

---

## Constitutional Design and Cultural Cleavage: UNESCO and the Struggle for Cultural Heritage in Kosovo

---

STEFAN SURLIĆ

Faculty of Political Science, University of Belgrade

### *Summary*

Since gaining independence in 2008, Kosovo's constitutional design has been based on the principles of civil society normatively respecting the rights of all minorities. Even though no open conflict has taken place since 1999, except for individual interethnic incidents, Kosovo is still at the stage of post-conflict management. The Serbian community feels strongly attached to Serbia, while the Albanians do not want to give political autonomy to the Kosovo Serbs because they fear this could lead to a permanent division and eventual separatism. Based on research, the author pinpoints that a key cleavage is essentially the cultural one. The recent vote in the Assembly of UNESCO has intensified the hostile tone between Belgrade and Priština. Serbia considers Kosovo its Holy Land, the "Serbian Jerusalem", due to a large number of Orthodox churches and monasteries found there, while the Albanian side believes that this cultural treasure inherently belongs to Kosovo and that the Orthodox monasteries were built on the foundations of Illyrian temples. This paper analyzes the imposed political dimension of cultural heritage with religious and mythological backgrounds. There is a great desire among the Kosovo authorities that it become a member of UNESCO, thereby reaffirming its international legal personality and stopping the efforts of the Serbs to have the Orthodox cultural heritage still listed as Serbian. The issue of cultural heritage has a direct impact on interethnic relations and contains the capacity to paralyze all other multiethnic institutions. The author analyzes the difference between the normative framework and the implementation of mechanisms for the protection of cultural heritage as well as the activities of Belgrade and Priština in the battle for ownership of cultural heritage.

*Keywords:* Cultural Heritage, UNESCO, Kosovo, Serbian Orthodox Church, Post-Conflict Management

## Introduction

In this paper, I will try to answer the question why, despite the process of normalizing relations between Belgrade and Priština, the cultural cleavage between the Serbs and the Albanians in Kosovo still deepens. The sole act of the Brussels negotiations marked key political changes: Priština achieved a long desired legitimacy and equal position in the talks with Belgrade, and Serbia ensured it would be the main representative of the interests of the Kosovo Serbs. However, despite the many agreements reached, the topic of cultural heritage has not yet been brought to the negotiating table.

This paper aims to show that the absence of negotiations on cultural heritage and respect of the separate cultural identity of the Serbs is a direct consequence of a political dimension still containing these issues. In essence, this means that the issue of cultural heritage is linked to the overall political (in)stability in Kosovo. Avoiding talking about cultural heritage indicates that both interested parties have diametrically different negotiating positions that prevent finding a compromise solution. Belgrade stands firm in the view that Kosovo is the “Holy Land” and that the Serbian cultural heritage in Kosovo can only be controlled by Serbian institutions responsible for its preservation in close collaboration with the representatives of the Serbian Orthodox Church (SPC). On the other hand, the representatives of Kosovo believe that Serbian concern for cultural heritage, especially concerning Orthodox religious objects, is yet another area of delegitimization of the sovereign rights of Priština.

As mediators in the negotiation process, the representatives of the European Union put an emphasis on “real problems” of people living in Kosovo, insisting on the implementation of agreements that allow the free movement of people, the exchange of goods and the uninterrupted use of infrastructure. The obvious intention of Brussels is a gradual process of normalizing relations, which will open up the space for solving sensitive identity issues such as cultural heritage. However, ignoring the strong feelings of identity which culture itself possesses can, as a consequence, cause paralysis of all previous efforts and agreements. Cold relations between Belgrade and Priština are manifested in diplomatic struggles on both sides for positions in UNESCO. The General Assembly of the organization will be held in October 2017 and the decision taken in anyone’s favor will deepen the cultural cleavage between the two sides.

This paper intends to show that the outvoting in institutions such as UNESCO is detrimental to the efforts made so far and that the issue of cultural heritage should be one of the first topics in the Brussels negotiation process. A compromise solution might include a guarantee that the cultural heritage will remain Serbian and at the disposal of the Serbian Orthodox Church with the expert help of institutions in Bel-

grade, but also grant freedom to Kosovo institutions to ensure the safety and proper care of the buildings of special artistic and cultural value for all the citizens of Kosovo, in accordance with the already adopted laws.

### **Cultural Heritage Between Religion and Myth**

Due to the distinct division between the Serbs, who are Orthodox Christians, and the Albanians, who are mostly Muslims, various myths about the historical rights to the territory of Kosovo have been created. The Serbian myth, “which perceives Kosovo as the heart and soul of Serbian national and religious identity”, and the Albanian one, which “uses the history and culture to promote the ‘Albanianess’ of the new Kosovo state” (Obućina, 2011: 30). These myths are an integral part of each side’s national identity, but the negative common denominator of both myths is the delegitimization of the rights of the opposite side in Kosovo, including the right to the cultural heritage.

The Kosovo myth in the Serbian tradition has its origins in the 1389 Battle of Kosovo, when the Serbian Prince Lazar clashed with the Ottoman Sultan Murad I. Although lost, for the Serbs the battle represented a duty to defend Christian Europe from the Islamic Ottoman Empire. The legend of the conflict created a fusion of religion and national identity, with the Kosovo myth at its core, and “Serbian Orthodoxy is imbued with a strong sense of victimization and suffering” (Duijzings, 1999: 171).

The Kosovo myth, with its strong religious charge, has become part of Serbian collective memory. This memory of the Battle of Kosovo can be classified as “cyclical time” reserved for nature or myth where “what at one time is forever lost and irreversibly disappears, it will, almost certainly, return in another time again” (Assmann, 2011: 300). Denying that Kosovo’s character is solely seen as a special place of memory and a decisive historical moment for nation building, Bataković (2006: 5) points out that it is also about a “strong metaphysical charge” that permeates historical memory, religious tradition, national identity, historical rights, a code of ethics and the consideration of state interests. The key role in preserving the myth has been played by the Serbian Orthodox Church, which, via religious services, has been refreshing the memory of the Kosovo heroes, the participants of the battle. In this manner, “religious ceremonies form a matrix for political anniversaries whose reputation is growing thanks to the aura of the sacral calendar time” (Assmann, 2011: 301). The interest of the Serbian Orthodox Church was not only reflected in the preservation of the myth, but also in cultivating it. It requested the care and protection of religious objects, some 1,500 monasteries and churches in total, which in terms of number represents one of the areas with the highest number of Christian edifices per square kilometer in Europe (Mileusnić, 2005: 53).

The Christian cultural heritage is put in a historical context, where in the centuries-old conflict both sides “proclaimed themselves as saviors of the nation and civilization” (Obućina, 2011: 30). In both interpretations, the conflict transcends cultural differences characteristic to the territory of Kosovo, reaching the level of the entire human civilization, where in a contemporary interpretation it has the importance of a “Huntington” world geopolitical problem. At this level of observation, cultural heritage loses its cultural and historical face as well as artistic value. It becomes evidence of the historical right to the territory of Kosovo.

The recent conflict between the Albanians and the Serbs is presented as a conflict of two civilizations, Christianity and Islam, and the full restoration of the myth manifested in “the explosive language used by Serbian ecclesiastics, intellectuals and nationalists” who presented the Serbian side as the defenders of Europe and Christianity (Duijzings, 1999: 187). If the right of the Albanians to live in Kosovo is recognized, their right to treat it as their “land of covenant” is not. In the interpretation by Serbian historians, Kosovo has been perceived by the Albanians as a “socially and economically desirable area for colonization and further demographic expansion for centuries” (Bataković, 2006: 7).

In the post-conflict reconciliation process, the Albanian majority has not used the opportunity to tackle the relativization of mythological notions of Kosovo as the “land of covenant”. It rather confronted the Serbian myth with another one: that of the direct and clear Illyrian origin from Dardania to Yugoslavia (Judah, 2008), with the Serbs seen as yet another in the succession of Kosovo invaders, in addition to the Ottomans. This perspective challenges the existence of the rich cultural and historical heritage of the Serbs in Kosovo, with frequent new historical interpretations that the monasteries were built on the foundations of Illyrian temples, and that the Serbian monks are “occupiers” of Kosovo/Albanian Orthodox monasteries.<sup>1</sup> Some of them are actually built on the foundations of the old temples, but “those were the remains of Byzantine-era churches, which is a phenomenon typical of the ‘Byzantine Commonwealth’” (Bataković, 2012: 17). Regardless of different historical perspectives, the aim of the Albanian myth is all the same – to delegitimize the other side and its “right to Kosovo”.

Duijzings (1999: 196) believes that the Serbian Kosovo myth is discredited by being manipulated for political purposes, “which have only accelerated the Serb exodus from Kosovo” and he recognizes that new generations do not attach great importance to this myth. However, one should bear in mind that the growing understanding that comes from the Serbian side concerning the right of the Albanians to self-determination, is connected with the necessity of protecting the rights of the

<sup>1</sup> “Ali Hadri” historians from Dečani.

Serbian community and their cultural heritage in Kosovo. In this context, the idea of a clash of civilizations is embodied in the post-conflict period. In a letter sent to the Serbian Orthodox Church by Dobrica Ćosić (2013), writer and prominent Serbian intellectual who was greatly interested in the Kosovo issue, he proposed organizing an international meeting at which the necessary protection of Serbian Christian heritage would be discussed “with the thesis that by the Albanization of this territory its religious and civilizational character will be changed, and thus the spiritual foundation of human rights” (Kosovo..., 2015: 216-218). In addition to the “civilization” moment, it is indisputable that the monasteries, along with the memory of the Battle of Kosovo, are central symbols on the basis of which Kosovo is deemed the cradle of Serbian nationhood (Arraiza, 2014: 5).

The broad exploitation of the Kosovo myth and its sacral character by the Serbs can take two paths in the future: the agreement of mythological interpretations “with the project of mutual convergence and the deheroization of the collective image of the past” or a myth as the foundation for national mobilization based on “the image of the Serbian nation surrounded by enemies and threatened by national renegades from the inside” (Čolović, 2016: 464). The choice between the two options is determined by the status of cultural heritage, where a possible threat to it could represent the permanent choice of another specified path. Committing to the similar paths awaits the Albanian myth as well. Therefore, addressing the issue of cultural heritage and reaching a compromise would remove the cultural and artistic dimension from the conflict between two rival projections of history. It would create the space in which the cultural diversity in Kosovo would be seen as an additional element of heterogeneity, fragmentation and incoherence in the Balkans.

### **Cultural Heritage in Post-Conflict Management – Normative Framework and Practice**

Ensuring the protection of cultural heritage is mentioned in almost all international documents related to the post-conflict organization in Kosovo. Annex 2 of the United Nations Security Council Resolution 1244 (1999) implies the return of the agreed number of FR Yugoslavia assets in order to maintain presence in the places of Serbian cultural heritage. However, this provision has never been put into effect, and the UN mission in Kosovo (UNMIK), as well as KFOR within NATO have taken on the obligation to provide protection for all major cultural assets.

An ethnically motivated protest took place as early as 2004 in which a valuable cultural heritage was attacked. During the attack, there was a “displacement of nearly 4,500 persons (primarily ethnic Serbs, Roma, Ashkaeli and Egyptians) and included direct and fearsome attacks against Serbian Orthodox monasteries and other religious buildings (more than thirty religious buildings were willfully

torched by angry mobs)” (Arraiza, 2014: 4). These events led to a change in the status quo and accelerated the process of gaining independence for Kosovo. The international community was obviously concerned that avoiding the resolution of the final status of Kosovo would lead to a new escalation of the conflict. That same year, UNESCO put four monasteries in Kosovo on the World Heritage List, treating them as “Byzantine-Romanesque ecclesiastical culture” within the territory of Serbia: the Dečani Monastery, the Patriarchate of Peć Monastery, the Gračanica Monastery and the Holy Virgin of Ljeviška and Prizren which suffered substantial damage during the unrest (UNESCO, 2004a).

In 2007, after a series of unsuccessful negotiations between Belgrade and Priština, the Special Envoy of the UN Secretary General, Martti Ahtisaari, presented a “Comprehensive Proposal for the Kosovo Status Settlement”. Although the proposal has neither been adopted by the Security Council nor accepted by the authorities in Serbia, it became the basis for both Kosovo’s independence in 2008 and the constitutional framework for the newly created state. The proposal entitled the “Ahtisaari Plan” in its Annex V makes references more directly to religious and cultural heritage. The role of the Serbian Orthodox Church was particularly highlighted, stating that “Kosovo shall recognize the Serbian Orthodox Church in Kosovo, including monasteries, churches and other sites used for religious purposes, as an integral part of the Serbian Orthodox Church seated in Belgrade” (Ahtisaari, 2007: Annex 5, Article 1). This proposal guarantees the inviolability of the Serbian Orthodox Church property as well as the impossibility of its expropriation, while the church retains its discretionary right to “exercise full discretion in the management of its property and access to its premises” (Annex 5, Article 1). International military forces were designated to train Kosovo police forces to maintain the security of religious sites (Annex 5, Article 3), and the Ahtisaari Plan (2007) included a comprehensive list of forty-three Protective Zones with the following aim:

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 (Annex 5, Article 4).

With its detailed provisions, the proposal’s goal was to normatively specify all the mechanisms of the cultural heritage protection, oblige political representatives of Kosovo to respect and improve the multicultural character of the society in the state-building process and, by using their power, prevent reoccurrences of any ethnically or religiously fueled attacks. The establishment of the Implementation and Monitoring Council (IMC), which ensured the participation of all the stakeholders,

as well as the adoption of the Law on Protected Zones (2008), the Law on the Historical Center of Prizren (2012) and the Law on the Village of Velika Hoča (2012) represent the direct implementation of the Comprehensive Proposal into Kosovo legislation.

Although the protection of the Serbian and the other minorities is guaranteed by the Kosovo Constitution (2008) and the adopted laws from the “Ahtisaari package”, the authorities in Priština have not done much to establish interethnic trust through direct implementation of the adopted norms. The main goal for the adoption of all legal proposals was the termination of the “supervised independence”, foreseen by the Special Envoy in the transitional period, as well as the satisfaction of direct requests by representatives of international institutions. As Lončar (2015) points out, the Albanian side saw the adoption of cultural heritage laws in a twofold way: as a framework of threats where the Serbs and the Serbian Orthodox Church were presented as the main threat to Kosovo’s independence, and as a framework of independence, where the eventual failure to implement the proposed laws would affect the international position of Kosovo, thus preventing its full independence (*ibid.*: 419). With the expiration of the supervised independence, Kosovo continued to receive international attention through its inclusion in the EU integration process, where the status of and care for cultural heritage was “an indicator of Kosovo’s willingness to protect its own minorities” (Arraiza, 2014: 4).

The adoption of the Law on the Village of Velika Hoča (2012) and the Law on the Historical Center of Prizren (2012) was followed by great dissatisfaction originally coming from the local authorities, going on to mark the parliamentary debate. Arguments against the adoption of these legal proposals were put in the context of discrimination and equality, where the presence of the representatives of the Serbian Orthodox Church in the local Heritage Council was characterized both as discrimination against the citizens of Kosovo in general, but also as discrimination against other religious communities. Eventually it led to the questioning of the laws’ constitutionality and the controversial issue regarding the prefix “Serbian” as regards the Orthodox Church (Lončar, 2015: 415-418). The negation of a special form of cultural heritage protection continued in the process of the implementation of the adopted legislative proposals, so the Mayor of Orahovac refused to participate in public hearings organized by the Kosovo Assembly Committee on the Rights and Interests of Communities (Arraiza, 2014: 9).

During the process of applying constitutional guarantees and adopted laws, the Serbian Orthodox Church has encountered open problems with many municipalities in Kosovo. The Law on Special Protective Zones (2012) has been violated several times and there is a great danger that the irresponsible behavior of some local representatives will become an established practice of disregarding cultural heritage.

During the construction of a local road, the municipality of Orahovac entered the protected zone of the monastery Zočište without the mandatory consent of the Serbian Orthodox Church, providing no compensation for the seized land. Similarly, the authorities of the municipality of Peć continued with the construction of a pedestrian and bicycle path next to the monastery of the Peć Patriarchate despite the negative response of the Serbian Orthodox Church and the absence of a compromise solution in the mediation process (OSCE, 2014: 24-26).

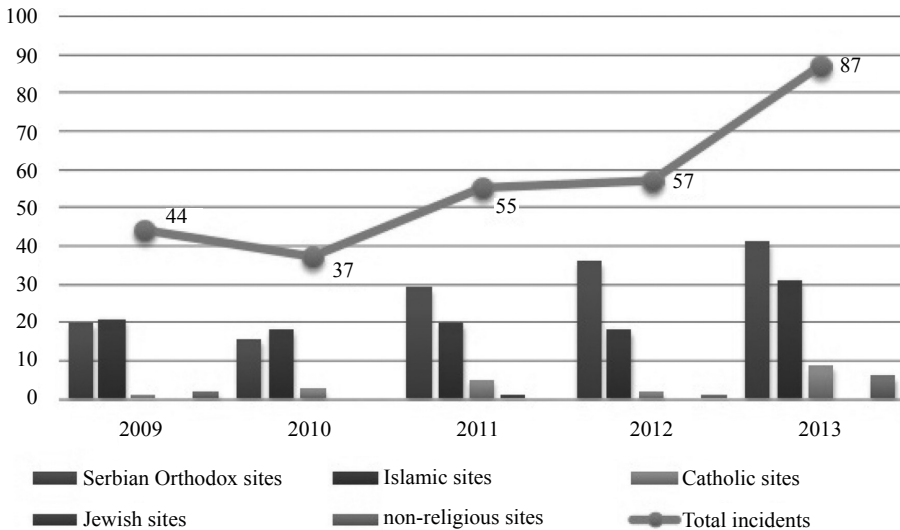
A particularly sensitive issue is the dispute between Dečani Monastery with the Dečani municipality and the Kosovo Privatization Agency due to the land located in the monastery's immediate vicinity. After many years of dispute, the Constitutional Court of Kosovo confirmed the Supreme Court's decision that the land belongs to the monastery (Carolan, 2016). However, the representatives of the Dečani municipality refuse to respect the decision of the Constitutional Court and prevent the monastery from using its land, and certain groups threaten with escalation of dissatisfaction. The obstruction to enforce the court's decision prompted the reaction of EU representatives in Kosovo who publicly called on the Kosovo authorities to respect the rule of law, stating that the "full implementation of the ruling should take place without delay" (EU Office, 2017).

The absence of interethnic trust and examples of endangering the cultural heritage made the representatives of international organizations the necessary factor in the field. International missions UNMIK and EULEX, together with various international organizations, have significantly contributed to building a post-conflict society and accommodating differences, a path of dependence was created in which both the Albanian and the Serbian side, along with international representatives, reinforce their walls of mistrust. This is especially noticeable in the case of relations between the Serbian Orthodox Church and the local and central authorities in Kosovo.

The first facet of this path of dependence is the lack of desire to communicate directly and to find a compromise, as international representatives are there to mediate, and often initiate talks. Another characteristic is the lack of responsibility, where the stakeholders easily engage in conflict situations, perceiving a compromise as a sign of weakness, and the international community as a scapegoat. Araiza (2014: 8) also speaks of the third negative consequence, stating that both sides avoid implementation processes and conflict resolution mechanisms in an effort to solve a particular problem directly with "powerful stakeholders such as U.S. representatives, the EU and other international community actors".

Although the international presence has a limited scope of action, it is needed until the issue of cultural heritage comes out of the political framework of interethnic misunderstanding. EU representatives have a special role in the Implementation



**Figure 1.** Security-Related Incidents at Cultural Heritage Sites 2009-2013

Source: Kosovo Police.

and Monitoring Council, while the OSCE mission in Kosovo, originally conceived as the third supporting pillar of UNMIK, currently has the role of technical expertise and dedicates an increasing number of programs to religious and cultural heritage protection initiatives. During the monitoring process, the OSCE Mission noted several challenges to the preservation of cultural heritage, primarily reflected in the legal framework which had not made a clear division of responsibilities among the various institutions whose task was protecting cultural monuments. Apart from that, the failure to integrate cultural heritage into local spatial plans was also noted, along with the combination of “limited capabilities of staff and a lack of political commitment” in ensuring full protection, and finally, the failure to protect the cultural heritage of the Serbian Orthodox Church from illegal construction (OSCE, 2014: 24-28).

A visit by Kosovo’s top officials to Serbian cultural monuments during Orthodox holidays sends a message of reconciliation and the possibility of cooperation between different communities (The Office of the Prime Minister, 2015). A positive step forward is also the establishment of a special police unit trained to ensure security for the most vulnerable sites of cultural heritage (Nikander and Zirl, 2016: 21). This is especially important considering the fact that from 2010 to 2013 there was an increase in incidents dominated by Serbian-Orthodox sites when compared to Islamic, Catholic and Jewish religious sites.

The main challenge in the following period is the harmonization of the legal framework for the cultural heritage protection with an implementation process. Relations between the Serbian Orthodox Church and the authorities at all levels are not free from political context, which is the reason why there is frequent non-implementation of the already adopted norms and agreements. One of the last examples, apart from the dispute over the land of the Dečani Monastery, is the reconstruction of the Holy Archangels Monastery near Prizren. Namely, the Implementation and Monitoring Council agreed that the Ministry of Culture would issue a building permit, but instead issued orders to suspend work and not use international donations in that way (*Novosti*, 2016). Such a kind of relationship, dominated by an open conflict, leads not only to increased ethnic distance among Kosovo communities, but also indirectly to the increase in security-related incidents at cultural heritage sites.

### **UNESCO Between the Political Demands of Belgrade and Priština**

Negotiations between Belgrade and Priština mediated by the European Union were initiated in 2011 with the intent of normalizing mutual relations. “The First Agreement Governing the Normalization of Relations” was signed in 2013 between the two prime ministers. The European Union acted as the mediator in the negotiations after the previous agreement that the topics of mutual importance would be brought to the negotiating table. The EU’s intention was to demonstrate the ability of solving problems in its own “backyard”, and the intentions of Belgrade and Priština were to accelerate the process of European integration by finding solutions to “concrete problems”, despite the fact that before the domestic public, both sides presented each agreement (regional representation, mutual recognition of university diplomas, customs seals, IBM passes, registries, cadastral records, etc.) as a political triumph over the other side. “The Brussels Agreement” showed Belgrade’s clear desire to provide autonomy for the Serbian community in Kosovo through the “Community of Serbian Municipalities”, and the interest of Priština to integrate the north of Kosovo where the Serbian majority lives (Brussels Agreement, 2013).

Not a single agreement between Belgrade and Priština so far has mentioned the status of and mechanisms for the cultural heritage protection. At the beginning of the negotiation process, it did not seem a controversial topic for either side. Belgrade was satisfied with the status of Orthodox sites which UNESCO protected as the cultural heritage of Serbia in the province of Kosovo, while the satisfaction of the Kosovo authorities stemmed from the view that the sites of the Serbian Orthodox Church were a part of the overall cultural heritage of Kosovo. Cultural heritage was not at all mentioned in the opening of Chapter 35 of Serbia’s negotiations with the EU, which regards Belgrade-Priština relations in the following period (European

Council, 2015). The political dispute over the cultural heritage was created only when Kosovo applied for full membership in UNESCO in 2015.

With the post-conflict period nearing the second decade, the interest of Serbia's citizens in Kosovo has declined significantly. The diplomatic fight against Kosovo's independence is no longer the main topic in the election campaigns of parties and candidates, and a recent study shows that the majority of Serbian citizens are for dialogue with Priština, avoiding any kind of armed conflict in the future (Belgrade Centre for Security Policy, 2017). However, the initiative for Kosovo's membership in UNESCO, apart from surprising the authorities in Belgrade, mobilized important social groups in Serbia to gather around the "No Kosovo in UNESCO" initiative.

The main fear is that for identity. More precisely, it is thought that by Kosovo's application for UNESCO membership, the monasteries of the Serbian Orthodox Church and the overall cultural heritage which constitutes a part of the Serbian ethnic and religious identity will be appropriated by the Kosovo Albanians and portrayed as the cultural heritage of the "Illyrian tradition", i.e. "Albanian" Kosovo, and not as the one belonging to Serbia and Kosovo as the holy Serbian land (Đorđević, 2015).

Secondly, institutionally wise, institutes from Belgrade in charge of cultural heritage and maintenance of cultural monuments have so far had the right to be consulted and give their consent to the Serbian Orthodox Church for restoration or any other changes on churches and monasteries in Kosovo. With UNESCO membership, the Kosovo institutions would receive the full assurance that they would care for the protection and restoration of the cultural heritage. The opinion of Belgrade is that "Priština does not have moral credibility for membership" due to all the attacks directed towards the cultural heritage so far, and also due to the Serbian monasteries in Kosovo still being on the UNESCO List of World Heritage in Danger (Permanent Mission of the Republic of Serbia to the UN, 2015).

On the other hand, since its proclamation of independence, the Kosovo Government has been leading an active diplomatic struggle for membership in international organizations. Their great desire to acquire full international subjectivity is hampered by Serbia's refusal to recognize the independence of Kosovo, but also by five EU members. Moreover, some big world powers like Russia, China, Brazil and India have not yet recognized Kosovo as an independent state. Therefore, there are several direct benefits Priština can receive as a UNESCO member. The application for membership in this UN organization is just one in a series of actions in search for greater international legitimacy. Furthermore, the institutions of Kosovo will be given the opportunity to take full responsibility for the care of cultural heritage in their territory. Finally, getting full international legitimacy in the care of cultural

heritage can remove the political dimension in the mutual relations between the Kosovo authorities and the Serbian Orthodox Church.

UNESCO has had a significant role in preserving the cultural heritage in Kosovo. Based on the 2001 agreement signed between Belgrade, i.e. the Coordination Center of the Federal Republic of Yugoslavia, the Republic of Serbia for Kosovo and Metohija and the Special Representative of the UN Secretary General, a request was sent to UNESCO for the protection of the Orthodox cultural heritage in Kosovo in accordance with the Hague Convention by “establishing the facts on the state of cultural heritage in Kosovo; proposing measures for the rehabilitation and renewal of destroyed or damaged monuments, primarily of medieval cultural heritage; proposing measures for the protection, preservation and full security of the cultural heritage in the territory of Kosovo” (UNESCO, 2004b: 8).

One year after a UNESCO mission visited Kosovo in March 2003, a decision was made that the Dečani Monastery be named a World Heritage Site. As early as 2006, the list saw the inclusion of the Patriarchate of the Peć Monastery, the Gračanica Monastery, and the Church of the Holy Virgin of Ljeviš as a group of historic edifices called “Medieval Monuments in Kosovo”. All four monasteries are on the UNESCO List of World Heritage in Danger, “due to difficulties in [their] management and conservation stemming from the region’s political instability” from 2006 until today (UNESCO, 2006). Alarmed by the resurgence of ethnic violence in 2004, at a donor conference organized by UNESCO together with the Council of Europe and the European Commission, a total of US\$10 million was collected for the protection of cultural and religious heritage sites in Kosovo (Nikander and Zirl, 2016: 21). UNESCO was actively involved in defining sites of special importance for the world heritage protected within the special zones according to the Ahtisaari Plan, and the case of Kosovo served UNESCO to define “basic principles on the protection of cultural property during armed conflict” (Hladik, quoted by Auwera, 2013: 12).

Although the Executive Board recommended accepting Kosovo before the General Assembly of UNESCO took place in November 2015, this was insufficient for Priština to claim another membership in an international organization. The majority, ninety-two states voted in favor, fifty voted against, but Kosovo needed 95 votes to gain membership in the UN cultural body, as it takes 2/3 support from all the members. Serbia considered this a moral and just decision, while the representatives of Kosovo emphasized that they would continue to fight (*The Guardian*, 2015). In light of Kosovo’s new possible application to UNESCO, at the General Assembly held in November 2017, Dimitris Moschopoulos, Greece’s former ambassador in Kosovo who assisted Priština in preparing the previous UNESCO membership application, explained that the Kosovo Government “failed to convince the

international community that it provides full protection to the Serbian religious and culture heritage in its territory” (Morina, 2017).

Another outvoting in UNESCO might result in further cooling of the relations between Belgrade and Priština, calling into question the continuation of the Brussels negotiations and preventing the implementation of the agreements reached so far. The acceptable solution is to put the issue of cultural heritage in the agenda for future negotiations so a compromise can be reached. At this moment, both sides are firm in their stance that the status of cultural heritage in Kosovo cannot be negotiated and that this issue has been settled. However, intense diplomatic efforts from both Belgrade and Priština prove that they want to avoid the negotiating table by receiving the majority international support for their position. The Kosovo Government will not achieve additional international legitimacy with UNESCO membership, since some UNESCO members such as Palestine, Niue and Cook Islands also have disputed status and are not UN members, “nor does it represent a clear gateway towards becoming a member of the UN” (Merki, 2015). On the other hand, there is still a great discrepancy between the legal, institutional framework for cultural heritage and what is implemented, which is why the Orthodox monasteries still remain on the UNESCO list of endangered places. Furthermore, if one disregards the attitude of Serbia, Kosovo should not compensate the lack of its international legitimacy by increasing the mistrust within the Serbian community in Kosovo and the representatives of the Serbian Orthodox Church. In the case of a lack of compromise, the Government of Priština will pay for its greater international recognition by the absence of the integration of the Serbs into Kosovo society. As the status of Orthodox sites is directly connected with the issue of identity, a unilateral decision can result in a permanently divided society.

Reaching an agreement with Kosovo also goes in Serbia’s favor as it has not had an opportunity to protect its cultural heritage in the field since the adoption of the UN SC Resolution 1244, and this protection can only be achieved by building a relationship of trust with Priština. Just as the issue of cultural heritage is a question of identity for the Serbs, so do the Albanians have a strong identity basis when it comes to the state-building process and sovereignty throughout the territory of Kosovo. Therefore, one should keep in mind that “identity is thus deployed in the service of political mobilization” (Auwera, 2013: 3). The absence of compromise negatively targets the cultural heritage sites, as in the eyes of the Albanian community they will permanently remain “symbolic emblems of the national identity of Serbia and consequently, Serbia’s sovereignty of Kosovo” (Defreese, 2009: 261).

## Conclusion

Kosovo has invested a lot in the post-conflict period in terms of providing legal protection for cultural heritage. The Ahtisaari Plan, the Constitution of Kosovo and the adopted laws represent the highest standards in accordance with international recommendations. However, the frequency of attacks on Orthodox Christian objects, as well as the lack of will among local authorities to implement laws, creates a gap between norms and practice. It seems that the constitutional design “a la Carte” does not yield the expected results, as the adopted package of rights under the pressure of international representatives lacks sincere acceptance of the cultural heritage of the Serbian Orthodox Church as the cultural wealth of all Kosovo citizens. With regard to special rights: “the Kosovo authorities primarily saw them as a stepping stone in the way towards independence and the Serbian Orthodox Church as a last chance to prevent attacks, disturbances and/or damaging urban developments in the vicinity of monasteries and other sites” (Arraiza, 2014: 8).

The unintended consequence of international mediation was the creation of a permanent cleavage between the Albanian majority and the Serbian minority. This cleavage is dominantly cultural in several aspects. While the Albanian side sees the cultural heritage as a threat to the state-building process, the Serbian community feels that its identity is endangered by the Orthodox cultural heritage itself being endangered. Furthermore, what the Serbian community also sees as a threat is the hampered implementation of minority rights, and finally the unfavorable position in the development of culture due to life exclusively in rural areas (after the conflict, North Mitrovica is the only city with dominant Serbian population, but its urban development is insignificant when compared to the southern part of the city where the Albanians comprise the majority).

The cultural, artistic and religious dimension of the heritage remains unseen, the same way UNESCO is not perceived as the Educational, Scientific and Cultural Organization of the UN. At the core of political misunderstanding and cultural cleavage is the myth of “historical right to a territory”. For the Serbs medieval monasteries are the key proof of two facts: “the Serbs’ level of civilization and their past presence in the province” (Herscher and Riedlmayer, 2000: 110). For them, Priština’s control over these sacred places is unfair and immoral as it represents the loss of identity and endangerment of the national founding myth. The Albanian side sees the cultural heritage as a threat to Kosovo’s independence, a symbol of Serbia and its claim that Kosovo is “the heart of Serbia”. Aware of the international pressure and the undeniable artistic values of the Orthodox heritage, claims about the “Illyrian roots” of religious objects emerge, about the Orthodox, but not necessarily Serbian cultural heritage, as it entails the “historical right to the territory”.

Leaving the Pandora's box of "the right to the territory" myth and the one regarding the undisputed sovereignty of the countries behind, we reach the crucial significance of the cultural heritage at the level of human rights. The work of UNESCO and international practice "has removed cultural heritage from the exclusive control of national sovereignty" (Francioni, 2003: 1228). Cultural sites are the property of all humankind, and if they are threatened, the international level of its protection can be opposed to any sovereign authority. Belgrade and Priština should find compromise on this matter and forever remove the political dimension from the cultural heritage.

## REFERENCES

- Arraiza, Jose Maria. 2014. "A Matter of Balance. Cultural Heritage, Property Rights and Inter-Ethnic Relations in Kosovo", in: *Seminar on Property and Investment in Jus Post Bellum*, Grotius Centre for International Legal Studies, 1-18.
- Assmann, Aleida. 2011. *Duga senka prošlosti. Kultura sećanja i politika povesti*. XX vek. Belgrade.
- Auwera, Sigrid Van Der. 2013. UNESCO and the Protection of Cultural Property during Armed Conflict, *International Journal of Cultural Policy*, 19 (1): 1-19.
- Bataković, Dušan. 2006. *Kosovo i Metohija u srpsko-arbanaškim odnosima*. Čigoja. Belgrade.
- Bataković, Dušan. 2012. *Serbia's Kosovo Drama*. Čigoja. Belgrade.
- Čolović, Ivan. 2016. *Smrt na Kosovu polju*. XX vek. Belgrade.
- Ćosić, Dobrica. 2013. *Kosovo*. Vukotić media. Belgrade.
- Defreese, Michelle. 2009. Kosovo: Cultural Heritage in Conflict, *Journal of Conflict Archaeology*, 5 (1): 257-269.
- Duijzings, G. 1999. *Religion and the Politics of Identity in Kosovo*. Columbia University Press. New York.
- Dorđević, D. 2015. "Priština Otima Srpske Manastire Kroz Unesko?!", *Novosti*, July 18.
- Francioni, F. 2003. Beyond State Sovereignty: The Protection of Cultural Heritage as a Shared Interest of Humanity, *Michigan Journal of International Law*, 25 (4): 1209-1228.
- Herscher, Andrew, and Andrés Riedlmayer. 2000. Monument and Crime: The Destruction of Historic Architecture in Kosovo, *Grey Room*, 1 (1): 108-122.
- Judah, Tim. 2008. *Kosovo: What Everyone Needs to Know*. Oxford University Press. New York.

- Lončar, Jelena. 2015. Cultural Heritage in Kosovo: Strengthening Exclusion through Inclusive Legislation, in: *Figuring out the Enemy: Re-Imagining Serbian-Albanian Relations*, edited by Aleksandar Pavlović, Adriana Zaharijević, Rigels Halili, and Draško Gazela Pudar. Belgrade: 409-427.
- Merki, Gianna. 2015. "Kosovo in UNESCO?", *Politheor*, November 30. <http://politheor.net/kosovo-in-unesco>.
- Mileusnić, Slobodan. 2005. Spiritual Genocide – Cultural Catastrophe (Continuity of Church Demolition in Kosovo and Metohija), in: *Serbs on Kosovo and Metohija*. SANU. Belgrade: 53-61.
- Morina, Die. 2017. "Kosovo Mulls Renewed Bid to Join UNESCO", *Balkan Insight*, February 23; <http://www.balkaninsight.com/en/article/kosovo-mulls-second-unesco-bid-02-23-2017>.
- Nikander, Päivi, and Valerie Zirl. 2016. "Cultural Heritage Protection in Kosovo Building Blocks for Peace", *Security Community; The OSCE Magazin*.
- Novosti*. 2016. "Priština zaustavila obnovu manastira kod Prizrena", October 12; <http://www.novosti.rs/vesti/naslovna/drustvo/aktuelno.290.html:629804-Priština-zaustavila-obnovu-manastira-kod-Prizrena>.
- Obućina, Vedran. 2011. A War of Myths: Creation of the Founding Myth of Kosovo Albanians, *Contemporary Issues*, 4 (1): 30-44.
- The Guardian*. 2015. "Kosovo fails in Unesco membership bid", November 9; <https://www.theguardian.com/world/2015/nov/09/kosovo-fails-in-unesco-membership-bid>.
- The Office of the Prime Minister. 2015. "Prime Minister of the Republic of Kosovo, Isa Mustafa along with the President Atifete Jahjaga visited Decani Monastery on the occasion of Orthodox Christmas", January 7; <https://kryeministri-ks.net/?page=2,9,4617>.

## Documents

- Assembly of Kosovo. 2008. *Constitution of the Republic of Kosovo (I-XXIV)*.
- Assembly of Kosovo. 2008. *Law on Special Protected Zones*. Pub. L. No. 03/L-039.
- Assembly of Kosovo. 2012. *Law on Historical Center of Prizren*. Pub. L. No. 04/L-066.
- Assembly of Kosovo. 2012. *Law on the Village of Velika Hoča*. Pub. L. No. 04/L-062.
- Belgrade Centre for Security Policy. 2017. "Public Opinion on the Security of Serbia and Dialogue with Priština". Belgrade.
- Carolan, Robert. 2016. Constitutional Court of the Republic of Kosovo, AGJ943/16 Judgment 1-18. Pristina.
- European Council. 2015. "European Union Common Position on Chapter 35". Vol. AD 12/15. Brussels.



- OSCE. 2014. "Challenges in the Protection of Immovable Tangible Cultural Heritage in Kosovo". Pristina.
- Permanent Mission of the Republic of Serbia to the UN. 2015. "Why Kosovo is ineligible for membership in UNESCO?" New York. Accessed May 14, 2017; [https://www.un.int/serbia/statements\\_speeches/non-paper-why-kosovo-ineligible-membership-unesco](https://www.un.int/serbia/statements_speeches/non-paper-why-kosovo-ineligible-membership-unesco).
- Radio Television of Serbia. 2013. "First agreement of principles governing the normalization of relations"; <http://www.rts.rs/upload/storyBoxFileData/2013/04/20/3224318/Originalni%20tekst%20Predloga%20sporazuma.pdf>.
- The European Union Office in Kosovo. 2017. "EU is concerned by a lack of implementation of Constitutional Court ruling on the land dispute case in Decane", April 20; [https://eeas.europa.eu/delegations/kosovo/24839/eu-concerned-lack-implementation-constitutional-court-ruling-land-dispute-case-decane\\_en](https://eeas.europa.eu/delegations/kosovo/24839/eu-concerned-lack-implementation-constitutional-court-ruling-land-dispute-case-decane_en). Access: 30 November 2017.
- UNESCO. 2004a. "Medieval Monuments in Kosovo"; <http://whc.unesco.org/en/list/724/>.
- UNESCO. 2004b. "Cultural Heritage in Kosovo: Protection and Conservation of a Multi-Ethnic Heritage in Danger". New York.
- UNESCO. 2006. "Decisions Adopted at the 30th Session of the World Heritage Committee". Vilnius.
- United Nations Security Council. 1999. *Resolution 1244*.
- United Nations Security Council. 2007. "Comprehensive Proposal for the Kosovo Status Settlement". New York.

*Mailing Address:* **Stefan Surlić**, Faculty of Political Science, University of Belgrade, Jove Ilića 165, 11000 Belgrade, Serbia. *E-mail:* [stefan.surlic@fpn.bg.ac.rs](mailto:stefan.surlic@fpn.bg.ac.rs)