

# MULTIETHNIC PRINCIPLES OF ADMINISTRATION AND POLITICS OF THE INTERNATIONAL COMMUNITY IN KOSOVO

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## **Abstract**

*This paper aims to present and analyze the multiethnic principles of international community administration and policy in Kosovo during the period of international administration of Kosovo and the period of negotiations for the final status settlement of Kosovo. The international community has been neutral with the political aspirations of the people of Kosovo for self-determination and has implemented a policy that has essentially built a multiethnic political concept on Kosovo as a political entity. The imposition of these multi-ethnic principles in the construction of the state of Kosovo runs counter to many principles of the functioning of democratic states, whose sovereignty derives from the people, and governance is legitimized by the majority through democratic elections. The paper will conclude that despite the compromises made in the nature of the state of Kosovo with regard to the rights of minority communities in Kosovo, especially the Serb minority, the rejection of this minority towards Kosovo's institutions has increased due to the autonomy offered through the constitution, numerous laws and agreements negotiated in Brussels between Kosovo and Serbia.*

**Keywords:** multiethnic, politics, administration, international community, Kosovo.

**JEL Classification:** K23

## **1. Introductory considerations**

International administration was deployed in Kosovo following the NATO bombing of Yugoslavia, after (Yugoslavia) refused to sign the Rambouillet agreement<sup>2</sup> and end ethnic violence in Kosovo, which consequently brought the capitulation of Yugoslavia and the signing of a technical - military agreement with NATO in Kumanovo.<sup>3</sup> This opened the way for the United Nations Security Council's adoption of Resolution 1244.<sup>4</sup> The aim of this paper is not to analyze the functional structure of the UN presence in Kosovo as an international mission or as an international peacebuilding mechanism, but we will focus only on the undemocratic nature of the principles of administration and governance of the UN mission in Kosovo, known as UNMIK (The United Nations Mission Interim in Kosovo). On the basis of Resolution 1244, the international administration in Kosovo drafted its own Regulation, no.1999/1<sup>5</sup>, establishing itself as the governing power in Kosovo, where “all legislative and executive power related to Kosovo, including the administration of the executive organs of Kosovo, is established, justice, is vested in UNMIK and exercised by the Special Representative of the Secretary-General of the United Nations”<sup>6</sup>.

Despite the state of emergency of 1999, it seemed that the UN mission would be a governing and not just a peacekeeping mission, and that it would ignore the political will for self-determination of the citizens of Kosovo expressed in the 1990s. th. Although this mission was conceived to be accomplished through a “trusteeship” practice that would ensure peace and help build the self-government capacity of local institutions,<sup>7</sup> it was genuinely realized as a UN governing system in Kosovo. It seems that the enthusiasm of liberation had led people to stop focusing on this overlap of

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<sup>2</sup> United Nations – Security Council, *Interim Agreement for Peace and Self-Government in Kosovo-Rambouillet Accords*, [https://peacemaker.un.org/sites/peacemaker.un.org/files/990123\\_RambouilletAccord.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/990123_RambouilletAccord.pdf) (Last seen 23.09.2019).

<sup>3</sup> North Atlantic Treaty Organization, *Military Technical Agreement – between the International Security Force (“KFOR”) and the Government of the Federal Republic of Yugoslavia and the Republic of Serbia*, <https://www.nato.int/kosovo/docu/a990609a.htm> (Last seen 23.09.2019).

<sup>4</sup> United Nations – Security Council, *Resolution 1244 (1999)* [https://unmik.unmissions.org/sites/default/files/old\\_dnn/Res1244\\_ENG.pdf](https://unmik.unmissions.org/sites/default/files/old_dnn/Res1244_ENG.pdf) (Last seen 23.09.2019).

<sup>5</sup> United Nations Mission Interim in Kosovo, *Regulation no. 1999/1 On the Authority of the Interim Administration in Kosovo*, [http://www.unmikonline.org/regulations/1999/re99\\_01.pdf](http://www.unmikonline.org/regulations/1999/re99_01.pdf) (Last seen 23.09.2019)

<sup>6</sup> Marc Weller, *Shtetësia e kontestuar – administrimi ndërkombëtar i luftës së Kosovës për pavarësi*, Prishtinë: KOHA, 2009, p. 301.

<sup>7</sup> B.T. Knudsen & B.C. Lausten, *Kosovo Between War & Peace – Nationalism, Peacebuilding and International trusteeship*, New York, Routledge, 2006, p. 65-66.

international power, which, though thought to be temporary (up to 3 years), lasted for 8 years, until the coordinated declaration of Kosovo's independence, according to the conditions of negotiator Martti Ahtisaari. Despite the then demand of the leaders of the peaceful resistance to recognize the Kosovo institutions elected under the so-called "parallel system" during the 1990s, as well as the attempt to impose an interim government by the political establishment of the Liberation Army, the Kosovo mission of UNMIK, namely the Special Representative of the Secretary-General of the United Nations (SRSG), was the sole and sole bearer of the governing power in Kosovo. The powers and functions of the SRSG made him "omnipotent", almost a monarch of the era when liberalism was trying to reduce its powers in the VII<sup>th</sup> and VIII<sup>th</sup> centuries.

According to researcher Marc Weller, who has studied and analyzed the international administration of the Kosovo war for independence: "*The SRSG had competences in: the full authority to ensure that the rights and interests of the communities are fully protected; the final authority to determine the financial and political parameters, as well as to approve the consolidated budget of Kosovo, as well as its review; dissolution of the Assembly and announcement of elections, especially when other institutions have acted in violation of Resolution 1244; monetary policy, customs service control, appointment, dismissal and discipline of judges and prosecutors; the appointment of international judges and prosecutors, as well as the changing of venues; international legal cooperation, concluding and implementing international agreements and exercising the powers of international relations; authority over law enforcement institutions and correctional units; and control over the Kosovo Protection Corps*"<sup>8</sup>.

## 2. Multiethnic principles of administration and politics of the international community in Kosovo

Although, with the adoption of the Kosovo Constitutional Framework by UNMIK in the form of a regulation, without the need for approval by Kosovar political parties or through a referendum, the establishment of Provisional Institutions of Self-Government and the transfer of some competencies to locals were still required, plenipotentiary remained with UNMIK authorities as the last instance of deployment<sup>9</sup>. It is important to note that both in Kosovo's constitutional framework (which was essentially an UNMIK regulation 2001/9) and in Martti Ahtisaari's proposal, many demands on Kosovo Albanians are overemphasized in relation with the rights of ethnic minorities. This insistence even goes so far as Albanians are not recognized with the right of a nation-building nation, stipulating that Kosovo's independence will only be accepted if the state is built on permanent multi-ethnic premises and under several years of international supervision<sup>10</sup>. These international documents and attitudes, with their "distrust" towards Albanians and their will for independence and state-building, ignored the fact that in all the political-legal acts of state-building that Albanians had undertaken during the 1990s, beyond the general spirit of the principles, liberal and democratic, they contain particular elements of protecting and promoting the rights of minorities<sup>11</sup>.

Nevertheless, the international documents governing Kosovo, in addition to overlapping the authority of international authorities in relation to the local authorities (elected by the people), overlapped another power, which we shall call the power of national minorities over the Albanian majority that constitutes about 90% of the population of Kosovo. Thus, according to the Constitutional Framework "twenty (20) of the 120 Assembly seats are reserved for additional representation of Kosovo's non-Albanian communities as follows: 10 seats for Serbian representatives and 10 other seats for non-Serb communities"<sup>12</sup>. So, although Kosovo's national

<sup>8</sup> Marc Weller, *Shtetësia e kontestuar – administrimi ndërkombëtar i luftës së Kosovës për pavarësi* (Prishtinë: KOHA, 2009), p. 305.

<sup>9</sup> United Nations Mission in Kosovo, *Regulation no. 2001/9 – A Constitutional Framework for Provisional Self-Government in Kosovo* [http://www.unmikonline.org/regulations/unmikgazette/02english/E2001regs/RE2001\\_09.pdf](http://www.unmikonline.org/regulations/unmikgazette/02english/E2001regs/RE2001_09.pdf) (Last seen on 23.09.2019).

<sup>10</sup> United Nations – Security Council, *Report of Special Envoy of the Secretary-General on Kosovo's future status*, <https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Kosovo%20S2007%20168.pdf> (Last seen on 24.09.2019).

<sup>11</sup> Akademia e Shkencave dhe e Arteve e Kosovës, *Akte të Kuvendit të Republikës së Kosovës 2 korrik 1990 – 2 maj 1992 - Kushtetuta e Republikës së Kosovës, neni 43 dhe 75, Kaçanik, 1990* (Prishtinë: ASHAK, 2005), p. 18 and 24.

<sup>12</sup> United Nations Mission in Kosovo, *Regulation no. 2001/9 – A Constitutional Framework for Provisional Self-Government in Kosovo: Chapter 9, Section 9.1.3*, [http://www.unmikonline.org/regulations/unmikgazette/02english/E2001regs/RE2001\\_09.pdf](http://www.unmikonline.org/regulations/unmikgazette/02english/E2001regs/RE2001_09.pdf)

pacifiers (which by international multiethnic identity policy are imposed by the name of minority communities) make up no more than about 10% of Kosovo's population, they have reserved 20 seats in the Assembly, with the possibility of obtaining additional seats as in the electoral race, which could lead to as many as 30-35 deputies. In fact, the number of minority is almost equal to the number of the majority party won by the first party in the election and received 35-40 deputies. With this size of seats reserved for the Assembly of Kosovo, the political will and the calculation of real vote is alienated because the number of minorities is increased to 20 seats the number of minorities seats and reducing the number of majority to 20 seats.

This overstatement for minorities, or as propagated by the internationals as "positive discrimination", was essentially a distortion of the principles of democracy and the political will of voters. The same overlapping logic of minority political will over principles democratic majority rule is also promoted by the Comprehensive Proposal for the Final Status Settlement of Kosovo proposed by UN Special Envoy Martti Ahtisaari. These "multiethnic principles" that became conditional on Kosovo's independence were incorporated in the new constitution of the Republic of Kosovo adopted in April 2008. Even under Ahtisaari's proposal, in the first two legislatures of parliament after the constitution was adopted, (potentially 8 years), national minorities (or denationalized political terminology of non-majority communities) are represented as enshrined in the Constitutional Framework, and after two terms, "Serbian representatives will have the number of seats in parliament won through open elections, with a minimum of 10 seats guaranteed, if the number of seats won is less than 10. It also applies to other non-Serb minorities"<sup>13</sup>. Is it democratic to overestimate the minority to the extent that it distorts the principles of democratic governance?

Most philosophers of liberalism and democracy, and in particular Tocqueville and Mill, have warned that the danger posed by democracy is precisely the possibility of majority tyranny, as history has shown us. But is Kosovo a case where most Albanians have exercised tyranny over minorities (Serbs and others), using state instruments? From the above considerations we have identified that the political platform of the Movement for Independence and State-Building has been built on liberal democratic principles and that in the founding acts of the idea of state, Kosovo is foreseen to be an equal state for all its citizens, Albanians and national minorities, with their right to preserve and promote their national and linguistic identity. These political and legal decisions of the Albanian political elite were made at a time when Kosovo was occupied by Serbia and ruled by the Serb minority. So, whenever the Albanians have manifested their political intentions, whether the permanent ideal of national unification with Albania or the pragmatic project of building the state of Kosovo, they have never presented any legal or illegal projects or plans to harm the Serbs or other minorities in Kosovo. After all, the bombing of the former Yugoslavia was done to stop humanitarian catastrophe from Milosevic's plans to carry out ethnic cleansing of Kosovo by Albanians.

The issue of the protection of minorities is a condition of modern liberal democracies, while promoting minorities in politics beyond their real presence in society is a more valuable issue than the democratic one of a society, so it should not be a condition for exercising the right of self-determination, as was the case with the Albanian nation in Kosovo. The obligation of constitutional and political overestimation of Kosovo's minority communities, especially the Serb minority, means that beyond the conditional requirements for building a democratic state of Kosovo, there is a "denationalization policy of the international community in Kosovo, which aimed at, not to associate the project and the state of Kosovo with the context of the unresolved Albanian issue in the Balkans"<sup>14</sup>.

Consequently, the imposition of political will and the cultural/political identity of the Serbian minority in Kosovo are also the clauses of Ahtisaari's proposal for the "autonomy" of the Orthodox Church, which the document nationalizes as Serbian. According to the document, "Kosovo will recognize the Serbian Orthodox Church in Kosovo, including monasteries, churches and other

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(Last seen on 24.09.2019).

<sup>13</sup> Official Gazette of the Republic of Kosova, *Constitution of the Republic of Kosovo: Chapter 4, Article 64.2*, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=3702> (Last seen on 24.09.2019).

<sup>14</sup> Donik Sallova, *The denationalization Policy of International Community in Kosovo*, „Thesis”, vol 8, no. 1/2019, p. 139.

facilities used for religious purposes as an integral part of the Serbian Orthodox Church based in Belgrade.”<sup>15</sup> This document has given itself the right to nationalize this church as Serbian and thus, on the one hand, has maintained the Serbian thesis that medieval cultural and religious heritage in Kosovo is Serbian, thus recognizing Serbs as having some cultural and historical rights over Kosovo, meanwhile, there are well-supported theses that medieval cultural and Orthodox heritage in Kosovo is also Albanian, as a large proportion of Kosovo Albanian residents belonged to the Orthodox Christian belief<sup>16</sup>.

Decani monastery has blocked the implementation of the project of building a community road, a much needed project, which violates the “security” guaranteed by its status as a “protected area”. Ahtisaari's proposal states: “A select number of monasteries, churches and other religious sites of the Serbian Orthodox Church, as well as historical and cultural sites of particular importance to the Kosovo Serb community, will enjoy special protection by designating protected areas”<sup>17</sup>. This means that thousands of hectares of Kosovo citizen's property in this area surrounding these facilities, namely beyond the fences of their yards, is blocked and cannot be freely used by individuals and its owners. In the light of the principles of this paper, this is an infringement of private property and the freedom to use property. “The protection of private property, then, is what links property to the autonomy of the individual - the ability to implement his life plans - and not just negative freedom. One might even say that, while the constitutional background of a liberal order defends fundamental freedoms in both formal and negative form, it is private property that embodies them in material and positive terms”<sup>18</sup>

Another undemocratic aspect that the Ahtisaari proposal has imposed as a condition of Kosovo's independence and made it an integral (and even temporary) part of the (disproportionately) political system of Kosovo was the role and functions of the International Civilian Representative. Like the SRSG at the time of UNMIK, and despite the formal right to exercise the governing functions of Kosovo's state authorities, the ICR had powers that made him more than the supervisor of Kosovo's independence. Among other things he has the following powers: “Take corrective action to improve, as appropriate, any action taken by the Kosovo authorities, which the ICR considers to be a violation of this solution, that it seriously endangers the rule of law or otherwise conflicts with the conditions and spirit of this solution. Such remedial measures may include, but may not be limited to, the cancellation of laws or decisions adopted by the Kosovo authorities; in the event of serious or persistent failures to implement the essence or spirit of this solution and in the event of serious impediments to the work of the ICR and EULEX, the ICR shall have the authority to sanction or remove it from the duty of any public official or to take such other measures as may be necessary to ensure that this solution is fully respected ...”<sup>19</sup>

As we can see, this kind of international power exerted on the elected bodies of the Republic of Kosovo was sovereign and powerful, and despite the source of its power coming from the recognition that the Assembly of Kosovo had made to the Ahtisaari principles, essentially it was “authoritarian power” because: it was not directly elected by the people through free elections and did not hold the people accountable for its actions. So there was unlimited power over the people, the individual and the local institutions. Any unlimited power, be it part of a status settlement agreement, runs counter to the liberal democratic principles of modern western states. “For Constantine, Mill, Tocqueville, and the liberal tradition to which they belong, there can be no free society unless it is governed by at least two closely related principles: first, no power is to be regarded as absolute, but only rights, so that every person, whatever power he governs, has the absolute right to refuse to act inhumanely; second, to have some boundaries within which man is inviolable, boundaries that are not at all artificially defined, but on the basis of widely accepted and long-held norms, so that their observance has become an integral part of self

<sup>15</sup> United Nations – Security Council, *Report of Special Envoy of the Secretary-General on Kosovo's future status, Annex II: Provisions of the Settlement 6*, <https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Kosovo%20S2007%20168.pdf> (Last seen on 25.09.2019).

<sup>16</sup> Jusuf Buxhovi, *Kosova-vëllimi I-rë Antika dhe Mesjeta* (Prishtinë: Faik Konica, 2012), fq. 289-290, 291-307.

<sup>17</sup> United Nations – Security Council, *Comprehensive Proposal for the Kosovo Status Agreement, Annex V, Article 4*. [https://reliefweb.int/sites/reliefweb.int/files/resources/1DC6B184D02567D1852572AA00716AF7-Full\\_Report.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/1DC6B184D02567D1852572AA00716AF7-Full_Report.pdf) (Last seen on 25.09.2019).

<sup>18</sup> John Gray, *Liberalizmi*, Tiranë: IDK, p.v., p. 96-97.

<sup>19</sup> United Nations – Security Council, *Comprehensive Proposal for the Kosovo Status Agreement, Annex IX, Article 2*. [https://reliefweb.int/sites/reliefweb.int/files/resources/1DC6B184D02567D1852572AA00716AF7-Full\\_Report.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/1DC6B184D02567D1852572AA00716AF7-Full_Report.pdf).

conception of normal human being ...”<sup>20</sup>

Another important aspect that the international community put forward as one of the conditions for the recognition of Kosovo's independence was the decentralization of local government, namely the establishment of new Serb-majority municipalities and the increase of competencies for these municipalities. These new municipalities established by Kosovo as an obligation under the Ahtisaari Proposal were incorporated into the new Kosovo constitution<sup>21</sup> and merged territories where Serbs resided, largely artificially, so that Serbs would have self-government in their localities, where they resided and were not governed by politically dominated Albanian municipal institutions. In view of this also the Law on Local Self-Government in Kosovo, where Articles 20, 21, 22 and 23 define enhanced governing competencies in the field of health, education, culture and security, which are not competencies of other municipalities inhabited by non-Serb population in Kosovo<sup>22</sup>. Kosovo has also adopted a law on the administrative boundaries of municipalities which defines the territory and boundaries of new Serb-majority municipalities, and makes it impossible to change these boundaries without the approval of the inhabitants of these municipalities, practically these municipalities have some “Sovereignty” over its own territory<sup>23</sup>.

All these specific adjustments to the nature of governance in Kosovo, which were accepted as political compromises by the Albanian side during the Kosovo status negotiations held in Vienna between Kosovo and Serbia, mediated by Martti Ahtisaari (UN), and which were incorporated into the nature of Kosovo's political system through the constitution and these laws, aimed at integrating Serbs into this system, in order for Serbia to recognize Kosovo's independence. What happened was the opposite of what was expected, because through decentralization the Serbs deepened their ethnic separation from the Kosovo political system, as decentralization itself was based on the principles of the creation of Serbian ethnic municipalities. Following the consolidation of local self-government with specific enhanced powers, Serbs in coordination with Belgrade advanced their demand for the creation of an Association of Serb Majority Municipalities, which would be a form of autonomy for the Kosovo Serb community against the central government of Kosovo<sup>24</sup>.

### 3. Conclusions

In conclusion, after identifying undemocratic principles of administration and multiethnic identity politics of the international community in Kosovo, including the Ahtisaari Proposal as a form of resolving Kosovo's status, which conditioned Kosovo's independence with demands for political overestimation of minorities in Kosovo in relation to the majority and contrary to the principles of the liberal democratic state, it must also be said that the acceptance of this proposal by the Albanian political leadership, interpreted by them as a pragmatic political move towards the achievement of Kosovo's independence, is in opposition to all the political and historical decisions adopted during the 1990s by the parallel Albanian political institutions. So, in a way, the compromises made by accepting the Ahtisaari Proposal have diverted the nature of the state of Kosovo from a projected Albanian state that to a certain extent realized the Kosovo Albanians' aspiration for national self-determination into a multiethnic state and neutral to the national identity of the majority of the 90% of the Kosovo Albanian population.

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<sup>20</sup> Isaiah Berlin, *Idetë filozofike të shekullit XX dhe katër ese për lirinë* (Tiranë: Onufri, 2003), p. 274

<sup>21</sup> Official Gazette of the Republic of Kosovo, *Constitution of the Republic of Kosovo: Chapter X*, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=3702> (Last seen on 26.09.2019).

<sup>22</sup> Official Gazette of the Republic of Kosovo, *Law on Local Self-Government: Chapter III, Article 20, 21, 22, 23*, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=2530> (Last seen on 26.09.2019).

<sup>23</sup> Official Gazette of the Republic of Kosovo, *Law on Administrative Municipal Boundaries: Article 2, 3*, <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2518> (Last seen on 26.09.2019).

<sup>24</sup> Donik Sallova, *Ethnic decentralization in Kosovo*, „Thesis”, vol. 6, no.2, 2017, p. 97-111.

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