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Serb Integration in Kosovo After the Brussels Agreement

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Serb Integration in Kosovo after the Brussels Agreement

Executive Summary

Kosovo and Serbia have started an immense task, the integration of the Kosovo Serbs and Belgrade's administrative and financial infrastructure on Kosovo's territory into the latter's system – in short, “Serb integration”. This builds on a hard-won agreement mediated by the EU and hailed as among Brussels's best achievements. Yet its implementation on the ground has been and continues to be much more challenging. Integration raises deep, emotional issues among Albanians and Serbs, and small misunderstandings can easily produce a violent response. The array of institutions involved – municipal governments, schools, health care, courts, security services and others, with budgets of several hundred million euros – is daunting. There is no precedent, set of best practices or established road map. Pristina and Belgrade started this process for different reasons, the former to establish its sovereignty and territorial integrity, the latter to please the EU. Neither shows an appreciation of the scale of the task, or an inclination to commit the financial – and political – resources it calls for. With the support of international partners, Kosovo and Serbia should set a goal of full integration of Serb institutions into the Kosovo system by the end of 2015 and move quickly to make their agreement a reality.

Previous rounds of dialogue between Kosovo and Serbia, from UN-sponsored “future status” talks in 2005 to a EU-mediated “technical dialogue” in 2011, began promisingly but ran into trouble. Pristina claims that Serb rights were negotiated several times, with Belgrade asking for more each time and delivering little or nothing in return, and without a successful conclusion. Belgrade says all the concessions have come from its side, while Kosovo injects status issues – recognition of its independence – into every topic. Both sides try hard to get the EU mediators' sympathies. There are many issues in play: Serb participation in Kosovo institutions, ending Serbia's interference on Kosovo territory, Kosovo's access to the international community, and the legacy of war. The overriding goal is for Kosovo and Serbia to cooperate normally, like good neighbours, and for each to treat its minority population with respect. The bilateral relationship is key and will determine the success of integration.

The stakes and risks are high for all concerned, and the process is poorly understood on the ground. A minor confrontation between Albanians and Serb refugees in Gjakovë on 6 January, and a carelessly provocative comment by a Serb minister the same day, led a month later to riots in Pristina, the sacking of the minister and a boycott by Serb parliamentarians that, as this report goes to press, was ongoing. Albanians resent Belgrade's role in their state and their disputed status; on the street many also chafe at years of mismanagement by an entrenched political elite. Serbs are being transferred against their will from one state to another and fear the consequences. The success or failure of Serb integration can resonate in the neighbouring multi-ethnic states.

Kosovo's Serb community can be divided into three distinct groups. Northern Kosovo is a homogenous Serb area that resisted Pristina's authority since 1999; many of its residents have little or no experience with Albanians or the Kosovo government and view both with fear and mistrust. Serbian institutions were, until recently, the only governing bodies in this area. The

second group comprises six Serb-majority municipalities scattered throughout the rest of the country; most Serbs here comply with Kosovo law but are on the Serbian payroll in one way or another. The third group are Serbs living in scattered villages and neighbourhoods elsewhere in Kosovo. Lacking control of a municipal government and the targeted services it can provide, they also lean heavily on Serbian institutions.

All Kosovo Serbs have several overriding concerns. Jobs rank high – the security of the Serbian jobs many now have, and the availability of alternatives once they dry up. The labour market is not open to them. Older employees are anxious to remain within Serbia's pension scheme. Access to Serbia's health care system – its clinics, hospitals in Kosovo, referrals for specialist care in Serbia and its insurance scheme – is very important. Families rely on Serbian schools, and students need to receive diplomas that will be honoured whether they remain in Kosovo or move to Serbia. Without Serbian education they will leave. Lastly, physical security is a concern. Enclave Serbs especially are vulnerable to intimidation and occasional assault.

For the past year, many local Serb officials have worn two hats, having won election to Kosovo offices and been appointed to other positions in Serbia's network of parallel municipalities. This cohabitation varies in detail but exists in all Serb-majority areas. The parallel, Serbian system has little effective governing power, but commands a much larger purse; it covers much of Kosovo and employs tens of thousands. The payroll ballooned for political reasons – Belgrade kept the Kosovo Serbs both solvent and loyal – and after 15 years the population is dependent on these jobs. Some work directly for the parallel municipalities; many more for public companies and institutions they administer; and still others in schools and hospitals run from Belgrade. Belgrade should soon close its institutions and transferring employees from the Serbian to the Kosovo payroll will be a daunting and costly task.

Belgrade and Pristina chose to frame their agreement in terms of a hybrid entity, an Association/Community of Serb municipalities. Almost two years have brought little clarity on its role and scope, but it is vital to the project of integration. It is likely to remain a work in progress for many years as Serbs work out their place in independent Kosovo, and Pristina and Belgrade develop and deepen their relationship. But the contours of integration and of the Community/Association should be settled soon. The starting point will be the provisions of the Ahtisaari Plan, the Brussels Agreement and Kosovo law. In essence this allows the Serbs to exercise many of their municipal powers together, through a common community – if they so choose. In some fields, notably education and health care, it offers Serbs the ability to exercise powers they already have more effectively; it is not about giving them more powers. Belgrade should not try to make this slender institution bear more weight than it can. The Community is not a substitute for integration, or for a healthy bilateral relationship with Pristina.

Implementation needs to be organised along several lines and to overcome numerous obstacles, some of them political. Kosovo wants to implement item by item starting with the removal of Serbia's security structures and parallel municipalities, with the creation of the Association/Community to follow. Serbia's agenda is the reverse of this, and starts with the Community/Association, with removal of Serbian institutions taking place later. Conflict over the sequence of events has added to the delay. Yet some can be done simultaneously, and early steps will help increase confidence. Serbia should immediately dissolve its Civil Defence units, courts and remaining security institutions and encourage their personnel to take up posts in the Kosovo system. Full Serb participation in Kosovo rule of law institutions is a vital benchmark. At the same time Belgrade should begin an audit of its payroll, starting with its parallel municipalities. Talks on finalising the Association/Community statute should run in parallel, and should include representatives of the ten member municipalities. Integration of

the education and health system will probably take longer, and may involve a role for the Community/Association.

Both parts of the Kosovo Serb leadership – ministers and parliamentarians in Pristina and mayors and assemblymen in the municipalities – need to be working well for integration to succeed. Kosovo made a strategic choice backed by its international friends to rely on Belgrade to deliver the local Serbs to the Kosovo legal order; this worked and ended years of unrest, but it also produced a new Serb political elite that is somewhat inexperienced and tightly bound to Belgrade. The elected Serbs will have to carve out a role for themselves, an identity that goes beyond faithful servants of Serbia and focuses on the people that elected them. They will have to learn to operate in parliamentary system that offers them significant levers of power, including a veto over constitutional amendments and an important role in legislation. In government, Serbs have gravitated to the ministries that most directly affect their community, but should not ignore other important portfolios. Their task is also to unite Serbs north and south and craft joint policies about their future inside Kosovo.

For most Serbs, the institutions of local self-government and the jobs they provide are vital. Integrating them means merging Serbia's local payroll into the Kosovo budget – a complicated task, as Belgrade's spending is opaque. A thorough audit is needed to get a grip on who is there and how much it all costs. This will likely reveal some fraud and plainly unnecessary spending, for example on notionally Kosovo-based workers living elsewhere in Serbia; these should be removed immediately. The Serb-majority municipalities should employ the rest. The goal should be to complete this process and dissolve the Serbian parallel system by the end of 2015. The result will be bloated local governments with much duplication, but this is a necessary first step. Pristina should increase its budget allocations for these municipalities but cannot shoulder the whole burden; Belgrade should pay the rest through direct, transparent transfers to the municipalities. Starting in 2016, the integrated local payrolls should be slimmed down and rationalised, with ample funds allocated for re-training and measures to create jobs in the private sector.

There is a need for coordination and investment of political capital. The Kosovo government has tended to farm Serb issues out to its ministry for local self-government, which has achieved much given its modest resources. But the next phase of integration must be an all-government affair supported by ample financial means. Belgrade has micromanaged the Kosovo Serbs and should start letting them find their own way. It should respect Pristina as an equal partner. The local Serb leadership knows its community better than anyone in Belgrade, Pristina or Brussels, and its wellbeing is their responsibility. To ensure it, they should accept Serbia's fraternal support but cooperate with Albanian leaders in building their common future in Kosovo.

Recommendations

Kosovo, Serbia and the international community should set a goal of full Serb integration -- meaning a single set of Kosovo municipal institutions, a functioning Association/Community of Serb Municipalities and full Serbian compliance with the terms of the Ahtisaari Plan, Kosovo law and the Brussels Agreement -- by 1 January 2016. To accomplish this,

Guiding principles for the governments of Kosovo and Serbia and for the international community:

Integration at the local level should proceed in step with increased participation of Serbs in central institutions; local self-government and the Association/Community should not draw Serbs away from Pristina.

Work on establishing the Association/Community should not delay integration of the Serb-majority municipalities and other institutions.

The time scale of integration is likely to be measured in years; the Kosovo government and Serb representatives should develop and periodically review a detailed timetable. The Serb deputy prime minister of Kosovo should have a role in this process.

The position of Serbs within Kosovo will benefit from the growth of bilateral ties between Belgrade and Pristina, initially through the EU-sponsored dialogue on normalisation of relations. Kosovo and Serbia should increase their direct contacts and resolve pressing matters without delay.

Pristina, the international community and Belgrade should cooperate in fostering the growth of locally rooted Serb leaders representing their constituency's interests.

The governments of Kosovo and Serbia:

The Kosovo ministry of local self government (MLGA) and the Serbia's office for Kosovo and Metohija (KiM) should, in a coordinated manner, supervise a field-based audit of employment in Serbia-funded institutions and Kosovo Serb-majority municipalities, carried out by local officials with EU and U.S. support. Respective local institutions should cooperate. Workers on the Kosovo payroll but residing in Serbia should be removed immediately, and those near retirement age offered early pensions.

Serbian municipal staff should be transferred to the corresponding Kosovo municipal institutions and removed from the Serbian payroll as soon as possible in the course of 2015. A skeleton crew should remain in the Serbian system through 1 January 2016 to administer payments for workers who have not yet been transitioned.

Once municipal institutions are fully integrated, starting in 2016 the Pristina government should develop optimal staffing profiles for the Serb-majority municipalities, and put in place a strategy to lay-off excess workers. This should be done gradually, to minimise disruption to the community. As much as possible should be done through attrition and early retirement, with additional job losses matched with job training, placement assistance, openings elsewhere in the Kosovo system, and encouraging job growth in the private sector.

Invite Serb representatives, including local officials and civil society, to participate in the process of establishing the Community/Association.

The education ministries should resolve problems with University diplomas.

Pristina and Belgrade should agree to allow liaison offices in selected locations to facilitate issuance of Serbian documents.

The Government of Kosovo:

The Kosovo government should deploy the financial and political capital needed to make integration work, and should name a committee including the ministers of local government, finance, economy, education, agriculture, education and all Serb ministers, to coordinate government programs for integration of Serbs.

Immediately authorise the Agency of Statistics of Kosovo (ASK) to revise its population count for the ten Serb-majority municipalities based on all available data. Kosovo should repeat the census in the ten Serb-majority municipalities as soon as possible and, together with donors, use the results to craft effective policies aimed at job creation, social assistance and other aspects of Serb integration.

The structure and budget of Serb-majority municipal governments should eventually match the community's requirements as shown by the new census, but the government should plan a higher budget for a three to five year transition period with higher staffing levels.

The Office for Community Affairs should resume a programme of regular, detailed tracking of the number and level of minority staff on the public payroll and should publish this information.

Central government institutions should launch a new recruitment programme to boost Serb and other minority representation at all levels; to be effective, a recruitment program will need input from community leaders at all central and local levels and civil society, as well as strong diplomatic and donor support.

Revitalise the MLGA and give firm political support to its minister.

Invite Serb representatives to play an active role in state policies.

Increase funding for the judiciary and recruit more judges, prosecutors and legal support staff at all levels of the judicial system.

Enhance communication and cooperation with northern Serb officials and their communities, by inviting them to visit Pristina, organising roundtables and other outreach activities. Senior government officials should regularly visit northern Kosovo.

Provide language-training opportunities for Serbs in government and civil servants to learn Albanian and for Albanians to learn Serbian.

The Kosovo Assembly:

Amend the laws on courts and on the Kosovo Judicial Council (KJC) to empower Serb members of the KJC in naming of Serb judges in line with the constitution. Amend other laws to implement the Brussels Agreement, including the laws on local-self-government and inter-municipal cooperation.

The Kosovo Police:

In municipalities outside the Association/Community with a substantial Serb population, open substations or increase patrols in Serb settlements, and recruit additional Serb officers to serve in these areas.

The Government of Serbia:

Close parallel courts and other security institutions immediately; order judges and prosecutors to move to Kosovo courts, and instruct members of civil defence to integrate immediately into the Kosovo system, taking advantage of the positions opened by Pristina.

Instruct Serb municipal staff to transfer to the Kosovo municipalities; announce plans to close those offices as of January 2016.

Make all funding transparent to the Kosovo treasury, and start transferring funds to the Kosovo municipalities, which can set part of it aside for projects run through the Community/Association. Offer workers transitioning to the Kosovo system the right to continue accruing years of service for their Serbian pension, while they participate in the Kosovo scheme.

Encourage Serbs to integrate in the Kosovo system, and refrain from micromanaging their affairs.

The Assembly of Serbia:

The Assembly should ratify the Brussels Agreement; pass legislation allowing government institutions to interact with Pristina government, as well as with municipalities in Kosovo and the Association/Community.

Serb leaders in Kosovo:

Enhance cooperation with Pristina; mayors should fully cooperate with line ministries and respect laws.

Play an active role in wider government policies: Serbs should seek out senior posts in other important ministries rather than limiting themselves to ministries directly dealing with their community. Reach out to Albanian opinion, including community representatives and civil society.

Serb parliamentarians should make full use of the Committee on the Rights and Interests of Communities and should nurture good relations with other minority representatives. Donors should support the Committee with experts, training and logistical assistance.

Serb delegates in the Kosovo Assembly should reach out to parties representing the majority and take an active role in all aspects of the legislative process.

Serb representatives should seek to influence the Pristina-Belgrade dialogue and take a leading role in the establishment of the Community/Association.

Delegates, and all Serbs named to senior posts in central institutions, should learn Albanian.

The International Community and Donors:

The EU should keep the dialogue for normalisation of relations between Kosovo and Serbia a priority. EU member states, U.S. and other actors should support the implementation and integration of the Serbs in Kosovo, and should encourage further dialogue between the two countries.

Brussels should encourage both governments to communicate agreements reached in the dialogue to their respective communities in a transparent fashion.

Assist the integration of the Serb community by promoting employment opportunities for Serbs leaving Serbia's public payroll.

Aid communication through programmes for dialogue between Kosovo and Serbia institutions, such as police and justice, and support projects for cross-border cooperation.

Promote the accountability and inclusiveness of the new Serb-majority municipal authorities; providing training for the MLGA and new local officials and administrators, who must transition from one set of laws to another.

Improve Serbs' access to the labour market, by sponsoring research aimed at illuminating the obstacles in the way of ordinary Serbs' economic, social and cultural integration into Kosovo society and by supporting investments that attract minority employees.

The Community of Serb municipalities:

The Statute of the Association/Community should be based on Kosovo legislation (including the laws on local self-government and inter-municipal partnership), the Brussels Agreement and other ratified agreements between the parties, the Ahtisaari Plan and European norms of local self-government.

The members of the Community/Association should continue to play an active role in the Kosovo Association of Municipalities (AKM); the four northern municipalities should join the AKM.

The Association/Community should be designed to add value to, or compensate for gaps in, existing institutions. It should carry out responsibilities delegated to it by municipalities and central authorities.

The Community/Association should play a leading role in administration of the Serbian education and health for the Serb community in Kosovo, notably with respect to institutions of community-wide interest, such as the North Mitrovica University and medical centres. The Association/Community should create departments for each area of its responsibility; department heads should comprise its council under overall direction of its assembly and president.

The Community/Association should coordinate development projects; offer job re-training and placement services, social welfare, and assist with interactions with Serbian institutions (ministries, pension scheme etc.) It should sponsor economic development projects, including an annual contest, matched with donor support, for a project proposed by local authorities and communities.

The Association/Community should offer pro bono legal aid and other assistance in dealing with central institutions, especially for isolated Serbs.

The Community/Association should establish Kosovo-wide Serbian cultural institutions.

Member municipalities should fund the Association/Community, with their own and government funds and funds from Serbia.

Serb Integration in Kosovo after the Brussels Agreement

Introduction

Kosovo is poised to take on one of its main challenges, the integration of its Serb community, the territory they inhabit and the institutions that serve them. A dialogue with Serbia, mediated by the European Union (EU) and with the blessing of the UN, has produced a series of breakthroughs culminating in the Brussels Agreement on “normalisation of relations” of 19 April 2013.¹ Though it has already brought about unmistakable changes on the ground, implementation has been slow and uneven. The key aspects of Serb integration – including establishment of an inter-municipal body, courts and prosecution services; appointment of Serbs to central government institutions; and dismantling of Serbian institutions in Kosovo territory – have all been delayed by elections in Serbia, the EU and Kosovo and political and ethnic turbulence. Nevertheless, a new government took office in Pristina on 9 December 2014, six months after the elections, removing what should be the last obstruction for implementation. The dialogue successfully resumed on 9 February 2015 with an agreement on the courts. If Kosovo can successfully integrate its Serb population, one of the largest missing pieces in the Balkan puzzle will fall into place.

The delicacy of this operation became terribly clear when careless statements by a freshly minted Serb minister in the Kosovo government led to violent protests that compelled his dismissal on 3 February 2015.² In response most senior Serb officials decamped for Belgrade and launched a boycott of the Pristina institutions they had recently joined. A number of emotionally charged issues crystallised in this crisis: the most important are memories of war crimes and Serbs’ refusal to admit and apologise; the erosion of Kosovo’s legal order; resentment of Belgrade’s ongoing ability to meddle; and disappointment with the performance of governments widely seen as ineffective and corrupt. Worse, it became entangled with a dispute over the privatisation of the Trepça mines that many Kosovars

¹ Previous rounds of dialogue between Kosovo and Serbia, from UN-sponsored “future status” talks in 2005 to a EU-mediated “technical dialogue” in 2011, began promisingly but run into troubles; In Vienna, Belgrade refused to accept the Comprehensive Proposal that included Kosovo independence and the technical dialogue soon run deeper into political sensitive issues forcing EU to lunch the political dialogue in March 2012. For more see International Crisis Group reports, “No good Alternative to Ahtisaari Plan,” 14 May 2007 and “Kosovo and Serbia: A Little Good Will Could Go a Long Way,” 2 February 2012.

² The crisis began in Gjakovë (Djakovica; see Appendix 3, “A Note on Names”), a town in western Kosovo that suffered massive war crimes in 1999 (see ICTY IT-05-87/01 Prosecutor v. Vlastimir Djordjević, Judgment, 23 February 2011, pp.654-57). On 6 January 2015 a group of Vetëvendosje (Self-Determination) activists and a local NGO barred visiting Serb refugees from entering a local church for Orthodox Christmas. During the protest, one activist threw a chunk of ice at the Serbs’ bus, shattering its window; Kosovo Police (KP) arrested him. On 8 January, Kosovo minister for communities and returns Aleksandar Jablanović said, “The divljaci [savages, barbarians, wild men] who prevented the Serbs from getting to their burned houses aren’t helping anyone”. The term “divljaci”, which many Albanians hear as an ethnic slur, immediately eclipsed the Gjakovë events and sparked escalating demonstrations calling for Jablanović’s ouster. By 23 January, a parliamentarian demanded Prime Minister Isa Mustafa fire the “fascist minister, who has offended mothers of victims of war and labelled them as beasts” (comments of Vetëvendosje member Rexhep Selimi in Assembly of Kosovo). More than ten thousand marched in Pristina on 24 January; three days later, a smaller but much more violent protest filled downtown Pristina with tear gas, Molotov cocktails and water cannons.

believe is the country's most valuable asset.³ These are all deep, long term problems that will make the task of Serb integration more challenging.

Most of the young republic's Serb population rejected Kosovo's declaration of independence from Serbia in February 2008. Guided and helped by Belgrade, it relied on a set of parallel institutions and avoided contact with official Kosovo. This parallel system was illegal, in violation of a fundamental rule laid down by the UN interim administration in Kosovo (UNMIK) and endorsed by the Security Council barring Serbian administration and security structures from Kosovo territory. The maintenance of parallel institutions became untenable once Serbia began to seek EU membership in earnest. Belgrade has slowly started to dismantle its parallel system, wean the Serbs from it and press them to integrate into Kosovo.

The resulting operation – the slow but peaceful transition, so far, of a population and its territory from one jurisdiction to another, against its will and without an interim period of international peacekeeping administration – has no recent precedent. In some ways, life for the northern Kosovo Serbs may, as they fear, get worse in coming years, as they lose Serbian state services and integrate into a state that in many respect lags behind the one that they feel they are leaving. The terms of integration are being worked out gradually, on the ground and in continuing talks in Brussels. Big, controversial issues remain open, notably the contours and role of the Serbs' inter-municipal body, the "Community of Serb Municipalities" (Asociacioni i komunave me shumicë serbe/Zajednica srpskih opština, ZSO or "Community").⁴ The Community is the core of the Brussels Agreement and a focus of this report. It should assist the full integration of Serbs in Kosovo and the removal of Serbian parallel institutions, while helping Belgrade cooperate transparently with the Kosovo Serbs. In parallel, the Serb political scene in Kosovo has shifted seismically with its elites now much more tightly controlled by Belgrade.

The Kosovo government wants the Serb community to integrate on terms set before independence by the UN-appointed mediator, Martti Ahtisaari, and enshrined in its constitution. It doubts Serbia's good faith in the bilateral negotiation process, believing Belgrade implements selectively, entrenching what is to its advantage and seeking to renegotiate the rest. Kosovars fear being trapped in an endless cycle of negotiations that might whittle away their state's functionality and call its sovereignty into question. Many in government and civil society instinctively fear any form of Serb autonomy beyond the municipal level is a possible path toward Bosnia-like fragmentation and prelude to partition.

This report discusses the challenges of Serb integration and how best to overcome them in a manner that strengthens Kosovo's institutions and respects the interests of its Serb community. It surveys the existing, illegal Serbian institutions throughout Kosovo, which differ in several ways between the relatively homogenous northern municipalities and the scattered southern enclaves; most remain in place, with Serbs still reliant on them. In an unintended effect of Serb participation in Kosovo municipal elections in November 2013, many Serb officials now hold offices in both the Serbian and Kosovo administrations.

The integration issue is also about Kosovo as a state and its ability to deliver good government to all. Pristina does not see integration as a high priority, in part because it will

³ The Kosovo independence movement began with a strike by Trepça's miners in 1989; at its peak, the mines employed more than 20,000 workers. Today there are two parallel companies, one Serb and one Albanian-run; the latter is insolvent and its bankruptcy prompted a government plan to restructure and privatise it. This plan fell victim to rival claims by Belgrade, and the government withdrew it during the protests over Jablanović's slur, creating the impression it was caving in to Serbian pressure on yet another front.

⁴ See Appendix III, "A Note on Names".

be expensive.⁵ Many in government are satisfied that Kosovo now controls its borders and has held elections throughout its territory; meeting the needs of restive minorities is less enticing. Serb-majority municipalities' struggles against the centre have echoes all over the country. If the government implements laws selectively or rolls back rights given under international pressure, the damage will not be limited to minorities. The majority may not see such steps as harmful, may even cheer them out of nationalist passion, but they would strengthen an unaccountable executive and weaken the institutions Kosovo and all its communities, the majority Albanian included, need for prosperity and security.⁶

Serb integration is only part of a larger process whose complement is normalisation of relations between Kosovo and Serbia. Kosovars want this to conclude with mutual diplomatic recognition within a few years. Belgrade seems to understand it will have to recognise Kosovo before it joins the EU, and seeks to delay the painful moment as long as possible. The Kosovo problem distracted Serbian governments from important reforms for many years; the current one recognizes it does not have the luxury to waste more time. Nevertheless, senior figures in Serbia also consider normalisation compatible with partition, and hope that in the long run normal bilateral relations will make it easier to broach "the status issue" or at least win broader autonomy for the Serbs.⁷ Belgrade's approach to Kosovo remains improvisational, liable to shift quickly. Pristina worries that Serbia will at some point resume efforts to block Kosovo's development and erode its sovereignty. It wants Belgrade to ensure that local Serbs play a constructive rather than a spoiling role in political life, an expectation that sits uneasily with the hope of Serbian non-interference.⁸

Much has changed since the EU launched the dialogue on normalisation of relations between Kosovo and Serbia. In 2013 the dialogue was a high priority for Brussels; with internal issues within the EU, Ukraine and continued conflicts in the Middle East involving thousands of EU citizens, Kosovo-Serbia dialogue could slide backwards on the EU agenda. Like others in the western Balkans, Kosovo and Serbia see the restructuring of DG Enlargement into DG NEAR with suspicion. "It is hard to get a couple of hours of [EU foreign policy chief Federica] Mogherini's agenda to focus on Kosovo," said a EU official.⁹ With the focus elsewhere, the EU may be reluctant to impose the agenda and timetable, as it has in the past, yet "it is dangerous to leave to the side to agree".¹⁰

Under Catherine Ashton and Enlargement commissioner Füle, the EU's role in the field was undermined by miscommunication between EU officials in Brussels and those in Pristina and Belgrade. Kosovo officials often bypassed the EU liaison office in Pristina, which at times seemed to be operating without clear instructions from Brussels. The new EU leadership should repair that and empower its teams in the field, which are vital for monitoring implementation. In Belgrade, several EU member states reinforce the message; a Serb official noted, "People care more about what the German and UK ambassador have to say [than] the head of EU delegation". In Kosovo, the head of the EU office is also the EU special

⁵ Interviews, MLGA and government officials, Pristina, May 2014.

⁶ See Crisis Group, "Setting Kosovo Free: Remaining Challenges," 10 September 2012.

⁷ This paragraph is based on April 2014 talks with senior Serbian legislative and executive officials in Belgrade and interviews with a Serb [government official, Budva, December 2014.

⁸ Interview, member of Kosovo government, Pristina, May 2014.

⁹ Interview, EU official, Pristina, January 2015.

¹⁰ Interviews, Pristina, January 2015. Development for Democracy (D4D) and Central European Policy Institute briefing, "Mogherini's Chance for True Rapprochement Between Serbia and Kosovo," 21 October 2014.

representative (EUSR) and his words carry more weight, yet member states can still help reinforce this.

In Pristina the EU role is also undermined by its incomplete relation with Kosovo. Despite promises, the EU has not entered into contractual relations with Kosovo; politicians and their constituencies feel they have been treated unequally in relation with other countries in the region.¹¹ This sense of unfairness, being ignored and blocked, runs deep. Kosovo has concluded negotiations for a Stabilisation and Association Agreement (SAA) with the EU, and has made progress on talks for visa liberalisation. Yet, the inability of the EU to move fast, largely due to non-recognisers over the SAA and domestic political issues over the visa regime, make the EU weaker when dealing with authorities.

The Serbs of Kosovo

There are no reliable official population figures for the Serbs of Kosovo, because most boycotted the 2011 census.¹² Estimates range from the official figure of 25,532 to the OSCE's 143,574.¹³ Extrapolation from the 2013-2014 local and parliamentary election returns offers an alternative way of estimating the population. If they voted at the overall Kosovo average, there are about 145,820. This is very close to the OSCE's estimate, but is based on a different methodology.¹⁴ In the absence of a reliable count, all estimates should be treated with caution, but a comparison of figures using different methods can yield useful information about the size and location of the Serb community.

Northern Kosovo has the largest concentration of Serbs, about 63,293 by our estimate, which is slightly lower than the OSCE's figure and much higher than that of the Kosovo Statistics Agency (Agjencia e Statistikave të Kosovës, ASK), 37,625.¹⁵ This is about 43 per cent of the total Kosovo Serb population. Another 53,900 (37 per cent) reside in the six Serb-majority municipalities south of the Ibar River. As many as 28,628 (20 per cent) may live in Albanian-majority areas, but this number is probably inflated by absentee voting. Gračanica seems to have overtaken North Mitrovica as the largest Serb municipality.

Statistical analysis cannot replace a census. Without reliable information on the demographic structure of the Serb community (gender, age, marital status, education, employment, etc.) government integration policies will operate in the dark and likely miss the most needy. Worse, the low official count is already cutting the budgets of Serb-majority municipalities, dimming the appeal of integration. As a first step, Pristina should empower the ASK to revise its population count for the ten Serb-majority municipalities based on all available data, including Balkans Group's election analysis. This should be done in time to revise the

¹¹ "We were promised recognition by EU non-recognizer, at least three should we sign the agreement with Serbia. In addition we were promised contractual relations and SAA." Interview, government minister, Pristina, May 2014.

¹² See European Centre for Minority Issues, "Minority Communities in the 2011 Kosovo Census Results: Analysis and Recommendations" (18 December 2012).

¹³ The Kosovo Statistics Agency (ASK) acknowledges the number of Serbs is higher than reported; see its "Estimation of Kosovo population 2011" (February 2013) for an analysis based on average household size.

¹⁴ For the municipal estimates and a detailed description of the estimation method, see Appendix A below.

¹⁵ ASK, "Estimation", op. cit, p. 20. There are a number of problems with this estimate, which also appears to undercount Albanians (giving 867 in North Mitrovica, for example, fewer than the 1,724 who voted for predominantly Albanian parties in 2014).

municipal budgets in June 2015. Then the ASK should repeat the census in these ten municipalities, and Belgrade should call on Serbs to participate.

In the 1991 census (which Albanians boycotted), Yugoslav authorities counted 194,190 Serbs in Kosovo. Serbian authorities and writers often claim that more than 200,000 Serbs were expelled from Kosovo after the NATO bombing in 1999 and the anti-Serb riots in March 2004. The exact number is unknown, in part due to the arrival of Serb refugees from Bosnia and Croatia in the late 1990s. But if there were about 200,000 Serbs in 1991 and there are about 145,000 today, the current number of refugees must be much lower. Kosovo authorities have not done nearly enough to make returns possible, and returnees often face a hostile or violent reception. The number of Serbs who want to go home after years in exile is likely to be modest, but Pristina and Belgrade must make return a possibility.

Whether they live in the north, the southern enclaves, or in villages in Albanian-majority municipalities, all Serbs share common interests, most importantly physical security; unimpeded access to Serbian education and health care institutions; and the means to make a living (see below). The residents of each part also have distinct perspectives and interests. The rest of this chapter surveys the different policies needed to assist their integration.

Northern Kosovo

Northern Kosovo is a small, self-contained community that has lived in isolation from the rest of Kosovo since at least 1999.¹⁶ Some of its people have never had significant contact with Albanians. Many residents seldom if ever cross the informal, unmarked “ethnic border” that runs near the Ibar River. The area feels left behind. Firms that exist nowhere else dot the streets of North Mitrovica, dusty reminders of a long-dead socialist Yugoslavia. “Mitrovica has been rotting away for a long time,” sighed a professor at the university that still calls itself the “University of Pristina temporarily located in Mitrovica”.¹⁷

For all its decrepitude, North Mitrovica remains important as the only urban centre left to the Serb community in Kosovo. Serb integration cannot succeed without an economic, educational and political hub connected to both Pristina and the scattered Serb settlements of Kosovo. North Mitrovica’s university and medical centre are probably the best in the country and are used by Serbs from all over Kosovo. The broader north is home to Gazivode, Kosovo’s largest lake (shared with Serbia), a vital source of fresh water for the whole country. In Leposavić municipality, where some mining goes on, rolling hills dotted with neat homes give way to mountains on the border with Serbia.

This community is now experiencing a dual transition, not only from Serbian to Kosovo administration but also from its fossilised, socialist-era economy to the 21st century. The political transition is emotionally painful. Almost to a man, northerners reject Kosovo’s separation from Serbia and consider Pristina’s right to govern them illegitimate. The economic shift threatens to cut deeply into family finances and makes planning hard. The area has three real employers: the medical centre, the university and the state administration. All function in part as public works programs, providing jobs to a population that would otherwise emigrate. The ideal is not “doing things the modern way, but rather doing things the way they were done fifteen years ago”, before the war.¹⁸ Many jobs in North Mitrovica

¹⁶ See Crisis Group, “North Kosovo: Dual Sovereignty in Practice,” 14 March 2011 for background on this region. “Dual sovereignty” is a description of the system then in place, not a recommendation or policy.

¹⁷ Interview, member of faculty, North Mitrovica University, North Mitrovica, February 2014.

¹⁸ Interview, member of faculty, North Mitrovica University, North Mitrovica, February 2014.

have little economic justification and exist because the Serbia has been funding them to prevent emigration and retain a measure of control. The two transitions need to be managed carefully, since each could be a motive for emigration to Serbia.

Northern Kosovo was home to the Serb community's capable and widely respected political leaders. The mayors of Zubin Potok and Zvečan were long serving and popular. Their Democratic Party of Serbia (Demokratska stranka Srbije, DSS) was locally strong but out of power in Serbia and did not exert much influence over them. The mayor's office in Leposavić and North Mitrovica changed hands several times in the past decade, but both municipalities had professional politicians and administrators. As a group, the mayors were not only administrative heads, but also leaders of informal structures of community organisation who filled the gap left by the absence of effective law enforcement in the area.¹⁹

The region has been largely self-policed and without formal law enforcement for more than a decade. While Serb officers of the Kosovo police patrol in uniform, locals refer to them by their pre-independence name and consider them a kind of bumbling local constabulary.²⁰ The only courts available were a Serbian one, operating out of an apartment building in Zvečan and barred from hearing criminal cases, and a Kosovo one in North Mitrovica. The latter has no Albanian or Serb judges and prosecutors, only internationals working for EULEX, the EU rule of law mission, and is severely limited by language. Only the most serious and unlucky offenders end up in court; for the rest, impunity is the rule. This near-anarchy has not translated into a crime wave. Serious crime is not markedly higher in the north than nationally, though peer pressure is the only sanction most perpetrators face.

The informal social control has had limits. The absence of a court able to issue and enforce timely decisions created space for mischief. A newly-elected official told of a woman who obtained custody of her child after a divorce in Serbian court only to have her estranged husband win custody in a Kosovo court.²¹ Anecdotal evidence suggests North Mitrovica has a significant drug problem, centred on the university, that drives relatively high levels of petty crime. Those who cross the wrong people or take unpopular positions are exposed to threats, vandalism and assault and have little effective recourse.

This system is disintegrating, since it relied in large part on shared resistance to Pristina and a set of leaders associated with it. The mayors took the lead in organising resistance to Pristina's attempts to assert authority, helping set up barricades and negotiating with NATO's KFOR peacekeeping mission and EULEX. They calmed tempers when violence threatened to escalate into inter-communal fighting.²² Having boycotted the 2013 elections they are now sidelined, and their successors have not fully assumed this stabilising role. It is a dangerous moment: a spark could set Serb and Albanian neighbourhoods against each other, with Kosovo institutions not yet able to take up the slack. The police are in theory the first responders in a crisis, but in this region they lack capacity to quell public unrest. The

¹⁹ While the mayors had some influence over informal economic activities, other figures are usually thought to have been more important in this respect. The four mayors together with Mitrovica northern district chief, Radenko Nedeljković were the de facto leadership of northern Kosovo between 2008 and 2012.

²⁰ UNMIK established the Kosovo Police Service (KPS); after independence, the Kosovo government renamed it the Kosovo Police (KP).

²¹ Interview, mayor, northern Kosovo, November 2013.

²² Balkans Group staff saw mayors intervening to prevent or quell disturbances several times in Leposavić (an attack on the KP), Zubin Potok (tension on barricades) and North Mitrovica (tension after fatal shooting of a Serb youth).

Mitrovica court is still understaffed. EULEX is supposed to be the second responder, but it too lacks capacity in the North, leaving KFOR as the only effective bulwark of public order.

Northerners are paying the price of years of intransigence, when they rejected talking to Albanians and cared little about Serbs south of the Ibar. Northern Serbs refused to cooperate with Pristina even before independence. Under UNMIK administration, whose members they sometimes attacked, Serbs mobilised their community around Belgrade funded institutions, established their rule based on defiance of Pristina and widespread smuggling. That world is now gradually collapsing. The sense of betrayal runs deep. A former mayor admits:

We erred in believing deeply in Belgrade [and] wanting them to negotiate [with Pristina] in our place, and we got nothing as a result. They lied to us, told us we would get our own police, our own court, that “no Albanian boot” would set foot in the north, and instead we got a centralised Kosovo government, and now we are supposed to sell this to the people who trusted us.²³

Many other current and former municipal officials, whether participating in the Kosovo system or not, share the view that trusting Belgrade was a mistake, and they could have done better negotiating directly with Pristina.²⁴ Among the people, there is still a “critical mass that rejects anything” from Pristina. Low as it was, the turnout in the November 2013 Kosovo elections was “not real”; people mostly did not want to vote and did so under pressure.²⁵

The Kosovo government had a small presence in the north even during the years of its alienation from Pristina. In Leposavić, Zubin Potok and Zvečan, “Local Community Offices” (LCOs) took over some of the functions of municipal government, catering to the needs of the Albanian population, which was concentrated in several villages. They cooperated well with the Serbian mayors and municipalities on a range of practical issues. In North Mitrovica, the Administrative Office (NMAO) served to the whole municipality but was not a full municipal administration.

Southern Kosovo municipalities

The northern Serbs’ isolation from Albanian society is fortified by history and geography. South of the Ibar, Serbs live in close proximity to Albanians but pursue largely separate lives. Northern strategies are untenable there. Aggressive separatism, resorting to barricades and low-level violence, is impossible. Milder resistance, like refusing to carry Kosovo documents or use licence plates, is also impractical. While most northerners boycott Kosovo elections, turnout in the southern areas is scarcely different from the average. The barriers between Albanians and Serbs are softer, enforced by differences of language and tradition, but easily crossed for commerce.

There are six Serb-majority municipalities in the south.²⁶ Gračanica, the largest, is a suburb of Pristina, home not only to many Serbs who work in central government but also to a growing number of Albanians seeking a quieter pace. Once a backwater, it has benefited from investment and progressive local government and is the centre of gravity around which

²³ Interview, former mayor, northern Kosovo, April 2014.

²⁴ Interviews, current and former Serb leaders, northern Kosovo, April 2014.

²⁵ Interview, Serb politician, Pristina, April 2014.

²⁶ The two largest are Gračanica, near Pristina, and Štrpce, in the far south; four smaller municipalities (Klokot, Novo Brdo, Parteš and Ranilug) are scattered in the east. For more background, see Crisis Group, “Setting Kosovo Free: Remaining Challenges,” 10 September 2012, pp.13ff.

the southern Serb community revolves. Štrpce, nestled in the mountains of southern Kosovo, has a potential for prosperity driven by Alpine tourism but is plagued by illegal construction.²⁷ The remaining four municipalities are smaller. Klokot, Parteš and Ranilug were carved from Albanian-majority municipalities by the Ahtisaari Plan, and are little more than glorified villages. The fourth, Novo Brdo, was expanded by addition of Serb-inhabited territory from an adjacent municipality to create a Serb majority. None have much of a local economy.

Relations between the Serb and Albanian communities have relaxed enormously since the anti-Serb riots of March 2004. With the exception of tiny Parteš and Ranilug, the southern Serb municipalities are multi-ethnic. The municipal administration in Novo Brdo functions smoothly, with a Serb mayor instructing a largely Albanian workforce hired during years of Serb boycott.²⁸ Albanians freely come and go through Koretište, a reputedly hard-line Serb village on the boundary between Serb-majority Novo Brdo and Albanian-majority Gjilan. Koretište Serbs often visit nearby Gjilan for shopping and services; they want to remain part of Novo Brdo municipality for the protection it offers against ethnic discrimination, but dislike making the long trek to the municipal centre for ordinary business.²⁹

Tensions in Štrpce are low; people say they have had enough of ethnic conflict and want to get on with their lives and make a decent living.³⁰ Even hard-line nationalists who consider the Brussels Agreement a betrayal notice that Albanian-Serb relations can be “correct” and remember when Albanian mayors behaved well toward the Serb population.³¹ Political relations are generally constructive too. Southern Serb leaders usually have good relations with Albanian mayors from neighbouring municipalities. The mayor of Gračanica has joint projects with his Albanian colleague from Lipjan.³² Ranilug and Kamenicë have “excellent” relations, cooperate on much, and submit joint applications to and work together on projects from the Regional Development Agency - East.³³ Mayors have good personal ties.³⁴ Coalition politics are a potential trouble spot, however. In Novo Brdo, for example, the largest Albanian party expected to be invited into the governing coalition, but Serb leaders instead chose a smaller Albanian party. Tensions can be magnified if local Albanian leaders believe Serbs seek to circumvent their representatives in favour of more pliant alternatives.³⁵

Enclaves in Albanian-majority areas

Thousands of Serbs live throughout Kosovo in villages outside these municipalities, often isolated from the rest of their kin. The enclaves are scattered about southern Kosovo, with three main clusters: eastern Kosovo (Gjilan and Kamenicë municipalities), central Kosovo

²⁷ See Crisis Group, “Kosovo: Štrpce, a model Serb enclave?,” 15 October 2009.

²⁸ Interview, municipal official, Novo Brdo, April 2014. Between 70 and 80 per cent of the civil service staff are Albanian; the mayor and the governing party are Serb.

²⁹ Interview, municipal official, Novo Brdo, April 2014. The inconvenience can be significant: there are no banks or branches near the municipal seat of Novo Brdo, and fees must be paid a long distance away. Interview, resident of Koretište, April 2014.

³⁰ Interview, member of Serbian temporary council, April 2014.

³¹ Interview, SRS member, Štrpce, April 2014.

³² Interview, Serb official, Gračanica, April 2014.

³³ The Regional Development Agency – East is an inter-municipal project established by its member municipalities. See its website, www.rdaeast.org.

³⁴ Interview, mayor of Ranilug, Pristina, April 2014.

³⁵ Interviews, Albanian member of municipal assembly and Serb municipal official, Novo Brdo, April 2014.

(Obiliq, Vushtrri, Skenderaj and the Pristina suburbs) and western Kosovo (Istog, Klinë, Pejë and Rahovec).³⁶ Enclave Serbs need jobs, security, and a link to services – in the first place Serbian schooling and medical care but also the gamut of municipal services offered to their kin in Serb-majority areas by the combined networks of Kosovo and Serbian institutions. A Serbian parallel official in eastern Kosovo Serb told Balkans Group “we will integrate but we want jobs”.³⁷ The government should work with donors to open jobs to qualified Serb applicants and help them compete on the Kosovo market. As Serbian institutions close, Kosovo municipalities will have to reach out to their minority Serb populations to take up the slack. Serb-majority municipalities can offer some services to nearby enclaves; more isolated ones may be better served through the Community.

Schools and health care are vital for them, and they will leave should these systems disintegrate. They accept the authority of Pristina and seek services from it.³⁸ They simultaneously benefit heavily from Serbian services. In some parts, many work in both systems of administrations and draw two salaries. The Serb administrations are a source of pride, issue documents and in some areas organise assistance for the elderly, but they employ few people. Schools and medical facilities provide the most jobs and receive aid from Pristina, donors and Belgrade alike.³⁹ Prospects for other than state jobs are slim, so most live from farming, which Belgrade subsidizes, including by buying produce.⁴⁰

People in these enclaves live quietly surrounded by the majority population. Their sustainability has three main challenges. First, they are vulnerable to petty crime that the Kosovo Police are often unable to repress. In most areas this is limited to illegal logging and usurpation of fields (Albanians farming Serb land without permission, at times using intimidation or violence to keep the owners away). The general view is that police respond to calls and make an effort, but to little effect. In those areas police should deploy more officers and hire members belonging to the community.

Employment is the second problem. Balkans Group found almost no Serbs in the enclaves who reported working for Kosovo institutions apart from the police and local community offices.⁴¹ Most public jobs are practically closed to Serbs who lack the connections (personal or party) usually needed to secure them. One resident reported, “I came back in 2006 to find a job in the Kosovo system. I could not, [so] I had to go back to my old job in the Serbian

³⁶ See Appendix I for population estimates. The branches of the Serbian postal service offer a rough guide to the main concentrations of Serbs. Outside the Serb-majority municipalities, they are located in Šilovo (Gjilan), Kamenicë, Plemetina (Obiliq), Priluzje (Vushtrri), Fushë Kosovë, Osojane (Istog), Goraždevac (Pejë), Orahovac (Rahovec), Donja Gušterica and Lepina (Lipjan), Dragaš (Dragash) and Vrbovac (Viti).

³⁷ Interview, Serbian municipal official based in Ranilug, January 2015.

³⁸ Trust is growing, and Serbs seek medical care in Albanian run-hospitals. Interview, Goraždevac (Pejë), November 2014.

³⁹ Albanian municipalities maintain their schools, paying utilities and many salaries. Donors build and renovate schools, and Belgrade provides curriculums and salaries. Interviews, Goraždevac (Pejë), Kamenicë, Ranilug, September 2014 to January 2015.

⁴⁰ The subsidies are vital for those who still work the land. However, a Serb representative in Kamenicë (interview, January 2015) said that many farmers had sold their land to Albanian neighbours and recorded the sale only in Kosovo court, but kept applying for and receiving subsidies from Serbia. Others get subsidies for land they rent to Albanian farmers.

⁴¹ In Klina, only three Serbs work for Kosovo institutions.

administration that does not pay well.”⁴² Some in private business manage to sell to Albanian clients, but many others have no market because of their identity. The large population of farmers is especially vulnerable as it can be hard for them to sell personally at village markets.⁴³ Gračanica and North Mitrovica are their vital markets. Language skills can be an issue, though many enclave Serbs speak Albanian with some degree of fluency. Lingering ethnic discrimination is likely a factor. International donors should support programmes to identify the barriers to employment, and Pristina should implement policies to break them down.

Third, they depend heavily on several Serbian institutions that have no foreseen place in the integration process. The most important of these are the post offices and the vestigial municipal administrations. Many post offices closed after independence in 2008 but Belgrade has been reopening them steadily since then, much to Pristina’s irritation.⁴⁴ The two services do not cooperate, and it remains impossible to send mail between Kosovo and Serbia without using one of the Serbian offices. Enclave Serbs get salaries, pensions and other financial transfers through the post office bank, making it a vital lifeline.⁴⁵ Pristina and Belgrade’s posts should agree to cooperate and Serb employees should integrate into Kosovo post office. The Serbian municipal governments are similar to those in the southern Serb-majority municipalities in that their staff often also sits in the local Kosovo government.⁴⁶ In the enclaves, these “governments” are divested of most of their functions, but still have few hundreds of people on payroll and provide a link to Serbian services, largely only paperwork.⁴⁷

The western enclaves are most exposed. This region was the site of brutal attacks and grave crimes by Serbian forces during the war of 1998-99 and ethnic tensions are still high. Serbs here are vulnerable to frequent attacks on person and property.⁴⁸ This may be exacerbated by a lack of Serb officers; only the Pejë station has significant Serb presence (five officers) with only one in Istog and none in Klinë.⁴⁹ While the local population here trusts the KP regardless of ethnicity, the enclaves could benefit from a larger police footprint. The KP should open substations in the larger villages, staffed by Albanians and Serbs, and set up regular patrols to smaller, outlying areas.

Some enclaves have few children. Klinë, which was once home to about six thousand Serbs, now has only a few hundred, and the Serb school teaches only seventeen pupils.⁵⁰ International projects to support returns sponsored construction of 457 houses designed for about 1,500 people, but few have returned fully; many took title to a house but did not move

⁴² Interview, Serbian municipal official, Klinë, January 2015. The resident claimed that his family earned better medical service (and free of charge) in Peja hospital in early years, when he returned. Now his members often have to pay bribes.

⁴³ Interview, Serbian municipal official, Klinë, January 2015.

⁴⁴ Interviews, Kosovo government officials, Pristina, January 2015.

⁴⁵ Interviews, Osojane (Istog) and Klinë, January 2015.

⁴⁶ The acting (Serbian) mayor of Kosovska Kamenica is also a member of the (Kosovo) municipal assembly; interview, Kamenicë, January 2015.

⁴⁷ The Serbian municipality has about 200 people on payroll, including the local kindergarten, public companies and institutions; interview, Kamenicë, January 2015.

⁴⁸ Interview, head of community office, Klinë municipality, January 2015.

⁴⁹ OSCE municipal profiles, March 2014.

⁵⁰ Interview, Serbian municipal official, Klinë, January 2015, OSCE municipal profile, Klinë, March 2014.

back, and there may be as few as 380 Serbs in the municipality, many of them retired. Osojane village (Istog) has a school where 30 teachers teach between 45 and 50 students; some classes have only 2 students. Many of the teachers are part-time. The school has not paid its utility bills since 2006 and owes over €17,000 in electricity alone.⁵¹ These enclaves may disappear as their population ages.

Inter-communal relations are far healthier in eastern Kosovo. In Kamenicë, for example, local Serbs supported one of the Albanian candidates for mayor, welcoming his effort to campaign in their villages, and their votes provided his margin of victory. The mayor is grateful for their support and promises to work for their benefit.⁵² The municipal authorities are trying to find space for a Serbia-run health clinic facing eviction.⁵³ Albanian and Serb children attend separate schools that share a yard, and there are occasional fights, usually during sporting events. Serbs here gravitate to towns in southern Serbia (Vranje) more than to North Mitrovica, and tend to view northerners with suspicion and resentment.⁵⁴ Many own cars registered in the Serbian system and cannot register them locally because Kosovo considers them imports for which customs are due. This problem stems from the expiration of a deadline for registration and, together with the high cost of insurance, obstructs free movement. Pristina should extend its grace period for registration of vehicles as part of the integration process.

Some Kosovo enclaves thrive against the odds. Serbs live untroubled in two isolated villages in Skenderaj, a hotbed of Albanian nationalism where vandals destroyed a medieval Serbian monastery in 2004. There are several Serbian schools with a total of about 100 children, suggesting a population much larger than official totals indicate.⁵⁵ The residents did not flee during the war and have only limited contacts with the municipality.⁵⁶ In Goraždevac, a village where unknown assailants shot six Serbs in 2003, all is calm today. The Kosovo and Serbian institutions cluster side by side around a small square, and the school runs in the Serbian system but with utilities and firewood provided by Pejë municipality. The main problem for this enclave is the lack of decent jobs; the young delay marriage or move away, lacking the means to start a family.⁵⁷

The law requires municipalities with a minority population of ten percent or more to create the post of deputy chairperson of the municipal assembly for communities. This official is responsible for “promot[ing] inter-community dialogue” and may ask the assembly to

⁵¹ Serbia does not pay for all expenses incurred by Serbian schools; Kosovo municipalities often pay for some or all utilities, though practices vary from place to place. Interview, school employee, Osojane, January 2015. In Istog, schools including teachers were integrated into municipal budget until 2006 when Belgrade instructed them to pull out from the Kosovo system. Since then Serbian schools do not earn benefits from the municipality.

⁵² Interview, deputy president of municipal assembly, Kamenicë, January 2015, and mayor Begzad Sinani, Pristina, February 2015

⁵³ Local Albanians also use this clinic to obtain referrals for specialised care in Serbia. Interview, Kamenicë, January 2015.

⁵⁴ The Kosovo transport ministry subsidizes a bus line to North Mitrovica for students, three days a week, but there are several buses daily day to Vranje.

⁵⁵ The OSCE estimates 350 Serbs, though the Association of Regional Development Agencies (ardakosovo.org) gave a figure of 1,000 in an application for funding.

⁵⁶ Interviews, residents of Banja and Suvo Grlo villages, Skenderaj, January 2015. There is a KP substation in Suvo Grlo, though the municipality as a whole has only 1 Serb policeman. OSCE municipal profile, March 2014.

⁵⁷ Interviews, school, municipal and health officials, Goraždevac, September 2014.

reconsider acts she or he believes are detrimental. The deputy chair may also take disputes directly to the Constitutional Court.⁵⁸ Mayors in these municipalities are required to name a deputy for communities, to advise them.⁵⁹

State Institutions

The Ahtisaari Plan proposed for Serbs a balanced set of tools to pursue and protect their interests in Kosovo -- including enhanced municipal powers and a disproportionate role in the central government, backed by a limited veto power. Belgrade negotiated those terms but rejected the plan because it included the provisions for Kosovo independence. At the time, however, it did not place much emphasis on inter-municipal cooperation. Some in Belgrade see Serb representatives in the Kosovo Assembly as more important than the Community for protecting interests and facilitating coordination with Serbia at local and central levels.⁶⁰ This chapter examines Serb participation in central and local government and what is needed to advance integration in these key areas.

Belgrade in Kosovo

The central irony of the Brussels Agreement is, in the words of a former northern Kosovo mayor, that “everyone thought we were controlled by Belgrade, but we weren’t; the new people, [the ones] elected in the Kosovo system, really are under Belgrade’s control”.⁶¹ A process designed to ease Serbia out of Kosovo has instead, at least initially, cemented its influence in Kosovo politics. Pristina has accepted this for the time being. “Serbs are loyal to Belgrade, and we expect the latter to hand them over to us”, a senior official said.⁶² While accepting that local Serbs will be more loyal to Belgrade than to Kosovo for the near future, officials want them to integrate more rapidly and for Serbia to act on Kosovo territory in a manner that does not threaten the state’s viability.

After independence, two distinct Serb elites developed in Kosovo. In the north, leaders belonging formally to Serbian parties owed little loyalty to their party chiefs in Belgrade. Local connections and popular respect were paramount. Elsewhere, Serbia-based politicians were irrelevant, while new, internationally trained leaders rose through Kosovo structures, mostly the Independent Liberal Party (Samostalna Liberalna Stranka, SLS). The Serbian government had little control over either set of leaders. When Belgrade’s policies aligned with northern Serb preferences, cooperation was easy, but tensions grew once Serbia agreed, under international pressure, to integrate the n into the Kosovo system.

Several international efforts to nurture home grown northern Serbs open to cooperating with Pristina, on the model of the SLS, came to naught.⁶³ Losing patience, the international community changed course in 2013, making Belgrade fully responsible for delivering northern Serb compliance.⁶⁴ Serbia did this by purging the entire leadership and replacing it

⁵⁸ Law on LSG, art. 54 and 55.

⁵⁹ *Ibid.*, art. 61.

⁶⁰ Interview, senior Serbian official, Belgrade. April 2014.

⁶¹ Interview, former mayor, northern Kosovo, April 2014.

⁶² Interview, Pristina, September 2014.

⁶³ The January 2010 “strategy for the north” is an example; see “Kosovo: Strategy for North Kosovo an Important Step in Right Direction”, U.S. embassy Pristina cable, 29 January 2010, made public by Wikileaks.

⁶⁴ Interview, member of Kosovo Assembly, Pristina, April 2014.

with those ready to cooperate with Kosovo institutions and stand in elections under Kosovo law. Yet, the operation, meant to crack the hard northern walnut, also crushed the southern SLS. In effect, Belgrade introduced a disciplined and wholly controlled new cadre.

The newly elected authorities in the north are more tightly bound to Belgrade, which handpicked them and arranged their election, than to Pristina.⁶⁵ Alexander Vulin, until recently Serbia's minister for Kosovo issues, was deeply involved in managing the northern leaders and their relations with the Kosovo government.⁶⁶ Belgrade pressed Serbs to vote for the candidates it supported even in the south, where turnout had been high in the past. In municipalities like Novo Brdo, internal affairs ministry officials threatened loss of jobs or pensions for failure to turn out.⁶⁷

In the November 2013 local elections, SLS incumbents lost to the Belgrade-backed Srpska list everywhere except, narrowly, in Štrpce. The lesson was not lost on Serb politicians: all that matters is Belgrade's support.⁶⁸ The SLS accepted Belgrade's offer and joined the Srpska list for the June 2014 general election. Some established politicians resent Belgrade's role, complaining the message to voters is in effect "you can pick anyone you want, as long as it's the one we've picked", and charging Serbian officials refuse to cooperate with officials not on the Srpska list.⁶⁹

Serbia has used its newly acquired full control over Serb politicians in Kosovo to meet its obligations to the EU and foster integration. A senior Serb official in Pristina expects this to continue, with Belgrade seeking to trade concessions on Kosovo issues for unrelated gains elsewhere, such as EU funding and the accession negotiations.⁷⁰ A Serb member of the Kosovo Assembly warns that this can change overnight; the Srpska caucus in the Assembly is a "remote-control bomb" with Belgrade's finger on the trigger, able to block important decisions and possibly bring down the government.⁷¹ The same official warns that the current Serb representatives will integrate only to the extent they can walk away anytime they wish, or Belgrade instructs.⁷² The January 2015 boycott supports this statement.

The new Serb political elite makes no effort to hide its loyalties. An influential Serb elected to high office in Kosovo said he had little fear of being pushed around by the majority, because "the Albanians dealing with us know they are dealing with Serbia," and "when we say no, it is Serbia saying no."⁷³ The Kosovo government is uneasy with the new Serb leadership and their deference to Belgrade. They underestimated the desire for strong ties with Serbia and

⁶⁵ See "Something Completely Different in northern Kosovo", Balkans Group report, 23 October 2013, and "Unfree and Unfair in northern Kosovo", Balkans Group blog post, 7 February 2014 for background on Belgrade's role in the Kosovo elections.

⁶⁶ According to documents made available to Balkans Group, Minister Vulin briefed foreign officials on the progress of talks between Kosovo mayors and ministers.

⁶⁷ Interviews, member of municipal assembly and municipal official, Novo Brdo, April 2014. In Štrpce, Police arrested a MUP officer while he was pressuring people to vote for a candidate.

⁶⁸ Interview, member of Kosovo Assembly, Pristina, April 2014.

⁶⁹ Interview, former member of Serbian municipal assembly, April 2014.

⁷⁰ Interview, Serb minister, Pristina, April 2014. An international observer related asking a Serb member of the Kosovo Assembly for a meeting and being told to "call [Belgrade's man] and ask him to order me to meet with you". Interview, North Mitrovica, September 2014.

⁷¹ Interview, member of Kosovo Assembly, Pristina, April 2014.

⁷² Ibid.

⁷³ Interview, member of Kosovo Assembly, northern Kosovo, September 2014.

are unsure how to handle them now.⁷⁴ The risk is that Albanian politicians, seeing the local Serbs as Belgrade's proxies, will pressure them in an attempt to exert leverage over Serbia.

This state of affairs results from Serb attachment to official Serbia and fear of dealing directly with Pristina and from Belgrade's aim to obstruct Kosovo authority. Old and new leaders wistfully agree they could probably have achieved a better result negotiating with the Kosovo government themselves.⁷⁵ The Serb community needs a voice unfiltered by Serbia's momentary EU accession interests. Belgrade, Pristina and the international community should cooperate in fostering growth of locally rooted Serb leaders.

Central administration

Under the constitution, Serbs have the right to ten delegates in the Kosovo Assembly.⁷⁶ Other minorities have another ten delegates.⁷⁷ These 20 (the "non-majority" in official euphemism) can act together to block certain categories of legislation injurious to their communities' interests. The constitution can only be amended with a concurrent majority, including two thirds of the non-majority delegates. Since fourteen affirmative non-majority votes are required, in effect seven Serb delegates may veto an amendment. In practice, Albanians will try to build a consensus before proposing constitutional changes. Other laws of "vital interest" to communities require a simple concurrent majority to pass.⁷⁸ These provisions have been little used, in part because vital interest laws were passed under supervision of the International Civilian Office (ICO), the body charged with implementation of the Ahtisaari Plan, but a number of initiatives on the horizon – notably a proposal to amend the constitution to transform the Kosovo Security Force into an army – will bring them into play. Additionally, two of the nine judges of the Constitutional Court may only be nominated by a majority of non-Albanian delegates. Serbs also hold one seat on the Central Election Commission, one of the deputy-president-of-Assembly posts and two seats on the Kosovo Judicial Council (KJC).

In the legislature, Serbs have four seats on the Assembly's Committee on Rights and Interests of Communities; other minorities have another four, and Albanian parties have the remaining four seats.⁷⁹ This may be the Serbs' most potent tool, because in principle all legislation must pass through this committee before becoming law. To use it effectively, they will need the support of the other three minority delegates, so should prioritize a good working relationship with their parties. Serb delegates have had important successes in this

⁷⁴ Interview, Serb minister, Pristina, April 2014.

⁷⁵ Interviews, northern Kosovo, November 2013 and April 2014.

⁷⁶ There are 120 total members. In Kosovo these are called "guaranteed" seats; during a transitional period Serbs had the right to additional "reserved" seats, the number of which depended on their total vote (three in the 2010-2014 mandate). See Crisis Group, "Setting Kosovo Free: Remaining Challenges," *op. cit.*, pp.4-5 for a detailed explanation. Some Kosovar representatives have floated the idea of restoring the "reserved" seats in exchange for Serb agreement to create a Kosovo army. Interview, Kosovo official, Pristina, January 2015.

⁷⁷ The Bosnian community gets three seats, Turks two, the Roma, Ashkali and Egyptian ("RAE") communities one each; an additional seat goes to the RAE party with the highest vote; the Gorani get one seat only if all the others have not exceeded their guaranteed quota. Constitution, Article 64.

⁷⁸ See constitution, Article 81, for a list of "vital interest" laws (changes to municipal borders, municipal powers, use of language, etc.) The concurrent majority required for their passage is of all non-majority delegates present and voting, so Serbs cannot veto by abstaining, or without minimal other minority-delegate support.

⁷⁹ The Egyptian elected representative is registered under the LDK parliamentary group.

committee in the past.⁸⁰ A committee setting is a calmer context for legislative give and take that the new delegates should make full use of. Since no single group holds more than a third of the committee's seats, it does not amount to an ethnic veto. Yet its strongest powers are written in the Assembly's rules of procedure, a sub-legal act that can be amended by simple majority; it would be better to upgrade them to the Constitution, or a vital interest law.⁸¹ Their formal rights are a skeleton on which Serb leaders can build muscle by forging effective relations with other legislators, including those from the Albanian majority. Regular participation in Assembly debates is a good place to start.⁸² Delegates (and all Serbs named to senior posts in central institutions) should learn Albanian, and the government should offer free and convenient language training. Serbian is an official language and one they should feel free to speak in the Assembly, but the reality is that anyone without some Albanian language ability will be marginalised. They should increase their policy-setting role and should seek jobs in the ministries of finance, foreign affairs, the office of the prime minister, and the Kosovo Security Force (KSF). The more active they are in government, the more visibly they contribute to the common good, the more respect they will gain.

Serbs have the right to one ministerial and two deputy ministerial posts.⁸³ In the tense negotiations over formation of a governing coalition, they won a much bigger share: two ministerial and six deputy ministerial seats, plus a deputy prime minister.⁸⁴ They claimed the local self-government and returns ministries; the deputy prime minister is without portfolio, with role to be defined. While the two ministries are important for Serb interests, it would be a mistake to ignore almost all other executive matters. The six deputy slots allow Serb leaders a voice in many important areas and to build constructive working relations with Albanian counterparts. Serbs show little interest in ministries like education and health (because they rely on the Serbian system in those areas) and would find it hard to contribute in foreign affairs while they reject Kosovo's independence.⁸⁵ However, it would be a mistake to shy away from portfolios such as agriculture, economic development, finance, infrastructure, internal affairs and justice.⁸⁶

These rights are impressive for a minority that is only about 8.5 per cent of the population – by our calculation – but they are vulnerable to circumvention and repeal. On occasion, the majority has bypassed it to adopt laws.⁸⁷ Serb ministers have been self-effacing in government

⁸⁰ For example, they won changes to the laws on Velika Hoča and the historical centre of Prizren and delayed a problematic law on sale of apartments. Email communication, ex-committee member, 21 November 2014.

⁸¹ The committee itself is the only Assembly body required by the Constitution (Art. 78), which gives it several essentially advisory powers. The rules of procedure go further, empowering the Committee to “decide on passage of draft laws with a majority of votes of its members” and to request information and testimony from ministers (Annex II, Art. 2).

⁸² Serb delegates have participated sporadically; some do not turn up for votes. Crisis Group, “Setting Kosovo Free,” *op. cit.*, p. 5.

⁸³ If there are more than twelve ministers, then there must be an additional non-majority minister (who may be a Serb) and an additional Serb deputy minister. Constitution, Article 96.

⁸⁴ See the coalition agreement in Alban Muhaxheri, “Ekskluzive: Marrëveshja PDK-LDK-Lista “Srpska” (Dokument)” (Exclusive: The PDK-LDK-“Srpska” List Agreement (Document)), *Zëri*, 9 December 2014 (online).

⁸⁵ “For us, [foreign affairs] doesn't exist”; interview, member of Kosovo Assembly, northern Kosovo, September 2014.

⁸⁶ Saša Rašić was a strong presence as deputy internal affairs minister in the previous government, for example.

⁸⁷ Email correspondence with former member of Committee on Rights and Interests of Communities and Return, 21 November 2014.

and do not fully control their ministries – a common problem in Kosovo’s party-dominated political system.⁸⁸ Few laws designed to protect minority interests are implemented consistently; some are “hardly ever” honoured.⁸⁹

Below the level where posts are constitutionally guaranteed, Serbs (and minorities generally) are still badly under-represented. By the law, minorities shall fill ten per cent of the posts in the central institutions.⁹⁰ This is a good target to aspire to in the integration context. A government-sponsored 2013 study found Serbs held only about 5.5 per cent of government positions.⁹¹ Even this is too optimistic, because many government agencies are almost entirely devoid of minority staff.

Only four of 22 key institutions (the offices of the president and prime minister, the ministries, etc.) met a modest 10 per cent goal for Serb and other non-Albanian representation. Several ministries whose work is important for minorities were far below that: internal affairs had 4.8 per cent (however Kosovo police surpassed the goal); economic development, 2.1; finance, 1.9; and justice, 0.9. The European integration ministry had no minority staff. The situation is similarly bad in the executive agencies. The tax administration had 3.2 per cent; forestry (important for many Serb areas), 3; treasury, 1.5; and customs, 1.4. Independent agencies also lag. The public procurement regulator, 3.7 per cent; anti-corruption agency, 2.9; central bank, 2.7; and energy and telecommunications regulators, 0, are all potentially important for minority interests. The largest public companies are the worst performers: Serbs hold less than 1 per cent of jobs in the state post and telecom (PTK) and energy (KEK and KOSTT) corporations.⁹²

The ministry of local self-government (MLGA) is an exception, with minority staff near the 10 per cent target, but despite a high-profile Serb minister (who was also a deputy prime minister), it has struggled with morale and effectiveness. Staff complained the outgoing minister provided no leadership, and their only instructions were to keep Serbs and the North out of the news.⁹³ Many feel the ministry accomplished more when it had a strong Albanian minister and credit much of what it achieves now to a dedicated senior Albanian civil servant.⁹⁴ The portfolio has gone to Ljubomir Marić, former head of the “Management Team” for the Community of Serb Municipalities and an executive with the Trepça mining company. Serb integration depends heavily on this ministry, and he will need to show courage and leadership, and be supported.

Worryingly, many agencies report high compliance with active measures designed to recruit minority staff but little to show for the effort.⁹⁵ The prime minister’s office, whose community

⁸⁸ Interview, Serb minister, Pristina, April 2014. Civil servants often follow orders of their party superiors instead of their ministers.

⁸⁹ Email correspondence with former member of Committee on Rights and Interests of Communities and Return, 21 November 2014.

⁹⁰ Law No.03/L-149 for civil servants, Republic of Kosovo, Article 11.3. The law also regulates minority representation at local level corresponding with the population composition within the territory of the municipality.

⁹¹ Novus Consulting, “Assessment on the Employment of Members of Non-Majority Communities with the Kosovo Civil Service and Publicly Owned Enterprises,” July 2013. Data in the next paragraph is from this report.

⁹² Government has offered posts in both KEK and KOSTT for members of Civil Protection Corps

⁹³ Interview, MLGA official, Pristina, May 2014.

⁹⁴ Interview, senior Serb official in Kosovo government, Pristina, April 2014.

⁹⁵ Novus Consulting, *op. cit.*, p.25.

affairs office is a focal point for minority representation, has taken several backward steps.⁹⁶ It used to track minority employment throughout government in much more detail, including which minority community, the level and whether political or civil service, managerial or administrative.⁹⁷ The last time this was done, in 2010, it revealed that while the president's office met its 10 per cent target, it had only non-Serb minorities. In many ministries, most or all Serbs were administrative support staff.⁹⁸ Only 0.3 per cent of the KEK's more than 8,000 employees were Serbs – all administrative level.

Belgrade discouraged Serbs from accepting jobs in the Kosovo government and threatened to label those who sign contracts with Pristina traitors. In face of this pressure, the SLS brought as many new Serbs as they could, but Serb professionals still hold posts in the parallel Serbian administration. The policy is gradually shifting, at least locally; new Serb officials are making plans to fill all posts available by the law.⁹⁹ As these Belgrade-funded jobs close, Kosovo needs a systematic and effective campaign to boost Serb and other minority employment at all levels of central institutions, including national public companies. Serbs at the local level are well aware of this and generally view the Kosovo Police as the only truly representative central institution.¹⁰⁰ Serbs in senior, decision-making positions below the ministerial level can set a vital example for their community.¹⁰¹ To be effective, a recruitment program will need input from community leaders at all central and local levels and civil society, as well as strong diplomatic and donor support.

The persistence of parallelism in local government

Locally, Serbs are a majority in ten of Kosovo's 38 municipalities, each with somewhat greater powers than its Albanian-majority neighbours.¹⁰² The Kosovo government now has elected representatives in place throughout its territory, but the Serbian government still operates its own institutions. In some places, these are thin, to the point of invisibility, but in others – especially in the North – they operate many government services and account for most public spending. For Serbs, government is the sum of these parallel layers, one answering to Belgrade, the other to Pristina. Forging an effective, durable system of government in Kosovo's Serb-majority areas depends on fusing them and promises to be difficult. There is no clear plan, and neither the two capitals nor the international community shows much urgency.

Serbia has resisted international pressure to clarify the scope of its payroll in Kosovo.¹⁰³ EU officials estimate it (including salaries, benefits, capital spending and all other expenses) at

⁹⁶ In addition to the decline in data quality, the community affairs office's website page on the Serb community has apparently not been updated since Serb-majority municipalities were established in 2009.

⁹⁷ Data on community representation in Kosovo institutions (2010) made available to Balkans Group.

⁹⁸ For example, all 38 Serbs in the agriculture ministry were administrative, as were 11 of 12 in the (then) economics and finance ministry, 24 of 26 in the justice ministry and 16 of 17 in the public administration ministry.

⁹⁹ "Getting a Kosovo job is no longer a controversy". Interview, government official, Gračanica, February 2015

¹⁰⁰ Interview, member of Kosovo Assembly, Novo Brdo, April 2014.

¹⁰¹ Interview, resident of Koretište, Novo Brdo, May 2014.

¹⁰² All Serb-majority municipalities have authority over cultural affairs, including "protection, promotion ... [and] support" for religious heritage and communities; all also have a role in selection of local police commanders. Three municipalities (North Mitrovica, Gračanica and Štrpce) have responsibility for secondary health care; North Mitrovica has authority for university education. LSG, Articles 19-23.

¹⁰³ Interview, adviser to member of Kosovo government, Pristina, October 2014.

about €350 million per year.¹⁰⁴ A senior Serbian official says some 5,860 work for the Serb-run municipal administrations.¹⁰⁵ In the North, almost all have jobs.¹⁰⁶ In the south, many are employed only on paper; some draw a full salary, others only the minimum allowed by law.¹⁰⁷ One local official estimated about 22,000 people draw a minimum salary, though as many as half of them may be living in Serbia and doing no real work in Kosovo.¹⁰⁸ In addition to the fifteen municipal administrations that Belgrade has not yet dissolved, there are jobs in public companies and local institutions.¹⁰⁹ Municipal officials run some of these but increasingly Serbian ministers administer them directly, or let them operate with minimal supervision.¹¹⁰

The money is funnelled from the finance ministry through treasury branches and then Serbian banks, notably the postal bank and Komercijalna Bank. Local Serb leaders describe these as the “key institutions” and note the Kosovo government has never tried to close them.¹¹¹ The National Bank of Serbia’s “Group for Kosovo and Metohija” and a branch of the treasury have offices in an apartment building in North Mitrovica.¹¹²

Origins of Serbian municipal institutions

Serbian authority on Kosovo territory supposedly ceased with UNMIK’s assumption of “all legislative and executive authority” on 25 July 1999.¹¹³ Many Serbian officials had already left their posts, though they remained north of the Ibar. Yet, as UNMIK consolidated its authority and began setting up its administration, many Serbian institutions kept working or quickly revived. Schools and medical centres stayed open, funded and overseen by Serbia’s education and health ministries. Many public companies also remained, though some ceased

¹⁰⁴ Interview, EU officials, Pristina, September 2014. A Serbian parliamentary inquiry found that Serbia spent €2.83 billion on the territory of Kosovo from 2000 to 2012 and estimated spending peaked at about €350 million in 2008, dropping to about €250 million from 2009 to 2012, though some of the decline is due to the Serbian dinar’s drop against the Euro. “Izveštaj o utvrđivanju činjenica o načinu trošenja sredstava budžeta Republike Srbije na teritoriju autonomne pokrajine Kosovo i Metohija” [Report of the commission of inquiry on budget expenditures of the Republic of Serbia on the territory of the Autonomous Province of Kosovo and Metohija], 14 April 2014, p.7. Many interlocutors suggest that some Serbian money returns in hands of corrupt bureaucrats. Interviews, North Mitrovica, March-April 2015; Crisis Group report “Serb integration in Kosovo: Taking the Plunge,” 12 May 2009.

¹⁰⁵ Interview, Budva, Montenegro, December 2014.

¹⁰⁶ In North Mitrovica of some 20,000 inhabitants, it is estimated that more than 7,000 Serbs earn a state salary. Interview, North Mitrovica, November 2014.

¹⁰⁷ There are two kinds of minimum payment, both called “minimalac” in Serbian. The first is the minimum monthly salary for employed workers throughout Serbia; this varies by month, from net RSD 19,360 (€158) for February to RSD 22,264 (€181) in July. Workers in Kosovo who are employed on paper but do no real work receive this payment, along with pension and health contributions. The second is the “Kosovo minimum” of about RSD 11,000 paid to unemployed Serbs from or in Kosovo.

¹⁰⁸ Interview, Serb official, Gračanica, April 2014.

¹⁰⁹ Interview, Serbian municipal official, Gračanica, September 2014.

¹¹⁰ Interviews Kamenicë, Ranilug, January 2015

¹¹¹ Interview, Serbian municipal official, Gračanica, June 2014.

¹¹² Observation, 23 September 2014. A man claiming to be the offices’ director stopped Balkans Group staff, demanding to know who we were and what we were doing. When we explained we were making a note so as to request a meeting in business hours, he shouted, “You are not allowed to go around writing down what is written on the institutions of the Republic of Serbia”.

¹¹³ UNMIK Regulation 1999/1.

work and became in effect providers of social welfare. During the years leading up to Kosovo's declaration of independence, Serbia used its institutions in Kosovo "to enforce loyalty and obedience in return for ... state resources." In May 2006 Belgrade "ordered ... teachers and medical staff to end their contractual relationship" with UNMIK administration.¹¹⁴

After independence, Serbia held elections in 23 municipalities, as much of Kosovo as it could reach. It re-established municipal governments, which took control of public companies and other local institutions from the Belgrade government. In some areas (eg, the three northern municipalities) UNMIK administrations went over to the Serbian system. In Štrpce, the incumbent administration split, with one part going over to Serbia and a second (also largely Serb) staying with UNMIK and Kosovo. In North Mitrovica a de facto separate municipality sprang up, most of whose staff was also employed by UNMIK.¹¹⁵

In most of Kosovo, the Serbian elections produced phantom municipalities clustered in the enclaves. Gračanica was not a municipality in the Serbian system but hosted the "Pristina" municipality and others.¹¹⁶ Serbia closed many of the phantom municipalities in 2012. In the aftermath of the Brussels Agreement, it dismissed the remaining mayors and municipal assemblies and appointed "temporary councils," interim administrations staffed with the candidates it encouraged to stand for election in the Kosovo system. The idea seemed to be that the Belgrade-appointed officials would move seamlessly into that system and from there into the Community of Serb Municipalities. The result was less orderly, as some appointees declined to stand for election, and others lost.

Serbia has not closed its institutions and most of them are still in place, in some areas with a larger budget than the Kosovo institutions that should replace them.¹¹⁷ Belgrade still prevents transition or integration of Serbian personnel into the Kosovo system.¹¹⁸ In the north, municipal administration is largely handled through Serbian temporary councils, while small Kosovo liaison offices cater to the few Albanian villages; south of the Ibar, Kosovo municipal organs govern in practice, though most salaries come from the Serbian budget. Parallelism has deep roots in this soil. The same Serb politicians often hold office in both systems. In Novo Brdo, for example, one who was elected to the (Kosovo) municipal government in 2009 joined the Belgrade-sponsored boycott of parliamentary elections in 2010, then accepted appointment as head of the temporary (Serbian) executive council.¹¹⁹

¹¹⁴ Crisis Group, "Kosovo's First Month," 18 March 2008, pp. 6, 8.

¹¹⁵ UNMIK set up an Administration of Mitrovica (UAM) in November 2002 as the de facto municipal government of northern Mitrovica. The Ahtisaari Plan divided Mitrovica into two independent municipalities with a common city board to handle joint issues, but both the Kosovo administration in the south and the Serbian one in the north claimed to represent the undivided whole. See "Final Audit Report: Audit of management of UNMIK Administration of Mitrovica", UN Office of Internal Oversight Services, 2010, and "UNMIK Administration for Mitrovica", Republic of Kosovo Office for the Coordination of the Implementation for the Strategy for the north of Kosovo, 2010.

¹¹⁶ Gračanica also hosts the Serbian Lipjan, Kosovo Polje and Uroševac municipal administrations. Each employs dozens of former administrators. Pristina municipality employs, at least in paper, about 850 staff. Interviews, Serb officials, 2014.

¹¹⁷ Interview, North Mitrovica, April 2014.

¹¹⁸ Council for Inclusive Governance roundtable, Belgrade, April 2014. Interview, Serb official, Gračanica, October 2014.

¹¹⁹ "I predsednik i odbornik?" [Both president and councillor?], *Glas Javnosti*, 23 January 2010 (online).

Confusion in northern Kosovo

Government in North Mitrovica is more fragmented than ever. Before the elections, the Serbian municipal administration exercised most local-government functions, though many staff were simultaneously employed by UNMIK's interim administration in Mitrovica (UAM). In September 2013, Belgrade replaced the mayor and assembly with a temporary council. The "temporary" aspect – the council's mandate was for six months – has quietly been ignored, and it remains in place. Kosovo maintained a "North Mitrovica Administrative Office" (NMAO), with many functions normally exercised by a municipal government. It was meant to fuse with the municipal government, but Belgrade has instructed the new authorities to "go slow" on this.¹²⁰ The Kosovo government has taken no steps to transfer the NMAO to the new municipal administration, though it no longer has a budget of its own.¹²¹ Both bodies continue to operate and have been joined by a third, an embryonic Kosovo municipality.¹²²

The newly elected Kosovo municipal administration is still a shell: it has no building; the mayor's office is in the (Serbian) Office for KiM building; the president of the assembly sits in her party office. There are no other civil servants and no staff. Deputy mayor Aleksandar Spiric also heads the temporary council, works out of his office in the old Serbian municipal administration and refuses to draw a Kosovo salary.¹²³ The Serbian administration still has a budget and is planning for 2015-2016 with no indication of a change from Belgrade. Spiric argues the two municipal administrations cannot and should not merge, in part because the Serbian one notionally covers both North and South Mitrovica, but also because people do not want to transfer.¹²⁴

In each of the other three northern municipalities, the Serbian administration still exists, headed by a temporary council as in North Mitrovica and doing most of the day-to-day work. Kosovo's footprint comes from community liaison offices catering to the needs of several Albanian villages. The Kosovo budget for 2014 was heavily geared toward those villages. Many of the Serbian temporary council members won offices in assemblies and as mayors in the Kosovo elections. The Leposavić and Zubin Potok mayors also lead the temporary council and run both from the same office.¹²⁵ The relationship in Zvečan is awkward: the head of the temporary council is politically strong and experienced and presides from the anteroom, blocking access to the much younger, less experienced mayor in the main office.

Double hats in southern Kosovo

For Serbs south of the Ibar, proper Kosovo municipal government dates to the 2009-2010 local elections. Turnout was respectable, indistinguishable from that in the rest of Kosovo in the October 2013 elections. Serbia funds a shrinking network of virtual municipal governments that have not governed effectively for years. On the surface, the 2013 elections changed little; the Kosovo mayors still govern; Serbian counterparts sip coffee and dispense

¹²⁰ Interviews, North Mitrovica, April 2014.

¹²¹ Interview, EU officials, Pristina, September 2014.

¹²² Interview, former Serb official of parallel administration, North Mitrovica, April 2014.

¹²³ Interviews, leading members of Kosovo and Serbian administrations, North Mitrovica, April and May 2014; Serb official of parallel administration, North Mitrovica April 2014.

¹²⁴ Interview, Serb official of parallel administration, Mitrovica, April 2014.

¹²⁵ In the three floor municipal building of Zubin Potok, the mayors spare his time between first floor (Kosovo administration) and second floor where the Serb municipality function as usually. On the top floor sits the UNMIK municipal representative, a structure UNMIK keep in place.

salaries and benefits. Yet, the elections produced an upheaval: in all but one municipality, voters replaced incumbents with Belgrade-vetted challengers, often drawn from the parallel Serbian system. Now the same people often sit on both the Serbian temporary councils and Kosovo municipal assemblies and in the mayor's office.¹²⁶ The incumbent held on in Štrpce, but Belgrade controversially made him head of the parallel municipality's temporary council.

The mayors seem comfortable wearing two hats. In towns like Novo Brdo where the same man heads both administrations, relations are excellent. Even without duality, relations are good. In Ranilug, the Kosovo mayor and the Serbian temporary council cooperate easily "based on daily needs and local reality."¹²⁷ The process also ran in reverse, with Belgrade tapping some new Kosovo officials for posts in its own system. Srdjan Petković, the Kosovo deputy mayor of Gračanica, was named head of the Kosovo-Metohija district in May 2014, replacing Vladeta Kostić, who was elected to parliament in Serbia. Kostić then tried to run for the Kosovo Assembly, but the Kosovo Central Election Commission barred him. When Gračanica's new mayor Branislav Stojanović was named deputy prime minister of Kosovo, Kostić easily won the by-election to replace him.

In Štrpce, however, the incumbent, Bratislav Nikolić, fended off a challenge from Belgrade's anointed, Ivan Redžić, head of the temporary organ. Their relations were poor. In December 2014, weeks before Serbian Prime Minister Vučić visited Štrpce, Belgrade made a U-turn and appointed Nikolić to head the temporary organ.¹²⁸ Štrpce's temporary council illustrates Serbia's ongoing presence in Kosovo distinct from its influence over newly elected Kosovo officials. The council has three main responsibilities, to pay the salaries of all with a Serbian job, including municipal staff and public utility employees; issue social security payments; and deal with the Serbian schools.¹²⁹

The double hats are seen as a pragmatic solution for a transition period, but eventually Serbia will have to close its virtual municipal network on Kosovo territory, and the two systems' functions will have to be merged under exclusive Kosovo jurisdiction.¹³⁰

¹²⁶ In Novo Brdo, Belgrade named Svetislav Ivanović head of the temporary council in August 2013; the voters chose him mayor in November. In Gračanica, they elected Branimir Stojanović, head of the local Office for KiM branch office. In Ranilug, the incumbent mayor, Gradimir Mikić, switched parties, and was re-elected on the Belgrade-sponsored "Srpska" list. In Parteš, the chief of the Serbian "Kosovo-Pomoravlje District", Dragan Nikolić, became mayor.¹²⁶ In Klokot, Serbia named Srećko Spasić, its notional former mayor for the Albanian-majority Viti municipality, to the temporary council in May 2013, and he won election as mayor.

¹²⁷ Interview, mayor of Ranilug, Pristina, April 2014.

¹²⁸ SLS mayor Nikolić won elections against Srpska List with support of Albanian votes. After Belgrade named him to head the temporary council, Serbia and Kosovo institutions cohabit in all ten Serb municipalities. Pristina reacted furiously and called on the EU to make Serbia withdraw the appointment or it would take legal action against Nikolić. Mayors are to "terminate any contract or association that may call into question his/her ability to carry out his/her responsibilities fairly and impartially" (Law on Local Self-Government, art. 59.1) Mayors and municipal assembly members "may not be members of any other elected body" (Law on Local Elections, art. 3.2). While these provisions are ambiguous, and if applicable to Nikolić's Serbian position could also put the other Serbian mayors in jeopardy, the government has discretion on whether to remove him, subject to approval by the Constitutional Court.

¹²⁹ Interview, member of Serbian temporary council, Štrpce, April 2014.

¹³⁰ The iconography of the southern municipalities is ambiguous. Gračanica's new municipal building features no signs or symbols. A large Serbian flag flies in a small park directly in front. In Štrpce, the temporary council sits in an old office across from the main municipality, which has no Kosovo symbols and flies a big Serbian flag.

The Serbian public sector

Utilities, other public companies and cultural institutions – the residue of socialist times – provide a large share of public sector jobs in the Serbian system. The public sector is unsustainably bloated in Serbia proper and will have to shrink along with its appendages on Kosovo territory. Many jobs are little more than poorly paid sinecures. These must be shed, as the public sector integrates into the Kosovo system and accommodates to economic reality, but gradually, to minimise disruption to the community. As much as possible should be through attrition and early retirement, with additional job losses matched with openings elsewhere in the Kosovo system. Donors will be important for ensuring that integration of the public sector does not provoke undue hardship and emigration.

Serbian public companies work in Kosovo with relatively few differences between north and south. Sinecures and jobs that exist only on paper are more common in the southern Serb municipalities, because Kosovo public companies do much of the work there. Several northern Serb companies were organized under UNMIK and have been recognized in Kosovo law, but none have actually registered with the relevant authorities.¹³¹ The number of employees is as murky as it is throughout the Serbian system.¹³² Gračanica has about fifteen public companies and institutions inherited from Pristina and other near municipalities. Local officials estimate there are about 850 on the payroll, of whom 250-300 live in Serbia, do no work and receive minimum salary plus benefits. About 400 of the remainder live in Kosovo and work and receive a regular salary; the rest are idle on minimum salary plus benefits.¹³³ Some directors try to rotate staff on and off work but say some workers resist returning after a period at home. Until at least June 2014, Serbian officials hired to fill vacancies as they arose and funds became available.¹³⁴

Some Gračanica companies – the situation is similar throughout the south – do nothing. The heating company is superfluous, because Pristina provides heat; so is Vodovod, the water company, as the Pristina utility controls the pipes. Others are minimally active. The cinema and theatre (public institutions) put on occasional shows during holidays, though there is no actual cinema house.¹³⁵ Still others work at half capacity: the sanitation company, which also handles burials, cemetery maintenance, public lighting and parks, collects rubbish in town and passes it to Pastrimi, its Kosovo counterpart that operates the regional dump.¹³⁶ A few work at full capacity. Saobraćaj, the transportation company, buses school children; the cultural centre (another public institution) hosts plays and other events.

There is a history of practical cooperation between public companies in the two systems. Pastrimi and Komunalno, respectively the Kosovo and Serbian sanitation companies,

¹³¹ Interview, head of unit for public companies, economic development ministry, Pristina, October 2014.

¹³² A Belgrade-based Serbian official claimed there were not more than 50 full-time employees in the Serbian municipality of Pristina (located in Gračanica), including all its public companies, with another two to four for each of the other, smaller municipalities based there. These figures are at odds with data offered by local officials and are probably too low, but they show the issue is disputed within the Serb community as well. Interview, Gračanica, November 2014.

¹³³ Another Serb official gave slightly different numbers: 890 (including in the municipality, public companies and institutions) on the payroll of Serbia's Pristina municipality, about 450 living in Serbia and 440 in Gračanica, plus 300-400 from two other Serbian "virtual" municipalities. Interview, Gračanica, April 2014.

¹³⁴ Interviews, Serbian municipal and public company officials, Gračanica, June 2014.

¹³⁵ The Kosovo municipal authorities plan to build one.

¹³⁶ Interviews, director and employees of Komunalno public company, Gračanica, September 2014.

coordinate.¹³⁷ Several Serbian directors have initiated the process of registering a public company. This involves an application in which the municipal government shows it has set aside land and facilities for it and promised subsidies for its first three years, as well as that the public company is viable.¹³⁸ Alternatively, some Serbian utilities can merge into the regional Kosovo companies. This makes sense for the smallest municipalities. Thus, Klokot set up its own public company under the Kosovo system, saw that it was unsustainable and merged it into a larger regional firm. An MLGA official said the Kosovo regional companies pay higher salaries than the Serbian municipal ones.¹³⁹

Both registration and merger pose challenges. There is no room in the Kosovo system, or any rational system, for the inflated number of workers on the Serbian payroll. Only a minority will be able to keep their jobs. The Kosovo public sector is also troubled by inefficiency and nepotism. Many public companies were originally meant to fall under municipal jurisdiction.¹⁴⁰ Municipalities generally do not administer their companies well: poor bill collection cuts deeply into revenue, and officials use these companies as a source of patronage for relatives and political supporters.¹⁴¹

Pristina and Belgrade could ease the transition by making it possible for workers to remain in the Serbian pension scheme, whether they move to a Kosovo company, take other work or retire. Pensions are one of the main differences between the systems: Serbia offers a state-backed, defined-benefit scheme, while Kosovo is launching a defined-contribution plan whose payments are, at least initially, much lower.¹⁴² The issue is especially important to workers nearing retirement. Faced with a choice of a new job in Kosovo without a Serbian pension or moving to Serbia, many will opt for the latter.¹⁴³ Pristina authorities have no objection to Serbia paying pensions and note that many Kosovars draw pensions from abroad too.¹⁴⁴ The ideal solution would be an arrangement between the two governments whereby workers transitioning to the Kosovo system could continue accruing years of service for their Serbian pension, with the option of participating in the Kosovo scheme as well.

Other parts of the public sector will need different solutions. Socially owned enterprises (SOE) employ many of the tens of thousands of people drawing a minimum salary in Kosovo.¹⁴⁵ These are vestiges of self-managing socialism, and few do real work; they still exist in Serbia, where the government pays wages as it tries to sell them off.¹⁴⁶ Half or more of

¹³⁷ For example, Pastrimi collects trash from the main roads, while Komunalno handles containers on the side roads. Interviews, director and employees of Komunalno public company, Gračanica, September 2014.

¹³⁸ The application goes to the MLGA and the economic development ministry, then to an inter-ministerial commission (finance, environment, infrastructure and trade) for approval. Interview, head of unit for public companies, economic development ministry, Pristina, October 2014.

¹³⁹ Interview, September 2014.

¹⁴⁰ “Municipalities shall have full and exclusive powers, insofar as they concern the local interest ... [in] provision and maintenance of public services and utilities, including water supply, sewers and drains, sewage treatment, waste management, local roads, local transport, and local heating schemes”, Law on Local Self Government (LSG), Article 17. Cf. Law on Publicly Owned Enterprises (2008) and amendments (2012).

¹⁴¹ Interview, head of unit for public companies, economic development ministry, Pristina, October 2014.

¹⁴² Some Serbs mistrust the Kosovo pension plan because its payout depends in part on how well its managers have invested its funds. Interview, Serbian municipal official, Gračanica, September 2014.

¹⁴³ Interviews, director and employees of Komunalno public company, Gračanica, September 2014.

¹⁴⁴ Interview, adviser to member of government, Pristina, October 2014.

¹⁴⁵ Interview, Serb official, Gračanica, April 2014.

¹⁴⁶ Telephone interview, UN official, January 2015.

these people have left Kosovo and live in Serbia, but their (minimal) wages are still part of Belgrade's Kosovo budget.

In another southern municipality, Novo Brdo, 60 to 70 per cent of the Serb population is on the Serbian budget in one way or another and fears losing this. The "Kosovo minimum" (paid to the unemployed) can make the difference for those on the edge of poverty, like small farmers, between a decent life and real trouble.¹⁴⁷ The Serbian parallel municipality there employs only about 20. The rest are on the budgets of various ministries, notably education and health.¹⁴⁸ The situation is similar in other municipalities and enclaves. Most Serbs in Kamenicë work or get benefits from both Serbia and Kosovo; officials in the old Serb municipality work also in the schools for a Kosovo salary. The head of the temporary organ is also a member of the Kamenicë assembly.¹⁴⁹

Local government integration

Nothing illustrates the challenges of Serb integration at the local level more clearly than the municipal budgets. Typically a municipality the size of North Mitrovica would have a budget of about €5 million.¹⁵⁰ In April 2014, the government sent the municipalities a budget framework for the coming year; for North Mitrovica, about €4.5 million was anticipated, based on previous expenditures, population and territory.¹⁵¹ The MLGA's June instruction that the northern municipalities should prepare budgets by merging the larger Serbian administrations with the smaller Kosovo ones led to confusion.¹⁵² The North Mitrovica draft budget ballooned to almost €35 million.¹⁵³ Two budget lines -- education (€15 million) and health (€12.4 million) -- account for most of the difference.¹⁵⁴ These figures were probably approximations, obtained by adding up the staff rosters and multiplying by the average sector salaries in the Kosovo system.¹⁵⁵ After a dispute between government and the mayors, Belgrade instructed the latter to remove all education and health from the budget. North Mitrovica adopted a €2.7 million budget on 30 October 2014; the state budget was slightly higher, at €4.1 million.¹⁵⁶ Without spending for education and health, these budgets are unacceptable.¹⁵⁷ The municipalities failed to meet a second deadline of 1 March and risk

¹⁴⁷ Interview, municipal official, Novo Brdo, April 2014.

¹⁴⁸ Interview, mayor of Novo Brdo, April 2014.

¹⁴⁹ Interviews, Kamenicë, 15 January 2015.

¹⁵⁰ Obiliq, closest in population North Mitrovica, has a 2015 budget of €5,046,183. Law on the Budget of Kosovo for 2015.

¹⁵¹ Interview, official, North Mitrovica, September 2014.

¹⁵² Interview, international non-governmental organization (NGO) officials, North Mitrovica, September 2014. In North Mitrovica, for example, the Serbian municipality had 129 staff, compared to 55 at the NMAO. Interview, official, North Mitrovica, September 2014.

¹⁵³ A €25 million version in September was based on one prepared with the help of the U.S. Agency for International Development's Democratic Municipalities Initiative (DEMI). Interview, member of municipal assembly, North Mitrovica, September 2014. The subsequent higher draft was made available to Balkans Group, late September 2014.

¹⁵⁴ The draft budget lists 2,080 employees in education (1,400 at the university) and 1,481 in health care. Public companies like Standard (the sanitation company) that employ hundreds of staff were not included.

¹⁵⁵ Interview, member of North Mitrovica municipal assembly, North Mitrovica, September 2014.

¹⁵⁶ Municipal budget (30 October 2014) and state budget (31 October 2014).

¹⁵⁷ Letter from dialogue minister Edita Tahiri to the EU, 19 February 2015.

having their accounts frozen. The law on public finances forbid the government to allocate fund to municipalities should the municipal assemblies fail to approve it in line with criteria.¹⁵⁸ There is still a large gap between what is needed to pay for the employees of both systems, and what Pristina has offered to pay.

A similar disorder marred the other three northern municipalities' attempts to produce an integrated Kosovo budget.¹⁵⁹ The logic is different in southern Kosovo, but the essential problem is the same: the government will not allow the parallel municipalities to merge with the Kosovo ones, as this would explode the budget.¹⁶⁰ Belgrade and Pristina have not grappled with the problem of how many Serb employees there are, what to do with them or how to pay for them. Until this is done, Serb integration at the local level is impossible.

There is a pressing need for an accurate inventory of those on the Serbian payroll. Belgrade should instruct its temporary councils, ministries and other relevant institutions to prepare lists, in a common format that facilitates crosschecking, and should make this information available to Pristina. The MLGA should request the same information in the same format from the mayors of the Serb-majority municipalities. Merging these lists would reveal some duplication (ie, people receiving two salaries) and redundancy and identify those drawing minimum salaries but living in Serbia.¹⁶¹ Armed with this data, it would be possible to craft a strategy to reduce the payroll to its – still very large – essential staff. Kosovo-payroll people living in Serbia should be moved to the regular Serbian budget; those near retirement should be offered early pensions; duplicates should be removed. International officials experienced in municipal transition suggest it is probably necessary to begin with an integrated administration, even if overstuffed and inefficient, and to rationalise it later.¹⁶²

Serb integration at the local level calls for coordinated efforts by many agencies. The Kosovo government should not delegate the task solely to the MLGA; the ministries of finance, economic development, education, health and infrastructure need to be involved too.¹⁶³ Belgrade should support this by offering detailed data and coordinating with its own ministries, as appropriate. This must be a whole-government effort, coordinated by the MLGA and with assistance from Serbia's Office for KiM.

¹⁵⁸ Law No. 03/L-048, Article 62.5. The Kosovo budget was passed on 24 December 2014. The government will amend the law to include the four northern municipalities' budgets, should they pass the new expenditures before 1 March 2015. Chief Kosovo negotiator Edita Tahiri promised to take their needs into account, and the finance ministry gave mayors more time. "The government of Kosovo offers €30 million for all four municipalities, including a €10 million contingency fund and €16 million for investments, subject to adoption of the municipal budgets. Interview, government official, Pristina, 13 January 2015.

¹⁵⁹ Zvečan, a smaller municipality with no university or health centre, started from a 2014 (pre-integration) base of about €2 million, rising to a reasonable (given staff levels) some €8.5 million in mid-summer. Municipal officials had inflated this to €21 million in late fall, and then adopted a budget less than one-tenth that size (€1.6 million). Interview, international NGO officials, North Mitrovica, September 2014.

¹⁶⁰ Interview, Gračanica mayor, Gračanica, September 2014. Other Serbs officials say merger is currently legally impossible. Serb employees' lawsuits may result in moving these offices into Serbia.

¹⁶¹ That double salaries should end is a rare point of agreement between Kosovo and Serbian officials; interviews, MLGA official, Pristina; Serbian local official, Gračanica, September 2014.

¹⁶² Interview, international NGO officials, North Mitrovica, September 2014.

¹⁶³ Interview, MLGA official, Pristina, September 2014.

Courts, justice and police

On their first meeting on 9 February 2015 the Kosovo and Serbian prime ministers concluded an agreement on the judiciary. Following Kosovo's law on courts, it creates a basic court in North Mitrovica, with jurisdiction over the four northern municipalities plus the more populous South Mitrovica, Skenderaj and Vushtrri. The agreement departs from Kosovo law in a minor way, splitting the physical location of the Mitrovica court into two buildings, one north, one south of the river. The serious crime and general crime departments are to be in the northern building that is also to host a panel of the Court of Appeals (normally in Pristina). The southern building is to hold two civil departments, the minor offences court and the juvenile court. The general crime department covers only Zvečan, North and South Mitrovica; the other municipalities have branches of the court for such cases; the other chambers have jurisdiction over all seven municipalities.¹⁶⁴

The deal also includes ethnic quotas for key personnel.¹⁶⁵ The quotas exclude all non-Serb minorities, and may violate the constitution.¹⁶⁶ The presiding judge is to be a Serb, the chief prosecutor an Albanian. Five appeals panel judges are to be Serbs, two Albanians; in the serious crimes department four Albanian and four Serb judges will work together. The vice-president of the court of appeal will be a Kosovo Serb sitting in Pristina. EU officials involved say establishing the court in its historic building in North Mitrovica and simultaneously closing the last of the Serbian courts will relax tensions in ways not limited to narrow judicial matters. It will "clear the air" and, by removing a long-standing grievance for Pristina, make other reforms of interest to the Serb community more palatable.¹⁶⁷

The 2010 court reform slightly weakened minority protection. The constitution states:

Candidates for judicial positions within basic courts, the jurisdiction of which exclusively includes the territory of one or more municipalities in which the majority of the population belongs to the Kosovo Serb community, may only be recommended for appointment by the two members of the Council elected by Assembly deputies holding seats reserved or guaranteed for the Serb Community ... acting jointly and unanimously.¹⁶⁸

Though each municipality had a right to petition the KJC for a basic court on its territory, however, there were few such courts before the reform, because Serb lawyers (under instructions from Belgrade) refused to participate in the Kosovo judiciary.¹⁶⁹ The 2010 law introduced a system without courts limited to Serb-majority areas, and no provision to create ones; instead, it provided, all Serb areas are to be served by branches of basic courts that

¹⁶⁴ Interview, Serbian judge familiar with the talks, February 2014. Agreement published

¹⁶⁵ The basic court will have 10 Albanian and 14 Serb judges in its North Mitrovica building, and 14 Albanian and 11 Serb judges in the South Mitrovicë building. Support staff will be evenly split, with 79 Albanians and 79 Serbs; branches in Leposavić and Zubin Potok will have only Serb staff, seven each. The prosecutor's office will have 18 members, 9 of each community, and will hire 24 Albanian and 24 Serb support staff.

¹⁶⁶ European Centre for Minority Issues Kosovo, "The Neglecting of Non-Serb Minority Communities in the Kosovo-Serb Technical Agreements," 10 March 2015.

¹⁶⁷ Interview, EU official, Brussels, October 2014.

¹⁶⁸ Constitution, Article 108 (10).

¹⁶⁹ Ahtisaari Plan, Annex IV, Article 1.3. The KJC was obligated to grant such requests unless the municipal caseload was too small. Only two Serb-majority municipalities (Leposavić and Zubin Potok) had basic courts in 2011; two others (Gračanica and Štrpce) had branches of a larger, neighbouring court. The Zubin Potok court was moribund with no working judges. Kosovo Judicial Council, Annual Report 2011, p. 23.

include a larger, Albanian-majority area.¹⁷⁰ This left the constitutional provision cited above intact, but without moot. In practice, the KJC only selects Serb judges on the recommendation of its Serb members. Still, the laws on courts and the KJC should be amended to empower Serb members of the KJC in naming the judges who will serve in Serb-majority areas.

The new court agreement also violate the KJC rules, working groups are defining procedures for hiring of Serb judges. Belgrade insists to nominate judges and prosecutors, bypassing KJC rules. The later had planed to name a joint commission with EULEX for appointment of Serb judges and refuse to accept any hiring that bypass their rules.¹⁷¹

Serbs in northern Kosovo do not object to Kosovo laws as such, which differ little from familiar Serbian codes; many are willing to cooperate with Kosovo authorities based in the North but view those south of the Ibar with suspicion. Until recently, Serbs would seldom cross the river, afraid of travel in Albanian areas. These fears are magnified by the stress that comes with the criminal justice system. Unscrupulous actors try to take advantage by threatening northern Serbs with prosecution in southern courts if they fail to turn over property or resist extortion.¹⁷² In early 2014, a series of arrests of Serbs created “a kind of hysteria where everyone thinks they are on a secret list” for prosecution.¹⁷³

The judiciary is in a poor state, suffering from mistrust among Albanians and Serbs alike.¹⁷⁴ Despite an influx of new judges it is still badly understaffed. In 2009, Kosovo had about 10 active judges per 100,000 people, far below regional and European averages.¹⁷⁵ The ratio is now 18.3, still low for the neighbourhood.¹⁷⁶ There is room for a significant number of legal professionals (judges, prosecutors and legal support staff) in the system. Hiring Serb jurists will contribute to integration and build trust; Pristina should offer places for Serb judges, prosecutors and legal officers throughout its court structures.

The Kosovo Police offer a contrast, with a high degree of integration and relatively high professionalism. 285 Serbian officers integrated in the North under the Brussels Agreement. Belgrade and had wanted them to keep their old Serbian ranks, while Pristina wanted to start them at the lowest level, because the services have distinct hierarchies, and it feared some

¹⁷⁰ The 2010 law (which came into effect in 2013) renamed district courts as basic courts, and converted the old municipal courts into branches of the new basic courts. The presiding judge of each basic court appoints and supervises the branch court judges. In addition, branch courts have no jurisdiction over serious crimes.

¹⁷¹ Interview, KJC member, March 2015

¹⁷² Balkans Group witnessed a Serb factory manager appeal for help from a Kosovo municipal authority, complaining that a Serb was claiming to have bought her factory in a southern court and would have her arrested if she did not turn it over. Leposavić, March 2014.

¹⁷³ Interview, former mayor, northern Kosovo, April 2014.

¹⁷⁴ Almost 70 per cent of Serbs were “dissatisfied” or “very dissatisfied” with Kosovo’s courts according to a recent survey commissioned by the UN Development Programme (UNDP) and made available to Balkans Group; Albanian responses were similar. Only 11 per cent of Serb and 16 per cent of Albanian respondents agreed the “judiciary branch renders its decisions without bias.” Worryingly, Albanian respondents – presumably more familiar with the workings of Kosovo courts – report even higher belief in judicial corruption than Serbs; fewer than one in 100 reported no corruption; most reported large- or medium-scale corruption.

¹⁷⁵ International Crisis Group, “The Rule of Law in Independent Kosovo,” 19 May 2010, p.13. “Active” judges are those who heard cases during the year in question. Bosnia and Herzegovina had 22.1 judges per 100,000 people, and other neighbouring states (Croatia with 40.1, Montenegro with 51) had even more.

¹⁷⁶ 335 judges completed cases in the first half of 2014; Kosovo Judicial Council, “First Mid-Year 2014 Statistics of the Courts,” p.3.

promotions had reflected political rewards for resistance to it rather than police work. A EU compromise was accepted whereby Serbian officers transferred two steps lower in rank.¹⁷⁷

Serbia claims to have 600 employees of its internal affairs ministry in southern Kosovo; Belgrade and the EU pushed Kosovo to hire them, but Pristina refused, arguing that the Brussels Agreement concerns only the integration of police in the North.¹⁷⁸ It says the (illegal) Serb police should be dissolved, and officers are subject to prosecution if they continue working for Serbia on its territory. While the KP as a whole have an admirable record for employing Serbs at all levels, there are still understaffed regions.¹⁷⁹

The police need to work on rebuilding credibility in northern Kosovo that has been damaged by the years of indolence of officers in both systems, corruption and disorder and by a wave of high-level arrests that many locals see as politically motivated. An ex-mayor complains he and his colleagues were denounced as criminals and extremists for organising barricades and resisting integration into Kosovo, while figures long suspected of organised crime are now accepted as key supporters of the Serbian government and its enforcers during Kosovo elections.¹⁸⁰ Local residents complain, “The only thing that has changed with the police [in North Mitrovica] is the uniforms”; the former Serbian police officials are more visible but are just standing around in the same places they used to frequent.¹⁸¹ However, change is visible. The KP patrol regularly, and integrated Serb officers now have tools to enforce order, if they want.¹⁸²

Surprisingly, Pristina and Belgrade made considerable progress on the Civil Defence (*Civilna Zaštita*), in theory an unarmed defence against natural disasters that Pristina views as a paramilitary organisation. The Civil Defence ballooned in numbers and appearance during the Brussels dialogue.¹⁸³ Pristina originally refused talks for its integration and pressed Serbia to dismantle it, as its numbers grew from 400 to 760. An audit found some 150 members close to retirement age and another 100 not Kosovo citizens.¹⁸⁴ Pristina offered places for 450 and plans to distribute them in more than 15 institutions and civil agencies, leaving only 100 members without post in Kosovo system. Belgrade has not ordered them to dismantle and

¹⁷⁷ Interview, adviser in internal affairs ministry, Pristina, September 2014. About 76 civilian employees of Serbia’s internal affairs ministry remain to be integrated, because they were responsible for issuing Serbian documents; EU officials expect them to be hired to issue Kosovo documents. Interview, Brussels, October 2014. On 23 February some of these civilian employees protested in the North, seeking jobs in the KP.

¹⁷⁸ Belgrade previously denied it had police in Kosovo but during that dialogue admitted it was had all Serb KP members on its payroll too.

¹⁷⁹ A local official in Ranilug, for example, complained that the police were about half Albanian, though the municipality was almost entirely Serb; interview, April 2014. A Serb official in Gračanica said the police were generally understaffed; interview, April 2014.

¹⁸⁰ Interview, former mayor, northern Kosovo, April 2014.

¹⁸¹ Interviews, Serb residents, Kosovo municipal officials, North Mitrovica, April 2014. Hundreds of young northern Serbs applied for police jobs in June 2014. Long-serving Serb KP officers said MUP who rejected the KP until recently and have integrated are doing everything to recruit family members. Interview, Jarinje, September 2014.

¹⁸² Citizens describe how new KP enforce order, closing bars at midnight -- a rule not previously implemented -- and intervene in street fighting. Interview, ex-Serbian municipal official, North Mitrovica, June 2014

¹⁸³ Kosovo considers the Civil Protection Service a solely paramilitary group; Serbia considers it a local body responsible for emergencies. The units were mobilised in 2011, fall under the Serbian defence law and are administered by the internal affairs ministry. Originally some 400 members were recruited, with North Mitrovica municipality to pay 120; interview, member of municipal assembly, April 2014

¹⁸⁴ The U.S. rejected plans to integrate them in the Kosovo Security Force. Interview, Pristina, 2013.

integrate. An international official blamed the EU for not having pushed enough, saying the “sides were ready to agree to the details of integration,” and that “a little encouragement and push [are] always needed.”¹⁸⁵ With the goal to speed the process of integration, Pristina promise to hire the other 100 members to work in the four northern municipalities.

The Community of Serb Municipalities

The establishment of a Community of Serb Municipalities is the core of the Brussels Agreement.¹⁸⁶ Almost two years on, little about the Community is clear; even its name is still disputed.¹⁸⁷ Belgrade officials and the new Serb mayors in Kosovo tend to ascribe to it an outsized role as the answer to every question about Serb integration. During the 2013 local election campaign, it was portrayed as a panacea modelled on Bosnia’s Republika Srpska, with the slogan “today we vote for [the] ‘Srpska’ [list], tomorrow we build [Republika] Srpska”. With no construction of the Community visible, however, disappointment is setting in.¹⁸⁸ Pristina sees it as a triviality, much like Kosovo’s existing Association of Municipalities, and worries that anything more could undermine the local self-government system.¹⁸⁹ Some Serbs, left out of the integration process by accident or choice, agree, expecting it to be no more than “a beekeepers’ association” or “a fishing club”, a place to gather and waste time.¹⁹⁰

Executive and legislative authority in Kosovo is divided between the central and municipal levels, while judicial and home affairs form a third, regional level.¹⁹¹ The Kosovo government worries that the creation of the Community of Serb Municipalities may disrupt that balance, hobble the state and increase tensions between Serbs and Albanians. It also fears introduction of a third, ethnically defined level of government increases future risk of partition. Serbs seek just an intermediate entity to insulate them from Pristina and preserve their links with Belgrade.

The integration timetable is unclear. Serbia’s preference is to defer as many hard steps as possible until the Community is in place and then use it as a halfway house to integration; Kosovo wants to establish fully integrated municipalities first.¹⁹² The new government insists that many other agreements need to be implemented before any talk on the Community. These include integration of courts and civil defence, removal of the “peace park” in North

¹⁸⁵ Interview, Pristina, 21 January 2015.

¹⁸⁶ The first six of the Brussels Agreement’s 15 points deal with the Community.

¹⁸⁷ Kosovo officials prefer “Association”, with connotations of a loose, inter-municipality club; Serbs use “Community” to imply a regional body. The EU, with characteristic ambiguity, used both terms in the draft text, alternating their order. In this report, we use “Community” to shorten the text representing Association/Community of Serb majority municipalities but also to distinguish in writing it from the existing Association of Kosovo Municipalities. See Crisis Group blog, “The Kosovo-Serbia Agreement: Why Less is More”, 7 May 2013.

¹⁸⁸ Interview, Serbian official, Gjilan, April 2014.

¹⁸⁹ The Association of Kosovo Municipalities is a coordinating body formed in 2001 and comprising all Kosovo municipalities.

¹⁹⁰ Interview, former Serbian official, Zvečan, April 2014.

¹⁹¹ The KP have eight regional directorates (Pristina, Ferizaj, Gjilan, Mitrovica, North Mitrovica, Pejë, Prizren), and there are seven basic courts (Pristina, Ferizaj, Gjakovë, Gjilan, Mitrovica, Pejë, Prizren); their jurisdictions do not overlap. Each municipality has a police station, and most municipalities host branches of a basic court.

¹⁹² Many local Serb leaders share Belgrade’s preference; interview, Kosovo municipal official, Gračanica, September 2014.

Mitrovica, implementation of the international dialling code and approval of the municipal budgets.¹⁹³ The Albanian and Serb parties in Kosovo's governing coalition signed an agreement promising it would be set up within five months (early May 2015).¹⁹⁴ But the two sides are far apart on several emotionally charged issues. Local observers believe discussions can easily stretch into late 2015.¹⁹⁵

The Community is important because Belgrade and Pristina chose it as the framework for implementation of parts of the Ahtisaari Plan. If all goes well, it will be a part of three related processes: weaning the Serbs from Belgrade and integrating them into the Kosovo system, as Serbia shuts down its network of institutions on Kosovo territory; challenging the government to implement unpopular, neglected parts of the Ahtisaari design on decentralisation, minority rights and ties with Serbia; and helping improve Belgrade-Pristina relations. It is the two governments' unwanted child; for it to survive and grow, its parents must learn to get along.

An unwritten part of the Brussels Agreement – its “spirit” – was that no one would lose a job because of integration.¹⁹⁶ Pristina accepted in principle that officials in Serbian municipal governments would keep their posts (as long as they dealt with local competencies) and simply move to the Kosovo system. They also agreed to find solutions for Serbs in positions without a Kosovo equivalent, such as the civil defence.¹⁹⁷ Kosovo officials argue this “spirit” covers only a transitional period, and applies only to those who live and do real work in Kosovo.¹⁹⁸

The Community's statute was meant to be drafted in summer 2013 and adopted immediately after local elections in November, but none of this has happened.¹⁹⁹ Belgrade marginalised the “management team” of four local Serb representatives charged with drafting it and both governments worked, without coordination, on incompatible drafts. Pristina considers its draft, based on the existing Association of Kosovo Municipalities (little more than an NGO), as close to final. Officials in the office of Serbia's prime minister prepared a draft in secrecy and say they gave their draft for the Community statute to EU officials in Brussels in February 2015, with a view to negotiating its terms with them instead of with Pristina; EU officials deny having received a draft.²⁰⁰ This snubbing of Pristina is the opposite of “normalisation”. Belgrade should negotiate the Community statute directly with the Kosovo government, and with a strong role for the mayors.

¹⁹³ North Mitrovica authorities erected a “peace park” on the main bridge between North and South Mitrovica immediately after the removal of a barricade that had long stood there; the “park” obstructs vehicle traffic. Interviews government officials and Prime minister Isa Mustafa, Pristina, January 2015. The Kosovo government has raised the issue several times and is very sensitive about the “park's” symbolism. They want it removed before dialogue continues, lest it preserve the image of division.

¹⁹⁴ Senior Kosovo government officials believed this timetable was reasonable even before the coalition agreement; interview, Pristina, September 2014. Pristina insists that all parallel Serbian security institutions should be dismantled and the North Mitrovica court established before talks on the Community begin.

¹⁹⁵ Interview, international NGO staff, North Mitrovica, September 2014.

¹⁹⁶ Interviews, international officials, Pristina, September 2014

¹⁹⁷ Interview, international NGO staff, North Mitrovica, September 2014.

¹⁹⁸ Interview, senior Kosovo government official, Pristina, September 2014. The transitional period is the time required to optimize and rationalize municipal payrolls.

¹⁹⁹ “Implementation Plan” for the Brussels Agreement, concluded by the governments of Kosovo and Serbia on 23 May 2013.

²⁰⁰ Interviews, Serbian officials, Gračanica, November 2014 and February 2015; telephone interview, EU official, March 2015; remarks by Serb official, Council for Inclusive Governance roundtable, Istanbul, February 2015.

While some in Belgrade see the Community as highly autonomous, others, equally well placed, describe it as “an imaginary embryo of autonomy”, whose main goal was to convince the Serbs to accept Kosovo institutions. Some of the confusion among Serbs stems from how Belgrade has approached the talks and responded to intense EU pressure. Instead of formulating a clear strategy and making hard choices, Serbian leaders try to put Kosovo issues off as long as they can and then, when summoned to Brussels, tried to find “the least bad” option.²⁰¹ Coupled with delays on integration of municipalities and removal of parallel structures, Belgrade shows signs of unwillingness to advance normalisation; the goal is to slow implementation as much as possible.

Legal foundations

The legal base for the Community is Kosovo law and the Brussels Agreement. From Kosovo’s perspective, as a ratified international agreement, the latter has status as “part of the internal legal system”; those of its “provisions ... which are self-executable are of superior legal order to the legislation of Kosovo, while remaining of inferior legal order to the Constitution”.²⁰² Under the Agreement:

In accordance with the competencies 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.

The formulation combines language from two parts of the Law on Local Self-Government (LSG): municipal *partnerships* (Article 29) and municipal *associations* (Article 32). Unlike associations, partnerships involve exercise of municipal executive power.²⁰³ The Association of Kosovo Municipalities is a non-executive, coordinating body, but by copying language from legislation governing both municipal partnerships and associations, the Brussels Agreement gives the Community the right to draw on both features of the LSG. Specifically, it lets municipalities exercise powers through the Community. The European Charter on Local Self-Government also allows local authorities to associate “in exercising their powers, to co-operate and, within the framework of the law, to form consortia with other local authorities in order to carry out tasks of common interests.”²⁰⁴

As a form of partnership, the Community would be “entitled to direct relations with institutions in the Republic of Serbia,” but only insofar as necessary; such relations can

²⁰¹ Interviews, senior Serbian officials, Belgrade, April 2014.

²⁰² Kosovo Constitutional Court, judgment, case no. KO 95/13, 9 September 2013, para. 52. EU officials believe the Brussels Agreement already provides guarantees for this reason. Interview, Brussels, October 2014. Kosovo officials regret having ratified the agreement, “we should have passed it only if Serbia was doing too ... ratification was the only way to share responsibility for a painful decision that was impossible for PDK to carry alone”. Interview, senior PDK member, Pristina, March 2015.

²⁰³ “Municipal responsibilities ... may be exercised through municipal partnerships”, which may “take all actions necessary to implement and exercise their functional cooperation”; Law on Local Self-Government [LSG], Articles 29.1, 29.3. See also the Law on Inter-Municipal Cooperation (04/L-010).

²⁰⁴ “European Charter of Local Self-Government Article 10 (1), Council of Europe. The explanatory report to the Charter notes this provision is meant to cover “cooperation ... on a functional basis with a view to seeking greater efficiency through joint projects or carrying out tasks which are beyond the capacity of a single authority. Such co-operation may take the form of the creation of consortia or federations of authorities.”

include “financial and technical assistance, including expert personnel and equipment.”²⁰⁵ Cooperation agreements and projects are subject to government scrutiny, and neither the municipalities nor Community may delegate their responsibilities to a foreign body, nor give a foreign entity the right “to exercise any executive, administrative, legislative power”.²⁰⁶ In practice, much “cooperation” with Serbia is likely to consist of receiving money from the budget, corresponding to part of what Belgrade has been spending to maintain its network of institutions on Kosovo territory, partly redirected to fund projects for the people’s interest administered by the local authorities.²⁰⁷

The Law on Inter-Municipal Cooperation lists several forms through which municipalities can work together: administrative and working bodies; public institutions and enterprises; and joint public-private partnerships (Article 9.1). This is not an exhaustive list of what municipalities can do through the Community. Working bodies are tasked with “reviewing certain matters” under municipal competencies, with “rights and obligations ... regulated by agreement” (Article 10). Administrative bodies “carry out the professional and administrative work for which [they were] established”; they have a head and staff, a budget and a seat (Article 11). Public institutions deal with “education, health, culture, social protection and other activities under own and extended competencies”; they have a name, seat, finances, leading body, manager and supervisory body (Article 13).

Individual municipalities can assign a mandate for some responsibilities to another municipality, but the law should be amended to permit this also to the Community. That would allow Albanian-majority municipalities to give the Community responsibility to provide Serbian-language schools and other services, if they so choose. Enclaves adjacent to a Serb-majority municipality can lean on the latter’s services, but it may be sensible to service more isolated enclaves from a single point of contact in the Community.

The Brussels Agreement says the new Serb Community “will be established on the same basis” as the Association of Kosovo Municipalities. Its statute is a good example of what the Serbs’ Community could do. It has the status of a legal person, so can buy, own and sell moveable and immovable property, initiate and appear in legal cases (Statute of AKM, Articles 2.1, legal subject). It can receive funds from municipalities, the central government or abroad (Article 6.1.3); found and operate public institutions (eg, theatres, academies), open representative offices abroad (Article 3.2.8) and adopt its symbols (4.14.8). It has two main leadership bodies: an Assembly of members delegated from member municipalities, a Council of Mayors, a rotating president and a deputy and several other officials and informal bodies.

The Brussels Agreement also provides that the Kosovo “central authorities” can delegate additional competencies to the Community (Article 5).²⁰⁸ Though the government currently has no such plans, it is committed to the possibility, which has financial implications. Under Kosovo law, “delegated competencies must in all cases be accompanied by the necessary

²⁰⁵ LSG, Articles 30.7, 30.2. This provision is missing from the Law on Inter-Municipal Cooperation, which only provides for cooperation with “foreign municipalities and institutions of local government”, Article 18.1. This article should be amended to be consistent with the LSG and the Ahtisaari Plan.

²⁰⁶ Law on Inter-Municipal Cooperation, Article 18.3.

²⁰⁷ “Grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction,” European Charter on Local self-government, Article 9.7.

²⁰⁸ The Agreement does not specify which country’s “central authorities” are meant, but an EU official involved in the talks argued that this provision refers only to the Kosovo government; interview, Brussels, October 2014.

funding.”²⁰⁹ It may be necessary to amend the laws on public finance and management to allow the Community to receive funds directly from the central authorities for this purpose.

The Community should not be considered an NGO. As an inter-municipal organisation established by the law and an international agreement, subjecting it to the regulations for NGOs would make little sense. The LSG includes a clause allowing the Community, as an inter-municipal partnership, to “take all actions necessary to implement and exercise ... functional cooperation”.²¹⁰ This clause (and the “full overview” and delegation provisions) could give it room to adapt to evolving Serb needs. Its final form is likely to require trial and error.

To summarise, Kosovo law and the Brussels Agreement may allow the Community to:

- set up administrative bodies, with staff and budget;
- found public institutions in areas such as education, health care and culture;
- own, buy and sell property;
- open representative offices abroad;
- enter into contractual relations and appear in court;
- exercise such powers and responsibilities of its member municipalities as are allowed by law, and such other competencies as the central authorities delegate;
- establish public and joint public-private enterprises;
- Employ staff in advisory, administrative, managerial and other capacities on permanent or limited-term contracts;
- receive funds from members, the central budget, donors and Serbia; and
- host expert personnel and other resources from Serbia.

Whatever forms the Community takes should be flexible and voluntary; all ten Serb-majority municipalities are likely to join, but each member should be free to opt in or out of cooperation in specific projects.

The architecture of the Community

Though sold to the Serbs as a Bosnian-style entity to insulate them from Pristina, and to Kosovo as a NGO, the Community must be pragmatically rooted within Kosovo’s legal order. There are three ways in which it can be more effective than Pristina or the individual municipalities. Serbs can use its forums to hammer out consensus positions, coordinate policy and increase their leverage. Member municipalities can gain economies of scale by exercising common responsibilities jointly through it. A third task, at least for a few years, may be to ease the transition to sustainable employment in Kosovo by assisting employment projects for some workers made redundant when Serbia’s institutions close and helping developing projects that generate jobs and revenue.

Its political role may be more important than its legal position or formal powers. A Serbian official involved in its establishment saw its most vital task as facilitating the “cohesion of Serb representatives” in Kosovo. Pristina hates this but accepts it as long as the Community

²⁰⁹ LSG, Article 18.3.

²¹⁰ LSG, Article 29.3; the Law on Inter-Municipal Cooperation does not contain this language, which is taken from the Ahtisaari Plan.

operates in line with Kosovo law. The Community can house a forum for Serb leaders at all levels to meet and formulate policy and strategy on issues of urgent common interest.²¹¹

Belgrade's idea is to use the Community to give Kosovo Serbs greater political weight, "teeth in dealing with Pristina."²¹² A leader of the Srpska citizens' initiative expressed a similar point: Pristina understands "when we say no, it is Serbia saying no."²¹³ Yet the crisis over the Trepça privatisation and Aleksandar Jablanović's resignation shows that Belgrade's support is often dangerous and drives local Serbs into fighting with Albanians. If the majority sees the Serbs acting as agents of Serbia, tensions are bound to grow. Belgrade should be supportive without provoking and step back as soon as possible and allow home grown representatives to take the lead.

The Community should also be a conduit connecting local leaders and capitals, supplementing weak institutional ties. It can help local and community leaders press their agenda with representatives in the parliament or government. Municipal Serb leaders used to deal with the Kosovo government via the mediation of international officials and party colleagues, but those links are fraying and snapping.²¹⁴ While no single entity is likely to take over the role of the SLS, which was a bridge between Pristina and the Serb enclaves, the Community can help local officials keep abreast of relevant developments in central government ranging from funding opportunities to new regulations.

In national politics, the Community's role is less clear. The Brussels Agreement speaks of "full overview" of four key areas.²¹⁵ Some Serbian officials construe this as also including a role in central institutions in Pristina and say ex-EU foreign policy chief Catherine Ashton emphasised the importance of this.²¹⁶ There is no basis for that in Kosovo law. Local Serbs hope rather that the Community will insulate them from Pristina and block unilateral encroachments on municipal rights.²¹⁷ While there is no consensus on the meaning of "overview", other Serbian officials believe it will amount to supervision of member municipality affairs.²¹⁸ Since the Community is the creation of its members and derives its powers from them, it can serve as their advocate in Pristina and as monitor of implementation with respect to agreed policies.

Functionally, the starting point should be the observation that nothing in the Brussels Agreement expands the scope of Ahtisaari Plan provisions for the Serb community's rights. It is about rearranging existing provisions of Kosovo law, founded on the Ahtisaari Plan, to make them more effective. The Community will have no unique powers, but will be the

²¹¹ Mayors, ministers, party leaders and perhaps other prominent individuals should all participate, and depending on the issue, religious leaders, businessmen, union leaders and civil society representatives should be invited to contribute. It should not undermine democratic development of the community and diversity of ideas and political entities but focus on development, policy setting and sustainability for the community.

²¹² Interview, senior Serbian official, Belgrade, 14 April 2014. Some local leaders also value this consensus-setting role; interview, mayor of Serb-majority municipality, Pristina, April 2014.

²¹³ Interview, Leposavić, September 2014.

²¹⁴ For the mediation role of the International Civilian Office (ICO), see Crisis Group, "Setting Kosovo Free," *op. cit.*, p. 11.

²¹⁵ Brussels Agreement, 19 April 2013, point 4. The four areas are economic development, health, education and urban and rural planning.

²¹⁶ Interview, senior Serbian official, Belgrade, April 2014.

²¹⁷ Interview, Kosovo Serb leader, Gračanica, April 2014.

²¹⁸ Interviews, senior Serbian officials, Belgrade, Serb officials in Kosovo municipal institutions, April 2014.

organ through which certain municipal (and perhaps central) powers are exercised. The guiding principle should be that it exercises those powers that relate to common Serb interests and are best handled in one place, while the municipalities deal with local matters. For each of these areas, the Community should set up collegians or departments, whose heads would compose the executive council under the overall direction of the Community's president and assembly. Possible departments include:

- Local and regional economic development: the Community should develop, promote and coordinate projects. Many smaller municipalities lack skilled staff to prepare documentation and will struggle to devise attractive projects.
- Education: the Community should supervise the Serbian-language school system and the Mitrovica University.
- Health care: the Community should supervise health care for Serbs.
- Human rights: the Community should aid Serbs whose rights have been violated, including those outside its member municipalities. It could provide pro bono legal services and language help and take cases to central executive and judicial institutions.
- Social welfare: the Community should offer services including re-training, job placement, social welfare, etc.
- Culture: the Community should establish institutions, including theatre and cinema, and support Serbian Orthodox Church sites (LSG, Article 22).
- Finance and Administration. Member municipalities can receive money from Serbia through a commercial bank registered in Kosovo with notification to the treasury. The municipalities can set aside part or all of those funds for the Community (Ahtisaari Plan, Annex III, Article 11.1.2).
- Public services and utilities: the four northern, and perhaps the eastern municipalities, should establish public enterprises for "water supply, sewers and drains, sewage treatment, waste management, local roads, local transport and local heating" (LSG, Article 17.1.f.)

Education and health care are by far the most important of these common interests, so should be the Community's focus. All ten Serb-majority municipalities have similar interests in them. Kosovo law assigns management of secondary health care to only three municipalities, and the university only to North Mitrovica, and the government refuses re-organisation of these municipal powers.²¹⁹ But the Brussels Agreement and other Kosovo law allow municipalities to cooperate in the exercise of their powers, including these enhanced powers.²²⁰ The Community can most effectively supervise or manage institutions of general importance like the university and the health centre in North Mitrovica. There is no need to require all ten municipalities to submit the same Serbian curriculum to the education ministry. The municipalities should jointly decide on the location of future specialised health and education facilities. Most such duties now fall to Serbia's education and health ministries, which should transfer them to the municipalities along with funds and experts.²²¹

²¹⁹ Interviews, MLGA and senior government officials, Pristina, September-December 2014.

²²⁰ Art. 19.3 of the Law on LSG provides that "municipalities exercising enhanced municipal competences may cooperate with any other municipality in providing services."

²²¹ Municipalities in Serbia are responsible for setting up primary schools and clinics but not for hiring or managing their staff; Serbian LSG, Article 20.

The Brussels Agreement also gives the Community “full overview” of economic development policy and rural and urban planning. Local economic development is better handled at the municipal level, but the Community is a good place to organise regional development projects. In some cases this should bring in non-Serb majority municipalities. Five of the six southern Serb municipalities already participate in the “East Region” tourism project with six Albanian-majority neighbours.²²² The Community might also cooperate with municipalities in Macedonia, Montenegro and Serbia, for example by sponsoring an annual development-project contest.²²³ Rural and urban planning are local issues par excellence, and it is unclear why the parties gave the Community a role.

Locals have more prosaic hopes, particularly that the Community absorbs most or all of Serbia’s institutions and employees. The Serbian government is the employer of first (and often last) resort for Kosovo Serbs -- the array of jobs is described below. Some can be transferred to the Kosovo budget but many cannot. Some useful posts have no parallel in the Kosovo system.²²⁴ Serbs fear a sudden loss of government work would decimate their community and look to the Community to take up the slack. In one version, municipalities would take money from Belgrade and hire staff to work in their municipalities, leaving it to the mayors to decide at what.²²⁵ Serbian officials doubt the Community will get enough resources to take over all current Serbian funding, and painful decisions would still have to be made.²²⁶

Serbian employment in Kosovo has roots in Belgrade’s response to its loss of control in 1999 and to independence in 2008; it is designed with political goals rather than efficiency or sustainability in mind, but most Kosovo Serbs rely on it, and if Serbian institutions were to close quickly, there would be massive job loss and possibly emigration. Albanian-owned companies are reluctant to hire Serb workers or contract with Serb-owned companies.²²⁷ Serbs are still largely excluded from most Kosovo public sector jobs in the major publicly owned companies. This could be a humanitarian issue in any circumstances, but especially damaging if it were to coincide with the attempt to reconcile Serbs with independent Kosovo’s institutions. Serbs need time to wean themselves from government jobs, to find new posts and set up new businesses.

The Community can play a useful humanitarian role in this. The Kosovo government wants Serbian institutions to close quickly for political reasons, because they violate its sovereignty. As it closes them, Serbia could transfer funding to the corresponding municipalities and institutions, which could take over workers who cannot easily find other jobs. Where this is not possible, staff permanently living in Kosovo and without a salary in Kosovo institutions could be temporarily employed by the Community on projects funded through it. Pristina considers it impossible for the Community to employ people outside its organs but it could coordinate and help municipalities develop projects that would at least temporarily engage staff left outside the transition scheme.

²²² See tourismeast.org.

²²³ LSG, Article 30. No Serb-majority municipality is adjacent to Albania.

²²⁴ Interviews, member of Kosovo Assembly, Pristina; Serb official, Gračanica, April 2014.

²²⁵ Interview, mayor of Ranilug, Pristina, April 2014.

²²⁶ Interview, Serbian official, Belgrade, April 2014.

²²⁷ However the number of Serb-owned companies has increased in recent years. Business registry in Gračanica has doubled in 2014. A Pristina based accountant works for three Serb companies from Gračanica and several of mixed (Serb and Albanian owned) trade companies in the territory of Fushë Kosovë. Interviews, trade ministry official and accountant’s office, Pristina, February 2015.

Making it happen is a complex process and requires lots of advance work, patience and negotiations. If done wrongly it may increase tensions between the communities. Pristina and Belgrade should involve the Serb mayors and a broad spectrum of central and local institutions and community leaders. The implementation of the Brussels Agreement's provisions on the Community, policing and the rule of law – all focused on the local level – should go hand in hand with measures designed to integrate Serbs at the central level. The establishment of the Community should not draw Serbs away from central government institutions in Pristina.

The Spectre of Secession

Some features of the Community make it look like a third layer of government interposed between the municipalities and the central authorities. This would cross all the red lines Pristina draws around the decentralisation process and provoke Kosovar public opinion.²²⁸ The spectre haunting discussions of the Community is Bosnia's Republika Srpska (RS), but the main fear comes from Belgrade's traditional policy of trying to divide Kosovo and separate Serbs from Albanians.²²⁹ This fear grew during the negotiation. Albanians felt they were giving concessions for nothing, without diplomatic recognition getting nearer. Officials worry that in "endless" talks Serbia will always ask for more.²³⁰ In Pristina and many capitals, RS is a byword for separatism, an overgrown autonomy that threatens to kill its host state. The Kosovo reality is more nuanced.²³¹ The Serb position there as a small minority living in scattered enclaves is very different from Bosnia, where Serbs are more than a third of the population, with half the territory.

Diplomats say the Community will be nothing like RS.²³² Local Serb leaders still think of RS as a reference point, though they disagree on whether to aim for it. Some believe the Community will eventually be a "small RS".²³³ Others, sensitive to the Bosnian entity's international disrepute, avoid the comparison.²³⁴ "We are not interested in state powers like monetary policy or foreign affairs, but we need regional powers like you have all over Europe," said an experienced local Serb leader.²³⁵ Kosovo politicians fear the Community will be a seed from which a greater Serb status will grow.²³⁶ Ensuring that discussion on the Community's role and Serb rights is balanced with normalisation of bilateral relations between Kosovo and Serbia will do much to allay Pristina's fears and reduce tensions.

Belgrade imagines the Community growing into a European region, though a discontinuous one. It cites as guidelines the draft European Charter on Regional Self-Government, along with the European Charter on Local Self-Government explicitly mentioned by the Brussels

²²⁸ During the Ahtisaari talks, these red lines were "(1) no authority from Belgrade in Serb-majority areas; (2) no separate Serb entity in Kosovo; and (3) no third-layer of government". "Kosovo status: Serbs and Kosovars draw redlines on decentralization, status issues", U.S. Embassy Vienna email (unclassified), 24 March 2006, made public by Wikileaks.

²²⁹ For a comparison of RS and the ZSO, see Appendix B below.

²³⁰ Interviews, Kosovo Assembly members, Pristina, 2014.

²³¹ Crisis Group, "Bosnia: What Does Republika Srpska Really Want?," 6 October 2011.

²³² Comment by senior EEAS official, conference on Kosovo and Serbia, Oxford, January 2014.

²³³ Interview, Serb leader, North Mitrovica, April 2014.

²³⁴ Interview, senior Kosovo Serb leader, April 2014.

²³⁵ Interview, member of management team, Leposavić, November 2013.

²³⁶ Interviews, senior members of Kosovo government and civil society, Pristina, September-December 2014.

Agreement.²³⁷ The Council of Europe's Reference Framework for Regional Democracy defined regional self-government as:

the legal competence and the ability of regional authorities, within the limits of the constitution and the law, to regulate and manage a share of public affairs under their own responsibility, in the interests of the regional population and in accordance with the principle of subsidiarity.²³⁸

The framework also calls on regional authorities to observe "federal loyalty". Since regional autonomy is "liable to endanger the structure of the State", regional authorities must "observe "federal" loyalty and, when exercising their powers and responsibilities, refrain from taking steps that can jeopardise the overall structural balance and harm the interests of other component entities."²³⁹ Belgrade and Serbs like to think of the community as a regional authority that will insulate them from the rest of Kosovo, and will function as a virtual branch of the Serbian state within the territory of Kosovo. But the Community under Kosovo law and the Brussels Agreement is not designed to be a regional authority, and Pristina is determined not to allow it to endanger the state.

The Serbian legal order after the Brussels Agreement

Serbia plans to pass a constitutional law on the Brussels Agreement, a step that risks derailing normalisation and harming the interests of the Kosovo Serbs. From a Serbian lawyer's perspective, Kosovo government institutions do not exist. They govern territory Serbia's constitution defines as Serbian yet are entirely outside the republic's legal framework. There is no legal way for a government official to interact with her counterpart in Kosovo. Belgrade employed a series of improvisations to get around this legal gap but none of them offer a lasting solution. The problem will only get worse as normalisation proceeds and asks for greater engagement. Its courts have overturned a number of government decrees, while the government presses them not to rule on others. Senior officials admit that what they are presently doing "openly violates the [Serbian] constitution, which recognises the "autonomous province of Kosovo and Metohija", and the Constitutional Court could strike down much or all of the Brussels Agreement.

The best and simplest solution for Serbia is recognition of Kosovo's independence. This step would have many benefits for Serbia and Kosovo's Serbs and the region and some senior leaders have contemplated it.²⁴⁰ Yet Belgrade shows no signs of moving toward recognition, an act that would require it to hold a constitutional referendum.²⁴¹ The second best solution is the kind of de facto recognition practised by West Germany in the 1970s and 1980s, and by

²³⁷ The European Charter on Regional Self-Government is not in force, but the Committee of Ministers of the Council of Europe adopted it as a guideline at its 2009 Utrecht meeting. E-mail communication, senior Council of Europe officials, June 2014.

²³⁸ Council of Europe, "Reference Framework for Regional Democracy," 2011, p.15.

²³⁹ *Ibid.*, p.14 n.3.

²⁴⁰ The argument in favour of recognition is beyond the scope of this report. Briefly, recognition would free Serbia of the enormous EU pressure exerted on Pristina's behalf, which is designed to even the playing field and compensate for non-recognition. It would also disperse much of the suspicion of Serbian intentions; allow talks on all disputed issues to develop openly; and bring into effect instruments of international mediation such as the International Court of Justice and the European Court of Human Rights (to which Kosovo Serbs have no recourse).

²⁴¹ A referendum is required on amendments pertaining to the preamble, principles of the constitution, human and minority rights and freedoms, and several other matters. Art. 203(7).

Ireland before the Good Friday agreement. Following that model, Serbia should accept the Kosovo government is in all respects the sole legitimate authority on Kosovo territory, and agree to cooperate fully with its institutions, while maintaining a theoretical constitutional claim to its territory. Belgrade feels no pressure to do this either, at least in the near term.

In the absence of better solutions, Serbia's legislature will have to resort to some type of legal route to authorise and legalise the acts required by the Brussels Agreement. As soon as possible, it should ratify or otherwise adopt the Brussels Agreement.²⁴² Belgrade should keep several goals in mind. It must not assert authority over Kosovo, Serb officials in municipalities, in the Community or in other institutions. It should not claim to transfer any authority to Kosovo, but rather withdraw all its authority from Kosovo and cooperate with the latter as with any other neighbour. The overriding goal is to allow Serbs to live and work within the Kosovo system while enjoying their rights as Serbian citizens, and to enable normal communications between institutions of the two states.

Plans for the constitutional law may take a dangerously wrong turn in seeking instead to make the Community its linchpin. After "everything is agreed on the association," Belgrade plans to enact a law transferring to the Community the powers it has today over the Serb community and the property it owns in Kosovo, and carving out a place for the entity in its constitutional order.²⁴³ In this scheme, much of the Belgrade-Pristina relationship would be channelled through the Community as the sole institution formally recognised by both. This plan is against the Brussels agreement and the spirit of normalisation, which is that Serbia respect Kosovo's jurisdiction over its whole territory. The Kosovo government cannot accept any formal Serbian role on its territory, and Belgrade's intentions may violate Kosovo laws too. Some EU member states have asked it to change its constitution, remove Kosovo from its law and territorial organisation.²⁴⁴ Kosovo officials will not recognise any Serbian claim over the Community. Tarring Serb officials in Kosovo with the brush of double loyalty will make their task, already a challenging one, close to impossible.

While Belgrade accepts the Community will live under Kosovo law, some Serbian officials are developing more far-reaching and provocative plans to define it as virtually a third, Serbian autonomous province, according to the Serbian constitution's chapter on territorial organisation.²⁴⁵ The Serbian government could then enforce "all necessary laws" in support of the Community: "we will have third autonomous provinces in our constitution."²⁴⁶ Advocates of this approach see the Brussels agreement's provisions on the Community as entirely compatible with the Serbian constitution's articles on autonomous provinces.

²⁴² Unlike Kosovo, whose assembly ratified the Brussels Agreement, Serbia has until now been implementing that document through government degrees. Its parliament merely took note of the government report on the first agreement reached with Pristina.

²⁴³ Constitutional law meant to enforce amendments of the Constitution and is out to be adopted by two-third of deputies, Article 205.

²⁴⁴ In a non-paper, the UK and Germany asked Serbia to fully implement the Brussels agreement before it could open talks on chapter 35 of its EU accession negotiations. The non-paper included a draft statute for the Community in line with the Kosovo law, implementation of the agreement on telecoms and energy, construction of permanent border posts, recognition of Kosovo passports, and other matters. *Večernje Novosti*, 9 December 2014 (online). In a second non-paper, Germany asked for constitutional reform once Serbia opened talks on chapter 35; "Nemci nam brišu Kosovo iz Ustava?" [Germans remove Kosovo from our constitution?], *Večernje Novosti*, 10 December 2014 (online). Interview, Serbian official, December 2014; remarks at a Council for Inclusive Governance roundtable, Budva, December 2014.

²⁴⁵ Interview, Serbian government official, Gračanica, March 2015.

²⁴⁶ *Ibid.*

There are some parallels between the Kosovo and Serbian systems, though Serbia's is more centralised. Autonomous provinces in Serbia may "regulate the matters of provincial interest" in many of the same fields that Kosovo assigns to its municipalities, and in which they may cooperate through the Community.²⁴⁷ As in Kosovo, the Serbian government can also delegate competences to local authorities.²⁴⁸ Autonomous provinces may adopt symbols and manage provincial assets in the manner.²⁴⁹ Unlike the Community, Serbian autonomous provinces have assemblies with legislative authority.²⁵⁰

Belgrade plans to pass a constitutional law transferring all its authority over Serb municipalities to the community (autonomous province in their system).²⁵¹ This would have the consequence of endowing Community officials with powers in the Serbian administrative system, and would create a powerful motive to maintain a system of parallel institutions. Such a constitutional measure would very likely fall afoul of Kosovo laws. This dangerous step would create more problems than it would resolve. A Pristina senior official said that while Pristina may do little to block Serbia from passing a constitutional law, it will ensure that the Community acts strictly within the administrative rights Pristina will give it.²⁵²

Some local Serbs care little about Serbia's claims over Kosovo and want constitutional arrangements for practical reasons. "The Community should be constitutional in both Kosovo and Serbia: in Kosovo to secure that no Albanian government can dismiss it, and in Serbia to ensure any future Serbian government cannot abandon us and will continue to fund the education, health and other services Kosovo Serbs need".²⁵³

Vital Issues

Education and health care

For most Serbs nothing is more important than Belgrade-provided education and health care. "I will eventually accept to integrate, but I cannot send my kids to an Albanian school or Albanian doctor", a moderate young Serb parent said.²⁵⁴ Serbs consider education in the Serbian language and curriculum essential to their children's future. Belgrade officials claim that Kosovo's former prime minister, Hashim Thaçi has promised his counterpart, Aleksandar Vučić, to allow health and education to stay in the Serbian system. Pristina officials warn of a misunderstanding, saying they mean to integrate the sectors in the Kosovo system but may allow Serb pupils to have Serbian curriculums and Serb-majority municipalities to exercise their enhanced powers on health care free from interference and

²⁴⁷ Article 183 of the Serbian constitution lists the competences of autonomous provinces, including: urban planning and development; agriculture, water economy, forestry, hunting, fishery, tourism, catering, spas and health resorts, environmental protection, industry and craftsmanship, road, river and railway transport and road repairs, organising fairs and other economic events; education, sport, culture, health care and social welfare and public informing at the provincial level.

²⁴⁸ Constitution of Serbia, Art.178.

²⁴⁹ *Ibid.*, Art.183.

²⁵⁰ Article 180, 185

²⁵¹ Interview Serb legal official, Gračanica. March 2015

²⁵² Interviews, Pristina, Brussels, September-November 2014.

²⁵³ Interviews, Serb officials from Central Kosovo, Gračanica, April 2014.

²⁵⁴ Interview, North Mitrovica April 2014.

with funding from Belgrade.²⁵⁵ The distinction worries Serbs. Problems with early agreements on recognition of diplomas further damaged trust.

The education and health sectors not only provide important services. They also form the largest job pool for Serbs, including professionals, in Kosovo.²⁵⁶ Teachers and doctors are the only Serb employees who still receive a bonus, earning 150 per cent of the basic Serbian salary.²⁵⁷ The education system for Serbs is an integrated whole run by the ministry in Belgrade, with the parallel municipalities responsible only for kindergarten and transportation of pupils.²⁵⁸ Kosovo law assigns responsibility for education up to the secondary level to municipalities; North Mitrovica is also responsible for university education. No Serb-majority municipality has experience with administering schools, and their staffing norms are different from those of Albanian-majority municipalities. The scattered Serb population needs more teachers per student; and school jobs have been handed out through local political connections. In Koretište (Novo Brdo), for example, about 25 teachers educate about 100 students.²⁵⁹

Kosovo's main concern is that schools on its territory are properly registered, with teachers appointed by local authorities; Belgrade is interested in the curriculum and links to institutions in Serbia. Yet, many in the Kosovo government fear that Belgrade will use health care and education for political ends, including mobilising against integration. Debates over adoption of municipal budgets showed that the issues are as complex as any others. Instructed by Belgrade, Serb mayors refused to include education and health in their budgets, arguing that they would become the Community's responsibility.²⁶⁰ Pristina is furious and rejects any role for the Community to administer municipal competencies, insisting that it would be unconstitutional and that these areas belong to municipal powers and should be exercised via local administrations.²⁶¹

Curricula are a particular issue, not because it comes from Belgrade, or because of what is in their books. Kosovo and Serbia apply two different schooling systems. Kosovo pupils start school at six years old, Serbs at seven. The Kosovo system has nine years of primary and three years of secondary school, while Serbia has eight and four years. Serbian curricula need modification to gain accreditation in Kosovo and officials warn that the existing Serb curricula may not be accredited.²⁶²

The North Mitrovica University presents a unique challenge, in part because it was omitted from the early technical dialogue on recognition of university diplomas. Its graduates thus

²⁵⁵ Interviews, Belgrade and Pristina officials, September-December 2014.

²⁵⁶ Belgrade officials refused to provide exact data on the number of salaries paid in these sectors.

²⁵⁷ They are also compensated for travel expenses. Interviews, local Serb official, 15 January 2015.

²⁵⁸ Interviews, MLGA officials, Novo Brdo; Ranilug and Parteš officials, September-December 2014. Ranilug municipality, whose schools are not integrated, gets salaries for 140 teachers. Serb teachers are allocated their proportionate share but also receive a full Serbian salary. Parteš has a budget for almost 200 education jobs.

²⁵⁹ Kosovo law envisages favourable teaching quotas for minority pupils. The designated teacher-student ratio for elementary and secondary education is 1:21.3 in Albanian-majority schools and 1:14.2 in minority schools. Administrative instruction no. 22/2013, Kosovo education ministry, for "maximum number of students per class and teacher-student ratio".

²⁶⁰ Interviews with Serbian officials, Belgrade, Gračanica, April-October 2014.

²⁶¹ Interviews, Pristina government officials, December 14-January 2015

²⁶² Interview, ministry of education official, Pristina, February 2015.

cannot compete for jobs requiring diplomas in Kosovo.²⁶³ The issue should be a priority, but the real challenge for the university is its sustainability. Some 8,000 students from Kosovo, Serbia and Montenegro are registered, but only a few thousand take classes; 90 percent of the professors commute between Kosovo and Serbia.²⁶⁴ Classes are in the evenings or compressed into a few days. The university cannot function without persistent support from the Belgrade government and Serbian universities. Ideally it would be accredited in both systems, allowing graduates to pursue careers in either country. Students recommend the university issue double diplomas.²⁶⁵ Other models might be explored, such as registration as a private university, though that could be problematic, as neither government has legal authority to fund private education.

In the technical dialogue Pristina and Belgrade agrees to issue diplomas without state insignia, carrying only symbols of the universities, but the agreement on mutual recognition of diplomas is also fraying, with graduates reporting unanticipated roadblocks. A frustrated aspiring lawyer from eastern Kosovo who wanted to pass the Kosovo bar exam complained: “The agreement is not good if I can’t realise my rights”.²⁶⁶ Kosovo and Serbia’s education ministries need to resolve the diploma issues through direct contacts and with help from EU and other international actors.²⁶⁷

Serbs throughout Kosovo frequently raise the issue of access to Serbia’s health-care system. It is an integrated system of insurance, with three main levels: primary-care clinics all over Kosovo; medical centres offering a more comprehensive array of secondary-care in Gračanica, North Mitrovica and Štrpce; and tertiary care centres outside Kosovo for the most complex cases. Ordinary Serbs and many Albanians avail themselves of it, notably its seamless links between local doctors and advanced care in Belgrade. It is the system as a whole, not only its Kosovo branches, that people need.²⁶⁸

Serbia’s health ministry administers most of the system, with local Serbian officials handling a few services such as maternity care.²⁶⁹ Under Kosovo law, municipalities are responsible for primary care, while Gračanica, North Mitrovica and Štrpce have “enhanced competencies” in secondary care.²⁷⁰ No Serb-majority municipality has staff experienced in health-care management. The largest medical centres dwarf their home municipalities; with about 1,500 staff, the North Mitrovica centre employs more than seven times as many as the Kosovo and Serbian municipal administrations combined. The sector suffers from the overstaffing of all

²⁶³ The agreement on the recognition of diplomas was signed in November 2011. SPARK, a Netherlands-based NGO is to certify diplomas on behalf of the Association of European Universities (AEU). Pristina initially planned to include North Mitrovica diplomas but decided not to do so in response to Belgrade’s decision not to recognize diplomas issued by the Kosovo university before 1999.

²⁶⁴ Interviews, university officials, civil society and international NGO members, Mitrovica, March-April 2014

²⁶⁵ The American University in Kosovo is accredited in Kosovo and issues double diplomas, from the University of Pristina and Rochester Institute of Technology in the U.S.

²⁶⁶ Interview, Gjilan, April 2014. The would-be lawyer’s application was rejected because the NGO charged with facilitation misunderstood Serbia’s accreditation procedure; by the time the applicant learned this, SPARK’s contract had expired.

²⁶⁷ Diploma dialogue has complications beyond Kosovo territory. Albanians from southern Serbia’s Presheva valley need recognition of Kosovo issued diplomas. Thousands of young Albanians obtain Kosovo diplomas. Their problems are similar and in some cases worse, to the northern Serbs.

²⁶⁸ Numerous interviews, Serb officials and citizens throughout Kosovo, April-December 2014.

²⁶⁹ Interview, Serbian municipal official, Gračanica, September 2014.

²⁷⁰ Gjilan, Ferizaj, Prizren, Peja and South Mitrovicë south also have secondary health-care responsibilities.

Serbian institutions in Kosovo, but a sudden transition would be debilitating; Kosovo's 2015 framework budget has money for only 225 health-care jobs at the North Mitrovica centre.²⁷¹

Health care can become an important part of the Serb economy in Kosovo. The Kosovo system is poor. Many Albanians go abroad for treatment, often to Skopje, but some access the Serbian system locally or in Belgrade. The new Gračanica leadership plans to attract investors to open foreign-owned specialised centres and medevac facilities. Kosovo law allows this: Turkish- and Macedonian-owned facilities have opened in recent years. Belgrade-based doctors, some from the highly-regarded Military Medical Hospital, visit Gračanica regularly to do operations.²⁷² Serbs from eastern Kosovo go to Vranje for medical treatment. Others use the North Mitrovica centre; few visit the Albanian hospital in Gjilan.²⁷³ Though they live only 50-60km from Štrpce and Gračanica, a clinic was built in Parteš.²⁷⁴ To optimise services and cost, Serbs should consider more coordination and specialisation. For example, Štrpce might concentrate on orthopaedics and trauma, Gračanica, drawing on prominent doctors living nearby, on cardio and internal medicine. This is a role for the Community.

Conclusion

Kosovo and Serbia have made tangible progress. A peaceful transition of northern Kosovo from Serbia to Kosovo jurisdiction is slowly taking place. Two rounds of Kosovo elections have brought new Serb leaders into parliamentary and local offices. Serbs also hold important government posts. This has been accomplished through epic negotiation sessions hosted by the EU, lending the process some drama. But implementation of the Brussels Agreement has lagged badly since March 2014. The next steps will be taken on the ground; they will be messier and more demanding. The Brussels talks created a historic opening, but the success or failure of normalisation between Pristina and Belgrade, and of Serb integration in Kosovo, depend on countless small decisions yet to be taken. It is vulnerable to things like the ongoing Serb boycott. This report is the first attempt to map these vital tasks in detail.

Kosovo and Serbia's leaders should use 2015 to complete the integration of Serb institutions and resolve related issues, including those left over from previous rounds of dialogue. Both governments should make this a priority, allocating political capital and funds to the process and charging ministries to coordinate multi-sector efforts. For Kosovo, success will consolidate the state, strengthening its institutions and respect for rule of law by and for majority and minorities alike. It would gain thereby further international respect and advance both its EU agenda and relationship with Serbia. For Serbia, progress means an escape from the circle of efforts to achieve its goals by frustrating and bypassing Pristina – a strategy that has a perfect record of failure. Integration would bring real benefits to Serbs on the ground, while allowing Belgrade to focus on its own problems, and on its EU accession tasks.

Serbs, especially those in northern Kosovo, are still reluctant to integrate, but reliance on the continuation of Serbian institutions is a policy with no future. It was possible to rely on parallel institutions as long as Belgrade's support for them was firm, but it is senseless to do so as Serbia has started to dismantle them. Belgrade sends mixed messages, dissolving some

²⁷¹ Interviews, local Kosovo officials, North Mitrovica, September 2014.

²⁷² Interview, Serb official, Gračanica, April 2014.

²⁷³ Interview, mayor of Ranilug, Pristina April 2014.

²⁷⁴ The clinic was built with support of government of Pristina and EU. The government of Serbia donated equipment, whose Prime Minister Vučić inaugurated during his visit to Kosovo on 14 January 2014, promoting solely as a Serbian investment for Serbs.

institutions and maintaining others, pressuring some Serbs to integrate while discouraging or preventing others. No wonder local Serbs are confused and unhappy with what the Pristina-Belgrade dialogue has produced, believing they could have done better if they had talked directly with Pristina themselves. Their elected officials risk repeating this mistake by not cooperating with Pristina. They should not wait for Belgrade but rather directly engage with government of Kosovo, empower their local administration and lead their community in playing a role in those institutions. Serb officials should take an active role in the Brussels dialogue, where they should be welcome as representatives of their community, without fuss over which side of the table they sit on.

The immediate tasks in the new dialogue are to develop a timetable and a plan for transition of Serb institutions and services into Kosovo's. Much of this can be worked out most efficiently at the local level rather than in government-to-government sessions in Brussels. The Community of Serb municipalities can be an important part of this process. It should be based on the rich resources found in Kosovo law and the Brussels Agreement, interpreted in light of the needs of the population. Pristina should be generous toward the Community that can do much to ease the integration of its Serb population. Belgrade should resist the temptation to make the Community do more than it can; an inter-municipal body should not be made to bear the weight of accumulated Serbia-Kosovo status disputes or challenge Kosovo statehood and its functionality.

This work should begin with an inventory of Serbian institutions, services and jobs, with priority on municipalities, public companies, education and health services. This year should be used to eliminate the bulk of the Serb administration. Not everything can be done in 2015, but undue delay would undermine normalisation. Recent events showed how quickly tensions can arise to a dangerous level. This is the moment for an investment of political will, and cash. It can pay handsome dividends for all concerned, and most of all for the people of Kosovo, Albanian and Serb alike.

Appendix A: Estimating the Serb Population

Kosovo's total resident population is estimated at about 1,820,631.²⁷⁵ Insofar as this relies on the 2011 census, it undercounts Serbs, many of whom refused to take part. The Serb population can be estimated from several sources, including the November 2013 municipal and May 2014 parliamentary elections; an unofficial referendum in north Kosovo in February 2012; enrolment figures for Serb schools; and figures used by the OSCE.

The accuracy of estimates derived from election results depends on several assumptions, the most important being that Serbs voted at about the same rate as Kosovo citizens in general. (It also assumes that all Serbs, and only Serbs, voted for explicitly Serb parties.) Neither the overall Serb voting rate nor the rate within each municipality is known, and there is probably significant variation from the Kosovo average. Anecdotal evidence suggests Serbs voted at a rate slightly below average, because some reject the legitimacy of Kosovo institutions. If so, extrapolation from the vote total will slightly underestimate the Serb population.

Postal ballots from Serbia should be subtracted from the total Serb vote. In the 2013 local elections, Serb candidates won 3,437 (valid) postal votes; in 2014, there were 8,629.²⁷⁶

The calculation is simple:

$$P_s = T_s/V_k$$

$$V_k = T_k/P_k$$

where P is population, T is the number of ballots cast, and the subscript S indicates Serbs and Serb parties, and K indicates all of Kosovo. V_k is then the fraction of Kosovo residents who cast valid ballots. Note that this is not the same as voter turnout, which is the number of ballots divided by the number of eligible voters.

In northern Kosovo, turnout was very low, reflecting deep distrust of Kosovo institutions. The estimate accordingly uses the number of votes cast in the self-proclaimed February 2012 referendum on accepting the "institutions of the so-called Republic of Kosovo" instead. 26,725 votes were cast in the four northern municipalities together, yielding (dividing by V_k from 2013) an estimated population of 65,183. This was divided among the four municipalities by percentages derived from the OSCE's municipal profiles.²⁷⁷

In 2013, T_k was 746,729 and V_k was about 0.41. Outside the four northern municipalities, Serb parties scored 36,520 votes; added to the 26,725 referendum votes in the North and subtracting the postal vote yields a T_s of 59,808. The estimated Serb population is this vote divided by V_k or 145,820.

²⁷⁵ ASK estimate, December 2013.

²⁷⁶ For 2013, "Batch results and statistics – Conditional and By Mail", Kosovo Central Election Commission; for 2014, "Rezultatet për Kosovë (me post)" (Results for Kosovo (by mail), Kosovo Central Election Commission.

²⁷⁷ OSCE, Municipal Profile, Mitrovica/Mitrovicë North (March 2014) gives a Serb population of about 22,530, based on February 2010 data from the UNMIK Administration in Mitrovica. OSCE, Municipal Profile Leposavić/Leposaviq (March 2014) cites the municipal administration for its figure of about 18,000 Serbs. OSCE, Municipal Profile Zubin Potok (March 2014) uses the same source for its estimate of 13,900 Serbs. OSCE, Municipal Profile Zvečan/Zvečan (March 2014) cites the municipal website for a population of "over 16,000" Serbs. Compare Crisis Group, "North Kosovo: Dual Sovereignty in Practice," op. cit., p.1 (estimating 55,000 to 65,000 Serbs).

The estimate uses the 2013 local instead of the 2014 national election figures because outside the north, many more Serbs participated in the former. To derive municipal estimates, the same procedure can be used. In several cases, the local race was very close and may have boosted turnout well above average; in these cases and in municipalities where no Serb parties contested the local elections, the estimate uses the 2014 figures instead. We were not able to identify the postal vote totals for each municipality, and assumed they were distributed evenly throughout the Serb population. This is probably a poor assumption, leading to overestimation in some areas and underestimation in others.

The results are given in Table 2, with the ten Serb-majority municipalities in italics and the four northern ones underlined.

Table 1

Municipality	Official population	total	Estimated Serb population	OSCE Serb estimate
<i>Gračanica</i>	11,359		21,126	21,534
<i>North Mitrovica</i>	12,139		19,763	22,530
<i>Leposavić</i>	13,485		16,175	18,000
<i>Žvečan</i>	7,318		14,575	16,000
<i>Žubin Potok</i>	6,508		12,780	13,900
<i>Štrpce</i>	6,873		11,195	9,100
<i>Novo Brdo</i>	6,923		7,097	5,802
<i>Parteš</i>	1,730		5,971	5,300
<i>Ranilug</i>	3,792		5,402	5,718
Gjilan	91,489		4,065	624
Kamenicë	35,261		3,586	3,019
<i>Klokot</i>	2,651		3,109	3,800 ²⁷⁸
Obiliq	22,106		2,932	2,880
Vushtrri	71,212		2,651	4,000
Pristina	207,477		2,084	2,000
Pejë	97,706		2,006	800
Lipjan	59,196		1,803	2,000
Istog	40,126		1,502	2,300
Prizren	182,450		1,417	237
Klinë	39,555		1,343	1,517
Rrahovec	57,645		1,134	800
Fushë Kosovë	37,843		1,114	900
Ferizaj	111,842		879	64
Dragash	34,363		401	7
Gjakovë	96,161		339	17
Suharekë	61,352		310	2
Viti	47,775		264	280
Skenderaj	51,363		220	350
Podujevë	89,051		190	12
South Mitrovica	73,362		174	14
Glogovc	59,990		57	2

²⁷⁸ The OSCE does not give an estimate for the Serbs, but cites an overall figure of about 5,000 and an Albanian population of 1,362.

Kaçanik	33,875	43	1
Malishevë	56,481	38	0
Deçan	40,548	28	15
Shtime	28,096	21	49
Hani i Elezit	9,613	19	0
Mamushe	5,688	5	0
Junik	6,225	2	0
Total	1,815,606	145,820	143,574

School enrolment data offers a quality check on these estimates. In Gjilan municipality, the OSCE reports 545 children attend Serbian pre-primary, primary and secondary schools. In the U.S., there are about 5.83 persons for each school-aged child. Serbia's demographic structure is older, with only 16 per cent of its population under the age of 15, compared with the U.S.'s 20 per cent. Correcting for this, and assuming Kosovo Serbs match Serbia's demographics, there should be about 7.3 persons for every school-aged child. In Gjilan, this suggests 3,970 persons, close to the election-based estimate of 4,289. In North Mitrovica, 5,094 students suggest a total population of 37,186, far more than the election estimate of 19,763. Some of the discrepancy may be due to other non-Albanian children attending Serbian schools. However, the other three northern municipalities all have fewer students than their population estimates suggest, while for the region as a whole, the school-based estimate is very close to the election-based figure. Northern parents of school-aged children may cluster in Mitrovica, or send their children to school there. The same effect is likely at play in parts of southern Kosovo, where Serbian schools are unevenly distributed.

Table 2

Municipality	Students	School-based Estimate	Balkans Group Estimate	OSCE Estimate
North Mitrovica	5,094	37,186	19,763	22,530
Zvečan	1,295	9,454	14,575	16,000
Zubin Potok	1,039	7,585	12,780	13,900
Leposavić	1,703	12,432	16,175	18,000
<i>Total north Kosovo</i>	<i>9,131</i>	<i>66,657</i>	<i>63,293</i>	<i>70,430</i>
Gjilan	545	3,970	4,289	624
Skenderaj	100	730	232	350
Novo Brdo	1,779	12,987	7,488	5,802
Ranilug	1,335	9,746	5,700	5,718
Parteš	741	5,409	6,300	5,300
Gračanica	4,344	31,711	22,290	21,534

Appendix B: Comparison of the RS and the Community

RS	The community
Party to Dayton Accords, an international agreement that ended the Bosnia war.	Created by Brussels Agreement.
Has own constitution.	Has statute, inferior to domestic legislation.
Full executive branch: president, prime minister, executive agencies.	No own powers; some municipal powers exercised through it.
Full legislative branch: National Assembly and Council of Peoples.	No legislature.
Full judicial branch: municipal, district, supreme and constitutional courts; judicial autonomy (RS courts not subject to rulings of Bosnia and Herzegovina state courts below constitutional court level).	No judiciary, no overlap between ZSO and Kosovo basic court jurisdictions.
Armed forces (lapsed by agreement).	No security component.
Main police force.	No police.
Strong authority over municipalities (including approval of municipal budgets).	No authority over municipalities.
Compact territory (except for Brčko).	Discontinuous territory.
Veto over state executive and legislature: most state acts and laws require RS consent.	No federal role.
Participates in setting state budget framework.	No budgetary role.
Directly elected leadership.	Appointed leadership.
Large share of state and defence property.	No state property.
Fiscal autonomy.	No authority to tax.
Own postal, telecommunication and media.	None.

Appendix C: A Note on Names

The choice of place names has been political in the western Balkans for decades, so readers are owed an explanation for Balkans Group's choices. Where a widely-accepted English name exists, we use it. Kosovo government officials call the capital Prishtina, but this has not yet become the standard spelling in English, and we use Pristina, the spelling adopted by the U.S. and UK embassies and the European Commission. Some government sources use Kosova and others Kosovo; we use the latter. Where there is no English place name, we use the version of the majority community, and give the other language's name in parentheses at first use only. "North", "South", "East" and "West" are always given in English, while other qualifiers are left in the original languages. So, the twin towns on the Ibar river are North Mitrovica and South Mitrovicë; some Serbs live in (Albanian-majority) Obiliq (Obilić), while some Albanians reside in Novo Brdo (Novobërdë). We use the same scheme for towns in Serbia, so Presheva (Preševo) and Bujanoc (Bujanovac) are our names for the Albanian-majority towns in southern Serbia. Serbia's official place names for towns outside its borders (eg Kosovska Mitrovica for North Mitrovica) are avoided.

In a few areas Balkans Group departs from settled international practice. International agencies usually refer to "Kosovo Albanians" and "Kosovo Serbs" (or "K-Serbs in spoken language), to distinguish them from the residents of Albania and Serbia; similarly, they speak of Bosnian Croats and Bosnian Serbs. Yet the peoples in question do not use these terms, and many find them offensive. We respect this sentiment, and avoid the geographic qualifier where the context makes it unnecessary. Thus, "Serb integration in Kosovo" is plainly about the integration of the [Kosovo] Serb community, and not all Serbs everywhere, into Kosovo institutions. Many Albanians in Kosovo also refer to themselves as Kosovars, a term we use interchangeably; it refers only to the Albanian population of Kosovo.

Albanians always call the inter-municipal body agreed to in Brussels an *asociacioni* or a *shoqata*, which both translate as "association"; Serbs always call it a *zajednica*, which translates as "community" or "union". In the Albanian and Serbian versions of our reports, Balkans Group will follow these preferences. In English, we must make a choice. The EU-drafted text alternates between "association/community" and "community/association". This was an understandable decision, but it is no longer appropriate in an analytical document that aims to clarify, rather than obfuscate. We refer to the "Community of Serb municipalities" or simply "the Community".

The Balkans Policy Research Group is an independent, regional think tank based in Pristina, Kosovo. We provide timely analysis and policy development on a wide array of peacebuilding and statebuilding issues, always based on in-depth fieldwork. Our staff have decades of experience in government, international and non-governmental organizations. Our rigorous, detailed and impartial reporting is available to the public on our website free of charge.

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