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ONE DRAFT OF A POSSIBLE CONSTITUTIONAL ARRANGEMENT FOR KOSOVO AND METOHIJA**

Abstract

The authors will point out some possible models for solving an extremely complex problem, which for decades has been an open issue for which, without much success, a mutually acceptable solution is being sought - Kosovo and Metohija. The paper analyzes three possible options, with different intensity of relations between the Republic of Serbia and so called Kosovo. In the first case, which implies the strongest relationship between Serbia and Kosovo and Metohija, this issue could be resolved by passing a law on substantial autonomy (with changes to certain constitutional provisions) which would formally assign all the competencies now available in the province, while the other two models do not imply the adoption of such a law, so it could be done exclusively by changing the Constitution of the Republic of Serbia. In none of the proposed models, the so-called Kosovo would not have full international legal subjectivity, Serbia would not recognize Koso-

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vo's self-proclaimed independence, nor could so-called Kosovo become a member of the United Nations, and there would be no Kosovo Army. The province would have internal sovereignty.

Keywords: Kosovo and Metohija (KiM), Constitution, Duality of Constitutional Orders, Sustainable Solutions.

INTRODUCTORY CONSIDERATIONS

Kosovo and Metohija represent the core of our national and state-building identity. It gained a special place in the collective memory of Serbs thanks to the fact that a powerful medieval state of Nemanjić dynasty emerged in Kosovo and Metohija (hereinafter: KiM) and that it was its spiritual, economic and national centre and core. Hence, the term Kosovo for Serbs means the holy Serbian land, “Serbian Jerusalem”, it is also a space from which Serbs have been systematically repressed by Albanians for centuries (Bataković 1999, 7). For KiM Albanians, the word Kosovo has the opposite meaning and it is a symbol of “ancient Albanian land” and means a combination of ancient Illyrian and modern Albanian ethnic community living in that area, and at the same time is a symbol of “occupied ethnic territory” (Bataković 1999, 8-9).

The specificity of the constitutional position of the Autonomous Province of Kosovo and Metohija (hereinafter: KiM) in the constitutional system of Serbia can be observed in the period from the formation of the second Yugoslav state until today (Bojanić 2017, 179-180). The Constitution of the Federal People's Republic of Yugoslavia from 1946 established a form of asymmetric decentralization in Serbia, as one of the six Yugoslav republics. The Autonomous Province of Vojvodina and the Kosovo-Metohija Autonomous Region were formed. The latter is constitutionally equated with Vojvodina by the Constitution of the SFRY from 1963, when it acquired the status of an autonomous province.

The strengthening of the status of the autonomous provinces culminated in the 1974 Constitution, when they were almost equated with the republics in their position and became constitutive elements of the federation. This was preceded by the consti-

tutional amendments from 1968, and in addition to the fact that Serbia's position was significantly weakened by them, the name of the southern Serbian province, which remains without Metohija in its official name, was also reduced. This process changed its direction at the end of the eighties of the twentieth century, when autonomy returned to the limits of its original meaning. As the decentralization of power in the previous period was basically a retrograde process that led to the disintegration of Serbia, in 1989 the Republic of Serbia, in an effort to eliminate the weaknesses of the then organization of power, passed amendments to the 1974 Constitution, where status of the provinces has changed significantly. Their normative powers were significantly narrowed, and Serbia no longer needed the consent of the provinces for the constitutional revision. The autonomous provinces no longer had constitutional and legislative power, nor their own judicial system.

Both post-socialist constitutions represent a complete break with the previous concept of decentralization of power in Serbia, and autonomy took on a new form which, now in the opposite direction to the period of socialist constitutionalism, deviates significantly from its theoretical concept (Bojanić 2017, 179). Here we primarily mean the position of AP Vojvodina, since on the territory of AP Kosovo and Metohija in 1999, after the end of the war that began with the attack of the most powerful military alliance - NATO on Serbia, an international protectorate was established, and in 2008 contrary to international and domestic law there was a declaration of independence of the so-called Republic of Kosovo, so that the implementation of constitutional provisions relating to the Autonomous Province of Kosovo and Metohija is not possible at present.

An attempt to reach a solution to this decades-long conflict began in 2010, under the auspices of the United Nations, and with the mediation of the European Union in the negotiation process between Serbia and the so-called Kosovo. The dialogue resulted in the signing of The First Agreement of Principles Governing the Normalization of Relations (2013), (hereinafter Brussels Agreement) and the Association/Community of Serb majority municipalities in Kosovo – general principles/main elements (2015) (hereinafter: CSM). These two political, as well as several technical

agreements that were concluded in the negotiation process, did not, however, bring the desired results. They have only been partially implemented, or we can say, they have been implemented to the extent appropriate to Priština, while the part related to the Union of Serbian Municipalities is the only part that can potentially bring certain benefits to the Serbian side, although extremely limited, stay only as a word on paper.

COMPARATIVE EXPERIENCES AS A POSSIBLE GUIDE TO THE “FINAL” SOLUTION

In an attempt to find an answer to the question of which model would be sustainable and what would be a mutually acceptable solution for the KiM, we will take a look in comparative practice. Numerous conflicts in different parts of the world have been resolved, more or less successfully, in very different ways. Some solutions have stood the test of time, while on the other hand we have conflicts that have lasted for decades and have several agreements behind them that have not been able to be a good response to existing conflicts for a long time, and the final solutions are still not in sight. Arrangements that deserve our attention in light of the theme of this paper are undoubtedly Hong Kong, the Åland Islands and South Tyrol.

The Hong Kong Special Administrative Region (HKSAR) is one of the exemplary models with *sui generis* formula “one country, two systems” enabled the re-establishment of Chinese sovereignty over a part of its territory that was a British colony for more than a century (from the First Opium War to 1997). The period of colonial rule left strong consequences on culture, economy, education, in a word, on all segments of the life of the citizens of Hong Kong. In order for the reunification process to run smoothly, with much less negative consequences for the citizens of this region, the motherland opted for a theoretical model that was not previously applied in practice, and except in the case of Hong Kong, the same formula was applied to Macau (1999).

The basis for the establishment of this model was created by the constitutional changes from 1982, when the new Constitution of the People’s Republic of China was adopted at the fifth session

of the Fifth National People's Congress. Article 31 stipulates that the state may, if necessary, establish special administrative areas by law (Constitution of the People's Republic of China). China has committed itself not to establish a socialist system on the territory of HKSAR and that the existing political and economic system will be maintained on the territory of Hong Kong for the next 50 years (BL, Art. 5) . It is clear that China intends to preserve the specifics of the HKSAR within the "one country, two systems" model, while at the same time being part of a single national space and as such an example of a possible reunification of China with Taiwan (Yip 2015, 21).

The position of Hong Kong as an inseparable part of China (BL, Art. 1), the organization of government and the relationship with the motherland are regulated by the Basic Law of Hong Kong Special Administrative Region of the People's Republic of China. The People's National congress granted HKSAR a high degree of autonomy in the area of legislative, executive and independent judiciary, including the last instance court (BL, Art. 2). Legislative and executive power will consist of representatives of residents permanently residing in the region, in accordance with the guarantees provided by the Basic Law, and the regional authorities will take care of the protection of human rights and freedoms of HKSAR residents, in accordance with the law (BL, Art 3 and 4). The Basic Law stipulates that legislation that was in force while Hong Kong was under British rule will apply in the region, with the exception of norms that are in conflict with the Basic Law or other laws of the People's National Congress (BL, Art. 8), in addition to Chinese and the English language is in equal official use (BL, Art. 10).

HKSAR enjoys a high degree of autonomy and is directly under the Central People's Government. The Central Government has two key competencies, defense and foreign affairs, whereby the Ministry of Foreign Affairs having an office in Hong Kong that cooperates with regional authorities on issues of regional importance, and in accordance with the Basic Law (Art. 2), regional authorities are empowered to deal with "relevant foreign affairs (IOSCPRC, 6).

The process of reunification did not go completely smoothly, but according to Sou (Alvin Y. So), it betrayed the expectations

of both “political pessimists” and “economic optimists”. Namely, it turned out that after 1997, China respected the policy of “one country, two systems” and that the fear of authoritarian rule was unfounded, so in that sense there was no restriction of freedoms in any segment. On the other hand, economic expectations have been betrayed, although the economic downturn cannot be attributed to the transition but to the 1998 Asian economic crisis (So 2011, 108). The beginning of the 21st century brings the first wave of discontent, so in 2004, 500,000 people took to the streets of Hong Kong. Ten years later, new mass protests known as the “umbrella of the revolution” followed, as a reaction to the way the head of the executive was elected, and in 2019 the continuation of the “umbrella of the revolution” followed in protest against the extradition law. Regardless of all the “noise” that occurs on the Hong Kong-Beijing route, it could be concluded that the “one country, two systems” model works successfully and manages to deal with the problems that arise in its functioning.

One of the frequently mentioned arrangements is the one applied in South Tyrol, ie the province of Bolzano. This province in South Tyrol (Italy) is said to be an example of successfully resolved interethnic relations and conflicts between two national communities - the Italian and the German (Austrian). The problem of the German minority in South Tyrol has long burdened relations between Italy and Austria. It was finally resolved in 1992 when the Italian government informed Austria that it had fully implemented the agreements reached and fulfilled all agreed obligations to the German minority in South Tyrol (Raduški 2008, 243). Although it is not possible to compare the German-Italian dispute in South Tyrol with the Serbian-Albanian one in Kosovo and Metohija, neither in the social, cultural, nor in the civilizational sense, it is still easy to identify some common elements. This would eventually indicate the possibility of applying this model in our conditions, no matter how specific they were in relation to those in South Tyrol. By the way, after the Second World War and the impossibility for South Tyrol to join Austria (Raduški 2009, 237), this Austrian-Italian dispute escalated so much that in some elements it reminds us of what is happening (and was happening) in Kosovo and Metohija between Serbs and Albanians, with one peculiarity. Namely, what happened to the Germans as a national minority in Italy, in the

southern Serbian province in the period of almost five decades after the Second World War, happened to the Serbs by members of the national minority. This primarily refers to the violent assimilation of the German minority, its Italianization, ban on the use of the native language, favoring Italians in employment, unequal economic and social treatment of South Tyrol in relation to the rest of Italy, etc. Patiently and with good the will of both sides, the Austrian and the Italian, this problem began to be solved back in 1946. by concluding the agreement De Gasperi - Gruber¹ that in the 60s of the XX century it was fulfilled with a Package of measures that was supposed to ensure broad autonomy for South Tyrol in various areas of life. This referred to linguistic equality in social and public services, bilingual marking of topographical names, learning in native language, broad competencies in culture, economy, finance, etc. (Raduški 2009, 239).

Italy has successfully resolved this conflict with the Austrian national minority in South Tyrol (Bocano province) by giving it broad autonomy, which shows that its regional model of decentralization is also functional and applicable to solving problems in other countries and national communities. The province of Bocano (as well as Trentino as part of the region of Trentino-Alto Adige (South Tyrol) within the framework of primary regional jurisdiction (in accordance with the Constitution) regulates a number of issues of common regional importance, provincial bureaus, naming places, protection of historical, artistic and folklore values, cultural institutions: academies, libraries, museums, etc; landscaping, nature protection, development of crafts, hunting and fishing, roads, traffic, water supply, catering, tourism, etc. (Raduški 2009, 239). In addition to this primary (joint) competence, even more important for the provinces is the secondary legislative competence with which (in accordance with regional laws) they regulated issues of provincial importance: local police, education, local public events, public companies, health, sports, etc. (Mitić 1998, 407).

1) De Gasperi signed this agreement, which guarantees the German national minority the widest autonomy, without any external pressure. In addition to preserving the language and culture, all Germans who moved from South Tyrol to Nazi Germany were offered to return, provided they did not commit war crimes. His motive could be located in the desire for the neighboring Yugoslavia to act in the same way with regard to the Italian minority that was expelled from Dalmatia and Istria.

At the other end of the European continent, in the Åland Islands, there is a much higher level of autonomy, which those well acquainted with this topic do not hesitate to claim is the best European model of autonomy. Even some analysts believe that the autonomy enjoyed by Swedes on the island is so broad, with such powers that they are sufficient for an independent state (Raduški 2008, 246).

Åland autonomy has been developed since 1920. when Finland offered the local population on the island some autonomy. The completion of this process of shaping Åland autonomy followed in the 1990s, when the peak was reached in the conduct of minority policy and the guarantee of minority rights (Mihajlović and Bojanić 2012, 137).

The specificity of the Åland autonomy is the developed competence of the Åland Parliament, which independently regulates the spectrum of local areas of life: culture, education, police, social protection, sports, health, etc., but also some original characteristics that make this autonomy typically “Nordic”, different from others in Europe. This originality of Åland autonomy includes some symbols and elements of statehood: citizenship, official Swedish, flag (blue-yellow-red), special car plate, postage stamp, national holiday (June 9 - start of the local parliament 1921) but also some other characteristics such as independent local newspapers and television, the Åland delegation that resolves disputes between the island and Finland, etc. (Raduški 2008, 154-155).

The Åland autonomy succeeded because Finland showed goodwill towards the Swedes on the island and made concessions to them that were respectable. Of course, the question remains whether, in the conditions of strained Serbian-Albanian relations and the exclusivity of the Albanian side, which for now does not agree to anything but independence, Albanians would be ready to accept for themselves and be satisfied with such a status and to generously offer to Serbs the same kind of political concessions, autonomy within autonomy.

IN SEARCH FOR A SUSTAINABLE SOLUTION

From the constitutional point of view, the formula for resolving the “Serbian square” can be sought only within the four fundamental grounds of international and domestic law, which means relying on the UN Charter, the Helsinki Final Act, UN Security Council Resolution 1244 and the Constitution of the Republic of Serbia, which request the change of the Serbian Constitution, a greater or lesser extent, in accordance with the prescribed procedure, which includes the voting of citizens in a referendum.

When it comes to specific modalities that would enable a permanent solution to the issue of Kosovo and Metohija, and the nature of this text is such that they will be given in principle, “steps” of three possible options will be presented, and that could be the basis for negotiations opposing sides. Before we present the basic elements of some of the possible ideas in the search for a formula for resolving the issue of Kosovo and Metohija, we want to emphasize that this view is basically the closest to the views they have presented on this topic, both in their scientific works and in the first Round table (whose participant was also the first author) within the Internal Dialogue by the Professors Vladan Petrov (2017: 99-102 and 2014: 111-120) and Slobodan Orlović (2017: 103-106; Orlović and Ristivojević, 2018: 247-265), which was initiated by the President of the Republic, in the way that many issues will be elaborated in this paper.²

In our opinion, with full respect for reality, and on the basis of the current course of “negotiations” between KiM Albanians, ie. Priština authorities and the Republic of Serbia, which are conducted with the mediation of the European Union, there are not many possible modalities left to resolve this complex issue, which would respect the facts and guarantee as applicable a solution that would enable stability in the region. To be more precise, we believe that it is possible to talk about three *sui generis* scenarios (modalities), where, basically, there are three different degrees of connection, ie independence of KiM, and consequently, from the point of view

2) In this paper, we will point out the solutions that should provide guarantees for the position of the Serbian community within the Kosmet autonomy - the model of “autonomy in autonomy”, without pretensions to conceptualize the “ideal model”.

of Serbia's interests, in the first case it can speak of a *desirable*, in the second of an *acceptable* and in the third case of a solution that represents a *red line*, a minimum below which it is not possible to go because in that way the sovereignty of Serbia in other parts of the Republic - Presevo, Bujanovac, Medveđa, Dimitrovgrad, Bosilegrad, parts of Bačka mostly inhabited by the Hungarian national minority - would be called into question. What is common to all three options is that in no case will the so-called Kosovo have full international legal personality, will not under any circumstances recognize Kosovo's independence, which means that a seat in the United Nations is reserved for the Republic of Serbia, without the possibility that KiM will one day become its member.

The preferred model implies substantial autonomy of the KiM, which means that the law on substantial autonomy, which would be adopted in accordance with the procedure for amending the Constitution (in accordance with Article 182), would "given" powers, and in that sense, this solution would eliminate the gap between the normative and the real, ie. between the constitutional and factual position of the southern Serbian province. This model implies the existence of two different legal orders within the Republic of Serbia, one that would be valid on the territory of central Serbia and the Autonomous Province of Vojvodina, and the other on the territory of the Autonomous Province of Kosovo and Metohija, as a separate entity under the constitutional umbrella of Serbia, which would be regulated by amendments to the Serbian Constitution and the law of substantive autonomy. In that context, Orlović talks about "resetting" in two steps (2018: 263).

With this law, the Republic of Serbia would transfer all competencies in favor of so-called Kosovo, except those that limit the international legal subjectivity, ie external sovereignty of this territory and competencies in securing the territory's borders with third countries, and they would be provided by members of the Serbian Army in accordance with UN Security Council Resolution 1244, together with members of the Ministry of Interior of so-called Kosovo (KPS), while customs and inspection activities at border crossings would be "sovereignly" performed by the Priština authorities. At the external borders of the province and at the external borders of Serbia, in order to increase internal and

regional security, harmonized rules of border control would be applied. KiM would have a constitution as the highest legal act, and it would be passed by the province's Assembly. The province would have the right to its symbols - the coat of arms and the flag, and they would reflect its multiethnic character and commitment to European values and principles. In the areas inhabited by the majority Serbian population, in addition to the provincial ones, the republican symbols would also be prominent. In the territory of KiM, the competencies that manifest the internal element of sovereignty would fully belong to its bodies, in accordance with the Constitution of KiM and the Brussels Agreement.

At the internal level, "autonomy" would be reflected in the existence of all elements of statehood, and the organization of government would be as it actually exists in that territory today, according to the current "Constitution of the Republic of Kosovo" and the Brussels Agreement. Kosovo and Metohija, but this new constitution would not have to contain changes of essential character in relation to the current situation, but it could be in fact the same text, with certain linguistic and stylistic changes that are necessary, but this opportunity should certainly be used to eliminate so-called Kosovo Constitution's text inconsistencies in Serbian and Albanian, which is now the case. Professor Darko Simović wrote about this issue in great detail (2018: 213-222), and the nature of this text does not allow a more detailed treatment of this issue).

Thus, power would be organized on the principle of division into legislative, executive and judicial. Legislative power would belong to the assembly, executive power would be shared by the government and the president, and judicial power would be exercised by courts organized in accordance with the constitution, laws and the Brussels Agreement. The Constitutional Court would be competent to assess constitutionality and legality. The monopoly of physical force would belong to the police and gendarmerie of KiM,³ without the right to establish an army. Republic and provincial criminal legislation and the system of execution of criminal

3) The unconstitutionally formed "Kosovo Army" would be transformed into the KiM Gendarmerie, which would be a counterpart to the Gendarmerie of the Republic of Serbia in terms of weapons, formation and role, and would have its role on the territory of Kosovo and Metohija. This formation should not possess weapons larger than 30 mm.

sanctions would be harmonized. The province would pursue an independent monetary and fiscal policy, while maintaining the bi-currency system that now actually exists, under the control of the respective central banks.⁴ The possibility of double taxation would be ruled out and customs policies would be harmonized, with consistent application of the CEFTA agreement. An unhindered flow of persons, goods and capital would be guaranteed. The system of insurance of property (movable and immovable), persons and capital would be harmonized. Natural resources would be managed by joint “Belgrade-Priština” corporations, and the share in ownership would be divided in the ratio of 50% -50%, whereby the same principle would apply to property on the entire territory of the province.

Provincial legislation related to the state survey and real estate cadaster would be harmonized with the republic legislation, and the records in the land books would be fully harmonized within two years from reaching an agreement. By mutual agreement, in order to increase general security and prevent abuses in terms of exercising rights in the Republic, ie autonomy, republican and provincial authorities would have the right to inspect the registers of both levels of government, with appropriate measures to protect against possible abuse of personal data.

The autonomous province would be widely decentralized, and in addition to local self-government units - municipalities, there would be a middle level of government - the cantons. Serbs in the province would enjoy territorial, personal and institutional autonomy, so that they would exercise the right to self-government within Serb-majority municipalities, which, according to the territorial principle, would be interconnected into Serbian cantons (the cantonization proposal dates from 1998 when he presented it D. Bataković (1988: 1-2 and Bataković 2013), and later, in a similar or modified form, was supported or proposed by the representatives of Serbs in the Transitional Council, the Government of Serbia and the Serbian Orthodox Church) to which Serbian monasteries and their estates would be annexed where possible, while in other cases, the principle of extraterritoriality was applied, which would also

4) The bi-currency system would exist throughout Kosovo and Metohija and would function according to the 1999 UNMIK model.

apply to the clergy of the Serbian Orthodox Church (property and clergy of the Serbian Orthodox Church in KiM would be protected by members of the MUP and the Serbian Army, in accordance with UN Security Council Resolution 1244). The highest legal act of the canton would be the cantonal statute, which is independently adopted by the cantonal assemblies as an expression of the right to self-organization. Local and regional self-government would be conceived in accordance with the principles contained in the European charters on local and regional self-government. Local and regional self-government units would have original competencies and source revenues that provide a significant level of self-government and autonomy. The right to education and health care for Serbs would, as before, be exercised within the education and health system of Serbia. Apart from the province, Serbs would have the right to exercise their electoral rights in parliamentary and presidential elections, in accordance with the electoral legislation of the Republic. Voting for the republican elections would be organized in each municipality that is a member of the CSM, and it would be possible to vote online, so that as many voters as possible could exercise their right. The citizens of the province would have provincial citizenship, and in accordance with the republic legislation, the citizenship of Serbia, and they could decide whether they will have a passport of the Republic of Serbia or a travel document of the Priština authorities. All persons born on the territory of the Autonomous Province of Kosovo and Metohija would have the right to provincial citizenship, as well as all persons whose both or one of the parents was born in KiM. The basic limitation of sovereignty would refer to the international legal subjectivity of the territory. KiM would independently establish its consular missions, pursue an independent foreign policy, but its membership in international organizations would be limited. Membership in the United Nations, Military Alliances (NATO), the European Union, the OSCE, the Council of Europe, the International Monetary Fund, the World Bank, the World Trade Organization, UNESCO, INTERPOL (the list would be precisely defined in the law on essential autonomy and agreement between the Belgrade and Priština authorities) would be reserved for Serbia, and Priština could have its representatives within the Serbian delegation. Civilian airspace control, which has been under the authority of the KFOR Commander since 1999,

would be the responsibility of the Air Traffic Control Agency of Serbia, Montenegro and Kosovo and Metohija (now SMATSA), and the KFOR Commander would have oversight powers over the control of the airspace of Kosovo and Metohija. This constitutional arrangement outlines the essential autonomy such that the Autonomous Province of Kosovo and Metohija represents a territory with a special legal system under the constitutional roof of Serbia, which has internal but not external sovereignty, without which there is no statehood. Therefore, it is a political-territorial collectivity that has a limited international legal subjectivity, and at the internal level it is legally unlimited, sovereign.

An acceptable solution would include several more concessions that Serbia would make in relation to the presented model. The name of the territory would be bilingual in all documents and official communication, which means that the name in Serbian and Albanian would be used at the same time, and it would read the *Autonomna Republika Kosovo i Metohija*⁵/*Republika Autonome e Kosovës*⁶. Unlike the first model, in this case the establishment of a special constitutional order in Kosovo and Metohija would be regulated exclusively on the basis of constitutional provisions, without the enactment of a law on substantial autonomy. The constitution would provide for certain restrictions on the independence of that separate constitutional order, and it would refer to the non-existence of the military and membership in international organizations as in the previous model. Decentralization of power would be carried out at the level of local self-government, with municipalities with a majority Serb population enjoying a higher level of self-government, and the CSM would be established, which would have significant source competencies and source revenues, and statute would be passed independently. Members of the CSM assembly would be elected in direct elections.

In Serb majority municipalities, there would be a local police force to ensure public order and peace.⁷ The property and clergy of

5) In Serbian

6) In Albanian

7) The entry of special police forces and gendarmerie would be possible only in the case of the fight against organized crime and terrorism, with prior notice to the KFOR commander and the simultaneous presence of the local police and the Protector of Citizens.

the Serbian Orthodox Church, which would enjoy extraterritoriality in the territory of the autonomous republic, would be protected by members of the local police force with members of the Kosovo and Metohija police. The ownership and management share of Serbia in natural resources and property on the territory of Kosovo and Metohija would be 30%, and the autonomous republic would have 70%, except when it comes to Gazivode, National park „Šar-planina“, Trepca and ski center Brezovica, where the ratio would be 50% - 50%. Residents of the KiM would have citizenship and autonomous travel documents, and Serbs would also have Serbian citizenship, in accordance with the Republic of Serbia Law on Citizenship. Citizens of KiM would exercise the right to vote within the borders and bodies of autonomy, and Serbian citizens in accordance with the republican legislation (as according to the first model). Kosovo and Metohija would have independent diplomatic and consular missions, and as in the previous model, it would not have full international legal subjectivity.

The most powerless connection between Serbia and Kosovo and Metohija would be based on the third model. As in the previous model, Serbia would prescribe the duality of constitutional legal orders on its territory, and it would transfer all competencies in the area of Kosovo and Metohija to its authorities. Autonomna Republika Kosovo i Metohija⁸/Republika Autonome e Kosovës⁹ would not have the obligation to adopt a new constitution, but the existing constitution of the so-called Kosovo would be “accepted” by agreement, with the necessity of changes discussed within the first model (and this applies to all laws and bylaws). Decentralization would be achieved at the level of local self-government, in accordance with the current factual situation and with the obligation to form the CSM, whereby the community would have executive powers, and the election of assembly members would be modeled on the election of local assembly members.

It would be possible to form new Serb-majority local self-government units (municipalities) in line with the Ahtisaari plan and the 1981 and 2000 censuses (UNMIK census). These municipalities

8) In Serbian

9) In Albanian

would join the CSM.¹⁰ Based on these censuses (15% of the Serbian population), in accordance with the principle of positive discrimination, the Serbian population would be guaranteed a representation of 16.67% (1/6) of employees in state administration bodies and public companies. on the territory of the province, as well as in the provincial authorities. The guaranteed number of seats for members of the Serb community in the provincial assembly would be 15, out of a total of 120. The province's constitution would define issues of vital national interest for the Serbian people, whose changes would require a two-thirds majority of the total number of deputies. a majority of all elected representatives of the Serb community. The statute of the CSM would be adopted in accordance with the provisions of the Brussels Agreement, and in accordance with the above censuses and the situation before March 24, 1999 with regard to property rights, the territory "covered" by the CSM could not be less than 1/5 of the territory provinces. Local self-government units (with a majority Serb population) would have a local police whose competence, among other things, would be to protect religious buildings, the entire property of the Serbian Orthodox Church and its staff, for which a special status would be provided. The external borders of Kosovo and Metohija would be secured by its police and gendarmerie, and integrated management would function at administrative crossings, with the application of uniform rules of border control at all external borders, as envisaged in the first model. The possibility of using the symbols of the Republic of Serbia, along with the symbols of Kosovo and Metohija, on the territory of the CSM would be regulated by a special law. Civilian control of airspace, by the decision of the KFOR Commander, would be entrusted to the Air Traffic Control Agency of Serbia and Montenegro, and would be carried out under the auspices of the UN and KFOR. According to this model, Kosovo and Metohija would not have the right to its own army, and international legal subjectivity would be limited, while in all other segments it would enjoy full independence, as already shown in previous models (without full membership in the United Nations, Military Alliances (NATO), the European Union, the OSCE, the Council of Europe, the International Monetary Fund, the World Bank, the World Trade Organization, UNESCO, INTERPOL).

10) Establishing of new Serbian municipalities would be approved by an independent EU commission, and verified by the Provincial Assembly without the right to challenge it.

When it comes to natural resources, Serbia would have an ownership and management share only in Trepca, Gazivode and the Ski Center Brezovica, and it would be 50% in all three entities. A two-currency system would exist on the territory of the CSM and the Republic of Serbia would have the right to constitute monetary, financial and tax control bodies that would be employees of the CSM. Criminal legislation, state survey and cadastre, insurance of property and persons, free movement of property, persons and capital would be regulated in the manner envisaged by the first model.

The Republic of Serbia has the permanent right to delegate one non-residential operator of information and communication services that would function on the entire territory of the province in full technical not roaming capacity, but would represent a specially registered legal entity on the territory of the province whose taxpayer it would be.

The education and health system would function in accordance with the Brussels Agreement, with curricula in primary and secondary schools in the Serbian language fully harmonized with the curricula in central Serbia and AP Vojvodina, and students would receive double certificates and diplomas, the Autonomous Republic of Kosovo and Metohija and the Republic of Serbia. A joint commission, consisting of an equal number of representatives of the national accreditation bodies of Serbia and KiM, would be responsible for the accreditation of study programs and institutions in higher education (the University of Kosovska Mitrovica with its 10 faculties and the Academy of Vocational Studies). After graduation, students would receive double degrees, since these institutions would be accredited in the higher education system of the Republic of Serbia, based on the principle of non-territoriality of the University.¹¹ Health institutions in the Serb-majority area would be organized in accordance with the current facts and educational institutions, would be under the jurisdiction of local self-government and CSM. The status of employees in education and health would be regulated in the way it was done in the judiciary and the police. The Republic reserves the right to special

11) And now on the territory of the province there is IBCM (<http://www.ibcmmitrovica.eu>) which is accredited in the German higher education system (EVELAG). Also, in central Serbia, many faculties accredit their study programs in English in the USA, UK, German, French, and even Slovenian accreditation bodies.

subsidies to institutions and employees in health, education and culture, as well as the Serbian Orthodox Church, in accordance with regulations adopted at the state level. Grants are not subject to taxation and fees.

CONCLUDING REMARKS

We are sure that the first model, desirable for Serbia, would be difficult to accept for the Priština authorities, but it could serve as a good starting point for a platform for negotiations. Unfortunately, the other model, which is acceptable to us, does not have much more chance of success, but in the second phase of the negotiation process, it could be a “topic for discussion” between the two sides. The third, “minimal” model is something that seems the most realistic, because in every negotiation process, both parties are expected to make certain concessions in relation to the initial positions. If there is no readiness for concessions, then there are no real negotiations or prospects for an agreement, so negotiations are pointless if Priština ultimately insists on “mutual recognition”.

As far as Serbia is concerned, in our deep conviction, the third model is a red line that must not be crossed. Therefore, Serbia must not recognize Kosovo’s independence at any cost, nor can it agree to Kosovo and Metohija’s membership in the United Nations. At the same time, it is necessary to provide an appropriate level of self-government for members of the Serb community in Kosovo and Metohija, and about a specific model - whether the Serb community would get the status of the Republika Srpska in the Federation of BiH, whether it would be the position of the Åland in Finland, Tyrol in Italy or “Hong Kong in Hong Kong”, is an issue that would be resolved through negotiations. The European Union, which is interested in extinguishing this hotspot, as one of the basic security challenges on “its” territory, should provide additional motivation to the conflicting parties, and it would consist of the accession of the Republic of Serbia with Kosovo and Metohija to the EU, within one year from the date of reaching an agreement. We believe that this would significantly relax the position of both sides in the negotiations, because it would be easier to agree to some compromise solutions, which would have a different meaning and weight from the point of view of an EU member. The guarantors

of the agreement between Belgrade and Priština, in addition to the EU, would be Russia, China and the United States.

It should be emphasized that reaching an agreement is extremely important from the aspect of the global fight against terrorism, considering the fact that Kosovo and Metohija is one of the largest bases in Southeast Europe for recruiting and training members of numerous terrorist organizations, such as Al Qaeda or ISIS. After reaching an agreement between Belgrade and Priština, Kosovo and Metohija would be the center of Southeast Europe in the fight against terrorism, and with the security services of Serbia and Kosovo and Metohija, in this field would play an active role all other relevant entities dealing with this globally issues. Multi-national teams would be formed to fight terrorism.

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