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## Protection of the Human Rights in Kosovo – Analyzing the Situation Before and After the Declaration of Independence

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### Abstract

*The Republic of Kosovo, which declared its independence in 2008, is a multi-ethnic, multicultural and multi-religious area. The multi-ethnic diversities between the residents of Kosovo caused the last ethnic conflict in the Balkans which ended in 1999. After the NATO invasion, the UN Security Council adopted Resolution 1244, wherein the Security Council announced their decision to deploy an international civil and security presence in Kosovo, under UN auspices. Since that moment, the international community has been responsible for the protection of Human Rights in Kosovo. The article concentrates on the role of the international community in resolving the problem of Human Rights violations in Kosovo. The aim of the article is to shed some light, especially on the situation of national and ethnic minorities in Kosovo before and after 2008.*

Keywords: Kosovo, Human Rights, United Nations

### 1. Introduction

Kosovo is a multi-ethnic, multi-cultural and multi-religious territory, which is the result of the great transformations that this area has seen since the Middle Ages. According to data from the fourteenth century, all registered settlements where the ethnic Albanian population resided were located in the western and southwestern Metohija. The number of Albanians in Kosovo did not exceed 2% of the population of the province at the time (Gibas-Krzak, 2008).

In 1389, a significant historical event took place in Kosovo, namely the battle of Kosovo Polje. In its result, the Serbs, supported by Bosnian, Hungarian and Albanian troops were defeated in the battle with the Turks, which resulted in most of the Balkan Peninsula being snatched by Turkey. This fact had a critical impact on the changes in the demographic structure of Kosovo.

During the Ottoman rule, the Serbs living in Kosovo continued migrating from the area and settling in Vojvodina. Their place of residence was taken over by Albanian shepherds. In addition, the Albanians, in order to obtain privileges such as positions in the administration and the army, would adopt Islam. During the time of the Turkish rule, only this religion offered better living conditions in Kosovo.

From the seventeenth century on, Albanians gradually became the most numerous ethnic group in Kosovo. Thus, at the end of the nineteenth century, they became the dominant nation in the province. The dominance of the Albanian population in Kosovo gradually escalated into an open conflict with the authorities and people of Serbian origin. Its most critical phase fell on the 1990s. It was then that the Kosovo Liberation Army started its activity, which was intended to draw the attention of the international community to the problems of Albanians in the area, by starting an open conflict in the province. In the opinion of the organization, only through this type of action could Kosovo gain independence.

The internationalization of the Kosovo case became a fact in 1998.<sup>i</sup> In 1999, peace negotiations in Rambouillet began<sup>ii</sup> (Kiwerska, 2000). However, efforts made by the international community to restore peace in the province did not produce the desired result, therefore, in the wake of the continuing conflict, on 24 March 1999, the North Atlantic Treaty Organization launched a military operation in the area.<sup>iii</sup> It lasted for 77 days (KFOR-Kosovo Force. Conflict background, <http://www.nato.int/kfor/docu/about/background.html>, accessed: 02.11.2013). On 10 June 1999, the NATO Secretary General Javier Solana announced that the military operation was temporarily suspended.<sup>iv</sup> The UN Security Council, on the same day, adopted Resolution 1244 under which multinational forces entered Kosovo. The international community was facing a next challenge. It concerned not only bringing stability to the province, but also ensuring the security of rights for national and ethnic minorities who have found themselves in an extremely difficult situation after the cessation of military operations.

This article undertakes the analysis of the protection of Human Rights, especially in the field of activities of international organizations seeking to protect the rights of national and ethnic minorities in Kosovo after 1999.

## **2. The role of Resolution 1244 of the UN Security Council regarding the security of national and ethnic minority rights**

As already mentioned, the Security Council of the United Nations, on 10 June 1999, adopted Resolution 1244. On its basis, United Nations Interim Administration Mission in Kosovo (UNMIK) was established. For its military component, the North Atlantic Treaty Organization (NATO) was responsible. The civilian component of the mission involved four divisions led by various international organizations and coordinated by the Special Representative of the Secretary-General of the United Nations.

The United Nations was responsible for the civil administration, and the Office of the High Commissioner of the United Nations for Refugees humanitarian aid. The Organization for Security and Cooperation in Europe was in charge of for democratization and the building of democratic institutions, while the European Union and for the reconstruction of the economy, (Rydzkowski, 2003).

Taking into account the division of responsibilities within the United Nations Interim Administration Mission in Kosovo, it can be said that in relation to the issue of human rights, including national and ethnic minorities, the most important role was played by the Organization for Security and Cooperation in Europe (OSCE) and the Office of the United Nations High Commissioner for Refugees (UNHCR).

The OSCE Mission in Kosovo was created on 1 July 1999, on the basis of the OSCE Permanent Council Decision No. 305. Its main tasks included the protection of human rights. It undertook, as part of the activities in this area, to ensure the return of displaced persons to their homes. It also declared to ensure the free movement of persons, respect for property rights, fight against discrimination, and aid to the people of the province to receive both an opportunity to participate in public life as well as to a universal access to education. In addition, the mission was monitoring the level of respect for human rights, functioning of courts and the police, and providing support for the future of independent institutions that had to deal with wide-ranging legislative activity (OSCE Mission in Kosovo. Mandate, <http://www.osce.org/kosovo/43381>, accessed: 03.11.2013). In fulfilling its mandate, the OSCE Mission is currently undertaking initiatives to report on the situation of minorities in Kosovo. For this purpose, among others, a document was published concerning the response of individual municipalities in the area to the problem of forced migration and the subsequent returns to previous places of residence. The report, in particular, analysed the implementation of provisions of the law in the field of protection of minorities, as well as the degree of reintegration of displaced persons. It also described the role of Kosovo's central authorities in ensuring that the rights of minorities are respected, and executing the legislation, such as the *Strategy for the Integration of Romani, Ashkali and Egyptian Communities in the Republic of Kosovo*, whose implementation was summarized by the OSCE mission in May 2011

(See: Implementation of the Action Plan on the Strategy for the Integration of the Roma, Ashkali and Egyptian Communities in Kosovo, Organization for Security and Co-operation in Europe. Mission in Kosovo, <http://www.osce.org/kosovo/77413>, accessed: 03.11.2013).

The role of the UNHCR office, which has been present in Kosovo since 1992, was limited to the coordination of returns of displaced persons to their homes and the provision of support to refugees from Kosovo. The Office is also involved in the matters of seeking refuge in the province. It currently supports about 200 refugees from Croatia, Bosnia and Herzegovina, who left Kosovo in 1991-1995, and 26 refugees from the area of Cameroon, Ethiopia and Iraq (UNHCR – The UN Refugee Agency, 2012 UNHCR country operations profile – Serbia (and Kosovo: SC Res.1244), <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e48d9f6&submit=GO>, accessed: 03.11.2013). In addition, the Office helps stateless persons who do not have identity documents. Therefore, the Office of the UN High Commissioner for Refugees has quite powerful functions for the protection of the rights of minorities in Kosovo.

### **3. The situation of national and ethnic minorities in Kosovo after the cease of military operations in 1999**

After the cessation of the NATO military operations, those who have found themselves in the worst position were the populations of ethnic Serb and Romani origin.<sup>v</sup> This was mainly due to the fact that before the events of March 1999, the Serbs, supported by the Romani, exploited their dominant position in relation to the Albanians – which was reflected in acts of aggression against them. For this reason, fearing reprisals from the Albanian population – especially since threats were issued – both Serbs and Romani decided to leave Kosovo.

According to data published in a report by Human Rights Watch (HRW)<sup>vi</sup> of August 1999, it seems that since June that year, about 164,000 Serbs fled Kosovo. As for the population of Romani origin, there are no statistics on their expulsion from the province during this period. However, the Roma Rights Centre based in Budapest, who conducted research in Kosovo in July 1999, reported that in none of the communities in the province they visited did they find at least one half of the number of the Romani who had lived there prior to the armed conflict (Federal Republic of Yugoslavia. Abuses against Serbs and Roma in the New Kosovo. Displacement, August 1999, Volume 11, No. 10 (D), <http://www.hrw.org/legacy/reports/1999/kosov2/>, accessed: 05.11.2013). Serbs and Romani were exposed to harassment and intimidation by the Albanians attempting to force them out of Kosovo.

Those ethnic Serbs and Romani who had not done so met with acts of aggression on the part of the Albanians. Still active in this regard was the Kosovo Liberation Army,<sup>vii</sup> which as of mid-June 1999 kidnapped and detained many Serbs and Romani. In many cases, these persons returned to their homes. However, there were frequent situations that the kidnapped were never found.

Another issue, as shown in the said report, and relating to ethnic minorities in Kosovo, were cases of arson, looting and destruction of property belonging to the Serb and Romani populations. While a year earlier, in 1998, the Serbs were the ones to massively destroy homes, schools and mosques belonging to Albanians, in June 1999 they fell victim to a similar procedure on the part of the Albanian population. The homes of the Serbs and Romani, as well as churches and monasteries, became the target of vandalism.

Besides the already mentioned unlawful acts against civilians, there were also other criminal activities. These included cases of rape and murder. One of the most notorious killings of Serbs was the shooting, by unknown assailants, of 14 farmers in the village of Gracko, on 23 July 1999, in the central part of Kosovo (Federal Republic of Yugoslavia. Abuses against Serbs and Roma in the New Kosovo. Killings, August 1999, Vol. 11, Nr. 10 (D), <http://www.hrw.org/legacy/reports/1999/kosov2/>, accessed: 05.11.2013).

Another example of ethnic violence in the province was the brutal murder of two Serbs in Prizren. In turn, HRW staff, during a visit in the village of Belo Polje, on 20 June 1999, found the bodies of three men of Serbian origin who had been shot the day before (Federal Republic of Yugoslavia. Abuses against Serbs and Roma in the New Kosovo. Killings, August 1999, Vol. 11, Nr. 10 (D), <http://www.hrw.org/legacy/reports/1999/kosov2/>, accessed: 05.11.2013). Cases of ethnic killings did not spare the people of Romani origin. In the third week of June 1999 in Mitrovica, unknown assailants killed two men. Killings also took place in Djakovica and Dubrava (Federal Republic of Yugoslavia. Abuses against Serbs and Roma in the New Kosovo. Killings, August 1999, Vol. 11, Nr. 10 (D), <http://www.hrw.org/legacy/reports/1999/kosov2/>, accessed: 05.11.2013).

All these events took place in June and July of 1999, that is, after the adoption of Resolution 1244. Thus, the violation of rights of national and ethnic minorities was noted in the period when the UN mission was already operating in Kosovo. While the UNHCR Office could, in practice, provide help to the victims, yet the responsibility for public order and safety of the population within the area mostly belonged to the NATO troops stationed in the province.

The response of UN mission and NATO troops to the violence against minorities in Kosovo turned out to be late. In order to secure the safety of minorities, United Nations Interim Administration Mission in Kosovo, United Nations High Commissioner for Refugees and Organization for Security and Co-operation in Europe appointed the Ad Hoc Task Force on Minorities. Moreover, the UNMIK, KFOR and NATO publicly condemned the abuse against the Serbs and Romani. However, there were indications that Kosovo would not become an area where the Serbs and Romani would be able to live without fear of discrimination. For this reason, the KFOR decided to strengthen its representation in the province. Thus, the 1,800 civilian police officers and 1,000 specially trained police officers appointed by the UN were stationed all over the area of Kosovo (Federal Republic of Yugoslavia. Abuses against Serbs and Roma in the New Kosovo. The response of international community, August 1999, Volume 11, No. 10 (D), <http://www.hrw.org/legacy/reports/1999/kosov2/>, accessed: 06.11.2013). These actions contributed to a positive impact on the situation in the area: they made it possible to arrest 200 people (mostly Albanians), suspected of committing criminal offenses, such as arson, looting, beatings and murders, against the Serb and Romani minorities. Human Rights Watch witnessed the arrest of a group of Albanians suspected of the 28 July 1999 robbery in Brestovik.

However, the KFOR actions were not sufficient to prevent all the acts of aggression directed against the Serbs and Romani. In 2004, that is five years after the events of 1999, Human Rights Watch published a 66-page report on the failure of preventing anti-minority acts of violence in Kosovo. The document presented further, drastic violations of the rights of minorities, particularly the Serbs and Roma. It also discussed the issue of the tide of violence against them, which reached its climax on 17-18 March 2004, when riots broke out, caused by the Albanians, in connection with allegations concerning the Serbian minority being responsible for the drowning of three Albanian children (Failure to Protect. Anti-Minority Violence in Kosovo, Human Rights Watch, March 2004, <http://www.hrw.org/en/reports/2004/07/25/failure-protect>, accessed: 06.11.2013).

For nearly 48 hours, the NATO security structures in Kosovo, the international police force operating under UNMIK, and the local police almost completely lost control of the situation, unable to prevent the outbreak of riots in a number of locations across the province, attended by about 51,000 participants (Failure to Protect. Anti-Minority Violence in Kosovo, Human Rights Watch, March 2004, <http://www.hrw.org/en/reports/2004/07/25/failure-protect>, accessed: 06.11.2013). These events clearly revealed the weaknesses of the international structures. During the two days of fighting 19 people were killed and at least 550 houses, and 27 churches and monasteries were burnt. Thus, about 4,100 Serbs, Romani and other minority representatives were displaced. A few months after these events, more than 2,000 people still lived in unhealthy conditions, residing in overcrowded schools, tents, or even containers (Failure to Protect. Anti-Minority Violence in Kosovo, Human Rights Watch, March 2004, <http://www.hrw.org/en/reports/2004/07/25/failure-protect>, accessed: 06.11.2013). This slowness to act on behalf of the KFOR and UNMIK met with a wave of criticism from Human Rights Watch, who accused them primarily of scarce activity in their efforts to make the fighting stop. The Kosovo police forces – according to the staff of the organization – were poorly trained and armed. In addition, many police officers ignored the aggressive behaviour of the Albanians. In some cases, the Kosovo Police Service officers were accused of active participation in arsons of ethnic minority homes. For these reasons, KFOR troops and UNMIK police forces were seen as ineffective.

The situation of national and ethnic minorities improved slightly after the announcement of Kosovo's independence on 17 February 2008 (World Report 2009. Serbia, Human Rights Watch, January, [http://www.hrw.org/sites/default/files/related\\_material/serbia.pdf](http://www.hrw.org/sites/default/files/related_material/serbia.pdf), accessed: 06.11.2013). This was mainly due to the geographical separation of the Albanian and Serb populations. This allowed for a slight decrease in the number of incidents between Albanians, Serbs and the Romani. However, acts of aggression remained present in Kosovo, where the ethnically diverse communities continued living in close mutual proximity. The most common offenses were theft, robbery and destruction of property. Further, there were acts of vandalism directed against Orthodox churches and monasteries. Although the workers of the Human Rights Watch noted improvements in the operation of the KFOR, it is still recommended that the legal system in the province is changed. It was sought to raise the level of public confidence of ethnic minorities in relation to the authorities in Kosovo, which was shaken by the events of 2004. In the same report, the organization underlined the fact that although the Albanians expelled in 1999 from Kosovo have returned to their homes, the Serbs, Romani and other nationalities, in most cases, had not done so. Currently, most of them live in the northern and central regions of Serbia, Macedonia and Montenegro. The UNHCR data shows that in February 2008, 17,938 displaced persons returned to their homes (World Report 2009. Serbia, Human Rights Watch, January, [http://www.hrw.org/sites/default/files/related\\_material/serbia.pdf](http://www.hrw.org/sites/default/files/related_material/serbia.pdf), accessed: 06.11.2013). This is directly related to the fact that ethnic minorities continue to fear for their safety in the area of Kosovo. The 2009 report also revealed that the Romani and Egyptian minorities were particularly marginalized. The political, economic and social needs of these groups were excluded from the negotiations on the future status of Kosovo. In addition, these minorities are constantly discriminated against in terms of access to jobs in the public service (World Report 2009. Serbia, Human Rights Watch, January, [http://www.hrw.org/sites/default/files/related\\_material/serbia.pdf](http://www.hrw.org/sites/default/files/related_material/serbia.pdf), accessed: 12.06.2012).

Adversely, the Human Rights Watch report of 2012 shows that the issue of human rights improved in 2011 (World Report 2012, Serbia. Human Rights Watch, January 2012, [http://www.hrw.org/sites/default/files/related\\_material/serbia\\_kosovo\\_2012.pdf](http://www.hrw.org/sites/default/files/related_material/serbia_kosovo_2012.pdf), accessed: 06.11.2013). The legal system is still weak, though efforts have been made to fight corruption. Romani and Egyptians, however, are still marginalized and vulnerable to discrimination, especially in terms of access to public services, employment and education.

In August 2011, tension between Serbs and Albanians was observed. This was due to Kosovar authorities' decision to place troops on the border with Serbia. As a result of the clashes, one policeman was killed by Serb protesters. In addition, local prosecutors reported 60 cases of incidents based on ethnic hatred that took place in the first three quarters of 2011 (World Report 2012, Serbia. Human Rights Watch, January 2012, [http://www.hrw.org/sites/default/files/related\\_material/serbia\\_kosovo\\_2012.pdf](http://www.hrw.org/sites/default/files/related_material/serbia_kosovo_2012.pdf), accessed: 06.11.2013). Most of these incidents were related to vandalism, and, occasionally, ethnic murder, as the one in Mitrovica where a Serbian man was shot and killed, and three others wounded (World Report 2012, Serbia. Human Rights Watch, January 2012, [http://www.hrw.org/sites/default/files/related\\_material/serbia\\_kosovo\\_2012.pdf](http://www.hrw.org/sites/default/files/related_material/serbia_kosovo_2012.pdf), accessed: 06.11.2013). In October 2011, the OSCE called on the Kosovo authorities to provide greater means for the protection of the Serb minority.

According to the Human Rights Watch World Report 2013, tensions between the Serb minority and the Albanian majority remained high in 2012.<sup>viii</sup> What is more, Roma, Ashkali and Egyptians were still among the most vulnerable groups in Kosovo. They continue to face discrimination in housing, education and access to public services. On the other hand, it should be stressed that during the first eight months of 2012, 16 inter-ethnic incidents were recorded, whereas in 2011, 60 inter-ethnic incidents were recorded (*World Report 2013*, Human Rights Watch, [https://www.hrw.org/sites/default/files/wr2013\\_web.pdf](https://www.hrw.org/sites/default/files/wr2013_web.pdf), accessed: 06.11.2013).

In the field of refugee and internally displaced persons' returns, it was noted that during the first 10 months of the year the Office of the United Nations High Commissioner for Refugees registered 785 voluntary returns, including those outside Kosovo and internally displaced persons, compared to 989 returns during the same period in 2011 (*World Report 2013*, Human Rights Watch, [https://www.hrw.org/sites/default/files/wr2013\\_web.pdf](https://www.hrw.org/sites/default/files/wr2013_web.pdf), accessed: 06.11.2013). In addition, between January and September 2012, the UNHCR registered 1,717 forced returns to Kosovo who were mostly deported from Western European countries, such as Sweden and Germany (*World Report 2013*, Human Rights Watch, [https://www.hrw.org/sites/default/files/wr2013\\_web.pdf](https://www.hrw.org/sites/default/files/wr2013_web.pdf), accessed: 06.11.2013). Human Rights Watch also revealed that Kosovo was a territory where freedom of the media was violated.<sup>ix</sup> To sum up, according to World Report 2013 of Human Rights Watch, there was no significant improvement in human rights protection in Kosovo in 2012.

#### 4. Conclusion

Taking into account the functioning of national and ethnic minorities in Kosovo, it can be concluded that it is not possible to unambiguously determine whether the international community has been successful in this aspect, or has it failed. The problem of minorities in the province is a multidimensional issue. Currently, Kosovo has the population of around 2 million people. For the most part, they are Albanian-speaking and profess Islam. In addition, the area is inhabited by people of Serbian, Roma, Bosnian, Turkish, Egyptian, Croatian, Gorani, and Ashkali identity. Ethnic, religious, and cultural diversity, as well as historical reasons are the source of many tensions between the nations.

International organizations in Kosovo, since 1999, have therefore met the considerable challenge of maintaining a stable situation in the province. As can be seen from the data, the KFOR peacekeeping force, or the mission of the United Nations, were often too slow to react. However, we cannot forget about the fact that since 1999, there has been no large-scale ethnic war in Kosovo, the effect of which would be massive bloodshed. It is also unclear how the situation of national and ethnic minorities in the area would look like today had the intervention of the international community been abandoned. One can only presume that this situation would look much worse than what the Human Rights Watch report of 2013 describes.

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*World Report 2009. Serbia*. Human Rights Watch, January 2009. [http://www.hrw.org/sites/default/files/related\\_material/serbia.pdf](http://www.hrw.org/sites/default/files/related_material/serbia.pdf) (accessed: 06.11.2013)

*World Report 2012, Serbia*, Human Rights Watch, January 2012. [http://www.hrw.org/sites/default/files/related\\_material/serbia\\_kosovo\\_2012.pdf](http://www.hrw.org/sites/default/files/related_material/serbia_kosovo_2012.pdf) (accessed: 06.11.2013)

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## Notes

<sup>i</sup> The decision to internationalize the issue of Kosovo was made at a meeting of the American Secretary of State Madeleine Albright with the Foreign Minister of Germany Klaus Kinkel, in March 1998 in Berlin.

<sup>ii</sup> On February 6, 1999, the Contact Group consisting of representatives of the United States, Russia, Britain, France, Germany and Italy held peace talks in Rambouillet – aimed at staving off the Serb-Albanian conflict in Kosovo. The negotiations failed, as the Serbs did not accept the provisions of the agreement. The peace talks were resumed on March 15, 1999 in Paris. However, this time again the Serbian party contributed to their collapse., J. Kiwerska

<sup>iii</sup>The operation of the Atlantic Alliance was a reaction to the escalating conflict and the lack of desire to communicate from the Serbian party. The operation was a sovereign decision of the North Atlantic Treaty Organization, which acted without support of the UN Security Council, because on the forum of this body there was no vote on the resolution that would authorize the sending of UN peacekeeping forces to restore peace in Kosovo. The lack of vote on the resolution to this effect was related to the fact that Russia and China advocated firmly against military intervention. Thus, it is highly likely that these countries would veto this type of resolution.

<sup>iv</sup> It should be emphasized that President Milosevic accepted a peace plan presented by the Russian mediator Viktor Chernomyrdin and President of Finland, Martti Ahtisaari. The plan was adopted on June 3, 1999, by the Serbian

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parliament. Despite the adoption of the roadmap, NATO representatives decided that the airstrike raids would not stop until Yugoslavia does not meet the conditions of the peace plan.

<sup>v</sup> In addition to the Serbs and Roma minorities in Kosovo, during this period, the area was also inhabited by Croats, Goran, Turks, Montenegrins and Egyptians.

<sup>vi</sup> The Human Rights Watch is an international non-governmental organization founded in 1988 as a result of the transformation of the organization Helsinki Watch. The organization deals with the protection of human rights worldwide and its headquarters are located in New York. (See: Human Rights Watch. About us, <http://www.hrw.org/node/75134>, accessed: 20.10.2012.

<sup>vii</sup> The Kosovo Liberation Army. Ushtria Çlirimtare e Kosovës (UÇK), was an Albanian military organization, whose origin dates back to 1994. „The main objective of the KLA was to unite the ethnically Albanian population living in Albania, Montenegro, Kosovo and Macedonia, to create a ‘Great Albania.’ In time, however, the KLA limited its program to the independence of Kosovo ... ” M. Marcinko, „Wyzwolenicza Armia Kosowa: analiza struktury i ocena działalności” [in:] *Balkany u proggu zjednoczonej Europy*, [Ed:] P. Kraków 2008, p. 145-150.

<sup>8</sup> Tensions between Serbian and Albanian remained high especially in Mitrovica, where in April 2012 an explosion in the majority Serb “Three Towers” neighborhood in the city killed an ethnic Albanian man and wounded two of children.

<sup>9</sup> The most important problem related to freedom of the media were threats against journalists in Kosovo.