



14 December 2012  
**Provisional version**

## Committee on Political Affairs and Democracy

### The situation in Kosovo<sup>1</sup> and the role of the Council of Europe

Rapporteur: Mr Björn VON SYDOW (Sweden, Socialist group)

#### Draft Resolution

1. The Parliamentary Assembly notes that, since the unilateral declaration of independence in 2008, Kosovo continues to seek international recognition while further developing its democratic institutions.
2. The Kosovo authorities continue to share power with an international presence operating within the status neutral framework of United Nations Security Council Resolution 1244. This presence, including the United Nations Administration Mission in Kosovo (UNMIK) and the European Union Rule of Law Mission in Kosovo (EULEX), has gradually been reduced over the years.
3. The Assembly believes that the current phase of the European Union-mediated negotiations between Pristina and Belgrade, at Prime Minister level, indicates a greater willingness of both sides to promote reconciliation and overcome the legacy of the past, and creates a window of opportunity for solving fundamental political problems along with technical matters.
4. The Assembly notes that the Council of Europe continues to apply a policy of status-neutrality towards Kosovo, despite the fact that 34 out of its 47 member States have recognised Kosovo as a sovereign and independent State. Recalling its Resolution 1739 (2010) on the situation in Kosovo and the role of the Council of Europe, it emphasises once more that, irrespective of the status of Kosovo, the people living in Kosovo should enjoy good governance, democracy, rule of law and the same legal and human rights standards as other people in Europe.
5. In this respect, the Assembly regrets that overall progress in improving the rule of law in Kosovo is slow, particularly with regard to the fight against organised crime and corruption and both in the north and south of Kosovo, and that the judiciary continues to suffer from political interference, inefficiency and lack of transparency and enforcement. The Assembly therefore welcomes the recent restructuring of EULEX which aims at prioritising certain rule of law areas, such as fighting corruption and organised crime, in particular in the north of Kosovo.
6. As already stressed in Resolution 1839 (2011) on the political situation in the Balkans, the Assembly is particularly concerned about the situation in the north of Kosovo, including the security situation of the Serbian community, where security incidents and tensions persist, and remains convinced that a political agreement on how to govern this area is a pre-requisite for a sustainable solution and for the realisation of the European Union aspirations of both Belgrade and Pristina.

---

<sup>1</sup> All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

7. Since enhanced autonomy was granted to the Serb municipalities, the sentiments of the Serbs living south of the Ibar River appear to be changing, resulting also in a higher voter turnout. However, the Assembly regrets that concerns for their safety and the full respect of their rights still persist and believes that interaction between the Kosovo Serb and Albanian communities needs to be further promoted. Furthermore, the authorities' strategy to protect and promote the rights of the Roma, Ashkali and Egyptians communities living in Kosovo also needs to be implemented with more vigour.

8. In the light of the above, the Assembly calls on the authorities in Kosovo, EULEX and UNMIK to continue strengthening the rule of law and the legal, institutional and policy framework for combating corruption, in particular by:

- 8.1. introducing concrete measures to ensure proper implementation of the legal framework to curb political interference in the work of the judiciary and providing the latter adequate support, resources and training;
- 8.2. empowering independent anti-corruption bodies and fast-tracking the provision of data to judicial authorities concerning corruption cases;
- 8.3. simplifying the supervision of public procurement and monitoring the enforcement of existing rules;
- 8.4. improving legislation, policy and practice in the areas of money laundering, financing of terrorism, trafficking in human beings, drugs and weapons and asset confiscation;
- 8.5. developing an adequate witness protection system;
- 8.6. providing the necessary funding and staff for an efficient, competent and multi-ethnic public administration system, and offering training in ethics and in the fight against corruption.

9. The Assembly welcomes the support of the European Union to the Council of Europe cooperation programmes and encourages it to:

- 9.1. continue to offer a European perspective to the whole of the Western Balkans, including Kosovo;
- 9.2. ensure that its policy dialogues with Kosovo focus particularly on strengthening the rule of law and are linked to incentives and priority conditions, in line with the recent recommendations of the European Court of Auditors;
- 9.3. ensure that the normalisation process between Pristina and Belgrade goes hand in hand with the implementation of European human rights and rule of law standards in the whole region;
- 9.4. support the Serbian authorities in finding sustainable solutions for and assisting the local integration in Serbia of Internally Displaced Persons (IDPs) who do not wish to return, with a view to accelerating the normalisation process;
- 9.5. strengthen its EULEX mission by:
  - 9.5.1. reinforcing its accountability and effectiveness in tackling high-level corruption and organised crime;
  - 9.5.2. focusing on investigation and prosecution of war crimes, along with an effective and well-funded witness protection programme;
  - 9.5.3. implementing the recommendations of the Venice Commission's opinion on the existing mechanisms to review the compatibility with human rights standards of acts by UNMIK and EULEX in Kosovo.

10. The Assembly calls on the authorities in Pristina and Belgrade to:

- 10.1. engage in the EU-mediated dialogue with an open mind and without pre-conditions;
- 10.2. continue to ensure cooperation with the relevant EULEX bodies exercising executive law enforcement functions in Kosovo, including its War Crimes and Organised Crime Investigation Units, as well as with the International Criminal Tribunal for the Former Yugoslavia (ICTY) and with the European Union Special Investigative Task Force (SITF);
- 10.3. refrain from resorting to non-judicial means, such as taking to the media, in a manner that might be seen to threaten the integrity of the judicial process;
- 10.4. intensify efforts so as to avoid that the stand-off situation in north of Kosovo is transformed into a frozen conflict and find ways to involve Kosovo Serb civil society in the dialogue;
- 10.5. tackle cross-border organised crime and corruption also by making progress towards the creation of a Balkan arrest warrant and a pan-Balkan extradition mechanism, which must include Kosovo if it is to be effective; in this respect, the signature of an operational protocol between the Serbian authorities and EULEX would improve mutual assistance in corruption cases;

- 10.6. allocate adequate resources to the Belgrade-Pristina Working Group on Missing Persons and strengthen regional cooperation to help identify the fate of the missing;
  - 10.7. intensify technical co-operation to establish clear statistics relevant to refugee and IDP return and local integration and continue providing support for the return and reintegration of refugees in their place of origin or, where appropriate, for integration in the place of displacement, in co-operation with the international community, and give priority to the promotion of access to basic rights, including housing, education, health, employment and social services;
  - 10.8. publicly condemn and investigate inter-ethnic crimes and all acts of religious intolerance and vandalism against religious and cultural symbols;
  - 10.9. support cross-border, grass-root and civil society initiatives aimed at reconciling citizens and fostering cultural change.
11. The Assembly calls on the authorities in Kosovo to:
- 11.1. pursue judicial reform to further strengthen the independence, impartiality and transparency of the judiciary, in particular by:
    - 11.1.1. ensuring sufficient resources for the proper functioning of the courts, including in the Mitrovica district;
    - 11.1.2. providing security and protection to judges, prosecutors, litigants and witnesses;
    - 11.1.3. restructuring prosecution offices and filling in vacant positions for minorities;
    - 11.1.4. upgrading the case-management system;
    - 11.1.5. improving awareness of human rights in judicial decision-making;
  - 11.2. strengthen the financial independence of the Kosovo Assembly and of other independent institutions;
  - 11.3. implement the recommendations of the Ombudsperson Institution of Kosovo and ensure sufficient resources for its functioning;
  - 11.4. implement the provisions enshrined in the legal and institutional framework for the protection and promotion of minority rights and facilitate interaction between communities also by:
    - 11.4.1. promptly investigating attacks motivated by ethnicity or religion and improving data collection;
    - 11.4.2. ensuring that communities' members are employed in public administration, including at senior level;
    - 11.4.3. allowing children to receive education in their mother tongue in public schools and establish a procedure for registration of private educational institutions with education in a language of their choice;
    - 11.4.4. allocating adequate resources to civil registration offices, reaching out to vulnerable communities and ensuring affordable registration fees;
    - 11.4.5. allocating adequate resources to the Office of the Language Commissioner, responsible for monitoring the Law on the use of languages;
    - 11.4.6. ensuring broadcasting of the Kosovo public broadcaster in the Serbian language;
    - 11.4.7. supporting the work of the Kosovo Property Claims Commission with a view to reducing the backlog of cases;
    - 11.4.8. implementing legislation on the protection of cultural heritage;
    - 11.4.9. allocating adequate funds for the implementation of the strategy for the integration of Roma, Ashkali and Egyptian communities and paying attention to the situation of the Turkish and Bosniak communities;
    - 11.4.10. ensuring fulfillment of all obligations relating to the issuance of licence plates, without discrimination;
  - 11.5. create the conditions for sustainable return and reintegration of displaced and repatriated persons, in particular by:
    - 11.5.1. allocating adequate staff and resources to municipal offices for communities and municipal working groups on returns;
    - 11.5.2. complying with international standards governing post-conflict property restitution;
  - 11.6. ensure the independence of the media and the adequate protection of journalists, in particular by:

- 11.6.1. fully implementing the laws on the Radio Television of Kosovo (RTK) and on the Independent Media Commission (IMC);
- 11.6.2. drafting a handbook detailing the proper procedures for handling cases of violence against journalists;
- 11.6.3. fully implementing the law on access to official documents;
- 11.6.4. further promoting access to information for non-Albanian communities;

11.7. promote gender equality and the empowerment of women, in particular by:

- 11.7.1. strengthening the fight against trafficking in human beings;
- 11.7.2. implementing the 2012-2015 Action Plan on Domestic Violence;
- 11.7.3. finalising standard operating procedures for victims of domestic violence and developing reintegration programmes for victims.

12. In order to enhance the Council of Europe's role in Kosovo, the Assembly reiterates its previous invitation to the Secretary General of the Council of Europe to convey to the organisation's Secretariat that direct working contacts with the Kosovo authorities, at all levels, are necessary in order to ensure the smooth implementation of Council of Europe activities which respect the status neutrality.

13. In order to contribute to the democratic functioning of Kosovo institutions, the Assembly:

- 13.1. encourages the Kosovo Assembly to improve communication with independent institutions, such as the Ombudsperson Institution, and to ensure that they are allocated the necessary resources to carry out their mandate;
- 13.2. encourages the Kosovo political parties to favour multi-ethnic membership and leadership;
- 13.3. resolves to intensify and expand its own dialogue with representatives of the political forces elected to the Kosovo Assembly and invites its Bureau to define the modalities thereof with full respect for the policy of status neutrality.

14. Finally, the Assembly remains committed to promoting democracy, human rights and the rule of law in Kosovo and, therefore, resolves to continue to closely follow both developments in these areas and the relevant Council of Europe activities.