



EUROPEAN CENTRE
FOR MINORITY
ISSUES KOSOVO

POLICY BRIEF

18 JANUARY 2015

FORGING A WORKING ENVIRONMENT WITHIN THE GOVERNMENT OF KOSOVO

About ECMI Kosovo

ECMI Kosovo is the principal non-governmental organisation engaged with minority issues in Kosovo, with the overarching aim to develop inclusive, representative, community-sensitive institutions that support a stable multi-ethnic Kosovo. ECMI Kosovo contributes to the developing, strengthening and implementation of relevant legislation, supports the institutionalisation of communities-related governmental bodies, and enhances the capacity of civil society actors and the government to engage with one another in a constructive and sustainable way.

EXECUTIVE SUMMARY

The new Kosovo coalition government brings together the Democratic Party of Kosovo (PDK) and the Democratic League of Kosovo (LDK), the two biggest parties from the Albanian side, with Srpska lista, the absolute winner of the elections among the Serb electorate in Kosovo, and backed by the Serbian government. As such, this government has the required political weight to address many large and complex issues that lie ahead. However, a steady stream of statements from the representatives of Srpska lista in the Kosovo Government, which either question or directly ignore the existence of the Republic of Kosovo, has jeopardised the previously established *modus vivendi* between the Albanian majority and Serb ministers in Kosovo governments. Presently, this government lacks coherence and political consensus to overcome political divergences within its ranks.

This situation has led to heated reactions among the political parties in opposition, representatives of Kosovo's intelligentsia, civil society, and the public opinion at large. This mood of ethnic confrontation can lead to situations and incidents that are unpredictable and difficult to contain at a critical time in Kosovo's efforts toward internal stabilisation and integration in the European Union.

In light of these alarming developments, there is an urgent need to create a consensus on working relations between Albanian and Serb representatives in the Kosovo Government, on par with the ongoing efforts by the EU to create constructive working relations between the governments of Kosovo and Serbia. The Kosovo Constitution defines the state as a multi-ethnic society with symbols that do not represent one particular community, and has clear provisions concerning the representation of minority communities in the Kosovo government. These provisions are envisaged to prevent ethnic frictions from arising and can help to defuse part of the current controversies. Another key element is the need to clearly distinguish between the position and statements of government officials, in their capacities as representatives of the Government of Kosovo, i.e. the capacity of public official, and the statements and positions of political party representatives, expressing the political aspirations of their parties, i.e. the capacity of political party official. Engagement from the EU, the US and other international actors is imperative to defuse this situation.

A SHORT OVERVIEW OF THE SITUATION

In December 2014, after almost 6 months of political stalemate following the June general elections in Kosovo, PDK and LDK struck an agreement to establish a coalition government. The two parties, which combined enjoy more than half of the seats in the Assembly, ultimately reached an agreement with Srpska lista, which occupies 9 of the 10 Serb seats in the Assembly. On 9 December 2014, the Assembly approved the new coalition government under LDK-president Isa Mustafa.

Representatives of minority communities are widely represented in the government. Branimir Stojanović, former mayor of Gračanica/Gračanicë is Deputy Prime Minister,

while Aleksandar Jablanović and Ljubomir Marić are Minister of Communities and Return and Minister of Administration and Local-Self Government, respectively. Jablanović is the President of Srpska lista and was a member of the Assembly of Serbia prior to his appointment as minister, while Marić was a member of the Serbian Management Team for the Association/Community of Serb-majority municipalities. Rasim Demiri, of the Bosniak coalition VAKAT, is Minister without Portfolio, while Mahir Jaççılar of the Kosovo Turkish Democratic Party was re-appointed to his position as Minister of Public Administration. The government agreement also foresaw at least six additional deputy ministerial positions for Srpska lista.

Srpska lista gathers several parties and initiatives representing the Serb community in Kosovo, and is the only Serb party that is directly backed by the Government of Serbia. The latter called on Kosovo Serbs to vote only for Srpska lista. During the elections, Srpska lista gained around 90% of the votes of the Serb community in Kosovo, drastically changing the Kosovo Serb political landscape, especially south of the Ibër/Ibar River, which had been dominated by the Serbian Liberal Party (SLS) and some other parties. The SLS had a pragmatic policy stance focusing on improving the lives of Kosovo Serbs and avoided issues of the independence of Kosovo; however, when confronted with the issue, they took the independence of Kosovo as a "reality". In line with the Serbian government's official standpoint, Srpska lista claims to operate within the framework of Resolution 1244 and does not recognise the independence of Kosovo. It was hoped that in government Srpska lista would adopt a more pragmatic position, but its ministers refrain from explicitly recognising the independence of Kosovo when confronted with this issue.¹

This creates the peculiar constellation of a Kosovo government consisting of Serb ministers who do not recognise the independence of Kosovo. Soon after the New Year, tensions arose after protests organised by activists from Vetëvendosje and the NGO "Mothers' Call" blocked a group of Serbs, whom the protesters accused of being criminals and part of the repressive regime of the 1990s, from entering the Serb Orthodox Church in Gjakovë/Đakovica for the Christmas liturgy.² Following this event, Minister for Communities and Return Jablanović made a statement where he called the protestors—some of whom are the mothers of those killed and or missing during the 1997–99 war—"savages". On 10 January, Vetëvendosje and the NGO "Mothers' Call" activists—joined by several hundred citizens—staged another protest in Gjakovë/Đakovica demanding that Prime Minister Mustafa relieve Minister Jablanović of his duties in the government.³

Although Mustafa has tried to downplay the tone and rhetoric of Jablanović, and Jablanović himself has claimed that his statement was misunderstood as he was only referring to the violent elements among the protesters, the pressure from opposition parties, the media, civil society and even members of the governing coalition on the Prime Minister to dismiss Jablanović is mounting. To list just a few examples, Vetëvendosje accused Jablanović of "insulting war victims" and called him "persona non grata", asking

¹ <http://expresskosova.com/lajme/jabllanoviq-edhe-si-minister-kosoven-e-emerton-kosovo-i-metohija.html>

² <http://www.ecmikosovo.org/?p=5989>

³ For more information, see the following statement <http://www.ecmikosovo.org/?p=5992>

Mustafa to remove him from his ministerial duties.⁴ Mimoza Kusari-Lila, the Mayor of Gjakovë/Đakovica, deems it “unacceptable” that the Government of Kosovo remains silent on the issue of Jablanović and his controversial statements.⁵ The Deçan/Dečan branch of the League of Historians ‘Ali Hadri’ has addressed a letter to Mustafa asking him to remove Jablanović from his position.⁶ The Ombudsperson of the Republic of Kosovo has officially evaluated Jablanović’s statement as discriminatory toward the Albanian people because it made use of the chauvinistic and hateful rhetoric of the Serbian state apparatus during the 1997–99 conflict and consequently demanded the Jablanović’s dismissal.⁷ In a meeting of the government, broadcasted live on television, Minister of Diaspora Valon Murati insisted on the government to issue a condemnation on the statements made by Jablanović, after which Mustafa was forced to call upon his ministers not to use government meetings to make political points.⁸ On 16 January 2015, Prime Minister Mustafa finally called Jablanović’s statement reckless, and said that it is time to build bridges of cooperation and not deepen hatreds. He added that the government would cooperate with Serbia on missing persons and in bringing the bodies of those killed back to Kosovo.⁹

Against this background, media and opposition parties are following every move of the Serb ministers in the government and are persistently unveiling inconsistencies within the Kosovo government related to the stand of the Serb ministers on the status of Kosovo. Particularly controversial are returning references by not only Jablanović but also Marić to Kosovo as “Kosovo i Metohija” (the Serbian denotation, implying that Kosovo is part of the Republic of Serbia);¹⁰ the recent incident when the municipal website of the Gračanica/Graçanicë claimed that the monument to medieval Serbian King Milutin that was recently inaugurated in the municipality was the only one of its kind in Serbia;¹¹ or the fact that Srpska lista’s candidate for the mayoral elections in Gračanica/Graçanicë does not recognise the independence of Kosovo.¹² Further, media and opposition parties have heavily criticised the fact that the Serb ministers allegedly do not dispose of valid Kosovo identification documents.¹³

In addition to this, the visit of the Prime Minister of the Republic of Serbia Aleksandar Vučić and a large delegation of Serbian ministers to Serb-majority municipalities in Kosovo on 14 January 2015 has caused fuss. Although Vučić avoided making bold

⁴ <http://www.balkaninsight.com/en/article/more-calls-for-minister-resignation-over-djakovica-events>

⁵ <http://www.gazetaexpress.com/lajme/kusari-lila-eshte-e-papranueshme-heshtja-e-qeverise-ndaj-deklaratve-te-ministrit-te-saj-jabllanovic-video-73607/>

⁶ <http://www.rtklive.com/en/?id=2&r=308>

⁷ <http://www.ombudspersonkosovo.org/en/news/Ombudspersons-response-towards-statement-of-Kosovo-Prime-Minister-1308>

⁸ <http://koha.net/?id=27&l=40721>

⁹ <http://koha.net/?id=27&l=41012>

¹⁰ For Jablanović’s reference to “Kosovo i Metohija”, see <http://expresskosova.com/lajme/jabllanoviq-edhe-si-minister-kosoven-e-emerton-kosovo-i-metohija.html>. For Marić’s, see <http://koha.net/?id=27&l=40520>.

¹¹ <http://koha.net/?id=27&l=40510>

¹² <http://koha.net/?id=27&l=40704>

¹³ <http://koha.net/?id=27&l=40550>

statements related to the status of Kosovo in his speeches to Kosovo Serbs,¹⁴ he has been criticised for not meeting his Kosovo counterpart, which Vučić considered unnecessary as they will have a meeting in Brussels within the Brussels Dialogue Process coming up. Vučić also avoided answering questions related to Serbia's possible recognition of Kosovo by calling any such expectations "dreams" and ignored questions related to a possible official apology from Serbia to Kosovo for the events that took place from 1997–99, culminating in the Kosovo War.¹⁵ Media also reported that Deputy Prime Minister Stojanović was part of the crowd that enthusiastically greeted Vučić during visit and that he applauded when Vučić said that "Kosovo is the cradle of Serbia".¹⁶

RECOMMENDATIONS ON DEFUSING THE CURRENT POLITICS OF ETHNIC CONFRONTATIONS

A) Constitutional provisions, including those concerning representation of communities in the government of Kosovo

At least part of the current controversies surrounding the participation of Srpska lista within the Kosovo government can be alleviated by referring to the Kosovo legal framework, which installed a multi-ethnic state concept precisely to prevent ethnic frictions from arising.

The Kosovo Constitution prescribes that the Government of Kosovo must have at least one minister from the Kosovo Serb community, and one Minister from another non-majority community. Should there be more than 10 ministers, as is the case in the newly formed government, at least 2 of the ministers should represent the Kosovo Serb community. And finally, it says that those ministers from the Serb community must be appointed after "consultations with parties, coalitions or groups representing Communities that are not in the majority in Kosovo". If coming from outside the Assembly of Kosovo, "these Ministers and Deputy Ministers shall require the formal endorsement of the majority of Assembly deputies belonging to parties, coalitions, citizens' initiatives and independent candidates having declared themselves to represent the Community concerned".¹⁷ All this implies that with the current division of seats in the Kosovo Assembly, where Srpska lista holds 9 of the 10 Serb seats, Srpska lista is *incontournable* as government partner representing the Serb community. If Prime Minister Mustafa would admit to the pressure and replaces one of the ministers from Srpska lista, which would lie within his constitutional competences (Art. 94.4), this could effectively amount to withdrawal of Srpska lista from the Kosovo government and the loss of the support of the absolute majority of the Serb assembly members. As such, the scenario that Mustafa dismisses Jablanović is very unlikely as it would be politically incomprehensible and lead to another stalemate.

¹⁴ http://www.b92.net/info/vesti/index.php?yyyy=2015&mm=01&dd=14&nav_category=640&nav_id=946632

¹⁵ <http://koha.net/?id=27&l=40804>

¹⁶ <http://koha.net/?id=27&l=40954>

¹⁷ Constitution of the Republic of Kosovo, arts 96.3, 96.4 and 96.5.

In Kosovo media, there has also been a lot of speculation regarding the Kosovo citizenship of Jablanović and other Serb ministers and its implication for their participation in the Kosovo government. This question has, however, been answered adequately by the decision of the Central Election Commission of Kosovo to certify Srpska lista and its candidate list. According to article 29 of the Law on General Elections in Kosovo, candidates for local and central-level elections must appear in the Voters List of the Central Election Commission. In order to appear there, they must be (a) Kosovo citizens, (b) reside outside Kosovo and have left Kosovo on or after 1 January 1998, provided that they fulfill the criteria for Kosovo citizenship, or (c) have gained the status of a refugee on or after 1 January 1995 and be eligible for registration in the Kosovo Civil Registry as a citizen/resident of Kosovo.¹⁸ The certification of Srpska lista and its candidate list by the Central Election Commission thus means that candidates from Srpska lista are eligible for election as assembly members and appointment as ministers.

B) Forging a common working platform within the government coalition

In order for the government to withstand the current rise of ethnically framed confrontation related to the controversial statements of the ministers of Srpska lista in the Kosovo government among the public opinion and opposition parties, however, a more proactive approach is required. Lacking coherence and looming confrontational politics within the government are very unproductive for the work of the Kosovo government, in particular with regard to the Kosovo Serb community. It should be taken into consideration that implementation of community rights does not depend on one or two ministries led by Serb representatives, but is a matter of cross-governmental action and efforts.

Therefore, Albanian parties and Srpska lista should urgently agree on a common working platform that will allow the government to function smoothly, regardless of the different political positions its members hold on the status of Kosovo. The basis of this working agreement should be a clear distinction between the political aspirations of ministers and any government officials as members of the respective political parties, and their work and statements in the capacity of head of the institution s/he legally represents and member of the government of the Republic of Kosovo. The government should also agree on practical rules on the terminology its ministers should use when referring to Kosovo and the use of state symbols, in accordance with the Law on the Use of State Symbols.¹⁹ These rules should prevent the public usage of flags and other state symbols – including the name of the country – from becoming a point of contention between coalition partners.

Inspiration can be drawn from examples of parties functioning within a legal system that they actually want to change or dissolve. In Spain, the pro-independency movement of Catalonia led by Republican Left of Catalonia (ERC) and Convergence and Union (CiU) is actively present in the Spanish Congress of Deputies, and widely represented within the Parliament of Catalonia. In the European Parliament, the EU-critical party group Europe of

¹⁸ Law on General Elections in the Republic of Kosovo, arts 5 and 29. http://www.kqz-ks.org/Uploads/Documents/zgjedhjetpergjithshme_en_oieflyprux.pdf

¹⁹ http://www.assembly-kosova.org/common/docs/ligjet/2008_03-L038_en.pdf

Freedom and Direct Democracy gathers parties that share a skeptical view of the European Union. In Belgium, the New Flemish Alliance (N-VA) is the major political party in the federal government coalition, in charge of the key ministries of Internal Affairs, Finance and Defense. The party strives for Flemish independence, but this does not prevent it from working constructively within the Belgian federal government. Its ministers consistently stress that their long-term political aspirations for Flemish independence will not affect their work in the Belgian government. In Kosovo itself, finally, Vetëvendosje continues to advocate for unification with Albania and tries to avoid at all costs the symbols of the Republic of Kosovo. Although the case of Srpska lista is slightly different, as the party does not recognise the *current* existence of the Republic of Kosovo, by participating in the Government of Kosovo, all governing partners should uphold the fundamental principle of good governance that amounts also to distinguishing capacities of governmental members representing the entire society from the narrow aspirations of political parties.

As the expanding stream of controversies indicates, current ethnic tensions surrounding the work of the Kosovo government can make events worse. Despite the fragility of relations between Albanian political parties and the representatives of Srpska lista, it should be taken into consideration that participation of Srpska lista in the government is not only inescapable given the current division of seats in the Kosovo Assembly, but also provides a fertile and promising political ground. The current Kosovo government is made up of political representatives of an absolute majority of voters on the Albanian and Serbian side and, in the case of Srpska lista, is also closely connected to the Belgrade government. This gives the government the necessary political power and connections to tackle some of the most pressing issues Kosovo society is facing, in particular the big decisions related to the status of the Serb community in Kosovo and Kosovo-Serbia relations.

C) Call for EU and US facilitation

This fragile opportunity should be used as a momentum by national and international stakeholders, the EU and the US in particular, that have invested so much in the stability and wellbeing of Kosovo over the past 16 years. Continuation and expansion of dialogue is crucial to defuse the current build-up of ethnic tensions. The upcoming negotiation talks between Kosovo and Serbia, which are expected to kick off with a meeting between the new EU High Representative for Foreign Affairs and Security Policy Federica Mogherini, the Serbian Prime Minister Aleksandar Vučić and the Minister of Foreign Affairs Ivica Dačić, and their Kosovo counterparts Isa Mustafa and Hashim Thaçi on 9 February 2015 need to address these and related issues.