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Živić, D. (2003), 'Prognano stanovništvo iz hrvatskog Podunavlja i problemi njegovog povratka (1991 – 2001)', *Croatian Geographical Bulletin* 65(1), 63-81.

Safeguarding Religious Freedom in Transitional Democracies: the Privileges of the Serbian Orthodox Church in Kosovo as Supra-constitutional Rights

*Roberto Di Donatantonio**

The article analyses the peculiar position of the privileges and rights granted to the Serbian Orthodox Church by the Constitution of the Republic of Kosovo. Those privileges and rights, within the legislative framework applicable in the said territory and based on the principle of effectiveness after the 2008 Unilateral Declaration of Independence are – or should be - the legal foundation of all activities of Kosovo Institutions *vis á vis* the Serbian Orthodox Church. They are to be considered supra-constitutional rights which cannot be derogated unilaterally by Kosovo authorities which, rather, recognized their relevance also within their planning documents concerning the protection of cultural heritage. There is an intrinsic link between the privileges of the Serbian Orthodox Church in Kosovo and the safeguard of religious freedom of certain communities in numerical minorities in that area. Respect for religious freedom and cultural heritage is also a precondition for lasting peace and conflict prevention; this is the reason why the protection of relevant communities' rights in Kosovo and the effective enjoyment of the religious freedom are strictly interlinked with the protection of the privileges granted to the Serbian Orthodox Church. This perspective inevitably links human rights and communities' rights to the concept of rule of law which, in the Republic of Kosovo, will always be tested in consideration of the protection acknowledged to - and effectively enjoyed by - the Serbian Orthodox Church. The article scrutinizes the nature of supra-constitutional rights and privileges granted to the SOC and how they should be recognized, or have already been recognized, by the relevant Kosovo authorities. The interconnection between religious freedom and protection of the Serbian-built religious heritage in the form of SOC's privileges is explored and it is the main assumption lying behind the possibility of a durable peace in the area.

Keywords: Kosovo, Serbian Orthodox Church, Cultural Heritage, Religious Freedom, Peace, minority rights

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Introduction

Transitional democracies normally include democratic transitions to consolidated democracies, through structural reforms of States that would make them unlikely to revert to authoritarianism. Those reforms should inevitably cover legislative, judicial and administrative areas to enhance the rule of law, defined

‘as a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires measures to ensure adherence to the principles of supremacy of the law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency’.¹

This article will analyse the peculiar position of the privileges and rights granted to the Serbian Orthodox Church (SOC) by the Constitution of the Republic of Kosovo. Those privileges and rights, within the legislative framework applicable in the said territory and based on the principle of effectiveness after the 2008 Unilateral Declaration of Independence are – or should be – the legal foundation of all activities of Kosovo Institutions *vis à vis* the SOC, other than the backbone of the current constitutional and political setting of – and support to – the new State. They are to be considered supra-constitutional rights which cannot be derogated unilaterally by Kosovo authorities which, rather, recognized their relevance also within their planning documents concerning the protection of cultural heritage.

There is an intrinsic link between the SOC’s privileges and the safeguard of religious freedom of those communities in numerical minorities in certain areas of Kosovo which identify themselves in the belief represented by the SOC. Respect for religious freedom and cultural heritage is also a precondition for lasting peace and conflict prevention: this is the reason why the protection of relevant communities’ rights in Kosovo and the effective enjoyment of the religious freedom are strictly interlinked with the protection of the privileges granted to the SOC. This perspective inevitably links human rights and communities’ rights to the concept of rule of law

¹ United Nations (23 August 2004, 5) *Report of the Secretary-General: The rule of law and transitional justice in conflict and post-conflict societies*, S/2004/616, retrieved from https://www.un.org/en/ga/search/view_doc.asp?symbol=S/2004/616 (accessed 22/04/2021).

which, in the Republic of Kosovo, will always be tested in consideration of the protection acknowledged to - and effectively enjoyed by - the SOC.

This article analyses the nature of supra-constitutional rights and privileges granted to the SOC and how they should be recognized, or have been already recognized, by the relevant Kosovo authorities. The interconnection between religious freedom and protection of the Serbian-built religious heritage in the form of SOC's privileges is explored and it is the main assumption lying behind the possibility of a durable peace in the area. We will provide an overview of those SOC's rights and privileges in the current legislative setting, in the attempt to understand whether they are absolute and untouchable or, rather, if they can be regulated – and by whom - and according to which principles.

It is obvious that the modalities of their compression can potentially affect the religious freedom of particular communities in numerical minorities located in the territory of the Republic of Kosovo and that's why a cautious analysis is more than needed.

1. The Constitutional Framework

The end of the XX century has been marked by the breakout of Yugoslavia, the 1999 NATO intervention in Kosovo and the creation of the United Nations Mission in Kosovo (UNMIK) through UN Security Council Resolution 1244 adopted on 10 June 1999,² according to the provisions of Chapter VII of the UN Charter.

An international civil and security presence was deployed in Kosovo under the UN auspices, thus allowing the creation of an international interim administration with executive authorities in the legislative, executive and judicial areas until a final settlement on the status of Kosovo would be reached.

However, Kosovo was not spared from violence during the years in the immediate aftermath of the war, and the riots of March 2004 are well documented in the international chronicles and reports of international organizations³ as well as in the minds of those living and working in the

² United Nations Security Council (10 June 1999), *Resolution 1244 (1999)*, S/RES/1244 (1999), retrieved from https://peacemaker.un.org/sites/peacemaker.un.org/files/990610_SCR1244%281999%29.pdf (accessed 22/04/2021).

³ Organization for Security and Cooperation in Europe Mission in Kosovo (25 May 2004), *Human Rights challenges – following the March riots*, retrieved from <https://www.osce.org/files/f/documents/2/f/32379.pdf> (accessed 22/04/2021); also, Organization for Security and Cooperation in Europe Mission in Kosovo (December 2005), *Kosovo – The response of the Justice System to the March 2004 Riots*, retrieved from <https://www.osce.org/files/f/documents/d/0/17181.pdf> (accessed on 22/04/2021).

area at the time. Besides the outrageous number of victims, the nature of the violence had as a consequence the damaging and destruction of several religious sites, mostly belonging to the Serbian Orthodox Church. The destruction of cultural property, which is an inherent component of any armed conflict⁴, was also an inherent component of the riots that occurred in Kosovo in March 2004, and – since then - the international community started advocating more and more the need for international protection of the Serbian-built religious heritage in Kosovo. Such a protection, as well the protection of the Serbian cultural property in Kosovo, was considered as co-essential to protect the religious freedom of those belonging to the faith of the Serbian Orthodox Church in Kosovo and, therefore, as an inherent value to preserve the rights of a specific community in non-numerical majority in the various areas of the territory.

The Comprehensive Proposal for the Kosovo Status Settlement⁵ which was offered by the international community to Kosovo and Serbia in the attempt to resolve the issue of the status of Kosovo, acknowledged that approach. It envisaged, in its ANNEX V titled as ‘Religious and Cultural Heritage’ several provisions aimed at protecting the name, the internal organization and the property of the Serbian Orthodox Church, with provisions establishing Special Protective Zones (SPZ) for a select number of Serbian Orthodox Church Monasteries, churches, other religious sites and for a certain number of historical and cultural sites of special significance for the Kosovo Serb Community.

The absence of a reached agreement between Kosovo and Serbia had, as a consequence, the impossibility to resolve, bilaterally, the issue of the Kosovo status and, as an effect, the Unilateral Declaration of Independence of Kosovo of 17 February 2008.

In simple legal terms, every declaration of independence of the authorities ruling – de facto – over a territory based on the well-known – under international law - principle of effectiveness, has the potential consequence

⁴ ‘The former Yugoslavia conflicts brought the destruction of Sarajevo’s numerous churches, mosques, and libraries – many of which were built in the 14th and 15th centuries – and the destruction of sixty-three percent of Croatia’s Dubrovnik, the most outstanding historic town of Europe with 460 monuments (1992-1193), are some of the examples of cultural destruction. Because of the nature of the conflict in the former Yugoslavia, religious symbols constituted the main target of attack on cultural property. Countless churches, mosques, monasteries, and even cemeteries have been levelled to the ground.’ (Serbenco 2005, 92).

⁵ United Nations (26 March 2007), *Letter dated 26 March 2007 from the Secretary General addressed to the President of the Security Council – Addendum – Comprehensive Proposal for the Kosovo Status Settlement*, S/2007/168/Add.1, retrieved from https://reliefweb.int/sites/reliefweb.int/files/resources/1DC6B184D02567D1852572AA00716AF7-Full_Report.pdf (accessed on 22/04/2021).

of breaking the continuum of the legal order in place in that said territory from the constitutional framework existing before the declaration and belonging to the State of origin. In the majority of cases, central authorities would use all their means (including the force) to reaffirm their effectiveness over a territory which would declare unilateral independence, but this was not the case for Kosovo.

Kosovo was under a UN interim administration established through UN Security Council 1244, and the powers and responsibilities laid out in the said Resolution were set out in more detail in UNMIK-based legal provisions, amongst which UNMIK Regulation 2001/9 of 15 May 2001 on a Constitutional Framework for Provisional Institutions of Self-Government (Constitutional Framework), which defined the responsibilities of the administration in Kosovo between the UN Special Representative of the Secretary General and the Provisional Institutions of Self-Government in Kosovo (PISG). The PISG⁶ acquired, over time, more and more responsibilities and they were soon ready to take over all functions had a settlement been reached on the status of Kosovo. The negotiations with Serbia failed and, then, a Unilateral Declaration of Independence followed in 2008.

The International Court of Justice (ICJ), in its 22 July 2010 Advisory Opinion on ‘Accordance with International Law of the Unilateral Declaration of Independence in Respect to Kosovo’⁷ acknowledged that the authors of the declaration did not seek to act within the framework of the interim self-administration of Kosovo but, rather, outside the framework of the interim administration in their capacity as representative of the people of Kosovo⁸. The consequence, according to the ICJ, was that since the Declaration of Independence was not issued by the PISG, it did not violate the Constitutional Framework (established by UNMIK) and, hence, it did not violate any applicable rule of international law.

Hence, at local – not international - level, the effects of the aforementioned theory of succession of constitutional legal systems got realized and the UN based constitutional framework was breached and then abandoned by the locally ruling institutions that, from that moment, didn’t act anymore as PISG. A new Constitution, the Constitution of the Republic of Kosovo, was

⁶ The term Provisional institutions of Self Government included, for Kosovo, all those public institutions (ministries, municipalities, etc.) typical of a State except of the fact that, for Kosovo, they were provisional as subordinated to a final settlement.

⁷ International Court of Justice (22 July 2010), *Advisory Opinion on Accordance with International Law of the Unilateral Declaration of Independence in Respect to Kosovo*, retrieved from <https://www.icj-cij.org/public/files/case-related/141/141-20100722-ADV-01-00-EN.pdf> (accessed on 22/04/2021).

⁸ *Ibid.*, paras. 102-ff.

adopted and entered into force on 15 June 2008⁹, thus giving birth to a new constitutional framework which was effectively in force on the ground and affecting, from that moment, the lives of the inhabitants of the Republic of Kosovo according to the principle of effectiveness.

The Unilateral Declaration of Independence tried to position itself, from Kosovo's perspective, in a continuum with the past, insofar as it contains the authors' will to fulfil the international obligations of Kosovo. Amongst these obligations, the need to protect to the largest possible extent the privileges of the Serbian Orthodox Church in Kosovo according to the ANNEX V of the 'Comprehensive Proposal', as an inherent guarantee to safeguard the religious rights of the Kosovo Serb community and, more broadly, of those believers belonging to the Serbian Orthodox Church.

It has to be borne in mind that the Comprehensive Proposal contains other principles and provisions concerning the rights of communities and their members (ANNEX II), and the privileges afforded to the Serbian Orthodox Church must be seen as a specification of the same ANNEX II where it envisages that it is the duty of the authorities of Kosovo to '[...] promote the preservation of the cultural and religious heritage of all Communities as an integral part of the heritage of Kosovo [...]' and to '[...] have a special duty to ensure an effective protection of the sites and monuments of cultural and religious significance to the Communities'¹⁰.

The entering into force of the Constitution of the Republic of Kosovo must be seen, as the entry into force of any new Constitution, as the milestone of a new legal order and, in our case, as the milestone of the internal legal order of Kosovo in which the Republic of Kosovo positions itself in the post UNMIK era. The Constitution of the Republic of Kosovo had the same features which are common to all the Constitutions in the world: it established the innate characteristics of the country and its sovereignty, outlined the rights and responsibilities of its citizens, it guarantees the human rights of the people, defines the system of governance, the legislative, executive and judicial

⁹ '[t]his followed 17 rounds of negotiations between Serbian and Kosovar officials, led by United Nations Special Envoy Martti Ahtisaari, who proposed a plan that included the adoption of a new constitution within 120 days after a declaration of independence. A Constitutional Commission was established, composed of 21 Kosovo members, 15 appointed by the President of Kosovo, three by the Assembly holding seats reserved for minorities especially Serbs, and three members of other minority communities also appointed by the Assembly. By the end of 2007, the Commission produced a draft constitution, directly derived from the Ahtisaari plan. Sections of the constitution were published for input, while a mix of national and international experts helped with review. After the Declaration of Independence, the constitution was published for public comment, garnering more than 1,000 comments from the public. The Commission also held public hearings on the draft. The final draft was completed in April 2008 and was adopted in June 2008' (Clegg et al. 2016, 4).

¹⁰ Art. 2.5 of the ANNEX II of the Comprehensive Proposal.

branches, it establishes that all other laws must adhere to it and the fact that it adheres to the country's international obligations, where possible¹¹.

The Constitution of the Republic of Kosovo is very modern and deserves particular attention to human rights, which are seen as directly applicable in the internal legal order and that take priority – in case of conflicts – over provisions of laws and other acts of public institutions¹². Leaving aside the problem deriving from the self-applicability of human rights norms, particular relevance is also formally recognised, at constitutional level, to the jurisprudence of the European Court of Human Rights and Fundamental Freedoms¹³.

Human Rights can be enjoyed if they are enforced by relevant authorities and, as such, relevance should be given to the principle of effectiveness, in consideration of the authorities that – de facto – exercise their sovereignty over a certain territory. That is why it is of fundamental importance to recognize the authority of the Republic of Kosovo, as this is the only way to effectively protect the rights of communities in numerical minorities in the areas of Kosovo.

However, the Constitution of the Republic of Kosovo, as the foundational pact of the people living in the territory of the former Socialist Autonomous Province of Kosovo - then UN administered region of Kosovo - that unilaterally declared independence in February 2008, declared also their adherence to the Comprehensive Proposal for the Kosovo Status Settlement. More specifically, the Comprehensive Proposal was considered by the Constituents – in line with their will to fulfil the international obligations of

¹¹ The Republic of Kosovo is not recognized by all states of the world and, as such, there might be problems in Kosovo being a party of multilateral agreements or treaties to which these non-recognizing states are a party.

¹² Art. 22 of the Constitution of the Republic of Kosovo states that:

'Human rights and fundamental freedoms guaranteed by the following international agreements and instruments are guaranteed by this Constitution, are directly applicable in the Republic of Kosovo and, in the case of conflict, have priority over provisions of laws and other acts of public institutions:

- (1) Universal Declaration of Human Rights;
- (2) European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols;
- (3) International Covenant on Civil and Political Rights and its Protocols;
- (4) Council of Europe Framework Convention for the Protection of National Minorities;
- (5) Convention on the Elimination of All Forms of Racial Discrimination;
- (6) Convention on the Elimination of All Forms of Discrimination Against Women;
- (7) Convention on the Rights of the Child;
- (8) Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment.'

¹³ Art. 53 of the Constitution of the Republic of Kosovo states that:

'Human rights and fundamental freedoms guaranteed by this Constitution shall be interpreted consistent with the court decisions of the European Court of Human Rights.'

Kosovo - at a higher level than the Constitution, thus creating a unique form of supra-constitutional provisions.

Article 143 of the Constitution of the Republic of Kosovo (titled 'Comprehensive Proposal for the Kosovo Status Settlement') reads as follows:

'Notwithstanding any provision of this Constitution:

1. All authorities in the Republic of Kosovo shall abide by all of the Republic of Kosovo's obligations under the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007. They shall take all necessary actions for their implementation.
2. The provisions of the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007 shall take precedence over all other legal provisions in Kosovo.
3. The Constitution, laws and other legal acts of the Republic of Kosovo shall be interpreted in compliance with the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007. If there are inconsistencies between the provisions of this Constitution, laws or other legal acts of the Republic of Kosovo and the provisions of the said Settlement, the latter shall prevail.'

It must be borne in mind that Article 143 is placed, in the constitutional framework, in its Chapter XIII titled as 'Final Provisions'. Article 143 is not meant to be a temporary provision as the ones placed in Chapter XIV (titled 'Transitional Provisions')¹⁴.

¹⁴ Chapter XIV of the Constitution of the Republic of Kosovo included provisions regulating the so-called 'supervised independence', which formally ended on 10 September 2012 with the closure of the International Civilian Office of Kosovo. What remained was, then, only certain residual responsibilities carried out by UNMIK. Below, an excerpt of the provisions of Chapter XIV, in force during the period of the so-called 'supervised independence':

'Article 146 [*International Civilian Representative*]

Notwithstanding any provision of this Constitution:

1. The International Civilian Representative and other international organizations and actors mandated under the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007 have the mandate and powers set forth under the said Comprehensive Proposal, including the legal capacity and privileges and immunities set forth therein.
2. All authorities in the Republic of Kosovo shall cooperate fully with the International Civilian Representative, other international organizations and actors mandated under the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007 and shall, *inter alia*, give effect to their decisions or acts.

Article 147 [*Final Authority of the International Civilian Representative*]

Notwithstanding any provision of this Constitution, the International Civilian Representative shall, in accordance with the Comprehensive Proposal for the Kosovo Status Settlement dated 26 March 2007, be the final authority in Kosovo regarding interpretation of the civilian aspects of the said Comprehensive Proposal. No Republic of Kosovo authority shall have jurisdiction to review, diminish or otherwise restrict the mandate, powers and obligations referred to in Article 146 and this Article.'

The wording of Article 143 of the Constitution of the Republic of Kosovo, together with the content of the Unilateral Declaration of Independence and the express Constituents' will to fulfil the international obligations of Kosovo, makes the provisions of the Comprehensive Proposal for the Kosovo Status Settlement the backbone of the same Constitution. It is the key, politically accepted by relevant part of the international community, to justify – at local level, thus leaving intact the UN international order - the fracture with the constitutional framework established by UNMIK, towards an exercise of the sovereignty based on the principle of effectiveness by local authorities, guided by the principles of rule of law and respect of human rights and communities' rights.

At legal level, the *renvoi* or referral made by Article 143 of the Constitution of the Republic of Kosovo creates a category of norms that have the potentiality to be at a higher level than the same Constitution, even higher than the minimum protection afforded by international human rights norms directly applicable in the territory of the Republic of Kosovo. This situation, in the case of the ANNEX V of the Comprehensive Proposal recognizes privileges to the Serbian Orthodox Church which were meant to protect the religious freedom of certain communities in numerical minority - directly and indirectly - in Kosovo.

Without them - at least those provisions of the Comprehensive Proposal that can be applied by Kosovo authorities autonomously¹⁵ - the Constitution of the Republic of Kosovo could not exist and the same political support to the Unilateral Declaration of Independence – leaving aside legal considerations as analysed by the International Court of Justice and having in mind the theory of the succession of the juridical systems - would vanish¹⁶.

In the case of the Serbian Orthodox Church, a system of non-derogable supra-constitutional rights have entered the legal system of the Republic of Kosovo. As a result, all Kosovo authorities should strive for their protection, as that system is not only connatural and inherent to the safeguard of the religious freedom of certain communities in numerical minority in the territory of the Republic, but it will always be the platform where adherence to the principle of the rule of law is going to be – and will be – measured by the members of the international community.

¹⁵ As the Comprehensive Proposal for the Kosovo Status Settlement was meant to be applied after the possibility of reaching an agreement with the Serbian authorities and, practically, some of its provisions cannot be applied or could not be applied as originally planned (see, e.g., the provisions of ANNEX VI on the external debts).

¹⁶ Art. 143 of the Constitution of Kosovo has been formally repealed through a constitutional amendment published in the Official Gazette of the Republic of Kosovo on 7 September 2012 (retrieved from <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>, accessed on 22/04/2021). This did not affect the privileges entrusted to the Serbian Orthodox Church which, due to their supra-constitutional nature, should be considered *ultra vires* that amendment.

2. SOC Privileges as Safeguards to Religious Freedom

International human rights norms, which are an integral part of the legal system created by the Constitution of the Republic of Kosovo, provides evidence that the protection of human rights extends to culture and cultural heritage of peoples¹⁷.

As it has been correctly affirmed,

‘[...] It goes without saying that these provisions create not only a negative obligation not to interfere with cultural freedoms, but also a positive obligation to take steps to protect cultural groups and communities in their exercise of such freedoms and, in particular, to protect cultural and religious property which provide the indispensable situs for the practice of such freedoms. Destruction of mosques and libraries in Bosnia, and subsequent destruction of Orthodox churches in Kosovo after NATO “liberation,” stand as dramatic evidence of the linkage between human rights and cultural heritage. This linkage was well identified and stressed by the Special Rapporteur of the Commission on Human Rights in his report on the situation of human rights in Yugoslavia’. (Francioni 2004, 1213)

The link between the safeguard of the religious freedom and the specific privileges recognised to the SOC can be determined by acknowledging – and reading in conjunction to each other - the provisions of the Comprehensive Proposal, stating, in its Art. 3.1 that ‘[...] Kosovo shall guarantee the protection of the national or ethnic, cultural, linguistic and religious identity of all Communities and their members’, whereas Art.7 (titled as ‘Religious and Cultural Heritage’) specifically affirms that

‘[...] 7.2 The Serbian Orthodox Church in Kosovo (SOC), including its clergy and their affiliates, activities and property shall be afforded additional security and other protections for the full enjoyment of

¹⁷ ‘First, the concept of human dignity, which informs the human rights provisions of the Charter and of the Universal Declaration (“[...] recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family [...]”) includes peoples entitlement to the respect of the cultural heritage that forms an integral part of their identity, history and civilization. Destruction or desecration of symbolic objects and sites that are essential to the enactment of a people’s culture (be it a library, a place of worship, a sacred site for indigenous peoples) is a violation of their collective dignity no less than a violation of their personal dignity. Second, Article 22 of the Universal Declaration states that “everyone [...] is entitled to realization [...], of [...] cultural rights indispensable for his dignity”. Article 18 guarantees the right to freedom of conscience and religion which is an integral part of one’s culture. Article 27 proclaims the “[...] right freely to participate in the cultural life of the community [...] “ and “[...] to enjoy the arts and to share in scientific advancement and its benefits.” These rights have been confirmed by Article 15 of the International Covenant on Economic, Social and Cultural Rights.’ (Francioni 2004, 1212).

its rights, privileges and immunities, as set forth in Annex V of this Settlement.

7.3 The SOC shall be the sole owner of its property in Kosovo, with exclusive discretion over the management of its property and access to its premises, as set forth in Annex V of this Settlement.’

It is clear that the ‘additional security and other protection’ is meant for the ‘full enjoyment of [...] rights, privileges and immunities’ of the SOC, which must be seen as instrumental to the enjoyment of the rights of the communities as foreseen in ANNEX 2 of the Comprehensive Proposal, which envisions that

‘ 1.3 Members of Communities shall have the right to freely express, foster and develop their identity and community attributes [...] 2.5 Kosovo shall promote the preservation of the cultural and religious heritage of all Communities as an integral part of the heritage of Kosovo. Kosovo shall have a special duty to ensure an effective protection of the sites and monuments of cultural and religious significance to the Communities. [...] 3.1 Members of communities shall have the right, individually or in Community, to: a. Express, maintain and develop their culture and preserve the essential elements of their identity, namely their religion, language, traditions and culture [...]’

Within this context, the provisions of ANNEX V must be considered as the necessary positive steps taken by Kosovo authorities to protect the religious freedom of those communities in numerical minorities in certain areas that recognize themselves in the faith expressed by the SOC, through the establishment of certain privileges benefitting the same SOC, aimed at raising – inter alia - the level of protection of the Serbian-built religious heritage in Kosovo which is an essential precondition for a lasting peace and conflict prevention in the area.

The relevance of the provisions of the Comprehensive Proposal has been acknowledged by the 2017-2027 ‘National Strategy for Cultural Heritage of the Ministry of Culture, Youth and Sport of the Republic of Kosovo’¹⁸ (National Strategy 2016) insofar as it stated that:

‘The Constitution and other relevant documents, including the 7 October 2015 Letter of the Kosovo Institutions addressed to UNESCO National Delegations outlining Kosovo’s commitments with regard to the protection of religious and cultural heritage on the basis of the

¹⁸ Ministry of Culture, Youth and Sport, Republic of Kosovo (2016), *National Strategy for Cultural Heritage 2017-2027*, retrieved from https://mkrs-ks.org/repository/docs/eng_strategy_for_heritage.pdf (accessed on 22/04/2021).

CSP Annex V provisions, form the institutional base on drafting of this National Cultural Heritage Strategy 2017-2027 [...]’¹⁹. (National Strategy 2016, 15)

Six (6) articles included in Annex V provides provisions for the rights, privileges, and immunities for the well-functioning of the SOC in Kosovo, with the conditions that ‘1.1 [...] [t]he exercise of such rights, privileges and immunities shall carry with it duties and responsibilities to act in accordance with Kosovo law, and shall not violate the rights of others’.

The same Article 1 of ANNEX V specifies that

‘1.2 [...] the Serbian Orthodox Church in Kosovo, including monasteries, churches and other sites used for religious purposes, [is] and integral part of the Serbian Orthodox Church seated in Belgrade [...] 1.3 Kosovo shall respect the name and the internal organization of the Serbian Orthodox Church, including the hierarchy and activities. 1.4 [...] movable and immovable property and other assets of the Serbian Orthodox Church shall be inviolable and shall not be subject to expropriation [...] 1.5 The Serbian Orthodox Church [...] shall exercise full discretion in the management of its property, property reconstruction, and access to its premises [...] 1.5.1 Kosovo authorities shall have access to sites which constitute the property of the Serbian Orthodox Church only with consent from the Church, or in the event of a judicial order issued relating illegal activities or in the event of imminent danger to life or health [...] 1.6 Kosovo shall not arbitrarily prohibit the entry into, or residence within, Kosovo of priests, candidate for priesthood, monks, nuns, laymen or other invitees and members of the Serbian Orthodox Church. 1.7 Kosovo shall consult with the Serbian Orthodox Church in the promotion of

¹⁹ The Comprehensive Proposal for the Kosovo Status Settlement has also been used, explicitly, as one of the References (National Strategy 2016, 65). Among the renewed commitments made in the 2015 Letter of the Kosovo Institutions addressed to UNESCO, it is pertinent here to mention that the Government of Kosovo stated, that it ‘[would] continue to abide by the Annex 5 obligations of the Ahtisaari Plan [...] that provide the Serbian Orthodox Church constitutional protection of its identity, property and special relations with Serbia’; also that it ‘[would] consult with [...] the Serbian Orthodox Church [...] before amending the Law on Cultural Heritage or related regulations’; furthermore that ‘[t]he Serbian Orthodox Church [would] remain the sole Christian Orthodox organization in the territory of Kosovo, enjoying full legal persona, granted by the new Draft Law on Religion.’ (Kosovo Institutions 7 October 2015), *Letter of the Institutions of Kosovo*, retrieved from http://kryeministri-ks.net/repository/docs/Letter_to_UNESCO_National_Delegations.pdf (accessed on 22/04/2021). As of March 2021, a new Law on Cultural Heritage (in the form of amendments to the 2006 Law on Cultural Heritage of Kosovo) is still at draft level within the relevant bodies of the Republic of Kosovo in charge of the legislative process; hopefully, it will (and it should) recognize and implement – one day - the rights and privileges bestowed to the Serbian Orthodox Church by Annex V.

the Serbian Orthodox heritage for touristic, scientific, educational or other public purposes [...]

Provisions on economic related matters and tax exemptions are foreseen by Article 2, whereas the security for Religious and Cultural Sites are regulated in Article 3. Particularly important is Article 4 (titled 'Protective Zones'), as the implementation of Annex V started with the adoption of a specific law in 2008, the Law No. 03/L-039 on Special Protective Zones (SPZ) deriving from this specific article.

The Law on SPZ requires the establishment of protective zones as spatial planning tools for controlled development in the surrounding areas of 44 cultural heritage sites, mainly orthodox churches and monasteries, including the historic centre of Prizren and the Village of Velika Hoča/Hoçë e Madhe.

As stated in Article 4 of Annex V, the 'Protective Zones' are meant to

[...] provide for the peaceful existence and functioning of the sites to be protected; preserve their historical, cultural and natural environment, including the monastic way of life of the clergy; and prevent adverse development around them, while ensuring the best possible conditions for harmonious and sustainable development of the communities inhabiting the areas surrounding such sites [...]

As it was explained by some scholars:

[...] the compromise agreed to, at a high political level, faced hesitation and rejection for the implementation of (special) protective zones at the local level that reflected with little effort to understand it with the complexity it entailed. The word "special", which is not explicitly described in the CSP Annex V, triggered a debate among civil and local institutional circles in Kosovo, as it differentiated these sites from 'other' cultural heritage sites in the country. The ICO Progress Report on Implementation of Special Protective Zones (2011), however, states that "*the special character of these (special) protective zones is to ensure that the local representatives of the Serbian Orthodox Church and other actors are linked to the municipalities to decide to what extent constructions and activities should be allowed to develop*". Paradoxically, a separate Law on Cultural Heritage (2006), that generally covers the cultural heritage of Kosovo, also requires the establishment of protective zones around architectural and archaeological sites with the same purpose as of the CSP Annex V protective zones, that is, a controlled and harmonious development around the heritage sites.

Technically speaking, all prohibited and restricted activities attributed to (special) protective zones of CSP Annex V that reasonably could present a threat to a heritage site and affect its sustainable preservation,

could also apply to all other protective zones, as implied in the 2006 Law.

What differentiates the two laws is the consultation procedure. In the case of Annex V, an agreement needs to be sought, first, from SOC and, if no agreement is reached, refer the case to an international body, the International Monitoring Council. On the other hand, the protective zones derived from the Law on Cultural Heritage can also apply the principle of communication and agreement among all stakeholders for developments in the surrounding areas of the heritage sites following the spirit of an all-inclusive participatory planning.

Interestingly, the protective zones deriving from the Law on Cultural Heritage have not yet been set in place [...]’ (Hisari and Fouseki 2020, 102)

Kosovo authorities have also enacted the law ‘On the Historic Center of Prizren’ (Law No. 04/L-066) and the law ‘On the Village of Hoce e Madhe/ Velika Hoca’ (Law No. 04/L-062). However, it must be borne in mind that, as correctly stated by other authors, ‘The term “special protective zone” applies only to the Serbian Religious Cultural Heritage monuments, whereas “protective zone” is used in the case of other cultural monuments in Kosovo’²⁰.

The following Art. 5 of ANNEX V established an Implementation and Monitoring Council (IMC), a body mandated ‘[...] to monitor and facilitate the implementation of the provisions of [the Comprehensive Proposal] relating to the protection of the Serbian religious and cultural heritage in Kosovo’²¹

²⁰ Research Institute of Development and European Affairs (October 2019, 4), See Background Note/Study on *The issue of Serbian Cultural Heritage in Kosovo in the context of an eventual ‘grand finale’ between Kosovo and Serbia*, retrieved from <http://www.ridea-ks.org/uploads/BACKGROUND%20NOTE%20-%20STUDY%20ON%20SRCH%20IN%20KOSOVO.pdf> (accessed on 22/04/2021)

²¹ Due to the Unilateral Declaration of Independence and the lack of agreement on the status with the Serbian Authorities, the IMC composition could not reflect the composition as envisioned in the ANNEX V (which foresaw the presence of the ‘Ministry of Culture of Kosovo, Institute for Protection of Monuments in Prishtinë/Priština, Serbian Orthodox Church, Institute for Protection of Monuments in Leposaviq/Leposavić, OSCE, Council of EUROPE, and UNESCO’ – see Art. 5.3 of the ANNEX V). Under the post independent Kosovo, the IMC was established – under the internal legal framework of the Republic of Kosovo - by the Law on SPZ (Law Nr. 03/L-039) of 2008 and its most recent format was set up in a way that comprised members, namely: the Minister of Environment and Spatial Planning, the Minister of Culture Youth and Sport, the SOC in Kosovo, the EU Special Representative in Kosovo, and the head of the OSCE Mission in Kosovo, and it is cochaired by the MESP and the EUSR. As it has been correctly stated, ‘[...] the IMC has naturally developed into a forum dealing with all issues relating to the SOC, not only with those prescribed in its original mandate, and the idea has been gaining ground that its mandate should be expanded turning

whereas Art. 6 (titled as ‘Return of Archaeological and Ethnological Exhibits’) is not enforceable as it foresees that

‘The Republic of Serbia shall return archaeological and ethnological exhibits, which were taken on loan from the museums of Kosovo for temporary exhibitions in Belgrade in 1998-1999 within 120 days from the date of entry into force of this Settlement’

and the Republic of Serbia did not agree to the Comprehensive Proposal unlike the Republic of Kosovo, which rather elevated the Comprehensive Proposal to the level of supra-constitutional rights.

3. The Management of the Serbian-Built Religious Heritage in Kosovo

The legitimate question could now arise and, namely, about the nature of the management and maintenance of the Serbian-built religious heritage in the Republic of Kosovo. It has to be borne in mind that, in this regard, not only the ANNEX V is crystal clear as to the privileges of the SOC, but the same 2017-2027 National Strategy for Cultural Heritage of the Ministry of Culture, Youth and Sport of the Republic of Kosovo establishes that:

‘Regarding the management and maintenance of sites which constitute the ownership of the Serbian Orthodox Church, the latter shall exercise full discretion in the management of and access to its cultural properties, including the conservation and restoration of monuments in line with international standards, acting in accordance with Kosovo laws’. (National Strategy 2016, 31-32)

To the positions advocating the need to overcome the provisions of the ANNEX V with a stronger role of the authorities of the Republic of Kosovo, we can only say that, as correctly stated:

‘under appropriate circumstances, cultural heritage in the territory of any State may be considered an element of the general interest of the international community, and, as such, it must be protected even against the wishes of the territorial State’²². (Francioni 2004, 1220)

it de jure to what it is already de facto, a kind of a “one-stop-shop” dealing with all matters involving the SOC.’ Research Institute of Development and European Affairs (October 2019, 15), *Background Note/Study on The issue of Serbian Cultural Heritage in Kosovo in the context of an eventual ‘grand finale’ between Kosovo and Serbia, supra* 19.

²² ‘[...] the concept of human dignity, which informs the human rights provisions of the [UN] Charter and of the Universal Declaration (“recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family”) includes peoples entitlement to the respect of the cultural heritage that forms an integral part of their

That was precisely the purpose of creating non-derogable norms (by the authorities of the Republic of Kosovo in compliance with the international commitments taken at the moment of the Unilateral Declaration of Independence) of supra-constitutional character establishing the rights and privileges of the SOC.

Hence, we can concur with the conclusion, which can be applied in the present case, that

‘This new form of protection entails that, today, States are bound to tolerate scrutiny and intervention, especially by competent international organizations, when they wilfully engage in, or intentionally fail to prevent, the destruction of, or serious damage to, cultural heritage of significant value for humanity. While this

identity, history and civilization. Destruction or desecration of symbolic objects and sites that are essential to the enactment of a people’s culture (be it a library, a place of worship, a sacred site for indigenous peoples) is a violation of their collective dignity no less than a violation of their personal dignity [...] the exponential growth of international cultural property law in the past fifty years bears witness to the emergence of a new principle according to which parts of cultural heritage of international relevance are to be protected as the common heritage of humanity. This principle is valid both in the event of armed conflict and in peacetime [...] In peacetime, the 1972 World Heritage Convention, whose parties are now numbering 172, confirms the same principle with respect to cultural and natural heritage as an outstanding universal value and requires that the ‘State Parties to this Convention recognize that such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to co-operate.’ [...] the relevance of this treaty practice for the present discussion is further proven by the fact that cultural rights of individuals, groups and of humanity as a whole are guaranteed not only in inter-state relations, as in the case of international conflicts, but also in relation to purely domestic situations where the issue of the protection of cultural heritage arises within the territory of the State [...] International standards on the protection of cultural heritage of any people may attract State responsibility [...]’ (Francioni 2004, 1212 – 1215). The author mentions that : ‘The principle of State responsibility for intentional destruction of cultural heritage of importance to humanity is included in paragraph VI of the UNESCO Declaration Concerning the Intentional Destruction of Cultural Heritage, *supra* note 20, which reads: “[a] State that intentionally destroys or intentionally fails to take appropriate measures to prohibit, prevent, stop, and punish any intentional destruction of cultural heritage of great importance for humanity, whether or not it is inscribed on a list maintained by UNESCO or another international organization, bears the responsibility for such destruction, to the extent provided for by international law.” International responsibility for violations of the rules on the protection of cultural heritage has also been spelled out in Article 38 of the Second Protocol to the Hague Convention for the Protection of Cultural Property in the Event Of Armed Conflict, Mar. 26, 1999, available at <http://www.unesco.org/culture/laws/hague/htmljeng/protocol2.shtml> (hereinafter Second Protocol) which includes “the duty to provide reparation.” Article 31 of the Second Protocol provides also that the Parties undertake to act, jointly through the Committee (the treaty body established to oversee the implementation of the Protocol), or individually, in cooperation with UNESCO and the United Nations, and in conformity with the Charter of the United Nations. See *id.* at art. 31. Thus, Article 31 implies the possibility of enforcing State responsibility through sanctions.’ (Francioni 2004, 1215).

conclusion leaves open the question of what is the threshold of the “value” of the item of cultural heritage in order for it to reach the level of common concern for humanity, it is clear that the increasing number of lists, registers and inventories established and maintained by competent international organizations, notably UNESCO, are capable of providing objective parameters of evaluation and a prima facie certification of the international significance of a given item of cultural heritage. In this sense, culture as the common patrimony of humankind becomes an important tool to counterbalance sovereignty, understood as the complete and undisturbed dominion over a territorial space, and to foreclose the objection of “domestic jurisdiction” so often invoked to preserve the power monopoly of the sovereign State’. (Francioni 2004, 1220)

However, the Republic of Kosovo is not part of UNESCO and of several other international mechanisms for the protection of human rights, due to its non-recognition by a number of countries in the world and, hence, its impossibility to participate in several multilateral treaties which are entered by non-recognizing states.

The Republic of Serbia, conversely, does not have such limitations, and it indeed participates to UNESCO and to the works of the World Heritage Committee which keeps requesting updated reports on the state of conservation of the Serbian built-heritage sites in the territory of Kosovo²³, but for which the Republic of Serbia keeps maintaining its international responsibility before UNESCO.

Considering the above, it is logical and natural to presume an exclusive role of Serbian authorities in the preservation of the Serbian religious built heritage in Kosovo, with regards to issues linked to the international responsibility and accountability before UN sponsored bodies and before the international community as traditionally understood.

The supra-constitutional natures of the rights and privileges of the SOC in the internal legal order of the Republic of Kosovo confirms this position, although the relevant authorities of the Republic of Kosovo have a still long

²³ See, e.g., *United Nations Scientific, Cultural and Organization Convention Concerning the Protection of the World Cultural and World Heritage*, World Heritage Committee, Forty-third session, Baku, Republic of Azerbaijan (30 June - 10 July 2019), Item 7A of the Provisional Agenda: State of conservation of the properties inscribed on the List of World Heritage in Danger WCH/19/43.COM/7A.Add, 7 June 2019, p. 87, where the World Heritage Committee: ‘[...] Requests the submission, in cooperation with UNMIK, to the World Heritage Centre, by 1 February 2020, of an updated report on the state of conservation of the property, for examination by the World Heritage Committee at its 44th session in 2020; [and] Decides to retain the Medieval Monuments in Kosovo on the List of World Heritage in Danger, and to continue applying the Reinforced monitoring mechanism until the 44th session of the World Heritage Committee in 2020.’

way ahead before the full implementation of those rights and privileges. It is well-known to the international community the non-compliance of Kosovo authorities with a decision taken on 20 May 2016 by the Constitutional Court of Kosovo which considered, as a finally adjudicated, a land issue in favor of the SOC in the Decani area²⁴. Their non-compliance with a finally adjudicated decision not only undermines adherence to the rule of law, but are a chance that the authorities of the Republic of Kosovo have missed to see recognized their sovereignty by the authorities of the Republic of Serbia. The fact that the Serbian authorities keep mentioning the decision taken by the Constitutional Court of the Republic of Kosovo – as not complied with by Kosovo institutions - in their international reports to UNESCO is nothing but an acknowledgment of the authority of the highest judicial body of the

²⁴ The case was correctly described as follows:

‘[...] Probably the most pressing (and most depressing) issue related to the SOC is the Decani land case, a matter which, by the fact that it concerns the “territorial” integrity and sustainability of the most essential cultural-heritage monument in Kosovo, the Visoki Decani monastery.

38. The case concerns two land parcels of a total of 23 hectares of the land. According to the SOC, they are part of the larger area owned by the monastery in the past and confiscated by Communist authorities in 1946. In 1997, as part of a broader restitution effort, the Government of Serbia (GoS) returned those two parcels to the monastery. One of them is adjacent to land that had remained in the ownership of the monastery in Communist times and is part of the arable land used by the monastery for its sustenance. The other is on top of a small hill across the road passing in front of the monastery. The parcels in question had been used during the Communist times by two socially owned enterprises (SOE), which at the time of restitution, in 1997, were defunct.

39. Following the Kosovo war, the situation changed and the two defunct SOEs (*Socially Owned Enterprises – n.o.a.*), were also revitalized on paper to regain legitimacy over the ownership of the land. After the intervention by UNMIK, the case sent to court.

40. After more than ten years of litigation, the Special Chamber of the Supreme Court (SCSC) of Kosovo, which took over the case in 2008, finally decided in favor of the monastery on 27.12.2012. Following appeals by entities which the Court had already determined were not legally parties to the dispute, the Appellate Panel of the SCSC, on 09.07.2015, that the appeals were grounded, and the judgment in favor of the monastery set aside; it furthermore decided that the SCSC had no jurisdiction to adjudicate the claim, and the claim was sent back for retrial with the Basic Court in Peja.’

41. The SOC turned to the Constitutional Court of Kosovo, under art. 113.7 of the Constitution and the Court decided that the 12.07.2015 decisions of the Appellate Panel constituted ‘a violation of Applicant’s right to a fair and impartial hearing as protected by Article 31, paragraph 2, of the Constitution in conjunction with Article 6, paragraph 1, of the ECHR’ and were therefore “null and void”, and the decisions of 27.12.2012 (the ones in favor of the monastery) were “final and binding, and as such [...] *res judicata*” (note that throughout the 15-year litigation the courts issued double decisions, one for each of the two parcels in dispute). This decision, issued on 20 May 2016, under Ref. No.: AGJ943/16.’ Research Institute of Development and European Affairs (October 2019, 15-16) *The issue of Serbian Cultural Heritage in Kosovo in the context of an eventual ‘grand finale’ between Kosovo and Serbia.*

Republic of Kosovo in a crucial matter that relates to the SOC's privileges and rights in Kosovo²⁵.

It is true that that the exercise of rights, privileges and immunities by the SOC should be carried out according to '[...] duties and responsibilities to act in accordance with Kosovo law [...]'²⁶; nevertheless, Kosovo law should preserve those SOC's prerogatives that are the core for the protection of the Serbian-built heritage in Kosovo and that are needed as an inevitable tool for conflict prevention in the entire area, besides being the instrument to measure the adherence of the Republic of Kosovo to rule of law principles.

Conclusions

The rights and privileges recognized by the Constitution of the Republic of Kosovo through its referral to the provisions of the ANNEX V of the so-called Comprehensive Proposal for the Kosovo Status Settlement create a supra-constitutional system of protection in the legal system of the Republic. The beneficiary of this system is the Serbian Orthodox Church in Kosovo, as the representative of the faith of the largest numerical minority in the territory.

Under this perspective, the system created by the ANNEX V and acknowledged by the Constitution is of fundamental importance for the protection of the minority rights in the territory of the Republic of Kosovo; it is the paradigm to which all local authorities should comply with for a necessary adherence to the principle of rule of law – established at constitutional level – and for the successful implementation of any initiative in the field of the dialogue and conflict prevention.

Although there already exist documents emanating by Kosovo authorities at central level which embody this perspective, there are nevertheless situations – at local level – far from being optimal. Despite of the rather complicate Kosovo legal framework in the post-independence era - with international

²⁵ '[...] A telling example of the mistreatment of Serbian cultural and religious heritage in the Province is the rejection of the Dečani mayor to fulfil the decision of Constitutional Court from 2016 and return more than 24 hectares (59 acres) of land in the possession of the Dečani monastery [...]' (Republic of Serbia Institute for the Protection of Cultural Monuments 2020, 11), *Report on the state of conservation of Medieval Monuments in Kosovo (Serbia) Inscribed on the world heritage list in danger - Medieval monuments in Kosovo, Serbia – The Dečani Monastery, The Patriarchate of Peć Monastery, The Church of the Holy Virgin of Ljeviša, The Gračanica Monastery – Belgrade, January 2020*, retrieved from <https://whc.unesco.org/document/180875> (accessed on 22/04/2021). Despite of the political tone, the truth remains about the need to comply with a decision taken by the highest judicial court of the Republic of Kosovo as a mean to protect the SOC's privileges and rights.

²⁶ ANNEX V of the Comprehensive Status Proposal, Art. 1.1.

law principles entrenched, intertwined and sometimes conflicting with the reality on the grounds which is based on the principle of effective exercise of sovereignty - the commitments grounding the 2008 Declaration of Independence and reproduced by the content of the Constitution draw an indelible line which can only push the Republic of Kosovo towards the future; a future which can be bright only if all authorities in the territory of the Republic and all international stakeholders understand the strict link between SOC's rights and privileges, protection of minority rights and of religious freedom, preservation of Serbian-built cultural heritage, and conflict prevention.

References

- Clegg M., Ellena K., Ennis D., Vickery C., International Foundation for Electoral Systems (2016) 'The hierarchy of laws – Understanding and Implementing the Legal Frameworks that govern elections', retrieved from https://www.ifes.org/sites/default/files/2016_ifes_hierarchy_of_laws.pdf (accessed on 22/04/2021).
- Francioni F., (2004), 'Beyond State Sovereignty: The Protection of Cultural Heritage as a Shared Interest of Humanity', *Michigan Journal of International Law*, Vol. 25 – Issue 4, 1209-1228
- Hisari, L., Fouseki, K., Heritage (2020), 'Post-War Cultural Heritage Preservation in Kosovo: Rethinking the Implementation of Ahtisaari Plan Annex V', *Heritage*, 98-115, retrieved from <https://www.mdpi.com/2571-9408/3/1/6/pdf> (accessed on 22/04/2021)
- International Court of Justice (22 July 2010), *Advisory Opinion on Accordance with International Law of the Unilateral Declaration of Independence in Respect to Kosovo*, retrieved from <https://www.icj-cij.org/public/files/case-related/141/141-20100722-ADV-01-00-EN.pdf> (accessed on 22/04/2021).
- Ministry of Culture, Youth and Sport, Republic of Kosovo (2016), *National Strategy for Cultural Heritage 2017-2027*, retrieved from https://mkrs-ks.org/repository/docs/eng_strategy_for_heritage.pdf (accessed on 22/04/2021)
- Organization for Security and Cooperation in Europe Mission in Kosovo (25 May 2004), *Human Rights challenges – following the March riots*, retrieved from <https://www.osce.org/files/f/documents/2/f/32379.pdf> (accessed 22/04/2021)

- Organization for Security and Cooperation in Europe Mission in Kosovo (December 2005), *Kosovo – The response of the Justice System to the March 2004 Riots*, retrieved from <https://www.osce.org/files/f/documents/d/0/17181.pdf> (accessed on 22/04/2021)
- Research Institute of Development and European Affairs (2019), 'The issue of Serbian Cultural Heritage in Kosovo in the context of an eventual "grand finale" between Kosovo and Serbia', retrieved from <http://www.ridea-ks.org/uploads/BACKGROUND%20NOTE%20-%20STUDY%20ON%20SRCH%20IN%20KOSOVO.pdf> (accessed on 22/04/2021)
- Serbenco, E. (2005) 'The protection of cultural property and post-conflict Kosovo', *Revue québécoise de droit international*, 18.2, 91-125, retrieved from https://www.persee.fr/doc/rqdi_0828-9999_2005_num_18_2_995 (accessed on 22/04/2021)
- United Nations (26 March 2007), *Letter dated 26 March 2007 from the Secretary General addressed to the President of the Security Council – Addendum – Comprehensive Proposal for the Kosovo Status Settlement*, S/2007/168/Add.1, retrieved from https://reliefweb.int/sites/reliefweb.int/files/resources/1DC6B184D02567D1852572AA00716AF7-Full_Report.pdf (accessed on 22/04/2021)
- United Nations (23 August 2004), Report of the Secretary-General: The rule of law and transitional justice in conflict and post-conflict societies, S/2004/616, retrieved from https://www.un.org/en/ga/search/view_doc.asp?symbol=S/2004/616 (accessed 22/04/2021)
- United Nations Security Council (10 June 1999), *Resolution 1244*, S/RES/1244 (1999), retrieved from https://peacemaker.un.org/sites/peacemaker.un.org/files/990610_SCR1244%281999%29.pdf (accessed 22/04/2021).
- United Nations Scientific, Cultural and Organization Convention Concerning the Protection of the World Cultural and World Heritage, World Heritage Committee, 'Item 7A of the Provisional Agenda: State of conservation of the properties inscribed on the List of World Heritage in Danger', WCH/19/43.COM/7A.Add, 7 June 2019, Forty-third session, Baku, Republic of Azerbaijan (30 June - 10 July 2019), retrieved from <https://whc.unesco.org/archive/2019/whc19-43com-7AAdd-en.pdf> (accessed on 21 April 2021)