

HUMAN RIGHTS IN THE REPUBLIC OF KOSOVO VIEWED FROM THE ASPECT OF THE EUROPEAN UNION

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ABSTRACT

The primary purpose of this paper is to investigate the views and best practices that contribute to the scientific advancement of research related to the human rights policy of the European Union in relation to a country that has aspirations of membership in this European mechanism. as is the case of Kosovo. Also, the paper will focus on the study from the theoretical aspect of relations between countries that aspire to a future in the EU. So, it is about the relations of the states of the Western Balkans, of which Kosovo is one of them - and the creation of relations with the European Union, that mainly this relation is created based on the approved legal framework and the implementation of laws for the promotion of human rights. In this sense, the advancement of human rights will be studied in the framework of the EU Enlargement Policy for the countries of the Western Balkans, including especially Kosovo as a state with a future right to be integrated into the EU and other North Atlantic structures.

Keywords: Right, freedom, membership, legitimacy, EU, integration.

Entry

The promotion of human rights must be viewed closely in relation to the legitimacy of the European Community, which through normative acts exercises its role in Kosovo by sharing these rules and values with the Kosovar society in general and with the institutions of Kosovo in particular. This influence of the EU flows through the conditioning of the inclusion of these norms in the legislation of Kosovo, with the aim of advancing progress in the process of integration into the EU.

Considering the presence of the EU in Kosovo, especially since 2008, its role and influence took on a wider dimension, including policies related to human rights, as one of the most important segments of EU action. here.

In order to understand the importance and impact that EU policies have on Kosovo, it would be natural to first briefly analyze the role of the EU Special Envoy for Kosovo and especially his commitment to the promotion of human rights. even before the declaration of Kosovo's independence in 2008, then the role of the intermediate office of the European Commission and finally the role of the European Organization for the Rule of Law (EULEX) in relation to the promotion of human rights.

Based on this multi-dimensional role of the EU in Kosovo, it can be said that the Office of the Special Representation of the EU promotes the approved rules and the values they represent through supporting policies to consolidate and promote peace, stability and the rule of law. This role is crucial as it is a function of the effective development of the Common Defense and

Security Policy and at the same time makes the EU active, coherent and an important factor to face the challenges that may appear on the international stage.

Unlike the Office of the Special Representation of the EU, the Intermediary Office of the European Commission exercises its role through the use of political conditioning, by offering financial facilities, it is committed to build political legitimacy by letting Kosovo know that it can benefit from them. only if it manages to be compatible with its political conditions and standards.

Likewise, the EU, through the mandate of EULEX, has seen Kosovo's institutions in relation to the protection of human rights as not sufficient, where an assistance has been requested first for the correct implementation of the legislation and also to align with the rules and European standards.

In the following, two main areas of fundamental rights and freedoms will be analyzed, where the EU throughout these years in the progress reports for Kosovo, but also in various pronouncements, has highlighted them as areas of high priority for their addressing by the institutions of power in Kosovo. In this sense, the field of women's rights and gender equality will be analyzed, as well as the field of free expression as a fundamental right and freedom.

The monitoring and supervisory role of the European Union in Kosovo

It can be freely said that the European Union operating in Kosovo, apart from the primary role of representing the EU in a state such as Kosovo with which it develops bilateral relations, also has a role in monitoring and supervising some sectors that are more important great. This role of the EU has not always been the same, especially it has increased after the failure to approve a Resolution of the Security Council in 2007 to find an acceptable solution regarding the final status of Kosovo. Based on this failure, the initiative was taken to draft and approve a plan by the Special Representative of the UN Secretary General, which was Marti Ahtisari, where in this case, it was foreseen that the EU through the international civil representative of the UN as well as through the representative of The EU would play an extraordinary executive role in such a subjectivity as Kosovo would be with a supervised independence.

As a result of the approval of this Plan, with the declaration of independence of Kosovo in 2008, a monitoring structure of the institutions after the declaration of independence was created for a certain period by several states, in which case the leading role was entrusted to the EU. However, even though this period of supervised independence had ended a few years after the declaration of independence, the EU's role of monitoring and co-governance and involvement through EULEX has continued.

So, even further, the EU continues to remain active in Kosovo with its role and instruments of supervision for the strengthening of state institutions. This role continues to be represented by three main mechanisms: the Office of the EU Special Representative, the Mediation Office of the European Commission and the EULEX mission. However, the first two from 2011, i.e. the office of the EU special representative and the intermediate office of the European Commission, were transformed into a joint mechanism under the name of the Office of the European Union in Kosovo.

Office of the Special Representative of the European Union in Kosovo

This Office was established in February 2008, shortly before the declaration of Kosovo's independence, with a temporary mandate which was initially set to last for a period of two

years, until 2010. However, this mandate then it was extended until 2014 and then until October 2015¹.

The basic purpose of this office was first of all the promotion of EU policies and interests in Kosovo and on the other hand the commitment to consolidate and promote peace, security and fair application of the law, including supporting the effective development of the Common Defense Policy and Security.

The functions of this Office included five main areas of action.

- a) to offer advice and support to institutions operating within the EU during decision-making in the political process in relation to Kosovo;
- b) general promotion of the coordination of the EU representation in Kosovo;
- c) to ensure consistency and coherence of the actions of the EU vis-à-vis the general public;
- d) enable advice on local politics and EULEX mission leaders in Kosovo; AND
- e) enable development and consolidation of respect for human rights and fundamental freedoms in Kosovo².

This mandate was based on the general objectives of EU policies in Kosovo, as a key factor in strengthening stability in the region and implementing a solution that will determinethe future status of Kosovo, with the aim of maintaining stability, peace, democracy and multi-ethnic society, as well as being a factor in regional cooperation and beyond on the basis of good neighborly relations³.

On the other hand, an important role in the mandate of the EU special representative was also cooperation with non-governmental organizations of civil society, where on the one hand, through informal meetings, information was provided on the situation in certain areas, such as in the field of rights protection of man and fundamental freedoms, various development policies that would serve during the evaluations of progress reports for Kosovo.

If we carefully analyze the role of this representative of the EU in relation to the legitimacy of the European Union, it is clearly observed that the function of representing the EU in Kosovo has been of a crucial nature. Such a finding is based on the fact that this normative role is particularly important as it is in the same line as the EU seeks to appear within its own structures, but also in relation to the outside, that is, with an active, coherent role and able to face any challenge presented in the international arena.

The Mediation Office of the European Commission in Kosovo

This office was established as the first formal office of the representation of the European Community in Kosovo as early as 2004, the purpose of which at that time had to do with the expansion of contacts for the functioning of UNMIK at that time and also the cooperation with the institutions of self-government in Kosovo.

The key function when talking about the local level was the alignment of Kosovo with the EU through inclusion in the Stabilization-Association process. This step was reached in 2005 with the Declaration of the European Commission, which actually created the official step in relation to the European perspective, appealing to local institutions to prepare for this new challenge.

¹ See the website of the Special Representative of the European Union, http://eeas.europa.eu/delegations/kosovo/eu_kosovo/political_relations/index_en.htm

² See the presentation of the CSPE mission on its official website. http://eeas.europa.eu/delegations/kosovo/eu_kosovo/eu_special_representative/index_en.htm

³ Council of the European Union, 2010

The beginning of this process, apart from the importance represented by the fact that the EU institutions began to be officially committed to Kosovo, on the other hand presents a guide regarding the methods that would be applied in terms of inclusion in this Stabilization-Association process.

This Office manages the funds allocated by the European Commission for projects on technical assistance to Kosovo and also coordinates the receipt of funds through the Instrument for Stability, the Instrument for Pre-Accession Assistance, otherwise known as IPA, and also through the European Instrument for Democracy and Human Rights⁴.

European Office for Rule of Law in Kosovo

The European Office for the Rule of Law in Kosovo, known by the abbreviation EULEX, was established in February 2008 and since that time, it is considered the most extensive mission of the Common Security and Defense Policy of the EU, and at the same time served to replace UNMIK now focused only on three fields of action: in the field of police, customs and judiciary.

The primary purpose of this mission was to assist Kosovo's institutional authorities and support law enforcement institutions while ensuring that the same institutions act in accordance with European standards for good governance and accountability.

Based on this goal, if we refer to the activities of this mission, it is clearly observed that the police sector has undertaken a series of activities from the protection of the right of religious belief to the protection of the rights of non-majority communities. On the other hand, it should be taken into account the fact that during the preparation and implementation of many plans from the scope of the police, the involvement of civil society representatives in these activities to participate in their preparation phase remains relatively low. Almost the same approach has been used in the field of the judiciary, but also in the field of customs, so the participation of civil society in the drafting of documents and strategic plans has been small.

Basic human rights and freedoms in Kosovo viewed from the perspective of the European Community

When it comes to basic human rights and freedoms, they are mainly protected and guaranteed by the Constitution of Kosovo, approved by the Assembly of Kosovo after the declaration of independence, respectively in June 2008. This position is known and established in the reports of progress that are issued every year by the European Commission.

These reports reflect the state of the country over the years and the achievements that the state has made within the process of association and stabilization, presenting the achievements, obstacles and weaknesses and expecting the fulfillment of the recommendations that the EU makes in such cases, as well as emphasizing

The human rights and fundamental freedoms defined as the subject of this paper are: freedom of expression, and women's rights and gender equality.

⁴ See the CSPE Kosovo website on projects under the IPA 2009 annual program
http://www.delprn.ec.europa.eu/repository/docs/Summary_of_projects_under_IPA_Annual_Programme_2009_for_Kosovo.pdf

Freedom of expression

Freedom of expression is a basic human right guaranteed in the introductory part of the Constitution of the Republic of Kosovo, but despite this, it remains one of the challenges for every society that is headed towards a new democratic order in the state process. - building and building democratic institutions. If we refer to the Progress Report from 2008, the European Commission recognizes the Constitution of the Republic of Kosovo as the highest legal act within the country, to guarantee the protection of human rights, in principle, as well as the legal framework of the relevant field. drawn up on European principles and standards.

Based on this progress report, the European Commission emphasized that the Government of the Republic of Kosovo should empower public institutions to be at the same level as European standards, which require the stability of institutions that guarantee democracy, law enforcement, the rights of human and fundamental freedoms. So, according to them, the full implementation of these priorities, such as law enforcement, protection of fundamental rights and freedoms, such as freedom of expression, are key priorities for the European partnership with Kosovo⁵.

When it comes to freedom of expression, the said report of the European Commission places emphasis on the media supervisory body such as the Independent Media Commission which was established in 2005 and which is led by a governing board composed of five local members and two international members and which body has the mission of monitoring media entities operating in Kosovo by issuing licenses for the activity they develop. According to the progress report⁶, this independent media commission was supposed to be completely independent from political and financial influences, but in reality it was financially dependent on the Ministry of Finance in terms of the budget allocated for its operation and salaries of employees of this body.

In the following, according to the European Commission Report, the approval of the Law on Access to public documents was of particular importance in order to achieve the required European standards.

In 2011, according to the Progress Report of the European Commission⁷, an important step was marked in terms of the operation of the Independent Media Commission, where for the first time this commission managed to fully monitor the media during the 2010 electoral campaign.

However, what remained problematic in the following years for the European Commission in terms of freedom of expression was the legal infrastructure on freedom of expression, which affects about 14 legal acts which were ineffective and most of them had no mechanisms for implementation. theirs in practice⁸.

Gender equality in Kosovo according to the assessment of EU instruments

When we talk about the protection of women's rights and gender equality, we must take into account the fact that it is about the perspective of these rights in every field of social, economic and political life of the country.

In this regard, the European Commission, in the progress report in 2008, had mentioned the approval of the Gender Equality Framework Program for the period 2008-2013, which would

⁵ European Commission: Kosovo Progress Report 2008

⁶ European Commission: Kosovo Progress Report 2008

⁷ European Commission: Kosovo Progress Report 2011

⁸ European Commission: Kosovo Progress Report 2011

identify the objectives, policies and institutions involved in the implementation of the Law on Gender Equality. On the other hand, despite the fact that Kosovo was not a member of the United Nations and had no obligation under international conventions to report, the executive power in 2008 prepared a report on the Gender Profile in Kosovo, which it presented to the commission of Convention on the Elimination of All Forms of Discrimination against Women, which covered the period from 1999 to 2007.

Also, based on the progressive report of the European Commission⁹, the Agency for Gender Equality, which operates within the Office of the Prime Minister, has developed a good cooperation with the institution of the Ombudsman and also with the units for gender equality within the ministries of Government of Kosovo.

Despite some achievements in this field, the European Commission highlights some of the weaknesses that arose from this type of organization. Moreover, according to the report, there is a conflict between institutional competences, respectively between the Agency for Gender Equality and the Office of Good Governance, since the latter, as an office directly supervised by the prime minister, had all the competences of the Agency for Gender Equality.

Another issue that was emphasized was related to the fact that the officials responsible for gender equality in the ministries were not sufficiently active in the matters for which they had authorizations, in other words, they were also charged with other additional functions within the structure of the organization of the institutions. that this fact made the function for gender equality more difficult to handle¹⁰. When this is added to the fact that there was no proper coordination between the central and municipal level in terms of issues related to gender equality, they made this problem even more pronounced.

As a result of these weaknesses, the European Commission had reflected in summary points some of the negative aspects that continued to be present in Kosovo, such as: violence against women's rights remains continuous and also Kosovo continues to remain a transit state for human trafficking. Equally, the equal representation of women remains a big challenge at all levels, despite the fact that according to the Law on Gender Equality of 2004, Kosovo should have at least 40% representation of women¹¹.

This problem, respectively the weaknesses identified in terms of the implementation of the program for gender equality, in the following years will be characterized by some changes from the first point of view, it will be reflected in the following years with some positive changes but also with some new flaws that have been evidenced, such as the poor functioning of the judicial system in general, as well as the issued judicial decisions created a lack of trust in this system, especially on the part of trafficked women and victims of domestic violence. On the other hand, the Law on Protection from Domestic Violence had already been approved, which marks a very positive step in terms of the rights, especially of women, who in most cases were the object of violence.

However, gender-based domestic violence remains present and a serious challenge for Kosovo. Services provided to victims of domestic violence and trafficking in general are partially funded by the government but remain largely dependent on foreign donors.

⁹ European Commission: Kosovo Progress Report 2008

¹⁰ European Commission: Kosovo Progress Report 2008

¹¹ European Commission: Kosovo Progress Report 2009

In this regard, I consider that Kosovo should rely more on the financing of these categories from the revenues collected by its own taxpayers, simultaneously reducing the need for international aid. This will be achieved if the fight against tax evasion, the informal economy and the fight against crime and corruption will be expanded even more.

CONCLUSIONS

Through this paper, we took a look at the state of human rights in Kosovo, evaluated from the perspective of the European Union. So, first it was analyzed from the institutional side, then from the aspect of the policies that the EU develops in Kosovo - the office of the special representative of the European Union, the Intermediate Office of the European Commission which, as noted, now function as a single office of the European Union and international law enforcement mission EULEX.

Next, two of the human rights and fundamental freedoms were analyzed - freedom of expression and women's rights and gender equality in Kosovo viewed through the progress reports of the European Commission.

The determination to deal with these two types of rights was not accidental, so in the absence of freedom of expression there will certainly be fewer investigations and investigations of corruption cases, a lower level of professional journalism and a lack of critical thinking towards the authorities in Kosovo, , risking that they take on attributes of authoritarianism.

At the same time, with the non-advancement of women's rights, we risk losing an almost century-old legacy of women's emancipation in modern society, and consequently a lack of political, civil, cultural, economic, etc. freedom. for the whole society.

Finally, it can be emphasized that this paper and this analysis will help to expand the knowledge about this field and to serve first for the governing institutions of Kosovo, when making policies in order to advance and implement programs for the protection of basic human rights and freedoms.

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