the Kosovo statehood. The International Civilian Office, whose main objective was to assess the implementation of the “Ahtisaari criteria” after the declaration of independence, ended its mandate in 2012, concluding that Kosovo is now responsible for its own governance. Despite the progress in institutional building, Kosovo faces significant challenges too, especially with regard to the rule of law, the fight against corruption, economic development and poverty reduction. As the institutions are already there, facing these challenges requires political will, concrete strategies and better public policies. Indeed Kosovo has shown significant progress in building institutions, but the way ahead is even more challenging and demanding as long as EU integration remains a long term target.

³² See GAP Institute 2010.

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