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**DECENTRALIZATION IN KOSOVO – COMPARISON WITH THE AUTONOMOUS  
PROVINCE OF SOUTH TYROL**

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**Research Question:** How can a decentralization model be applied in Kosovo taking South Tyrol as an example in order to settle internal ethnic disputes without threatening the territorial integrity of the country?

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## **List of Abbreviations**

1. CoE – Council of Europe
2. CC – Constitutional Court
3. EU – European Union
4. EULEX – European Union Rule of Law Mission in Kosovo
5. ICJ – International Court of Justice
6. KLA – Kosovo Liberation Army
7. LDK – Democratic League of Kosovo
8. MP – Member of Parliament
9. MUP – Ministry of Internal Affairs (Serbia)
10. NATO – North Atlantic Treaty Organization
11. OSCE – Organization for Security and Cooperation in Europe
12. PISG – Provisional Institutions for Self-Governance
13. PR – Proportional Representation
14. SC – Security Council
15. SVP – South Tyrolean People’s Party
16. UN – United Nations
17. UNMIK – United Nations Interim Mission in Kosovo
18. UNSCR – United Nation Security Council Resolution
19. WWI – World War I
20. WWII – World War II

## I. Introduction

Kosovo is one of the youngest independent states in Europe, although it is still going through some difficult circumstances because of some complicated domestic and external factors. One of the most problematic domestic issue is the big number of ethnic minorities and the polity through which these minorities are integrated in the institutional structure of the state without being discriminated or ruled by majority. On the other hand the biggest external factor is the state of Serbia which firstly, does not recognize Kosovo's independence and secondly, because of a small number of Serb ethnics who are living in Kosovo<sup>1</sup>. These issues are the reason that Kosovo is going through a dialogue process with Serbia in order to find a solution for Serb ethnic minorities, which will also be supported by Serbia.

According to what was said, one of the best solution to settle the disputes and disagreements seems to be decentralization, meaning determination of a territorial unit/region within Kosovo in which the majority will be Serb ethnics. In order to create an example of a possible statute for this foreseen decentralized region, we will use the model of the Autonomous Province of Bolzano/Bozen (hereinafter South Tyrol) in Italy because of the similar ethnic demographic configuration within the respective regions. The Autonomous Province of South Tyrol is composed by 3 ethnic groups which are recognized also as lingual groups, the biggest lingual group in the region is German speaking who compose 69.15% of the population in the province, then Italian speaking who compose 26.47% and lastly Ladin speaking 4.37%<sup>2</sup> which is the smallest group there. And as seen here German speaking minority for the whole state level is a majority in provincial level, which is the same case for Serbs in Kosovo for the state level and will be the same in the foreseen decentralized regional level, because of this we intend to follow the example of settlement of diversified ethnic/lingual groups in South Tyrol and analyze if a similar model is applicable in the case of Kosovo.

This topic is mainly focused on Decentralization in Kosovo, a state which used to be a province of The Socialist Federal Republic of Yugoslavia until 1999 when NATO intervened in Serbia as a

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<sup>1</sup> Majority of ethnic Serb citizens live in the northern part of the country, part of which is mainly bordered by the state of Serbia;

<sup>2</sup> Data from census 2011, For more details see: " South Tyrol in figures 2011," Provincial Statistics Institute ASTAT, [https://astat.provinz.bz.it/downloads/Siz\\_2011-eng.pdf](https://astat.provinz.bz.it/downloads/Siz_2011-eng.pdf), last accessed: 15.06.2020;

result of human rights violation within the territory of the province of Kosovo and it was considered a humanitarian intervention<sup>3</sup>. After the intervention of NATO Kosovo was administered by a UN Peacekeeping mission known as UNMIK, which was founded with a Resolution of Security Council known as Resolution 1244 adopted on 10<sup>th</sup> June 1999, until it unilaterally declared its independence from Serbia on 2008 but more details related to this will be discussed further in this paper. As mentioned above the focus and the aim of this paper is the decentralization of only one region of Kosovo, where the majority of the population is of Serbian ethnicity as a mean to first, settle the internal ethnic disputes or disagreements between them and the Albanian majority population of the country, and second as a potential option for an agreement between Kosovo and Serbia in order to reach a peaceful agreement which will bring mutual recognition between the countries, taking the model of South Tyrol as an example, where the majority of the population is of German(Austria) ethnicity<sup>4</sup>, which is also known as one of the most successful examples of a decentralized multi-ethnic region<sup>5</sup>.

First, before we go any further in the topic we will try to elaborate theoretical approaches related to it, where we will try to define the main concepts related to the issue, starting with the concept of decentralization as a method of creating a third level of government with specific powers delegated to it from the central level, and the continuity of the topic will be based on the definition we come up for it and how it will be used during this paper. After that another concept that will be defined is the Consociational Democracy which is one of the newest models of democracy in multi-cultural fragmented societies, a kind of democracy Kosovo became after it declared its independence. The last notion we will define is minorities in the aspect of cultural/ethnic minorities or as they are officially referred as, non-majority communities in the official legal terminology in the Constitution of Kosovo.

In order to better understand the flow of the developments within Kosovo and comparative possible aspects of the case of Kosovo with that of South Tyrol. An historical overview will be elaborated for both cases, starting with the position of Kosovo within Yugoslavia emphasizing

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<sup>3</sup> ROBERTS, Adam (1999): "NATO's 'Humanitarian War' over Kosovo", *Survival*, vol.41, no. 3, pp. 102-23. © The International Institute for Strategic Studies;

<sup>4</sup> ALBER, Elisabeth. & ZWILLING, Carolin (2016): "South Tyrol", Online Compendium Autonomy Arrangements in the World, at: [http://www.world-autonomies.info/tas/styrol/Documents/South%20Tyrol\\_2016-01-15.pdf](http://www.world-autonomies.info/tas/styrol/Documents/South%20Tyrol_2016-01-15.pdf), last accessed: 15.06.2020;

<sup>5</sup> ALBER, Elisabeth. & PALERMO, Francesco (2012): "Creating, Studying and Experimenting with bilingual law in South Tyrol: Lost in Interpretation", *Bilingual Higher Education in the Legal Context*, Leiden- Boston;



the Constitutional changes done in 1974 which gave The Autonomous Province of Kosovo a position of constitutive unit of The Socialist Federal Republic of Yugoslavia<sup>6</sup>. While on the other hand the developments regarding South Tyrol will be elaborated, emphasizing the De Gasperi – Gruber Agreement (1946) during the Paris Peace Conference as a first step toward the future solution for German speakers in South Tyrol. The aim here will be to elaborate the main events which lead to the settlements achieved in South Tyrol and considering that the case of South Tyrol is an older issue, we will try to compare the relevant factors and learn from them in order to adopt a similar polity through decentralization as a solution for the Serbian minority within Kosovo in accordance with Serbia as a “kin state”<sup>7</sup>.

The next chapter will be focused on the impact of Austria for the issue of South Tyrol and of Serbia for the issue of Kosovo. Both of which are “kin state” for the minorities in the respective countries. The role of Serbia within Kosovo will be elaborated and the approach used by them to support the Serbs in Kosovo, and the impact of their support for the status of Serbs in the institutional framework, including the representation of them in the Provisional Institution for Self-Government (hereinafter PISG)<sup>8</sup>. On the other hand the actions taken from Austria in order to support the German-speaking minority in South Tyrol, starting with De Gasperi – Gruber<sup>9</sup> Agreement<sup>10</sup>, and after that inter-actions between the Austrian institutions and South Tyrolean German speakers. Also an elaboration of the behavior of the ethnic groups toward each other will be conducted. Apart from that the similarities and differences in the approaches of “kin states” will be addressed, in order to be able to compare the relevant circumstances in both cases and where possible to learn from “mistakes” and from “positive” parts in South Tyrol, so the lessons learnt might be used in the case of Kosovo, such as bilingualism in the Public life of the Region<sup>11</sup>.

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<sup>6</sup> The Constitution of the Socialist Federal Republic of Yugoslavia (1974), PART ONE, Article 2.

<sup>7</sup> A Kin State is a state which has connection with part of its diaspora living in another state.

<sup>8</sup> UNMIK Regulation No. 2001/9 dated 15 May 2001 on a Constitutional Framework for Provisional Self-Government in Kosovo, Chapters 4 & 9, section 1, 9.1.3 (a);

<sup>9</sup> Karl Gruber was Foreign Minister of Austria 1945-53 and in the capacity of Minister he signed that agreement as a form of guarding the interests of German-speakers in South Tyrol;

<sup>10</sup> PALERMO, Francesco(2008): “South Tyrol’s Special Statute within the Italian Constitution”, *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, pp. 33, European Academy Bozen/Bolzano;

<sup>11</sup> ALBER, Elisabeth. & PALERMO, Francesco (2012): “ Creating, Studying and Experimenting with bilingual law in South Tyrol: Lost in Interpretation”, edited by: Xabier Arzoz: “*Bilingual Higher Education in the Legal Context: Group Rights, State Policies and Globalisation*”, Leiden- Boston;

Another very important aspect of the issue that will be addressed is the actual Institutional Framework of Kosovo and the position of the Serbs within that framework which will be compared with the case of South Tyrol. In this part we will mainly be focused in history of politics adopted through legal documents in Kosovo, such as Constitutional Framework for Provisional Self-Government in Kosovo, Comprehensive Proposal for the Kosovo Status Settlement, Constitution of Kosovo and after that the importance of Brussels Agreement (2013) for the possible future of the status of Serbs in Kosovo through decentralization. In comparison the evaluation of the Statute of the Autonomous Province of South Tyrol will be elaborated, starting from 1948 where according to the Democratic Italian Constitution, twenty regions were established, five of which enjoy higher degree of autonomy and one of which is South Tyrol<sup>12</sup>, also the circumstances which were created before the statute of 1972 will be discussed in general points and after that the development of events until the Autonomous Statute for South Tyrol which is still in power today. The focus regarding the developments in South Tyrol will be in the field of power-sharing between central and regional/provincial government, and the competences delegated to the provincial level every time a new statute was made for it. Another important issue that will be elaborated is the behavior and the “perception” of the different groups between each other. The importance of this is to better understand to what extend are people willing to accept the degree of decentralization, and understanding this is very important because through clarification of the perception of major public opinion, it will be easier to select the points where the comparison between Kosovo and South Tyrol can happen.

In the last chapter which is one of the most important parts of this paper will be the further steps toward an “Association/Community of Serb majority municipalities” in Kosovo as a result of dialogue between Kosovo and Serbia. The focus will be the 15 points Brussels Agreement (2013) reached through dialogue, which states that an Association/Community of Serb majority municipalities will be created in Kosovo<sup>13</sup>, further more we will elaborate in details a proposed statute for this association, principles of which were considered incompatible with the spirit of

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<sup>12</sup> PALERMO, Francesco. “South Tyrol’s Special Statute within the Italian Constitution”, *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, pp. 34, European Academy Bozen/Bolzano;

<sup>13</sup> First agreement of principles governing the normalization of relations, par. 1, [http://www.kryeministri-ks.net/repository/docs/FIRST\\_AGREEMENT\\_OF\\_PRINCIPLES\\_GOVERNING\\_THE\\_NORMALIZATION\\_OF\\_RELATIONS,\\_APRIL\\_19,\\_2013\\_BRUSSELS\\_en.pdf](http://www.kryeministri-ks.net/repository/docs/FIRST_AGREEMENT_OF_PRINCIPLES_GOVERNING_THE_NORMALIZATION_OF_RELATIONS,_APRIL_19,_2013_BRUSSELS_en.pdf), last accessed: 15.06.2020;

the Constitution of Kosovo through a decision of the Constitutional Court of Kosovo<sup>14</sup>. According to that, the statute will need to be renewed as Kosovo has international obligations because the international Brussels Agreement (2013) was ratified in the Parliament of Kosovo, and according to the Constitution, ratified international agreements have superiority over the laws Republic of Kosovo including Constitution<sup>15</sup>. Therefore creation of an association/community of Serb majority municipalities is binding and has to be done, and because of that we will try to come up with a possible new statute following the example of South Tyrol. This means that the path we will take to create a potential statute will be based on that of South Tyrol, which will lead to a decentralization model based on a region with similar demographic/cultural differences. This can be used as tool to settle the disputes between ethnic groups and to create a pleasant status & statute for Serbs in Kosovo, also supported by Serbia which will lead to the settlement of disagreements and disputes between Kosovo and Serbia in a peaceful way without violating territorial integrity of Kosovo.

Lastly the methodology we are going to use to conduct this paper will be a comparative study or a qualitative research between two cases, in order to identify the similarities and where possible to apply the same measures taken for the decentralization of South Tyrol in Kosovo. The comparison that we will use here, apart from the demographic and historical, will be also in regard to the legal and content analysis of the primary sources, which means the key legal documents that established the autonomy in South Tyrol and the key legal documents that will establish Association/Community of Serb Majority Municipalities in Kosovo. The legal documents used here will include firstly, the international agreements between the “kin states” and the states where the minorities are as a first step toward decentralization. After that we will focus on constitutional conditions and constitutional court decisions related to the allowance of establishment of these decentralized regions/provinces. Lastly we will analyze the development of content of the Statute of the Autonomous Province of South Tyrol from the 3 stages, 1948 (first statute), 1972 (second statute) and 2001 (third statute) which is still in force and compare it with the proposed document with general principles/main elements of Association/Community of Serb majority municipalities in Kosovo, and to try to learn from the complications which happened in South Tyrol and avoid those complications in case of Kosovo.

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<sup>14</sup> JUDGEMENT: in Case No. KO130/15 of Constitutional Court of Kosovo, can be found: [https://www.gjk-ks.org/wp-content/uploads/vendimet/gjk\\_ko\\_130\\_15\\_ang.pdf](https://www.gjk-ks.org/wp-content/uploads/vendimet/gjk_ko_130_15_ang.pdf), last accessed: 15.06.2020;

<sup>15</sup> Constitution of the Republic of Kosovo, Article 19, Par.2;

## **II. Definitions of main concepts**

### **1. Decentralization, Autonomy and Power-sharing**

Decentralization is one of the key notions that will have to be understood in order to have a clear idea of what is the main objective of this paper. When we talk about decentralization we have many authors who have elaborated this concept and yet there is not a general definition regarding it, even though just when you read the term you can create the idea that it is a concept which stands for “moving” from the center of power, and for our purposes we will try to define decentralization which will be applicable here. But before going any further we have to clarify that there are different ways to transfer powers to a lower level from the center, and these other ways are known as devolution, deconcentration and delegation<sup>16</sup>. Devolution is considered to be the type of decentralization which is used by the United Kingdom, where the powers are transferred to sub-national units by the central level but in theory those powers can be reversible<sup>17</sup>. While deconcentration means that some powers are transferred to different lower levels of state bureaucracy who are responsible for specific duties given to them and delegation involves transfer of power, specifically administrative powers to semi-autonomous, public bodies or third parties such as housing authorities or transport associations<sup>18</sup>.

The notion of decentralization, considering the diversity of forms is usually described as the transfer of power from the central government to lower levels in a political, administrative and territorial hierarchy<sup>19</sup>. Political decentralization is described as a system in which units below the central state have decision-making and self-governance powers, administrative decentralization refers to a system in which different levels of government administrate resources and matters delegated to them, but this does not mean that they have independent decision-making competences<sup>20</sup>. The classic example of decentralization is France where the regions have elected

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<sup>16</sup> KEIL, Soeren and ANDERSON, Paul: “Decentralization as a Tool for Conflict Resolution”, Canterbury Christ Church University;

<sup>17</sup> LEEKE, Matthew. SEAR, Chris and GAY, Oonagh (2003): “An introduction to devolution in the United Kingdom”, Parliament and Constitution Centre, House of Commons Library;

<sup>18</sup> Supra note 16;

<sup>19</sup> AGRAWAL, Arun and RIBOT, Jesse (1999): “Accountability in Decentralization: A Framework with South Asian and West African Environmental Cases”, *The Journal of Developing Areas*, 33 (4), 473-502.

<sup>20</sup> Supra note 16;

assemblies and yet they do not have a real statute or constitution and neither any legislative power but merely decentralized administrative powers<sup>21</sup>.

While speaking about political decentralization with decision-making and self-governance powers, it is described as a form of federalism because of the existence of two or more constituent governments with substantial reserved or protected powers within the whole state<sup>22</sup>. Also some authors associate self-governance with the idea of autonomy which is the highest degree of power transfer without formal independence<sup>23</sup>. And, if you judge both interpretations (mentioned above) with the Autonomous Province of South Tyrol, we can argue that they are both relevant, as it has the Provincial Parliament as a legislative body (for some areas) and it has the Provincial Government as a governing body<sup>24</sup>. So, knowing that we are going to compare the case of Kosovo with that of South Tyrol and considering that it also has elements of autonomy apart from decentralization, we also have to understand the concept of autonomy and the relation of it with decentralization, self-governance and power-sharing.

During the recent times, a lot of states have used autonomy as a model to prevent internal conflicts coming from the linguistic, ethnic or religion differences in diversified/divided societies. One of the first autonomies in the modern world was established in Finland's Aland Islands, and since then the idea for protection of ethnic or national minorities and the settlement of self-determination conflicts has become a political reality in different states of Europe and also in India<sup>25</sup>. But before going any further, we have to clarify that there is not just one kind of autonomy e.g. we can have regional-territorial autonomy and we can also have autonomy without a defined territory, known as cultural or personal autonomy<sup>26</sup>. So, when talking about Autonomy we have to clarify that the concept is theoretically based on the existence and recognition of ethnic and national groups who are subjects of collective rights. This is important if we take into consideration the fact that most of today's conflicts are intrastate because of denial of the rights

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<sup>21</sup> BENEDIKTER, Thomas (2009): "The World's Modern Autonomy Systems: Concepts and Experiences of Regional Territorial Autonomy", Eurac Research, Bolzano/Bozen

<sup>22</sup> ELAZAR, J. Daniel (1995): "Federalism: An Overview", © Human Sciences Research Council;

<sup>23</sup> BENEDIKTER, Thomas (2009): "The World's Modern Autonomy Systems: Concepts and Experiences of Regional Territorial Autonomy", Eurac Research, Bolzano/Bozen;

<sup>24</sup> Special Statute for Trentino – Alto Adige/Sudtirol (2001): Articles: 8, 9, 49& 50;

<sup>25</sup> BENEDIKTER, Thomas [ed.] (2009): "Solving Ethnic Conflicts through Self-Government, A Short Guide to Autonomy in Europe and South Asia", Preface, © EURAC;

<sup>26</sup> Ibid (chapter 1);

of minorities within different states<sup>27</sup>. In this regard we can create an idea that autonomy was used as a mean to prevent the internal conflicts from escalating and the practical method to do that was by sharing/transferring certain powers from a central government to that of the self-governing (created) entity, with a relative independence on exercising those powers<sup>28</sup>. We have to say that in substance autonomy means power-sharing, and when powers are shared or transferred to a lower level of governance, the conditions for self-governance are created, this means that self-governing autonomies achieved from power-sharing theoretically stand for the political decentralization we mentioned above.

So, in this sense we can argue that all of these notions are somehow interconnected and relevant for the purposes of our paper, and since we want to compare the case of Kosovo with the South Tyrol, which is a “decentralized” autonomy with elements of power-sharing we had to elaborate the concepts. While we have to clarify that during this paper, we will refer to decentralization as a phenomenon through which certain powers will be transferred from central state level to a lower identified territorial entity/region, based on cultural divergences as a tool to settle internal ethnic disputes between the communities, through which trends for secession from the state and exclusion of minorities from the exercise of power will be avoided.

## **2. Consociational Democracy**

Consociational democracy is another crucial concept for our research, and for that reason we will elaborate its origin, key points and why it is relevant for us. The first author who came up with this notion is Lijphart and the idea behind it stands for fragmented but stable democracies<sup>29</sup>. So, in the beginning this concept was relevant for democratic states which had “culturally” divided societies but still managed to be stable, and it elaborated the factors that lead to this stability, but meanwhile it became a theoretical reference for its application in different constitutional designs for divided societies, such as the case of Kosovo but we will better elaborate it further in this paper.

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<sup>27</sup> BENEDIKTER, Thomas (2009): “The World’s Modern Autonomy Systems: Concepts and Experiences of Regional Territorial Autonomy”, Eurac Research, Bolzano/Bozen

<sup>28</sup> WOLFF, Stefan (2013): “Conflict Management in Divided Societies: The Many Uses of Territorial Self-governance”, *International Journal on Minority and Group Rights*, 20(2013)1, pp. 27–50;

<sup>29</sup> LIJPHART, Arend (1969): "Consociational Democracy." *World Politics* 21, no. 2, pp. 207-25.

One main feature of the notion is the behavior of the leaders of subcultures toward politics, who may engage in competitive behavior and thus further aggravate mutual tensions and political instability, but they may also make deliberate efforts to counteract the immobilizing and unstabilizing effects of cultural fragmentation<sup>30</sup>, an approach which can make a country achieve a degree of integration quite out of proportion to its social homogeneity<sup>31</sup>. This is described as grand coalition cabinets where leaders cooperate in order to exceed the differences during times of crisis, but there are also other settlements for divided societies in the aspect of interactions between political elites depending on the circumstances of the countries, e.g. the case of Lebanon where the President of the Republic must be a Maronite and the President of the Council a Sunni as a way to guarantee representation of both major religious groups. Grand coalition cabinet is a constitutional obligation in Kosovo, where in case of creation of a government with 12 ministries, 1 ministry belongs to Serb community, while the other to other non-majority communities and this guarantees the inclusion of minorities in the executive branch<sup>32</sup>.

Other important elements of consociational democracy are: mutual veto, proportionality and segmented autonomy, through these elements the idea of grand coalition is complemented<sup>33</sup>. Mutual veto is a concept which argues that in grand coalitions a minority veto must exist, and the reason behind it is that even if minorities are included in the government, it is easily possible that the majority will still be able to outvote them, because of that it is considered that only through a minority veto a complete guarantee of political protection for each segment can be achieved<sup>34</sup>. As said before Kosovo has elements of consociationalism and it also has a minority veto, but it is a different minority veto from the one Lijphart describes. The minority veto in Kosovo does not exist in the executive branch but rather the minority veto is assured to the minority members of Parliament (MP), where the Assembly of Kosovo cannot do any constitutional amendments without the affirmative votes of ethnic minorities<sup>35</sup>.

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<sup>30</sup> Ibid;

<sup>31</sup> AKE, Claude (1967): "Political Integration and Political Stability: A Hypothesis." *World Politics*, vol. 19, no. 3, pp. 486–499;

<sup>32</sup> Constitution of the Republic of Kosovo, Article 96, par.3;

<sup>33</sup> LIJPHART, Arend (1977): "Democracy in Plural Societies: A Comparative Exploration", New Haven and London, Yale University Press;

<sup>34</sup> Ibid;

<sup>35</sup> DOLI, Dren and KORENICA, Fisnik (2013): "The Consociational System of Democracy in Kosovo: Questioning Ethnic Minorities' Special Status in Kosovo's Constitutional Regime", *International Journal of Public Administration*, 36: 601–613;

The principle of proportionality or proportional representation (PR) is another instrument which is used to deviate from majority rule and it also interconnected with the grand coalition principle<sup>36</sup>. The idea is that through proportionality all groups can be engaged in decision-making, it is true that like a pre-condition to that is the determination of which groups are entitled to guaranteed representation and which are not and the beauty of PR is that in addition to producing proportionality and minority representation, it treats all groups ethnic, racial, religious, or even non-communal groups in an equal and evenhanded way<sup>37</sup>. However it is considered that for some issues where the nature of decision is basically dichotomous, where you have to decide between two options, if there is no unanimity then the use of majority rule or minority veto cannot be avoided<sup>38</sup>, and in cases like this we can really notice the interconnection between the notions. As for Kosovo apart from the representation in the government (mentioned above), there is also PR in the assembly for all recognized minorities, so from the total of 120 seats in the assembly, 20 are guaranteed for minorities, 10 of which are for Serbs<sup>39</sup>.

The other element of consociational democracy is cultural autonomy for minorities, and this can be territorial autonomy (decentralization) or non-territorial and usually the determination criteria for this aspect is the geographically concentration or distribution of the communal groups<sup>40</sup>. An example for a territorial autonomy could be South Tyrol where the equality of rights of all citizens is recognized regardless the linguistic group to which they belong<sup>41</sup>. While non-territorial cultural autonomy can be Kosovo, where besides offering a veto option for minorities the constitution extends this authority to the adoption, amendment and repeal of vital laws. It is argued that proposed law affecting “vital interests” such as language, education and communal symbols must win concurrent majorities in order to pass, and this means that a majority vote is

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Constitution of the Republic of Kosovo (2008), article 144, Par.2;

<sup>36</sup> LIJPHART, Arend (1977): “Democracy in Plural Societies: A Comparative Exploration”, New Haven and London, Yale University Press;

<sup>37</sup> LIJPHART, Arend (2004): “Constitutional Design for Divided Societies”, *Journal of Democracy*, Vol.15, Number.2, The John Hopkins University Press;

<sup>38</sup> LIJPHART, Arend (1977): “Democracy in Plural Societies: A Comparative Exploration”, New Haven and London, Yale University Press;

<sup>39</sup> Constitution of The Republic of Kosovo, Article 64, Par. 2;

<sup>40</sup> LIJPHART, Arend (2004): “Constitutional Design for Divided Societies”, *Journal of Democracy*, Vol.15, Number.2, The John Hopkins University Press;

<sup>41</sup> Special Statute for Trentino – Alto Adige/Sudtirol, Articles: 1& 2;



needed within the minority's representatives<sup>42</sup>. So, according to this, minority's "cultural" rights in Kosovo are protected on the state level and there is not any territorial determined autonomy yet for any ethnic group.

The main composing elements of consociationalism were elaborated here and according to what was said we can argue that the idea behind it is the settlement of conflicts through an institutional framework of divided societies, through power-sharing and inclusion of minorities in public affairs, but there are also some critics regarding this idea. The main critics come from Donald Horowitz, who pushes the idea that a settlement like the one consociationalism proposes can have difficulties to be implemented especially the for the creation of "grand coalitions" between majorities and minorities through "statesmanship", with the assumption that majorities are likely to be more tolerant of other ethnic groups or less inclined to pursue advantage for their own groups is extremely doubtful<sup>43</sup>. He also argues that consociational arrangements are more easily adopted in divided-societies where conflicts are already probably on the wane<sup>44</sup>. Regarding this we can argue that in case of Kosovo the conflict was on the wane because of the intervention of NATO, however we can also argue that after the intervention, elements of consociationalism have been used much more often and much more intensively<sup>45</sup>, as it was described during the elaboration of consociational elements above.

### **3. Minorities or Non-Majority Communities**

The concept of minorities is also one essential notion for our thesis, as through this notion the determination of the different characteristics between groups within a state is understood. When we speak about minorities just by hearing the term, you can conclude that it is something which means a small part of the whole, but for us it is important to clarify that the context in which the term is used here, therefore we are going to try to come with a definition for a minority within a society and refer to that definition when we use the term minorities during our paper.

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<sup>42</sup> DOLI, Dren and KORENICA, Fisnik(2013): "The Consociational System of Democracy in Kosovo: Questioning Ethnic Minorities' Special Status in Kosovo's Constitutional Regime", *International Journal of Public Administration*, 36: 601-613;

Constitution of the Republic of Kosovo (2008), Article 81;

<sup>43</sup> HOROWITZ, L. Donald (1999): "Constitutional Design: Proposals versus Processes", ©Donald L. Horowitz;

<sup>44</sup> Ibid;

<sup>45</sup> BIEBER, Florian & KEIL, Sören (2009): "Power-Sharing Revisited: Lessons Learned in the Balkans?", *Review of Central and East European Law*, 34, 337-360;

It starts with the League of Nations based on the Paris Peace Conference (1919) was concerned on establishing a system for protection of minorities but in reality it failed and after that we had World War II (WWII), after which human rights were a very important issue for the successor of the League of Nations, United Nations, but during that time the most developed countries of the world did not really acknowledge existence of minority problems, so not much was done regarding them<sup>46</sup>.

So, after the historical developments related to minorities, now, we will elaborate the definition and the actual status of minorities in international level. A general definition for minorities does not really exist and it is interpreted differently in different societies and some people argue that since the term minority implicates the group of people is numerically smaller than the dominant group, this leaves them as dominated groups in the countries. Therefore a change of this term was suggested to be replaced with terms: ‘communities’, ‘communalities’, ‘social groups’ and even ‘peoples’<sup>47</sup>, and this can also be considered the reason why the term non-majority communities is used instead of minorities e.g. in the Constitution of Kosovo.

Apart from this argument even within the international organizations and documents related to minorities there is not a general definition which is accepted by everyone, e.g. The UN Declaration for the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic minorities (1992) even though it has this name. Neither in this declaration there is not really specific definition for minorities apart from the fact that it states that states should protect the existence of the national or ethnic, religious and linguistics of minorities within their respective territories and should encourage conditions for the promotion of that identity<sup>48</sup>. While Council of Europe (CoE) tried to define national minorities as a group of persons who:

*“reside on the territory of that state and are citizens thereof; maintain longstanding, firm and lasting ties with that state; display distinctive ethnic, cultural, religious or linguistic characteristics; are sufficiently representatives, although smaller in number than the rest of the population of that state or of a region of that state; are motivated by a concern to preserve*

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<sup>46</sup> PETRIČUŠIĆ, Antonija (2005): “The Rights of Minorities in International Law: Tracing Developments in Normative Arrangements of International Organizations”, *Croatian International Relations Review*, Vol. XI No.38/39;

<sup>47</sup> Ibid;

<sup>48</sup> Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992), article 1, Resolution 47/135 adopted by General Assembly of the UN;

*together that which constitutes their common identity, including their culture, their traditions, their religion or their language.*"<sup>49</sup>

Also the European Commission for Democracy through law (Venice Commission) proposed the additional Protocol to European Convention of Human Rights through which it suggested that:

*"a minority consists of a group of persons which is smaller in number than the rest of the population of the State, whose members, who are not nationals of the State, have ethnical, religious or linguistic features different from those of the rest of the population, and are guided by the will to safeguard their culture, tradition, religion and language."*<sup>50</sup>

Also the Organization for Security and Co-operation in Europe (OSCE) tried to come up with a definition for minorities, and they referred to Francesco Capotorti who was a Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the UN and he proposed a definition for minorities as follow:

*"A group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members-being nationals of the state-possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, of only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language."*<sup>51</sup>

Also he admitted that preparation of a general definition capable of being universally accepted has always proved to be a difficult and complex task that neither the experts nor the organs of international agencies have been able to accomplish it to date<sup>52</sup>.

So, according to the definitions used above we can notice that the issues regarding minorities are very delicate and that everyone is very careful when referring to them. When relating it to the circumstances in Kosovo and comparing the differences between two main groups which are

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<sup>49</sup> Recommendation 1201 (1993) on an Additional Protocol on the Rights of National Minorities to the European Convention on Human Rights, Section 1, Article 1, can be found: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=15235&lang=en>, last accessed: 15.06.2020;

<sup>50</sup> European Commission for Democracy through law (Venice Commission) – (1994): "The Protection of Minorities", Article 2, par.1, can be found: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-STD\(1994\)009-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-STD(1994)009-e), last accessed: 15.06.2020;

<sup>51</sup> Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities (1979), Geneva UN Center for Human Rights, E/CN.4/Sub.2/384/Rev.1, par. 568, can be found: <https://undocs.org/en/E/CN.4/Sub.2/384/Rev.1>, last accessed: 15.06.2020;

<sup>52</sup> Ibid. (Par.568);

relevant for our paper, we have to emphasize that the differences between Albanians and Serbs in Kosovo are threefold, as ethnicity, religion and language are different for both groups. Therefore we can understand, that all of the main points in the definitions we mentioned are applicable in the case of Kosovo and according to this we can easily define the term minorities for our purpose as: a group of persons within a state with ethnical, linguistic and religious divergences from the biggest group in the same state, whose most important issue is maintaining their identity, through expressing their nationality in their language easy without any restriction on practicing their religion.

### **III. Historical Overview of Kosovo and South Tyrol**

#### **1. Kosovo during the XX century until the war**

Now we are going to focus on the historical developments in Kosovo mainly during the XX century, and partly after the war. In order to better understand the circumstances in Kosovo, we will focus on 3 aspects, first we are going to discuss the territorial changes and how did it become today's Kosovo's territory. Secondly, we are going to elaborate the developments of the legal and political status, with a focus on actions and reactions between Serbs and Albanians, as we consider that it is crucial to know the inter-actions between both groups during different period of times. We think that in order to better understand today's conflict and to have a better point of view on potential outcomes for the people in Kosovo, we have to get back to the origin of it, especially after the World War II (WWII). Lastly we will show a table with the changes of demographic composition within Kosovo in different period of times.

#### **1.1. Kosovo before WWII**

In order to create a good idea of how things were developed in Kosovo, we need to go back to the end of XIX century and beginning of XX century, when the territory of today's Kosovo was still under ottoman rule. Most of it was under a single administrative unit known as vilayet of Kosovo created on 1878, but during those times the Ottoman Empire was losing control over the region. As a result League of Rights of Albanian People, known as League of Prizren was formed with delegates from 3 other 'Albanian's' vilayets<sup>53</sup>. This movement was mainly motivated by the upcoming Congress of Berlin (1878), where their intention were to protest against the recognition of the Albanian territories which would be ceded to the new principalities of Serbia and Montenegro in that Congress<sup>54</sup>. This movement also wanted to gain a political autonomy status under the Ottoman Empire but this idea was not supported by any of the great powers in Berlin Congress and neither by the Ottoman Empire, so it lasted until 1881 when the Ottoman Empire re-gained control over other vilayets and the vilayet of Kosovo by force<sup>55</sup>. After that no significant developments happened in Kosovo until 1912 when the first Balkan war started and most of today's Kosovo territory was seized by Serbian forces, and also it was followed by an

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<sup>53</sup> KIENZLER, Hanna (2009): "Kosovo's Masters and Their Influence on the Local Population throughout History." *Anthropos*, vol. 104, no. 2, pp. 499–517;

<sup>54</sup> SKENDI, Stavro (1967): "The Albanian National Awakening 1878-1912", p.37, Princeton University Press, New Jersey;

<sup>55</sup> *Ibid*, p.105;

agreement between Serbia and Bulgaria who joined forces against Turks that those lands will belong to Serbia<sup>56</sup>. Afterwards, World War I (WWI) started and a big part of Kosovo was invaded by Austro-Hungarian forces, making Serbian forces withdraw while a part of Kosovo was invaded by Bulgaria<sup>57</sup>.

After the WWI Serbia re-gained the control over today's territory of Kosovo but at the time the territory still was not defined as it is today. Even at that time some Albanians still refused to obey to Serbs and they were complaining at great powers<sup>58</sup>. The education for Albanians was permitted mostly in religious teachings (not in Albanian) from Muslim imams and catholic priests, even though some of these "religious" schools were turned into underground education in national language, but apart from that most of the population did not really attend schools, and in Kosovo, Albanians made up only 2% of the high school population in state schools<sup>59</sup>.

A colonization process of Kosovo also was supported by the state and during two waves of settlement, in 1921-29 and 1933-39, 10,877 families were settled on 120,627 hectares of land<sup>60</sup>. Also, during 1931-41 Albanians were disposed of fertile land in the hope that they would migrate to Turkey, while in 1935 authorities imposed restrictions on the ownership of land in Kosovo: the land was declared state property and therefore could not be registered as privately owned<sup>61</sup>. Until, Vasa Čubrilović a Serbian scholar and politician very openly expressed his radical approach towards Albanians writing: *"If Germany can evict tens of thousands of Jews, and if Russia can transfer millions from one end of the continent to another, then no world war is going to break out over a hundred thousand evicted Albanians"* in a Memorandum presented in Belgrade<sup>62</sup>. The

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<sup>56</sup> Ibid, p.448& 451;

<sup>57</sup> ELSIE, Robert (2011): "Historical Dictionary of Kosovo", 2<sup>nd</sup> Edition, *Historical Dictionaries of Europe*, No.79, The Scarecrow Press, Inc. UK;

<sup>58</sup> Hasan Prishtina (President of the movement of the Kosovo Committe) wrote to British Foreign Office that in the Kosovo district of Vucitern (where he was from) 250 homes were destroyed by fire, killing 120 people. Also, in July 1921 Kosovars submitted a petition to the League of Nations begging for re-union with Albania, describing atrocities committed by Serbs, with the name and address of each victim; see also: VICKERS, Miranda (1998): "Between Serb and Albanian: A history of Kosovo", p.94-5, Columbia University Press, New York;

<sup>59</sup> VICKERS, Miranda (1998): "Between Serb and Albanian: A history of Kosovo", p.103-4, Columbia University Press, New York;

<sup>60</sup> Ibid, p.105;

<sup>61</sup> BISERKO, Sonja (2012): "Yugoslavia's Implosion: The Fatal Attraction of Serbian Nationalism", p.198-9, © by The Norwegian Helsinki Committee;

<sup>62</sup> Ibid, p.200, also: "Vasa Čubrilović, The Expulsion of the Albanians", Memorandum presented in Belgrade on March 7, 1937, Arhiv Vojnoistorijskog II-F2-K-69, can be found:

[http://www.trepca.net/english/2006/the\\_expulsion\\_of\\_the\\_albanians\\_by\\_vaso\\_cubrilovic\\_memorandum\\_in\\_1937.html](http://www.trepca.net/english/2006/the_expulsion_of_the_albanians_by_vaso_cubrilovic_memorandum_in_1937.html), last accessed: 15.06.2020;

highlight related to the colonization approach and the expulsion of Albanians was in 1938 when Yugoslavia and Turkey reached an agreement according to which from 1939 to 1944, around 40.000 families, who were mainly Muslim Albanians, but were referred as Turks in the agreement were supposed to go to their motherland. Yugoslavia had to pay 500 Turkish Pounds per family<sup>63</sup>, but this was not implemented as Yugoslavia was lacking the funds<sup>64</sup>, and also the outbreak of WWII might have impacted its implementation as the circumstances in Yugoslavia (Kosovo) changed drastically.

In 1939 with the outbreak of WWII, with the invasion of Yugoslavia in 1941, Kosovo became a part of Italian protectorate and was administratively united with Albania, until the capitulation of Italy and then occupation by Nazi Germany in 1943. Albanians in Kosovo considered that they were liberated by Italians and started to take revenge for decades of ill-treatments by the Serbians and Montenegrin population, some colonists were murdered and their homes were torched in attempts to drive them away<sup>65</sup>. After that Albanians joined forces with Yugoslavia in order to push Germans away, and in return Kosovo would unite with Albania after liberation, but in the end the requests of Albanians of Kosovo were not fulfilled<sup>66</sup>.

## **1.2.Kosovo after WWII until the war in Kosovo**

In 1945, Kosovo is under military rule of Yugoslavia again, Tito at that time issues a provisional decree banning the return of Serb colonists in Kosovo, but changes his mind 2 weeks later. In September of that year Kosovo becomes the Autonomous Kosovo-Metohijan Region, as a constituent part of Serbia<sup>67</sup> and since this moment the territory of Kosovo was defined as it is today. Positive improvements for Kosovo happened in between 1945-50 when 157 schools were opened and the teachings were conducted in Albanian language, this was perceived as national

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<sup>63</sup> Convention Regulating the Emigration of the Turkish Population from the Region of Southern Serbia in Yugoslavia (1938), Articles. 3, 4 & 7, can be found: [http://albanianhistory.net/1938\\_Convention/index.html](http://albanianhistory.net/1938_Convention/index.html), last accessed: 15.06.2020;

<sup>64</sup> VICKERS, Miranda (1998): "Between Serb and Albanian: A history of Kosovo", p.118, Columbia University Press, New York;

<sup>65</sup> BISERKO, Sonja (2012): "Yugoslavia's Implosion: The Fatal Attraction of Serbian Nationalism", p.202, © by The Norwegian Helsinki Committee; also in: ELSIE, Robert (2011): "Historical Dictionary of Kosovo", 2<sup>nd</sup> Edition, *Historical Dictionaries of Europe*, No.79, The Scarecrow Press, Inc. UK

<sup>66</sup> VICKERS, Miranda (1998): "Between Serb and Albanian: A history of Kosovo", p.136, Columbia University Press, New York;

<sup>67</sup> ELSIE, Robert (2011): "Historical Dictionary of Kosovo", 2<sup>nd</sup> Edition, *Historical Dictionaries of Europe*, No.79, The Scarecrow Press, Inc. UK; Also in: The Constitution of the Federative People's Republic of Yugoslavia (1946), Part 1, Article 1, Section 2.2;

victory, considering that in previous regimes education in mother-tongue was not permitted<sup>68</sup>. While, in 1956 a repressive campaign begins by the Yugoslavian secret police known as Udba, who were collecting weapons from the Kosovo Albania population where during those times thousands of families flee to Turkey<sup>69</sup>. Udba was under the “control” of Alexander Rankovic, who was Minister of Interior at that time and 1<sup>st</sup> Vice President of Yugoslavia in 1963, the period he was in service was considered as the wave of Rankovic terror in Kosovo until 1966 when him and some of his followers were purged from the power for clandestine and illegal activities<sup>70</sup>.

In 1967, Tito visited Kosovo for the 1<sup>st</sup> time in 16 years and this was considered as a very favorable time for Albanians in Kosovo as, the provincial government gained more autonomy, introduced secondary schooling in Albanian, Metohija<sup>71</sup> was removed by the official name and Albanian was accepted as an official language alongside Serbo-Croatian<sup>72</sup>. This could be seen as the first period when people could think of a kind of cultural autonomy. During those times in 1969 more precisely, Albanians of Kosovo win the right to fly their own national flag, and a year later University of Prishtina is founded<sup>73</sup> and this was considered one of the biggest steps<sup>74</sup>. While with the Constitution of 1974 the Autonomous Province of Kosovo is established as a constituent part of federation (with a status almost as a republic)<sup>75</sup>.

On May 1980 Tito’s death was announced and it was a big concern within the Albanian population in Yugoslavia, as according to them they did not have their protector anymore<sup>76</sup>. Apart from that Kosovo was the most underdeveloped region and the unemployment was very high that is why in 1981 student demonstrations started asking for more autonomy of the

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<sup>68</sup> VICKERS, Miranda (1998): “Between Serb and Albanian: A history of Kosovo”, p.152, Columbia University Press, New York;

<sup>69</sup> ELSIE, Robert (2011): “Historical Dictionary of Kosovo”, 2<sup>nd</sup> Edition, *Historical Dictionaries of Europe*, No.79, The Scarecrow Press, Inc. UK;

<sup>70</sup> VICKERS, Miranda (1998): “Between Serb and Albanian: A history of Kosovo”, p.163, Columbia University Press, New York;

<sup>71</sup> Metohija is referred to western part of Kosovo and for Albanians it represents systematic violence and pressure from the Serbian regime;

<sup>72</sup> CLARK, Howard (2000): “Civil Resistance in Kosovo”, p.12, Pluto Press, London, © Howard Clark;

<sup>73</sup> ELSIE, Robert (2011): “Historical Dictionary of Kosovo”, 2<sup>nd</sup> Edition, *Historical Dictionaries of Europe*, No.79, The Scarecrow Press, Inc. UK;

<sup>74</sup> As now the chances were higher for Albanians to advance professionally in their careers, as in 1968 the job ethnic ratio was: Serb 1: 4, Montenegrins 1: 3 and Albanians 1: 17, can be found: Howard (2000): “Civil Resistance in Kosovo”, note. 32 for chapter 1, Pluto Press, London, © Howard Clark;

<sup>75</sup> Supra note 6, also: BISERKO, Sonja (2012): “Yugoslavia’s Implosion: The Fatal Attraction of Serbian Nationalism”, p.207, © by The Norwegian Helsinki Committee;

<sup>76</sup> VICKERS, Miranda (1998): “Between Serb and Albanian: A history of Kosovo”, p.194, Columbia University Press, New York;



province<sup>77</sup>. After those demonstrations, state “propaganda” machine started their actions to demonize Albanians through media, accusing them of terrorism and undermining the integrity of Yugoslavia as well as of mass rape of Serbian women, and this made Albanians suspicious and from March 1981 to November 1988, 584,373 Kosovars were arrested, interrogated, interned or reprimanded<sup>78</sup>.

After that propaganda there were some demonstrations of Serbs in Pristina, this was followed with a visit of President of League of Communists in Serbia, Slobodan Milosevic who visits Kosovo to listen to the requests of Serbian people and declares before them, “Let no one ever dare beat the (Serb) people”<sup>79</sup>. Milosevic had an approach that he was the protector of Serbs in Yugoslavia and in 1988 he started his policy for revocation of Autonomy of Kosovo and Vojvodina, he removed Albanians communist leaders of Kosovo, replacing them with some Albanians loyal to him, and this was highly opposed by Albanians in Kosovo<sup>80</sup>. In reaction, miners of Trepça<sup>81</sup> march in Pristina as a sign of protest, other factory workers, students and children join the march of an estimated 100.000 people. This was considered as a very negative development within Kosovo and led to the creation of Democratic League of Kosovo (LDK) which claimed the “political and moral” authority of the Albanians with 700.000 memberships in first five weeks, as a non-violent initiative and from that point Albanian resistance was “pacific”<sup>82</sup>.

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<sup>77</sup> Supra note 86, also: ELSIE, Robert (2011): “Historical Dictionary of Kosovo”, 2<sup>nd</sup> Edition, *Historical Dictionaries of Europe*, No.79, The Scarecrow Press, Inc. UK;

<sup>78</sup> BISERKO, Sonja (2012): “Yugoslavia’s Implosion: The Fatal Attraction of Serbian Nationalism”, p.209, © by The Norwegian Helsinki Committee, see also: Howard (2000): “Civil Resistance in Kosovo”, p.43, Pluto Press, London, © Howard Clark;

<sup>79</sup> VICKERS, Miranda (1998): “Between Serb and Albanian: A history of Kosovo”, p.227, Columbia University Press, New York, see also: ELSIE, Robert (2011): “Historical Dictionary of Kosovo”, 2<sup>nd</sup> Edition, *Historical Dictionaries of Europe*, No.79, The Scarecrow Press, Inc. UK;

<sup>80</sup> VICKERS, Miranda (1998): “Between Serb and Albanian: A history of Kosovo”, p.231, Columbia University Press, New York;

<sup>81</sup> Trepça is the richest mine in Kosovo, it is in the city of Mitrovica and a part of it is in South Mitrovica (city with majority of Albanians) and the other part is in North Mitrovica (city with majority of Serbians), and it is considered as the most valuable asset of Kosovo, up to date it is still a very sensitive topic for both sides.

<sup>82</sup> BISERKO, Sonja (2012): “Yugoslavia’s Implosion: The Fatal Attraction of Serbian Nationalism”, p.217, © by The Norwegian Helsinki Committee; see also: CLARK, Howard (2000): “Civil Resistance in Kosovo”, p.56, Pluto Press, London, © Howard Clark

With the restriction of Autonomies in Kosovo and Vojvodina Milosevic increased his power within the Federation<sup>83</sup>, and this led to the withdrawal of Croatian and Slovenian representatives from the League of Communists of Yugoslavia, and with this act it became obvious that the federation is not going to have a future. This was followed by a big protest in Kosovo called by LDK, while the Serbian regime tried to provoke an uprising in Kosovo to create a pretext for imposing state of war<sup>84</sup>. In July 1990 Belgrade prevented the provincial parliament from meeting, so, on 2 July the Albanian parliamentarians then assembled on the steps outside the building and proclaimed the sovereign Republic of Kosovo within the Yugoslav Federation and its secession from Serbia<sup>85</sup>. Afterwards on September they gathered in Kaçanik and proclaimed the new constitution declaring Kosovo a sovereign and independent state. This was considered a criminal act by Serbian Authorities, so they started to dismiss Albanians from their jobs if they did not sign an oath of loyalty to Serbia, and this initiative was refused by most of Albanians and it resulted with the removal of 146.025 out of 164.210 Albanians from their jobs<sup>86</sup>.

As a result of the war in Bosnia an international conference was hosted by UN and British government, but Albanians were not participants but only observers<sup>87</sup>. The Dayton Agreement really changed the non-violent approach of Albanians, as it was designed to bring peace in the Balkans, but it did not address the desires of Albanians in Kosovo and this led to the creation of Kosovo Liberation Army (KLA)<sup>88</sup>, as a reaction to the failure of pacific approach. One significant moment was the student protest of 1<sup>st</sup> October 1997, asking for their rights to be educated, as in schools Serbian curriculum (not recognized by Albanians) was imposed. On 28 November 1997, KLA (with very small number of members) came out in public with the warning that the time for any form of non-violent protests was running out. Afterwards a few massacres of civilians from Serbian forces, in some villages of Kosovo happened, the most known is the massacre of Prekaz toward the family of Adem Jashari, where he became the symbol of

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<sup>83</sup> Autonomous Provinces had equal vote with the 6 other republics within the Federal Presidency, so including these votes and the one of Montenegro, Milosevic had the power to paralyze the Federal Presidency of Yugoslavia;

<sup>84</sup> BISERKO, Sonja (2012): "Yugoslavia's Implosion: The Fatal Attraction of Serbian Nationalism", p.215-6, © by The Norwegian Helsinki Committee;

<sup>85</sup> VICKERS, Miranda (1998): "Between Serb and Albanian: A history of Kosovo", p.245, Columbia University Press, New York;

<sup>86</sup> CLARK, Howard (2000): "Civil Resistance in Kosovo", p.73-5, Pluto Press, London, © Howard Clark;

<sup>87</sup> Ibid, p.90-91;

<sup>88</sup> KLA was the separatist military group, formed by ethnic Albanians within Serbia and they operated mainly through guerilla attacks avoiding frontal battles due to limited capacities; see also: ELSIE, Robert (2011): "Historical Dictionary of Kosovo", 2<sup>nd</sup> Edition, *Historical Dictionaries of Europe*, No.79, The Scarecrow Press, Inc. UK;

resistance and this led to a rapid increase of participants in KLA<sup>89</sup>. So, these massacres and crimes toward the civil Albanian population were considered crimes against Human Rights and this led to the intervention of NATO<sup>90</sup>.

Kosovo population by ethnic composition - 1921-2006						
Years of census	Total	Albanians	Serbs	Turks	Romas	Others
1921	439.010	—	—	—	—	—
1931	552.064	—	—	—	—	—
1948	733.034	498.244	176.718	1.320	11.230	45.522
%	100	68,0	24,1	0,2	1,5	6,2
1953	815.908	524.562	189.869	34.590	11.904	54.983
%	100	64,3	23,3	4,2	1,5	6,7
1961	963.988	646.605	227.016	25.764	3.202	61.401
%	100	67,1	23,5	2,7	0,3	6,4
1971	1.243.693	916.168	228.264	12.244	14.593	72.424
%	100	73,7	18,4	1,0	1,2	5,8
1981	1.584.440	1.226.736	209.798	12.513	34.126	101.267
%	100	77,4	13,2	0,8	2,2	6,4
1991	1.956.196	1.596.072	194.190	10.445	45.745	109.744
%	100	81,6	9,9	0,5	2,3	5,6
2006	2.100.000	1.932.000	111.300	8.400	23.512	24.788
%	100.0%	92	5,3	0,4	1,1	1,2

Source: Kosovo Agency of Statistics <<https://ask.rks-gov.net/media/1835/demographic-changes-of-the-kosovo-population-1948-2006.pdf>>

## 2. South Tyrol before and after Gruber – De Gasperi Agreement

To be able to understand the developments in South Tyrol which is now known as The Autonomous Province of Bolzano- Alto Adige/ Bozen- Südtirol we have to start our historical overview from the beginning of the XX century. The historical overview importance lays on the fact that through it we can be able to mention main developments within the province and to compare similarities and differences for both cases, and this is crucial to see and understand if the measures taken in South Tyrol and the reaction of the society from those measures can be comparable and expected in the case of Kosovo and also through this we can learn from the issues that went wrong and avoid those in Kosovo.

### 2.1. South Tyrol before WWII

Firstly, South Tyrol was part of the country of Tyrol and thus of the Austro-Hungarian empire, so it is considered that the history of South Tyrol as such starts after the WWI<sup>91</sup>. During the the

<sup>89</sup> Adem Jashari was a commander of KLA, he was killed in his house in village Prekaz together with 55 other members of his family, 12 were women and 11 children under the age of 16, only one niece of him survived that attack. He was surrounded by the Yugoslavian police and his family's resistance lasted for 2 days with active fighting with the police; see also: CLARK, Howard (2000): "Civil Resistance in Kosovo", p.173-5, Pluto Press, London, © Howard Clark;

<sup>90</sup> Supra note 3;

beginning of the WWI, Italy was still neutral and the Allied powers promised that amongst other territories, the area of Trentino and South Tyrol would be given to Italy as a reward, in order to convince it to join the war on their side, and as known the war ended with the defeat of the Axis and break-up of the empire<sup>92</sup>. After that with the Peace treaty of Saint-Germain-en-Laye (1919) and Rapallo (1920), South Tyrol became part of Italy<sup>93</sup>, and during that time Austria was promised that the new subjects of German nationality would enjoy a largely liberal policy with regard to their language culture and economic interests, and this included also the permission to keep German teaching elementary schools<sup>94</sup>. When fascism came to power and Italianization process started, South Tyrol was absorbed by the Province of Trento in 1923, and later they prohibited the use of German language even in public inscriptions while another radical measure was the prohibition of German-language even in tombstones, and the existing tombstones were Italianized. During that time even the word “Tyrol” or “South Tyrol” were prohibited, they also started to apply Italian names according to a Catalogue made by Ettore Tolomei in 1923<sup>95</sup>, for all places, mountains, rivers etc.

While, in 1926 a law was passed through which forcibly, German family names were changed with Italian ones where around 2.200 family names were Italianized just in the years 1935 and 1936, this was followed by a speech of Mussolini to the cabinet stating that: *“The Germans of Alto/Adige (South Tyrol) are not a national minority, but an ethnical remnant. They total 180,000. Of this number I maintain, 80.000 are Germanized Italians, who, by receiving back their former Italian family names, shall be won back to the race from which they sprang. The others are a remainder of barbarian invasions, in a period when Italy was not yet an independent power, but only the prize ring for the contending powers of West and North”* on February 6<sup>th</sup> 1927<sup>96</sup>. Also, the education in German was prohibited in South Tyrol and this resulted in total collapse of German schooling in South Tyrol, except for some religious teachings. All the

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<sup>91</sup> “A Brief contemporary history of Alto Adige/ Südtirol (1918-2002), Published by the Parliament of the Autonomous Province of Bolzano/Bozen;

<sup>92</sup> LANTSCHNER, Emma (2008): “History of the South Tyrol Conflict and its Settlement”, *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, p. 5, European Academy Bozen/Bolzano; see also: Secret Treaty of London of 26 April 1915, Article 2& 4, can be found: <https://www.firstworldwar.com/source/london1915.htm>, last accessed: 15.06.2020;

<sup>93</sup> RAUTZ, Güther (2014): “South Tyrolean Autonomy as a Model for Coexistence between Ethnic Groups”, p.60, *Autonomies in Europe: Solutions and Challenges*, Budapest;

<sup>94</sup> Ibid; see also: FINGELLER, Hans (1938): “Don’t Forget South Tyrol: The Lost Home”;

<sup>95</sup> Toponymy of South Tyrol – Handbook/ Catalogue of Ettore Tolomei, can be found: <http://www.mori.bz.it/toponomastica/index.htm>, last accessed: 15.06.2020;

<sup>96</sup> FINGELLER, Hans (1938): “Don’t Forget South Tyrol: The Lost Home”;

Kindergartens have been Italianized, approximately 400 elementary schools were transformed into Italian schools, while in some secondary schools until around 1936 German was taught as a foreign language, three hours weekly, but in 1938 it was changed in English or French, as a reaction some ‘underground illegal’ schools in German were opened<sup>97</sup>.

Other important to mention developments before the WW2, were the fascist migration or sort of colonization policies for South Tyrol. After the fascism empowerment and the beginning of process of Italianization of the province, a lot of Italians settled in South Tyrol, in order to gradually turn the demographic balance upside down. They were attracted by different job opportunities within the public administration and postal services. Apart from that a lot of enterprisers were promised preferential treatment and subvention if they would invest in opening factories in the region, consequently different mills were established despite the fact that no necessary natural resources for these mills were to be found in those areas and most of the employees there were “colonizer” Italians<sup>98</sup>. In the same time the taxes for Germans were increased to a rate where they can no longer be paid, so they are imposed to sell their properties in order to be able to pay the taxes, also a bank was founded for the purpose of buying up properties for which taxes are overdue, and afterwards those properties were given to Italians at exceptionally low rentals<sup>99</sup>. So, for South Tyrol this was a period of some sort of colonization, and these kinds of measures taken by the Italian state makes the tendency for the assimilation of German-speaker within that region very obvious, and the results were that share of ethnic Italian population increased from 3% in 1910 to 24% in 1939<sup>100</sup>.

In 1938, Austria was invaded by Hitler and this gave hopes to German-speakers in South Tyrol, thinking they will be saved by him from the Italian fascism, but the outcomes were completely different as Nazi Hitler needed some allies in order to achieve his ambitions for expansion. Therefore he found a good partner in fascist Mussolini, and in order to create an alliance with him, he had to offer something to him and this resulted with a very bad agreement for German-

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<sup>97</sup> LANTSCHNER, Emma (2008): “History of the South Tyrol Conflict and its Settlement”, *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, p. 7, European Academy Bozen/Bolzano; see also: FINGELLER, Hans (1938): “Don’t Forget South Tyrol: The Lost Home;

<sup>98</sup> LANTSCHNER, Emma (2008): “History of the South Tyrol Conflict and its Settlement”, *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, p. 7-8, European Academy Bozen/Bolzano;

<sup>99</sup> STEININGER, Rolf (2009): “South Tyrol: A Minority Conflict of the Twentieth Century”, p. 33-4, (2<sup>nd</sup> Printing), Transaction Publishers, New Jersey; see also: FINGELLER, Hans (1938): “Don’t Forget South Tyrol: The Lost Home;

<sup>100</sup> RAUTZ, Güther (2014): “South Tyrolean Autonomy as a Model for Coexistence between Ethnic Groups”, p.60, *Autonomies in Europe: Solutions and Challenges*, Budapest;

speakers in South Tyrol, and that agreement is known as the “Option Agreement”<sup>101</sup>. According to that agreement, all German-speakers of South Tyrol had to decide, if they want to leave their South Tyrolean home. On the other hand if they rejected it, they could retain their Italian citizenship and renounce their German identity, and also the official propaganda in Italy that time, was that the “stay at homes” would be resettled in the South of Italy. With these options on their hands, around 200,000 or 86% of German and Ladin speakers decided to leave, eventually only around 75,000 left and many of them returned after the war<sup>102</sup>.

After Mussolini was forced out from power in 1943 and Italy changed leadership and sides in the war, Hitler began the occupation of South Tyrol and northern Italy. This was considered as liberation for most of South Tyrolean people, as with this occupation the German language and culture was brought back, while the Germans who opted to remain in Italy were persecuted and some of them were sent to a concentration camp in Dachau while the others were sent to the front. South Tyrol remained under German rule under the capitulation of Germany and afterwards, Italy re-gained control over that territory<sup>103</sup>.

## 2.2. South Tyrol after WWII

The position of South Tyrol after the WW2 was determined mostly by the Gruber – De Gasperi Agreement, among that South Tyrolean People’s Party (SVP) was formed as a political entity to promote German-speakers rights. At the conference of Foreign Ministers held in Paris on 30 April 1946, it was decided that South Tyrol will remain in Italy, as a compensation of other lost territories such as the Italian colonies<sup>104</sup>, and this was followed with the Gruber – De Gasperi agreement, which was annexed in the Paris Peace Treaty. According to the agreement, German-speaking population in South Tyrol will be assured a complete quality of rights with the Italian-

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<sup>101</sup> Supra note 97;

<sup>102</sup> LANTSCHNER, Emma (2008): “History of the South Tyrol Conflict and its Settlement”, *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, p. 9, European Academy Bozen/Bolzano; see also: RAUTZ, Güther: “South Tyrolean Autonomy as a Model for Coexistence between Ethnic Groups”, p.61;

<sup>103</sup> LANTSCHNER, Emma (2008): “History of the South Tyrol Conflict and its Settlement”, *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, p. 9, edited by Jens Woelk, Francesco Palermo and Joseph Marko, European Academy Bozen/Bolzano; Also, Ettore Tolomei who was hated by Germans because of his anti-German fascism approach, and for the creation of the catalogue we mentioned above was sent to that concentration camp, but he survived alive from there, can be found: “The truth about Tolomei and Alto/Adige”:<http://researchomnia.blogspot.com/2019/06/the-truth-about-tolomei-and-alto-adige.html>, last accessed: 15.05.2020;

<sup>104</sup> RAUTZ, Güther (2014): “South Tyrolean Autonomy as a Model for Coexistence between Ethnic Groups”, p.61, *Autonomies in Europe: Solutions and Challenges*, Budapest;

speaking inhabitants, safeguard of the ethnic character of German-speaking element, autonomous legislative and executive power, appropriate ethnic employment proportion in public services, education in mother tongue and the equal use of both languages. Apart from those points, Austria got the legal title of a protective power in favor of the South Tyrolean minority and still at that time the will of most of South Tyrolean people was self-determination, but both parties involved were against territorial changes, thus they agreed on internal self-determination<sup>105</sup>. In 1948 the Special Statute for the Autonomous Region of Trentino - South Tyrol came into force by Constitutional Law no.5<sup>106</sup>, through which the implementation of the Gruber – De Gasperi agreement was designed, but it was not granted to the province of Bolzano only, as according to the Italian constitution, autonomy was granted to regions and not to provinces. So, within the region Germans were still a minority and could easily be outvoted by regional decisions, and this led to some protests in 1957 where around 35,000 South Tyrolese were protesting with the standpoint that without an Autonomy for South Tyrol alone, the Gruber – De Gasperi Agreement was not fulfilled<sup>107</sup>. This resulted with a filed complaint of Austria toward the UN in 1960 and the Assembly came with a decision which stated that both parties of the 1946 agreement should try to find a solution through negotiations<sup>108</sup>.

As a result of negotiations ‘package’ was achieved with 137 to be applied in the new Autonomy statute which was adopted and entered into force on 20 January 1972. According to it, now both composing provinces of the region had separate autonomous status, and it is the only Italian region with legislative and administrative powers given to the provinces. In the beginning, it was stated that all decrees should be issued within 2 years of the coming into effect, but it took 20

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<sup>105</sup> LANTSCHNER, Emma (2008): “History of the South Tyrol Conflict and its Settlement”, *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, p. 10, European Academy Bozen/Bolzano; see also: PALLAVER, Günther (2015): “Confederalizing via European Integration: South Tyrol from Habsburg to the Present”, *Austrian Federalism in Comparative Perspective*, edited by Günter Bischof and Ferdinand Karlhofer, vol. 24, University of New Orleans Press, New Orleans, pp. 128–148;

<sup>106</sup> Through this Constitutional Law the Special Statute for the Autonomous region of Trentino- South Tyrol, in accordance with Constitution; for more see also: Constitution of the Italian Republic, article 5 and 116, can be found: <https://www.wipo.int/edocs/lexdocs/laws/en/it/it037en.pdf>, last accessed: 15.06.2020;

<sup>107</sup> LANTSCHNER, Emma (2008): “History of the South Tyrol Conflict and its Settlement”, *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, p. 10-1, edited by Jens Woelk, Francesco Palermo and Joseph Marko, European Academy Bozen/Bolzano;

<sup>108</sup> WOODCOCK, George (1992): “THE NEW AUTONOMY STATUTE OF TRENTINO-ALTO ADIGE (the End of the South Tyrol Question)” *Il Politico*, vol. 57, no. 1 (161), pp. 127–145;

years before it was considered to be fully implemented<sup>109</sup>. After the implementation the province has now a high level of Autonomy, especially in a cultural aspect, where the Autonomy statute protects and promotes not only Ladin and German-speaking minorities but also the Italian linguistic group, and as such it has played a positive role in identity building for all groups<sup>110</sup>. Therefore the feeling of being left behind or discriminated by the institutions because of belonging to one or another linguistic group is not very common anymore, even though considering that the whole territory of the province is bi-lingual, it makes it tri-lingual for Ladin-speaking minority, but this is another aspect and will not be elaborated here.

Year	German	Italian	Ladins	Others	Total population
1910	223,913 89%	7,339 2.9%	9,429 3.8%	10,770 4.3%	251,451
1921	193,271 75.9%	27,048 10.6%	9,910 3.9%	24,506 9.6%	254,735
1961	232,717 62.2%	128,271 34.3%	12,594 3.4%	281 0.1%	373,863
1971	260,351 62.9%	137,759 33.3%	15,456 3.7%	475 0.1%	414,041
1981	279,544 64.9%	123,965 28.7%	17,736 4.1%	9,593 2.2%	430,568
1991	287,503 65.3%	116,914 26.5%	18,434 4.2%	17,657 4%	440,508
2001	296,461 64%	113,494 24.5%	18,736 4%	34,308 7.4%	462,999
2011*	314,604 62.3%	118,120 23.4%	20,548 4.1%	51,795* 10.3%*	505,067*

Table 2. South Tyrol Population by ethnic composition – 1910 – 2011

Source: ASTAT - South Tyrol in figures (2016) < [https://astat.provinz.bz.it/downloads/Siz\\_2016-eng\(1\).pdf](https://astat.provinz.bz.it/downloads/Siz_2016-eng(1).pdf) >

### 3. Similarities and Differences

We have elaborated the historical developments of both cases, as we believe that through it we can create a better idea on how similar were the fragmented societies and by knowing that we can more easily compare the possibilities for the application of similar measures. So, to have a better understanding we will conduct a comparison between both cases in a chronological order, emphasizing the issues where the states have applied similar measures toward minorities.

<sup>109</sup> LANTSCHNER, Emma (2008): "History of the South Tyrol Conflict and its Settlement", *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, p. 13, edited by Jens Woelk, Francesco Palermo and Joseph Marko, European Academy Bozen/Bolzano

<sup>110</sup> RAUTZ, Güther (2014): "South Tyrolean Autonomy as a Model for Coexistence between Ethnic Groups", p.64, *Autonomies in Europe: Solutions and Challenges*, Budapest;



Taking about the beginning of XX century, we can see that after the WWI the political circumstances changed in both cases, Kosovo was part of Ottoman Empire until then, while South Tyrol was part of Austro-Hungarian Empire. The differences in both cases are that South Tyrol passed under Italian rule based on an agreement, while Kosovo was invaded by force from Yugoslavia and was recognized from the international community. We can say that after that the measures taken from the “new” states toward minorities within their territories were very similar and we can even consider them discriminative as, firstly in both cases the minority’s language was not official and in the case of South Tyrol the use of mother tongue was prohibited in the public sphere. Secondly, in both cases education in mother tongue was not provided and in fact it was prohibited by law, except for the religious education which in the case of Kosovo was mainly taught in Turkish language. The fact that in both cases because of the lack of permission to get education in mother language, the reaction was the opening of underground “illegal” schools, this shows how important the use of native language is and that the prohibition of its use will by most of the chances lead to disapproval behavior of the respective linguistic group.

Other similarities are that both places have been under some colonial measures, where South Tyrol went through industrialization process, investing in factories and afterwards creating job opportunities for Italians, who migrated there and thus the ratio of ethnic groups narrowed. In the same time also in Kosovo there were a few waves of colonization where Serbian ethnic people migrated in Kosovo and different amounts of land were given to them in order to be able to settle there, changing the ratio of ethnic groups there also. It is important to mention that in both cases somehow the private property of the minority groups were “violated” by the states, in South Tyrol taxes were increased to a very high level, so people would give up their properties because of lack of means to pay the taxes, while giving renting or selling those properties to Italian ethnic people with a very low price. On the other hand in Kosovo we had similar measures regarding the properties but even harder, where the state disposed the Albanian minority from fertile land declaring it as state property, imposing restrictions for it and making it impossible to register as privately owned property, so through these measures they made living harder for Albanians, encouraging them to migrate to Turkey, while free property was given to Serbian “colonizers”.

Also, one “radical” similarity for both cases is the activity of some people with political and academic backgrounds, who had concrete written plans against elements of cultural identity of minority groups. In case of South Tyrol there was Ettore Tolomei who created a catalogue with

new Italian names for toponyms of different places in the province of South Tyrol which until then had German toponyms, so in this way the German-speakers will start reducing the use of their language even when they refer to places. While, in Kosovo was Vasa Cubrilovic a Serbian politician and academic, who created a memorandum or a plan on how to expulse the majority of Albanians from Kosovo, so the difference in the numbers of inhabitants between Serbs and Albanians decreases and the worst aspect of these people is the fact that they, both openly declared their “discriminative” or “nationalistic” plans.

Some of the most radical measures taken by the states toward minorities in both cases, were international agreements between Mussolini and Hitler in 1939 known as (Option Agreement), Yugoslavia and Turkey in 1938 (Convention Regulating the Emigration of the Turkish Population from the Region of Southern Serbia in Yugoslavia), where the main ideas of these agreements were the expulsion or assimilation of the minorities in the respective country. The first agreement included expulsion and assimilation as the German-speakers had to leave the country or renounce their German descent and keep their Italian citizenships. While, in the second agreement, Albanians had to leave for Turkey as they were announced Turks, also, Yugoslavian government was willing to pay money to Turkey for each family going there.

After the WWII circumstances in Kosovo remained similar with a few improvements, in the aspect of ethnic minorities rights, while in Italy the circumstances were better improved, as a result of the Agreement reached between Italy and Austria as a ‘kin state’ for German-speakers in South Tyrol. So, after that German-speakers in South Tyrol were in a more favorable position and they were a province of the Autonomous region, while Kosovo was also an autonomous region but it was more limited and even the name given to the region was not “approved” by Albanians because of the term Metohija. In the aspect of the language, things were improved for good in South Tyrol as German language became an official language among Italian, on the other hand in Kosovo Albanian was not an official language. Also, in the education sphere there were improvements in both cases, in South Tyrol education in German language was permitted in all levels and in Kosovo as well learning in Albanian became available for Albanian pupils, and this was considered as a good improvement in both sides. Another issue that can be compared is the development of the second Autonomous statue of South Tyrol and the moment when Kosovo became an Autonomous province of Kosovo as a constituent part of Serbia. In both cases these developments happened during 60s to 70s, and both of them were preceded by popular protests

from minorities, in South Tyrol in 1957, while in Kosovo in 1968, and considering these we can argue that national identity is a very sensitive issue and ignoring such issues will most of the time lead to disapprovals by those minorities whose identity is threatened. Another element related to this comparison is the position of the 'kin states' of minorities, where in the case of South Tyrol, German-speakers had Austria, while Albanians in Kosovo had Albania as a 'kin state', but Albania was not really concerned that much with the position of Albanians in Kosovo, as a result of the domestic problems they had as a communist state.

Apart from the improvements of the position of Provinces we can also argue that in the beginning of 70s Albanians got their right to wave their national flag and also, University of Prishtina was established making the first time the Albanians in Kosovo could go to higher education level and study in their native language and also Albanian became an official language equal with Serbo-Croatian. While, in case of South Tyrol with the second Autonomous statute, dissents within the German-speakers community were reduced substantially and since then there were not any more big developments regarding the cultural autonomy and issues related to identity. So, in this case following the latter developments in Kosovo, when Milosevic came into power, abolished the Autonomy and started to impose different learning curriculums in the schools, the reaction of Albanians was resistance. If, we compare these developments with the ones in South Tyrol, one can argue that the lesson learned is that, if Milosevic would not abolish the Autonomy and would allow the continuation of the same policies in the aspect of the use of native language and protection and promotion of all identities in Kosovo, the Albanians would not have to resist anything. With this approach we can conclude that respect of lingual and national "diversity" in South Tyrol, brought a good settlement for the groups living in the province and I believe that also Kosovo can learn a lot from this approach in South Tyrol and respect minorities in order to avoid, possibilities for turbulences as the ones which happened there during 90s.

## **IV. Impact of Serbia and Austria as ‘kin state’ in internal disputes settlements**

In this chapter we will mainly focus on the actions of ‘kin states’ toward their national minorities in the other states, and we will analyze and compare both cases, but in different periods of time. For the case of Kosovo we will elaborate in details the approach of Serbia as ‘kin state’, for Serbs in Kosovo after NATO intervention, while, for the case of South Tyrol we will focus on the measures taken by Austria after WWII and what was the impact of those measures. Through this approach we intend to see the impact of Austria’s measures for the position of German-speaking minorities in Italy, and the reactions of people impacted by those measures, this will be useful for us to learn the lessons of what went bad and what went good, thereby create an idea on how to have good outcomes and avoid potential harmful reactions in the case of Kosovo. Apart from that, we will also try to elaborate inter-actions between majorities and minorities, so we can find out what are the possibilities for co-operation between both groups.

### **1. Serbia’s approach toward Kosovo and Serbs in Kosovo**

Knowing that Kosovo was a part of Serbia and that it declared its independence unilaterally, also including the fact that Kosovo is still not recognized by Serbia creates some complications, and makes it clear that the relations between both countries are not very good. So, here we are going to elaborate the actions taken by Serbia toward Serbs in Kosovo and what was the impact of these measures. As said earlier this analyze is going to be conducted in the post-war period, until today’s developments. To do this we have to start from the intervention of NATO in 1999 and withdrawal of Serbian Forces from the territory of Kosovo based on an Agreement which is known as the “Kumanovo Agreement”, which was signed by NATO and Yugoslavia<sup>111</sup>. This was also stated in a Security Council (SC) of the UN Resolution (1244) known as UNSCR 1244, according to which an Interim Administration Mission (UNMIK) was established which had the task of governing Kosovo<sup>112</sup>.

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<sup>111</sup> Military-technical agreement between the international security force (KFOR) and the Government of the Federal Republic of Yugoslavia and the Republic of Serbia, can be found: [https://peacemaker.un.org/sites/peacemaker.un.org/files/990615\\_MilitaryTechnicalAgreementKFORYugoslaviaSerbia.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/990615_MilitaryTechnicalAgreementKFORYugoslaviaSerbia.pdf), last accessed: 15.06.2020;

<sup>112</sup> Resolution 1244 (1999), SC of the UN, Paragraph 10, can be found: [https://peacemaker.un.org/sites/peacemaker.un.org/files/990610\\_SCR1244%281999%29.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/990610_SCR1244%281999%29.pdf), last accessed: 15.06.2020;

When the UNMIK started its work, it was not recognized from the Serbian inhabitants of Kosovo, and therefore in the northern municipalities the Serbian administration courts, schools, hospitals etc. were maintained and also they were answering directly to Belgrade, even though they had signed the “Kumanovo Agreement”<sup>113</sup>. These activities were directly linked to Belgrade, which indicates that the measures taken by Serbia were damaging the integration of minorities in the new international administration in Kosovo.

In 2001 PISG were established, but initially they were boycotted again by the Serbian politicians as for them it meant a step forward for the independence of Kosovo<sup>114</sup>, so basically the measures Serbia was taking were implemented through, helping and financing parallel structures which provided services to Serbs there, so the engagement of Serbia in Kosovo was through instrumentalization of Serbs in Kosovo. On the other hand within Serbia, Kosovo was still a very sensitive topic, and after the establishment of PISG, the national assembly of Serbia called the Government of Serbia ‘to run a policy of strengthening relations between Kosovo and other parts of Serbia in order to protect sovereignty and territorial integrity of the state’<sup>115</sup> and this was an indicator that Serbia is not willing to let Kosovo go. Another approach of Serbian prime minister at that time were 2 plans, plan A was to “Daytonise” Kosovo by creating a Serbian entity like Republika Srpska in Bosnia and plan B was stipulated partition of Kosovo, with the inclusion of the Serb populated north Kosovo into Serbia while getting international guarantees for Serbs in southern part of Kosovo<sup>116</sup>.

First elections in Kosovo for PISG assembly were held in 2001, at the beginning Serb politicians in Kosovo wanted to boycott these elections, but OSCE convinced them to participate and therefore they participated through the ‘Coalition Return’ and they got around 90,000 votes, securing 22 seats for Serbs including reserved seats<sup>117</sup>. On the other hand the elections of 2004 had different outcome, as Serbian people almost completely boycotted the elections, where

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<sup>113</sup> Report from the Organization for Security and Co-operation in Europe (2003): “Parallel structures in Kosovo”, p.5, can be found: <https://www.osce.org/files/f/documents/9/1/42584.pdf>, last accessed: 15.06.2020;

<sup>114</sup> WILLIGEN, v. Niels (2013): “Peacebuilding and International Administration: The cases of Bosnia and Herzegovina and Kosovo”, Routledge Taylor and Francis Group, London and New York;

<sup>115</sup> EJFUS, Filip (2020): “Crisis and Ontological Insecurity over Kosovo’s Secession”, p.101, Palgrave Macmillan, Belgrade;

<sup>116</sup> Ibid;

<sup>117</sup> WILLIGEN, v. Niels (2013): “Peacebuilding and International Administration: The cases of Bosnia and Herzegovina and Kosovo”, Routledge Taylor and Francis Group, London and New York; see also: Certified Results on Elections of 2001 in Kosovo - OSCE, can be found: <http://www.kqz-ks.org/wp-content/uploads/2018/04/1.-Rezultatet-e-p%C3%ABrgjithshme-sipas-Subjekteve-2001-1.pdf>, last accessed: 15.06.2020;

Slavisa Petkovic who was considered more independent from Serbia because of his approach that people of Kosovo should no longer allow Belgrade to tailor their destiny by its policy, became a minister with only 269 votes and was highly criticized by Serbia as an opportunist who became minister through the virtue of the election boycott<sup>118</sup>. While on the other hand the other Party (SLKM) which was directly under the rules of Serbia, did not participate at all, therefore they did not get any position for that mandate<sup>119</sup>.

While on March 2004 big demonstrations happened in Kosovo, and this increased the attention of international community toward Kosovo, therefore on July the special envoy of the UN Secretary-General, Kai Eide recommended moving toward a finding a more permanent solution and commencement of more formalized talks over the status of Kosovo<sup>120</sup>. In order to fulfill this issue former Finnish President Martti Ahtisaari was elected as the special envoy for the Kosovo Status Process, including the negotiations. After these developments negotiation took place from February to September 2006 into more formalized form, the position of Serbia was also influenced by the Montenegrin referendum for secession, which lead to the dissolution of the Yugoslavian state, therefore any approach for a regionally based solution where Kosovo would be granted autonomy within a federal context was no longer realistic option. In the same time Vojislav Kostunica Prime Minister of Serbia at that time started to attack Ahtisaari directly and was demanding his removal<sup>121</sup>, maybe he saw him as an “enemy” of Serbian interests as, in 2005 Ahtisaari told Serbian leaders in Belgrade that they have lost Kosovo and now the challenge is on how to clean Milosevic’s mess<sup>122</sup>.

In 2007, Ahtisaari came up with a plan and he went to Belgrade to present his plan, where he met President of that time Boris Tadic, who refused the plan, evaluating it as a threat for Serbian identity, while it was mainly supported by Albanian side<sup>123</sup>. The plan’s proposal was an

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<sup>118</sup> WILLIGEN, v. Niels (2013): “Peacebuilding and International Administration: The cases of Bosnia and Herzegovina and Kosovo”, Routledge Taylor and Francis Group, London and New York;

<sup>119</sup> Ibid, see also: PERRIT, H. Henry, Jr. (2010): “The Road to Independence for Kosovo: A chronicle of the Ahtisaari Plan”, p. 98, Cambridge University Press, USA;

<sup>120</sup> HAUG, K. Hilde (2011): “Kosovo in Serbian Politics since Milosevic”, *Civic and Uncivic Values: Serbia in the Post-Milosevic Era*, p.338, edited by: Ola Listhaug, Sabrina P. Ramet and Dragan Dulic, Central European University Press, Budapest – New York;

<sup>121</sup> Ibid, p.345-7;

<sup>122</sup> PERRIT, H. Henry, Jr. (2010): “The Road to Independence for Kosovo: A chronicle of the Ahtisaari Plan”, p. 120, Cambridge University Press, USA;

<sup>123</sup> EJFUS, Filip (2020): “Crisis and Ontological Insecurity over Kosovo’s Secession”, p.105-6, Palgrave Macmillan, Belgrade;

internationally supervised independence for Kosovo with substantial decentralization, providing an increase of five new Serbian Majority municipalities in Kosovo, in the same time the replacement of the UNSCR 1244, but this failed as a result of the Russian veto<sup>124</sup>. As a reaction to this plan Serbia started to further strengthen Serbian parallel structures, through promising financial resources, trying to maintain the loyalty of Serbians in Kosovo and prevent them from communicating with Prishtina or international body, they even went further threatening that they will cancel salaries for Kosovar Serbs if they do not withdraw from jobs in Kosovo's institutions<sup>125</sup>. After the Russian veto, politicians of Kosovo were supported by the Western countries to go with the other plan, which was unilateral declaration of independence and therefore on 17<sup>th</sup> of February 2008 Kosovo declared its independence from Serbia, and this was not-accepted by Serbian institutions and people, as expected<sup>126</sup>.

After the declaration of independence Serbia vowed never to recognize the creation of a 'fake state' on its sacred land, they also gave their efforts by preventing Kosovo from joining international organizations, averting new recognitions and obtaining withdrawals of recognition<sup>127</sup>. Another action after Kosovo's independence declaration was the request of an advisory opinion on the legality of Kosovo's declaration of independence from Serbia toward the International Court of Justice (ICJ) with the question 'Is the unilateral declaration of independence by the PISG of Kosovo in accordance with international law?'<sup>128</sup>. ICJ's response was that the declaration of independence did not violate International Law<sup>129</sup>.

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<sup>124</sup> Ibid, p.107; also: HAUG, K. Hilde (2011): "Kosovo in Serbian Politics since Milosevic", *Civic and Uncivic Values: Serbia in the Post-Milosevic Era*, p.349-50, edited by: Ola Listhaug, Sabrina P. Ramet and Dragan Dulic, Central European University Press, Budapest – New York; see also: Comprehensive Proposal for the Kosovo Status Settlement (2007), General Principles, article 1.10 & article 6, can be found: <http://pbosnia.kentlaw.edu/Comprehensive%20Proposal%20for%20the%20Kosovo%20Settlement.pdf>, last accessed: 15.06.2020;

<sup>125</sup> HAUG, K. Hilde (2011): "Kosovo in Serbian Politics since Milosevic", *Civic and Uncivic Values: Serbia in the Post-Milosevic Era*, p.352, edited by: Ola Listhaug, Sabrina P. Ramet and Dragan Dulic, Central European University Press, Budapest – New York;

<sup>126</sup> EJFUS, Filip (2020): "Crisis and Ontological Insecurity over Kosovo's Secession", p.107-8, Palgrave Macmillan, Belgrade;

<sup>127</sup> Ibid, p.127;

<sup>128</sup> KER-LINDSAY, James (2015): "Explaining Serbia's decision to go to the ICJ", *The Law and Politics of the Kosovo Advisory Opinion*, edited by: Marko Milanovic and Michael Wood, Oxford University Press, Oxford, UK;

<sup>129</sup> International Court of Justice, Reports of Judgments, Advisory Opinions and Orders, "Accordance with International Law of the Unilateral Declaration of Independence in respect with Kosovo", July 2010, can be found: <https://www.icj-cij.org/files/case-related/141/141-20100722-ADV-01-00-EN.pdf>, last accessed: 15.06.2020;

The opinion of ICJ had a very big impact on the perception of the issue regarding Kosovo, afterwards the EU was obliged by the UN resolution 64/298 to facilitate the dialogue between Kosovo and Serbia<sup>130</sup>, therefore Serbia's approach was nothing but a blockage for the mission of EU. Therefore the newly appointed EU High Representative for Foreign and Security Policy, Catherine Ashton warned President of Serbia that without the beginning of dialogue, there would be no European perspective for Serbia. So, Serbia was faced with a choice 'either to continue with its EU narrative or with its Kosovo stories. It could no longer go on telling both stories'<sup>131</sup>. This conditionality from EU toward Serbia led to the beginning of the EU-facilitated dialogue between Belgrade and Pristina in March 2011. The outcomes of this dialogue were positive and it raised high hopes for resolution of a long-lasting dispute between the two countries, where both sides agreed on plenty issues starting with technical issues to more sensitive political ones. Most famous one was the first agreement of principles governing the normalization of relations (2013), which stated that an Association/Community of Serb majority municipalities will be established<sup>132</sup>, this act was considered a turning point for the positive 'potential' created for settling the dispute between countries, but in reality implementation did not really happen<sup>133</sup>.

Another important issue for which both sides agreed was the gradual dissolution of parallel structures in the northern municipalities, as they were still active and related to Belgrade, which means that even though the agreements were reached, there was a lack of will to implement them. Judging this issue by the position of Serbs in Kosovo, where firstly they are not really represented in the dialogue<sup>134</sup>, we should emphasize that they are in accordance with Belgrade for some issues, and not in accordance for some other issues, e.g. Instructions from Belgrade were the boycott of local elections of 2009, but the outcome were the participation of Kosovar Serbians in relatively high number, as a key to secure Serbian control over those municipalities<sup>135</sup>. While, on the other hand, they are in accordance with Belgrade e.g. for parallel structures, where there are

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<sup>130</sup> BEHA, Adem (2015): "Disputes over the 15-point agreement on normalization of relations between Kosovo and Serbia", *Nationalities Papers: The Journal of Nationalism and Ethnicity*;

<sup>131</sup> EJFUS, Filip (2020): "Crisis and Ontological Insecurity over Kosovo's Secession", p.133-4, Palgrave Macmillan, Belgrade;

<sup>132</sup> BEYSOYLU, Cemaliye (2018): "Implementing Brussels Agreements: the EU's facilitating strategy and contrasting local perceptions of peace in Kosovo", *Southeast European and Black Sea Studies*;

<sup>133</sup> Ibid;

<sup>134</sup> GASHI Krenar; MUSLIU, Vjosa & ORBIE, Jan (2017): "Mediation Through Recontextualization: The European Union and The Dialogue Between Kosovo and Serbia". *European Foreign Affairs Review* 22, no. 4, pp.533-550.

<sup>135</sup> HAUG, K. Hilde (2011): "Kosovo in Serbian Politics since Milosevic", *Civic and Uncivic Values: Serbia in the Post-Milosevic Era*, p.357-8, edited by: Ola Listhaug, Sabrina P. Ramet and Dragan Dulic, Central European University Press, Budapest – New York



considerable number of local Serbs within these institutions who refuse to be included in the payment system of Kosovo, but there are also employees who get dual payment, by the budget of Serbia and in the same time by budget of Kosovo<sup>136</sup>.

So, even after those agreements, the approach of Serbia toward Kosovo did not change for good, and they are still lobbying for withdrawal of recognitions for Kosovo, which is known as counter-secessionist discourse. Also, we should mention the continuation of the instrumental repetition of the tautological signifier ‘Kosovo is Serbia’ by Government of Serbia. A crucial moment related to this was when in 2017, Serbian Government announced the first direct train line connection from Belgrade to Mitrovica, while in the train was written ‘Kosovo is Serbia’ in 21 different languages, but the train never reached its destination as Kosovo Police announced that it would stop the unauthorized train from entering its territory<sup>137</sup>. While, dialogue between both countries was stopped, when as a counter-measure for the Serbian campaign against recognition of Kosovo, Government of Kosovo lifted 100% customs tariffs on Serbian imports in 2018<sup>138</sup>, which resulted with the rejection of Serbian side to negotiate with Kosovo. Apart from that, there is a very big topic in regard to Kosovo-Serbia relations, which is circulating in the public and it is about the possibilities of land swap between Kosovo and Serbia which was described by the President of Kosovo as “border correction”. According to that, Serbia will get northern municipalities of Kosovo with Serbian majority, while Kosovo will get some southern Serbia municipalities with majority of Albanians<sup>139</sup>.

## **2. Inter-actions between Austrian and Italy regarding South Tyrol**

When we talk about the case of South Tyrol, and the relations of German-speaking minorities with their ‘kin state’ Austria, the circumstances are completely different compared to the case of Kosovo. There are several reasons for that, firstly starting by the fact that South Tyrol became part of another country (Italy), because of an international agreement<sup>140</sup>, secondly it was not

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<sup>136</sup> GAP Institute (2015): “A Report on the Governance of four Northern Municipalities”, can be found: [https://www.institutigap.org/documents/22590\\_VeriuAnglisht.pdf](https://www.institutigap.org/documents/22590_VeriuAnglisht.pdf), last accessed: 15.06.2020;

<sup>137</sup> EJFUS, Filip (2020): “Crisis and Ontological Insecurity over Kosovo’s Secession”, p.141, Palgrave Macmillan, Belgrade;

<sup>138</sup> BBC News (2018): “Kosovo hits Serbia with 100% trade tariffs amid Interpol row”, can be found: <https://www.bbc.com/news/world-europe-46287975>, last accessed: 09.06.2020;

<sup>139</sup> VELA, Blerim (2019): “ ‘Border Correction’ Leads to the Suspension of Reason”, Kosovotwopointzero – K2.0, can be found: <https://kosovotwopointzero.com/en/border-correction-leads-to-the-suspension-of-reason/>, last accessed: 15.06.2020;

<sup>140</sup> Supra note 105;

secession or anything like a request for independence and therefore, it is completely different. But considering that in between 2 world wars, the role of Austria as ‘kin state’ was very passive as somehow Austria was “guilty” for starting the war, they could not really do much to support the interests of German-speaking minorities there. Because of that, here we will focus on interactions between Austria and Italy after WWII, regarding the position of German-speaking minority in South Tyrol.

The inter-actions started with the signature of Gruber – De Gasperi Agreement (1946), which was related to the position of German-speakers in the province, with regard their cultural autonomy and this included also formalization of German as an official language of the province. But it was never the intention of Austria to re-gain South Tyrol as their territory and on the other way it was not supported by the Allied powers, as they did not support any change of the “status quo” of the borders as they feared that Austria might end up under control of Russia<sup>141</sup>. So, after the agreement there was not any kind of concern of Austria as it was still under the control of the Allied and Associated powers, until the end of 1955 when they withdrew their officials and Austria became independent<sup>142</sup>. After that, Austria was in a stronger position to exercise its function as a ‘kin state’ for South Tyrol, therefore on October 1956, it send a memorandum of the Austrian Federal Government to Italy, complaining about the lack of implementation of the Paris Agreement, while the response of Italians was that the agreement has been fulfilled therefore, there is no reason why should Austria react to the issue<sup>143</sup>. Following the failure of the negotiations, Austria announced the intention to address the issue of South Tyrol in the UN, while, Italy proposed that the issue should be sent to ICJ. When the issue was brought to the General Assembly of the UN in 1960, Austria was careful to refer to the issue as a problem of

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<sup>141</sup> LANTSCHNER, Emma (2008): “History of the South Tyrol Conflict and its Settlement”, *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, p. 9-10, edited by Jens Woelk, Francesco Palermo and Joseph Marko, European Academy Bozen/Bolzano;

<sup>142</sup> State Treaty for the Re-establishment of an Independent and Democratic Austria ( Vienna, 15 May 1955), Part III, article 20, can be found: [https://www.cvce.eu/content/publication/1999/3/2/5c586461-7528-4a74-92c3-d3eba73c2d7d/publishable\\_en.pdf](https://www.cvce.eu/content/publication/1999/3/2/5c586461-7528-4a74-92c3-d3eba73c2d7d/publishable_en.pdf), last accessed: 10.06.2020;

<sup>143</sup> WOODCOCK, George (1992): “THE NEW AUTONOMY STATUTE OF TRENTO-ALTO ADIGE (the End of the South Tyrol Question)” *Il Politico*, vol. 57, no. 1 (161), pp. 127–145; see also: RAUTZ, Güther: “South Tyrolean Autonomy as a Model for Coexistence between Ethnic Groups”, p.62;

minority rights rather than self-determination as they were aware that it might be seen as unreasonable and perhaps even threatening<sup>144</sup>.

During those times there were some movements of SVP, intending external self-determination, but the approach of Austria toward this issue was, encouraging the representatives of the party, to hold on to a more realistic intra-Italian solution rather than external self-determination<sup>145</sup>. As, they accordingly to the approach they had when addressing UN, did not claim or advocate for the re-annexation of South Tyrol, and its line of reasoning was based on distinction between ‘external’ and ‘internal’ self-determination, focusing on internal self-determinations as way to reach full autonomy of the province within the framework of minority protection<sup>146</sup>. The negotiations started and the result of these negotiations was the creation of “Commission of Nineteen” which had the mandate to investigate the South Tyrol question and make a proposal to Italian Government regarding the solution of the issue. An important element is that the German-speaker’s representatives in this commission were South Tyrolean people from SVP and not representatives from Austria, so the representation of the minorities was conducted directly by the people living there, as during 50s to 60s the negotiations were carried out between the two states, while German-speaking South Tyrolean leaders had only indirect talks with Italian leaders<sup>147</sup>. The commission’s report was delivered in 1964 and it was known as the “Package” which aimed to reform the First Autonomy Statute composed by 137 measures<sup>148</sup>. So, the negotiations had a good outcome, but still the relations between two governments were under tension and that was mostly because of South Tyrol question, and this tension lead Italy to vetoing Austria’s application in the EU (then ECC) in 1967, but because of Gruber- De Gasperi

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<sup>144</sup>MEDDA-WINDISCHER, Roberta (2008): “Protection of Minorities Under International Law and the case of South Tyrol”, *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, p. 24, edited by Jens Woelk, Francesco Palermo and Joseph Marko, European Academy Bozen/Bolzano; see also: WOODCOCK, George (1992): “THE NEW AUTONOMY STATUTE OF TRENTO-ALTO ADIGE (the End of the South Tyrol Question)” *Il Politico*, vol. 57, no. 1 (161), pp. 127–145;

<sup>145</sup> PALLAVER, Günther (2015): “Confederalizing via European Integration: South Tyrol from Habsburg to the Present”, *Austrian Federalism in Comparative Perspective*, edited by Günter Bischof and Ferdinand Karlhofer, vol. 24, University of New Orleans Press, New Orleans, pp. 128–148;

<sup>146</sup> MEDDA-WINDISCHER, Roberta (2008): “Protection of Minorities Under International Law and the case of South Tyrol”, *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, p. 24-5, edited by Jens Woelk, Francesco Palermo and Joseph Marko, European Academy Bozen/Bolzano;

<sup>147</sup> *Ibid*, p.27;

<sup>148</sup> LANTSCHNER, Emma (2008): “History of the South Tyrol Conflict and its Settlement”, *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, p. 12, edited by Jens Woelk, Francesco Palermo and Joseph Marko, European Academy Bozen/Bolzano;

agreement, the protective role of Austria for South Tyrol was internationally recognized otherwise it would have been considered internal Italian affair<sup>149</sup>.

In 1969 the ‘Package’ agreement was accepted by South Tyrol by a majority of 53% of delegates, while it was also voted in the Nationalrat of Austria, after that the Italian government set in motion the process of implementing the Package<sup>150</sup>. This led to the new Autonomous Statute of 1972, but also was considered as an exercise of ‘internal’ self-determination by South Tyrol. While even after the adoption of the 1972 Autonomy Statute, Austria has continued to advocate for its role as a guarantor of South Tyrol, to ensure that the autonomy status does not change in the future<sup>151</sup>.

After that, the implementation of the ‘Package’ took more than it was foreseen so, it was not implemented until 1992, and when it was finally implemented Italian government informed Austria about its implementation. In order to end the diplomatic dispute, it was necessary that Austria admits that Italy had implemented the ‘Package’ satisfactorily and in full, so, Austria would perform this act only with the agreement of German-speaking inhabitants of South Tyrol. On 30<sup>th</sup> May 1992 the SVP met in an extraordinary congress in Meran with the question before the delegates, if they should vote the end of their dispute with Government of Italy or not, the next day the congress voted to end the dispute with a large majority of 83% of over a thousand delegates. This was followed by the delivery of the document from the Government of Austria to the Italian Ambassador there on 11<sup>th</sup> June 1992, by which it recognizes that Italy had implemented all 137 measures as defined in the ‘Package’ of 1969, to improve the conditions of the linguistic minorities in South Tyrol<sup>152</sup>. Austria also submitted before the UN the official declaration of conflict settlement in the same day. Apart from the Austrian Parliament in 2006 adopted a recommendation through which, they wanted to include in the Preamble of the future Austrian Constitution a reference to the role of Austria as ‘protecting power’ for South Tyrol<sup>153</sup>. Considering all of these actions, there are still movements supporting secession and external self-

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<sup>149</sup> MEDDA-WINDISCHER, Roberta (2008): “Protection of Minorities Under International Law and the case of South Tyrol”, *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, p. 23-7, edited by Jens Woelk, Francesco Palermo and Joseph Marko, European Academy Bozen/Bolzano;

<sup>150</sup> WOODCOCK, George (1992): “THE NEW AUTONOMY STATUTE OF TRENTINO-ALTO ADIGE (the End of the South Tyrol Question)” *Il Politico*, vol. 57, no. 1 (161), pp. 127–145;

<sup>151</sup> *Supra* note 166;

<sup>152</sup> WOODCOCK, George (1992): “THE NEW AUTONOMY STATUTE OF TRENTINO-ALTO ADIGE (the End of the South Tyrol Question)” *Il Politico*, vol. 57, no. 1 (161), pp. 127–145;

<sup>153</sup> *Supra* note 166;

determination of South Tyrol, even without the support of Austria, where there are plenty of non-binding referendums being conducted by different groups to measure the public opinion regarding the possibilities of this issue<sup>154</sup>.

### **3. Behavior of majority and minority groups toward each-other and institutions in Kosovo**

In this part we are going to focus on the inter-actions of different groups toward each other, and through this we intend to analyze the perception of co-living and co-existence within groups of different ethnic or lingual belonging toward one-another in Kosovo. To better see the developments, we need to go back from the end of the war and on. We should mention that after the intervention in Kosovo, the relations were in a very high tension, the perception toward one and another was very hostile, therefore especially during 2000-1, there were plenty incidents between Albanians and Serbs. During those times, there were plenty of attacks and murderers toward Serbian community mainly, but also other communities such as Roma and Ashkali, these were ethnicity based attacks, and they did not happen in particular area e.g. in municipalities with Serbian majority, but in different areas of Kosovo<sup>155</sup>.

Other important issue, were the property rights of different communities, as a lot of private properties were seized/usurped by different groups, especially by armed civilians who presented themselves as soldiers of KLA. So, a lot of private properties which belonged to communities were usurped, especially in the part of Pristina and mainly by Albanians, but there were also plenty of private properties usurpations from the Serbs in the north part of Mitrovica, mainly from Albanians and up to date there are still problems for this issue (around 42,749 properties were seized in the whole Kosovo)<sup>156</sup>. One of the biggest inter-ethnic tensions between Albanians and Serbs in Kosovo happened in 2004, when according to ‘Epoka e Re’ and ‘Koha Ditore’ newspapers in Kosovo some young Serbs had caused three Albanian children to drown in the Ibar

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<sup>154</sup> Nationalia News (2014): “ ‘Yes’ to self-determination wins unofficial referendum in South Tyrol, gets 92% of the votes”, can be found: <https://www.nationalia.info/new/10126/yes-to-self-determination-wins-unofficial-referendum-in-south-tyrol-gets-92-of-the-votes>, last accessed: 15.06.2020;

<sup>155</sup> OSCE/UNHRC : “Assessment of the Situation of Ethnic Minorities in Kosovo: (period covering June through September 2000)”, can be found: <https://www.osce.org/files/f/documents/2/2/13304.pdf>, see also: OSCE/UNHRC : “Assessment of the Situation of Ethnic Minorities in Kosovo: (period covering March through August 2001)”, can be found: <https://www.unhcr.org/3c625c8d4.pdf>, last accessed: 15.06.2020;

<sup>156</sup> RUDIC, Filip & HAXHIAJ, Serbeze (2018): “Stolen Homes: Kosovo Struggles with Wartime Property Seizures”, BIRN, can be found: <https://balkaninsight.com/2018/05/29/stolen-homes-kosovo-struggles-with-wartime-property-seizures-05-22-2018/>, last accessed: 15.06.2020;

River, which separates north and south Mitrovica, by chasing them with a dog<sup>157</sup>. This created a big thrill within the Albanian population, which resulted with big protests and attacks toward Serbs, mainly in the northern part of Kosovo<sup>158</sup>.

There were not a lot of inter-actions motivated by ethnic differences between Serbs and Albanians after that, it was a protest a big protest by Albanians in Pristina organized by Self-Determination movement in 2007, against Ahtisaari's plan, using an argument that Albanians are being hostages of Serbia, but they want real independence<sup>159</sup>. While after the declaration of independence (2008) there were a few violent attacks from Serbians toward customs and border posts in north opposing the declaration of independence<sup>160</sup>. Apart from that an important part of this whole problem were the Serbs who live in municipalities South from Ibar river, and in those cases it was showed that co-operation, co-existence and co-living can happen if the will exists in both sides, some of these municipalities are sometimes considered stories of success<sup>161</sup>.

In 2011 before the beginning of negotiations, Kosovo was waiting for a response from Serbia regarding the negotiations, and when Serbia was not giving an answer, Kosovo Prime Minister at that time (Hashim Thaci) sent police forces to the North of Kosovo. This was seen as a sign that the territory is controlled by Kosovo, but even there the police forces were fought back by Serbian people and the action ended with the death of one police officer<sup>162</sup>, so the northern part of Kosovo was again under big tension and was not changing for good. Another tragic story in the northern part was the murder of a EULEX officer, who was shot in 2013, while on a Patrol there,

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<sup>157</sup> International Crisis Group – ICG (2004): “Collapse in Kosovo”, p.14, <https://d2071andvip0wj.cloudfront.net/155-collapse-in-kosovo.pdf>, last accessed: 15.06.2020;

<sup>158</sup> This resulted with 19 dead people, nearly 900 wounded, over 700 homes, up to 10 public buildings, 30 Serbian churches and two monasteries were damaged or destroyed and nearly 4,500 people were displaced, see also Ibid, p. i;

<sup>159</sup> WOOD, Nicholas (2007): “Again, Kosovar Albanians Demonstrate Against U.N.”, The New York Times, can be found: <https://www.nytimes.com/2007/03/04/world/europe/04kosovo.html>, last accessed: 15.06.2020;

<sup>160</sup> They were clashing with international forces causing 1 UNMIK death, 64 UNMIK, 24 KFOR and 70 Serbs injuries, see also: ICG Report (2008): “Kosovo’s Fragile Transition”, can be found: <https://d2071andvip0wj.cloudfront.net/196-kosovo-s-fragile-transition.pdf>, last accessed: 15.06.2020;

<sup>161</sup> One of the Serb Majority Municipalities was being governed by a coalition between Serbs and Albanians in 2009, for more see: ICG Report (2012): “Setting Kosovo Free: Remaining Challenges”, can be found: <https://d2071andvip0wj.cloudfront.net/218-setting-kosovo-free-remaining-challenges.pdf>, last accessed: 15.06.2020;

<sup>162</sup> ICG Report (2013): “Serbia and Kosovo: The Path to Normalization”, can be found: <https://d2071andvip0wj.cloudfront.net/serbia-and-kosovo-the-path-to-normalisation.pdf>, last accessed: 15.06.2020;

which resulted with the first death of an EU officer<sup>163</sup>. Lastly another mysterious development, was the murder of a very well-known Serbian politician (Oliver Ivanovic) in 2018, he was known for the fact that on 2017 elections he was a candidate against the another Serb candidate who was backed by Belgrade, and regarding this, most of the Serbs believe he was not murdered by Albanian<sup>164</sup>.

On the other hand, if we judge it by an economic/trading aspect we can say that co-operation between two countries used to be very good, as Serbia exported around 450 million Euros to Kosovo every year, until the trade tariffs were put into force<sup>165</sup>. Also, the same can be said for other kind of economic activities within Kosovo, including the fact that now there are cases when Albanian shopkeepers hire Serbs and vice-versa and what is interesting is that young generations from both ethnic groups who do not speak each other's language communicate in English<sup>166</sup>. Considering these, one can easily argue that during the passing of the time people started to have a better perception for each-other, the real separation is being 'promoted' by the politics and it really is not something which is based on cultural/ethnic divergences.

#### **4. Comparison of 'kin states' approaches toward ethnic minorities**

Now, to see the similarities and differences in both cases, here we will make a short comparison of the approach used by 'kin states': Serbia and Austria toward their national minorities in Kosovo and Italy. As argued before in this chapter, it was obvious that Serbia and Austria have completely different approaches toward their minorities. Firstly because the circumstances were different in both cases, as in the case of Kosovo, no part of territory was united with another state, but a new stated was formed, while in the case of South Tyrol it was part of another country (Austro-Hungarian Empire) until it became part of Italy which is another 'strong' country. Secondly, is the fact that Austria as a 'kin state' already accepted the new reality in practice,

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<sup>163</sup> BBC News (2013): "EU police officer killed in Kosovo", can be found: <https://www.bbc.com/news/world-europe-24158153>, last accessed: 15.06.2020;

<sup>164</sup> ELLIS, Glen (2018): "Kosovo: The mysterious murder of Oliver Ivanovic", ALJAZEERA, can be found: <https://www.aljazeera.com/blogs/europe/2018/05/kosovo-mysterious-murder-oliver-ivanovic-180529144925924.html>, last accessed: 15.06.2020;

<sup>165</sup> RALEV, Radomir (2019): "Serbia completely suspends exports to Kosovo", SeeNews, can be found: <https://seenews.com/news/serbia-completely-suspends-exports-to-kosovo-trade-min-638402>, last accessed: 15.06.2020;

<sup>166</sup> VUJISIC, Tanja (2020): "Bargain Buy: the Kosovo Traders Defying a Town's Ethnic Divide", BalkanInsight - BIRN, can be found: <https://balkaninsight.com/2020/01/07/bargain-buy-the-kosovo-traders-defying-a-towns-ethnic-divide/>, last accessed: 15.06.2020;

while Serbia still does not support the idea of an independent Kosovo and therefore is still trying to have bad influence there. To compare the approaches as mentioned above, it will have to be done in two different periods of time, for Kosovo post-NATO intervention period, while for South Tyrol post-WWII period as these were the relevant times when the intentions to settle the disputes were higher.

When we go through the inter-actions between Italy, Austria (kin state) and South Tyrol we have to mention that, firstly the representatives of German-speakers in South Tyrol did not have direct negotiations or communication with Italian politicians and they did not accept those circumstances, and also they had intentions for self-determination. Secondly, Austria's main goal since its active role started after 1955 was to create a better position for German-speakers in Italy through a high level of cultural autonomy, a high scale of decentralization and a substantial self-governance for the province with a majority of German-speakers. Apart from that it was Austria who was always encouraging German-Speakers to try to integrate and emancipate themselves within Italy without raising tensions, the outcomes were for good, as after the addressing of the dispute to the UN, a commission of experts was created and the objective of it was to review the position of German-speakers in the province and to advance it in accordance with the Gruber – De Gasperi agreement. The good part was the fact that during the dialogue which was made to reach an agreement for the reformation of the statute, the representatives of German-speakers were South Tyrolean and not Austrian, so this is an advantage as they were better aware of their position and their needs for a better statute.

In the case of Kosovo, the approach of Serbia (kin state) was completely different, and to a certain extent harmful for the Serbian inhabitants in Kosovo. Firstly, it was not respecting the agreement it signed itself "Kumanovo Agreement" and the UNSCR 1244, secondly it was investing on parallel structures, creating lack of 'effective' governance in those territories where those structures were established and those municipalities were with Majority Serbs inhabitants. Through lack of respect for the 'Kumanovo Agreement', UNSCR 1244 and by supporting parallel structures, Serbia was supporting secessionist movements which were not supported by anyone else except for Serbs in the north. Apart from that it was neither supporting the Serbs which were not following the instructions given from them, therefore the needs and interests of Serbs in Kosovo were not addressed properly.



Considering the constructive approach of Austria, the negotiations for the autonomous statute of the province had positive outcomes, as in 1969 an agreement was reached, through which the new special statute of 1972 was created. It is true that it took 20 years to fully implement that statute, but at least the process to create and implement that statute was supported in a positive way from Austria through continuous communications, while, the secession movements or ideas were not supported in any way. This led to the creation of an Autonomous province with a high level of self-governance, which in 1992 when it was fully implemented, the decision to announce the end of the dispute between the 'kin state' and Italy, was voted by 83% of the representatives of South Tyrol German-speakers and this shows that the outcomes were satisfactory for the future of them. Including the fact that Austria is still concerned about the rights of German-speakers in South Tyrol, and still seeks the position of 'protecting power' of their interests in Italy.

On the other hand we can say that Serbia had a destructive approach, as after the declaration of Kosovo, it was still not supporting the interests or the improvement of the Serb element in Kosovo, but it was denying the existence of the new state and was investing in parallel structures which only worsened the position of Serbs there. As, firstly they would not integrate in the institutional framework, and therefore they would not enjoy the biggest benefits of the policies by the new institutions, secondly, by denying the independence, even a decentralization model of whatever kind of level, was still not on the table therefore a true self-governance or a possible autonomy was not being facilitated by Serbia. On the other hand during those times it was still looking for possibilities for partition of Kosovo, existing idea since NATO intervened, in order to get the northern municipalities but this idea was not very possible and was considered harmful for Serbs in general. As, the idea of partition was not supported by most of the international community actors and it would leave Serbs in south of Ibar river in a worse position and would create further implications because of change of the status quo.

Even, when the negotiation started Serbs of Kosovo were not really being represented by Kosovo Serbs, but by Belgrade and therefore the real needs of them were not being interpreted by them but by Belgrade, which was not really fully aware of the circumstances on terrain. Even though, the most important political agreements were reached and ratified in the Parliament of Kosovo, but not in the one of Serbia (as they do not recognize Kosovo), known as the "Brussels Agreement" (2013). According to that agreement, an association/community of Serbian majority municipalities will be established, but even now in 2020 the implementation of it, has not started

and the parallel structures still exist and are supported by Serbia. While, also considering the idea of a potential “border correction” discussed between the presidents of both countries, puts the agreement of the association of Serb majority municipalities in an unrealistic position.

### **5. Lessons Learnt**

To conclude this chapter, we are going to elaborate the lessons that can be learnt from the case of South Tyrol and see the possibilities of using those lessons, to have a better outcome for the future of Serbs in Kosovo. If we judge the actual position of German-speakers in South Tyrol, on one hand, we can say that they have a satisfactory level of cultural autonomy and of self-governance powers, on the other hand we should emphasize the fact that, it took 4 decades and a half, until this position was reached. Apart from that, they still have some secession or self-determination movements in South Tyrol, even though official Austria was never supporting those intentions or ideas. Considering, these facts we can learn that apart from the long duration it took until the fully implementation of the Autonomy, including the constructive approach of Austria, the outcomes were positive and the cultural position of German-speakers in South Tyrol have improved a lot for good, but even after all these improvements, secession or self-determination movements were not extinguished.

While, to compare it with the circumstances in Kosovo, one would argue that Serbia can learn a lot from Austria as ‘kin state’, while Kosovo can learn from Italy. Serbia can learn from the approach Austria used and realistically, understand that the destructive approach toward Kosovo is not going to help Serbs in Kosovo in any way, it is just going to postpone a potential decentralization, through which Serbs would enjoy a certain level of cultural and political autonomy. On the other hand Kosovo and Albanians in Kosovo can learn that tolerance could be very useful, in order to stimulate inter-ethnic co-operation and reduce disputes with Serbia. Apart from that, judging the issue in a timeline aspect, it is also clear that fully implementation of decentralization for Serb majority municipalities, can take a long time. And if Serbia does not change its approach toward Kosovo, it is just going to take more time, create more complications and heat up the disputes between both countries, and the losers from this approach will be no-one else but Serbs in Kosovo. Also, another indicator which can be taken into account, is the proper function of institutions in Serb majority municipalities, south from Ibar River, and this can be a

proof that decentralization would be accepted and would be with benefits for Serb community in Kosovo.

Therefore, we can say that co-operation between Kosovo and Serbia is necessary for the improvement of positions of Serbs in Kosovo, as it was necessary for the position of German-speakers in South Tyrol. Also, considering that the issue of South Tyrol had to be addressed in UN during 60s, when Austria and Italy could not come to an agreement with each-other. In the case of Kosovo and Serbia the dialogue between both countries was and still is under international community's attention and this should be considered as an advantage for both of them, as the facilitation and the mediation of the dialogue by the international community can improve the quality of outcomes.

## **V. Institutions and Power-sharing between central and provincial/regional level**

This Chapter is going to include more details regarding to the position of minorities in the actual institutional frameworks based on state's constitution for Kosovo and on constitution and special statute for South Tyrol, with focus on relations between central and regional/provincial institutions. For Kosovo we are going to elaborate the engagement of minorities with focus on Serbs in central institutions, while, for South Tyrol we are going to elaborate the powers of provincial institutions, the degree of decision-making powers of those institutions and the aspects of cultural autonomy, emphasizing the bilingualism as a main feature of South Tyrol.

### **1. Position of Serbs of Kosovo in the actual institutional framework**

The constitution of Kosovo was ratified on 9<sup>th</sup> April 2008 and came into force on 15<sup>th</sup> June 2008. The provisions of this constitution were based on the Comprehensive Proposal for the Kosovo Status Settlement (2007), which is also known as the Ahtisaari Package, and it foresaw such elements of power-sharing, including reserved seats for minorities in parliament and government, even though at the beginning Serbs were rejecting working with the institutions of the new state of Kosovo<sup>167</sup>. Apart from the fact that Serbs were rejecting the constitution and the institutions, we can argue that the position of Serbs in those institutions according to that constitution, was very inclusive and it also had elements of consociationalism democracy, as it was mentioned above. Firstly, the importance of communities was easily seen, as their rights were clarified in the Chapter III of the constitution after Basic Provisions and Fundamental Rights and Freedoms<sup>168</sup>.

Apart from that, non-majority communities are guaranteed the rights to freely express, foster and develop their identity and their communities attributes. Also, they shall receive education in one of the official languages of the Republic of Kosovo of their choice at all level, including the permission to establish their own private educational and training establishment and may even receive public finance assistance. Logically, consequently the use of their language and alphabet is free in public and private and also it is permitted in their relations with municipal authorities or local offices of central authorities in areas where they represent sufficient share of population. These the guaranteed rights of non-majority communities members for most of which a double

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<sup>167</sup> BIEBER, Florian & KEIL, Sören (2009): "Power-Sharing Revisited: Lessons Learned in the Balkans?", *Review of Central and East European Law*, 34, pp. 337-360;

<sup>168</sup> Constitution of the Republic of Kosovo, Chapter III, articles 57-62;

majority is needed in order to be changed, and this means a majority within minorities as well. In case that they do not support any change regarding these issues, minorities can ‘impose’ a veto and block decision/law-making, also some of these issues are known as legislation of ‘Vital Interest’<sup>169</sup>.

Other constitutional provisions for minorities also include, their representation in the Public Institutions Employment, such as public bodies, publicly owned enterprises at all levels, including in particular their participation in police service<sup>170</sup>. As in Kosovo, there is no third level of Government, so there is only central level and municipality level, the latter is the basic territorial unit of local self-governance since the establishment of PISG<sup>171</sup> and even in the new constitution, the representation of non-majority communities is guaranteed also in the institutions of Local Government. More precisely, where at least 10% of residents belong to communities not in the majority of the respective municipality a post of Vice President of the Municipal Assembly shall be reserved for a representative of these communities and this position shall be held, by non-majority candidate who received most votes for the elections for Municipal Assembly. Also, in these municipalities representation for non-majority in the executive body is guaranteed<sup>172</sup>, so these measures can also be considered as measures to prevent discrimination or lack of representation of minorities within minorities. As for parliamentary representation provisions, these were mentioned while elaborating consociationalism democracy in the second chapter.

So, with these provisions we have elements of consociationalism, minority veto which also can be related to non-territorial cultural autonomy, proportional representations and grand coalitions are part of the institutional politics in Kosovo, even though minority veto is possible just in legislative branch of power and not in executive. Even after these methods to integrate non-majority communities, Kosovo Serbs, mainly those in the northern part of Kosovo were still boycotting institutions of Kosovo, therefore the most proper measure to settle this issue was believed to be decentralization. This idea came up as a solution to attract Serbs in Kosovo institutions and to address inter-ethnic strife in Kosovo, this was and is believed that will establish a lasting peace and provide assurances that after the implementation, Kosovo Serbs

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<sup>169</sup> Ibid, article 81;

<sup>170</sup> Ibid, article 61;

<sup>171</sup> BEHA, Adem and VUKPALAJ, Anton (2018): “Kosovo: Can Decentralization Resolve Ethnic Conflict”, *Fiscal Decentralisation, Local Government and Policy Reversals in Southeastern Europe*, pp. 231-264;

<sup>172</sup> Constitution of the Republic of Kosovo, article 62;

would not be persecuted, but would enjoy self-governance and extensive autonomy in their municipalities<sup>173</sup>.

## **2. Institutional Framework and Provincial competences according to the autonomous statute of South Tyrol**

When talking about South Tyrol, we have to start with the first Autonomous statute of the whole region in 1948, a statute which was considered that it was not implementing the Gruber – De Gasperi Agreement. It was because, the autonomy was given to the region and not to the province, so, the provinces were still powerless, while it was up to region to delegate powers to the provinces (e.g. agriculture, commerce etc.), and also the provinces only had a quarter of the regional budget<sup>174</sup>. After the revision of the first Statute, a new or second statute was approved on 1972, and with this statute the powers of regions were diminished and those of the two provinces substantially expanded, but here we are going to focus on the powers of provinces, mainly of South Tyrol. The provisions for autonomy would apply generally to both provinces, but there were a few special provinces for South Tyrol, such as use of mother language, schools, culture, bilingualism and ethnic proportions in employment<sup>175</sup>.

In 2001, Italy went through constitutional reforms, therefore the position of region and provinces was defined as Special again, according to this new change the autonomy was extended further regarding the exclusive competences in economy, education and culture which were considered as crucial for the preservation of cultural identity, social affairs and the environment<sup>176</sup>. So, these competences had some limitations of the nature that they must be: ‘in harmony with the constitution’, must consider ‘the principles of the Italian legal order’, must respect ‘international obligations’, have to respect ‘national interest’ and must be in accordance with ‘the basic guidelines of economic and social reforms of the Republic’. While, there are also the secondary (competitive) competences which are competences jointly held by the state (for the basic

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<sup>173</sup> BEHA, Adem and VUKPALAJ, Anton (2018): “Kosovo: Can Decentralization Resolve Ethnic Conflict”, *Fiscal Decentralisation, Local Government and Policy Reversals in Southeastern Europe*, pp. 231-264;

<sup>174</sup> AVOLIO, Giuseppe (2008): “Institutions of Self-Government”, *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, p. 53, edited by Jens Woelk, Francesco Palermo and Joseph Marko, European Academy Bozen/Bolzano;

<sup>175</sup> PETERLINI, Oskar (2013): “Foundations and Institutions of South Tyrol’s autonomy in Italy”, *Practising Self-Government: A Comparative Study of Autonomous*, p.19, edited by: Yash Ghai & Sophia Woodman, Cambridge University Press;

<sup>176</sup> For more detailed description of autonomous powers of the province look: Special Statute for Trentino – Alto Adige/Sudtirol (2001), Article.8;

principles) and the region or province, and there are integrative or complementary competences, which means that the province can integrate some state laws like unemployment offices. With this constitutional reform provinces were also entitled to retain most of the taxes remitted in their regions<sup>177</sup>.

In order to exercise the autonomy, the region and the province had to establish their own self-governing institutions. And, considering that the decentralization for the Autonomous province was administrative and political, meaning that also some decision/law-making powers were given to them, legislative bodies had to be established. Therefore, the council known as the parliament was established as the legislative organ, and they were in both regional and provincial level, the government was created as the executive or administrative body in both levels, while the president is the organ of representation and political address, also in regional and provincial level<sup>178</sup>.

The provincial Parliament of South Tyrol is the legislative body, and the provincial laws need to have a majority of 2/3 in order to pass the laws, also it is a matter of parliament to determine the form of government of the Province<sup>179</sup>. It shall be composed by 35 members, it has a mandate of 5 years, it has 1 President and 2 Vice Presidents and the secretaries from among their members, the President of the parliament should reflect the linguistic differences. To do so, in the first 30 months, President shall belong to German-speaking community, and for the subsequent period of time the President shall be elected from the among the Italian-speaking members, while also a Ladin representative can be elected with the approval of the German and Italian linguistic groups<sup>180</sup>. The Provincial Government of South Tyrol shall be made up of the President, 2 Vice Presidents and members of the Government. It has the role of the executive government and is elected by the Provincial Parliament, it must reflect the numerical strength of the linguistic groups as represented in the Provincial Parliament, except for Ladin linguistic group, for whom representation can be given, even derogating from proportional representation<sup>181</sup>. Lastly, we have the President, who is the representative of the Province. Even though, with the constitutional law

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<sup>177</sup> Supra note 203, p.20 & 40-1;

<sup>178</sup> AVOLIO, Giuseppe (2008): "Institutions of Self-Government", *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, p. 54, edited by Jens Woelk, Francesco Palermo and Joseph Marko, European Academy Bozen/Bolzano; see also: Special Statute for Trentino – Alto Adige/Sudtirol (2001): article.47;

<sup>179</sup> Special Statute for Trentino – Alto Adige/Sudtirol (2001), Article.47;

<sup>180</sup> Ibid, article 48c;

<sup>181</sup> Ibid, article.50;

for reforms of the Autonomy Statute in 2001, the Provincial Parliament was permitted to make the election of the President by direct vote, if 2/3 of the Parliament vote in favor, but this has not happened and unless it happens, the President will be elected by the Parliament together with the Provincial government<sup>182</sup>.

As for the relations between institutions at the national and provincial level, the idea is that in the Autonomous Statute we have the list of the areas, where the province has their competences, consequently, all the subject matters that are not included in the articles of the Autonomous statute, automatically fell within the national competences. While, with the constitutional changes of 2001, this approach was changed and all the subject matters that were not listed in the constitution fell within the competences of regions (and indirectly the autonomous provinces)<sup>183</sup>. Also since the constitutional reforms of 2001, powers to veto regional legislation from the central government were abolished, and until then approximately 1/3 of South Tyrol's laws were vetoed by the central government. After that all the central government can do is to bring those laws before constitutional court<sup>184</sup>. While, regarding South Tyrol, since it was the region with the highest degree of Autonomy or decentralization, since the creation of the "Package" for the new Autonomous statute of 1972. Two Joint Commissions as special bodies were established with the task to follow the process of implementation of this new statute. One was known as the 'Commission of Twelve' for region issues, which is composed by 6 state representatives 2 representatives of the region and 2 for each province, where 3 of the representatives should be German-speakers. And the 'Commission of Six' which is a part of the 'Commission of Twelve' but it was established to deal with the issues concerning the Province, and it is composed of 3 state representatives (where 1 must belong to German-speakers) and 3 province representatives, (where 1 should belong to Italian-speakers). Initially it was created just to "supervise" the

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<sup>182</sup> AVOLIO, Giuseppe (2008): "Institutions of Self-Government", *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, p. 66, edited by Jens Woelk, Francesco Palermo and Joseph Marko, European Academy Bozen/Bolzano; see also: Special Statute for Trentino – Alto Adige/Sudtirolo (2001): article.52;

<sup>183</sup> PETERLINI, Oskar (2013): "Foundations and Institutions of South Tyrol's autonomy in Italy", *Practising Self-Government: A Comparative Study of Autonomous*, p.36, edited by: Yash Ghai & Sophia Woodman, Cambridge University Press; see also: Constitution of the Italian Republic, article 117, can be found: <https://www.wipo.int/edocs/lexdocs/laws/en/it/it037en.pdf>, last accessed: 15.06.2020;

<sup>184</sup> Ibid, p.37-8;



implementation of the Second statute, but it still exists today as a tool for mutual trust-building between the Autonomous Province of South Tyrol and the State<sup>185</sup>.

### **3. Application of South Tyrol's decentralization model in Kosovo and the difficulties toward that.**

Now, to get back to the most important part, after the explanation of the power-sharing model and the institutional framework of South Tyrol, we will try to explain/elaborate the possibilities and difficulties toward the application of a similar model in Kosovo. Firstly, we have to clarify that Kosovo is divided in 5 administrative regions, while the northern Serb municipalities of Kosovo are within Mitrovica Region, which in total has 9 municipalities<sup>186</sup>. Now, getting back to the model of South Tyrol, a possible solution would be creation of a Special Statute for that Region, but if we judge it by the 'Brussels Agreement (2013)', it might create some difficulties. As it foresaw the creation of an association/community with Serb majority municipalities, therefore in comparison with South Tyrol, this association can be considered to be like a province.

In this regard judging by the regions, this could be a possible solution, even though considering that around 40% of Serbian population in Kosovo live south from the Ibar River, it is not very realistic to be supported by the Serbian side. This makes it difficult to follow a detailed example like the one in the Special Region of Trentino – Alto/Adige – Südtirol in Italy. Therefore the application of the 'same' decentralization model, is not practically possible, that is why we are going to try a solution, taking just some aspects of South Tyrol such as bilingualism and the legal process to the achievement of the statute of the Province.

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<sup>185</sup> ALBER, Elisabeth (2017): "South Tyrol's Negotiated Autonomy", 78, *Treatises and Documents Journal of Ethnic Studies*, pp. 41–58; see also: Special Statute for Trentino – Alto Adige/Sudtirol (2001), article.107;

<sup>186</sup> OSCE (Misson in Kosovo): "Municipal Profiles 2018", p.32-58, can be found: [https://www.osce.org/files/Municipal%20Profiles\\_2018.pdf](https://www.osce.org/files/Municipal%20Profiles_2018.pdf), last accessed: 15.06.2020;

## **VI. Steps toward an "Association/Community of Serb Majority Municipalities in Kosovo"**

In this chapter we are going to discuss the further steps needed to be taken in order to create an Association/Community of Serb Majority municipalities in Kosovo. First we will discuss a bit for the content of the agreement reached between Kosovo and Serbia in 2013 and about its impact in Kosovo. Secondly, we are going to compare the 'proposal' containing general principles/main elements of the Association with the Autonomous Statute of South Tyrol. After that we are going to discuss constitutional court's decision which announced that 'proposal' unconstitutional and the implications created by that decision. Lastly we are going to elaborate possible outcomes for an association/community based on the model of South Tyrol.

### **1. Dialogue between Kosovo and Serbia and its achievements**

As said before the dialogue between both countries started in 2011, and the outcomes were a few agreements, some of them technical but also some political agreements<sup>187</sup>. The most important agreement was the one of 19 April 2013 known as the 'Brussels Agreement' which contained 15 points. This agreement was considered to be the highlight of the dialogue as, after that Belgrade invited Serbs to participate in the local elections. While, on the same time some people as the US ambassador in Kosovo called for attention "not to create a Serb Republic in Kosovo"<sup>188</sup>. According to that agreement, association/community of Serbs majority municipalities in Kosovo will be created and this meant that a decentralization for those municipalities will be made, through which a third level of government would be established which did not exist until then<sup>189</sup>.

Besides the establishment of the self-governing association, through this agreement, the municipality of North Mitrovica was created as well. While, in the aspect of justice, an appellate court in Mitrovica will be created. In the aspect of security the dissolution of the existing forces of the MUP and their integration in Kosovo police, with a Serbian regional police commander, nominated by the Ministry of Interior from a list provided by majors of 4 northern municipalities on behalf of the association. According to the agreement, the association will also have full

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<sup>187</sup> BEYSOYLU, Cemaliye (2018): "Implementing Brussels Agreements: the EU's facilitating strategy and contrasting local perceptions of peace in Kosovo", *Southeast European and Black Sea Studies*;

<sup>188</sup> BEHA, Adem (2015): "Disputes over the 15-point agreement on normalization of relations between Kosovo and Serbia", *Nationalities Papers: The Journal of Nationalism and Ethnicity*;

<sup>189</sup> *Ibid*;

overview on the areas of economic development, education, health, and urban and rural planning<sup>190</sup>. This agreement was ratified in the Parliament of Kosovo, but it was heavily criticized and considered unconstitutional by one Albanian opposition party due to the violation of the procedure during its adoption, as well as the contents of the law itself, and therefore they sent it to Constitutional Court (CC). After the evaluation of the request, CC came with a conclusion that procedure of adoption was in accordance with the Constitution of Kosovo, but it did not give any evaluation regarding the content of the agreement<sup>191</sup>. Other point is that, concerning the Serbs living in the south of Ibar River and considering that no actual steps were taken to implement the association, it was expected that, those Serbian majority municipalities will be part of the association, making the number of potential participants of the association 10, in this sense the ‘territory’ of the association would be separated<sup>192</sup>.

After that in 2015 another agreement was achieved and it was known as the follow-up agreement on general principles/main elements of the establishment of the association as foreseen in the Brussels agreement ratified in Kosovo. This new agreement had 22 points and included a more detailed plan of how the future statute of the association would look like.

## **2. Comparison of the general principles/main elements of Association/Community of Serb majority municipalities in Kosovo with Autonomous Statute of South Tyrol**

The new agreement reached on 2015, was a more detailed plan on how the establishment of the association would be implemented, the fields where it would have competences, the organizational structure and the relations with the central government. In the aspect of the implementation, the legal framework was referring to the ratification of the preceding ‘Brussels Agreement’, as part of that a decree by the Government of Kosovo would be adopted, which will be reviewed by the CC, after which the association would become a legal entity defined by its statute<sup>193</sup>. In comparison with South Tyrol, we could say that the ‘Brussels Agreement’ could be equivalent to the ‘Gruber – De Gasperi Agreement’, from which international obligations were

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<sup>190</sup> Brussels Agreement (2013), can be found: <https://www.srbija.gov.rs/cinjenice/en/120394>, last accessed: 15.06.2020;

<sup>191</sup> BEHA, Adem (2015): “Disputes over the 15-point agreement on normalization of relations between Kosovo and Serbia”, *Nationalities Papers: The Journal of Nationalism and Ethnicity*;

<sup>192</sup> Ibid;

<sup>193</sup> Association/Community of Serb majority municipalities in Kosovo – General principles/ Main elements (2015), Legal framework, can be found: [http://eeas.europa.eu/archives/docs/statements-eeas/docs/150825\\_02\\_association-community-of-serb-majority-municipalities-in-kosovo-general-principles-main-elements\\_en.pdf](http://eeas.europa.eu/archives/docs/statements-eeas/docs/150825_02_association-community-of-serb-majority-municipalities-in-kosovo-general-principles-main-elements_en.pdf), last accessed: 15.06.2020;

‘imposed’, on the other hand the Government’s decree would be equivalent to the Italian Constitutional Law which established the region/province, while, the statute would be entirety of the norms, as it is in South Tyrol.

Going to the competences or the objectives of the ‘proposal’, basically they were the same as in the ‘Brussels Agreement’ mentioned above, but they also emphasized strengthening of local democracy, establishing relations and enter in cooperation arrangements with other associations of municipalities domestic and international and measures to improve local living conditions for returnees to Kosovo<sup>194</sup>. Even though, this point was criticized by the public opinion as this point specified just returnees to Kosovo, while not the rest of internally displaced people, such as Kosovo Albanians from North Mitrovica, number which is estimated to be around 12,000<sup>195</sup>. As, we can see the objectives or competences are similar to the ones of South Tyrol, such as local economic affairs, education, health and social care and also urban and rural planning. In this sense the extend of the ‘power-sharing’ with the ‘future’ association according to this ‘proposal’, in general was pretty much similar to South Tyrol, even though, details were foreseen to be specified in the Statute but the difference is that these competences do not imply any kind of decision/law-making but just the overview of the respective fields. So, the areas of concern were similar but the decision-making would still be part of municipal level or central level.

While, the foreseen organizational structure was a bit different compared to South Tyrol, e.g. an assembly as the highest body would be established, but it would not be elected by direct vote but the representatives would be appointed by each assembly of participating municipalities. A President followed by a Vice President, who would represent the association before the central authorities, and also outside Kosovo. They would be elected by the assembly from among the members of participating municipalities’ assemblies and mayors. So, a member of assembly or a mayor can hold the position of the President as well. Also, the council would be established composed of maximum 30 members among of the participating residents and it would be just an advisory body which guidance the work of association. Another, institution would be the board which would be composed by 7 members voted by the assembly from among the mayors and the residents of the municipalities, it would have the role of the management for the association and

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<sup>194</sup> Ibid, Objectives;

<sup>195</sup> Zëri (2017): “Shqiptarët nuk kanë ku te kthehen, i shitën banesat në veri”, in English: “Albanians have no place to go back, they sold their properties in North”, can be found: <https://zeri.info/aktuale/130650/shqiptaret-nuk-kan-ku-te-kthehen-i-shiten-banesat-ne-veri/>, last accessed: 15.06.2020;

would be supported by experts. Lastly, an administration was foreseen who would support work of the President and the Board and they would perform administrative duties to support association to execute its objectives<sup>196</sup>. As it can be seen, there were some similarities with South Tyrol but in essence the legal content and the potential polity established by this ‘proposal’ had a different nature and was not ‘literal’ decentralization or a power-sharing level, and it could be considered just as a coordinative body.

### **3. Complications created by the decision of Constitutional Court of Kosovo**

Before going further, we have to mention that this ‘proposal’ was announced unconstitutional by CC, besides that, if we analyze its articulation, we can notice that they were very careful, trying to describe the association just as an ‘administrative’, body and not really a political one. Analyzing it from the appointment of the assembly, by other institutions rather than direct vote, going to legal capacities which were very limited as it did not really foresee any substantial legal capacity, but just the rights to perform its objectives, right to own moveable and immovable property, to co-own companies which provide services and conclude contracts such as employment contract<sup>197</sup>. The CC judgment regarding this ‘proposal’, had a few concerns regarding most of the sections of the document, but mainly it was considered not to be in compliance with the spirit of the Constitution, precisely, with chapters II (Fundamental Rights and Freedoms) and III (Rights of Communities and Their Members)<sup>198</sup>.

The main reasons behind that decision lays, firstly on the fact that in Kosovo municipalities are the basic territorial unit for self-governance. This means that the association cannot really be as it was planned, with this ‘proposal’, so in that regard the content of it has to be changed so, the association could only take the role of conducting inter-municipal cooperation without any real ‘competences’ and any kind of ‘political’ institutions. On the other hand a second option could be a constitutional reform which would allow, literal power-sharing and creation of a third level of government, more precisely some sort of decentralization, which in these circumstances and with those principles is unlikely to be supported by the majority of Kosovo Albanians. Secondly, other

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<sup>196</sup> Association/Community of Serb majority municipalities in Kosovo – General principles/ Main elements (2015), Organizational structure, can be found: [http://eeas.europa.eu/archives/docs/statements-eeas/docs/150825\\_02\\_association-community-of-serb-majority-municipalities-in-kosovo-general-principles-main-elements\\_en.pdf](http://eeas.europa.eu/archives/docs/statements-eeas/docs/150825_02_association-community-of-serb-majority-municipalities-in-kosovo-general-principles-main-elements_en.pdf), last accessed: 15.06.2020;

<sup>197</sup> Ibid, Legal Capacity;

<sup>198</sup> JUDGEMENT: in Case No. KO130/15 of Constitutional Court of Kosovo, can be found: [https://www.gjk-ks.org/wp-content/uploads/vendimet/gjk\\_ko\\_130\\_15\\_ang.pdf](https://www.gjk-ks.org/wp-content/uploads/vendimet/gjk_ko_130_15_ang.pdf), last accessed: 15.06.2020;

reason lays on possibilities that the association could pose a threat to multi-ethnic character within it. Consequently a logical argument would be that according to the Constitution of Kosovo, in municipalities where at least 10% of the citizens belong to communities not in the majority within the municipality, the Deputy Chairperson should be a member of a non-majority community who received the most votes in municipal elections<sup>199</sup>. In regard to this if we look at the ethnic-composition of the population in those municipalities, it comes out that approximately 13% of residents are Albanian while the other majority are Serbs<sup>200</sup>, therefore considering this, if an association with those terms would be made, apart from other things, in principle it would violate this constitutional provision.

#### **4. Possible outcomes for a new statute of Serb Majority Municipalities based on the model of South Tyrol**

To end this discussion and to avoid these complications, we have to find a solution following the example of the implementation of the Autonomy in South Tyrol. Therefore we believe that the application of a similar model would have very positive outcomes, also having in mind that the Autonomous Province of South Tyrol, was made possible through a Constitutional law. This means that same as in Kosovo, initially a decentralization of the province was unconstitutional. Also, considering that it seems pretty hard to find a solution with the actual political circumstances in Kosovo, we believe that the key to make decentralization in Serb-majority municipalities acceptable would be bilingualism (Albanian and Serbian).

Considering that ethnic composition in South Tyrol and in Serb majority municipalities is different, as in South Tyrol the German majority is around 70%, Italian 25% and Ladin 5%, while in Serb majority municipalities, Serb element is 84%, Albanian 13% while the rest belong to other communities. Also taking into account that in some of those municipalities the ethnic composition is better balanced, we would recommend that bilingualism should be mandatory in all spheres of public life, just in those municipalities where the percentage of Albanian population is at least 10%. If, we judge it by the actual law passed by PISG on the use of language, which is still in force. In municipalities inhabited by a community whose mother tongue is not an official language, and which constitutes at least 5% of the total population of the municipality, the language of community shall have the status of an official language in the municipality and shall

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<sup>199</sup> Constitution of the Republic of Kosovo, article 62;

<sup>200</sup> ZEQRIRI, Adrian, TROCH, Pieter & KABASHI, Trim (2016): "The Association/Community of Serb-Majority Municipalities: Breaking the Impasse", p.36, European Centre for Minority Issues;

have be equal with the official languages<sup>201</sup>. By mandatory we mean that whoever is to be engaged or employed in a public position, should have elementary knowledge of both languages, this means that Albanians have to know elementary Serbian and Vice-versa. This could also be a useful tool to increase inter-ethnic communications among younger generations, and in case anyone wants to be employed in the local institutions of those municipalities then, bilingualism is a must.

On the other hand, to make a clear model of decentralization or power-sharing to a new (founded) level of government, constitutional reforms have to be made. This means that the statute should be made possible through amending the constitution, which would allow the establishment of that level of government, like was the case in Italy. This also should include the creation and definition of a specific region/community which in reality never existed before, and also the transfer of some decision/law-making powers, with focus on culture and education, social affairs, urban and rural planning, and some economic local matters such as trading, tourism and agriculture. While for state owned public enterprises such as Trepça's mine, this should stay under the competence of the central state, as the inclusion of this would make the acceptance impossible. Another useful example that should be taken from South Tyrol, is that most of the taxes, collected in the region, should be under the management of the regional "government", and they can decide what their priorities will be within their competences.

As for the institutions, in order to have a successful decentralization which is supported by all parties/members involved, there should also be elements of 'Proportional representation' and 'Grand coalitions', such are the ones in central level. It should have an assembly where both groups are proportionally represented where, the representatives will be directly elected and also the idea of 'reserved seats' within the regional assembly, for Albanian minority within the region should be a proper tool of representation. We believe that the idea of 'reserved seats' should be very much welcome by both sides, as Serbs enjoy it in Central level, while Albanians would support the idea of enjoying it in regional level. The assembly should have a President and 2 Vice Presidents, while a position of Vice – President should belong to Albanian community. Also a regional government should exist, which will be elected by the Assembly and will have the function of the executive body, with 1 Serbian President and 1 Albanian Vice President. While

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<sup>201</sup> LAW No. 02/L-37, On the use of Languages (2007), article 2.3, can be found: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2440>, last accessed: 15.06.2020;

also the position of regional President should be established, who will have the role of the representative of the region and also will pass the regional laws and regulations enacted by the regional government.

Another useful element that can be taken from South Tyrol is the “Commissions of Twelve”, but considering that there will be only the region and no separation of ‘Provinces’ like it is the case in South Tyrol, there is no such thing as “Commission of Six”. Only one “Commission of Twelve” shall be created and it will be used as a tool for communication and mutual trust-building with the central government. Also, like in South Tyrol, this commission will have 12 members, 6 members will represent the state, and 6 members will represent the region where at least 1 representative has to be Albanian, and this could be used as a platform for the region to address all the concerns regarding their position, and this would create intensive communication between central and regional government.



## VII. Conclusion

To conclude this paper/thesis, we will get back to our research question and give an answer to that. As elaborated above, the circumstances and the ongoing inter-ethnic dispute in Kosovo, with the main differences and hostilities between Kosovo Albanians and Serbs, regardless, all measures taken toward the settlement of the disputes, a solution has not been found yet and all the measures taken by mediators and parties involved have proven to be unsuccessful. Therefore evaluating it in comparison with South Tyrol and considering similarity of motivations for the conflict between groups, learning from the actions taken for the settlement of disputes there could be a very good alternative to settle the disputes in Kosovo. This could seem as an optimistic approach but judging by the success story of South Tyrol, this optimism could be the solution for a century long inter-ethnic conflict in Kosovo.

Decentralization in Kosovo is a very actual topic in different levels of discussions, as it is related to the future of the state and the position/status of Serb minorities within that state, even though a clear idea toward achieving that is not defined yet. Because of that, we believe that application of a similar model with South Tyrol in Serb majority municipalities, which would assure a high level of cultural autonomy, but also self-governance powers in other affairs such as economy and social affairs within that area, would put the inhabitants in a very favorable position. Also, considering the element of bilingualism, it would have a very good impact on the improvement of perception of different groups toward each other, through bilingualism inter-communication would be stimulated and therefore, this would lead to co-living with active inter-actions. Apart from these, creation of the decentralized institutions based on a model, such as the one in South Tyrol, with inclusive governments of both groups, proportional representation in the regional assembly with multi-ethnic character, and the President coming from the Serb minority, would convince Serb community that their position in the institutional framework has upgraded and would remove the feeling of inferiority within them.

This could be a possible practical solution for the case of Serbian majority municipalities, following the specifics of the case of South Tyrol. We believe that an approach like this would, firstly impose a part of members of the communities within the region to learn both languages and secondly would impose cooperation between both ethnic groups, who are inhabitants of the municipalities. Also, through this imposition of cooperation and communication we believe that internal ethnic disputes will be settled, integration of Serb community members will happen as

they will have an enjoyable degree of self-governance and decision-making, especially in the cultural/identity aspect. In the same time parallel structures will be irrelevant, as the control of main affairs which impact the daily life of people there will be in their hands or under the competences of regional institutions and in reality those structures will be useless as they will have less importance, when most of the affairs are driven by the people. With all of these implemented even the will or the courage for secession movements will diminish as, inhabitants of those municipalities will gain a very good position with a high degree of self-government and decision-making, which we see as a way to potentially solve the inter-ethnic disputes within the country.

## REFERENCES

### Books & Articles

AGRAWAL, Arun and RIBOT, Jesse (1999): "Accountability in Decentralization: A Framework with South Asian and West African Environmental Cases", *The Journal of Developing Areas*, 33 (4), 473-502.

AKE, Claude (1967): "Political Integration and Political Stability: A Hypothesis." *World Politics*, vol. 19, no. 3, pp. 486–499;

ALBER, Elisabeth (2017): "South Tyrol's Negotiated Autonomy", 78, *Treatises and Documents Journal of Ethnic Studies*, pp. 41–58;

ALBER, Elisabeth and ZWILLING, Carolin (2016): "South Tyrol", *Online Compendium Autonomy Arrangements in the World*, at: [http://www.world-autonomies.info/tas/styrol/Documents/South%20Tyrol\\_2016-01-15.pdf](http://www.world-autonomies.info/tas/styrol/Documents/South%20Tyrol_2016-01-15.pdf), last accessed: 18.04.2020.

ALCOCK, A. E. (1982): "The South Tyrol Package Agreement of 1969 and Its Effect on Ethnic Relations in the Province of Bolzano." *Irish Studies in International Affairs* 1, no. 3, pp. 47-54.

ARZOZ, Xabier [ed.] (2012): "*Bilingual Higher Education in the Legal Context: Group Rights, State Policies and Globalisation*" Leiden- Boston; ALBER, Elisabeth. & PALERMO, Francesco: "Creating, Studying and Experimenting with bilingual law in South Tyrol: Lost in Interpretation"

BEHA, Adem (2015): "Disputes over the 15-point agreement on normalization of relations between Kosovo and Serbia", *Nationalities Papers: The Journal of Nationalism and Ethnicity*.

BEHA, Adem and VUKPALAJ, Anton (2018): "Kosovo: Can Decentralization Resolve Ethnic Conflict", *Fiscal Decentralisation, Local Government and Policy Reversals in Southeastern Europe*.

BENEDIKTER, Thomas (2009): "The World's Modern Autonomy Systems: Concepts and Experiences of Regional Territorial Autonomy", Eurac Research, Bolzano/Bozen.

BENEDIKTER, Thomas [ed.] (2009): "Solving Ethnic Conflicts through Self-Government, A Short Guide to Autonomy in Europe and South Asia", © EURAC.

BEYSOYLU, Cemaliye (2018): "Implementing Brussels Agreements: the EU's facilitating strategy and contrasting local perceptions of peace in Kosovo", *Southeast European and Black Sea Studies*.

BIEBER, Florian & KEIL, Sören (2009): "Power-Sharing Revisited: Lessons Learned in the Balkans?" *Review of Central and East European Law*, 34, 337-360.

- BISERKO, Sonja (2012): “Yugoslavia’s Implosion: The Fatal Attraction of Serbian Nationalism”, © by The Norwegian Helsinki Committee.
- CALU, Marius-Ionut (2017): Unintended consequences of state-building and the management of diversity in post-conflict Kosovo, *Nationalities Papers*.
- CLARK, Howard (2000): “Civil Resistance in Kosovo”, Pluto Press, London, © Howard Clark.
- DOLI, Dren and KORENICA, Fisnik (2013): “The Consociational System of Democracy in Kosovo: Questioning Ethnic Minorities’ Special Status in Kosovo’s Constitutional Regime”, *International Journal of Public Administration*, 36: 601–613.
- EJFUS, Filip (2020): “Crisis and Ontological Insecurity over Kosovo’s Secession”, Palgrave Macmillan, Belgrade.
- ELAZAR, J. Daniel (1995): “Federalism: An Overview”, © Human Sciences Research Council
- ELSIE, Robert (2011): “Historical Dictionary of Kosovo”, 2nd Edition, Historical Dictionaries of Europe, No.79, The Scarecrow Press, Inc. UK.
- FINGELLER, Hans (1938): “Don’t Forget South Tyrol: The Lost Home”;
- GASHI, Krenar. MUSLIU, Vjosa & ORBIE, Jan (2017): “Mediation Through Recontextualization: The European Union and The Dialogue Between Kosovo and Serbia”. *European Foreign Affairs Review* 22, no. 4, pp.533–550.
- HAUG, K. Hilde (2011): “Kosovo in Serbian Politics since Milosevic“, *Civic and Uncivic Values: Serbia in the Post-Milosevic Era*, p.338, edited by: Ola Listhaug, Sabrina P. Ramet and Dragan Dulic, Central European University Press, Budapest – New York;
- HOROWITZ, L. Donald (1999): “Constitutional Design: Proposals versus Processes”, ©Donald L. Horowitz.
- KEIL, Soeren and ANDERSON, Paul: “Decentralization as a Tool for Conflict Resolution”, Canterbury Christ Church University.
- KER-LINDSAY, James (2015): “Explaining Serbia's decision to go to the ICJ”, *The Law and Politics of the Kosovo Advisory Opinion*, edited by: Marko Milanovic and Michael Wood, Oxford University Press, Oxford, UK.
- KIENZLER, Hanna (2009): “Kosovo's Masters and Their Influence on the Local Population throughout History.” *Anthropos*, vol. 104, no. 2, pp. 499–517.
- LEEKE, Matthew. SEAR, Chris and GAY, Oonagh (2003): “An introduction to devolution in the United Kingdom”, Parliament and Constitution Centre, House of Commons Library.
- LIJPHART, Arend (1969): "Consociational Democracy." *World Politics* 21, no. 2, pp. 207-25.

- LIJPHART, Arend (1977): “Democracy in Plural Societies: A Comparative Exploration”, New Haven and London, Yale University Press.
- LIJPHART, Arend (2004): “Constitutional Design for Divided Societies”, *Journal of Democracy*, Vol.15, Number.2, the John Hopkins University Press.
- PALERMO, Francesco; WOELK, Jens & MARKO, Joseph [ed.] (2008): *Tolerance through Law – Self Governance and Group Rights in South Tyrol*, European Academy Bozen/Bolzano.
- PALLAVER, Günther (2015): “Confederalizing via European Integration: South Tyrol from Habsburg to the Present”, *Austrian Federalism in Comparative Perspective*, edited by Günter Bischof and Ferdinand Karlhofer, vol. 24, University of New Orleans Press, New Orleans, pp. 128–148.
- PERRIT, H. Henry, Jr. (2010): “The Road to Independence for Kosovo: A chronicle of the Ahtisaari Plan”, Cambridge University Press, USA.
- PETERLINI, Oskar (2012). “Foundations and Institutions of South-Tyrol’s Autonomy in Italy”, *Practising self-government: a comparative study of autonomous regions*, Cambridge University Press.
- PETRIČUŠIĆ, Antonija (2005): “The Rights of Minorities in International Law: Tracing Developments in Normative Arrangements of International Organizations”, *Croatian International Relations Review*, Vol. XI No.38/39.
- RAUTZ, Günther (2014): “South Tyrolean Autonomy as a Model for Coexistence between Ethnic Groups”, *Autonomies in Europe: Solutions and Challenges*, Budapest.
- ROBERTS, Adam. (1999): “NATO’s ‘Humanitarian War’ over Kosovo”, *Survival*, vol.41, no. 3, pp. 102-23. © The International Institute for Strategic Studies.
- SCHNECKENER, Ulrich (2002): “Making Power-Sharing Work: Lessons From Successes and Failures in Ethnic Conflict Regulation”, © *Journal of Peace Research*, vol. 39, no. 2, pp. 203–228 Sage Publications (London, Thousand Oaks, CA and New Delhi).
- SKENDI, Stavro (1967): “The Albanian National Awakening 1878-1912”, Princeton University Press, New Jersey.
- STEININGER, Rolf (2009): “South Tyrol: A Minority Conflict of the Twentieth Century”, (2nd Printing), Transaction Publishers, New Jersey.
- TRONCOTĂ, Miruna (2018): “‘The association that dissociates’- narratives of local political resistance in Kosovo and the delayed implementation of the Brussels Agreement”, *Southeast European and Black Sea Studies*.

VICKERS, Miranda (1998): “Between Serb and Albanian: A history of Kosovo”, Columbia University Press, New York.

WILLIGEN, V. Niels (2013): “Peacebuilding and International Administration: The cases of Bosnia and Herzegovina and Kosovo”, Routledge Taylor and Francis Group, London and New York.

WOLFF, Stefan (2013): “Conflict Management in Divided Societies: The Many Uses of Territorial Self-governance”, *International Journal on Minority and Group Rights*, 20,1, pp. 27–50.

WOLFF, Stefan. “Situating Complex Power-Sharing in the Conflict Settlement Literature”, Centre for International Crisis Management and Conflict Resolution, University of Nottingham, England, UK.

WOODCOCK, George (1992): “THE NEW AUTONOMY STATUTE OF TRENTO-ALTO ADIGE (the End of the South Tyrol Question)” *Il Politico*, vol. 57, no. 1 (161), pp. 127–145.

## Documents

- “Vasa Čubrilović, The Expulsion of the Albanians”, Memorandum presented in Belgrade on March 7, 1937, Arhiv Vojnoistorijskog II-F2-K-69, can be found: [http://www.trepca.net/english/2006/the\\_expulsion\\_of\\_the\\_albanians\\_by\\_vaso\\_cubrilovic\\_memorandum\\_in\\_1937.html](http://www.trepca.net/english/2006/the_expulsion_of_the_albanians_by_vaso_cubrilovic_memorandum_in_1937.html) , last accessed: 15.06.2020;
- Association/Community of Serb majority municipalities in Kosovo – General principles/ Main elements (2015), can be found: [http://eeas.europa.eu/archives/docs/statements-eeas/docs/150825\\_02\\_association-community-of-serb-majority-municipalities-in-kosovo-general-principles-main-elements\\_en.pdf](http://eeas.europa.eu/archives/docs/statements-eeas/docs/150825_02_association-community-of-serb-majority-municipalities-in-kosovo-general-principles-main-elements_en.pdf) , last accessed: 15.06.2020
- Comprehensive Proposal for the Kosovo Status Settlement (2007), <http://pbosnia.kentlaw.edu/Comprehensive%20Proposal%20for%20the%20Kosovo%20Settlement.pdf> , last accessed: 15.06.2020;
- Constitution of the Republic of Kosovo
- Convention Regulating the Emigration of the Turkish Population from the Region of Southern Serbia in Yugoslavia (1938), can be found: [http://albanianhistory.net/1938\\_Convention/index.html](http://albanianhistory.net/1938_Convention/index.html) , last accessed: 15.06.2020;
- Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992), Resolution 47/135 adopted by General Assembly of the UN;

- European Commission for Democracy through law (Venice Commission) – (1994): “The Protection of Minorities”, can be found: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-STD\(1994\)009-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-STD(1994)009-e) , last accessed: 15.06.2020;
- First agreement of principles governing the normalization of relations, [http://www.kryeministri-ks.net/repository/docs/FIRST\\_AGREEMENT\\_OF\\_PRINCIPLES\\_GOVERNING\\_THE\\_NORMALIZATION\\_OF\\_RELATIONS,\\_APRIL\\_19,\\_2013\\_BRUSSELS\\_en.pdf](http://www.kryeministri-ks.net/repository/docs/FIRST_AGREEMENT_OF_PRINCIPLES_GOVERNING_THE_NORMALIZATION_OF_RELATIONS,_APRIL_19,_2013_BRUSSELS_en.pdf), last accessed: 15.06.2020.
- International Court of Justice, Reports of Judgments, Advisory Opinions and Orders, “Accordance with International Law of the Unilateral Declaration of Independence in respect with Kosovo”, July 2010, can be found: <https://www.icj-cij.org/files/case-related/141/141-20100722-ADV-01-00-EN.pdf>, last accessed: 15.06.2020;
- JUDGEMENT in Case No. KO130/15 of Constitutional Court of Kosovo, can be found: [https://www.gjk-ks.org/wp-content/uploads/vendimet/gjk\\_ko\\_130\\_15\\_ang.pdf](https://www.gjk-ks.org/wp-content/uploads/vendimet/gjk_ko_130_15_ang.pdf) ,last accessed: 15.06.2020;
- LAW No. 02/L-37, On the use of Languages (2007), article 2.3, can be found: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2440>, last accessed: 15.06.2020;
- Military-technical agreement between the international security force (KFOR) and the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia, [https://peacemaker.un.org/sites/peacemaker.un.org/files/990615\\_MilitaryTechnicalAgreementKFORYugoslaviaSerbia.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/990615_MilitaryTechnicalAgreementKFORYugoslaviaSerbia.pdf) ,last accessed: 15.06.2020.
- OSCE/UNHRC: “Assessment of the Situation of Ethnic Minorities in Kosovo: (period covering June through September 2000)”, can be found: <https://www.osce.org/files/f/documents/2/2/13304.pdf>, last accessed: 15.06.2020.
- OSCE/UNHRC: “Assessment of the Situation of Ethnic Minorities in Kosovo: (period covering March through August 2001)”, can be found: <https://www.unhcr.org/3c625c8d4.pdf>, last accessed: 15.06.2020.
- Recommendation 1201 (1993) on an Additional Protocol on the Rights of National Minorities to the European Convention on Human Rights, Section 1, Article 1, can be found: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=15235&lang=en> , last accessed: 15.06.2020.
- Resolution 1244 (1999), SC of the UN, can be found: [https://peacemaker.un.org/sites/peacemaker.un.org/files/990610\\_SCR1244%281999%29.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/990610_SCR1244%281999%29.pdf) , last accessed: 15.06.2020

- Secret Treaty of London of 26 April 1915, Article 2& 4, can be found: <https://www.firstworldwar.com/source/london1915.htm> , last accessed: 15.06.2020.
- Security Council Resolution 1244 (1999) on the situation relating Kosovo.
- Special Statute for Trentino- Alto Adige/ SudTirol (2001).
- The Constitution of the Federative People’s Republic of Yugoslavia (1946).
- The Constitution of the Socialist Federal Republic of Yugoslavia (1974).
- UNMIK Regulation No. 2001/9, dated 15 May 2001, on a Constitutional Framework for Provisional Self-Government in Kosovo.

### **Reports:**

- GAP Institute (2015): “A Report on the Governance of four Northern Municipalities”, can be found: [https://www.institutigap.org/documents/22590\\_VeriuAnglisht.pdf](https://www.institutigap.org/documents/22590_VeriuAnglisht.pdf), last accessed: 15.06.2020.
- ICG report (2008): “Kosovo’s Fragile Transition”, can be found: <https://d2071andvip0wj.cloudfront.net/196-kosovo-s-fragile-transition.pdf>, last accessed: 15.06.2020.
- ICG Report (2012): “Setting Kosovo Free: Remaining Challenges”, can be found: <https://d2071andvip0wj.cloudfront.net/218-setting-kosovo-free-remaining-challenges.pdf>, last accessed: 15.06.2020;
- ICG Report (2013): “Serbia and Kosovo: The Path to Normalization”, can be found: <https://d2071andvip0wj.cloudfront.net/serbia-and-kosovo-the-path-to-normalisation.pdf>, last accessed: 15.06.2020;
- International Crisis Group – ICG (2004): “Collapse in Kosovo”, can be found: <https://d2071andvip0wj.cloudfront.net/155-collapse-in-kosovo.pdf>, last accessed: 15.06.2020
- OSCE (Mission in Kosovo): “Municipal Profiles 2018”, can be found: [https://www.osce.org/files/Municipal%20Profiles\\_2018.pdf](https://www.osce.org/files/Municipal%20Profiles_2018.pdf), last accessed: 15.06.2020
- Report from the Organization for Security and Co-operation in Europe (2003): “Parallel structures in Kosovo”, p.5, can be found: <https://www.osce.org/files/f/documents/9/1/42584.pdf>, last accessed: 15.06.2020.



- Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities (1979), Geneva UN Center for Human Rights, E/CN.4/Sub.2/384/Rev.1, par. 568, can be found: <https://undocs.org/en/E/CN.4/Sub.2/384/Rev.1> , last accessed: 15.06.2020;

### **Publications:**

- A Brief contemporary history of Alto Adige/Südtirol (1918-2002), Published by the Parliament of the Autonomous Province of Bolzano/Bozen.
- ZEQRIRI, Adrian, TROCH, Pieter & KABASHI, Trim (2016): “The Association/Community of Serb-Majority Municipalities: Breaking the Impasse”, European Centre for Minority Issues.

### **Other links:**

- “The truth about Tolomei and Alto/Adige”:  
<http://researchomnia.blogspot.com/2019/06/the-truth-about-tolomei-and-alto-adige.html>, last accessed: 15.05.2020.
- BBC News (2013): “EU police officer killed in Kosovo”, can be found: <https://www.bbc.com/news/world-europe-24158153>, last accessed: 15.06.2020.
- Certified Results on Elections of 2001 in Kosovo - OSCE, can be found: <http://www.kqz-ks.org/wp-content/uploads/2018/04/1.-Rezultatet-e-p%C3%ABrgjithshme-sipas-Subjekteve-2001-1.pdf>, last accessed: 15.06.2020.
- Data from consensus 2011, For more details see: “ South Tyrol in figures 2011,” Provincial Statistics Institute ASTAT, [https://astat.provinz.bz.it/downloads/Siz\\_2011-eng.pdf](https://astat.provinz.bz.it/downloads/Siz_2011-eng.pdf) , last accessed: 15.06.2020.
- ELLIS, Glen (2018): “Kosovo: The mysterious murder of Oliver Ivanovic”, ALJAZEERA, can be found: <https://www.aljazeera.com/blogs/europe/2018/05/kosovo-mysterious-murder-oliver-ivanovic-180529144925924.html>, last accessed: 15.06.2020;
- Nationalia News (2014): “‘Yes’ to self-determination wins unofficial referendum in South Tyrol, gets 92% of the votes”, can be found: <https://www.nationalia.info/new/10126/yes-to-self-determination-wins-unofficial-referendum-in-south-tyrol-gets-92-of-the-votes>, last accessed: 15.06.2020.
- RALEV, Radomir (2019): “Serbia completely suspends exports to Kosovo”, SeeNews, can be found: <https://seenews.com/news/serbia-completely-suspends-exports-to-kosovo-trade-min-638402>, last accessed: 15.06.2020.

- RUDIC, Filip & HAXHIAJ, Serbeze (2018): “Stolen Homes: Kosovo Struggles with Wartime Property Seizures”, BIRN, can be found: <https://balkaninsight.com/2018/05/29/stolen-homes-kosovo-struggles-with-wartime-property-seizures-05-22-2018/>, last accessed: 15.06.2020.
- Toponymy of South Tyrol – Handbook/ Catalogue of Ettore Tolomei, can be found: <http://www.mori.bz.it/toponomastica/index.htm> , last accessed: 15.06.2020.
- VELA, Blerim (2019): ““Border Correction’ Leads to the Suspension of Reason”, Kosovotwopointzero – K2.0, can be found: <https://kosovotwopointzero.com/en/border-correction-leads-to-the-suspension-of-reason/>, last accessed: 15.06.2020.
- VUJISIC, Tanja (2020): “Bargain Buy: the Kosovo Traders Defying a Town’s Ethnic Divide”, BalkanInsight - BIRN, can be found: <https://balkaninsight.com/2020/01/07/bargain-buy-the-kosovo-traders-defying-a-towns-ethnic-divide/>, last accessed: 15.06.2020.
- WOOD, Nicholas (2007): “Again, Kosovar Albanians Demonstrate Against U.N.”, The New York Times, can be found: <https://www.nytimes.com/2007/03/04/world/europe/04kosovo.html>, last accessed: 15.06.2020.
- Zëri (2017): “Shqiptarët nuk kanë ku te kthehen, i shitën banesat në veri”, in English: “Albanians have no place to go back, they sold their properties in North”, can be found: <https://zeri.info/aktuale/130650/shqiptaret-nuk-kane-ku-te-kthehen-i-shiten-banesat-ne-veri/>, last accessed: 15.06.2020.