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FACULTY OF POLITICAL SCIENCES  
Regional Master's Programme in Peace Studies

## MASTER'S THESIS

Brussels Agreement – a (delayed) peace accord

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6/2015

Belgrade, 2017

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## **Introduction**

Many academic analyses, books and essays have been written about Belgrade-Prishtina negotiations and the Brussels Agreement itself, from different points of view and several theoretical approaches.<sup>1</sup> But, few (if not at all), have been dedicated to repercussions they generated for the everyday life of citizens of Kosovo, not to say the influence they had on peacebuilding processes in post-conflict area. As Kumanovo Agreement is regarded to be an accord which brought lasting peace to Kosovo, none of the agreements or arrangements made between Prishtina and Belgrade after it have been perceived neither as peace accords nor as documents or acts significantly contributing to peacebuilding process. Beginning of negotiations within the so-called Brussels framework opened a new chapter in post-conflict period. Burdening topics which were previously postponed to be dealt with by both former belligerents have been unlocked in newly established format of dialogue, culmination of which was the conclusion of Brussels Agreement. By arranging important issues for building sustainable peace and coexistence in the multiethnic society of Kosovo, this document has become a milestone in Prishtina-Belgrade relations. Since its peacebuilding value wasn't given proper academic attention, the purpose of this research will be to evaluate the Brussels Agreement in terms of its capacity as a peace accord and its significance to peacebuilding process in Kosovo.

In this regard, it will try to give answers to two questions, the one being whether the Brussels Agreement bears characteristics of a peace accord, and the other whether the implementation of the Agreement has brought more peace to Kosovo citizens. In order to achieve answering these two main questions, the author plans to implement both qualitative and quantitative research methods, when combined, will give a scientifically balanced and insightful research outcome. Before engaging in the analysis of the content and structure of the Agreement, a historical background of it will be introduced. Afterwards the content of the Brussels Agreement will be divided into six groups that cover particular areas of the implementation process and assessed on the basis of their progress in the implementation process, as well as their individual influence on peacebuilding process in Kosovo. After being assessed in parts – following the lines of six groups, evaluation of the whole document will be realized following the insight brought by the assessment of practical outcomes of every one of six defined groups. Conclusions will be drawn based on results produced by both general and particular approaches towards the analyzed document.

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<sup>1</sup> Brussels Agreement has mostly been analyzed as part of the process of normalization between Prishtina and Belgrade, with references to political, social, security and cultural consequences prompted by it. Authors that are quoted or referenced to in this research presented their standpoints within these dimensions.

The main point is to shed some different light onto the Agreement and open a discussion in the direction of perceiving it also as a peace agreement. In such a way, academic circles could pay more attention to the impact and consequences the Brussels Agreement has brought not only to the Prishtina-Belgrade relations, but also to the overall intellection of peace agreement(s) as a theoretical and practical term. Moreover, it would open space for internal discussions within the two societies on the outcomes prompted by the Brussels Agreement, as well as the revision of their established (and official) standpoints concerning the issue of Kosovo.

## **1. Peace agreements – definition and structure**

Peace agreement is usually only a part of a peace process in a post-conflict environment. Following the end of an armed conflict, after a certain period of time and in a particular geographical environment, in many cases, signing of a peace agreement frequently comes in the end. They customarily do not represent an ideal solution for resolving a particular conflictual situation, but, in majority of cases, they act as “an early step towards peace”, and an “outlining of a path towards a peaceful future.”<sup>2</sup> Being as such, peace agreements, in their long history of existence,<sup>3</sup> haven’t been coping with all the violent and non-violent dimensions and repercussions of conflicts and, thus, have frequently approached the issue in the broadest sense. Due to the complexity, unpredictability and hazardous effects violent clash produces, peace accords tend to be poorly defined, given that they address particular and burning issues in abstract, neutral or politically correct vocabulary. If added that many of peace agreements signed in the long history of human violence haven’t been defined as such, or did not include the word ‘peace’ (or ‘peace agreement’) in the title of such a document, analysis and perception of the idea and essence of peace agreements gets more complicated. Thus, peace accords themselves need to be put in a defined framework, in order to give it a substantive form needed for a proper analytical approach to the outlined researched topic.

### **1.1. Peace accords – definition and subgroups**

Diverse forms and names peace agreements have makes it quite difficult to formulate a comprehensive and exact definition of what they actually represent. Among many explanations and interpretations of the substance of a peace accord, this research will rely upon the definition and structure proposed by German scholar Arist von Hehn. In his work dedicated to peace agreements signed after intrastate conflicts, von Hehn states that “peace agreement... encompasses framework agreements or substantive agreements reached in violent internal conflicts, that is, the documentation of the main areas of agreement between the government and other important protagonists to the conflict, and/or third party international actors.”<sup>4</sup>

Even though there are many similar and even broader definitions of peace accords, this one was deliberately chosen having in mind the authentic circumstances (intrastate conflicts) in which such documents are signed and, later, implemented. This does not mean that the focus is therefore put

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<sup>2</sup> Arist von Hehn, *The Internal Implementation of Peace Agreements After Violent Intrastate Conflict: Guidance for Internal Actors Responsible for Implementation*, (Leiden: Martinus Nijhoff Publishers, 2011), 1.

<sup>3</sup> According to many scholars the first peace treaty recorded in history was concluded after the battle of Kadesh in 1274 BCE, during the ancient Egypt.

<sup>4</sup> Von Hehn, *The Internal Implementation of Peace Agreements*, 15.

only on subjects of the conflict within a one-state surrounding, since these conflicts or peace processes are also subject to some degree of internationalization, which is of crucial importance for the adequate approach to the researched case study. Von Hehn adds that agreements defined in such manner can “vary widely in their comprehensiveness,”<sup>5</sup> meaning that they may address numerous post conflict issues, while coping with completion of war activities in wider or narrower sense. No less important element of a peace process is the implementation of agreed peace accords; in this research it will imply “the totality of the relationships and activities involved in implementing the decisions adopted as part of a peace agreement.”<sup>6</sup> Since peace accords deal with particular areas of great importance to peace, their implementation in practice show how much of the ‘words of the document’ are applied and respected by main stakeholders of the agreement. Therefore, the evaluation of the consequences brought by carrying out the content of the agreement stems from the level and scope of materialized provisions of an agreement. It’s important that all defined subjects of the agreement participate in its implementation; their equal or unequal partaking in putting words into action will help assessing the overall improvement towards peace (or a step back in that process).

In pursuance of precise content and structural parallel of the Brussels Agreement, when it comes to types of peace accords, von Hehn’s terminological construction of the so-called ‘framework/substantive agreement’ will be employed.<sup>7</sup> He defines this subgroup of agreements as those which “begin to set out a framework for resolving at least some of the substantive issues and consequences of the conflict.”<sup>8</sup> Moreover, the fact that such accords “often provide for public signing ceremonies and encounters between the adversaries, culminating in a symbolic handshake, and marking a ‘historical moment’ of compromise,”<sup>9</sup> requires a more detailed attention, due to the resemblance between Hehn’s theory and practice related to Brussels Agreement. In this respect, he offers additional description of framework/substantive agreements, where he mentions that they define “how power is to be divided and exercised,” but also “set the agenda, and possibly a

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<sup>5</sup> Ibid.

<sup>6</sup> Ibid, 16.

<sup>7</sup> Apart from Von Hehn, authors such as Christine Bell (in *Peace Agreements and Human Rights*, Oxford, Oxford University Press: 2000) and Peter Wallensteen and Margareta Sollenberg (in “Armed Conflicts, Conflict Termination and Peace Agreements, 1989–96”, in *Journal of Peace Research*, Vol. 34, No. 3, 1997: 339-358) have also offered their own typologies and categorizations of peace accords. While von Hehn’s categorization coincided with Bell’s (who made distinctions between prenegotiation agreements, framework/substantive agreements, and implementation/renegotiation agreements), the other two authors classified peace accords as full, partial or peace process agreements.

<sup>8</sup> Ibid, 50.

Von Hehn adds that “they set the agenda, and possibly a timetable, for reaching a more permanent solution, and map out basic future institutions of government, while often leaving the details to be dealt with in later agreements or legislation, or delegating contentious issues to a commission or independent working group.” – Ibid, 50.

<sup>9</sup> Ibid.

timetable, for reaching a more permanent solution, and map out basic future institutions of government.”<sup>10</sup> But, probably the crucial point which connects Hehn’s subgroup with the Brussels Agreement is that it “often leaves the details to be dealt with in later agreements or legislation, or delegating contentious issues to a commission or independent working group,”<sup>11</sup> which is, as it later will be shown, what occurred in the analyzed case study.

As for other types defined by von Hehn – pre-negotiation, interim, and implementation agreements<sup>12</sup> – these peace accords can be related to the content and effects catalyzed by the Brussels Agreement, but aren’t precise enough to explicitly define its exact nature. Even though pre-negotiation agreements can be traced within Belgrade-Prishtina negotiations process, which he defines as the ones that “set the agenda for talks and provide an opportunity to explore the parameters for resolution at low risk,” while “dealing with issues such as who is going to negotiate, and with what status,”<sup>13</sup> the main focus will be put on the document itself – Brussels Agreement – because it encompasses and summarizes majority of the issues dealt with in documents, that is legal predecessors, signed and implemented before the Agreement went into force. By covering substantive areas of post-conflict everyday life of citizens of Kosovo and setting agendas and general framework for implementing a sustainable peace, Brussels Agreement has fallen under the radar in terms of its relation to qualities and values one substantive peace accord customarily consists of. For that reason, configuration of a typical peace accord needs to be introduced, so as to delineate and concretize substantive areas commonly covered by the content of agreed documents.

## 1.2. Structure of peace accords

According to Ferdinand de Varennes “peace agreements concluded since the end of the Second World War have not changed fundamentally: the near constant demand has been for autonomy.”<sup>14</sup> Judging by the number of peace accords he’s analyzed,<sup>15</sup> his insight into the customary content of majority (if not all) peace accords signed after the WWII was detailed and comprehensive. In this regard, de Varennes notices a changing tendency regarding the nature of the content of agreed peace accords. He asserts that the rising role of representatives of international organizations and their involvement in creating and promoting peaceful solutions to conflicts in form of peace accords has changed in terms of their substance and language. As he explicitly claims, officials of third-party (international) organizations “tend to provide a background under

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<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Fernand de Varennes, “Peace Accords and Ethnic Conflicts, a Comparative Analysis of Content and Approaches”, in *Contemporary Peace Making* ed. John Darby and Roger Mac Ginty (London: Palgrave Macmillan, 2003), 151.

<sup>15</sup> Ferdinand de Varennes examined more than 200 peace accords concluded since the end of the Second World War.

which the various provisions of agreements are ironed out.”<sup>16</sup> If this statement is correlated with the circumstances leading to the birth of the Brussels Agreement, where the role of European Union and other international actors was of crucial importance, proves de Varennes conclusion.

Moreover, he insists that, regarding the shift in the language, peace accords have significantly changed in favor of the discourse of human rights, where questions of self-determination and minority issues are dealt with within that discourse. Here the increased presence of international subjects in conflicts, which are ethnically driven and one-state narrowed, shows how the matter of building peace has, more or less, lost the exclusive proprietorship over subjects who directly took part in a particular war activity. Notwithstanding the fact that the existing palette of agreed peace accords has a variety of authentic characteristics, de Varennes has managed to come up with a ‘fairly consistent pattern’ of common content denominators of peace accords. By examining around 200 peace accords signed after the end of WWII, he found consistent substantial issues which usually stand out and listed them in the following order of importance: independence/autonomy/power-sharing, human rights guarantees and ‘fair’ distribution of resources/employment.<sup>17</sup>

The first parameter has a great role in defining the nature of a post-conflict peace accord and is based “on the belief among some segments of the minority population that the state itself does not represent their interests properly, and therefore the minority must control its ‘own affairs’ via a devolved or autonomous political structure within the state – or outside of it in the case of independence movements.”<sup>18</sup> The analyzed Brussels Agreement bears an interesting two-dimensional characteristic when it comes to this de Varennes insight – two subjects involved in this matter (Belgrade and Prishtina) have their own perception and angle of view regarding the minority and power-sharing issue, while peace accords usually have a one-dimensional perspective – state(s) vs. minority(s). In the case of the Brussels Agreement, two sides perceive the issue from different standpoints, but basically in the same manner, that is – dealing with the issue of power-sharing (with minorities) – Belgrade with Kosovo Albanians (while considering Kosovo as its autonomous region and Albanians as an internal minority) and Prishtina with Kosovo Serbs (by treating possible autonomy of Kosovo Serbs as an internal affair and rejecting any interference of Belgrade in this matter). Therefore the situation in this case gets more complicated, because the accord essentially deals with two minorities in parallel, as perceived and treated by two sides in question. Moreover, the fact that Serbia doesn’t recognize Kosovo\* as an independent state, gave

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<sup>16</sup> Ferdinand de Varennes, “Peace Accords and Ethnic Conflicts”, 152.

<sup>17</sup> Ibid, 153.

<sup>18</sup> Ibid.



the Brussels Agreement a special tone to its content by opening a space for discussing the issue of recognition, even though it doesn't clearly state such a proposal. Closely related to previous segment commonly represented in peace accords – human rights guarantees – is a vital part of a typical peace accord, which has also been given a great deal of attention in case of the Brussels Agreement, which will be demonstrated in the following chapters. As for the third element suggested by de Varennes, (detailed) coverage of economic, financial, administrative, infrastructural and investment issues listed in the Brussels Agreement, will allow a closer look into how this document resembles a certain pattern habitual to the content of peace accords.

Similarly to de Varennes, Joshi and Darby have dedicated their analysis to patterns that can be traced in peace accords signed in the period of two decades. They devised their own theoretical instrument they designated as the Peace Accords Matrix, a comparative and analytical apparatus created for the purposes of mapping and observing of different aspects one peace accord consists of. What Joshi and Darby did was that they created a peace accords database signed in the period of 1989-2007, extracted main elements of their contents, classified them by areas of post-conflict realities they deal with and created a matrix comprised of fundamental components of an (average) peace accord. In their words, the so-called PAM essentially allows for an examination of “aspects of peace agreements and the implementation of particular provisions, which either help or hinder peace processes in post-accord periods.”<sup>19</sup> Comparative parameters were defined by Joshi and Darby through identifying and examining of 51 different provisions inherent to the content of modern peace accords. Such database of different provisions was grouped by these authors into six different categories: ceasefire, institutions, security, rights, external arrangements, and ‘other topics’.<sup>20</sup> Not only that the purpose of this matrix was to separate, define and categorize different elements of peace accords, but also to have a mechanism for evaluating and measuring the level of implementation followed by the ratification of a peace accord. It's necessary to mention that the focus of this research will be on both of these elements – comparison of contents and structures as a way of examining of the Brussels Agreement in terms of its nature (whether it conveys the spirit of a typical peace accord) and the assessment of the implementation of provisions of this document.

Within the institutional category, following provisions fall under it: transitional power-sharing government, executive branch reform, legislative branch reform, constitutional changes, inter-ethnic state relations, boundary demarcation, electoral or political reform, territorial power-sharing, decentralization, civilian administration reform, truth or reconciliation mechanism, dispute

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<sup>19</sup> Madhav Joshi and John Darby, “Introducing the Peace Accords Matrix (PAM): A Database of Comprehensive Peace Agreements and their Implementation, 1989-2007”, in *Peacebuilding* Volume 1, Issue 2 (2013): 2.

<sup>20</sup> Ibid, 7.

resolution committee and judiciary reform.<sup>21</sup> Security category includes factors such as: military reform, police reform, demobilization, disarmament, reintegration, prisoner release and paramilitary groups.<sup>22</sup> When it comes to rights, there are fifteen provisions that have usually been part of a modern peace accord: human rights, amnesty, refugees, internally displaced persons, indigenous minority rights, right of self-determination, citizenship, children, women, education reform, official language and symbol, cultural protections, media, minority rights, reparations.<sup>23</sup> As for the external arrangements, Joshi and Darby suggest the following list of common provisions: UN transitional authority; UN, international, or internal verification; international arbitration commission on land; arbitration commission to address damage and loss; UN Peacekeeping Force; regional peacekeeping force, withdrawal of troops.

Last, but not less important, is the category of the so-called ‘other topics’ category which includes: economic and social development, ratification mechanism, donor support, detailed timeline for implementation, natural resource usage, independence referendum, affirmation of adherence to arms embargo and provisions for review of agreement.<sup>24</sup> Here it needs to be noted that not all of these elements can be traced in every peace accord analyzed by Joshi and Darby. Nonetheless, conflicts which preceded these peace accords may vary in their nature, scale and structure, which, consequently form and cause the quality and span of topics covered by a peace agreement. It is clear that not all of the listed provisions can be combined in one peace accord (the two mentioned authors haven’t found such an example, since there is no accord that has all the listed provisions).

The standpoint of the author of this research is that there is no need for defining or detailed explanation of every element of Joshi’s and Darby’s provisions’ list, firstly due to their huge number, and, secondly, because of their clear distinctiveness and lack of contextual and theoretical interference among them. In addition to this, it is necessary to mention that the analyzed agreement in this research hasn’t been signed just after (or in a reasonable period of time from) the end of the (Kosovo) conflict. Exactly because of the temporal nature of this study, its author insists that under the heading of *delayed* will lie an important supplementary clarification, which denotes the type of correlations and contextual background present in it.

Duality of used parameters – the tripartite substantial elements of peace accords proposed by de Varennes and the PAM, as defined by Joshi and Darby – doesn’t necessarily mean that it will catalyze confrontation between them. Rather, the first framework will help approach the topic on a

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<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

more general, while the second will allow for an analysis on a more detailed level. Hence, the presence of such a multi-level access in this research will enable for a more insightful and adequate study of the Brussels Agreement. In order to apply this two-dimensional approach, the content and the structure of that document needs to be properly mapped. Considering that methods of content analysis and comparative approach require defined content and correlational units, the next chapter will deal with the entirety of the Brussels Agreement.

### 1.3. Brussels Agreement and its structure (articles)

Framework/substantive agreements, as previously mentioned, contain general guidelines for future implementation of the agreed matter, crucial for restoration of peace in war torn area(s). Brussels Agreement, very similarly, defines different areas of interest to peace, covered by contractual substances and the manner in which agreed affairs will be practiced by its constituents, meaning concerned subjects that were previously confronted. This document consists of following fifteen articles:

- “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 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 the 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 Interior from a list provided by the four mayors on behalf of the Community/Association. The composition of the KP in the north will reflect the ethnic composition of the population of the four municipalities. (There will be another Regional Commander for the municipalities of Mitrovica South, Skenderaj and Vushtrri). The regional commander of the four northern municipalities will cooperate with other regional commanders.
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.
11. A division of this 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 by a majority of K/S judges. Appropriate judges will sit dependant on the nature of the case involved.
12. Municipal elections shall be organized in the northern municipalities in 2013 with the facilitation of the OSCE in accordance with Kosovo law and international standards.
13. Discussions on Energy and Telecoms will be intensified by the two sides and completed by June 15<sup>th</sup>.
14. It is agreed that neither side will block, or encourage others to block, the other side's progress in their respective EU path.
15. An implementation committee will be established by the two sides, with the facilitation of the EU.”<sup>25</sup>

These articles will be divided into several groups depending on areas articles actually target. This was done not only as a matter of rationalizing or lessening of used parameters (in this case –

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<sup>25</sup> Office for Kosovo and Metohija, “First Agreement of Principles Governing the Normalization of Relations”, *Office for Kosovo and Metohija – Government of Republic of Serbia*, 2013, <http://www.kim.gov.rs/eng/p03.php> (accessed 7 April 2017).

articles), but as a way of creating compact and interrelated dimensions which are defined as objects of the analyzed agreement. As a consequence of such an approach, articles of the Brussels Agreement will be rearranged in mutually correlated areas of interest to peace in Kosovo and thus, ease the further analysis.

Depending on topics which, under the auspices of the EU, Belgrade and Prishtina agreed to, articles of this document will be grouped into six inclusive domains: amnesty law; municipal elections; constitution of local authorities in accordance with Kosovo\* laws and reform of judicial system; Association/Community of Serb majority municipalities; security structures; improvement of economic (and social) conditions; membership in the international community. Some of these selected groups include one article, while others cover several ones, which will not harm comparative or content (or any other) analysis, because they were correlated strictly on the basis of their mutual connectedness and closeness.

It's important to point out here that articles were regrouped<sup>26</sup> for the purposes of testing the outcomes brought by the implementation of previously listed articles. In such a way, every article (belonging to a particular correlated group) will be evaluated on whether (and how) they have contributed to strengthening peace in Kosovo. Subsequently, regrouping will ease both the comparison of the Brussels Agreement with common structure of (modern) peace agreements and the assessment of results and repercussions produced by practicing the words of this document, which are, basically two main aims of this research.

Finally, since peace agreements are regarded as part of and in accordance with international public law, subjects that are parties to these agreements can be of different type. But, the problem arises when it comes to parties that are not fully integrated into the international community, meaning that they don't have the (full) status of the subject of international law. Apart from states and international organizations, Arist von Hehn states that "the most relevant example of groups that might be able to claim such a subject status in the context of this study are armed groups."<sup>27</sup> Having in mind that Kosovo armed conflict was finished way before the Brussels Agreement was eventually signed, framing of the (legal) form of parties to this agreement might create confusion, especially because both Kosovo Liberation Army (KLA) and Yugoslav Army have long been

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<sup>26</sup> Regarding the chapter dedicated to amnesty law it's important to specify that it has been given a separate heading even though it wasn't explicitly mentioned in the Brussels Agreement. It was included due to its importance as a legal precondition for implementation of that document and also because it is author's standpoint that it falls under the Agreement's stipulation, foreseen as a part of "legal guarantees that will be provided by applicable law and constitutional law of Kosovo" (article 2). Concerning other five areas, they will incorporate topics which are directly related to these defined areas, but will, at certain points, go out of the framework of the Brussels Agreement, due to its connectedness to negotiating process and agreed technical agreements that preceded the Agreement.

<sup>27</sup> Von Hehn, *The Internal Implementation of Peace Agreements*, 51.

transformed. If added that, due to different perspectives that subjects of the Brussels Agreement have on each other's (international and correlational) status, it is quite difficult to claim that parties to this agreement are both treated the same by the international law. The third party and the guarantor of this document – the EU – tends to treat both sides in the same manner, which gives a special tone to their relations and weight to the importance of the agreed matter. Moreover, the fact that both sides have managed to overcome deep cleavages between them, to 'sit on one same table' and discuss common issues, to put signature on a document dealing with those issues and shake hands after it – shows that parties have indirectly accepted each other as respectable subjects of the Agreement.

That's why the status of Kosovo won't be discussed, because it's not the topic of this research, nor does it have a deciding impact on the outcome of the analysis. Kosovo will be regarded as a geographical and politically unique subject, which is, in the opinion of the author of this study, the right way to neutrally approach the issue in question. Thus, political biases and contradictions could be avoided, while giving the priority to scientific facts and the main pillar of the research, that is, the peace-building process in Kosovo. Subjects of the Agreement in this research will be designated as *Belgrade* and *Prishtina*, capital cities of the two parties, where their governments (and presidents) are seated, so as to show that the author doesn't have the intention to cope with the current issue of the status (of Kosovo), while focusing on the Agreement itself.<sup>28</sup> But, before embarking upon the study of the document itself, it's important to make a step back in time and give floor to historical timeline that led to the signing and implementation of the Brussels Agreement.

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<sup>28</sup> In other cases, apart from the term *Prishtina*, a legally and politically neutral term (agreed between Belgrade and Prishtina) – *Kosovo\** – will also be utilized. When the term *Republic of Kosovo* is used in this research, it will be designated in Italic font in order to show that the author doesn't involve in the discussion about Kosovo's status and that he uses and perceives this term from a status-neutral viewpoint. This term is used in this research only for the purposes of contextual explanation or authentic identification by one of the subjects of the Agreement (as defined by official Prishtina).

## **2. Historical background of Kosovo conflict and Brussels Agreement**

The beginning of the conflict between Albanian and Serbian ethnic groups (in Kosovo) can be traced around the beginning of 19<sup>th</sup> century,<sup>29</sup> a period of national awakenings in the Balkans and struggles for national liberation. Previously, several centuries of Ottoman rule in the Balkans, and consequently Kosovo, have created a relatively peaceful region with, what can be designated, as fragile peace. This peace wasn't fragile due to a widely mixed multiethnic, multicultural and multiconfessional population of the region, where one might expect possible frictions within such diversity of groups, but because of the inconsistent and decentralized Ottoman rule (especially during 18<sup>th</sup> and 19<sup>th</sup> centuries), characterized by lack of control over self-organized local 'rulers' and intruders. Even in such circumstances, conflicts in Kosovo didn't bear the characteristics of ethnically or religiously based clashes, rather they had outlines of a rivalry between different 'mob' structures that were typical not only in present-day territory of Kosovo, but throughout the Ottoman-controlled part of the Balkans.

On the eve of national-building processes that took place in southeastern part of Europe, exclusive ethno-nationalist and even irredentist plans and claims were pushed forward by political elites, best examples of which could be found in the Platform of the Prizren League<sup>30</sup> and Načertanije<sup>31</sup> by Ilija Garašanin. Naturally, these ideologies were opposed to each other given that they were mainly based on extensive territorial claims and creation of national identities as opposed to 'the other', the latter being neighbouring ethnic groups. Moreover, fingers of Albanian and Serbian elites were also pointed at their 'common enemy' symbolized in the Ottoman rule and its major population – the Turks. Claims over the territory of the present day Kosovo became a milestone of national (and mythical) revivals and liberation movements of both Albanians and Serbs, where the matter of 'repossessing' Kosovo from the Turkish rulers became the question of 'life or death'. These claims have, at certain points in history, been hindered and supported by major forces of Europe, which aggravated already heated relations among Balkan ethnic groups, where Serbian-Albanian friction over Kosovo wasn't that much different.

As soon as the 'Sick man of Europe' started falling apart, the club of violence started unwinding along ethnic and religious lines. Even though the territory of Kosovo was firstly liberated from the Turks after the First Balkan War, cases of ethnic cleansings, cultural desecrations and massive

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<sup>29</sup> During the time of the First Serbian Uprising (1804-1813) first clashes between Serbs and Albanians took place in the Pešter plateau and around the city of Novi Pazar. This conflict was followed by forceful expulsion of Albanian population from territories liberated by Serbs during both First and Second (1815-1817) Serbian uprisings. More about it in: Petrit Imami, *Srbi i Albanci kroz vekove* (Beograd: Samizdat B92, 2016).

<sup>30</sup> Mirela Lazimi, "League of Prizren – Albanian League of Islamic League", *Journal of Institute Alb-Shkenca* Vol. 4 (2013).

<sup>31</sup> Илија Гарашанин, *Начертаније* (Београд: Удружење српских издавача, 2009).

movements of both Albanians and Serbs in that region started before, the most intensive period being the years of 1877-1878. After the two Balkan wars ended, Albanian state gained its independence, while Serbia began its rule over the territory of Kosovo. Both First and Second world wars were characterized by repossessing of control over Kosovo by Serbian/Yugoslav forces, which had a tendency to last even after these global wars were put to an end – in the case of WWI until 1924,<sup>32</sup> and 1948<sup>33</sup> after the WWII. Times that followed these wars, the first one being the time of Kingdom Yugoslavia and the second being the Socialist Yugoslavia, were times of deepening of inter-ethnic distances and ignorance towards resolving any major issue related to Kosovo. Waves of mutual forced expulsions and consequent drastic demographic changes during the middle of 20<sup>th</sup> century became a *modus vivendi* in Kosovo, a vicious circle that had its violent resurrection in the end of the second millennium.<sup>34</sup>

Kosovo gained the status of autonomous region within the Socialist Republic of Serbia, which, with the introduction of Constitution of Yugoslavia in 1974, was brought to a much higher level of autonomy. The latter nearly equalized Kosovo's position within the Yugoslav federation, but was never granted with the status of a republic. This caused constant frustration within Albanian political circles in Prishtina and among Albanian population, which, after the death of Josip Broz Tito, lead to wide range instability throughout Kosovo. Dissatisfaction was manifested in 1981, when March riots occurred in major, mostly Albanian populated, cities of Kosovo,<sup>35</sup> with a central and most massive protest taking place in Prishtina. From that period on it can be stated that Kosovo was under constant state of emergency, which culminated with the infamous martial law imposed in 1989. Such extreme step was followed by abolishment of both autonomous regions of socialist Serbia, which became one of the factors that announced tectonic changes within federal Yugoslavia. The issue of Kosovo started to become not only an internal problem of Belgrade, but also began getting more attention from the international community. As of the beginning of 20<sup>th</sup> century, "both sides, Serbian and Albanian, tried to present to the international community their case as being particular and therefore deserving particular attention and consideration."<sup>36</sup> However, both claims

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<sup>32</sup> Kingdom of Serbs, Croats and Slovenes hasn't managed to obtain full sovereignty over the territory of Kosovo after the WWI, due to the fact the it was partially controlled by the so-called kaçak rebel units (comprised of local Albanians), until these were eliminated by 1924 (Howard Clark, *Civil resistance in Kosovo*, London: Pluto Press, 2000, 46).

<sup>33</sup> Leftovers of the Albanian quisling Balli Kombëtar units kept on fighting the newly established Socialist Yugoslav state on the territory of Kosovo and Western Macedonia after the end of WWII. They refused to accept the sovereignty of Belgrade over Kosovo and fought for the unification of all Albanians under one Albanian state. Yugoslav secret forces fought with remains of Balli Kombëtar in Kosovo until 1948, when they were finally eliminated, thus obtaining the full sovereignty over Kosovo, under the auspices of temporal martial law imposed on Kosovo in that period.

<sup>34</sup> Andrew Herscher, *Violence taking place - the architecture of the Kosovo conflict* (Stanford: Stanford University Press, 2010).

<sup>35</sup> Gerald Axel Möller, *Exploring the Dynamics of the Yugoslav Crisis* (Monterey: Naval Postgraduate School, 1995), 11.

<sup>36</sup> Florian Bieber and Židas Daskalovski, *Understanding the war in Kosovo* (London: Frank Cass, 2005), 11.



rested on more or less equivalent arguments. Both historical perspectives called upon ethnocentric myths and irredentist plans, which were seen by (quite influential) Albanian and Serbian national elites as a remedy for all national and social frustrations.

### 2.1. Modern history of Kosovo conflict

The ruling regime of Socialist Yugoslavia has left the issue of sporadic outbursts of violence in the Autonomous region of Kosovo unattended and delayed, while irresponsibly leaving it to be solved for the indefinite time. After the fall of communism throughout the Eastern Europe, Socialist Yugoslavia wasn't immune to the new wave of changes, so the federalist country fell apart in a chain of violent interethnic clashes.<sup>37</sup> Though many expected war to be transferred onto the territory of the troubled Kosovo, it hasn't witnessed any major military conflict in the beginning of the nineties. Under the firm grip of president Milošević's regime, mainly through institutional and repressive instruments (police forces), he has pushed Kosovo Albanians into underground and illegal activities.<sup>38</sup>

The non-violent action in the end of 1988 – beginning of 1989, started by Trepča miners' protests (against denouncement of the 1974 Constitution), became a pattern of civil resistance among Kosovo Albanians against Milošević's violent apparatus.<sup>39</sup> With the start of wars in Yugoslavia in 1991, leaders of Kosovo Albanians decided that the first step towards defending from anti-Albanian rule was to declare independence from what was left of Yugoslav federation. After organizing an illegal referendum, the self-proclaimed Assembly of Kosova declared independence of the *Republic of Kosova* in September 1992, which was recognized only by the state of Albania. Though it hasn't become a relevant political entity, it had an important role in identity building among Kosovo Albanian population.<sup>40</sup> A non-violent approach, applied as a core idea of this parallel entity (with limited sovereignty), wasn't approved by all Kosovo Albanian leaders, where "most of these accommodated themselves to the new policy but did not necessarily abandon the belief that ultimately war would be necessary."<sup>41</sup> Especially Albanian diaspora wasn't satisfied with the non-

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<sup>37</sup> Radmila Nakarada, *Raspad Jugoslavije – Problemi tumačenja, suočavanja i tranzicije* (Beograd: Službeni glasnik, 2008).

Susan L. Woodward, *Balkan Tragedy: Chaos and Dissolution after the Cold War* (Washington DC: Brookings Institution, 1995).

Vladimir Goati, "Političke elite, građanski rat i raspad SFRJ", *Republika*, September 1-15, 1996, <http://www.yuorpe.com/zines/republika/arhiva/96/147/147-17.html> (accessed May 15, 2017).

<sup>38</sup> Howard Clark, *Civil resistance in Kosovo* (London: Pluto Press, 2000).

<sup>39</sup> Ibid.

<sup>40</sup> Besnik Pula, *Contested Sovereignty and State Disintegration – The Rise of the Albanian Secessionist Movement, 1988–1992* (Washington DC: Georgetown University, 2001).

<sup>41</sup> Clark, *Civil resistance in Kosovo*, 64.

violent approach, as well as radical military wings of political parties of Albanians in Kosovo, which started preparations for formation of Kosovo Liberation Army during 1993.<sup>42</sup>

“As an armed uprising would bring catastrophe and as even the insurance policy of reviving territorial defence structures was impossible, [Ibrahim] Rugova began to speak not only of a policy of nonviolence in pursuit of independence, but also that independence itself should be combined with demilitarisation.”<sup>43</sup> Even though underground and parallel educational, political and cultural institutions and systems created by Albanians in Kosovo were working quite effectively, having in mind political and coercive pressure from Belgrade, voices of those who were in favor of militant resistance against Milošević’s regime were getting stronger.<sup>44</sup> The Dayton peace talks from 1995 (and the subsequent Dayton Agreement) were a crucial point where the absence of mentioning the issue of Kosovo within its framework has led Albanian political elite to gradually change its strategy of independency-led ideas.<sup>45</sup> The split between the hardliners (supporters of full Kosovo independence and militant approach) and the non-violent movement, led by Rugova’s LDK party, grew even deeper, and it seemed that they couldn’t meet halfway. In the year of 1997, due to instability in the neighbouring Albania and several other factors, the KLA initiated several attacks on Yugoslav police and military personnel and significantly destabilized the situation in Kosovo. It was in fact a start of a guerilla war, but it didn’t reach the level of widespread violence until 1998. “These included taking civilian hostages and the summary execution of Serbian police officers and Albanians suspected of collaborating with the Serbian authorities.”<sup>46</sup>

Such actions caused swift reaction by Serbian police and military units, especially in the Drenica region, where elimination of the KLA was followed by a large number of civilian casualties.<sup>47</sup> All these have led to several consequences: the KLA has grown even bigger, Rugova’s non-violent strategy was totally pushed away, while the attention of the international community was increased due to intensification of violent clashes in Kosovo. Moreover, their involvement has led to recognition of the KLA as a legitimate political representative of Kosovo Albanians, having totally isolated the non-violent narrative. Initiative of the USA to put Serbian and Kosovo side to table in the form of Rambouillet peace talks has eventually failed,<sup>48</sup> which brought a military intervention of NATO coalition against Yugoslavia during the spring of 1999. It has intensified the conflict in

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<sup>42</sup> Ibid.

<sup>43</sup> Ibid, 65.

<sup>44</sup> Denisa Kostovicova, *Kosovo. The politics of Identity and Space* (New York: Routledge, 2005).

<sup>45</sup> Adrian Pop, “The Independence of Kosovo in the Light of Kosovo in the Regional Security Complex Theory”, *European Journal of Science and Theology* Vol. 9 (2013): 110.

<sup>46</sup> Bieber et al., *Understanding the war in Kosovo*, 41.

<sup>47</sup> Herscher, *Violence taking place - the architecture of the Kosovo conflict*, 84.

<sup>48</sup> Предраг Симић, *Пут у Рамбује: Косовска криза 1995-2000*. (Београд: НЕА, 2001).

Kosovo, but, has also created a basis for an ending of the warfare by pushing the stronger, Serbian side, to a deadlock. Milošević eventually had to agree with the claims of NATO coalition, withdraw Serbian forces from Kosovo and allow for United Nations' Administration direct involvement afterwards.<sup>49</sup> All this was guaranteed by the agreed Military Technical Agreement signed in Kumanovo (Macedonia) in 1999.<sup>50</sup>

The Kumanovo Agreement (1999),<sup>51</sup> which was claimed to be a peace accord for the Kosovo war, hasn't brought tangible solutions for the local Kosovo population. Moreover, the name itself – the Military Technical Agreement – shows that the main focus of the accord signed in 1999 was regulation of military questions, while others were put aside. Sporadic shootings, fear from revenge and pressure on non-Albanian (mostly Serb) population to move from Kosovo have resulted in an exodus of part of Kosovo population into central Serbia, which drastically changed the multiethnic balance in the autonomous region, which was under direct control of the UN.<sup>52</sup> The number of (around) 13500 direct and indirect victims<sup>53</sup> of Kosovo conflict proves how destructive that conflict was. But, Kumanovo Agreement and the presence of UN-led institutions haven't brought factual peace in Kosovo. Even the UN's 1244 Resolution,<sup>54</sup> which guarantees sovereignty and territorial integrity of Yugoslavia (Serbia and Montenegro) and, above all, defines mechanisms of stabilizing and creating peaceful environment in Kosovo, didn't manage to have a deciding (and positive) impact on this region.

If these facts are taken into account, it's no surprise that another solution was searched for by all the interested actors related to the issue of Kosovo. No concrete steps by the international community were taken up till the infamous unrest in Kosovo took place, which was directed at Serb populated areas in March of 2004, having contours of ethnic cleansing.<sup>55</sup> In the words of Henry H. Perritt: "It

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<sup>49</sup> Bieber et al., Understanding the war in Kosovo  
Tonny Brems Knudsen and Carsten Bagge Laustsen, *Kosovo between War and Peace - Nationalism, peacebuilding and international trusteeship* (New York: Routledge, 2006).

Симић, Пут у Рамбује: Косовска криза 1995-2000.

<sup>50</sup> It's important to point out here that the author chose on purpose not to analyze Kumanovo Agreement as a peace accord (as opposed to Brussels Agreement), since it only managed to stop intensive warfare and massive outbursts of violence, while not being engaged in post-conflict practical areas of interest to multiethnic population of Kosovo. That is the reason why the word delayed in the title was deliberately put in brackets, because the author of this research wanted to highlight the importance of the Brussels Agreement as a long-awaited formal document that targeted the issues which would bring stability and peace through negotiation of technical-practical matters.

<sup>51</sup> NATO, "Military Technical Agreement", *NATO's role in Kosovo*, <http://www.nato.int/kosovo/docu/a990609a.htm> (accessed April 5, 2017).

<sup>52</sup> Herscher, *Violence taking place - the architecture of the Kosovo conflict*, 127-128.

<sup>53</sup> Humanitarian Law Center, "31,600 documents undoubtedly confirm death or disappearance of 13,535 individuals during war in Kosovo", *Humanitarian Law Center*, February 6, 2015, <http://www.hlc-rdc.org/?p=28185&lang=de> (accessed April 8, 2017).

<sup>54</sup> United Nations, Security Council, *Resolution 1244*, 1999, New York.

<sup>55</sup> Human Rights Watch, "Failure to Protect: Anti Minority Violence in Kosovo, March 2004", *Human Rights Watch*, March, 2004, <https://www.hrw.org/reports/2004/kosovo0704/7.htm> (accessed May 17, 2017).

is undeniable that the paroxysm of Kosovo Albanian rage directed against UNMIK and Kosovo Serbs on those two days reflected a deep-seated Albanian frustration with political affairs and with the pace of transition from UN administration of Kosovo to final status.”<sup>56</sup> Only after such an outburst of violence<sup>57</sup> did relevant subjects such as the UN and the Contact group<sup>58</sup> initiate a wide discussion and prompted actions in order to define and finalize the status of Kosovo as a way of creating solid and sustainable peace in that region. For this reason UN’s Secretary General appointed Martti Ahtisaari, ex-president of Finland, as a Special Envoy of the United Nations for the Future Status Process for Kosovo in 2005, with the task of constructing a valid proposal which would meet interests of Belgrade, Prishtina and wider international community. His main role was to create a Proposal for Kosovo Status Settlement which, when finalized, would be presented in the UN Security Council.

After nearly two years of consultations and discussions with political elites of Belgrade and Prishtina, including numerous international experts and leaders, Ahtisaari has presented the draft of his proposal on February 2007. “The reaction in Belgrade was hostile,”<sup>59</sup> while “general Kosovo Albanian reaction to the draft was that it was an independence package without using the word ‘independence’, and they looked forward to a Security Council resolution that would give the Assembly of Kosovo the sovereignty necessary to declare their independence.”<sup>60</sup> Not even the fact that highest representatives from Prishtina and Belgrade took part in the so-called Vienna negotiations, initiated within the process of finalizing the status of Kosovo, didn’t give more weight to Ahtisaari’s proposal, to which these talks were integral part.

The Proposal was made public and basically defined a framework for supervised independence of Kosovo during a certain period of time.<sup>61</sup> Again, “similar to the case of Rambouillet, the Serbian side returned to the request tactics for re-negotiation and new proposals, but that was contrary to the agreements reached and the reality on the ground.”<sup>62</sup> According to Nebojša Vladislavljević “Ahtisaari’s proposal essentially provides legitimation to the secession of Kosovo from Serbia, satisfying claims of Kosovo Albanians to national self-determination, while denying equivalent

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<sup>56</sup> Henry H. Perritt, Jr., *The Road to Independence for Kosovo – A chronicle of the Ahtisaari Plan*, (Cambridge: Cambridge University Press, 2010), 79.

<sup>57</sup> As claimed by Henry H. Perritt, Jr. - “Serious talk about final status would not have been possible without the March 2004 riots.” (Ibid, 81)

<sup>58</sup> The Contact Group is an informal group of states interested in policy developments in post-conflict Balkans and is composed of France, Germany, Italy, Russia, United Kingdom and United States.

<sup>59</sup> Perritt, *The Road to Independence for Kosovo*, 163.

<sup>60</sup> Ibid, 164.

<sup>61</sup> United Nations, UN Special Envoy (Martti Ahtisaari), *Comprehensive proposal for Kosovo Status Settlement*, 2007, New York.

<sup>62</sup> Bekim Baliqi, *Dialogue Kosovo – Serbia - Normalization of reports or mutual recognition?* (Prishtina: Konrad Adenauer Stiftung, 2013), 3.

claims of Serbs.”<sup>63</sup> Thus, Belgrade perceived this process as a threat to its sovereignty<sup>64</sup> and rejected the Plan, which eventually led to a failure when it comes to reaching a common ground on the implementation of Ahtisaari’s Plan with Prishtina. After the end of a period of 120 days from the review of the UN Security Council of the proposal for the resolution of Kosovo’s final status,<sup>65</sup> Assembly of Kosovo has declared independence and full sovereignty of the *Republic of Kosovo*.<sup>66</sup> This move of Prishtina’s political elite had an overwhelming influence on the future of Belgrade-Prishtina relations, especially when it comes to level and nature of negotiations between these two sides – Prishtina has started getting recognition of its independence from part of international community, which gradually gave to it a sense of subject of international relations.

## 2.2. Belgrade-Prishtina talks and the path towards Brussels Agreement

Despite the fact that *Republic of Kosovo* was declared independent, Prishtina didn’t have the full sovereignty over its territory, since the majority-Serb populated areas were still controlled by Belgrade. Jurisdictional conflict over Kosovo produced constant frustration on both sides, creating a non-sustainable environment for a multiethnic coexistence and post-conflict peacebuilding processes. Unresolved relations between Belgrade and Prishtina, a stalemate which only procrastinated the inevitable path towards an acceptable agreement, led the international community to, once more, put conflicting sides to a negotiations’ table. This time it was the EU, with a special UN’s allowance, which initiated new rounds of talks with the aim to finally put to the end to a long-lasting status quo that has been burdening Kosovo. It was the UN’s General Assembly Resolution<sup>67</sup> that revived this process, within the format of the so-called Brussels talks, where institutions of the EU, highest-ranking of them, would act as mediators.

This framework was then seen as “normalization with the aim of achieving peace, security and stability in the Western Balkans, and promoting cooperation and European integration to improve living conditions for all people.”<sup>68</sup> It is clear that three words were crucial for the upcoming talks – peace, security and stability – fundamental factors that would bring together Serbia, Kosovo\* and the troubled (Western) Balkans. These were seen as instruments of normalization of relations and coexistence between two post-conflict subjects, but not only with the hope of agreeing on particular

<sup>63</sup> Nebojša Vladislavljević, “Kosovo and Two Dimensions of the Contemporary Serb-Albanian Conflict”, in *After Yugoslavia: Identities and Politics within the Successor States*, ed Robert Hudson and Glenn Bowman (New York: Palgrave Macmillan, 2011), 15.

<sup>64</sup> Government of the Republic of Serbia, “Ahtisaari’s proposal unacceptable and illegitimate for Serbia”, *Serbian Government*, February 7, 2007, <http://www.srbija.gov.rs/vesti/vest.php?id=31550> (accessed Jun 17, 2017).

<sup>65</sup> Baliqi, *Dialogue Kosovo – Serbia - Normalization of reports or mutual recognition?*, 3.

<sup>66</sup> BBC, “Full text: Kosovo declaration”, *BBC*, February 17, 2007, <http://news.bbc.co.uk/1/hi/world/europe/7249677.stm> (accessed May 25, 2017).

<sup>67</sup> United Nations, General Assembly, *Resolution adopted by the General Assembly 64/298*, 2010, New York.

<sup>68</sup> Dušan Janjić, *Normalization Challenges* (Belgrade: Forum for Ethnic Relations, 2015), 11.

topics and accepting each other as equal partners. The Brussels framework, initiated and supervised by the EU, offered one important perspective for both sides and that is the common future under the roof of the European Union.<sup>69</sup> This supragovernmental agent on its side demanded for Belgrade and Prishtina to be fully committed to the process, as it will be one of the main, if not most important, conditions within the European integration process. Moreover, the Negotiating Framework with Serbia<sup>70</sup> explicitly states that the full normalization of relations with Kosovo is *conditio sine qua non* for Serbia's EU membership.<sup>71</sup>

The EU facilitated (Brussels) dialogue officially started in the beginning of 2011, as soon as it was initiated by the UN General Assembly Resolution 64/298. First meeting between representatives of Belgrade and Prishtina happened on 8<sup>th</sup> and 9<sup>th</sup> of March 2011 and it lasted until July of 8<sup>th</sup> 2012. This period of negotiations was characterized by low-level representation in a sense that both sides had been sending governmental clerks specially appointed for the purposes of negotiations, which, from this perspective, can be designated as a 'technical dialogue'. After the summer of 2012 Brussels meetings were held on a high-level representation, having prime-ministers from both sides negotiating on the same table. Notwithstanding that this switch happened as a consequence of internal political changes in Belgrade and Prishtina,<sup>72</sup> it was a huge step forward towards giving the Brussels talks a more serious tone than it had before. Even though it wasn't unusual for negotiations to be postponed and, at some stages, even rejected, the Brussels dialogue had its, more or less, (gradual) flow, always followed by mediation of the EU institutions and, most importantly, the High Representative for European External and Security Policy. These disruptions usually came as a backlash of frequent inner-political issues which are always prone to political marketing, exaggeration and populism in both Kosovo\* and Serbia. Nonetheless, it's important to have in mind that political leaders which took part in negotiations are those who were directly or indirectly involved in politics or military actions during the time of the Kosovo conflict. Once being politically radical towards 'the other', it wasn't always easy for them to change their voters' perception about themselves, thus this frequent political maneuvering around Brussels negotiations and Agreement (and its later implementation) came as a (un)necessary side effect.

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<sup>69</sup> European Commission, "Serbia and Kosovo\*: historic agreement paves the way for decisive progress in their EU perspectives", *Europa*, April 22, 2013, [http://europa.eu/rapid/press-release\\_IP-13-347\\_en.htm](http://europa.eu/rapid/press-release_IP-13-347_en.htm) (accessed June 7, 2017).

<sup>70</sup> European Commission, *Indicative Strategy Paper for Serbia (2014-2020)* (Brussels: European Commission, 2014).

<sup>71</sup> But, it took the role of mediator and decision maker in Kosovo even before this perspective was introduced – the EU established its special mission in Kosovo named EULEX in 2008, with the aim of becoming the key player in influencing the European future of Kosovo and, thus, catalyzing and supporting the normalization process with Serbia.

<sup>72</sup> Ivica Dačić became the Prime minister of the Republic of Serbia, while Hashim Thaçi was the key political subject in Prishtina, acting as the Prime minister of the *Republic of Kosovo*.

During negotiations between Belgrade and Prishtina governments of Serbia and Kosovo\* have created their own negotiating frameworks<sup>73</sup> which defined topics and issues to be discussed and limits and extents to which one side is ready to discuss about.<sup>74</sup> Based on these platforms, both sides have insisted on principles they defined – for Belgrade the recognition of *Republic of Kosovo* wasn't negotiable at all, while for Prishtina it was unacceptable to discuss anything related to changing of its status, nor about its borders or sovereignty. Though these standpoints could have created many barriers during the negotiations, facilitation of the EU has made it possible to overcome these deep differences, mostly by focusing on technical arrangements and evasion of reciprocal stigmatization of partaking sides in the Brussels framework. Without political 'red lines' being crossed, Belgrade and Prishtina, with an enormous help of the EU, have managed to agree upon several topics covering particular areas of practical everyday life in Kosovo. The so-called technical dialogue (before the Brussels Agreement was signed) has produced in the period of 2011-2013 many important technical agreements which goal was to ease the life of citizens of Kosovo by establishing and implementing European standards with the usage of post-conflict remedies.

The first topic that was agreed upon was freedom of movement, an issue that has been burdening both sides since the Kumanovo Agreement was put into force. The essence of this agreement, which was signed during the fifth round of negotiations (July-December 2011), lied in the idea of enabling free travelling within and via territories of Serbia and Kosovo\*. It allowed dealing with main issues such as the use of ID cards issued in Prishtina, vehicle registration plates, driving licenses, car insurance and new procedures for travelling. In order to make free movement functional, agreement on the Integrated Border Management (IBM) was signed during the eighth round of negotiations (November-December 2011), though it was quite difficult to implement, especially for the Serbian side. Related to these topics, agreements on Customs Revenue Collection and Customs stamps were signed in September 2011. Since these steps were perceived by part of a Kosovo Serbian population as the recognition of independence of Kosovo\* by the official Belgrade, a violent incident took place on the Jarinje border crossing in 2011, while previously mentioned agreements were being implemented.<sup>75</sup> Even though conflict of major scales was successfully avoided, it showed how fragile security and peace in Kosovo still was.

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<sup>73</sup> Влада Републике Србије, *Политичка платформа за разговоре са представницима привремених институција самоуправе у Приштини*, Јануар 13, 2013, Београд.  
Assembly of Kosovo, *Resolution on normalization of relationships between Republic of Kosovo and Republic of Serbia*, October 18, 2012, Prishtina.

<sup>74</sup> Even though platforms were introduced as a way of opening space for dealing with political issues, negotiations concerning technical issues have been implemented on the same principles Prishtina and Belgrade have previously built their negotiation strategies.

<sup>75</sup> Aleksandar Vasović and Branislav Krstić, "Peacekeepers deploy in tense Kosovo", *Reuters*, September 28, 2011, <http://uk.reuters.com/article/uk-kosovo-crisis-idUKTRE78R1FF20110928> (accessed May 6, 2017).

Another important agreement that was reached was the one concluded during the fourth round of political dialogue in January 2013 which dealt with creation of Interim Fund for Economic and Infrastructural Development of Northern Kosovo. Since this region was mostly inhabited by Serbs, the idea was not only to economically empower this relatively undeveloped region, but also to prompt economic and financial exchange between this and other (Albanian inhabited) parts of Kosovo, with financial aid of the EU. Such steps towards economic integration within Kosovo were also followed by agreements that covered civic and administrative integration. Agreements on Civil Registry Books (September 2011), Cadastral Records (September 2011) and University Diplomas (November 2011) were all signed and later implemented for the purposes of creating a viable and functioning civil life for citizens of Kosovo, via administrative instruments and institutions which create predispositions for a peaceful coexistence.

The step that was needed in order to move negotiations towards a higher level was the Agreement on Regional Representation and Cooperation from 2011, which allowed Kosovo to be a member of and be represented in relevant regional organizations of vital importance for the normal functioning of this territorial subject. This agreement explicitly insisted that “*Kosovo\** is the only denomination to be used within the framework of regional cooperation.”<sup>76</sup> Footnote used in this matter reflected the idea of neutrality of status regarding Prishtina’s regional involvement, where the UNSC 12/44 resolution was its legal basis. This allowed for Kosovo\* not only to become a member of several regional organizations in the years following the introduction of this agreement, but it also opened the doors for what was to become a crucial document dealing with Belgrade-Prishtina relations – the Brussels Agreement.

During the application of the Agreement on Regional Representation and Cooperation, there have been many misusages and wrongful treatment of the word of this agreement, such as omitting the footnote (done by Prishtina) or leaving/interrupting sessions of regional organizations due to the presence of Prishtina representatives (done by Belgrade). Despite these negative practices, this agreement has been implemented and, more importantly, it created an environment where Belgrade and Prishtina started, more or less, respecting and treating each other as (equal) partners who can jointly work on issues of regional matter. Similar to this one, all previously listed agreements have been mostly implemented, some of them partially, while others in full capacity. It was important for all the interested parties that certain moves were finally made in direction of normalizing relations between Belgrade and Prishtina, despite the fact that results were quite modest.

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<sup>76</sup> Janjić, *Negotiation Challenges*, 104.



### 2.3. Signing of the Brussels Agreement

Before the Agreement wasn't even on the agenda of the Brussels dialogue, Gëzim Visoka, Adem Beha and Ramadan Ilazi have stated in 2012 that "the on-going dialogue between Kosovo and Serbia should end with the signing of a peace treaty, which should also serve as a treaty of recognition and establishment of permanent friendly and neighborly relations between the two States. The Peace Treaty should consist of the agreements reached during the technical dialogue, high level political meetings, and eventual formal negotiations."<sup>77</sup> As if knowing, the next year this idea was partially realized through an agreement reached by two sides covering many of the topics proposed by these scholars. After the Brussels dialogue started involving highest-ranking politicians from Belgrade and Prishtina in the end of 2012 (with prime ministers Ivo Dačić and Hashim Thaçi representing two sides), it was clear that the plan of the EU and its main appointed facilitator Catherine Ashton was to give the on-going negotiations a more serious weight, which will eventually influence and speed up the normalization process. A crucial turn-over happened with the publication of the First Agreement on Principles Governing the Normalization of Relations on 19<sup>th</sup> of April 2013. When the implementation of this document, which was later named as the Brussels Agreement, was agreed on 22<sup>nd</sup> of May 2013, it was regarded to be a "cornerstone of the stability in the Western Balkans and a decisive step towards EU integration of both countries; the importance of the agreement lies in the fact that these are the first positive signs that both parties agree to look forward to easing the enmities."<sup>78</sup> Moreover, this was a deciding point where two sides have started coping with major problems, while disregarding the importance of the character or official designation of the other side within the dialogue. The handshake between two prime ministers in presence of EU's head of foreign policy on the day of signing of, what later became known as the Brussels Agreement, showed how huge this step was and how symbolic and yet factual it became. The period after the Brussels Agreement went into force was characterized by highest-level representation from both Belgrade and Prishtina, which was necessary for the implementation of this document and further dialogue on other topics which became part of the normalization process.

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<sup>77</sup> Gëzim Visoka, Adem Beha and Ramadan Ilazi, *A 'Peace Treaty' for Sustainable Peace: A New Beginning for Kosovo and Serbia* (Prishtina: Kosovo Institute of Peace, 2012), 2.

<sup>78</sup> Leandrit Mehmeti, *Kosovo – Serbia: normalisation of relations or just diplomatic theatre? An analysis of the April 2013 EU brokered agreement between Kosovo and Serbia* (Adelaide: University of South Australia, 2014), 7-9.

### **3. Brussels Agreement – implementation and its effects on peace in Kosovo**

“Peace implementation involves a large number of very diverse actors. It also involves a large number of tasks in the political, security, economic and social sphere in order to move from conflict towards sustainable peace.”<sup>79</sup> Implementation of agreed tasks requires active involvement of all participating and interested actors, disregarding on what level they belong to or which influence those actors have. In the case of post-conflict Kosovo it was (and is) important not only to animate political subjects of Belgrade and Prishtina, but also higher instances, such as the EU, the UN and other subjects of international community, as well as those belonging to lower ‘branches’ – representatives of local multiethnic or monoethnic municipalities, economic subjects, cultural and educational institutions, influential individuals, etc..

In such circumstances, variety of actors participating in the process of implementation of a peace accord requires responsibility, active involvement, transparent actions and pragmatic – non-conservative approach of them all. Above all, “internal implementation is only possible where at least the main conflict parties have generally agreed to peace.”<sup>80</sup> By accepting to take part in a post-conflict decision-making dialogue within a defined framework, Belgrade, Prishtina and Brussels (and other participating subjects) have paved a path towards tangible solutions to a long-lasting conflict – a peaceful path built on the basis of discussion, wavering of violence and mutual acceptance. Though the process of creation and implementation of the Brussels Agreement had its ups and downs, participating actors, at least officially, didn’t step from the value of peaceful way towards sustainable relations. In this regard, following chapters will deal with practical consequences brought by implementation of agreed matters by assessing the structure of the Agreement itself and evaluating efficiency and functionality of factual appliance of its agreed articles. Thus, the aim of this research will be to try to prove that the Brussels Agreement, which wasn’t and still isn’t considered peace accord, is more than just a compilation of articles which covers solutions for technical problems bothering relations between Belgrade and Prishtina.

#### **3.1. Amnesty law**

The UN’s guide – “Rule-of-Law Tools for Post-Conflict States” (published by the Office of the United Nations High Commissioner for Human Rights) – among many theoretical frameworks related to reconciliatory legal processes, examines the notion of amnesty and explicitly refers to it as “legal measures that have the effect of: (a) Prospectively barring criminal prosecution and, in some cases, civil actions against certain individuals or categories of individuals in respect of

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<sup>79</sup> Von Hehn, *The Internal Implementation of Peace Agreements*, 70.

<sup>80</sup> Ibid, 73.

specified criminal conduct committed before the amnesty's adoption; or (b) Retroactively nullifying legal liability previously established.”<sup>81</sup> According to von Hehn, amnesty laws belong to lower levels of transitional justice mechanisms, in terms of accountability,<sup>82</sup> which means that it has milder impact on post-conflict period than criminal trials or many forms of restorative justice.

Comparison of this kind doesn't imply that amnesty laws as such are weaker instruments of reconciliatory processes, on the contrary, it only shows its impact power when it comes to changing circumstances in favor of peace. This legal procedure is generally aimed at annulling any criminally (or similar) persecution against those who have violated certain laws. More precisely, “the exemption from criminal prosecution and, possibly, civil action achieved through amnesty is typically limited to conduct occurring during a specific period and/or involving a specified event or circumstance, such as a particular armed conflict.”<sup>83</sup> This temporal dimension of amnesty law can be of crucial importance when it comes to peacebuilding process, due to the fact that it focuses on particular periods of time which were decisive for the conflict (and its subsequent consequences). Amnesty laws explicitly focus on particular groups, territorial areas and period of time(s) in order to avoid their legal misinterpretations, which could open further gaps between conflicted sides.<sup>84</sup> Additionally, their inadequate or imprecise definition could harm the post-conflict temporary and deeply fragile trust (if it exists) built among ex-belligerents. When these facts are taken into consideration, it's no surprise that Sean Parramore concludes that “amnesty laws are thus a balancing act between political efficacy, moral considerations and the legal order.”<sup>85</sup>

As stated in the beginning, introduction of an amnesty law wasn't mentioned in the Brussels Agreement's text, nor has such a step been announced. But, the fact that the Implementation Plan of the Agreement on the Normalization of Relations between Belgrade and Pristina calls for both sides to enact “all necessary legal changes required for the implementation of the ‘First Agreement’, including a Law on Amnesty,”<sup>86</sup> requires for the analysis of the amnesty law to be included. Moreover, since the Agreement explicitly states that “legal guarantees will be provided by applicable law and constitutional law” (as a guarantee for the creation of the CSM), shows that the introduction of the Amnesty law is an integrative part of the Brussels Agreement. Premised on these

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<sup>81</sup> United Nations, Office of the United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States (Amnesties)*, 2009, Pub. E.09.XIV.1, New York, 13.

<sup>82</sup> Von Hehn, *The Internal Implementation of Peace Agreements*, 147.

<sup>83</sup> United Nations, *Rule-of-Law Tools for Post-Conflict States (Amnesties)*, 14.

<sup>84</sup> United Nations, *Rule-of-Law Tools for Post-Conflict States (Amnesties)*.

<sup>85</sup> Sean Parramore, “Amnesty for North Kosovo - Peace at Expense of Justice – Politically, Legally and Morally Justifying the Amnesty Law for North Kosovo”, *International Journal of Rule of Law, Transitional Justice and Human Rights* Vol. 4, (2014): 4.

<sup>86</sup> Government of Serbia, Office for Kosovo and Metohija, *Implementation Plan of the Agreement on the Normalization of Relations between Belgrade and Pristina*, May 23, 2013, Belgrade.

facts, one of main preconditions for further peacebuilding process in Kosovo was the implementation of Amnesty law in accordance with the legal system of Kosovo\*.

Due to the existence of the so-called parallel institutions in the northern part of Kosovo, mostly inhabited by Serbs, it was impossible for any kind of laws to be imposed on the whole territory of Kosovo within one, integrated, legal system. For that to be done, Belgrade and Prishtina have agreed to jointly work on a strategy which would help both the integration of the north of Kosovo and, based on that, further implementation of the Brussels Agreement. Besides, “the main aim of what became called the Brussels Agreement was to dismantle the parallel institutions financed by Serbia that have existed in the north since the Kosovo war.”<sup>87</sup> Without this legal guarantee of the Agreement, and the rule of law (in Kosovo) in general – the Amnesty law – it wouldn’t be possible for Kosovo Serbs to be integrated into Kosovo society, without which any mentioning of interethnic communication would be impossible. “By passing the Amnesty Law, the parliament in Pristina intended to ‘forget’ about the fact that Serbs living in the north had made serial ‘political offences’ over the past (14 years) by literally barricading themselves from Kosovo’s institutions and accepting parallel institutions financed by Belgrade. Without the amnesty law they would be legally prohibited from assuming new jobs in Kosovo public institutions.”<sup>88</sup> In such circumstances, swift and comprehensive legal remedy had to be introduced.

The Amnesty law, which was passed in the Assembly of Kosovo on 17<sup>th</sup> of September 2013, “was exploited by the Kosovo government for its own purposes and was initially drafted to be far more inclusive” which “effect would have been to amnesty serious crimes throughout Kosovo.”<sup>89</sup> Apart from common crimes usual for northern part of Kosovo, this law also included a wide specter of economic crimes that essentially haven’t been conducted in that region, but were introduced for the political purposes.<sup>90</sup> The fundamental idea of this law was for legal offenders of the northern Kosovo to be pardoned, directed towards legal area and consequently be integrated into the Kosovo society. Due to the delicacy of the impact the Amnesty law would create, stakeholders were aware that “the price paid in justice would be repaid with peace and further European integration.”<sup>91</sup> As noticed by one of the key political actors of the Brussels dialogue – Thaçi – “the law on amnesty is a political act which leads to the reconciliation of people,”<sup>92</sup> which clearly shows that the aim of this legal instrument wasn’t only about criminal coverage or political disputes, but also about normalizing everyday life of common people.

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<sup>87</sup> Ibid, 7.

<sup>88</sup> Ibid, 8.

<sup>89</sup> Janjić, *Normalization Challenges*, 39.

<sup>90</sup> Sean Parramore, “Amnesty for North Kosovo - Peace at Expense of Justice”, 9.

<sup>91</sup> Ibid.

<sup>92</sup> Ibid.

After it was adopted, Amnesty law allowed for Serbs living in the northern part of Kosovo to be included in the political life within the institutional framework of Kosovo\*. This was a huge step forward, especially from the Belgrade's point of view, because it partially renounced responsibility and, what is more important, sovereignty over Kosovo Serbs and the territory they live in majority. Nearly a year after it was passed, the EU in its progress report praised Serbia for how it "took measures to facilitate the integration of the police and judiciary following the adoption of an amnesty law by Kosovo."<sup>93</sup>

On the other hand, Serbia's government's report on the implementation of the Brussels Agreement announced that "Serbia will deliver information on the number of its staff employed with judicial organs in Kosovo who expressed their interest to join the Kosovo structures, immediately following the adoption of the law on amnesty."<sup>94</sup> At the same time, Kosovo\*'s government report stated that Amnesty law "is being implemented consistently in the integration process of Serb citizens into the institutions of Kosovo as provided by the Brussels Agreement."<sup>95</sup> From this perspective, it can be stated that both Belgrade and Prishtina, with a significant help and facilitation of the EU, took the initiative of applying this particular law simply because it would open more options for implementation of other agreed matters of the Brussels Agreement.

It is a fact that the first version of the law was contested by many, especially by the Kosovo NGO sector<sup>96</sup> and Kosovo\* opposition (which insisted on changing the nature of the law), but it eventually went into force and created practical and legal consequences. Practical measures brought by this law could quickly be spotted, the proof of which can be found in the EU's report for Kosovo\* from 2014, where it, among others, states that the "integration has been completed as concerns police officers,"<sup>97</sup> directly initiated by the implementations of Amnesty law. Though the EU's reports for Kosovo\* and Serbia for the year 2014 mention Prishtina's Amnesty law for the first and the last time, it shows at least three important actualities. The first is that this law has managed to catalyze further implementation of its closely related areas defined by the Agreement, of which security ones are predominant, thus creating a certain flow in the dynamics of the Brussels dialogue. Secondly, it prompted a significant shift from a discourse of, what can be designated as, rebellious and isolated political life of northern Kosovo Serbs, towards a paradigm of political

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<sup>93</sup> European Union, European Commission, *Serbia Progress Report*, October 2014, Brussels, 5.

<sup>94</sup> Zoran Gavrilović and Pavle Dimitrijević, *Report on the Implementation of the Brussels Agreement (by the Republic of Serbia)* (Belgrade: Bureau for Social Research, 2014), 23.

<sup>95</sup> Government of Kosovo, *Brussels Agreements Implementation State of Play*, March 2015, Prishtina, 25.

<sup>96</sup> Kosovo Institute for Policy Research and Development, "Open letter of Kosovo's civil society on Law on Amnesty", KIPRED, July 4, 2013, <http://www.kipred.org/en/news/Open-letter-of-Kosovos-civil-society-on-Law-on-Amnesty-208> (accessed May 16, 2017).

<sup>97</sup> European Union, European Commission, *Kosovo\* Progress Report*, October 2014, Brussels, 11.

activism where advocacy of own interests is based upon dialogue, rather than ignorance. This change of perspectives guaranteed, as it will be shown in the following chapters, that it, at least partially, transformed the political culture not only in the north, but also in the rest of Kosovo\* and Serbia. Organized Kosovo elections in November 2013 and subsequent formation of local governments in its north, proved that Amnesty law has relieved the tension among local Serbs when it comes to securing participation in daily politics under the ‘umbrella’ of Prishtina, as well as dealing with political issues within a functional system, which wasn’t the case in the previous period. Thirdly, imperfect as it is, it basically fulfilled its role as a legal foundation for integration of northern part of Kosovo into a (relatively) functional legal and political system controlled by Prishtina. The fact that, following 2014 government reports of Kosovo\* and Serbia, the application of Amnesty law wasn’t separately mentioned in comparison with other implementing areas, shows that it has blended into the overall discourse of the Brussels Agreement.

Implementation of Amnesty law cannot be regarded as a clear-cut case when it comes to overall assessment of its influence on peacebuilding process in Kosovo. What is clear about its incorporation is that it abolished the existence of the legal limbo which existed for nearly a decade and a half in the northern Kosovo. Changes it induced can, in such short time period (in regards to legal matters), be quite difficult to measure and analyze, thus, as Arlinda Rustemi and Moritz Baumgärtel concluded during 2014, “a noticeable positive impact of the amnesty law on reconciliation is thus heavily dependent on other aspects, in particular on the progress and reception of the overall negotiation process.”<sup>98</sup> If the perception of this element of the Brussels Agreement is focused on its impact on peace, security and stability in Kosovo, perspectives may be different from other approaches. Furthermore, the fact that analyzed Amnesty law bears some authentic characteristics, compared to, for example, South African arrangement of such a law,<sup>99</sup> makes it more difficult to assess its particular effects. In that regard Janjić claims that “the so-called soft approach is used in the application of the law, with occasional shift in deadlines”<sup>100</sup> and the fact that it’s difficult to trace how it was implemented. But, what cannot be contested is that the law has been practiced. Moreover, “there were references to additional fulfillment of conditions under the laws of Kosovo and people being brought in for questioning (mayor of the Zubin Potok municipality),”<sup>101</sup> perpetrated on the premises of this law.

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<sup>98</sup> Arlinda Rustemi and Moritz Baumgärtel, “Shooting in the Dark: Evaluating Kosovo’s Amnesty Law and the Role of International Actors”, *Hague Journal on the Rule of Law* Vol. 6, no. 2, (2014): 20.

<sup>99</sup> Ibid.

<sup>100</sup> Janjić, *Normalization Challenges*, 39.

<sup>101</sup> Ibid.

When compared with other typical peace agreements, Brussels Agreement does include a legal guarantee in a form of an amnesty law, which clearly fits into PAM's rights' section element designated as – amnesty. Considering that introduction of an amnesty law is part of a judicial and legislative transformation process prompted by the Brussels negotiations, categories of judiciary reform and legislative branch reform are also to be associated with the content of the Brussels Agreement. As for de Varennes's theoretical framework, the analyzed Amnesty law can correspond with basically all three elements: power-sharing, distribution of employment and human rights guarantees. The first two can be related to Amnesty law due to the fact that it integrates Serbian minority by allowing it to participate in Kosovo\* (and local) politics and decision-making, while being granted the right to proportionately partake in distribution of (institutional) employment within the Kosovo\* system. Human rights guarantees, as defined by de Varennes, are reflected in the Amnesty law by defining the protection of human rights and guaranteed pardoning under the Constitution of Kosovo\* and international law.

### 3.2. Municipal elections, constitution of local authorities in accordance with Kosovo\* laws and reform of judicial system

#### 3.2.1. Municipal elections and constitution of local authorities in accordance with Kosovo\* laws

After the establishment of United Nations Interim Administration Mission (UNMIK) in Kosovo, starting from the year 2000, several local and general elections have taken place in, then, internationally monitored region. "From UNMIK's perspective, elections were perceived more as an instrument of peacebuilding, where various ethnic communities would co-exercise the powers in Kosovo, rather than as an instrument of democratic legitimacy."<sup>102</sup> Due to the complex post-conflict interethnic relations in Kosovo and distinctive position of its northern part, elections held under the auspices of international community have failed to politically animate wider percentage of population of this region. Though there were parties that represented interests of Serbs within the UNMIK lead Kosovo parliament, voters' turnout of this minority group was on a very low scale, where Serbs living in central Kosovo only partially took part in elections. Northern part of Kosovo was basically functioning as a part of political and electoral system of Republic of Serbia, thus disabling its local interests to be represented on the regional level (within Kosovo). Consequently, an impeding division was created inside Serbian community in Kosovo, which will cause political disparity leading to political representatives who seek to fulfill its interests in Belgrade, while others turning to Prishtina.

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<sup>102</sup> Adem Beha and Bekim Baliqi, *2014 Elections in Kosovo - a retrospective* (Prishtina: University of Prishtina, 2014) 5.

Unlike Serbian community, Albanians and other minorities in Kosovo have actively participated in the political life of pre-independent Kosovo\*, creating a diverse political palette that built Kosovo\* political system. Three local and three parliamentary elections organized by UNMIK have laid foundations, though quite fragile, of what was to become one of the preconditions leading to declaration of independence. As a response to this declaration from 2008, elections targeting Serbian voters in Kosovo were organized by Belgrade, held for the purposes of creating the so-called Assembly of the Community of Municipalities of the Autonomous Province of Kosovo and Metohija. Such a step has inevitably produced even deeper gap between two ethnic communities disenabling the creation of a stable multi-ethnic political life in Kosovo.

Divided as it was, this unsustainable political vacuum, characterized by the lack of defined rules, simply could neither guarantee the established fragile peace, nor could it preserve it. Political discrepancy required effective switch to a different, more comprehensive political *modus vivendi* with a clear emphasis on the active participation of all ethnic communities in all corners of Kosovo and an inclusive legal framework (i.e. Amnesty law). Therefore, one of the crucial topics of the Brussels dialogue was holding of municipal elections in Kosovo, including its northern, Serb-dominated part. Particularly in this part of Kosovo local Serbs boycotted elections organized under the auspices of UNMIK since 1999, taking part only in those organized by Republic of Serbia. Electoral issue was therefore of great importance to peacebuilding and democratization processes in Kosovo, thus it became a crucial element of the Brussels Agreement. This came only after a decade and a half after the war ended, because “for elections to serve the purpose of democratization, a longer transition period might be necessary, allowing for the creation of peacetime political and civil structures committed to principles of democracy.”<sup>103</sup>

Active participation and facilitation of international subjects such as the EU and OSCE, as well as raising the awareness about the importance of municipal elections that came from Belgrade and Prishtina, were all focused on one aim, since “the elections will be a litmus test for the Brussels Agreement,”<sup>104</sup> Tactlessly, “preparations for the elections have been fraught with tensions and ambiguities”, while on the day of elections – 3<sup>rd</sup> of November – “the opponents of the Brussels Agreement created a climate of pressure and intimidation in northern Kosovo”.<sup>105</sup> Even though “aspiring politicians who have a strong incentive to mobilize followers along ethnic lines, and

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<sup>103</sup> Von Hehn, *The Internal Implementation of Peace Agreements*, 257.

<sup>104</sup> Filip Ejodus, Leon Malazogu and Milan Nič, *Municipal elections in northern Kosovo: towards a new balance?* (Bratislava: Central European Policy Institute, 2013), 3.

<sup>105</sup> Janjić, *Normalization Challenges*, 39.



unscrupulous leaders who ‘play the ethnic card’ can be rewarded with electoral success,”<sup>106</sup> this wasn’t the case. Thus, mobilization of ethnic Serbs in (northern) Kosovo, with a strong instrumentalization of paradigms of endangered subsistence and fear of extinction of Serbs,<sup>107</sup> echoed poorly among Serbian voters, proven by the low turnout and results of the election. Notwithstanding this fact, “the major winner of the municipal elections was *GI Srpska* which became a central organization in the Kosovo Serb political scene,”<sup>108</sup> while, at the same time, changing the whole political prospect of Kosovo. *Srpska* became a symbol of political activism among Kosovo Serbs, while, on the other hand, many representatives of ethnic Albanian parties perceived it as a reborn relic of a constant interference of Belgrade into the internal issues of Kosovo\*. “Prior to the Brussels Agreement, the Serb political scene in Kosovo was effectively divided into two camps: the Belgrade Serbs following Serbia’s official position and Thaçi’s Serbs.”<sup>109</sup> After four municipalities in northern Kosovo embarked upon creating local governments, it was apparent that this dichotomy wasn’t anymore the main issue within Serbian community, though still relevant. Moreover, following municipal elections, parliamentary elections of 2014 have showed the determination of Kosovo Serbs to partake in Kosovo\* institutions, while ethnic Albanian parties accepted their representatives as legal political partners.

Though First Agreement anticipated constitution of local authorities in accordance with Kosovo\* laws, in the beginning it was prone to misconduct by local stakeholders, characterized by “overlapping of offices in the newly-established local self-governments in municipalities in the north with those in interim councils appointed by the Government of Serbia.”<sup>110</sup> Remaining institutions of the Republic of Serbia in the northern Kosovo were regarded both by the EU and Prishtina as being “the main obstacle in the process of normalization of situation in northern part of Kosovo; hence their dismantlement is crucial for the effective implementation of the Agreement.”<sup>111</sup>

During 2014 and 2015 the process of dismantling of these parallel institutions was at a low pace, with new local governments working under the umbrella of Kosovo\* laws. It was the main condition for the following (full) political and administrative integration of four northern municipalities into institutions led by Prishtina. Without such an arrangement, no adequate

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<sup>106</sup> Benjamin Reilly, “Political Engineering and Party Politics in Conflict-Prone Societies”, *Journal of Democratization* Vol.13, No. 5 (2006): 2.

<sup>107</sup> RTS, *Dačić: Izbori jedini način za opstanak Srba*, Radio-televizija Srbije, October 20, 2013, <http://www.rts.rs/page/stories/sr/story/9/politika/1423075/dacic-izbori-jedini-nacin-za-opstanak-srba.html> (accessed June 15, 2017).

<sup>108</sup> Janjić, *Normalization Challenges*, 40.

<sup>109</sup> Ejodus et al., *Municipal elections in northern Kosovo*, 8.

<sup>110</sup> Janjić, *Normalization Challenges*, 41.

<sup>111</sup> Government of Kosovo, *Brussels Agreements Implementation State of Play*, 10.

communication between center of political power in Prishtina and Serb-inhabited areas of the north could be practiced, not for the purposes of embracing this region as a sovereign part of the so-called *Republic of Kosovo*, but as a warranty of institutional multiethnic peacebuilding framework. Apart from that, accepting one another not only as members of ‘other ethnic group’, but also as equal political partners opens the door for a different way of dealing with daily post-conflict ridden problems and, most of all, managing and facilitating processes of peacebuilding and reconciliation.

In this regard, organizing municipal elections, even under cases of pressure and intimidation of voters,<sup>112</sup> can become a crucial step towards these processes. Prishtina’s report on the implementation of the Agreement from the late 2016<sup>113</sup> shows that municipal elections from 2013 have actually managed to produce relatively effective local governments which slowly take the responsibility for local population which previously lived in, what may be regarded as, insecure limbo. Improvements recognized in areas of delivering public services, managing local budgets, reforming of local institutions, communication with relevant ministries in Prishtina<sup>114</sup> (all under Kosovo\* laws) show that 3<sup>rd</sup> of November did catalyze range of changes both in northern and the rest of Kosovo. Though Belgrade’s 2016 and 2017 reports<sup>115</sup> don’t directly deal with changes prompted by the implementation of Article 12 of the Brussels Agreement, the one from 2015 explicitly states that “local elections were held in accordance with provisions of the First Agreement and the Implementation Plan, and the local authorities in Kosovo and Metohija were successfully constituted.”<sup>116</sup>

Optimistic as it was assessed by Belgrade and mildly positively evaluated by Prishtina, Article 12 caused significant changes. What it didn’t bring was the diversification of (influential) political factors/parties within Serbian community, nor did it create a basis for establishment of multiethnic Kosovo parties of civic prominence. Parties in Kosovo are still divided by ethnic lines, not infrequently with a leadership that had crucial positions during the war.<sup>117</sup> Nevertheless, ex-combatants – now politicians – could have a decisive role in peacebuilding process in Kosovo, unfortunately, their authoritative leadership within parties, as well as during their governance, can, as a consequence have the fact that “elections may strengthen and provide democratic legitimacy to

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<sup>112</sup> Nebi Qena, “Serbs, key in Kosovo elections, face intimidation at polls”, *The Christian Science Monitor*, November 3, 2013 <https://www.csmonitor.com/World/Latest-News-Wires/2013/1103/Serbs-key-in-Kosovo-elections-face-intimidation-at-polls> (accessed May 25, 2017).

<sup>113</sup> Government of Kosovo, *Brussels Agreements Implementation State of Play*, November 2016, Prishtina.

<sup>114</sup> Ibid.

<sup>115</sup> Government of Serbia, Office for Kosovo and Metohija, *Progress Report on the Dialogue between Belgrade and Priština (October 2016 – April 2017)*, April 2017, Belgrade.

<sup>116</sup> Government of Serbia, Office for Kosovo and Metohija, *Progress Report on the Dialogue between Belgrade and Priština*, April 2015, Belgrade.

<sup>117</sup> Leaders of one of the strongest ethnic Albanian parties in Kosovo are former leaders of KLA: Hashim Thaçi, Ramush Haradinaj and Fatmir Limaj.

such authoritarian parties who continue to rely upon coercion, fear, and chauvinism to remain in power.”<sup>118</sup> Thus, political engineering and power sharing in Kosovo, facilitated by the EU and international community, needs to insist on further democratization of its political system, with a special focus on lustration and decriminalization of political scene, regardless of ethnic background of its actors.

### 3.2.2. Reform of judicial system

Without an operative and effective judicial system, backing previously analyzed democratic processes, democratization and peacebuilding processes in post-conflict Kosovo wouldn't be possible. Rule of law generally creates an environment where security and legality cannot be severely questioned or contested by any internal or external factor. “Law therefore plays a dual role: Law is an object of reform in its own right, and at the same time the legal process has a driving role in initiating and facilitating change in the post-war society.”<sup>119</sup> In this regard, Kosovo society and consequently its judicial system was divided along the ethnic lines, where partition between majority Albanians and minority Serbs reached its symbolic manifestation on the river of Ibar, which segregated northern Kosovo. Such division, especially after 2008, has created a dichotomy of institutions in the northern Kosovo, where remains of institutions loyal to the Republic of Serbia were in a symbolic and legal clash with institutions of Kosovo\*. In such circumstances “this duality in judicial and legal systems created many uncertainties about equal access to, efficiency and fairness of justice. Reportedly, parallel courts were not operative in large numbers of cases. The same was said about Southern courts included within the Kosovo legal system.”<sup>120</sup>

Having in mind that this unsustainable and contradictory circumstance was burdening a strongly divided and fragile post-conflict society, high representatives and institutions of the EU have facilitated a dialogue between Belgrade and Prishtina in order for this problem to be solved. After nearly two years of negotiations, two sides have agreed to abolish the so-called parallel structures in northern Kosovo, a decision which became a crucial element of the Brussels Agreement. Aside from defining the integration of judicial authorities from the north into Kosovo\* legal system, articles 10 and 11 deal with ethnic structure of (northern) district and central (Appellate) courts' judges, which would guarantee both minority representation and equal participation in legal procedures. The fact that both central and regional courts were included in the matter of judicial integration showed that the intention of the Agreement was to connect two levels of legal system

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<sup>118</sup> Von Hehn, *The Internal Implementation of Peace Agreements*, 256.

<sup>119</sup> Ibid, 225.

<sup>120</sup> International Commission of Jurists, *Uncharted Transition: the “Integration” of the Justice System in Kosovo - A briefing paper* (Geneva: International Commission of Jurists, 2016), 10.

and, more importantly, to build a sustainable framework for cooperation between Albanians and Serbs (and other minorities).

Being a delicate issue to cope with, judicial integration from the beginning of its implementation had faced many problems. Two different perceptions on this matter and ambiguities of the nature of its definition(s) produced a collision in the process of implementation, postponing and additionally complicating it. In the beginning of that process Belgrade insisted that “before integration is completed, all issues necessary for the proper functioning of the judiciary system in Kosovo and Metohija be resolved,”<sup>121</sup> calling Prishtina to deal with procedural and organizational matters that it perceived as unacceptable. Basically, Belgrade tried to minimize the presence of any, even negligible, symbols related to *Republic of Kosovo*. On the other hand, Prishtina was looking forward to “effective implementation that will pave the way to consolidation of the Kosovo unitary justice system in northern part of our country and the integration of Kosovo Serb judges and prosecutors into the Kosovo’s justice system,” arguing that “delays in integration have created ambiguous situation.”<sup>122</sup> Disregarding minor impediments that appeared during the process of integration, both sides have constantly been evaluating unification of judicial system as having positive outcomes. In this regard, in its 2016 review of the Agreement’s implementation, official Prishtina stated that “remarkable progress has been made and we are about to finalize the implementation of the Brussels Agreement with respect to justice,”<sup>123</sup> thus indirectly indicating that this process was about to be finished. In a similar tone Belgrade declared that the process of implementation is at its final stages, especially after 30<sup>th</sup> of November 2016, “when the parties harmonized a document titled ‘Conclusions of EU facilitators on Justice’, which defined all the elements for the completion of integration in the field of judiciary.”<sup>124</sup> Obligations defined within this document started to partially be implemented by both sides, with an extensive help and facilitation of the EU, which was necessary for avoiding pointless obstacles, but, during the first months of 2017 “steps towards completing judicial integration in northern Kosovo were delayed”<sup>125</sup> – so typical of Belgrade-Prishtina cooperation.

Considering that the process of unification of Kosovo\* legal system has been subject to comprehensive changes, it seems that, as the International Court of Justice delegation to Kosovo\*

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<sup>121</sup> Government of Serbia, Office for Kosovo and Metohija, *Progress Report on the Dialogue between Belgrade and Priština (April 2016 – October 2016)*, October 2016, Belgrade, 10.

<sup>122</sup> Government of Kosovo, Brussels Agreements Implementation State of Play, March 2015, Prishtina, 14.

<sup>123</sup> Government of Kosovo, Brussels Agreements Implementation State of Play, November 2016, Prishtina, 18.

<sup>124</sup> Government of Serbia, Office for Kosovo and Metohija, *Progress Report on the Dialogue between Belgrade and Priština (October 2016 – April 2017)*, April 2017, Belgrade, 12.

<sup>125</sup> United Nations, Security Council, *Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo*, 2017, New York, 2.

has observed, that this process is “now at the point of no return.”<sup>126</sup> It’s highly unlikely that the EU and the rest of international community would allow Belgrade to interfere to the point where it would retrieve its parallel institutions in the northern Kosovo. On account of this fact, it can be expected for judicial system to be (at least to a sustainable extent) effective in nearer future, which would allow not only for the Kosovo\* legal system to adequately function, but also for transitional justice to be served and given proper attention. What stays as a dilemma is the right timing for finalizing the implementation of judicial dimension of the Agreement, as it usually depends on political climate in Belgrade and Prishtina. A research conducted in the end of 2015 in northern Kosovo regarding the implementation of judicial unification concluded that it “causes feelings of uncertainty and disorientation, impressions that people in North Kosovo are means rather than the purpose and goal of the dialogue between Belgrade and Pristina, and the attitudes that they were not sure whether the integrated justice system will serve the citizens and be free from political influence.”<sup>127</sup> Though that year was marked by some initial steps concerning unification of judicial system, this research showed how much public isn’t involved, least to say informed, about processes related to implementation of Brussels Agreement. In such circumstances, all interested parties in that process need to include wider public discussion, where, as in this case, population of Kosovo will be the one to which new laws, institutions and decisions will directly be applied. If the wider audience isn’t included in judicial processes, it will harm the small steps undertaken in the judicial reform, as it’s been speculated for the cases of the judge Salih Mekaj<sup>128</sup> and politician Oliver Ivanović<sup>129</sup>.

Organizing of municipal elections, subsequent inauguration of local authorities in northern Kosovo and process of full integration and unification of judicial system have been jointly analyzed in this chapter due to their importance for the processes of democratization and, consequently, peacebuilding. Additionally, all three articles related to these democratization processes were basically aimed at northern part of Kosovo, since this region was in need of changing the established legal, political and security vacuum. Efforts on replacing of political and legal framework in particular post-conflict area for a more functional one doesn’t necessarily directly

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<sup>126</sup> International Commission of Jurists, *Uncharted Transition*, 23.

<sup>127</sup> Marina Dogandžić and Miloš Kabašić, *Citizens of North Kosovo about the Agreement on the judiciary - expectations and concerns* (Mitroviča: Advocacy Center for Democratic Culture, 2015), 19.

<sup>128</sup> Die Morina, “Closed Trials 'Undermining Faith in Kosovo Justice'”, *Balkan Insight*, December 1, 2016, <http://www.balkaninsight.com/en/article/closed-trials-concern-kosovo-association-of-journalists-11-30-2016> (accessed May 28, 2017).

<sup>129</sup> Die Morina, “Kosovo Sends Serb Leader Ivanovic for Retrial”, *Balkan Insight*, February 6, 2017, <http://www.balkaninsight.com/en/article/kosovo-takes-on-re-trial-ivanovic-case-02-16-2017> (accessed May 28, 2017).

contribute to the peacebuilding process, but it does create fundamentals for the following steps. According to von Hehn – “to reestablish legitimacy and confidence in the state structures and the governance system, principles of good governance need to be adhered to when deciding on the setup or reform of structures and institutions and the design of the electoral system.”<sup>130</sup> Population of northern Kosovo lived too long in an undefined and insecure political and legal system, a system that created many barriers for interethnic communication and reconciliation. Thus, a change towards new system, though partially contested by the population of four northern municipalities, has become a starting point for building trust among ethnic groups and placing confidence in institutions. As von Hehn insisted, good governance is the main precondition for such a change.

Actors involved in creating content of peace accords are aware of this fact, thus they commonly include reforms of electoral/political and judicial dimensions. In Varenneses theoretical framework, elections held in November 2013 and subsequent creation of local governments can fall under categories of autonomy, power-sharing and human rights guarantees. In the case of divided city of Mitrovica it was clear that its political and administrative division (under the laws of Kosovo\*) into two separate municipalities was adapted for the purposes of sharing political power following the lines of ethnic divisions. In such a way, both Albanians and Serbs would get ethnically dominated municipalities, which would in return produce autonomy in decision-making for their political leaders, without consulting ‘the other side’. Voting for local government or, generally speaking, right to vote and to be elected are one of the main political rights, as part of (universal) human rights guarantees, which enable minority population to decide for its own future. Peace Accords Matrix includes following categories that comply with the case of political integration of northern Kosovo prompted by the Agreement: executive branch reform (on municipal level), electoral or political reform, territorial power-sharing, civilian administration reform and minority rights.

On the other hand, when it comes to unification of judicial system, Varenneses categories of autonomy, human rights guarantees and fair distribution of employment adequately fit into the structural framework of a typical peace accord. Even though the Brussels Agreement doesn’t explicitly state that the northern part of Kosovo will have some kind of a judicial autonomy, the fact that Mitrovica District Court is given a special role in committing to justice in that part of Kosovo, attributes to it, at least partially, some level of (regional) autonomy. Apart from guaranteeing the right to be legally protected by unification of the Kosovo\* legal system, the Brussels Agreement also defines and provides fair distribution of employment in regards to integration of judges (formerly belonging to Serbian judicial system) into new legal framework. This document also matches with many of the peace accord parameters set by the PAM, where judiciary reform,

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<sup>130</sup> Von Hehn, *The Internal Implementation of Peace Agreements*, 234.

legislative branch reform, constitutional changes, territorial power-sharing, decentralization, civilian administration reform, human rights, citizenship and minority rights, as its categories, correspond with reform in legislative area defined by the Brussels Agreement. The fact that so many categories of common peace accords' structure can be compared with the content covered by Agreement's articles shows how much multidimensional, in regard to its purposes, this document actually is.

### 3.3. Association/Community of Serb majority municipalities

Identically as in post-conflict Bosnia and Herzegovina and Macedonia, Kosovo is prone to, as Florian Bieber designates it – institutionalization of ethnicity.<sup>131</sup> In such an environment political interests of ethnic groups are only fulfilled through ethnically based political elites which function within institutions that are defined on the basis of ethnic division. Power-sharing and institutional legitimacy in such systems are derived from ethnic identification, where political representation and protection of interests of (divided) ethnic groups are accepted by all political subjects as a legal institutional arrangement. Compromises made among divided ethnic groups within multiethnic (post-conflict) societies can bring fruitful outcomes in regards to processes of democratization and peacebuilding, but “ethnopolitical identities, once mobilized, cannot be banned or abolished, they can only wither away,”<sup>132</sup> either by means of populism or external pressure.

Thus, political culture and institutional framework become entangled in a circle of conflicting ethnic identities represented and embodied through ethnic political elites and partitioned institutions. Therefore it's not uncommon for the so-called ethnic peace to be built on the basis of segregation, as argued by Anthony Oberschall,<sup>133</sup> where cooperation between conflicting ethnic groups starts only after the process of inner consolidation of ethnic 'camps' had ended. In other words, political cooperation, including reconciliation, can only proceed after aspirations of ethnic groups are satisfied, be it through approval of territorial autonomy, guaranteed (minority) seats in state/regional assemblies, special economic incentives, etc. Once this requirement is achieved, consociational political arrangement based on ethnic identification can become a decisive instrument for peacebuilding process. One of such instruments is territorial autonomy for one of the ethnic groups which previously took part in a conflict. Though acting as a separating factor “autonomy as a whole – or better autonomic models, given the profound differences between them

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<sup>131</sup> Florian Bieber, “Institutionalizing Ethnicity in Western Balkans - Managing Change in Deeply Divided Societies”, *ECMI Working Paper* Vol. 19, (2004): 8.

<sup>132</sup> *Ibid*, 30.

<sup>133</sup> Florian Bieber, “Creating an ethnic peace”, *Sociological Analysis* Vol. 2, (2008): 1.

– do carry the potential for, and do prove so in several cases, success; and do contribute to peace in our Globe.”<sup>134</sup>

How important the topic of territorial autonomy in Belgrade-Prishtina relations has become were proven by the fact that six articles of the Brussels Agreement are dedicated to formation of Association/Community of Serb majority municipalities (hereinafter - CSM). Moreover, details covering form, jurisdictions and structure of the CSM are listed in the beginning of the document itself, thus giving it primal importance. If delicacy of the question of possible creation of territorial autonomy for Serbian minority in Kosovo is taken into account, then it can be asserted that this issue is of great relevance concerning the overall normalization process between Prishtina and Belgrade. The idea of creating such an entity dates back before the Brussels Agreement went in force, to which foundations were laid during Vienna negotiations and later became an important part of Ahtisaari's plan. As viewed by Janjić, CSM has actually “emerged as a response to the challenge of the existing ethnic divisions of Kosovo society,” representing a “combination of decentralization and minority cultural autonomy.”<sup>135</sup>

The problem that instantly appeared was defining of CSM's form, competencies and the nature of its relations with central government in Prishtina on one side, and Belgrade on the other. In this regard, from the moment CSM became one of the main issues between Belgrade and Prishtina, opposed views and perception on its future role became apparent. As Shpend Kursani and Ilir Deda have predicted in 2012, the creation of CSM “will cement the quick fix policy of the international community in the Western Balkans, and instead of stabilizing the region it will do the contrary.”<sup>136</sup> In fact, active engagement and pressure from side of the EU on negotiating parties to agree upon at least on the outlines of the creation of CSM has produced contradictory effects. This issue was one of the reasons of Kosovo's political crisis that lasted from 2014-2016, due to the fact that Prishtina's position and opposition had diametrically opposite views in regards to CSM. Even the Agreement on CSM reached between Prishtina and Belgrade, under the auspices and influence of EU, which defined key aspects of CSM, hasn't helped in reaching the goal. As predicted by two previously mentioned authors, quick solution propagated by the international community has only destabilized not only relations between negotiating sides, but also, indirectly, the region. Frequent

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<sup>134</sup> Paulo Cardinal, “Autonomy as a tool for peace”, *Autonomy, Protection of National Minorities and Cultural Heritage as Tools for Peace*, (2012): 16.

Having many differences and forms it is difficult to neutrally define the term territorial autonomy, but probably the closest one would be that “special territorial autonomy arrangements, one or more regions are endowed with special powers not granted to other regions of the state”, as proposed by Swiss Peace. – Nicole Töpferwien, *Peace Mediation Essentials - Decentralization, Special Territorial Autonomy, and Peace Negotiations* (Bern: Swiss Peace, 2005), 2.

<sup>135</sup> Janjić, *Normalization Challenges*, 41.

<sup>136</sup> Shpend Kursani and Ilir Deda, “Autonomy for the Northern Part of Kosovo Unfolding Scenarios and Regional Consequence”, *Kosovo Institute for Policy Research and Development Paper Series 5*, (2012): 25.



postponements of the Brussels dialogue due to political opportunism of Belgrade and Prishtina, provocative and sometimes verbally aggressive statements of official politicians, incidents taking place on the infamous Ibar bridge in Mitrovica, sporadic attacks on returnees, have all come as a side effect of the inability to secure stability in Kosovo. Unsustainability of such state of play has culminated with the incident from the beginning of 2017 where Serbian train (decorated with motifs of Serbian Orthodox churches from Kosovo) was escorted to Kosovo\*-Serbia (administrative) border.<sup>137</sup> Due to involvement of Kosovo Security Forces near the border, situation was on the verge of escalating into an open conflict. This proved that lack of political will on both sides to cope with issues burdening post-conflict Kosovo, along with irresponsible behavior and aggressive rhetoric and misconduct of the negotiating process by main political stakeholders, only gave rise to counterproductive effects, endangering the already fragile peace.

However, crisis catalyzed by the prolongation of establishment of CSM wasn't the crucial obstacle for the start of implementation of the agreed matter. It is also the antagonistic perception and standpoints towards the essence of the CSM that has disabled autonomy reserved for Serbian minority to be applied in practice. As marked by Janjić, four issues regarding the postponing and blocking of the process of implementation of clauses related to CSM have appeared: competences, organizational structure, basis for its establishment and financing.<sup>138</sup> Belgrade insists on the fact that CSM should have as much competences within its framework of autonomy as possible, defending this argument by the fact that Serbian population in Kosovo, especially the part living outside the four northern municipalities, is discriminated, isolated and endangered. Contrary to this, Prishtina perceives such CSM as a threat to its sovereignty, proposing that this entity "should be structured in the same fashion as the existing Association of Kosovo Municipalities (AKM)," <sup>139</sup> where competences are in accordance with Constitution of Kosovo\*. In the same manner, Prishtina accused Belgrade of building a "small 'Republika Srpska' in Kosovo to undermine Kosovo's constitutional order from within."<sup>140</sup> It sought to create CSM in the organizational form of a non-governmental organization, rather than a subject that resembles the structure of a state entity, as pushed by Belgrade. What was defined by a Kosovo Albanian politician as 'Bosnification',<sup>141</sup> of

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<sup>137</sup> BBC, "Serbian train sparks escalation in tensions with Kosovo", BBC, January 14, 2017, <http://www.bbc.com/news/world-europe-38625872> (accessed June 15, 2017).

<sup>138</sup> Janjić, *Normalization Challenges*, 44-45.

<sup>139</sup> Balkans Policy Research Group, *The Association of Serb Municipalities: Understanding conflicting views of Albanians and Serbs* (Prishtina: Balkan Policy Research Group, 2016), 19.

<sup>140</sup> Shpetim Gashi, "The Association of Kosovo Serb Municipalities – a Republika Srpska or a Non-Governmental Organization?" , *TransConflict*, January 6, 2016, <http://www.transconflict.com/2015/01/association-of-kosovo-serb-municipalities-a-republika-srpska-or-a-non-governmental-organization-061/> (accessed June 27, 2017).

<sup>141</sup> Eraldin Fazliu and Jack Butcher, "Tear gas, eggs and protests", *Kosovo 2.0*, October 22, 2015, <http://kosovotwopointzero.com/en/tear-gas-eggs-and-protests-seven-things-you-need-to-know-about-kosovos-political-standoff/> (accessed June 27, 2017).

Kosovo regarding the creation of CSM, while it being perceived by official Belgrade as the “foundation of survival of the Serbian people in Kosovo-Metohija”<sup>142</sup> – demonstrates deeply contrasting views, the one being pessimistic and the other optimistic.

Apart from structural-organizational misunderstandings, implementation of the Brussels Agreement and General principles for CSM<sup>143</sup> has also been obstructed in terms of defining its legal roots. While Belgrade maintained the position that establishment of CSM will be done in compliance with Constitution of Republic of Serbia (which would require adoption of a relevant constitutional law), Prishtina planned to carry out the implementation by means of regulative instruments within the existing constitutional framework. If the creation of CSM was to be conducted, both sides would identify CSM through different legal perspectives, which, essentially, wouldn’t jeopardize the process of implementation. Nonetheless, “each side would have its success and its own version of the grounds on which CSM is established.”<sup>144</sup> On the other hand, the controversy of its financing has, again, confronted interests of Belgrade and Prishtina, where the stumbling block was the share of financial involvement from the side of Serbia. From Belgrade’s point of view, financial backing of the CSM should be done by the budget of the Republic of Serbia, whereas help of the EU and Prishtina would be welcomed. The latter partially agrees with such an approach, but has strong doubts on whether such allocation of financial aid and responsibility would allow for it to control the final recipient – the CSM.

Even though Agreement on CSM has touched upon and dealt with majority of these areas burdened with disputes, both sides still contest many of the defined areas of jurisdiction of CSM and thus, still postpone and refuse putting agreed objectives into action. Culprits for such a treatment of the topic of CSM can be found among all participating factors, main of which are official Belgrade and Prishtina, representatives of Serbs from Kosovo, opposition political scenes in Kosovo\* and Serbia, but also the EU (and its bureaucracy). Prishtina has prompted many inner political crises due to its unwillingness to cope with the issue of CSM, while Belgrade has both isolated authentic interests of Kosovo Serbs and persisted on its strategy to convert CSM into its own fully subordinative ‘branch office’, working as a destabilizing factor against Prishtina’s authority.<sup>145</sup> The EU has largely managed to mediate the process of dialogue, but has lacked pressuring interested subjects on jointly

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<sup>142</sup> Tanjug, “Đurić: Community of Serbian Municipalities holds executive powers and is directly linked to Serbia”, *Office for Kosovo and Metohija*, August 26, 2015, <http://www.kim.gov.rs/eng/v301.php> (accessed June 27, 2017).

<sup>143</sup> “Association/Community of Serb majority municipalities in Kosovo – general principles/main elements”, *European External Action Service*, August 25, 2017, [http://eeas.europa.eu/archives/docs/statements-eeas/docs/150825\\_02\\_association-community-of-serb-majority-municipalities-in-kosovo-general-principles-main-elements\\_en.pdf](http://eeas.europa.eu/archives/docs/statements-eeas/docs/150825_02_association-community-of-serb-majority-municipalities-in-kosovo-general-principles-main-elements_en.pdf) (accessed June 27, 2017).

<sup>144</sup> Janjić, *Normalization Challenges*, 45.

<sup>145</sup> Balkans Policy Research Group, *The Association of Serb Municipalities: Understanding conflicting views*, 14 and 27.

working towards successful implementation of CSM. Circumstantially, political elite of Kosovo Serbs hasn't managed to properly fit in the framework of the Brussels dialogue and consequently has failed to adequately advocate its own interests, which influenced the quality and scope of decisions made during the process of negotiations, be it the content of Brussels Agreement and General principles for CSM or an informal arrangements reached between political leaders of Prishtina and Belgrade. When these objections are taken into account, higher level of political accountability with honest dedication to overcoming implementation barriers, with absence of populism and harming political pragmatism among all of these actors, could become a powerful remedy for challenging implementation deadlock.

As previously stressed, the question of territorial or cultural autonomy is commonly an important part of post-conflict facilitation arrangement. In this regard, all three categories defined by de Varennes, each by itself, can be compared with and backed up by his customary categories present in peace accords. Core idea of CSM lies in guaranteeing autonomy for minority community of Serbs in Kosovo, which political interests would be represented and defended through this entity. Thus, CSM would have a power-sharing relation with central authorities in Prishtina, building of which would contribute to a better interethnic communication, which previously existed, but on a lower scale. Moreover, as de Varennes states "autonomy and power-sharing as part of the solution to an ethnic conflict suggest that these minorities no longer trust the 'national' government; they do not trust the government because it is dominated by the ethnic majority."<sup>146</sup> In the case of Kosovo Serbs' distrust towards Albanian led institutions in Prishtina has produced the need for a self-governing entity which would serve as a mechanism for securing subsistence and cultural and economic sustainability. Therefore, the list of areas in which CSM would be in charge of – economic development, education, health, urban and rural planning – shows that the deal with Prishtina would include a fair distribution of both resources and employment between regional and central authorities. As an instrument of protecting interests of Serbian community, guaranteeing its minority rights, which is inherent to the entity of CSM, complies with de Varenneses category of human rights guarantees. Not only that these rights would be guaranteed by institutions created within the CSM, but they would also be in the area of accountability of authorities in Prishtina. In such a way tables were turned, where previous pursuit of autonomy and protection of human rights guarantees for Albanians within last Yugoslavia has later on become an endeavor of Serbian minority within the territory of Kosovo.

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<sup>146</sup> De Varennes, *Lessons in Conflict Prevention*, 4.

On the other hand, parallels with PAM's categories can also be drawn in many aspects usual for peace accords. Within the institutional aspect, the Brussels Agreement essentially deals with territorial power-sharing and decentralization, but also explicitly defines (categories of) executive branch reform, legislative branch reform, constitutional changes and civilian administration reform. Also, inter-ethnic state relations as a category can be associated with the creation of CSM, because articles essentially define relations between centralized political power in the hand of majority Albanians and regional autonomy reserved for Serbian minority in Kosovo. Though rights which will be guaranteed aren't plainly listed, previously mentioned areas of responsibility of CSM can be found in and directly related to categories of citizenship,<sup>147</sup> education reform, cultural protections, minority rights and, to a certain degree – right of self-determination. The last category is included here due to the fact that first article of the Brussels Agreement defines an opportunity for any Kosovo\* municipality to independently decide whether they want to join CSM. This, for example, opened a debate whether Gora region, on the southern part of Kosovo (mostly inhabited by Gorani people) should become an equal member of CSM.<sup>148</sup> As for other responsibilities of CSM that are related to PAM's categories, provision of economic and social development is present in regards to responsibilities entitled to CSM.

If summed up, articles defining CSM's place do have an important role in Brussels Agreement, especially because they define an entity which aim is, apart from envisaging protection of rights of Serbian community, to lay foundations for building and empowering of sustainable peace in multiethnic Kosovo. Political pragmatism of Belgrade and Prishtina accompanied by nationalist populism of their politicians as well as distraction from coping with issues agreed within the Brussels Agreement have disabled CSM from being created. Yet, both Belgrade<sup>149</sup> and Prishtina<sup>150</sup> in their respective reports on the progress of Brussels Agreement's implementation still insist on the importance of CSM for the process of normalization of relations and their commitment to it. However, one common ground can be found for both sides on the matter of CSM and that is that they agree that no progress has been made in regards to its establishment.

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<sup>147</sup> The fact that CSM is defined to function within and administered by institutions of Kosovo\*, indicates that its population will (and decision to abolish validity of passports of Republic of Serbia issued temporarily by parallel institutions) (in)directly become subjects to Kosovo\* citizenship.

<sup>148</sup> Tanjug, "Gorani want to join community of Serb municipalities", *B92*, March 8, 2013, [http://www.b92.net/eng/news/politics.php?yyyy=2013&mm=03&dd=08&nav\\_id=85060](http://www.b92.net/eng/news/politics.php?yyyy=2013&mm=03&dd=08&nav_id=85060) (accessed June 20, 2017).

<sup>149</sup> Government of Serbia, Office for Kosovo and Metohija, *Progress Report on the Dialogue between Belgrade and Priština (October 2016 – April 2017)*, April 2017, Belgrade, 9.

<sup>150</sup> Government of Kosovo, Brussels Agreements Implementation State of Play, November 2016, Prishtina, 15.

### 3.4. Security structures

In post-conflict societies, such as the ones in Kosovo\* and Serbia, raising the question of security and dealing with it through reforms or restructuring is a highly delicate issue, due to its importance to peacebuilding processes and national security, but also to ethnic identities. For the reasons of uniqueness of the case of Kosovo conflict and the fact that Kosovo war was an intrastate one, restoration of peace on the basis of gradual removal of security dilemmas on both sides seemed unlikely to be an easy task. This was confirmed by the fact that National Security Strategy of Serbia defines that the “unlawfully and unilaterally proclaimed independence of Kosovo is the greatest threat to the security of the Republic of Serbia,”<sup>151</sup> thus seriously limiting the maneuvering space for Belgrade’s tolerable approach in relations with Prishtina. On the other hand, two NATO members – Croatia and Albania (important allies of Prishtina) – have officially warned international community in February 2017 that “Serbia poses an increasing threat to Kosovo's security as well as stability across the wider Balkans.”<sup>152</sup> When defined as such, perspectives of a successful peacebuilding and reconciliation processes seem quite unpredictable, having in mind the importance of security and stability for a post-conflict area.<sup>153</sup> That’s why it was vital for security dilemmas to be resolved, which eventually became the topic of discussions within the Brussels dialogue framework. Securing political and security stability became focal points of the EU’s facilitated dialogue which resulted in meeting of Belgrade’s and Prishtina’s interests halfway and the ratification of such a compromise in the form of the Brussels Agreement.

Main idea behind three articles of the Agreement related to issues of security in Kosovo was the dismantling of Serbian security forces in Kosovo and their integration into Kosovo\* security forces. Such security transformation was necessary for the creation of an environment where security competence is unified and clearly defined, while not being estranged between opposed security structures. In this regard, former principal legal officer to the UNMIK, Anthony J. Miller, admitted that the biggest lesson from UNMIK was “how important it is to have police and judiciary functioning effectively as soon as possible”<sup>154</sup> on the whole territory of Kosovo. UNMIK and the international community have failed in security management in the sector of police security, thus

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<sup>151</sup> Government of Serbia, Ministry of Defense, *National Security Strategy*, 2009, Belgrade, 10.

<sup>152</sup> Reuters and AFP, “NATO Warned Of Increasing Security Threats To Kosovo From Serbia”, *Radio Free Europe*, February 18, 2017, <https://www.rferl.org/a/nato-warned-croatia-serbia-increased-security-threats-kosovo-serbia-balkans/28316831.html> (accessed July 10, 2017).

<sup>153</sup> Reto Rufer, Disarmament, *Demobilisation and Reintegration (DDR): Conceptual approaches, specific settings, practical experiences* (Geneva: Geneva Centre for the Democratic Control of Armed Forces, 2005). Sultan Barakat and Alpaslan Özerdem, “Impact of the reintegration of former KLA combatants on the post-war recovery of Kosovo”, *International Journal of Peace Studies* Volume 10, Number 1, (2005).

<sup>154</sup> Von Hehn, *The Internal Implementation of Peace Agreements*, 212.

perpetuating security dilemmas between security forces controlled by Belgrade and Prishtina.<sup>155</sup> Therefore the aim of mediation of the EU was to revise the issue of security disorder in Kosovo by facilitating the process of creation of a new security package which would lead to a tangible and peaceful solution.

The first condition that was imposed on Belgrade and defined in the Brussels Agreement was to gradually remove the presence of structures of Ministry of Internal Affairs of Republic of Serbia (from Kosovo), mainly its police force. But it also included the so-called Civil Protection forces that operated in the northern part of Kosovo created by Government of Serbia, claimed by Belgrade to be “established by local self-governments for the purpose of protecting and rescuing population from natural disasters,”<sup>156</sup> while Prishtina perceived it as a “strong, equipped and trained paramilitary force.”<sup>157</sup> Though Civil Protection wasn’t mentioned by its name in the Brussels Agreement, the formulation of “other Serbian security structures” by default meant that this provision was to be applied to any parallel security structures harming stability and security in Kosovo. This also included administrative and technical staff, as well as the Firefight unit from northern Mitrovica. Articles 7, 8 and 9 didn’t just deal with the dismantling of parallel security structures in (northern) Kosovo, but they’ve also foreseen a subsequent framework for integration of members of these structures into Kosovo\* security structures. Nonetheless, they define decentralization of Kosovo Police in favor of Serbian community in four municipalities in northern Kosovo, permitting it to have a certain autonomy when it comes to regional security matters. At the same time it defines cooperation with other regional offices of Kosovo Police as recommended, which will, though not explicitly stated, help the complete integration of former members of Serbian security forces. In order to adequately assess progress on security transformation(s) initiated by the Brussels Agreement, focus will be put on its three main aspects: integration into Kosovo Police, dismantling of Civil Protection and integration of the Firefight unit.

After the Kosovo conflict was put to an end, presence of security forces controlled by Belgrade accompanied by partially effective international security forces in forms of KFOR and UNMIK Police haven’t brought sustainable security for Kosovo. After the declaration of independence of Prishtina, transfer of (police) authority from internationally led UNMIK Police to Prishtina’s government led Kosovo Police took place, thus drastically changing overall security structure in Kosovo. As a consequence of such security transformation, Kosovo Police was seeking to obtain

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<sup>155</sup> Nathalie Duclos, “The DDR in Kosovo: collision and collusion among international administrators and combatants”, *Peacebuilding* Vol 4, Issue 1, (2016): 43-45.

<sup>156</sup> Government of Serbia, Office for Kosovo and Metohija, Progress Report on the Dialogue between Belgrade and Prishtina, April 2015, Belgrade, 23.

<sup>157</sup> Forum for Ethnic Relations and NGO Aktiv, *Progress on Mitrovica* (Prishtina: Kosovo Foundation for Open Society, 2014), 8.

jurisdiction over the whole territory of Kosovo, thus inevitably confronting security forces controlled by Belgrade within its alleged area of responsibility, which basically covered four, Serb-dominated, northern municipalities. Such an (undefined) allocation of responsibility over territory of Kosovo required clear and comprehensive transformation or unification of security structures, since “redeployment of military and police forces can be critical to the success of a peace agreement and is an opportunity to move from a military emergency mindset to peace-time administration.”<sup>158</sup>

Following this logic, the Brussels Agreement defined, in great detail, steps and integration framework for such a transformation of security sector in Kosovo. Even though it was agreed among negotiating sides for the start of implementation of stipulated provisions to happen in the same year the Agreement was concluded, “the process was delayed due to the failure of the Serbian side to present a list of individuals interested in becoming part of Kosovo security institutions”<sup>159</sup> on time. After three months of delay, starting from December of 2013, the process of integration has gradually been put in action. Information exchange between Belgrade and Prishtina regarding the list of active Serbian police officers in the north of Kosovo catalyzed the irreversible integration process. Henceforth, inclusion of these officers was administered by Prishtina’s institutions, namely Ministry of Internal Affairs (of Kosovo\*), since it was in charge of Kosovo Police structures. First concrete step towards the integration was the agreed training of Serbian police officers that was organized by Kosovo Academy for Public Safety from December 2013 until February 2014. Following their successful preparation, 285 officers (out of 337 – the total number) got into the service of Kosovo Police, which meant that already at that point Serbian minority included in Kosovo Police reached 12.6% of the total number of Kosovo Police employees.<sup>160</sup> As for the other 52 officers, some of them were rejected, part of them decided not to participate in new security structures, while the others retired to pension.

Prishtina’s official report (from October 2014) on the implementation of this security issue perceived it as successful, claiming that it will ensure “higher quality security for everyone in Kosovo.”<sup>161</sup> Similarly, Belgrade’s report on this matter also praised the implementation success, claiming that the integration was executed “successfully, efficiently and within the agreed timeframes.”<sup>162</sup> These show that inclusion of former officers of Serbian security forces, when it

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<sup>158</sup> Von Hehn, *The Internal Implementation of Peace Agreements*, 135.

<sup>159</sup> Maja Bjeloš, Bojan Elek and Fjolla Raifi, *Police Integration in North Kosovo Progress and Remaining Challenges in Implementation of the Brussels Agreement* (Belgrade: Belgrade Centre for Security Policy, 2014), 9.

<sup>160</sup> *Ibid*, 11.

<sup>161</sup> Government of Kosovo, *Brussels Agreements Implementation State of Play (January - September 2014)*, October 2014, Prishtina, 13.

<sup>162</sup> Government of Serbia, Office for Kosovo and Metohija, *Progress Report on the Dialogue between Belgrade and Priština*, April 2015, Belgrade, 8.

comes to their recruitment into Kosovo Police, was adequately carried out by both sides, notwithstanding occasional delays in the process of implementation. The latter became a barrier in the procedure of the formal appointment of the Regional Commander of the Kosovo Police Regional Directorate – North (in Mitrovica). While Prishtina's official reports on progress of Brussels Agreement implementation don't mention this issue, Belgrade's report document defines that "conditions for his formal appointment will only be created upon establishment of the CSM,"<sup>163</sup> thus disabling the Acting Commander from conducting its full authority. Aside from this procedural difficulty, the integration of 39 former Serbian security (administrative and technical) staff hasn't been executed,<sup>164</sup> according to Belgrade's implementation report (from April 2017). In this regard, Prishtina has announced in its implementation report from November 2016 that "the training of the staff for civil status offices will be conducted."<sup>165</sup> But, regardless of the restraints in the inclusion of the rest of the former Serbian security managing and administrative staff, Kosovo Police has become the only legal police enforcement with the jurisdiction over the whole territory of Kosovo, which will allow for it to become a major actor in the peacebuilding process and the backbone of Kosovo and regional security.

While dealing with security dilemmas through the integration of Kosovo Police required changes with regard to legal security structures controlled by Prishtina and Belgrade, the process of dismantling of Civil Protection units (hereinafter CP) has been functioning differently, due to its undetermined legal status. Moreover, in 2006 "these units were created without consultation with the United Nations Interim Administration Mission in Kosovo (UNMIK),"<sup>166</sup> which not only allowed for it to exist in a legal vacuum, but also to produce security dilemmas among ethnic Albanian politicians in Prishtina, since CP had a major role within Serbian community in Kosovo. Unlike the process of dissolution of Serbian security forces that operated in northern Kosovo, dismantling of CP also included areas south of Ibar river. From its foundation in 2006, almost 500 individuals have been employed by Ministry of Internal Affairs of Serbia and acted similarly to specialized units "composed of full-time employees who are expected to be organised, equipped and trained to carry out complex tasks related to protection and rescue."<sup>167</sup> CP units were basically created in order to support northern Kosovo municipalities in cases of natural disasters or other emergency situations. Since this humanitarian role of CP has been under great suspicion among

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<sup>163</sup> Government of Serbia, Office for Kosovo and Metohija, Progress Report on the Dialogue between Belgrade and Prishtina (October 2016 – April 2017), April 2017, Belgrade, 9.

<sup>164</sup> Ibid, 10.

<sup>165</sup> Government of Kosovo, *Brussels Agreements Implementation State of Play*, November 2016, Prishtina, 5.

<sup>166</sup> Isidora Stakić and Maja Bjeloš, *The Future of Civil Protection in North Kosovo* (Belgrade: Belgrade Centre for Security Policy, 2015), 10.

<sup>167</sup> Ibid, 10.



Kosovo Albanian politicians and EU officials, the latter brokered Agreement on Civil Protection adopted on 26<sup>th</sup> of March 2015 between Belgrade and Prishtina, which goal was to finally eliminate this security dilemma and integrate CP members into Kosovo\* institutions. This initiated gradual integration of former Serbian personnel of CP during 2015 and 2016, but was met with disapprovals regarding some procedural matters from both sides. While Prishtina demanded for a handover of premises previously used by CP to Kosovo\* civil institutions, Belgrade claimed that newly integrated personnel wasn't being paid for its services under its new authority. Even after the full integration and employment of 483 former members of CP took place by the end of 2016, both sides still defined issues of premises<sup>168</sup> and salaries<sup>169</sup> in their respective reports (covering late 2016 – beginning of 2017) as problematic in the process of implementation of Agreement on Civil Protection.

Nevertheless, both sides have managed in dismantling the structure of CP and integrate its former members into Kosovo\* civil institutions, creating an environment with much less security dilemmas among interested stakeholders, especially if taken into account that CP has been regarded as a harming and illegal (even paramilitary) formation. In this regard, Veroljub Petronić, a former adviser on civil protection in the municipality of Zvečan, has commented that “Pristina exaggerated the role and function of Civil Protection by considering it a paramilitary force, which is not true,”<sup>170</sup> fearing that his Albanian colleagues will hold this fact against their new Serbian colleagues. Although this was an assessment made by a single person integrated into Kosovo\* civil institutions, it shows that the full integration and inter-ethnic civil cooperation in security sector, despite the fact that important steps have already been taken in its particular area (prevention and control of natural disasters and other emergencies), is still to be achieved in the following years.

By covering similar area of responsibility as CP, within the humanitarian security, in particular – firefighting, integration of firefighting units, which were outside of Kosovo\* civil institutions' jurisdiction, became an integral part of negotiations over transformation of institutions formerly controlled by Belgrade. Firefighters in Kosovo\* are controlled by Agency for Emergency Management, an integral part of Prishtina's Ministry of Internal Affairs, but didn't have the actual jurisdiction over four northern municipalities. As firefighters that operated in that area were responsible to the Ministry of Internal Affairs of Serbia, article 8 of the Brussels Agreement was to be applied for this category of (former) security structures controlled by Belgrade. Out of 64

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<sup>168</sup> Government of Kosovo, *Brussels Agreements Implementation State of Play*, November 2016, Prishtina, 16.

<sup>169</sup> Government of Serbia, Office for Kosovo and Metohija, *Progress Report on the Dialogue between Belgrade and Priština (October 2016 – April 2017)*, April 2017, Belgrade. 26.

<sup>170</sup> Sanja Sovrlić and Valerie Hopkins, “Kosovo Fails to Integrate Serbian Civil Protection Members”, *Balkan Insight*, January 25, 2016, <http://www.balkaninsight.com/en/article/kosovo-fails-to-integrate-serbian-protection-force-01-22-2016> (accessed July 17, 2017).

employees of the Firefighting unit stationed in Northern Mitrovica, 30 have been integrated into Kosovo\* institutions, while the solution for the other 34 hasn't been found, even until the first quarter of 2017, despite Prishtina's "allegation that it would fulfill this obligation."<sup>171</sup> Postponing or absence of solution for this recruitment issue hasn't stopped the process of integration of firefighting unit of northern Kosovo. In September 2016, Northern Mitrovica has decided to build a new regional firefighting station within its municipality, which will be funded by Interim Fund for Economic and Infrastructural Development of Northern Kosovo.<sup>172</sup> The fact that a research poll conducted by Kosovo Center for Security Studies in 2016 came upon a conclusion that the firefighters are "by far, the most trusted institution in Kosovo"<sup>173</sup> shows that this category of security area could have a positive and more influential impact on peacebuilding process in Kosovo, given its multiethnic composition.

If the progress in implementation of all three previously analyzed areas is taken into account, it can be assumed that it had an overall positive outcome, when compared to pre-Brussels Agreement period. Not only that the parallel security structures in northern Kosovo were abolished as foreseen by the Brussels Agreement, but majority of transformed institutions have started functioning within the Kosovo\* legal system. Mapping of the progress made towards implementation of aspects related to security is difficult to trace since "implementation of this aspect of the Agreement was kept out of public view,"<sup>174</sup> due to sensitiveness of this (political) issue. Justified or not, this approach should've been differently set, because this left space for media representation of staff formerly employed by Serbia as a "subversive element detrimental to Kosovo's national security interests,"<sup>175</sup> which harmed their full integration and lowered their trust potentials within Kosovo society. Therefore, finalization of integration of security staff should in future include a more inclusive and supportive approach from the side of local multiethnic population and its political elites, including those of Prishtina and Belgrade.

Security is a topic to which a lot of attention is paid when it comes to content of a typical peace accord. Post-conflict period requires a security arrangement which will guarantee an adequate implementation of other areas important to peacebuilding process defined by a peace accord. Brussels Agreement has defined transformation and unification of security structure in Kosovo,

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<sup>171</sup> Government of Serbia, Office for Kosovo and Metohija, *Progress Report on the Dialogue between Belgrade and Priština (October 2016 – April 2017)*, April 2017, Belgrade, 10.

<sup>172</sup> KosSev, "SO: Severna Mitrovica dobija novu vatrogasnu stanicu i sportsku halu", *Kosovo Sever Portal*, September 16, 2016, <http://gradjanskastrana.kossev.info/strana/arhiva/naslov/9751> (accessed July 20, 2017).

<sup>173</sup> Mentor Vrajolli, *Kosovo Security Barometer – Sixth Edition* (Prishtina: Kosovo Centre for Security Studies, 2016), 11.

<sup>174</sup> Isidora Stakić et al., *The Future of Civil Protection in North Kosovo*, 14.

<sup>175</sup> Ibid.

since years of insecurity in ethnically divided community was endangering peace. Articles related to security can be related to two of de Varenneses categories: autonomy/power-sharing and fair distribution of employment. While the detailed definition of the future role of Regional Commander for four northern municipalities explains to which extent Serbian community will exercise autonomy in police matters, as well as its power-sharing status in relation to Prishtina, provision related to transfer of former (Serbian) staff to Kosovo\* institutions shows how new distribution of employment will correspond to the factual ethnic structure. When put through PAM's matrix, Brussels Agreement's articles dealing with security issues can be correlated with parameters within two areas – institutions and security. Within the first area, category of decentralization fits into previously mentioned regionalization of police forces in northern Kosovo, while the category of civilian administration reform can be referred to transformation and integration of parallel security structures to Kosovo\* civil institutions. When it comes to the second area, categories of reintegration (related to dismantling of parallel Serbian security structures in northern Kosovo) and paramilitary groups (regarding the dissolution of the CP) can be matched with common security provisions of typical peace accords. But, the most important category in that area is 'police reform'.

Before setting out on dealing with economic and social aspects of implementation of the Brussels Agreement, the author considers his duty to point out here that the topic of transformation of Kosovo Security Forces into Kosovo Armed Forces, which is inextricably linked to security transformation in Kosovo, hasn't been analyzed by none of its articles, nor were there even indications on how to deal with such issue. Moreover, it hasn't been one of the official topics negotiated about within the framework of Brussels dialogue, including both pre and post Brussels Agreement period, though this matter was subject to comments by representatives of both Belgrade and Prishtina. Thus, discussion about military transformation wasn't part of this chapter.

### 3.5. Improvement of economic (and social) conditions

Though the Brussels Agreement in Article 13 foresees discussions only in the areas of energy and telecoms, this chapter will evaluate the impact this document has brought to post-conflict Kosovo in terms of economic and social conditions and, consequently, their influence on peacebuilding process. Since Brussels dialogue has started before the introduction of Brussels Agreement, it's important to include technical agreements concluded during the process of negotiations before 2013, given that they laid foundations for implementation of agreed matters in different areas. Therefore, the scope of analysis will include more (economic) categories than areas of energy and telecoms, since Article 13 essentially links the Brussels Agreement with negotiations and technical agreements that preceded it. In such a way, a more comprehensive analysis of the

whole normalization process between Belgrade and Prishtina will be included, as for the successful post-conflict reconstruction “to succeed, it is crucial to understand the different short-term and longer-term needs existing in the post-war society.”<sup>176</sup>

Within the former Yugoslav federation, autonomous region of Kosovo had been the weakest federal subject in terms of economic and social development. Perpetuated underdevelopment was one of the key factors that influenced the formulation of Kosovo Albanians’ strategy towards greater autonomy and, later on, independence. Devastating consequences brought by destructive warfare of 1998 and 1999 to social and economic reality have further reduced developmental capacities of Kosovo. But, intensive help of international community in form of foreign donations have in large helped Kosovo society witness its gradual economic recovery. Since 2007, the growth rate of gross domestic product of Kosovo\* has been over 2% or 4.5% on average<sup>177</sup>, but insufficient to drastically change the overall standard of living. Moreover, Kosovo\* was one of the few cases in Europe where the economy was spared of the consequences of global economic crisis in its utmost height – 2008-2012. But, unresolved ownership disputes with Serbia over formerly state-owned enterprises, unfavorable investing climate, high unemployment rate, exclusion from membership in economic international organizations, fair share of gray and black economy, and, the most damaging factor – widespread corruption, produced, each with its own intensity, negative repercussions for Kosovo\* economy.

Though Kosovo\* has significantly upgraded its position on Transparency International’s Corruption Perception Index scale, moving in five years time, from 112<sup>th</sup> place<sup>178</sup> in 2011 to 95<sup>th</sup> in 2016<sup>179</sup>, corruption is still an omnipotent problem, especially among Kosovo\* political elite.<sup>180</sup> However, “the growth outlook over the medium term remains moderately buoyant, as it recovered in 2015 to 3.6 percent from only 1.2 percent in 2014”<sup>181</sup> and reaching 3.8 in the second half of 2016.<sup>182</sup> If the fact that Kosovo\* witnessed a six months of political stalemate in 2014 is taken into account, it can be assumed that its unlocking opened the door for an economic progress. The question which arises here is whether the Brussels dialogue (and technical agreements) and Brussels Agreement, in particular, had an impact when it comes to positive economic changes in Kosovo. According to

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<sup>176</sup> Von Hehn, *The Internal Implementation of Peace Agreements*, 91.

<sup>177</sup> Janjić, *Normalization Challenges*, 60.

<sup>178</sup> Transparency International, *Corruption Perception Index 2011* (Berlin: Transparency International, 2011), 4.

<sup>179</sup> Transparency International, “Corruption perceptions”, *Transparency International*, January 25, 2017, [https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2016](https://www.transparency.org/news/feature/corruption_perceptions_index_2016) (accessed July 23, 2017).

<sup>180</sup> Jelena Obradović-Wochnik and Alexander Wochnik, “Europeanising the ‘Kosovo Question’: Serbia’s Policies in the Context of EU Integration”, *West European Politics* Vol. 35, No. 2, (2012): 6.

<sup>181</sup> The World Bank, *Country Program Snapshot*, (Prishtina: The World Bank Country Office in Kosovo, 2016), 2.

<sup>182</sup> Trading Economics, “Kosovo GDP Annual Growth Rate (2006-2017)”, *Trading Economics*, 2017, <https://tradingeconomics.com/kosovo/gdp-growth-annual> (accessed July 23, 2017).

Janjić “in relation to overall economic and social reforms in Kosovo and Serbia, dialogue and normalization have immediate positive effects i.e. they facilitate and accelerate them.”<sup>183</sup> In a similar tone, government in Prishtina has underlined that “agreements are of political, economic and security benefits and improve the life of citizens in our country,”<sup>184</sup> thus affirming the positive effects of Belgrade-Prishtina negotiations on Kosovo\* economy.

Within the Central European Free Trade Agreement (CEFTA) arrangement, Kosovo\* has managed to open its doors for more liberal trading relations primarily with its neighbor Serbia, given that before the Agreement on Customs Stamps trade between the two sides had often been obstructed through misuse of certain bureaucratic procedures. Apart from opening a new deal with IMF, through a developmental arrangement, in 2015, Prishtina has managed, in the same year, to adopt the Stabilization and Association Agreement (SAA) with the EU, which was marked by the EBRD as “an important milestone for the country”<sup>185</sup>. EU’s role in improving economic situation in the Western Balkans has, apart from its main economic and financial aspects, peacebuilding priorities. Through financial support of the Development Fund for Northern Kosovo, EU directly helps building economic sustainability in four northern municipalities with a clear aim of integrating Serbs’ local economy with the rest of Kosovo, mainly by linking interests of entrepreneurs of different ethnic backgrounds. It has also mobilized respectable financial assistance in projects of regional importance, especially in the case of the future construction of Niš-Prishtina motorway,<sup>186</sup> which will open new infrastructural and economic potentials, but, above all, contribute to better relations between former belligerent sides and build mutual trust through (economic) cooperation. In such circumstances, even small steps leading to economic and social stability are of crucial importance for post-conflict areas – Kosovo\* and Serbia, otherwise “without the economic revitalization countries will struggle to build lasting peace and will remain at risk of relapsing into conflict.”<sup>187</sup>

Importance of economic and financial factors in peacebuilding processes in an economically globalized and interdependent world is high. Belonging to the same region and living in an already economically interconnected area, Serbia and Kosovo\* are bound to mutually cooperate, including economic partnership of Albanians, Serbs and other communities in Kosovo. In this regard,

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<sup>183</sup> Janjić, *Normalization Challenges*, 62.

<sup>184</sup> Government of Kosovo, *Brief Summary of the Brussels Agreement Package*, August 2015, Prishtina, 1.

<sup>185</sup> EBRD, *Country Assessments - Kosovo (Transition Report 2015-2016)* (London: EBRD, 2016), 1.

<sup>186</sup> Snežana Bjelotomić, “Construction of Nis-Prishtina motorway to start in 2018”, *Serbian Monitor*, March 17, 2017, <http://serbianmonitor.com/en/featured/30921/construction-nis-pristina-motorway-start-2018/> (accessed: July 24, 2017).

<sup>187</sup> Peacebuilding Commission, *Economic revitalization in peacebuilding and the development of service based infrastructure* (New York: Peacebuilding Support Office, 2010), 3.

Brussels Agreement's annunciation of further discussions on dealing with energy productivity and the removal of barriers in the area of telecommunications show that these economic factors, among many others, are important for peacebuilding process in Kosovo. This document covers these two in particular since previously agreed technical agreements have already dealt with some economic and social topics such as freedom of movement, integrated border management, customs revenue collection, custom stamps, civil registry books, cadastral records, university diplomas. Aimed at overcoming bureaucratic impediments and bridging of disrupted economic relations within divided Kosovo, the EU gradually facilitated agreements on economically and socially vital areas as a way of establishing a basis for sustainable peacebuilding process. Since the main source of Kosovo\* energy and economic development is based on electricity production, cooperation between Belgrade and Prishtina in this area was seen as decisive for economic growth of both actors.

Dependent on its two main power stations, which do not meet the growing electricity needs of Kosovo\* economy, combined with the (political) division of electric network between Belgrade-owned *Elektroprivreda Srbije* (EPS) and Prishtina-controlled *Korporata Energjetike e Kosovë* (KEK), Kosovo\* couldn't adequately cope with its poor efficiency in terms of electricity production. Therefore the idea was to unify energetic system of Kosovo\*, as well as to expand the cooperation between Prishtina and Belgrade in areas of trade and joint production of electricity, coupled with EU's monitoring on reduction of pollution of environment generated by old producing technology. For this purpose both sides have signed the Energy Arrangement (in September 2013) which stipulated terms and steps in which integration of structures of EPS within the Kosovo\* energetic system will happen. Essentially, this meant that the electricity network previously controlled by Belgrade should be managed by Prishtina, but with a clear executive autonomy for Serb-dominated areas in northern Kosovo. Therefore Belgrade's strategy was to register new companies (with its belonging EPS system) in Prishtina, which would consequently integrate themselves into Kosovo\* energetic system, under Kosovo\* laws.

Implementation of Energy Agreement met many obstacles, due to different approaches towards dynamics and procedures to its progress and political pragmatism of leaders from Prishtina and Belgrade. Namely, Belgrade perceived Prishtina's refusal to grant operation licenses to two (Serbian) companies – *EPS Trgovina* and *Elektrosever* – as the key problem in the implementation process.<sup>188</sup> Prishtina's attempt to solve the issue of energy within the European Network of Transmission System Operators for Electricity, outside the framework of the Brussels dialogue, was recognized by Belgrade as another ambiguous step which threatens the implementation of Energy

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<sup>188</sup> Government of Serbia, Office for Kosovo and Metohija, *Progress Report on the Dialogue between Belgrade and Priština (October 2016 – April 2017)*, April 2017, Belgrade, 13.

Arrangement. On the other hand, Prishtina blamed Belgrade for not allowing “a new supplying company to be registered in Kosovo under Kosovo Laws, despite the fact that the 2013 Energy agreement, point 4, stipulates that a new company is to be registered and operate in accordance with Kosovo Law and regulatory framework.”<sup>189</sup> Disagreements on legal procedures concerning energy integration have postponed the implementation of the agreed matter, thus disabling not only energetic, but also overall economic and social stability of Kosovo. Blockade in the process of stabilizing and unifying energetic system of Kosovo\* has caused Prishtina’s decision to refuse signing of an agreed memorandum on energy issues for the region of the Western Balkans,<sup>190</sup> harming the process of regional integration and inner stabilization. The fact that EU’s strong and active interest in resolving this particular issue hasn’t resulted in a success proves that even small bureaucratic obstacles can create obstructions which help neither of economies.

The issue of telecommunications of Kosovo, apart from being on the agenda of Belgrade-Prishtina negotiations, is burdened by poorly developed and partially isolated fixed telephony. Rate of fixed telephony coverage in Kosovo is among the lowest in Europe,<sup>191</sup> slightly damaging its participation in international communication frameworks. If added that communication through fixed and mobile channels between Kosovo\* and Serbia hasn’t been possible due to the lack of recognition of independence of Prishtina by the official Belgrade, put the problem of telecommunications on top of negotiations’ agenda. Existence of two parallel telecommunication systems in Kosovo, one being administered by Prishtina and the other by Belgrade, has required for both sides to reach an agreement which would resolve the unsustainable ‘allocation’ of accountability over telecommunication in Kosovo.

The Agreement on Telecommunications was reached in September 2013 in which main focus was the introduction of the new dialing code for Kosovo\* accompanied with a consultative role of UN’ specialized agency - International Telecommunication Union (ITU). Recommendations and active participation of the ITU in this process was foreseen as a guaranteeing component of a successful implementation of the agreed matter. Kosovo\* obtained a new international dial code, which happened on 15<sup>th</sup> of December 2016, allowing Kosovo\* telecommunication system to be reformed and included into the international communication community. Considering that the state-owned operator *Mobilna telefonija Srbije* (MTS) previously functioned only in some parts of Kosovo, its full incorporation as a new agent into the Kosovo\* telecommunication space became a crucial step

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<sup>189</sup> Government of Kosovo, *Brussels Agreements Implementation State of Play*, November 2016, Prishtina, 9.

<sup>190</sup> Prishtina Insight, “Prishtina refuses to sign Western Balkans energy memorandum”, *Prishtina Insight*, April 28, 2016, <http://prishtinainsight.com/kosovo-refuses-sign-western-balkans-energy-memorandum/> (accessed: July 25, 2017).

<sup>191</sup> Janjić, *Normalization Challenges*, 65.

towards finalizing the agreed matter. Since implementation of telecommunication integration required a longer period, due to its complexity, representatives of the European Commission, which had a mediating role in the negotiations, stated that the transition period will last for two years,<sup>192</sup> as of the end of 2016. In this period both sides have agreed to establish a frequency border and to work on a roaming and interconnection agreement between mobile operators of both sides, based on the ITU principles.<sup>193</sup> By removing existing interferences in communication between Kosovo\* and Serbia and within the geographical area of Kosovo, Prishtina and Belgrade moved from strategies of isolation and neglecting the 'voice of other side' to an inclusive approach which accepts negotiating party as, at least an equal, partner. If added that the observed progress in telecommunications dealt with connecting population of Kosovo\* and Serbia on an informal level on one side, while the satisfactory functioning<sup>194</sup> of liaison offices in Prishtina and Belgrade has been working as a formal communication channel, jointly, the two-dimensional communication has brought two sides closer to each other.

Though negotiations on energy haven't brought significant progress regarding the unification and integration of Kosovo\* energy system, a major breakthrough in the area of telecommunications has been detected by both sides. While the implementation of Agreement on Energy has been a casualty of obstructions of procedural nature, advancement in the (tele)communicational dimension has been paved by assistance of international community, mainly the ITU. If summed up, the improvements in these two economically and socially important areas can be regarded as half-successful. On the other hand, connection between the presented progress of economy in Kosovo in the years that followed the introduction of the Brussels Agreement and the impact of the document itself on that progress is difficult to be found or measured, mostly due to shortness of the period of its implementation. All the more, determining the social impact of such economic changes had on Kosovo is even harder, given how multidimensional and multi-determinant relations between economic and social parameters can be, especially in post-conflict societies and contested territorial subjects. Therefore the assessment in such terms will probably be possible in the years to come.

Comparisons which can be made in the case of Article 13 of the Brussels Agreement are those which are related to common structures of typical peace accords. Within De Varenneses theoretical framework announced discussions in areas of energy and telecommunication, when compared to

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<sup>192</sup> Die Morina, "Kosovo Hails Receipt of Own Telephone Code", *Balkan Insight*, December 15, 2016, <http://www.balkaninsight.com/en/article/383-kosovo-s-dial-code-12-15-2016> (accessed: July 26, 2017).

<sup>193</sup> Government of Kosovo, *Brussels Agreements Implementation State of Play*, November 2016, Prishtina, 8-9.

<sup>194</sup> *Ibid*, 20.



subsequent implementation of agreed decisions in these fields, can be related to two of his categories – autonomy and fair distribution of resources and employment. In both of these areas it is assumed that integration of Belgrade-controlled institutions into the Kosovo\* system will secure a certain kind of autonomy of functioning within it. Consolidation of central (Albanian-dominated) and regional (Serb-dominated) economic interests is seen as possible through autonomy arrangements for areas of great concern for (Serbian) minority. By sharing resources and employment in such orderly relations between the center and the region, the principle of equal participation of all communities for the common good is introduced. Likewise, parallels between Article 13 and categories belonging to PAM can be drawn. Similarly to the category of autonomy from the previous framework, PAM's category of decentralization can also be correlated with the content of the analyzed article, for the same reason – warranty of regional autonomy (for Kosovo Serbs). Except for decentralization, categories of civilian administration reform (integration of MTS and EPS into Kosovo\* system) and economic and social development (essentially the topic covered by articles 13 and 4) can be associated with the content defined by the Brussels Agreement (and respective Telecommunications Agreement from 2013). Also, media belongs to package of provisions related to telecommunications, since media is an integral part of contemporary (tele)communicational offer. Finally, despite the fact that this document didn't define particular areas which have practical economic and social consequences for Kosovo population and the peacebuilding process, as defined by technical agreements within the Brussels dialogue, the Brussels Agreement has put foundations for changes in these fields, thus becoming a stimulus for their further implementation.

### 3.6. Membership in the international community

Being a part of the international community, disregarding the form of participation within it, is an important condition for implementing a peacebuilding strategy in a post-conflict area. One of the forms of joining the international community, especially for the contested subjects (such as the partially recognized *Republic of Kosovo*) is regional integration, which can be a powerful instrument for opening the doors for other actors to participate in the peace-building process. The fact that independency of Prishtina is still contested, though up till 27<sup>th</sup> of February 2017 it was recognized by 114 countries (out of which 111 are members of the UN), aggravates the unresolved and undefined relations between Belgrade and Prishtina, which burdens the newly established (contested) state's path towards the international community.

Prishtina's intention to consolidate its foreign policy has since 2008 been strongly determined by the nature of its subordinated position, due to Belgrade's persistent refusal to recognize the full

independence of its autonomous province. Even after International Court of Justice (ICJ) found in 2010 that declaration of independence of Kosovo\* did not violate the international law, it didn't help Prishtina strengthen its position in the international community, especially when it comes to membership in the most influential international organizations. Active involvement of the EU after 2011 within the Brussels dialogue framework brought Prishtina and Belgrade to the table not only because they share the ultimate goal – accession to the EU, but also due to the perpetuated instability that unsettled relations between these two produced to regional and European security.

Initial idea of the EU was to create a negotiating environment where conflicted sides would treat each other as equal and relevant partners, which would participate in the normalization process without paying attention to the ambiguity of their relations. But, this strategy could only work within the Brussels dialogue, while any regional activity and representation of Prishtina was marked by UNSC's Resolution 1244. Position of Prishtina on this matter and Belgrade's negation of Prishtina symbols frequently paralyzed work of regional organizations, where Prishtina was included under the auspices of the UN's administration. Thanks to EU's mediation, in the beginning of 2012 a deal was made between two sides which implied that Kosovo\* will be able to be represented in regional organizations under its name, but with an additional footnote which does "not prejudice the status of Kosovo and is in accordance with Resolution 1244 and the opinion of the ICJ on Kosovo's declaration of independence."<sup>195</sup> After the agreement was signed 'Kosovo\*' started not only to be equally represented among regional countries, some of which haven't recognized Prishtina's declaration of independence, but also to apply for membership in other regional organizations to which it hasn't previously been part of. This helped Prishtina to gain new position in south-eastern Europe and be recognized as a regional factor, despite the fact that some of the countries active in regional initiatives didn't have diplomatic relations with it. Also, Prishtina's inability to capitalize ICJ's advisory opinion on the legality of its declaration of independence has transferred the normalization process with Belgrade and its own struggle for recognition of sovereignty from the UN's supervision to a level of stronger patronage of the EU.

Common European vision of Belgrade and Prishtina recognized by the EU was the driving power that made Prishtina and Belgrade overcome deep misunderstandings and work on their common peacefully sustainable future. How the European perspective was important for the normalization process was demonstrated in the agreed Brussels Agreement, where it was defined that the common future in the EU will be sought through a non-interfering approach in their respective ways towards

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<sup>195</sup> Bojana Barlovac, "Kosovo, Serbia Reach Deal on Regional Representation", *Balkan Insight*, February 24, 2012, <http://www.balkaninsight.com/en/article/kosovo-serbia-reach-deal-on-regional-representation> (accessed: July 26, 2017).

that goal. Facilitating role of the EU has guaranteed that the neutrality of the Brussels framework was to be kept intact, while allowing both sides to independently conduct their own integration pathways. This common objective was offering progress within the EU and secured positive outcomes of cooperation between Belgrade and Prishtina, but wasn't to be perceived as an easy path, on the contrary. EU called for a strong commitment of both sides not only through encouraging messages of its officials, but also through procedural modus, by enforcing both sides to work on meeting all the necessary conditions defined in the accession process. In this regard, Chapter 35 of Serbia's accession path clearly represents such a policy of the EU, where entry of Serbia into the EU is conditioned with the normalization of relations between Serbia and Kosovo\*. Namely, none of previous accession strategies for EU candidates have been formulated with such a clause included. Thus, the process of normalization was outlined as the most important phase of the accession mechanism, even before the actual normalization process started. Moreover, in its report from 2014, European Council admitted that the decision "to open negotiations was reached due to Serbia's progress in the reforms and its continued commitment to the normalisation of its relations with Kosovo."<sup>196</sup>

On the other hand, "Kosovo's progress towards its European future has been possible due to the progress made by Kosovo in the reforms and its continued commitment to the normalisation of its relations with Serbia, which has seen significant progress."<sup>197</sup> EU's strategy of checks and balances regarding its facilitation of Belgrade-Prishtina negotiations and its assistance to and supervision of their respective accession progress has indicated to have had a dynamic impact. This approach came as a consequence of frequent interruptions and delays in the process of negotiations and implementation prompted by internal political crises and damaging populism of political elites seated in Prishtina and Belgrade. Nevertheless, both Kosovo\* and Serbia have made gradual progress towards the EU after the Brussels Agreement went into force.

Prishtina has signed the Stabilization and Association Agreement (SAA) with the EU on 26<sup>th</sup> of February 2016, which became effective on April 1<sup>st</sup> 2016; it is expected that in the end of SAA Prishtina will eventually apply for membership in the EU. First two chapters were opened by EU within its accession framework with Belgrade on December 14<sup>th</sup> 2015, one of which – the 35<sup>th</sup> – dealt with the normalization of relations with Kosovo\*, thus, again, showing how significant this topic is for the EU. As it was granted with the status of candidate for future membership in the EU in March 1<sup>st</sup> 2012, after set of technical agreements with Prishtina was signed, Belgrade has occasionally been 'awarded' by the EU with opening of new chapters, sometimes on the account of

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<sup>196</sup> European Union, European Commission, *Serbia Progress Report*, October 2014, Brussels, 2.

<sup>197</sup> European Union, European Commission, *Kosovo\* Progress Report*, October 2014, Brussels, 2.

the progress within the Brussels negotiation framework, where until the end of July 2017, ten chapters were opened and two closed.<sup>198</sup> Overall, 2016 European Commission reports on Kosovo\* and Serbia progress towards the EU both state, in the same manner, that they remain committed to the implementation of the agreements reached in the Brussels dialogue, while assessing the progress in both cases with the same description – limited.<sup>199</sup> Since same reports conclude that the progress in the normalization process between Prishtina and Belgrade will remain essential for advancing the European future, it suggests that both subjects will, most likely, judging by the practice in the period of 2013-2016, work on normalizing their relations, as part of their common integration into the EU. Other than on the European future, Prishtina has also been focused on its external strategy and foreign policy on regional and global levels, through applying for membership in most important regional and international organizations.

Under the UNMIK administration, from 2004 until 2008 Prishtina has managed to enter some of the regional arrangements such as Energy Community Treaty, South East Europe Transport Observatory, Southeast European Cooperative Initiative (as an observer), European Common Aviation Area and most important one – CEFTA. Under the mandate of UNMIK, its representatives, on behalf of Prishtina, have successfully participated in activities of these regional activities. After 2008 the situation considerably changed due to Belgrade's opposing strategy to Prishtina's external involvement, as well as frequent protests of countries which didn't recognize the newly created (contested) state. Based on Agreement on Regional Representation and Cooperation from February 2012 and Article 13 of the Brussels Agreement, Prishtina was allowed to partake in regional organizations and meetings in a more freely manner, meaning that its activities wouldn't be subverted by Belgrade. Without regard to these accords, from Prishtina's point of view "Serbia has proved to be a staunch opponent of Kosovo's membership in international organizations."<sup>200</sup> Probably the best example of such a treatment was Prishtina's bid for membership in UNESCO in 2015, accompanied with extensive diplomatic activities of both Prishtina and Belgrade and their respective partners in the international arena, which ended as a failure.<sup>201</sup> Moreover, Serbia repeatedly blocked or boycotted regional meetings where Prishtina took

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<sup>198</sup> European Western Balkans, "Serbia opens chapters 7 and 29", *European Western Balkans*, June 20, 2017, <https://europeanwesternbalkans.com/2017/06/20/serbia-opens-chapters-7-and-29/> (accessed August 16, 2017).

<sup>199</sup> European Union, European Commission, *Kosovo\* 2016 Report*, November 2016, Brussels, 5.

European Union, European Commission, *Serbia 2016 Report*, November 2016, Brussels, 5.

<sup>200</sup> Gëzim Krasniqi, "Rising up in the world: Kosovo's quest for international recognition", *Prishtina Insight*, November 26, 2016, <http://prishtinainsight.com/rising-up-world-kosovo-quest-international-recognition-mag/> (accessed: July 25, 2017).

<sup>201</sup> Associated Press, "UNESCO rejects membership for Kosovo in victory for Serbia", *Daily Mail*, November 9, 2015, <http://www.dailymail.co.uk/wires/ap/article-3310151/UNESCO-begins-divisive-debate-Kosovo-membership.html#ixzz4puqDgXz7> (accessed July 26, 2017).

part as a partner.<sup>202</sup> Also, the fact that Belgrade and consequently five members of the EU didn't recognize Prishtina's proclaimed independence has made its path towards the EU, at least partially, procedurally challenging due to the lack of 'one voice' of all the members of the EU. But, if such obstructive factors are put aside, Prishtina became a full and active member of many regional organizations such as Regional Cooperation Council, Council of Europe Development Bank, Adriatic Charter and South-East European Cooperation Process, while, at the same time, being in the process of joining the EU (allowed by implementation of Article 13).

After the declaration of independence, in 2009 Prishtina has managed to become a member of two most important financial international organizations – World Bank and International Monetary Fund. Three years later, it has been accepted to the European Bank for Reconstruction and Development, which was regarded as a good step towards building an attractive climate for domestic business and foreign investments. The inability to fulfill conditions for becoming a member of World Trade Organization has impeded Prishtina from attaining full participation in international financial and trade flows. Though these organizations supported financial and economic stability in Kosovo, lack of regional (and international) arrangements in many areas were the reason for the incomplete integration of Prishtina into global frames. Prishtina incorporated itself gradually into the international community through membership in several international (global) organizations, among which International Road and Transport Union, Permanent Court of Arbitration (PCA), International Federation of Arts Councils and Culture Agencies (IFACCA) and International Olympic Committee (IOC) are most prominent ones. Still, overall powerlessness of Prishtina in the global arena lies in its incapability to become a full member of the United Nations, an organization which permits and simplifies the process of applying for its specialized agencies and international organizations closely related to it. On the other hand, Prishtina's unsuccessful intention to become a full member of NATO (or its special program – Partnership for Peace) wasn't caused only by the unwillingness of several countries which disqualify Kosovo\* as an independent subject, but also due to the problem of identifying its internal security institutions, the biggest one being the transformation of Kosovo Security Forces into Kosovo Armed Forces (Army of Kosovo).

Prishtina in its reports on the progress of implementation of the Brussels Agreement regarding regional cooperation and representation highlights advancement in application of agreed matter, adding that its "constructive performance in the Brussels Dialogue has contributed to advancements

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<sup>202</sup> Ardian Emini and Alfred Marleku, "The Prospects of Membership in International Organizations - The Case of Kosovo", *Acta Universitas Danubius* Vol. 9, no.2 (2016): 7.

in Kosovo's path to European integration."<sup>203</sup> In the same manner, Belgrade in its report assumes that "Arrangement on Regional Representation and Cooperation reached on 24<sup>th</sup> of February 2012 has been successfully implemented,"<sup>204</sup> with a special overview of its positive commitment to the process of European integration accompanied with the process of normalization of relations with Prishtina. Though Prishtina had complaints about Belgrade's frequent obstructions when it comes to its participation in regional meetings, none of the sides have had any remarks on other side's respective path towards the EU. This stems from the fact that they pursued their policies towards the EU independently from each other, as agreed in the Brussels Agreement.

In this regard, de Varennes' category of independence and autonomy (within the usual structure of peace accords) complies with the content covering a requirement which directs both sides to lead their own authentic and self-reliant foreign policies. Prishtina sought to represent its interests independent of Belgrade's decisions, not only because it declared formal independence from Serbia, but also because its official standpoint was that mutual interests wouldn't fit properly if they were led in one track. Similarly, PAM's category of the right of self-determination can be correlated to Article 13 of the Brussels Agreement, for it defines the right of one side to determine its own, in this case, particular dimension of foreign policy. Although right of self-determination is usually associated with the process of creating an independent state by a conflict-endangered minority or an ex-belligerent side, the analyzed article was compared in terms of the right to determine subject's own external policies.

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<sup>203</sup> Government of Kosovo, *Brussels Agreements Implementation State of Play*, November 2016, Prishtina, 2.

<sup>204</sup> Government of Serbia, Office for Kosovo and Metohija, *Progress Report on the Dialogue between Belgrade and Priština (April 2016 – October 2016)*, October 2016, Belgrade

#### **4. Does Brussels Agreement bear characteristics of a peace agreement?**

Brussels Agreement as a document which opened a new chapter in post-conflict relations between Prishtina and Belgrade hasn't been perceived as a document with characteristics of a peace accord. The reason behind such a position of this agreement can be found in the fact that it was concluded nearly decade and a half after the war has ended, apart from not having included the word 'peace' within its title. Furthermore, the established framework, which was designated as the 'process of normalization' between two sides, has left few space for discussing the possibility of the agreement having additional features to which not enough attention was paid to. Complex as it was, the conflict between Albanians and Serbs in Kosovo hasn't been resolved neither by the Kumanovo Agreement nor by the post-conflict international management lead by the UN. Leftovers of unresolved major issues that burdened post-war Kosovo have been postponed, some of them even intensified, due to the shared irresponsibility of all involved stakeholders. On account of EU's active facilitation and mediation of the Brussels negotiating process, steps towards dealing with fundamental problems inherent to Kosovo post-conflict period have been made since.

Coping with these unresolved disputes at such a late stage showed that conditions for advancement in the peacebuilding process in Kosovo couldn't be created in the years preceding the Brussels dialogue. The fact that Article 2 of the Basic Agreement between Serbia and Kosovo\* urged that "both sides to the agreement shall settle any disputes between them exclusively by peaceful means and they will refrain from threats or use of force"<sup>205</sup> suggests that even after fifteen years of unsustainable fragile peace in Kosovo there was a need to accentuate the peaceful basis on which relations between confronted sides should be built upon. For these (and some previously mentioned) reasons, Brussels Agreement was analyzed in previous chapters in terms of its relation to typical structure and content of a common peace accord. Considering that some aspects of the agreement were left out of the six defined fields, the following chapter will deal with other integral categories of peace accords that can be related to the Agreement. Moreover, analyzed fields will be jointly evaluated, which will determine whether the Brussels Agreement bears the characteristics of a (common) peace accord. In the view of the fact that a peacebuilding process requires a peace accord to be adequately applied, the implementation of the agreement will be assessed through its impact on building peace in Kosovo

##### **4.1. Brussels Agreement as a peace agreement**

In previous chapters categories classified and defined by de Varennes and Darby and Joshi have been used as a referential framework in the process of examining the Brussels Agreement as a

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<sup>205</sup> Janjić, *Normalization Challenges*, 86.

peace accord. Six fields that were drawn out depending on articles' relevance to a certain area went through a comparative analysis. In the case of de Varenneses three-dimensional categorization of typical structure of peace accords it was challenging to correlate his categories with the above mentioned fields, mostly due to a generalizing character of these categories. By reducing multidimensional contents of typical peace accords, de Varennes has made it more difficult for a clear comparative analysis to be realized. On the other hand, the generality of his theoretical apparatus made it possible for every one of six fields to be correlated with his categories. Amnesty law, municipal elections and judicial reform and CSM were associated with all three of his categories, while parallels with at least one category were drawn with three other fields. Here it's important to point out that autonomy as a category was found in all of the six defined fields, which indicates that the Brussels Agreement was focused on defining conditions under which right to autonomy (for a minority community) should be applied in the case of post-conflict Kosovo.

Serbian community within this territory was in need of certain guarantees which would allow them to gain trust in central institutions in Prishtina, while, at the same time, keeping its own authentic policy making position within Kosovo society and institutions. Since the process of integration of Serbian community meant wavering and concessions toward the Albanian-dominated government seated in Prishtina, the latter had to compromise with a certain degree of autonomy as part of a process of peacebuilding efforts in Kosovo. In this regard it's no surprise that the topic of CSM has taken much of the content space of the Brussels Agreement, given how much this issue was crucial for a sustainable deal that would produce positive outcomes in relations between Belgrade and Prishtina and central and regional forces within Kosovo. Besides, "ethnic belonging cannot be switched off with the recent memories of violence, elites which benefit from the issue and factual segregation,"<sup>206</sup> which are all realities of everyday life in Kosovo.

As the second most common category, fair distribution (which was found in five out of six analyzed fields) proved to be at the heart of the remedy foreseen for a delayed reparatory process aimed for both Albanians and Serbs. Distribution of employment came not only as a consequence of integration of former staff employed by the Republic of Serbia into Kosovo\* institutions, but also because preservation of working place accompanied with new employments (especially for Serbian community) would consequently lead to a higher level of economic and social stability, at least to a certain, visible, extent. Economic and social factors of distributive mechanisms of the Brussels Agreement get even more important if the unemployment rate in Kosovo is considered.

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<sup>206</sup> Bieber, "Creating an ethnic space", 3.



Human rights guarantees as the third de Varenneses category, represented in three out of six fields, hasn't been in the main focus of the authors of the analyzed document, probably because technical agreements concluded during the Brussels negotiations process have already covered some of the issues related to human, especially minority, rights.

In spite of de Varenneses loosely categorized structure of a typical peace accord, comparative analysis has shown that the Brussels Agreement, within his theoretical framework, does bear characteristics, meaning the structure and content, of a typical contemporary peace accord. The fact that at least one category could have been related to articles and topics belonging to the Brussels Agreement go in favor of designating this document as having, among many others, characteristics of a peace accord. Ultimately, if the document in question is analyzed as a whole, presence of all three de Varenneses categories stands supportive of previous arguments.

On the other hand, unlike de Varenneses scheme of categories, Joshi's and Darby's PAM consists of clear cut categories, which allowed for an easier comparative analysis between a typical peace accord and the Brussels Agreement. Variety of 51 provisions proposed by these authors incorporate different areas usually covered by peace accord was of great importance for this research, since it made it possible for taking a more detailed insight into the content and structure of the Brussels Agreement. Diversity of topics covered by modern peace accords and their subsequent differences caused by authenticity of every conflict has made it impossible for a typical peace accord to have every one of provisions, as listed by Darby and Joshi, included in it. The question that stems from this statement is: What's the total number of provisions needed for one document to be designated as a peace accord (by its structure and content)? Or, more importantly: Can Brussels Agreement be assessed as a peace accord, disregarding the numerical approach?

Defining a threshold in such circumstance can be subjective and highly dependent on the content of an analyzed document, type of the conflict preceding it, time that passed between ending of that conflict and introduction of the peace accord or the content of agreements that preceded or followed such a document. The neutral way to define a threshold would be to use the logic of simplified mathematics, where 26 out of 51 provisions would be enough for proving that one agreed document has characteristics of a (common) peace accord. In this regard, 22 detected PAM provisions within six analyzed fields in this research would as a consequence have a conclusion that the Brussels Agreement is a document that defined several matters important for the normalization process between Belgrade and Prishtina, but not a peace accord. However, there are several facts that need to be taken into account before giving a final assessment of this document.

Firstly, none of PAM's seven provisions belonging to the group of external arrangements and the category of ceasefire could be applied to the Agreement, because most of them have already been covered by the Kumanovo Agreement from 1999. Categories of demobilization, disarmament and prisoner release within the security group of topics couldn't be applied for the same reason. That's one of the reasons why the title of this research designated the Brussels Agreement as a *delayed* peace accord, because some of the solutions to Kosovo post-conflict issues were defined decade and a half later.

Secondly, several issues that burdened relations between Prishtina and Belgrade became the topic of some of their mutually agreed technical agreements, which, in a way, limited the scope of topics that could be dealt with within the Agreement itself. Closely related to this fact is that the purpose of the Brussels Agreement was to define key priorities for subjects to work on, while other related or non-related issues were left to be concretized and be coped with in the period that followed the conclusion of the Brussels Agreement. This was the reason that it consisted of (only) fifteen articles defined in general terms, to which details negotiating parts would work later on (which they did, as was seen in previous chapters). Thirdly, provision such as 'human rights' could have been compared with the content of the analyzed document, due to its generalizing character, but provision 'minority rights' was used instead to concretize the issue which the Agreement dealt with. At the same time categories such as 'women' and 'children' were incomparable since peace accords engage in these topics right after the war atrocities are finished, in the light of sensitive position of these (civilian) categories in war times. Fourthly, provision of border demarcation was mentioned neither in technical agreements nor in the Brussels Agreement given its delicacy and complexity. Belgrade wouldn't discuss this topic since it only recognizes administrative borders between central Serbia and autonomous region of Kosovo and Metohija, while Prishtina refuses to negotiate this before Serbia recognizes its independency.

Fifthly, there are some provisions to which direct correlations couldn't be established, due to the lack of clear limits of matters they cover. To this group of categories belong 'dispute resolution committee' and 'donor support'. Even though article 15 mentions 'implementation committee' comprised of the EU and negotiating parts, which would have an authority over the process of implementation of the Brussels Agreement, it's not quite clear whether it's possible to associate it with the category of dispute resolution committee, since this article doesn't go into details regarding its jurisdiction. As disputes have been arising during negotiations between Belgrade and Prishtina, it can be assumed that the role of dispute resolving subject was taken by the representatives of the EU. Similarly, the role of the donor wasn't explicitly determined in the Agreement, but previous experience of its financial involvement in the Kosovo dispute through financing of Kosovo NGO

sector, investing in economic and financial (post-conflict) restoration of Kosovo, as well as being the host of negotiations in its capital Brussels indirectly suggests the significance of EU's position in the process of peacebuilding. As for the category of reparations, it cannot be related to any of the analyzed provisions.

Sixthly, issues of military reform (consult page 44), internally displaced persons<sup>207</sup> and natural resource usage<sup>208</sup> were part of negotiations that followed the introduction of the Brussels Agreement or were announced as possible topics for discussions, but didn't end up becoming a part of this document's content. Seventhly, the category of transitional power-sharing government could also be perceived as a constitutive part of the Brussels negotiations framework, given that municipal elections in November 2013 have encouraged political representatives of Serbian community in Kosovo to actively participate and partake in forming of Prishtina's government after Kosovo\* parliamentary elections in June 2014. This was a transitional government because it was the first time that Serbs living in northern Kosovo have given legitimacy to their political representatives to take part in Kosovo\* politics as a way of protecting of their rights within the territory they live in. However, the fact that the Agreement did not deal explicitly with transitional government within Kosovo\* institutions indicated that it cannot be directly related to this accord, which excludes this category from Agreement's framework. Last, but not less important, is the fact that the Brussels Agreement wasn't intended to be a peace accord, nor was it explicitly considered to become a document which would bring lasting peace for Kosovo citizens. Also, agreements concluded during and after the Kosovo conflict did not include the word 'peace' in their titles.

The point of previous argumentation was to suggest that numerical perception and analysis of PAM's categorization of typical peace accord's structure is not the crucial parameter for the process of verifying Brussels Agreement as a peace accord. Since quantitative comparison in this case study wasn't possible, qualitative comparison resulted in tracking of 22 (out 51) categories directly related to the content of the Brussels Agreement (and its Implementation Plan). Additionally, at least six (above mentioned<sup>209</sup>) provisions could indirectly be associated with this document, but cannot be directly referred to the Agreement, given that their inclusion would mean bypassing the content of the document itself. Moreover, many of peace accords included in Joshi's and Darby's analysis didn't have more than 26 categories that could be associated with their content, suggesting that quantitative approach to peace accords would be insufficient and scientifically inconclusive. Thus,

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<sup>207</sup> BETA, "Belgrade-Prishtina talks to resume in Brussels", B92, February 9, 2015, [http://www.b92.net/eng/news/politics.php?yyyy=2015&mm=02&dd=09&nav\\_id=93116](http://www.b92.net/eng/news/politics.php?yyyy=2015&mm=02&dd=09&nav_id=93116) (accessed: July 27, 2017).

<sup>208</sup> Tanjug, "Gazivode hydro resource "important for EU chapters"", B92, May 20, 2015, [http://www.b92.net/eng/news/politics.php?yyyy=2015&mm=05&dd=20&nav\\_id=94178](http://www.b92.net/eng/news/politics.php?yyyy=2015&mm=05&dd=20&nav_id=94178) (accessed: July 27, 2017).

<sup>209</sup> human rights, dispute resolution committee, donor support, internally displaced persons, natural resource usage, reparations

even if additional six categories mentioned above are not included as being in favor of designating the Brussels Agreement as a peace accord, it is clear that this document has the elements, structure and the content of a typical modern peace accord. This conclusion stems from the fact that the Agreement cannot be perceived only through quantitative viewpoint, due to the fact that some of PAM's categories are more important and relative to peacebuilding process. Therefore, the presence of crucial categories to building peace in a particular area, disregarding their number, doesn't imply that a particular document will lose the quality of a peace accord. Rather, it is the quality of the areas (vital for peacebuilding process) covered in a particular document the parameter that is most significant for assessing it in terms of its peacebuilding character. As the analysis has showed, Brussels Agreement contains some of the most important topics related to peacebuilding process, such as minority rights, police reform, decentralization or economic and social development, indicating that this document is a peace accord.

When summed up, both matrixes used in this research have showed that the Brussels Agreement, though not regarded as a peace accord, has many characteristics of such a document. According to de Varennes' theoretical framework, the Brussels Agreement contains all three elements which he traced in concluded contemporary peace accords. On the other hand, this agreement is distinguished by 22 out of 51 PAM's categories which are common for modern peace accords. As shown in this chapter, the Brussels Agreement is not lacking the rest of 29 PAM's categories, but, it's their indirect nature of the connection with the content of this document that doesn't allow for them to be fully associated with it.

#### 4.2. Has the Agreement brought tangible peace for Kosovo?

After a peace accord or an agreement that deals with post-conflict burdening issues is stricken, many expect from such a document to produce visible or tangible peaceful consequences. Habitually, the dissociation between the content of a peace accord and its implementation in practice opens up. In this regard, many claim that "peace agreements are hard to implement and implementation is hard to track."<sup>210</sup> This is due to the fragility and complexity of the post-conflict environment, as well as the lack of precise and comprehensive methodological approaches which would enable a wider insight and evaluation of the outcomes brought by the implementation of a peace accord. Together with the slow intensity and dynamics of the process of implementation immediately following the conclusion of a peace accord, a discrepancy between material and practical dimensions is induced. Clenched in between these two dimensions peacebuilding process often gets out of it not always as a winner. The implementation process in that case will be

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<sup>210</sup> Madhav Joshi et al., "Introducing the Peace Accords Matrix (PAM)", 3.

dependent on the nature and areas that peace accord encompasses in its content. As concluded in a study conducted by Anna K. Jarstad and Desirée Nilsson “provisions for political power-sharing are frequently implemented, but these are also put into place fairly quickly after the signing of the agreement, whereas military and territorial pacts take a bit longer and seem more difficult to implement.”<sup>211</sup> That’s why the evaluation of implementation of the Brussels Agreement cannot be attained unilaterally, given its multidimensional content with elements of political, economic, social, judiciary, security and administrative matters.

Multidimensional factors of the Agreement that could impact peace in Kosovo are thus hard to track and measure. In this regard, von Hehn argues: “While most would agree that positive peace is the ultimate goal of peace implementation, there is much less agreement on what yardstick to use in order to measure success, since the threshold of a ‘perfect world’ of positive peace for the qualification of success would mean to conclude that the world of peacemaking is one of inescapable failure and would fail to acknowledge also the great achievements in many peace processes. Indeed, many states that have not experienced conflict would not reach the ‘positive peace’ threshold.”<sup>212</sup> In this respect, his comment opens up a dilemma on whether the implementation of Brussels Agreement has catalyzed positive or negative peace, or neither of them. If von Hehn’s remark is taken into account, the possibility of overweighing negative peace (and the measurement of its impact in Kosovo after the introduction of the analyzed document) can give a more valuable insight than the assessment of positive peace. Overview of the negative peace as such focuses on the lack of violence within a certain post-conflict area, which allows for its evaluation even after a short time span between the introduction of a peace accord and the limit of analyzed period, as it’s the case in this research (2013-2017). Since in such period of time it’s difficult to make correlations between particular elements (six analyzed fields) of the Brussels Agreement and dynamics of (inter-ethnic) violence in Kosovo, changes in those dynamics will be evaluated. The progress discerned (in chapter 3) in areas of judiciary transformation, economic and social development, political and electoral area, security integration and regional activity after the conclusion of the Brussels Agreement will be jointly assessed through their possible relation to the dynamics of inter-ethnic violence in Kosovo.

After the introduction of the Kumanovo Agreement, Kosovo has witnessed wider range of inter-ethnic violence and frequent incidents, which is a usual post-conflict scenario, given that “societies

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<sup>211</sup> Anna K. Jarstad and Desirée Nilsson *From Words to Deeds: The Implementation of Power-Sharing Pacts in Peace Accords* (London: Routledge, 2008), 15.

<sup>212</sup> Von Hehn, *The Internal Implementation of Peace Agreements*, 16.

emerging from violent conflict are prone to continuing high levels of violence.”<sup>213</sup> Unlike this agreement, the Brussels one hasn’t catalyzed any major or minor scope of violence right after it was introduced. In the first year of the implementation of the Brussels Agreement, that is 2013, UNMIK has reported that “the overall security situation in Kosovo remained generally calm, with occasional incidents reported in ethnically mixed areas.”<sup>214</sup> Most of them took place in the ethnically mixed areas in the northern parts of the divided city of Mitrovica, as well as some in Serb populated enclaves in the part of Kosovo south of river Ibar. In the following year UNMIK stated that there were “a number of serious security incidents relating to illegal logging activities, including near the administrative boundary line.”<sup>215</sup> Several cases of shootings have been reported, with some cases of wounded casualties, but without fatal consequences. As in years that preceded the Brussels Agreement, visits by internally displaced persons residing in Serbia to their former permanent residences in Kosovo were often followed by attacks perpetrated by local Albanians against them, frequently ending in inflicted injuries, sometimes accompanied with damages of private and public property.

During the 2015 the overall security situation in Kosovo remained generally stable,<sup>216</sup> but with a number of incidents affecting minority communities. Albanians were commonly under threat in municipalities of Zvečan and Northern Mitrovica, while Serbs were objects of attacks mostly in municipalities of Klina, Lipljan and Peć/Pejë. Kosovo Police registered eight cases of inter-ethnic clashes between January and July of 2016, without being specific about their character.<sup>217</sup> Inter-ethnic clashes continued to take place in the city of Mitrovica, but have seen reduction in the number of incidents following the deconstruction of the so-called Peace Park situated on the infamous Ibar bridge in Mitrovica.<sup>218</sup> Though the tensions between these two major Kosovo communities were still aggravating, ethnically motivated incidents that have been authorized for investigation have fallen from the number of 35 in 2011 to 16 in 2015.<sup>219</sup> The problem behind this fact lies in an alleged underreporting of ethnically motivated incidents, due to the difficulty of

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<sup>213</sup> Christina Steenkamp, *Violence and Post-war Reconstruction - Managing Insecurity in the Aftermath of Peace Accords* (London: I.B.Tauris & Co Ltd, 2009), 16.

<sup>214</sup> United Nations, Security Council, *Report of the Secretary-General on the United Nations*, October 2013, New York, 4.

<sup>215</sup> United Nations, Security Council, *Report of the Secretary-General on the United Nations*, October 2014, New York, 5.

<sup>216</sup> United Nations, Security Council, *Report of the Secretary-General on the United Nations*, July 2015, New York, 5.

<sup>217</sup> Human Rights Watch, “Serbia/Kosovo Events of 2016”, *Human Rights Watch*, 2016, <https://www.hrw.org/world-report/2017/country-chapters/serbia/kosovo> (accessed: July 25, 2017).

<sup>218</sup> The reconstruction of this bridge was perceived by local Albanians and Serbs as a sign of progress towards reconciliation in this multiethnic part of Kosovo. – Die Morina, “Mitrovica’s Flashpoint Bridge Symbolises Kosovo’s Divisions”, *Balkan Transitional Justice*, March 2, 2017, <http://www.balkaninsight.com/en/article/mitrovica-s-flashpoint-bridge-symbolises-kosovo-s-divisions-03-01-2017> (accessed: July 25, 2017).

<sup>219</sup> Danny Wilkinson, “Inter-ethnic crime under-reported”, *Kosovo 2.0*, October 6, 2016, <http://kosovotwopointzero.com/en/inter-ethnic-crime-under-reported/> (accessed: July 25, 2017).

establishing and defining them as such. Additionally, while inter-ethnic relations between Albanians and Serbs have seen some mild progress, “the divided town of Mitrovica has continuously been a hotspot of inter-ethnic tensions and became a synonym for an unresolved conflict in the northern part of Kosovo.”<sup>220</sup> In this regard the reconstruction of the Ibar bridge could be a first step towards a long road of resolving issues of mistrust and animosities that burden relations between Albanians and Serbs.

According to Kosovo’s Ombudsperson report domestic gender-based violence stays to be the most aggravating issue in Kosovo, while overweighing inter-ethnic incidents which took place throughout Kosovo. In his annual report for the year of 2016, Ombudsperson mentioned that during that year there “were a number of interethnic incidents,” adding that, unlike the previous years, “respective authorities have regularly and publicly condemned such incidents in their Municipalities as well as there was a reaction by the prosecution as well.”<sup>221</sup> While this doesn’t suggest that inter-ethnic intensity of violence has drastically dropped after the Brussels Agreement was introduced, it shows the progress made in the process of awareness-raising of citizens of different ethnic backgrounds.

Due to inconclusive resources regarding the dynamics of inter-ethnic violence and the short time span of the analysis, factual correlation between the implementation of the Brussels Agreement and peacebuilding process in Kosovo cannot be established. Though some comparisons in this regard have been presented, their overall scope is insufficient for a definite conclusion to be drawn. What can be noted in this regard is that integration and unification of security structures of Kosovo\* have eliminated several security dilemmas which had been a burdening issue for years. Creation of a multiethnic structure of security forces of Kosovo\* as the most important guarantors of peace and security, alongside international peacekeeping forces, have made a difference in the post-conflict surrounding and their role will probably in future be more evident. Communication between divided societies within institutional frameworks (of Kosovo\* legal system) prompted by the Brussels Agreement will eventually produce positive outcomes and become a stimulative example, especially for ethnically-mixed local areas. As concluded by Agon Demjaha “only an overall improvement of relations between Kosovo and Serbia could contribute to the overall relaxation of inter-ethnic relations between Albanians and Serbs in Kosovo.”<sup>222</sup> Thus, changes catalyzed by the implementation of the Brussels Agreement and related technical agreements between Belgrade and Prishtina should be seen as the first step towards reconciliation and peacebuilding processes, but need to be approached from a grassroots level, provided that local Kosovo representatives of ethnic

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<sup>220</sup> Agon Demjaha, “Inter-ethnic relations in Kosovo”, *SEEU Review* Vol. 10 (2017): 188.

<sup>221</sup> Ombudsperson Institution, *Annual Report 2016*, March, 2017, Prishtina, 270.

<sup>222</sup> *Ibid*, 193.

groups will be independent from both Belgrade and Prishtina in their decisions. As suggested by Gëzim Visoka and Oliver Richmond, “this locally grounded emancipatory peace would require changing the character of the existing state in Kosovo.”<sup>223</sup>

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<sup>223</sup> Gëzim Visoka and Oliver Richmond, “After Liberal Peace - From Failed State-Building to an Emancipatory Peace in Kosovo”, *International Studies Perspectives* Vol. 18, (2016): 18.



## **Conclusion**

Complex and, from a certain point, violent history of Albanian-Serbian relations intertwined with periodical international involvement have shaped their conflict and brought it to the 21<sup>st</sup> century. Constant mass-movements of ethnic groups and insurgencies on the territory of Kosovo, as well as its geostrategic importance, created an unstable environment saturated with divisions among ethnic, religious and cultural lines. Moreover, twentieth century has witnessed inconstancies of state borders and frequent change of authorities in that area. End of that century was marked by a violent conflict which consequences are still felt by citizens of Kosovo\* and Serbia, solutions to which weren't found even with the extensive involvement of the international community. Thus, the author of this research decided to assess the role of the Brussels Agreement as a possible solution to post-conflict issues of Kosovo.

Since the Kumanovo Agreement didn't bring expected positive results when it comes to peacebuilding process in Kosovo, the author undertook an analysis of the Brussels Agreement with a goal of proving that it bears characteristics of a typical modern peace accord and that it has catalyzed changes in favor of peace. By employing a multidimensional analytical approach, with involvement of two matrixes, the author has tested, examined and evaluated the content and structure of the Brussels Agreement. As concluded in chapter 4, this study has showed that this document has characteristics inherent to modern peace accords, despite the fact that it wasn't previously perceived as such. With such a result, the Brussels Agreement has gained one more value outside of the accepted normalization framework background it has been surrounded for years.

Moreover, evaluation of the implementation process in regards to six analyzed thematic dimensions of the Agreement has demonstrated that an overall significant progress has been made from the point of its introduction. But, the outcome could have been a lot more positive for the peacebuilding process in Kosovo if it wasn't for shortcomings in the process of creation of the CSM. Nonetheless, this case study doesn't differ from other cases of peace accords, where it's common for a clear distinction and dichotomy between content and implementation to be mapped. On this account, the temporal dimension of the analysis was important parameter for assessing the role of the Brussels Agreement. On one hand the short period between the introduction of the document and the time this research was conducted, didn't allow for a more comprehensive insight into the implementation process. On the other, being concluded after a decade and a half after the Kosovo war was ended, the Brussels Agreement gained genuine characteristics which created authentic contrasts if compared to documents bearing characteristics of a peace accord. For the same reasons the author

couldn't precisely correlate reduction of violence in Kosovo and the implementation process, but has determined trends that indicated the existence of such a correlation.

Notwithstanding these facts, conclusions derived from the analysis of the Agreement have revealed its new attribute – that is, that it can be regarded and specified as a peace accord that defined a framework for resolving issues that burdened Kosovo for years. Though not as influential as it was envisaged for it to be in the beginning, the Brussels Agreement has set in motion changes in post-conflict Kosovo that weren't witnessed before it was introduced. By concluding the Brussels Agreement, two formerly conflicted sides have initiated a significant transition that has become a crucial part of the peacebuilding process in Kosovo.

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