



Provisional version

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

Committee on Political Affairs and Democracy

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### Draft resolution<sup>1</sup>

1. Nearly eight years have elapsed since the declaration of independence by the Assembly of Kosovo. Since then, Kosovo has been recognised as a sovereign and independent State by 34 Council of Europe member States. However, 27,6% of Council of Europe member States have not recognised Kosovo as an independent and sovereign state. Accordingly, the Council of Europe follows a policy of status-neutrality towards Kosovo, while supporting its progressive alignment with the Organisation's standards in the areas of democracy, human rights and the rule of law.

2. The Parliamentary Assembly acknowledges the progress achieved in Kosovo in the area of democracy, with the smooth and transparent organisation of legislative elections in 2014 which, for the first time, were held throughout Kosovo, and with the participation of Kosovo Serbs in the vote. It regrets, however, that the legislative work of the Assembly of Kosovo has been delayed by numerous political deadlocks, which indicate the inability of Kosovo political forces to develop constructive dialogue on issues of crucial importance. It also condemns all manifestations of violence, considering those happening in a legislative chamber of special gravity and liable to undermine people's trust in democratic institutions.

3. The Assembly welcomes the adoption by the Assembly of Kosovo of the constitutional amendments which paved the way for the creation of Specialist Chambers, which would prosecute the cases investigated by the Special Investigative Task Force, as a follow-up to Assembly Resolution 1782 (2011) on *Inhuman treatment of people and illicit trafficking in human organs in Kosovo*<sup>\*</sup>. The Assembly considers this decision as a step forward towards reconciliation and a sign of the authorities' willingness to fight against impunity.

4. As regards the protection of human rights and inter-community relations, the Assembly regrets that ethnically-related incidents continue to occur, while recognising that the general security climate has improved. It calls on the Kosovo authorities not to relent vigilance in this area, to condemn all kinds of ethnically-motivated attacks, including those against cultural heritage, irrespective of their gravity and frequency, and act with sense of responsibility in their public discourse in order to continue easing tensions. The Assembly considers the delivery of justice as the best way to reassure non-majority communities that they are safe in Kosovo and protected by the law.

5. In the Assembly's view, ensuring the respect of the rule of law and its effective enforcement should be the first and foremost priority for the Kosovo authorities. Endemic and widespread corruption in all aspects of government, justice and the economy negatively impacts the lives of people in Kosovo, irrespective of their community; is an impediment to the overall strengthening of standards; and holds back Kosovo's economic development.

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<sup>1</sup> Draft resolution adopted by the Committee on 7 December 2015.

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

6. The Assembly attaches great importance to the EU-facilitated dialogue on normalisation of relations between Belgrade and Pristina and welcomes the beginning of accession negotiations between Serbia and the European Union in 2014, and the signature of the Stabilisation and Association Agreement between the European Union and Kosovo in October 2015. It believes that the continuation of dialogue between Belgrade and Pristina, the availability of a European perspective for both and the further strengthening of the standards of democracy, human rights and the rule of law in Kosovo are of major importance for Kosovo's democratic security as well as for the stability of the region of the western Balkans as a whole.

7. With these considerations in mind, the Assembly calls on the Kosovo authorities to:

- 7.1. do their utmost to eradicate corruption from all areas of government, justice and the economy, including by:
  - 7.1.1. implementing the anti-corruption strategy and its action plan and monitoring their implementation;
  - 7.1.2. improving co-ordination between the different organs working on anti-corruption and economic crimes;
  - 7.1.3. encouraging the Anti-Corruption Agency to take a more proactive approach in the stage of investigations;
  - 7.1.4. ensuring that the Prosecution follows up the cases transmitted by the Anti-Corruption Agency;
- 7.2. act with greater resolve to strengthen the rule of law and its enforcement, including by:
  - 7.2.1. protecting the judiciary and the prosecution from political influence and interference;
  - 7.2.2. ensuring the professionalism, impartiality and independence of the judiciary and the prosecution;
  - 7.2.3. implementing the Kosovo Judiciary Action Plan (2014-2019);
  - 7.2.4. strengthening the rules concerning disciplinary sanctions against law enforcement officials, ensuring their implementation and that the public is adequately informed;
  - 7.2.5. improving the continued training of judges and prosecutors, including in international human rights law;
  - 7.2.6. pursuing the investigation and prosecution of war crimes;
  - 7.2.7. enforcing the witness protection system;
- 7.3. tackle unemployment, especially amongst the youth and women;
- 7.4. implement all the agreements stemming from the dialogue between Belgrade and Pristina, particularly the Agreement on the establishment of the Association/Community of Serb majority municipalities;
- 7.5. continue to build mutual trust between communities; protect the rights of minorities and their safety while promoting their economic integration, in particular by:
  - 7.5.1. investing in job-creation activities, especially in areas inhabited by non-majority communities;
  - 7.5.2. continuing the integration of Kosovo Serbs in the judiciary, including in the North of Kosovo and, in general, promoting the recruitment of staff from non-majority communities in the public administration and public companies, with a view to reflecting Kosovo's ethnic diversity;
  - 7.5.3. ensuring full and efficient implementation of the procedure to recognise diplomas issued by the University of Mitrovicë/Mitrovica;
  - 7.5.4. ensuring the protection of all culture heritage, with special regard to the cultural heritage of non-majority communities irrespective of the rejection of Kosovo's membership application in the United Nations Educational, Scientific and Cultural Organization (UNESCO);
  - 7.5.5. creating conditions for the return of displaced persons, by ensuring the effective reintegration of their property rights and facilitating their employment or the development of other income-generating activities;
  - 7.5.6. addressing the specific challenges preventing the integration of Roma, Ashkali and Egyptians, including early school-drop out, child labour and early marriage;
  - 7.5.7. supporting inter-community dialogue, also at the level of civil society, and refraining from any public discourse that might fuel inter-community tensions;

- 7.5.8. supporting cross-border exchanges and dialogue on the issues of reconciliation and living together;
  - 7.6. implement and evaluate the impact of the new anti-discrimination law;
  - 7.7. implement and evaluate the impact of the new law on gender equality; organise or support public campaigns to raise awareness against gender-based violence;
  - 7.8. continue to tackle the phenomenon of foreign fighters, with an emphasis on prevention of radicalisation and the implementation of the new, specific legislation on this issue; implement the Strategy on terrorism (2012-2017) and the Strategy for the prevention of violent extremism and radicalisation (2015-2020);
  - 7.9. address the root causes of irregular migration and organise public campaigns to dissuade people from embarking on such a course;
  - 7.10. take resolute action against money-laundering, drug trafficking, smuggling of migrants, trafficking in human beings and arm trade and illegal possession of weapons;
  - 7.11. continue negotiations with the Netherlands with a view to establishing the Specialist Chambers in the Hague, and ensure cooperation with them once they are set up.
8. The Assembly encourages the United Nations Interim Administration Mission in Kosovo (UNMIK) to increase its capacities for co-operation with INTERPOL and EUROPOL and encourages the authorities in Pristina to use available mechanisms which are already in place.
9. The Assembly invites the Assembly of Kosovo to:
- 9.1. pursue its legislative programme without undue delays;
  - 9.2. strengthen its oversight of the government;
  - 9.3. strengthen mechanisms for consultation with civil society;
  - 9.4. adopt new rules of procedure for its work, in line with European standards;
  - 9.5. promote gender equality within its structures and gender mainstreaming in its functioning;
  - 9.6. adopt the reform of the public administration, ensuring that recruitment and advancement are based on merits, and promoting its impartiality;
  - 9.7. enable the proper functioning of the Ombudsperson institution, engage in a constructive dialogue with it, follow up its recommendations and ensure that it has the necessary resources to carry out its mandate.
10. The Assembly calls on the political forces that are represented in the Assembly of Kosovo to ensure that a constructive political dialogue takes place between the majority and the opposition.
11. The Assembly calls on the authorities in Belgrade and Pristina to:
- 11.1. continue EU-facilitated dialogue on normalisation of relations with an open and constructive spirit;
  - 11.2. step up co-operation in order to dismantle transnational criminal networks operating in the region; make progress on the issue of missing persons; and facilitate investigation and prosecution of war crimes.
12. The Assembly recommends the Kosovo authorities to deepen dialogue and co-operation with the Council of Europe and its different bodies and institutions, notably by:
- 12.1. asking for the assistance of the Venice Commission to fully align its electoral legislation with international electoral standards;

12.2. following up the recommendations formulated by Council of Europe monitoring bodies, *inter alia* those of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Group of Experts on Action against Trafficking in Human Beings (GRETA), the Advisory Committee of the Framework Convention for the Protection of National Minorities (FCNM) and those formulated in the context of the joint European Union/ Council of Europe project against Economic Crime in Kosovo (PECK);

12.3. co-operating fully and effectively with the wide range of Council of Europe mechanisms and projects available to Kosovo.

13. The Assembly resolves to step up dialogue with the Assembly of Kosovo and recommends to its Bureau to modify the current format for co-operation with the political forces elected to the Assembly of Kosovo, with a view to inviting the Assembly of Kosovo to designate a delegation which would ensure the representation also of minority communities, in addition to the majority and the opposition.