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Kosovo's present challenges

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Table of content

Acknowledgement.....	2
Executive summary	4
List of abbreviations	5
Map of Kosovo	6
1.0 Introduction	7
1.1 Liberal democracy.....	10
1.2 Copenhagen criterion.....	13
Part 1: Domestic challenges.....	15
2.0 Political situation in Kosovo.....	17
2.1 Political parties in Kosovo.....	21
3.0 Challenges to the process of democratization	24
3.1 Kosovo's civil society.....	29
4.0 Economic situation in Kosovo.....	33
4.1 Barriers to economic development.....	37
4.2 Negative implications of the economic situation	39
4.3 Economic progress toward EU.....	40
5.0 Corruption	41
5.1 Organized Crime.....	44
6.0 Human rights.....	45
7.0 Challenges threatening the establishment of liberal democracy	48
Part 2: External challenges.....	53
8.0 Serbia	57
8.1 Northern Kosovo.....	58
8.1.1 Southern Serbia	59
8.1.2 Partition.....	60
8.2 Normalization of relations.....	61
8.2.1 First Agreement of Principles Governing the Normalization of Relations.....	63
8.2.2 Ahtisaari Plus?.....	65
8.2.3 Municipal elections in Northern Kosovo	67
8.3 What now?	68
9.0 The European Union	70
9.1 Stabilisation and Association Agreement	71
9.2 Copenhagen criteria.....	73
9.2.1 Has Kosovo fulfilled the EU's criteria's?.....	75
9.2.2 Additional problems for Kosovo's EU membership	80
9.3 Kosovo's relationship to the EU.....	83
10.0 Conclusion	84
Bibliography.....	88
Interviews in Kosovo.....	96
Notes.....	96

Executive summary

Kosovo is struggling in its attempt to develop into a liberal democratic state, and on its path toward EU membership. The rule of law has not yet been consolidated. Corruption is connected to the lack of economic growth, and is hindering domestic progress. The political system is made up by hierarchal, close- knit structures of power, and lacks clear ideological basis. This is hindering a real democratic process from taking place, along with the lack of transparency and accountability.

List of abbreviations

ASM	Association of the Serbian Municipalities
CIS	Citizen's Initiative Srpska
EU	European Union
EULEX	The European Union Rule of Law Mission in Kosovo
FDI	Foreign direct investment
FIFA	Fédération Internationale de Football Association
ICJ	International Court of Justice
ICG	International Crisis Group
KFOR	Kosovo Force
LGBT	Lesbian, gay, bisexual, and transgender community
NATO	North Atlantic Treaty Organization
NGO	Non Governmental Organization
OSCE	Organization for Security and Co-operation in Europe
UEFA	Union of European Football Association
UN	United Nations
UNMIK	The United Nations Interim Administration Mission in Kosovo
SAA	Stabilization and Association Agreement
SFRY	Socialist Federated Republic of Yugoslavia

Map of Kosovo



Source: Classroomclipart 2009, Kosovo, at, http://classroomclipart.com/clipart-view/Clipart/Black_and_White_Clipart/Maps/Kosovo_map_15Rbw_jpg.htm (accessed on 8 May 2014)

1.0 Introduction

Kosovo declared independence in 2008, and has since then tried to establish a state within the international system of sovereign states. Kosovo has to this date been recognized by 109 UN member states, including 23 EU member states.¹ Although a majority of UN members have recognized the Republic of Kosovo – including the United States, the United Kingdom, France, and Germany - many of the UN members have declined to do so, including Russia, which is permanent member of the Security Council and an old ally of Serbia.² Serbia's resistance to this act of independence has diverse motivations, but is grounded in the Serbian constitution of 2006, which declares Kosovo an integral and inalienable part of Serbia. It seems that this is, however, not the only problem, which prevents Kosovo from becoming a full member of the international community.

This thesis will look at different limitations affecting Kosovo, which potentially might obstruct Kosovo in its quest to join international organizations, such as the European Union. As presented above the challenges/ obstacles are found externally, but there are also domestic ones.

While the rest of post- socialist Europe was building political institutions in newly independent states, Yugoslavia fractured into half a dozen states, with war affecting the region for most of a decade, starting with clashes in Slovenia in June 1991 and ending with the Albanian insurrection in Macedonia in spring 2001.³ Over the last decade Kosovo has been passing through a fundamental transformation process. The domestic situation inside Kosovo involves unavoidable challenges. Whether Kosovo's politicians are actually trying to establish a stable liberal democratic system, may be contested, but there are reasons to believe that this is the case, widespread corruption notwithstanding. Domestic obstacles are hindering

Kosovo's attempt to be perceived as a liberal democracy. The accomplishment of a stable democratic system is crucial for Kosovo's future, both for domestic stability and for European integration.⁴ The politicians in Kosovo are trying to be perceived as liberal democrats internationally.

Kosovo's present domestic and external obstacles are the subject of this thesis. The method that will be applied to look at Kosovo's limitations is a comparative method. The research question to be examined in this thesis is:

What obstacles does Kosovo now face to fully become a member of the international community of sovereign states – and the European Union?

This thesis will examine Kosovo's barriers, both domestic and external, in the way for Kosovo to fully become fully accepted as a member of the international community of sovereign states, and enter the European Union. The following part of the introduction will define liberal democracy, and look at what such a system entails. The central argument of this thesis being that for Kosovo to become fully a recognized member of the international community, and to enter the EU, the prerequisite is to develop a liberal democracy. The other important part of this introduction is the Copenhagen criteria for integration into the European Union. The Copenhagen criteria have to be satisfied before negotiations for membership to the EU can begin, thereon Kosovo will need to fulfil these.

The first part of this thesis will look at the domestic situation in Kosovo, and the challenges it has to meet if it is to develop a liberal democracy. The main areas of focus of this part will be the political situation, civil society, the economic situation, corruption, and human rights. Kosovo is struggling to achieve a system based upon the rule of law, and due to a homogeneous political spectrum real democracy is

difficult to achieve. Domestic challenges are hindering Kosovo's establishment of a liberal democracy in the eyes of the international community, and are further hindering Kosovo's development both internally and externally.

The second part of this thesis will deal with Kosovo's external challenges. Kosovo has struggled in regards to achieving full sovereignty, and receiving full recognition, ever since its declaration of independence. The division in the international community, and the lack of consensus in dealing with the issue of Kosovo has created a hindrance for the participation on the international scene of sovereign states. Due to this, Kosovo's claim of statehood is contested. Kosovo thus finds itself in an unusual position of having been neither effectively accepted, nor rejected, by the international community at large.⁵ Kosovo has entered a grey zone of international politics, rather than assuming a recognized place in the community of nations.⁶ One of these problems is its non-membership in the United Nations. While many countries have recognized Kosovo, it cannot enter into the United Nations until Russia is prepared to lift its opposition.⁷ This part will also deal with its relationship to Serbia, and the first agreement signed in April 2013. The relationship between Kosovo and Serbia has had an unsatisfactory character, and has hindered Kosovo's ability to move forward.⁸ With Kosovo declaring independence, Belgrade has continued to insist that Kosovo is an integral part of Serbia. Simultaneously to Kosovo's attempt to move forward, Serbia is also in the process of EU integration. However, there are several problems regarding the inter-state relationship between the two entities. One of them is the issue of Northern Kosovo, which has created a division within Kosovar society. Serbia has held that it will never recognize Kosovo's independence.⁹ Finally, this thesis will look at Kosovo's relationship to the EU, and its prospects of becoming accepted as an EU member. Kosovo's progress toward

integration into the European Union is set in motion, but there are still both external and domestic challenges that need to be met before it is granted membership.

Kosovo's external challenges are closely connected to the domestic challenges, with both external and domestic challenges having an impact upon development toward the development of a proper liberal democratic state.

1.1 Liberal democracy

By definition, democracy means the rule of the people, and entails that citizens have a central part in governing of the state.¹⁰ Ramet defines democracy as, *“a system based on the principles of political choice and social tolerance.”* Democracy provides institutional protection *“of the legal, political and social equality of all adult citizens”*.¹¹ According to Ramet, the factors which are necessary in a democratic state are: multiparty elections, an uncensored press, the separation of powers, an informed public, and campaign funding from government, rather than from corporate sources. The inclusion of an informed public entails that people are in position to advance their perceived interests during elections and avoid voting for propositions that they would find unwelcome, and that the government and corporations not holding information back which is in their interest to know.¹² Along similar lines, Diamond, Lipset and Linz emphasise three essential conditions for democracy: meaningful competition among political parties for positions of government power, free and regular elections and civil and political liberties. These liberties include freedom of expression and press, and the freedom to join organizations – sufficient to ensure the integrity of political competition and participation.¹³ Schumpeter emphasises on the presence of political institutions that regulates and guarantee the roles of government and opposition.¹⁴

Schumpeter's notion of representative democracy emphasises the role of competitive parties, and that there is a selection of alternative candidates for office.¹⁵ Similarly, Diamond, Lipset and Linz hold opposition to the government to be a crucial element in a democracy.¹⁶ It is a crucial part of a democracy that there is a selection of alternative candidates for office, according to Di Palma.¹⁷ Political parties within a democracy should built diverse national support.¹⁸ There should exist a choice for the people in the elections between different candidates and different politics.

Another crucial element of a democracy is the economic situation.¹⁹ Economic growth is essential for a functioning democracy, which is both legitimate and effective.²⁰ Di Palma argues that economic prosperity is necessary in democracy, without which nations undertaking democratization fall short of qualities that have classically been associated with Western democracy.²¹ *"There is a strong relationship between the level of per capita income and the survival of democratic regimes"*, according to Ian Shapiro.²²

Zakaria argues that, for a democracy to be stable, it should also have a liberal character. Some democratically elected regimes are routinely ignoring constitutional rights, and depriving their citizens of basic rights and freedoms; he refers to them as illiberal democracies - in other words, political systems, which are defined not simply by free and fair elections, but by deficiency in the rule of law, lack of toleration, and a lack of a commitment to equality, or to the protection of basic liberties of speech, assembly, religion, and property.²³

Liberal democracy is a form of political rule that balances the principles of limited government against the ideal of popular consent, according to Heywood. Liberalism guarantees liberty, and citizens' protection against the state. This is assured in the constitution, along with the basic principles of democracy, as the

factors presented above.²⁴ According to Ramet, the liberal project involves the following factors: the rule of law, individual rights and duties, tolerance of difference in religion, life styles, and culture, respect for the harm principle,²⁵ equality, and neutrality of the state in matters of religion.²⁶ To ensure a liberal democracy, certain internal factors are necessary as seen here. As already noted, there needs to be a stable economy; a system based on the rule of law, separation of powers, the protection of liberal values, and transparent government institutions. Thus, Kosovo's attempt to now establish a liberal democracy entails more than simply arranging for elections. Moreover, as Inglehart and Welzel notes, "*one cannot assume that making democracy work is simply a matter of having the right constitutional arrangements.*"²⁷ Liberal democracy is a form of representative democracy that operates under the principle of liberalism. "*If a democracy does not preserve liberty and law, that it is a democracy is a small consolidation.*"²⁸

Liberal democracy is an important part of integration into the international community of sovereign states. Democracy is not simply a possible form of political government, but is rather seen as a way of life: the only way compatible with the present - more importantly a necessity to become included and fully accepted in the international community.²⁹ Feltes holds the process of democratization as a prerequisite for the effective functioning and long- term stability of any modern state and economy.³⁰ But as Ramet points out "*Kosovo would seem to have quite a distance to traverse before it can hope to have achieved a stable, liberal democracy*".³¹

1.2 Copenhagen criterion

The criteria laid out for potential EU candidates, and especially in the case of Kosovo can be defined as criteria for the establishment of a liberal democratic state. According to the Treaty of the European Union, Article 2, *“The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.”*³²

The Copenhagen criteria have to be satisfied before negotiations for membership to the EU can begin; this is confirmed in Article 49: *“Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union.”*³³ In effect, this means that potential members should have completed the transition and moved convincingly toward democratic consolidation. The EU requires a functioning civil society, which is essential in a liberal democratic state.³⁴ In addition to the political criteria of the Copenhagen, there is the economic criterion. The EU demands a functioning market economy, and the capacity to cope with the competitive pressure and forces within the Union.³⁵

While the criteria have been criticised for being too vague, additions have been made to the Copenhagen criteria. One of these changes was the inclusion of corruption, as it was seen relevant to the respect of the rule of law and the functioning of the market economy. Another change is the tightening of the requirement that the Copenhagen criteria must be met before accession takes place. The EU has moved away from a plain procedural condition of formal democracy,

according to Pridham. From just demanding the rule of law, separation of powers and free and fair elections, the EU now also demands the achievement of a substantive democracy. This includes the role of political parties as vehicles for political participation, the pluralism of the media, effective local government, and an involved civil society, as seen above.³⁶

To show the progress Kosovo is making toward European integration, the European Commission reports regularly to the Council of Europe and the European Parliament through a yearly Progress Report. There it analyses Kosovo's domestic situation in terms of the political criteria and the economic criteria. More importantly it reviews Kosovo's capacity to implement European standards.³⁷

Part 1: Domestic challenges

Kosovo has had a long transformation toward the domestic state system of parliamentary democracy it has today.³⁸ More precisely, it can be described as a corrupt oligarchy, which has huge challenges in the process of democratization and in its aspiration toward EU membership. While all administration had been held by Serbia, this has now vanished from large parts of Kosovo. Serbia kept de facto control over Northern Kosovo. This entails that Kosovo has been left without the common characteristics of the social and economic bases for democracy.³⁹

The democratic government is today reassured in the constitution,⁴⁰ but the idea of liberal democracy entails more than just free and fair elections. The establishment of a functioning and stable liberal democracy is crucial for the securing of certain rights and aspects of what now is considered to be a part of the democratization process. Kosovo has challenges in this process, especially with regards to corruption, which is a direct obstacle to both democracy and economic development. Success in these areas is necessary for Kosovo's progress toward international integration, Europeanization and eventually EU membership.

Parrot argues that the West European democracies have had a stronger impact upon the East European countries, than upon other states, due to the desire to become admitted to the European Union, and NATO.⁴¹ This is most certainly true when it comes to Kosovo, whose leaders say they are committed to Europeanization and eventually EU integration-, which are perceived as a solution to the present challenges.

Kosovo is facing large challenges in its road toward EU integration and visa liberation, which is considered as highly important in Kosovo.⁴² Kosovo remains the only country in the South East Europe whose citizens are not able to travel visa-free to the EU.⁴³ The progress Kosovo is making toward European integration is shown in The Progress Report; and its effort is in complying with the Copenhagen criteria and the conditionality of the Stabilisation and Association Process.⁴⁴ The purpose behind the Progress Report issued by the European Commission is to develop and strengthen communication concerning the challenges aspiring members are facing, and to recommend measures that the governments should take in the view of accession to the EU. The EU has set criteria for membership, and standards for democratic values – which entail that Kosovo achieves success in certain problem areas, such as engagement in the civil society, economic development, corruption, organized crime and the programmatic correct pluralisation of politics.⁴⁵

The Copenhagen criteria need to be fulfilled, and these will not be tackled in the near future. The problems Kosovo is facing today are deeply rooted in the state system. There are still challenges that need to be dealt with before Kosovo could be considered a liberal democracy. One major challenge is the widespread corruption which undermines the rule of law. Kosovo is still an unfinished state in many ways.⁴⁶ A number of Kosovo's burning political and social problems have remained unresolved.⁴⁷ In 2012, the EU declared that Kosovo was ready to start the Stabilization and Association Agreement negotiations after taking some measures regarding the rule of law, trade, public administration and protection of minorities. Kosovo and the EU started SAA negotiations in October 2013; this is scheduled to end by mid- 2014.⁴⁸

2.0 Political situation in Kosovo

During the period as an international protectorate (1999-2008) various roles were played by the international organizations deployed in Kosovo. This resulted in a complicated and awkward system of crossing responsibilities – and what Bebler describes as a legal limbo.⁴⁹ While the critique has been on their actual achievement, Kurti argues that the problem was not that the international protectorate was trying to impose democracy in Kosovo, but rather that the institutional structures imposed was not democratic from the outset. He describes it as a doubly authoritarian structure; a top- down command with no internal democracy inside UNMIK or EULEX. The international protectorate had absolute domination over all Kosovo institutions; they could remove ministers and annul laws passed by the Assembly.⁵⁰

Kosovo transferred some of its sovereignty to EULEX, which would monitor and supervise the newly independent state. This transfer was seen as an exchange for an independent state for the Kosovar Albanians. With the gradual devolution of powers, politicians of Kosovo have shaped politics regarding Kosovo. Günal suggests that Kosovo may be on the road to democratic stability. But the international protectorate situation involved restricted authority and autonomy of Kosovo's political actors.⁵¹ According to Silander and Janzekovitz, oversight by different international organs complicates politics even today, including popular representation. The international organs have the authority to override political decisions and legislation that are in conflict with the UN roadmap for democracy – building and human rights protection.⁵² Still it is important to note that Kosovo has achieved significant changes since the end of the war. It has its own constitution, institutions and political structures; political parties participate freely in national and local elections.⁵³

Kosovo has had four Presidents, although two have had to step down due to violations of the constitution. The current President in Kosovo is Atifete Jahjaga, who has been in power since 2011. Jahjaga is the first female head of state in any modern Western Balkan country.⁵⁴ There has been criticism that the President of Kosovo has a largely ceremonial role. Jahjaga is a product of the political parties and a group of internationals. Her position reaffirms the international community's power and authority in Kosovo, according to Besa Luzha, Professor Assistant at Prishtina University.⁵⁵

Politics in Kosovo has been centred on international recognition rather than the more crucial domestic challenges of sovereignty, territorial integrity and economic development. Kurti argues that the focus has been on acquiring recognition as an independent state, rather than on actually being independent.⁵⁶ The most important challenges in Kosovo are economic development, democratization, the weak civil society, corruption and the rule of law. To these one may add those concerning the issue of Northern Kosovo and the integration of the Serbs. Success in these areas is important for creating a domestically stable state, but also for encouraging the continuation of the international community's vital economic and political support – which is needed for Kosovo to maintain its system.⁵⁷

The political situation in Kosovo has affected citizens in terms of participation. As political institutions did not have enough authority to make important changes within Kosovo, many concluded that there was no point in voting. Citizens of Kosovo do not think they can influence the decision-making process.⁵⁸ As the citizens feel excluded from policy-making, including as regards the policies and the economy, the Government coalition has lost credibility with the public, according to Kurti. Much of

the discontent is also connected to corruption, lack of sovereignty and territorial integrity.⁵⁹

The ethnic division, involving segregation between the Kosovar Albanians and Kosovar Serbs is still present, and is hindering both the rule of law and democratic consolidation in Kosovo. Kosovo is facing large domestic challenges in Northern Kosovo which remains outside government control.⁶⁰ Northern Kosovo refuses to recognize and cooperate with Prishtina. Minority communities are guaranteed representation in the Parliament. The divisions of the 37 municipalities for local self-government are based on territories and not ethnic groups.⁶¹ As to political development, Pye argues that political development in general cannot advance far without a sense of deep identification with the total system.⁶² This is especially the case in northern Kosovo where many Serbs identify with Serbia and refuse to recognize Kosovo's state structure. This necessarily implies that the level of attachment to the Kosovo nation varies among the ethnic groups inside Kosovo.⁶³ Silander and Janzekovitz argue that until the ethnic and political divide between Serbs and Albanians in Kosovo is resolved, collective and popular representation will be minimal at best.⁶⁴

While institutions are in place in Kosovo, the domestic challenges in Northern Kosovo, and the problems related to rule of law, corruption, and economic development require political will and concrete strategies that are implemented. Kosovo has shown significant progress in building the institutions that it has today, but the path toward EU integration will be even more challenging.⁶⁵ Despite the constitution's description of Kosovo as a democratic republic, I would say that it is a corrupt plural system, with no accountability for the politicians. Democracy in Kosovo

only means that citizens have the freedom to vote. Today the political situation in Kosovo is an obstacle for the development of a liberal democracy.⁶⁶

The concept of liberal democracy was imported into Kosovo, and has not come naturally as in many other countries.⁶⁷ There has been a lack of priority of the development of democratic norms and values; this is affecting the fragmented political system in Kosovo today. The key figures in the political system are struggling to establish fundamental identity in terms of ideology and political vision, and the political system is considered to be fragile. It consists of a weak and poorly organized party system.⁶⁸ To secure a better functioning system, civil society needs to be developed – in order to make politicians accountable and to secure a transparent state. Civil society is a safeguard for liberal democracy⁶⁹

One of the obstacles Kosovo is facing with regards to developing an involved society is the lack of ability to have referenda. This prohibition is found in the Kosovar constitution, and is preventing the society from participation in the governing of the state, according to Besa Luzha.⁷⁰ One challenge in Kosovo today is to make the citizens feel ownership of the state and rules; citizens need to believe they can influence the political situation. The constitution and the president are both imposed by the international community. This could change if the Kosovar Albanians were given something of their own, such as a constitution or a president – which are both now in place by the international community. Citizens in Kosovo need to feel that they can influence politics, and that its not just the international community that makes important decisions, according to Ardian Arifaj, a political commentator.⁷¹

In the political arena in Kosovo the most influential actors are the top party members, the top officials of the international organizations residing in Kosovo, the top Kosovo bureaucrats and the US Ambassador. Politics in Kosovo is strongly

connected to US politics, and it is vulnerable to influence from the leading EU members. Other than these, Kosovo's political arena is also influenced by Serbia.⁷² Politicians in Kosovo are today under influence from the international community, and this leaves the politicians partly paralyzed in action.⁷³

2.1 Political parties in Kosovo

After the war numerous loosely formed political parties were created in Kosovo. Most of them had their origins in the national movement – and demanded independence for Kosovo, and were not based around any ideological basis besides this.⁷⁴ This is still prevailing when it comes to the political parties, with a majority of them still lacking clear ideological base and programs.⁷⁵ The central question has been the question of Kosovo's independence, and which party has played the leading role in this process. This has affected the development of the politics in Kosovo, as there is a clear lack of difference amongst the parties in ideology and economic programs.⁷⁶

Politics in Kosovo could be described as homogeneous.⁷⁷ The conflict amongst the political parties is rarely related to social and economic policies. As there is no real separation between the political parties ideologically or in programs this means that there is no real choice in politics.⁷⁸ The ideological basis has been, and remains, Albanian nationalism – with the issue of independence and recognition continuing to be the most central issue of focus. Societal and economic programs have come second. Few parties have actually demonstrated organizational cohesiveness or party policy direction.⁷⁹ Günal argues that the lack of ideological perspective is a deliberate act, and labels them “catch- all parties”. This label entails that their goal is to maximise support from all sides. Politics in Kosovo is centred on the personal quest for power, positions and privileges, rather than competition over

policies and programs. Due to a lack of clear political programs, the voters' preferences are influenced by the leaders' charisma and regional affinity –rather than politics. This situation is evident in the frequent transfer of members from one party to another.⁸⁰

The most influential political parties in Kosovo today are: The Democratic League of Kosovo, The Alliance for the Future of Kosovo, The New Kosovo Alliance, and Self- Determination. Some minor parties also play important roles in the politics in terms of influencing the composition of governing coalitions and decisions, including ethnic minority parties. In Northern Kosovo the most influential parties are the Independent Party, the Serbian List for Kosovo and Metohija, and Citizen's Initiative Sprska. All the main Kosovar parties defend economic liberalism, an open market economy, privatization and low taxes. Similarly the majority of them stand for a form of social conservatism and state secularism. Social conservatism is predominant, with the exception of the New Kosovo Alliance, which does not espouse negative rhetoric against abortion or same-sex marriage. Despite some small differences, the major parties support EU integration and Europeanization.⁸¹ There is almost no political spectrum in politics, all are situated within the centre-right of the European political spectrum. There is no substantive programmatic choice for the voters; hence politics in Kosovo could more precisely be described as superficial pluralism, according to Ramet and Simkus.⁸²

Sørensen holds that the Albanian parties are strongly connected to traditional loyalty structures, such as clan alliances, in some cases with strong regional bases. This leads politics to be characterized by relationships based on loyalty and a duty to return favours. Thereby, some benefits flow from the promotion of politicians. Sørensen classifies the political parties as “authoritarian pyramids of power”.⁸³ The

government can create all kinds of posts to accommodate its supporters, due to the lack of a law on government.⁸⁴ Kosovo today has the largest number of ministries in South Eastern Europe – this is a large financial cost and a challenge for the already struggling economy.⁸⁵

With the achievement of independence, the leading politicians in Kosovo expected a magical effect, with great improvements, especially in the economic sphere. As noted above, the politicians in Kosovo continue to nurture unrealistic and exaggerated expectations about the effect of recognition, rather to focus on domestic development.⁸⁶ Politics in Kosovo has in its frame of reference fixed upon the past – and has not looked to the future for development. The politicians have not been concerned about the implementation of policies of development. The evidence of this is found in the economy, which today suffers from existing policy; the lack of focus on the part of the politicians on development and actual programs has been associated with increases in unemployment in Kosovo.⁸⁷

International recognition and Europeanization are the main priorities of the government in Kosovo. This has put other subjects at second place.⁸⁸ Integration into the EU is the main concern, even if it entails a change in culture and values. This illustrates how acceptance from the international community and EU is of first priority for all in Kosovo.⁸⁹ The mistake here is, according to Kurti, that while some other states are improving the rule of law, civic quality of life and institutional democracy, politicians in Kosovo act as if they believe that all of this will follow if the country gains EU membership. But it is these problems, which are hindering Kosovo's European integration. More importantly, these problems are blocking the development of a liberal democracy inside Kosovo.⁹⁰

The political situation in Kosovo today is hindering the process of democratization, and the rule of law. Politicians in Kosovo are unusually corrupt. The close connection between politicians and organized crime is a major obstacle for successful democratization and economic development today.⁹¹ The lack of transparency together with corruption is hindering the democratization of institutions. The challenge Kosovo is facing is to make the institutions work for the people – instead of in the ruling group's interest.⁹²

Sörensen argues that the political parties in Kosovo cannot be considered democratic in the conventional literal sense, because of the lack of ideology and bridges to social groups in the society.⁹³ Ramet and Simkus call this superficial pluralism. The lack of competing ideological programs and a wider spectrum of discussion in politics is discouraging the participation of the population.⁹⁴ For liberal democracy to take root, there needs to be a greater level of political support from the population. A lack of support indicates that the political system does not work well. While most people in Kosovo support democracy, they do not agree on the democratic performance of the current regime.⁹⁵ The current homogeneous situation also entails that people in Kosovo lack ideological perspective. This and corruption are the biggest political obstacles in Kosovo's process of democratization.⁹⁶ A differentiation of the local electorate and combating corruption are both important for Kosovo to develop a normal democratic system.⁹⁷

3.0 Challenges to the process of democratization

As already seen, the development of democracy is hindered by the political situation in Kosovo, but Woodward identifies two other obstacles, viz. the national culture and the legacy of the Yugoslav system. The cultural argument is connected to the

tradition of politics based on clan and family structures. This and the history of blood feuds are hindering Kosovo from moving forward as a liberal democracy. Woodward holds that Kosovo lacks in both economic and social bases for democracy to develop.⁹⁸

The transformation which has taken place in Kosovo from the old system to “democracy” does not necessarily mean that it’s successful, as the political situation in Kosovo demonstrates; the system in Kosovo can rather be called a corrupt polycephalous oligarchy. In order for democracy to be consolidated – this entails stabilization and the effective functioning of the basic institutions of the new system. As noted, there has been a lack of priority of the development of democratic norms and values. There should be a process of adapting behaviour and attitudes that promotes liberal democracy. Most importantly, the democratic system should be accepted as the only game in town, if the politicians really want to bring Kosovo into the EU.⁹⁹ This means that democratic practices should be the only accepted method of resolving political disagreement and making decisions. The arbitrary use of executive power and other non- democratic practices should be regulated to the margins of politics.¹⁰⁰

Assurance of democracy in the constitution is not sufficient to guarantee democratic consolidation. The political culture of the population is important. One challenge Kosovo is facing in this regard is the lack of prior experience and the heritage of the old system.

The process of democratization and development of a liberal democracy is facing a challenge in relation to the old dynamic of ethnic separatism.¹⁰¹ The fact that Kosovar Serbs identify with Serbia is a hindrance for the promotion of democracy and for Kosovo’s state structure. The agreement signed with Serbia in 2013 could

further worsen the situation – with more sovereignty to the North and further separation. I believe that the focus should have been on integration instead of separation and more autonomy from Prishtina. This is a challenge to stabilization and effective functioning of the basic principles of the Kosovar system. In this way the process that has taken place after the declaration of independence has different levels of attachment within Kosovo, according to ethnic group.¹⁰² Kosovo's challenge is to integrate the Serbian population, as there now is a clear separation. The focus should be on integration, and learning to live together, according to Beza Luzha.¹⁰³

From the outset there were no EU or Western representatives in Northern Kosovo. According to Arifaj, this further complicates the situation, as Russia has had a great influence in the North. The Russians did not want Kosovo to join the EU, as it does not want that now.¹⁰⁴ KFOR is present in Northern Kosovo in order to maintain freedom of movement and to try to limit violence between the different ethnic groups.¹⁰⁵ Due to the failure to establish the rule of law in Northern Kosovo, the territory has become a haven for organized crime.¹⁰⁶

An essential state function is to represent the people, and for the people to be involved in the political process. Popular representation requires that the state engage with and respond to the citizens' needs and wants. Ethnically, Kosovo is a divided society. International presence is still necessary in Northern Kosovo to keep the peace. This situation reflects the serious societal and political division in Kosovo. While the Serb minority has reserved seats in the Kosovar Assembly, the participation rate has been low.¹⁰⁷ In 2010, when the first elections after independence were held, almost all the Serbs in Northern Kosovo boycotted the elections.¹⁰⁸ The Serbs in this region, with the largest enclave of Serbs in northern Mitrovica, have boycotted parliamentary and presidential elections in Kosovo, while

35-40% of Southern Serbs have participated.¹⁰⁹ It is believed that the UN and EU do not do enough about the separation that exists and Serbian policy in the North.¹¹⁰

While the 2013 Agreement between Serbia and Kosovo is a positive step for the two states to establish cooperation, it has further divided society. A solution for North Kosovo, and integration into Kosovo are important for the proper functioning of Kosovo. The Serbs in the North resist any cooperation with the Kosovar government, and Serbian leaders in the North have stopped communication with the Kosovar government.¹¹¹ A further provocation against the Serbian minority is the fact many of the signs in Kosovo are wrongly spelled in Serbian. They do have Serbian names on them, but the spelling mistakes are a problem. While many civil society organizations are trying to change this, it is still perceived as a provocation and does not encourage reconciliation and integration.¹¹²

While there are both laws to secure that there is no discrimination, and laws that provide for the integration of ethnic minorities in the society, many still refuse to participate. There is still a parallel situation in Kosovo. For example, Serbs do not need to learn Albanian in school.¹¹³ This is pointed out as an example of the further division of the Kosovo society, together with the fact that they do not go to the same schools. In small places they use the same building, but on shifts. The school curricula are also different, where both Albanian and Serbs textbooks present their own people as historic victims. This is a challenge for the future, and does not improve the situation for integration. This should change in order not to repeat history. The difference is, for example, that the Serbs view NATO's involvement and also UNMIK's as occupation, while the average Albanian sees it as liberation.¹¹⁴

For the Kosovar state to become consolidated the difference in support for key political institutions ought to be diminished. Due to the current situation where there

are large differences in attitudes between the Albanian and Serb population in Kosovo there are different views on how the polity works and how it should work.¹¹⁵ Northern Kosovo does not use Kosovo's state symbols or the flag on its official documents. With these actions the politicians in Northern Kosovo are violating the rule of law. Legal and political researcher, Dren Doli, believes that Kosovo made a mistake in signing the 2013 Agreement with Serbia.¹¹⁶ Northern Kosovo is now violating the constitution of Kosovo.¹¹⁷ Prishtina has failed in its attempt to implement basic rule of law and to assure safety for the people in the area.¹¹⁸

One of the problems often cited as an obstacle to both democratization and engagement in civil society in the case of Kosovo is the long domination of the clan system, where power has been held in a system based upon extended family and their leaders. While this system of patriarchal authority has gradually been consolidated, it is hindering the process of democratization, as it still dominates in both politics and society.¹¹⁹ According to Gusia, the patriarchal problem in Kosovo is easier to tackle than other challenges.¹²⁰ Arifaj holds that the patriarchal system is now becoming a part of liberal democracy.¹²¹ This is what Feltes is arguing, that the system needs to adapt to the democratic change inside Kosovo, and that its domination is hindering both democratic consolidation and people's engagement in civil society.¹²²

Due to the lack of prior democratic experience, Kosovo is facing an obstacle in developing a proper liberal democracy, and in achieving democratic consolidation.¹²³ While democratic consolidation has become a possibility in Kosovo, Coccozzelli holds that this not a certainty.¹²⁴

3.1 Kosovo's civil society

A functioning civil society is a crucial part of developing a liberal democracy, as it is considered both a precondition and a safeguard for liberal democracy.¹²⁵ It provides a society with the foundation to facilitate the building of a liberal democracy that eventually contributes to peace and prosperity in the region.¹²⁶ Many international reports hold the promotion and consolidation of Kosovo's civil society as the solution to the problems in the country. Civil society has become a cornerstone of the strategy in democratization.¹²⁷ The United Nations Development Program classifies a civil society to be *“an arena of voluntary collective action around shared interests, purposes and values distinct from family, state and profit-seeking institutions. It is a particular space in a society where people come together to debate, associate and seek to influence the broader society.”*¹²⁸

Silander and Janzekovitz have argued that the lack of historical traditions of popular engagement in democratic societal organizations or associations inside Kosovo is now evident in the lack of a clear civil society.¹²⁹ There might not be clear historical traditions of popular engagement, but the establishment of the parallel system led to the first development of NGO's in Kosovo.¹³⁰ Kosovo's civil society was at its height in the 1980-1990s when the goal was to resist the occupation and oppression by the Serbian state. The involvement at this time was done by the people and with an idea of a common identity, and what Luzha describes as “out of the solidarity of the Albanian population”.¹³¹ While this period is still described as an important experience for the civil society,¹³² the absence of clear traditions of civil society explains why Kosovo is facing challenges in establishing a functioning civil society now.¹³³

Parrot holds that the disadvantages associated with the lack of prior democratic experience are for the post- communist countries clearest in terms of the lack of human capital.¹³⁴ The lack of involvement and interests in the different political positions and the political apparatus overall has hindered the evolution of an active civil society in Kosovo- and as we have seen - a lack of an ideological basis.¹³⁵ The lack of public engagement in Kosovo is attributed to the fact that the focus has often been on other areas, such as the economy,¹³⁶ and the future as an independent state. The focus has been on narrow political agendas rather than on the overall domestic political situation. The lack of interest in influencing the political apparatus has, according to Silander and Janzekovitz, led the citizens of Kosovo to become politically disempowered.¹³⁷ Due to the prevailing factor of nationalism, which has pointed toward independence and recognition, and which civil society engagement was first centred around – democratic reforms have not taken centre stage.¹³⁸

Despite these negative views, Luzha describes civil society in Kosovo as active, both in political matters and in the promotion of liberal values. However, Luzha criticizes the international community for having forced the development of citizens' participation in independent associations – and not just being driven by what in the 1980-1990s was described as out of the idea of a common identity and out of the solidarity to the Albanian population. Civil society today consists of NGO's dealing with the reconstruction process, or cases such as EU integration, the development of EU standards, or Think- Tank NGO's, the latter being in opposition to the government. Civil society is characterized as being donor driven by the international community – and specialized in certain areas. Hence the international community imposes civil society and their area of focus.¹³⁹

Alban Bokshi and Besa Luzha hold that the involvements are based on donor support- and therefore are closely connected to international interests, and that the NGO's often act as they are told to act.¹⁴⁰ The development of the donor situation in the civil society comes from the difficulty of surviving as a NGO without funding from these international benefactors.¹⁴¹ This donor situation is making Kosovo's civil society weak. The democratic process still lacks the foundation that is needed to form an active independent civil society.¹⁴² Involvement in civil society is often used as a springboard into politics, and therefore threatens the idea of real engagement. Engagement in civil society is used as a starting point to get into politics. Young people create a name through civil society to then go into political parties. Many civil society organizations could be labelled more precisely as business civil society organizations.¹⁴³ Mostly, however, the civil society organizations are held to be politically neutral,¹⁴⁴ while it was also claimed by Feltes that some organizations are actually economically connected to specific political parties.¹⁴⁵

According to legal expert Alban Bokshi, this is not the biggest concern – as there are great differences in opinion and between organizations. The real threat he believes is the funding situation, which creates a lack of space for genuine civil society organizations in Kosovo; economically they are therefore connected to certain agendas or values. Today the situation is that civil society in Kosovo is in many ways not a model in itself for the values and cases the NGO's are promoting – this is however what they should be. Bokshi argues that Kosovo needs a development and change for it to be called a real civil society.¹⁴⁶

While the number of NGO's is big, politician Albin Kurti complains about real engagement and activeness.¹⁴⁷ New types of civil society organizations are now focused toward influencing politics,¹⁴⁸ with pressure for transparency from the

government and with the promotion of requirements of qualified people into governmental institutions.¹⁴⁹ Cooperation between civil society and the government is a positive development, as the NGO's then can have a better chance to influence the actual decision- making, and making sure that the politicians enforce the implementations. The problem has been that the civil society in Kosovo has remained rhetorical, with few actual changes despite the public critique of the government's actions.¹⁵⁰

This view is supported in the Progress Report, which holds that *“even when public consultations on draft legislations take place, follow- up is often unsatisfactory.”*¹⁵¹ According to the Progress Report, there needs to be an improvement of the level of cooperation, as an assurance of transparency and public consultation.¹⁵² In line with what the Progress Report holds, Civikos holds that, while the government has implemented many of the issues pointed at by NGO's, the problem lies in transparency and the actual enforcement. However, the development toward cooperation between civil society and government will take time, as Idrizi points out.¹⁵³

The Progress Report holds that there can be an improvement through a Strategy and Action Plan of Cooperation with Civil Society of 2013-2017.¹⁵⁴ In this way, the government is in some ways forced to improve the situation, not simply because of the implemented Action Plan – but also due to the EU's focus on this problem in the Progress Report.¹⁵⁵ There is a requirement in the Progress Report that holds that *“the central and local authorities need to improve cooperation with civil society, notably as regards defining and executing public policies.”*¹⁵⁶

With the involvement from the European community the Progress Report shows some improvements in the current situation. A task force on European

integration and the European Council on European integration have involved representatives of the local civil society in Kosovo.¹⁵⁷ Another challenge for Kosovo is the involvement of the smaller minorities in Kosovo, a action plan for the strategy for the integration of Roma, Ashkali and Egyptian communities was reviewed in 2013¹⁵⁸ – but together with the Action Plan for Civil Society the problem does not consist in making the government implement these plans, but in getting them enforced and carried out. The challenges Kosovo is facing in civil society are essential for tackling the development of democratic life.¹⁵⁹

4.0 Economic situation in Kosovo

Kosovo's economic situation is important for its future political status on the international scene, and for EU integration.¹⁶⁰ A liberal democracy also entails a functioning economy – so the economic situation is an important component in the development of such. It is suggested that advances in economic growth produce advantages in developing democracy.¹⁶¹ In Kosovo today, the economic situation is a major challenge for progress and the ability to move forward and secure future economic development.¹⁶² The European Commission's approach to the economic criteria for membership is guided by the Copenhagen criteria. It is essential that Kosovo fulfil these criteria in order to be accepted as a member of the EU. The criteria demand the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union.¹⁶³

For Kosovo, EU integration is connected to economic development and an improvement of the current situation; today the economic situation is a clear obstacle for membership.¹⁶⁴ The Stabilization and Association Agreement (SAA) was set up by the European Union exclusively for the Western Balkan countries in order to

address their European prospects and potential. The main objective is to further economic cooperation between the EU and the Yugoslav successor states by establishing a free trade zone and supporting stabilization within the given countries. The SAA could have great impact for economic development in Kosovo. The agreement is expected to be drafted by mid- 2014.¹⁶⁵ As there are members of the EU that do not recognize Kosovo, the EU as a legal entity will sign the SAA. The SAA does not mean that the EU or any particular member state recognizes Kosovo as an independent state.¹⁶⁶

Kosovo has been an underdeveloped agricultural economy,¹⁶⁷ which, as a part of Yugoslavia, was the poorest and most backward region. Kosovo had the highest rates of unemployment, illiteracy, and, lowest levels of educational attainment, the least infrastructure, and the highest birth rates. During the war of 1998-1999 most of Kosovo's industry was destroyed.¹⁶⁸ After the involvement of the international community the situation changed. The challenge lies in Kosovo's uncertain political status. This has made Kosovo unable to access international financial institutions and attract foreign capital from the outset of independence.¹⁶⁹ This situation has severely limited the process of economic recovery. Today Kosovo is a member of several international organizations and free trade agreements, despite the unresolved issue of diplomatic recognition: the IMF, the World Bank, the Central European Free Trade Agreement and now, recently, the European Bank for Reconstruction and Development. The prospects of the SAA are also promising in terms of economic development.

Despite the partial admission into international financial institutions, the economic situation inside Kosovo remains fragile; the problem is that it started from a low baseline of economic development. The economic situation today is connected to

Kosovo's history: the period inside the SFRY, the political and economic isolation during the Milošević years (1987-2000), the tension between the Serb and Albanian populations, and the unresolved issue of Kosovo's status.¹⁷⁰

The biggest challenges Kosovo is facing in economic terms today are the lack of economic development, unemployment and the trade deficit rate. While the growth rate is the highest one in the region, the Progress Report holds that this rate is fragile, and unsustainable over the long term.¹⁷¹ The rate is largely attributed to investment in reconstruction, donor assistance and remittance, these investments and the increasing private sector activities will become critical to generate growth in the future- especially in terms of improving the employment rate.¹⁷² Despite the high growth rate, the economy in Kosovo is experiencing a negative trend due to the trade deficit rate and corruption. Economic governance has to be improved to tackle the situation – both for progress in the international community and domestically to meet the needs of the citizens. While policy makers have not had their main focus on sustainable economic development, they are now under heavy pressure, as the situation needs to change.¹⁷³ The focus has been on enriching themselves, and on narrow political agendas of diplomatic recognition. They also need to deal with the black market economy that exists today – as this limits remittance to government for economic, welfare and social reforms.¹⁷⁴

Kosovo is one of the poorest countries in Europe, with a per capita GDP of about €2,800 in 2012. This makes the per capita income on the average about one – tenth of EU levels. The incidence of poverty remains high, and extreme poverty is high among ethnic minority households, the Roma, Ashkali and Egyptian communities.¹⁷⁵ Despite the negative statistics, poverty is not an obvious problem – due to the solidarity of social networks. Due to this informal support, poverty is not as

extreme, as it might be without such; and the idea of helping the community still stands strong in Kosovo.¹⁷⁶ Kosovo's ranking as one of the poorest countries in Europe is connected to its high unemployment and extensive corruption. Kosovo has one of the weakest employment records in Europe, with a rate of above 25.6% in 2012. For Kosovo's economic situation to change, and to improve the economy, the unemployment rate needs to be reduced. The reduction of this rate is an important component of economic development in Kosovo.¹⁷⁷

The Progress Report holds the general economic situation to be challenging due to unemployment. The same report holds that there is a mismatch between the skills needed in the labour market and those provided by the education system, and that the information about the labour market is scarce and patchy.¹⁷⁸ Demographically Kosovo has the youngest population in Europe. The labour market has been especially serious for the younger population and women.¹⁷⁹

Besides the high unemployment rate, the other economic challenge Kosovo is facing is the high trade deficit, which stands at 35.1% of GDP.¹⁸⁰ The current situation is that the trade deficit rate is a negative contributor to economic growth. Kosovo's exports have declined gradually, and the trade imbalance remains significant. Kosovo's economic situation would not change dramatically with a growth in export, according to the World Bank.¹⁸¹ This is because of the high level of imports – which has further deepened the trade deficit. The increase in the trade deficit rate is a result of the growth in imports.¹⁸² Due to the high level of imports there is a trade imbalance, with a low coverage rate. These trade indicators demonstrate the challenge Kosovo is facing with the poor economic situation.¹⁸³ The trade deficit rate reflects the underdeveloped and a remaining narrow domestic production base.¹⁸⁴ The sector of food and live animals for example is considered to be underdeveloped

and unable to compete on the international market. More reforms are needed from the government to transform this situation, and to improve the economic situation.¹⁸⁵

It is believed that, with the signing of the SAA, Kosovo will gradually experience a growth in exports, which in turn will slow the pace of the increasing trade deficit and will increase the coverage ratio. The EU plays an important role in Kosovo's challenges in the economic situation- especially in trade activities in terms of regional distribution.¹⁸⁶

4.1 Barriers to economic development

Kosovo's government faces the challenge of generating new sources of economic growth to improve the current situation- but also to improve the current climate inside of Kosovo. Due to barriers such as corruption, organized crime, and deficiencies in the rule of law, there are barriers domestically in terms of economic growth. This is a direct obstacle for the development of the private sector in Kosovo today.¹⁸⁷ Corrupt practices impede economic growth by creating direct barriers to open markets and hampering the relationship between the taxpayer and the state. The presence of corruption in government contracts remains the biggest threat to the business environment in Kosovo.¹⁸⁸ I believe that Kosovo will need to continue to focus its efforts on the strengthening of the rule of law to improve its economic growth outlook. Some progress has been made in regard to the improvement of the rule of law and in the business climate according to the World Bank.¹⁸⁹

Privatization has been a cornerstone in contemporary aid thinking, and has been seen as essential for Kosovo's economic transformation; the idea has been that the creation of a private sector will generate economic development, employment and attract foreign direct investment. The first obstacle was the dispute of the

process of the determination of ownership by Kosovo and Serbia. This halted the process- Serbia called Kosovo's privatization a robbery of the Serbian state and people.¹⁹⁰ The second barrier is that privatization in Kosovo is in reality not attracting FDI at the expected level. This process consists of corrupt practices, and is not creating employment. Most of the FDI goes to the banking sector, and construction; Kurti argues that these investments serve the purpose of money laundering. It is a challenge to make the privatization process benefit the economy; publically owned enterprises are being sold off, and, while the losses of these sales are absorbed by the state budget, the gains go into the pockets of private individuals. Politicians have been pocketing the gains themselves. The lack of transparency in government and in the privatization process is weakening the rule of law in Kosovo. The way the privatization process has been conducted is in itself an obstacle to the rule of law and the lack of laws on privatization is a barrier to economic development.¹⁹¹

As most of the political parties are politically conservative, they seek to further privatize.¹⁹² To overcome this barrier and secure the benefits there should be a system that looks at what would actually benefit the state economically – i.e., what would create more sources for development.¹⁹³ Today the public healthcare system for example is struggling while the private sector is benefitting from the situation. The privatization process has been wracked by corruption, and the politicians of Kosovo are gaining more than the state due to the policy system on privatization today and lack of transparency.¹⁹⁴

In the Progress Report issued by the European Commission it is highlighted that government capital spending has remained focused on highway construction at the expense of other needy sectors.¹⁹⁵ Not only was this a wrong priority, this is a process that is similar to the one of privatization; the construction of the highway to

Albania was arranged mainly for the politicians' own gain. It is common knowledge that the politicians received kickbacks on this construction project. According to Besa Luzha, program coordinator for the Friedrich Ebert Foundation, the more urgent needs that should have been prioritized include water and energy supplies for the citizens of Kosovo, but investments in highways was prioritized instead. This is a great challenge in Kosovo, with corruption in this of area.¹⁹⁶

4.2 Negative implications of the economic situation

One of the biggest challenges for gender equality, according to Linda Gusia, is the economic situation. This is especially in rural areas where the school drop-out rate is high among girls at an early stage – partly because the economic situation not allowing education for all children, and boys are given preference. The economic situation in Kosovo is an obstacle when it comes to gender and education.¹⁹⁷

What might be an even bigger threat to the development of Kosovo, both for EU integration and for liberal democratic values is that the economic situation is contributing to the radicalisation of Kosovar Muslims.¹⁹⁸ Local Muslims are increasingly rejecting everything to do with the west.¹⁹⁹ The religious situation inside Kosovo is changing, and it is attributed to the weak economy, according to Valdete Idrizi, the executive director of CiviKos Prishtina. Kosovar Albanians receive money from the Islamic world to become dedicated Muslims,²⁰⁰ or get scholarships to go to Muslim countries to study. The many scholarships offered by Muslim countries are more accessible than those of the west.²⁰¹ With the economic challenges people are facing in Kosovo, religion brings meaning to life. Partly this is a problem due to the economic situation, the other one being the isolation people are experiencing due to the lack of visa liberation.²⁰²

4.3 Economic progress toward EU

The Progress Report concludes that the determination in Kosovo to pursue market-oriented policies has been maintained and that reforms have accelerated in certain areas.²⁰³ Economic integration with the EU is held by the report to be significant, which is a promising outlook – the EU is the biggest investor in Kosovo.²⁰⁴ Despite the furthering of economic integration with the EU, companies are not in a position to compete successfully in local and international markets. As a part of the Copenhagen criteria a potential member state has to be able to cope with the competitive pressure and market forces within the Union. Domestically produced goods are supplied neither in the quantity nor in the quality that would make them successful in foreign markets. This is reflected in the high trade deficit rate.²⁰⁵

Economic progress is important for Kosovo's development. Kosovo's biggest challenge is to transform its advantages of human resources and natural resources into long term and sustainable development.²⁰⁶ Kurti argues that the government needs to focus on manufacturing to generate economic growth.²⁰⁷ The weak rule of law, the large informal economy and the underdeveloped framework are hampering Kosovo's economy.²⁰⁸

The provisions of the SAA are considered positive for Kosovo's eventual economic improvement. This is only in regards to the non- trade barriers such as enterprise reconstruction and social programs. The implications for the trade deficit rate and employment are negative. The increase in imports and exports will only be in a short or medium term. The trade deficit could deepen further if the economic conditions in Kosovo do not improve. According to Erëza Pula the SAA will not affect employment significantly, and might have a negative effect on many spheres of the economy.²⁰⁹

The situation today is that the trade deficit and the unemployment are negative contributors to economic growth – this is happening despite a positive trend in growth rates and the positive balance of payments. Exports have not reached the sufficient level to transform the economy, and the current growth rate is held to be unsustainable over the long term, which became evident in the decline in 2012. The steps taken by the government are not sufficient to generate employment or to tackle the current account deficit rate.²¹⁰ The lack of official government statistics in employment trends illustrates the lack of focus and attention by policy makers in Kosovo on this challenge. The solution is perhaps a shift in policy to tackle an increase in employment and economic growth.²¹¹ The economic development lacks a stable economic base, and more importantly it is argued that the critical factors will not be resolved until Kosovo's status as a sovereign state is recognized by Serbia and Russia. Silander and Janzekovitz believe that investment and economic development would be boosted by a wider recognition of Kosovo.²¹²

5.0 Corruption

Corruption and organized crime are a big obstacle for liberal democracy to develop in Kosovo, as they undermine the rule of law, and have been shown to have serious implications for democracies.²¹³ Corruption and organized crime are a threat to the stability and to the sustainability of Kosovo's institutions.²¹⁴ Corruption undermines the legitimacy of the state and the rule of law, and may weaken a state's ability to defend its system of values, especially where democratic consolidation has still not occurred, and where the rule of law is less secure. It can help to undermine the support of the regime –even if citizens might support the abstract concept of

democracy and the market economy, they have mistrust against the politicians and the state officials.

The fight against corruption and organized crime is a key requirement for EU progress. According to the World Bank, Kosovo's present capacity to fight organized crime and corruption remains limited, with a potentially severe impact on the EU's internal security. Furthermore the situation today is that corruption is an obstacle for a visa agreement with the EU.²¹⁵ The struggle against corruption and organized crime is a major challenge to the improvement of the political, economic and social situation in the country.²¹⁶

The law in Kosovo provides penalties for official corruption with an anti-corruption legislative framework. A new Anti- Corruption Strategy and Action Plan was adopted for 2013-2017. According to the 2013 Progress Report issued there are few cases referred to prosecution, and very few have resulted in filed indictments. Despite this, the Anti-corruption Agency is held to have sufficient capacity to perform its tasks.²¹⁷ As in many other areas in Kosovo, the problem is that the laws in place are not implemented effectively. Periskopi believes that the existing anti- corruption laws should be adequate to prevent or combat corruption, but they are not being implemented.²¹⁸ According to Kurti, the problem is that there is no prosecution of the biggest criminals; they are enforced only against the mid- level ones. This critique also includes the international community, as they have failed to act and prevent corruption at the highest level.²¹⁹ The international protectorate tolerated corruption to ensure short- term stability in Kosovo. This still has implications for its ability to tackle this challenge today.²²⁰

Civil society organizations have repeatedly complained about the situation, and have accused the government of not taking the fight against corruption

seriously.²²¹ When civil society or the media in Kosovo have gone public with corruption cases, the response from the international community has been advice “not to lynch political figures publically.”²²²

The widespread corruption of local political elites has led them to become the richest people in Kosovo.²²³ According to the Anti-Corruption Agency, nine government officials who have been in leadership positions since 2008 have shown marked differences in millions in their wealth over these four years. During their time in power, nine state leaders have become millionaires. Another 111 persons show a great-unjustified wealth, which is greatly disproportional with their annual revenues.²²⁴ It seems to be common knowledge that officials frequently engage in corruption practices, but due to the lack of transparency, judicial oversight, implementation of laws, and lack of law on privatization, these actions do not get punished.²²⁵ Today corruption is routine and standard – greed has taken over the political environment in Kosovo. Politicians benefit from being in power, and their relationship to businesses.²²⁶

While the international protectorate tolerated corruption, as Kurti holds, Dren Doli argues that the international presence has had a positive effect in terms of market-regulations; which has hindered what could be called low-level corruption. One example is that one cannot pay to get out of a speeding ticket.²²⁷ The police are also widely perceived as the most trusted rule of law institution in Kosovo.²²⁸

One of the problems in regards to fighting corruption and strengthening the rule of law is the lack of separation of powers in Kosovo. The government has too much power – which is a clear evidence of the lack of separation of power. The ruling party has too much, while the parliament has too little, according to Albin Kurti, a member of parliament.²²⁹ Corrupt practices are taking place in spite of the inclusion

of several acts of corruption in Kosovo's criminal code. One of the biggest concerns in the Progress Report is the implementation of the legal and policy framework. Where false declarations and conflicts of interests are treated as administrative offences, they should rather be treated as criminal offences. There is a clear lack of prevention of conflict of interest, where Kosovo has not followed up on advice from the EU.²³⁰

5.1 Organized Crime

Organized crime remains a serious concern in Kosovo, and there is not any concrete evidence of a fight against it. Kosovo remains a place of origin and transit for victims of trafficking for the purpose of sexual exploitation and begging. There is an increase in the number of under- age victims. Kosovo is also a transit and storage region primarily for heroin, involving local organized crime groups, and for trafficking of cannabis from plantations in Albania.²³¹ The Albanian mafia maintains control of smuggling routes through Kosovo, leading to Europe. Organized crime is continuing to be the most profitable branch of the economy in Kosovo,²³² and the fight against it still lacks clear results. The government in Kosovo has adopted a new strategy and action plan against organized crime, narcotics, and terrorism and against human trafficking. Still the rate of conviction remains low.²³³

The Progress Report holds that there needs to be an implementation of the policy and legislative framework set in place effectively to further prevent these crimes – one of the demands is further cooperation with the civil society in Kosovo. The current situation needs to be controlled, especially through border controls with seizure of narcotics. Furthermore, there needs to be a more effective response to witness intimidation, which is a high concern when it comes to organized crime. The

Report holds that considerations related to the status of Kosovo continue to influence international cooperation in the fight against organized crime.²³⁴

6.0 Human rights

Protection of human rights is an important prerequisite for EU integration, and for the establishment of a liberal democracy. As set out in the introduction, the liberal project embraces individual rights, tolerance of difference in religion, life styles and culture, respect for the harm principle, equality, the rule of law, and neutrality of the state in matters of religion.²³⁵ Liberal democracy entails certain liberties, which are at the core of human dignity and autonomy in civil terms.²³⁶ Kosovo's progress toward meeting the Copenhagen criteria also entails the requirement of human rights and respect for and protection of minorities.²³⁷ Kosovo is not a signatory to any human rights treaties or instruments due to its unresolved status. However, the constitution lists international human rights instruments, which are directly applicable in Kosovo and form an integral part of Kosovo's legal framework. Due to the lack of membership however, its reporting remains ad hoc.²³⁸

With the EU brokered agreement between Serbia and Kosovo, there is now a big opportunity to improve human rights protection. The lack of cooperation between Belgrade and Prishtina has hindered the prosecution of persons accountable for international crimes and violations of human rights – such as restriction of freedom of movement.²³⁹ Kosovo has had some progress in this regard on its own, with an established working group, which is set to deal with the past and with reconciliation; it is to address past human rights violations of international humanitarian law in Kosovo. However, there has been little real progress in this regard up to now. It is noted that there is a lack of political will, expertise and resources to address the issue

of missing persons in Kosovo. While the agreement with Serbia is positive, Kosovo is still at an early stage of investigating war crimes.²⁴⁰ For both Kosovo and Serbia it is essential to show that they are taking their human rights obligations seriously – to show their dedication toward EU integration. This includes working together for the accountability for war crime and post-war abuses. But more importantly, they need to improve their domestic human rights records in line with EU standards.²⁴¹

According to the Human Rights report of 2012, the biggest problems are found in Northern Kosovo. Due to roadblocks established by Kosovar Serbs, there is a restriction of freedom of movement and movement of goods – which is a basic human right.²⁴² Human rights violations on the protection of minorities have come to challenge the international vision of ethnic peace and stability in Kosovo. The failure to promote minority protection and integration will most certainly continue to obstruct reconciliation and peaceful ethnic relations.²⁴³ There has been no progress on Serbian- language instruction within the Kosovar curriculum. Serbian is still not available as a second official language outside areas predominantly inhabited by Serbs. Students from the Serbian community, and a majority of Roma and Gorani students have been enrolled in schools administered by Serbia. Implementation of the strategy and action plan remains weak and inconsistent in regards to the integration of Roma, Ashkali, and Egyptian communities. Non- majority communities continue to face major challenges in Kosovo, especially in terms of returning and integrating into the society.²⁴⁴

While this shows that societal discrimination against minority communities is of serious concern, this group also includes persons with disabilities, and members of the lesbian, gay, bisexual, and transgender community (LGBT), according the 2012 Human Rights Report.²⁴⁵ The LGBT community in Kosovo faces major challenges

with discrimination, threats and violence. This has even happened to the extent that a political party has voiced hatred against the LGBT community directly through conventional and social media.²⁴⁶ Kosovo's parliamentarians have called homosexuality a sickness.²⁴⁷ While legislation is broadly in line with international standards, Kosovo needs to focus on improvement of this situation. Violent incidents against the LGBT community need to be investigated and prosecuted according to the Progress Report.²⁴⁸

Gender issues in general are of concern, where domestic violence against women is a problem. While the law criminalises rape, it does not specifically address spousal rape. The 2012 Human Rights Report concluded that rape was significantly underreported due to the cultural stigma attached to victims and their families. Human rights problems in Kosovo also include corruption, trafficking of persons, which were dealt with previously in this thesis under the section of organized crime.²⁴⁹ Government funding of shelters of victims of domestic violence and trafficking is not sustainable. The Progress Report holds that the Assembly has yet not adopted legislation recognizing survivors of conflict-related sexual violence as civilian victims of war.²⁵⁰ Regarding this legislation there were problems in the Assembly, where some demanded that the status as raped needed to be checked before receiving the status as a civilian victim of war.²⁵¹

According to the Progress Report, the assembly has adopted a law on protection against domestic violence, as well as one concerning gender equality. There are seats reserved for women in the government, with 33% - and this standard has been fulfilled.²⁵² Still, women's representation in public and private sectors remains low.²⁵³

The key challenge for Kosovo is to improve implementation of the existing legal framework and enforcement of decisions remedying human rights infringements.²⁵⁴ Human Rights Watch has demanded that Kosovo protect minorities and ensure the full guarantee of the rule of law.²⁵⁵ While the human rights treaties are reflected in the constitution, and the incorporation is set in motion, cases are still not being referred to the courts. Human rights are not a part of Kosovo's culture.²⁵⁶ According to the Progress Report, Kosovo needs to focus on the implementation of the priorities of the feasibility study. Implementing legislation on the protection of minorities and cultural rights remains an important challenge.²⁵⁷ While Kosovo has accepted the international conventions on human rights, and they are enshrined in the constitution, the implementation of those rules has been problematic.²⁵⁸

7.0 Challenges threatening the establishment of liberal democracy

As this part of the thesis has demonstrated, Kosovo has large challenges to overcome in order to achieve a liberal democracy and integration into the EU. While progress has been made in the external dimension, in terms of membership in financial organizations and the process of SAA negotiation, Kosovo still faces substantial challenges to its state building ambitions. These include the upholding of human rights, and the fight against corruption and organized crime. While it is clear that Kosovo has attained a certain stage of statehood in terms of bilateral relationships with other states, the current levels of corruption and crime are hindering the development of liberal democracy.

An essential state function in liberal democracy is the rule of law. As noted previously, the rule of law in Kosovo is considered to be weak. Kurti holds that there are three things "attacking the rule of law" and making the challenge to improve the

situation bigger. First, there is stability, which consists as mentioned above of the problems Kosovo is facing in regards to prosecution of the biggest criminals. Kurti holds that Kosovo needs a shift from short- time stability to sustainable development- from crisis management to democracy and justice. Kosovo needs to change the dialogue with the EU in order to change the present character of the EU presence in Kosovo. Kosovo needs to move from the current situation of peace, security, and stability to justice, democracy, and development. The second attack on the rule of law, according to Kurti, is the privatization process. He argues that there needs to be an implementation of laws on privatization, a legal framework that protects the real interest of the Kosovar state. The third obstacle is the governmental republic; Kosovo needs a separation of powers. Today the government has too much power while the parliament has too little.²⁵⁹

Politically there is a clear challenge to the establishment of a liberal democracy, given the current state of popular representation consisting of a political elite without accountability. The homogeneous political situation is thus hindering a proper democratic state, as there is no real choice between politics for citizens. The political situation today is hindering the development of a proper liberal democratic state. There are no clear sanctions for not following rules, only implications for EU membership. But an important part of the political problem is the fact that the politicians today labour under pressure from the international community. It is also held that the international community's actions are more harming Kosovo's progress than helping.

The process of democratization is by no means finished, there is still a lot lacking. While Kosovo has had phenomenal progress in some areas, this has not taken place in institutions, nor in the promotion of values.²⁶⁰

The parallel system inside Kosovo, with the segregation of the Serb minority, is hindering Kosovo in being perceived as achieving a functioning democratic state in the eyes of the international community. Ethnic segregation is hindering the ability to provide security – which is considered an essential state function. The parallel system challenges the international vision of ethnic peace and stability in Kosovo. The division dominates Kosovo's politics, and further hampers democratization and economic reforms.²⁶¹

While there are laws integrating the Serb minority, both through non-discrimination and reserved seats in parliament, the Serbs refuse to participate in Kosovar society.²⁶² The failure of ethnic integration will continue to obstruct reconciliation and peaceful ethnic relations.²⁶³ Control in Northern Kosovo is important for making the Kosovar state function well. Resistance from the Serbian leaders in the North has stopped all communication. The clear resistance and separation is weakening the principle of the rule of law. More importantly, as previously mentioned, Northern Kosovo is violating the Kosovo Constitution.

Kosovo still is lacking certain rights and being isolated from the western world.²⁶⁴ The isolation of Kosovo is leading to growth in fundamentalism. Kosovo has always been between the east and west. The religious situation has been that most of the population are not religiously Muslims, while they are religious and observant of religious holidays the population has been relatively comfortable to more secular and pluralist views of religion. Kosovo has prior partly been pluralistic, and generally tolerant to different visions of religiosity. Now this situation is changing, with a radicalisation of Muslims around Kosovo. As Radical Islam Monitor In Southeast Europe holds; *“a steady process of introducing radical Islamist politics in Kosovo is*

*being gradually backed by a variety of Middle Eastern interests that have managed over the years to recruit a substantial number of adherents.”*²⁶⁵

Kosovo has been a secular society; with the focus being on nationality rather than religious affiliation, this situation is now changing. The pace of Islamization of Kosovo has accelerated, and some Islamic leaders are lobbying for more political influence.²⁶⁶ Now due to rejection from the EU, more and more young people seek contact with the east. Turkey, for example, provides travel visas and scholarships. The Arabic world is more accessible in terms of scholarships than the west. Islam recruits young people in many ways, and such requirement is becoming more frequent.²⁶⁷ Young people are more religious than the older generation.²⁶⁸

The rejection of the West that is taking place today is also connected to the economic situation inside Kosovo. People in Kosovo receive money and scholarships to convert to Islam, according to Arifaj.²⁶⁹ Scholarships and economic support from the Arabic world serve to encourage local Muslims to embrace a more conservative view on religion. Since the war, the Islamic community has had a grass roots approach to Kosovo, where the most vulnerable and hurt areas receive help. This has stimulated religiosity, and the actions have had a political agenda.²⁷⁰ Many Kosovar Albanians are fighting alongside Jihadists in Syria.²⁷¹ Radical Islamists are trying to get a grip on Kosovo; this could harm the process toward both liberal democracy and EU integration.

The isolation Kosovo is experiencing due to the lack of VISA and the economic situation is strengthening the appeal of radical fundamentalism. As noted by RIMSE: *“In essence, a territory in Europe which is being contested by the most extremist form of Sunni Islam will certainly find itself unable to integrate in both the EU and NATO.”*²⁷² Children in Kosovo do not remember the past, only the current

feeling of isolation and frustration. Due to Kosovo's isolation, radical Islam is the biggest challenge Kosovo is facing in the process of EU integration and the establishment of a liberal democracy. According to Linda Gusia, there is reason to be afraid of radical Islam in Kosovo. While Kosovo is dedicated toward EU integration and has always been western oriented, this situation can easily change.²⁷³

Part 2: External challenges

As of February 2014 there were 109 states that had given recognition to Kosovo.²⁷⁴ A total of 19 countries had established embassies in Prishtina; this includes Croatia, The United Kingdom, Germany, The United States, and France.²⁷⁵ There are several obstacles for Kosovo in the international community, but the most stressing one is the lack of recognition from two of the most powerful states in the UN, and five EU members: Cyprus, Slovakia, Spain, Greece and Romania. China and Russia, which are members of the UN Security Council, have not recognized Kosovo's independence.²⁷⁶

As part 1 illustrated, Kosovo has the institutions of a sovereign state, and has entered into the Stabilization and Association Agreement with the EU; but the disputed status ensures its suspension from many international organizations. Kosovo will not become a member of the UN before Russia lifts its veto, along with China. The probability for accession into the EU is limited by the five states that do not recognize its independence.²⁷⁷ As the International Crisis Group reported in 2010: *"None of the five EU non-recognizers have shown signs of changing policy, so Brussels will be unable to take a position on Kosovo's status. China and Russia would likewise continue to block Kosovo from UN membership, even if it were to achieve a majority in the General Assembly."*²⁷⁸

The opposition against Kosovo's statehood is hindering its participation on the international scene of sovereign states, and is creating an obstacle for domestic development. Domestically, non-recognition affects Kosovo's economic development, which as shown in part 1, is a huge challenge for Kosovo's further

domestic progress, also for the development of a liberal democracy. Externally, non-recognition on the part of Russia and China leaves Kosovo unable to join the UN. Serbia's decision not to extend recognition to Kosovo has complicated the relationship between the Balkan states.²⁷⁹

According to Behar Xharra and Martin Wählisch, further recognition is crucial for Kosovo's domestic development, with the non-recognition being an obstacle for economic development. One of the problems is that, due to the lack of diplomatic relations, domestic commerce documents are not recognized overseas. This leaves the Kosovar entrepreneurs without the ability to access markets.²⁸⁰ With the signing of the SAA in 2013, Kosovo will be able to liberalize its trade with all EU states.²⁸¹

However, the large challenge Kosovo is facing in terms of its lack of economic development is the trade deficit and high unemployment. These two will not improve without the ability to increase the level of exports. Even with a trade agreement with the EU, Kosovo will still be unable to access markets across the world. Non-recognition is directly affecting the trade deficit. The other hindrance is the lack of visa liberation, which leaves unemployed Kosovar citizens with limited options. Kosovar Albanians can travel to only five countries visa-free: Turkey, Albania, Montenegro, Macedonia and Haiti. Xharra and Wählisch hold that Kosovo is listed as one of the most isolated countries in the world. Due to the lack of consensus dealing with Kosovo's independence, the country does not have its own web IP address. According to Xharra and Wählisch this is posing a threat to internet banking, online purchases and national cyber security. Another obstacle for Kosovo, it the lack of its own postal code and telephone code. Today mobile phone calls are channelled expensively through Slovenia or Monaco.²⁸²

Kosovo is even unable to join international sports associations due to the lack of

UN membership, and recognition. The Fédération Internationale de Football Association's (FIFA) official records hold that a member nation must be "recognized by the international community". The Union of European Football Associations (UEFA) requires that the country is a member of the UN.²⁸³ Despite this, FIFA announced in January 2013 that Kosovo was cleared to play non-competitive games with other nations.²⁸⁴ There are various strings attached to Kosovo's participation: it cannot play against countries that constituted socialist Yugoslavia; there will be no anthems, no national symbols, and no flags. Kosovo's first ever FIFA-sanctioned non-competitive game was played against Haiti in March 2014 in Mitrovica. Serbia and Russia still oppose any suggestion that FIFA should officially recognize Kosovo.²⁸⁵

This illustrates the problems that occur due to the lack of recognition, and the difficult political circumstances that surround Kosovo's declaration of independence. Thus, Kosovo is experiencing isolation due to the lack of UN membership and recognition. The fact that Kosovo is only marginally accepted as a state in the eyes of the international community restricts both its development and its participation. As shown in part 1 of this thesis, politics in Kosovo has been focused on the issue of recognition rather than on more pressing challenges. Domestic development has been a second priority, with Kosovar politicians focusing on receiving recognition. However, there is no doubt the current situation has complicated Kosovo's ability to move forward, and has many negative consequences for the country. Frances Trix argues that the lack of clarity on Kosovo's final political status led to problems, especially in terms of the lack of rule of law, with which Kosovo is still struggling.²⁸⁶

Russia, along with Serbia, has held Kosovo's declaration of independence to be a breach of international law, and a violation of SC Resolution 1244(1999), which

established the UN mission in Kosovo. Russia claimed that Kosovo violated the sovereignty and territorial integrity of Serbia. Russia has argued that without a UN mandate, this act and the act of extending recognition are breaches of existing laws on recognition.²⁸⁷ The other counter-claim is that the recognition of Kosovo will trigger other secessionist movements across the world. Many of those opposed to Kosovo's independence fear that their minority groups could apply the right of self-determination.²⁸⁸ Due to the strong opposition against Kosovo's declaration, the UN General Assembly requested that the International Court of Justice give an advisory opinion on the legality of the declaration, i.e., whether or not it was compatible with international law.²⁸⁹ The ICJ was to answer: *"Is the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo in accordance with international law?"*²⁹⁰

The ICJ did not find any violation of general international law,²⁹¹ as it contains no applicable prohibition of a declaration of independence.²⁹² According to the ICJ, Resolution 1244(1999) had to be understood as intended to address the crisis that had existed in Kosovo in 1999. 1244(1999) was established to develop *"local institutions of self-government"*, and to stabilize Kosovo.²⁹³ Despite the ICJ's findings, Russia continues to reject Kosovo's independence, as do other states.

Russia reaffirmed its position on Kosovo in 2012, when Russian Ambassador in Belgrade, Aleksandr Konuzin, held that Russia would support Serbia.²⁹⁴ According to Putin, Russia's strong support of Serbia is rooted in the two states' history and bond. With regards to Kosovo, Russia will remain Serbia's ally.²⁹⁵ EU Commissioner Rehn claims that Russia's policy toward Kosovo is based solely on its own interests, and that is why Russia has prevented a Security Council resolution that would mandate Kosovo's independence.²⁹⁶ Sonja Biserko argues that the reason for Russia's

rejection of Kosovo's independence is that it seeks to prevent Serbia from joining NATO, and thereby prevent the Balkans from coming within the West sphere. Russia has an economic interest in the region, which it wants to strengthen.²⁹⁷ Russia's interest is to keep Kosovo out of the EU. Even if Serbia recognized Kosovo, Russia will not, due to its own interests in the region.²⁹⁸ The fact that Russia recognized the independence of South Ossetia and Abkhazia from Georgia in 2008 showed that Russia's support for Serbia with regard to Kosovo was not based on principles of international law, but was rather a instrument to resist and take a stance against the U.S. and other supporters of Kosovo in the western world.²⁹⁹ In the view of many Western observers, the responsibility for the "diplomatic train wreck" Kosovo now lies squarely with Russia.³⁰⁰ Russia vetoed the resolution on Kosovo, and with this prevented Kosovo from becoming a United Nations member.³⁰¹

8.0 Serbia

Kosovo's relationship to Serbia has been an obstacle to its ability to move forward and to become a full member of the sovereign states of the international community. Serbia's continued opposition to Kosovo's independence is hindering the country's progress. The EU has made a solution of the dispute with Kosovo a condition for Serbia's EU membership. Serbia needs to normalize its relationship with Prishtina. Hence, Serbia is pressured to give everything except a formal recognition in order to further negotiations over membership to the EU.³⁰² The Constitution of the Republic of Serbia from 2006, proclaims Kosovo as an integral part of Serbia.³⁰³ The constitution defined the hard-line Serbian position against Kosovo independence, and secures that future Serbian governments must follow the similar approach.³⁰⁴

While many Serbs left or were expelled from Kosovo in 1999, according to a study by the European Stability Initiative, around two thirds of Serbs who lived in Kosovo prior to 1999 have remained in Kosovo. Most of these have moved to Northern Kosovo, or to other rural areas with a majority of Kosovo Serbs. There has been an unsustainable situation in Kosovo, due to the separation of the Kosovar Albanian and Kosovar Serb populations. Serbia has kept control in Northern Kosovo ever since 1999.³⁰⁵ This has allowed Serbia to claim its continued sovereignty over Kosovo. The situation has hindered Kosovo's domestic development, and its progress internationally.

8.1 Northern Kosovo

Serbia has kept Northern Kosovo under its de facto control since the declaration of independence.³⁰⁶ Prishtina has not been able to exercise its authority, and EULEX has never been able to establish its authority beyond the river Ibar.³⁰⁷ Northern Kosovo functions autonomously within Kosovo, outside its administrative and political system, and is economically, socially, institutionally and politically more integrated with Serbia.³⁰⁸ Their actions in resisting Prishtina's authority are, according to Kosovar Serbs, a visible evidence of Kosovo's division and the collapse of the "multi-ethnic" society proclaimed by the UN.³⁰⁹ Serbs' lives are isolated from the Kosovar society, and the Kosovar institutions.³¹⁰ Prishtina's lack of control has kept the option of partition open.³¹¹ Northern Kosovo has a majority of ethnic Serbs, and is contiguous with Serbia.³¹² *"If Kosovo would ever to be formally partitioned, then the Ibar would be the border"*.³¹³ Both in Kosovo and Serbia the Kosovar Serbs are marked as a political marginal community, according to Florian Bieber.³¹⁴

Northern Kosovo has become one of the most complicated issues in the Western Balkans and South-eastern Europe; it creates distrust, disagreement and conflict. The issue of northern Kosovo could destabilize both Kosovo and Serbia, and affect the domestic situation in Bosnia-Herzegovina, Montenegro, and Macedonia.³¹⁵ Closing the issue of the North would help Kosovo to move forward with the state-building process, and rather focus on other challenges, such as democracy, economic development and the fight against corruption.³¹⁶

8.1.1 Southern Serbia

Since Kosovo's declaration of independence, Southern Serbia has gained a strategic importance for both Serbia and Kosovo. The Preševo Valley is a predominantly Albanian region, the inhabitants of which are unsatisfied with their position.³¹⁷ Before the drawing of the borders after the Second World War, this area was considered a part of Kosovo. Therefore, Albanians often refer to the area as Eastern Kosovo.³¹⁸ The region is considered unstable and the Albanian population is in a vulnerable position. Their position reflects Serbia's political agenda, and attitude toward Kosovo.³¹⁹ The instability of the Preševo Valley is a potential source of destabilization of Serbia, Kosovo and the wider region.³²⁰ The stability in the three regions in the South has been directly linked with the efforts to solve Kosovo's status. Biserko argues that the problem in this region will not be solved until Southern Serbia gets consolidated as a state. This implies Serbian recognition of Kosovo's independence. Preševo Valley has been a part of the Albanian question since the beginning of the Yugoslav crisis, and the Albanian population expected to be a part of the final settlement on Kosovo. But when Kosovo's status was dealt with, the question of Southern Serbia became a sore spot.³²¹

8.1.2 Partition

As a final solution on the issue of Kosovo, and Northern Kosovo partition has been suggested. Kosovo would hence be divided along ethnic lines with Kosovar Serbs getting Northern Kosovo, and Kosovar Albanians getting the southern part of Serbia.³²² Biserko argues that partition is a compromise between historical and ethnic rights, and hence the right of Serbian Albanians to unite with territories in which they constitute a majority.³²³

The failure to integrate Northern Kosovo into Kosovo is challenging the process of development in Kosovo. Kosovo needs a solution on the issue, for EU integration and for domestic improvements. The de facto division of the state is hindering democratization and the rule of law. The International Crisis Group held that the Athisaari Plan has so far *“been insufficient to secure the North’s integration or Kosovo’s international recognition.”*³²⁴ An agreement reached between Serbia and Kosovo in 2013 is intended to solve this issue, but its success is not certain. The ICG report sees a possibility of a territorial adjustment as a means to resolve the problem with Kosovo.³²⁵

The US has held that it will not tolerate any changes of Kosovo’s borders.³²⁶ According to the US the issue of Kosovo will not be reopened.³²⁷ Accordingly the idea of partition is rejected by a majority of the EU members and the US.³²⁸ Serbian Prime Minister Ivica Dačić held in 2012 that partition of Kosovo was the only real solution to the problem.³²⁹ The EU cannot force Serbia to recognize Kosovo, as the Union does not recognize Kosovo either.³³⁰

If Serbia is to continue to insist upon territorial autonomy for Northern Kosovo, it will have to prepare to grant the same to Southern Serbia according to Biserko.³³¹ According to Janjić, this kind of exchange of territories is unlikely as an option in the

current security and political circumstances.³³² Hamilton calls partition an “imperfect solution”; however, it’s a solution that might improve stability, and security the region. Partition would allow both Serbs and Albanians to live with a degree of normality, i.e., live without contact with each other.³³³

8.2 Normalization of relations

The only common ground Serbia and Kosovo have is their European future. The unsatisfactory relationship between them has been a direct obstacle for membership. Serbia and Kosovo need to experience a normalization of relations to eliminate one obstacle for joining the EU.³³⁴

The EU has requested a normalized relation between Serbia and Kosovo without any clear definition of what this entails of their relationship. The absence of a common approach to the normalization process makes the situation more difficult, and creates confusion. But, it does mean a solution for Northern Kosovo. After the signing of the First Agreement, Kosovo received a starting point for SAA negotiations and Serbia a date for the start of EU membership talks. This indicated that the EU saw the relationship as normalized, at least sufficiently to give them the above. With this, the EU demonstrated that Kosovo’s way toward EU integration is closely linked to success in the normalization of relations with Serbia. This implies that internal criteria are a second priority. SAA negotiations would not have begun if Kosovo had just met the domestic short- term criteria set down by the EU.³³⁵

The United Nations General Assembly Resolution 64/298 initiated the EU-facilitated dialogue of normalization that started in 2011.³³⁶ From the outset it was a technical dialogue, as Prishtina did not want to enter into a political discussion with Belgrade on any internal issues. This dialogue resulted in different agreements, but

the most important one for Kosovo's progress was its participation in regional organizations.³³⁷ While the ability to join in regional forums was a step forward for Kosovo, the agreement was severely criticised in Kosovo. Due to the terms of the agreement, it was seen as a direct step back for Kosovo's progress, and caused public unrest. Kosovo has to be presented officially with a footnote holding: *"This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Deceleration of Independence"*. Bajari argues that this footnote de facto undermines the constitution, and gives Serbia the right to a veto over Kosovo in international institutions. According to the former Foreign Minister, Skeder Hyseni, Kosovo can say farewell to EU membership if Serbia enters the Union first.³³⁸

While Kosovo by this agreement could participate in regional organizations, the full implementation of the agreement proved to be difficult. Despite the agreement, Serbia has refused to participate with Kosovar representatives present, and even left meetings in protest when Kosovars were in attendance. Due to the difficulty in upholding this agreement, one may entertain doubts on the more sensitive agreements reached on Northern Kosovo.³³⁹

In 2012, the dialogue evolved from a technical dialogue to a political one, reflecting that internal issues had been discussed from the outset; Northern Kosovo had always been part of the dialogue.³⁴⁰ The lack of transparency created fear and confusion. The Kosovar representative reported only once to the Committee, and agreements reached between Kosovo and Serbia were published only as press statements.³⁴¹ Serbia's lack of respect of prior agreements has provoked great distrust in Kosovo. The fear is that Kosovo will be left without advantages in the

agreements, without a UN seat, and under a continued blockade by the five EU countries.³⁴²

8.2.1 First Agreement of Principles Governing the Normalization of Relations

On 19 April 2013, Kosovo and Serbia signed the “First Agreement of Principles Governing the Normalization of Relations”.³⁴³ Lydia Gall held that “*The normalization agreement between Belgrade and Prishtina is a positive step toward peace and reconciliation in the region.*”³⁴⁴ The First Agreement mainly relates to the status of Northern Kosovo, and could be described as “Ahtisaari plus”. The agreement establishes a framework for the solution for Northern Kosovo. The 15-article agreement provides for substantial autonomy for Kosovar Serbs, while it will be within Kosovo’s legal and political framework. The agreement holds that Kosovar laws will be applied in Northern Kosovo. This is first and foremost an agreement on power-sharing where Serbia has a continued role in protecting the interests of the Kosovo Serbs.³⁴⁵

If fully implemented this agreement has the potential to be historic – and to remove the main obstacle for Serbia and Kosovo on their path toward EU integration.³⁴⁶ According to Dušan Janjić the agreement could serve peace, security, and stability to the Balkan region. It is seen as a promotion of cooperation, integration, and advancement of EU integration progress.³⁴⁷

Today the agreement remains an outline, with much work ahead if it is to be implemented properly. The overall goal is to create a single region called Northern Kosovo, which special rights where it will function autonomously within the Kosovar state in many areas.³⁴⁸ The core of the agreement is that Serbia will de facto assent to Kosovo’s territorial integrity, in the exchange for a supra-municipal structure of

Kosovar Serbs. The first 6 points of the agreement address the establishment of an Association of the Serbian Municipalities (ASM).³⁴⁹ This foresees the right of the Kosovar Serb community to establish an association of their own, for *“full overview of the areas of economic development, education, health, urban and rural planning.”*³⁵⁰ ASM will include the four municipalities of North Mitrovica, Leposavic, Zvecan and Zubin Potok.³⁵¹

The agreement eliminates the separate institutions that have previously been linked to Belgrade.³⁵² Serbia has the right to finance institutions of Serb municipalities, provided that it passes through Kosovo’s institutions in a transparent matter.³⁵³ Kosovar Serbs will abandon the idea of partition, they will in return be given the ability to exercise influence through the ASM. This agreement grants the Kosovar Serbs significant self- government; it can even be called full autonomy. ASM will have the function that it will diffuse the underlying territorial dispute, but it could have the negative effect of serving as a new source for political mobilisation of the Kosovar Serbs.³⁵⁴

The first agreement provides for the inclusion of the Northern municipalities into Kosovo’s legal system. Elections in the North will now be held under Kosovo law, and the institutions integrated into the Kosovo system.³⁵⁵ The second step will be to integrate Kosovar Serbs into Kosovar institutions. The process was to be set in motion after the municipal elections in November 2013; due to the establishment of ASM the participation of Serbs in this election is of great importance³⁵⁶ (only legal and legitimate municipal authorities may establish the ASM).³⁵⁷ The elections were to integrate the Northern municipalities under Kosovo law, and the local government system. The election was to be the first mutual recognition of institutional legitimacy between the central government and the Northern Kosovo municipalities.³⁵⁸ Kosovar

Serbs have received more executive powers in the area of police and judiciary, but it is to be integrated and operate within the legal framework of Kosovo.³⁵⁹ Kosovo's constitution has kept its position on the entire territory.³⁶⁰

8.2.2 Ahtisaari Plus?

The agreement is a compromise between Serbia and Kosovo, in which each has lost and gained something. Kosovo goes beyond the Ahtisaari Plan, the constitution of Kosovo and the Kosovo Assembly Resolutions. The Ahtisaari Plan was presented in Vienna as a painful compromise. The agreement reached in 2013 directly creates parallel structures with financial autonomy for Northern Kosovo. It is still not certain how this will work in practice, and what autonomy in the north will mean for Kosovo. Northern Kosovo will be treated differently from the rest of Kosovo, especially due to Northern Kosovo's financial autonomy. The agreement goes beyond the Ahtisaari proposal, Article 8.2, and creates an illegal and unconstitutional situation. The agreement will create a further separation of the Kosovar society, with the autonomy given to Kosovar Serb. With the autonomous character of Northern Kosovo the separation could deepen, if the ASM refuses to cooperate with Prishtina as is intended. The gain for Kosovo is that this agreement implements Kosovar formal sovereignty over the entire territory, and thereby confirms its functionality and sovereignty.³⁶¹

However, the agreement could complicate the domestic situation inside Kosovo, with Kosovar Serbs obtaining increased practical sovereignty. While western officials have emphasized that the solution will not be regional autonomy, as such could not be allowed under the constitution, it could lead to further separation. The

fear is that it will be a sort of partition of Kosovo, with a situation bearing a resemblance to that of Republika Srpska.³⁶²

The ASM might introduce dual governance in Kosovo, with a division along ethnic lines. While it is clear that Northern Kosovo needs a solution to secure stability and progress for Kosovo, the ASM is a major compromise for Serb integration.³⁶³ As Janjić holds, the issue of Northern Kosovo is about gaining control over the territory, where Kosovo and Serbia hold different positions on the solution. Serbia wants partition, and the First agreement could serve as a starting point for this. Kosovo seeks full implementation of control in Northern Kosovo.³⁶⁴

The progress of the implementation, and further agreements are crucial to secure an outcome that does not lead to partition. Further separation could become a threat to Kosovo's functionality. The ASM could create further friction and separation, instead of promoting reconciliation and integration as intended by Prishtina. If Northern Kosovo maintains a separate polity, it could signify the desire for partition.³⁶⁵ The next agreement with Serbia could hinder the normal functioning of the Kosovar state, with negotiations continuing to compromise Kosovo's internal functioning.³⁶⁶ There is a growing suspicion in Kosovo that Belgrade and the Kosovar Serbs are working together to prevent the consolidation of Kosovo's statehood.³⁶⁷

The Ahtisaari Plan foresaw a multi-ethnic society, but a full implementation of the agreement will be the end of this concept; as Kosovar Serbs will control education, health, justice, law and order, and economic development in Northern Kosovo. If the ASM refuses to cooperate with Prishtina, it will create further separation, and will be a step toward realizing Serbia's aspiration for a Serb entity within the state of Kosovo.³⁶⁸ Without cooperation, the progress that has been made

in normalizing relations could be reversed. Implementation will be difficult, and a final agreement between Kosovo and Serbia on the ASM has not been reached.³⁶⁹

8.2.3 Municipal elections in Northern Kosovo

The municipal elections in 2013, held under Kosovo law were a great test for the First Agreement and of EU's capability to impose stability. The Agreement held that the *"municipal elections shall be organized in the Northern municipalities in 2013 with the facilitation of the OSCE in accordance with Kosovo law and international standards"*.³⁷⁰ Following the election, Northern Kosovo's integration into Kosovo was supposed to begin. The first round of elections was boycotted, as Kosovar Serbs did not want to acknowledge the state of Kosovo.³⁷¹ Forceful intimidation of candidates and voters at the polling stations took place.³⁷² Due to the boycott, the elections had to be repeated. During this period, Serbia promoted participation, and directly founded and promoted Citizens' Initiative Srpska (CIS).³⁷³ The second round of the elections was successful, the CIS won nine out of ten Serb majority municipalities.³⁷⁴

Serbia encouraged Serbs to participate by fomenting patriotic sentiments with regards to Republic Srpska in Bosnia. The Serbian government's interest was in getting a date for the EU negotiations; therefore, it promoted participation in the municipal elections.³⁷⁵ As the CIS won the elections, Belgrade now fully controls the municipalities in Northern Kosovo. This influence will only increase after the national election in 2014. This could lead to a situation where the CIS takes all councillors in the ASM, without any opposition.³⁷⁶

It has been argued that Serbia's involvement and promotion of the CIS is an assurance of the ASM remaining in Belgrade's hands. Provocative statements from the Serbian Minister for Kosovo, Aleksander Vulin, only strengthened the doubts

concerning Serbia's role in the ASM.³⁷⁷ Candidates who wanted integration into Kosovo were marginalized and disadvantaged by Serbia's promotion of the CIS. Irregularities such as the arrest and assignation of the opposition among Serbian ranks and contenders in the Northern Kosovo have created fear and suggest significant challenges ahead.³⁷⁸

Through the indirect presence of Serbia in the ASM, Belgrade has obtained a legal political voice in Kosovo. Serbia's role in the ASM could have negative consequences, and lead to disputes about its role. Serbia used the municipal elections in Northern Kosovo to show its acceptance and willingness of integration of the Serbian community into Kosovo, to the international community. Simultaneously, Serbia supported the CIS, which refuses integration, and which is fighting for Kosovo's return into Serbia. Following the national election in 2014, and the establishment of the ASM, Serbia's influence in Kosovo could increase. Whether Belgrade really wishes to normalize relations remains to be seen. For its engagement and promotion of the election, Serbia elicited international support, and formally fulfilled its obligations for starting the EU- integration negotiations. The government and the OSCE declared the elections to have been successful, and held that Prishtina had proven that its statehood was accepted by most of the Serbs living in Kosovo.³⁷⁹

8.3 What now?

Due to the agreement, Kosovo was able to start the SAA negotiations. However, the agreement puts the Albanian interest too much in the background. It could complicate the situation even more, and create further separation. A successful outcome of the agreement would be that Northern Kosovo slowly integrates into the

Kosovar system, due to the establishment of the ASM. The agreement has still not delivered results, in terms of clarifying the position of Kosovar Serbs in the Northern area. The ASM is being set up during 2014; it is intended to dissolve all parallel structures in Northern Kosovo.³⁸⁰

Today it is still not clear if this will be the outcome, and if it will facilitate an interethnic dialogue inside Kosovo. It could encourage renewed ethnic mobilization, with partition once more put on the table. Many Serbs refuse to accept the agreement, and it has still not made progress in implementation. Kosovo depends upon high-level political pressure to implement the agreement successfully, especially before the elections in 2014. With upcoming elections in both Serbia and Kosovo in 2014, radical rhetoric is likely to increase in volume.³⁸¹ According to Agron Bajrami, one important consideration regarding the partition of Northern Kosovo that Serbia must keep in mind is that what is being sought for Serbs in Kosovo cannot be denied to Albanians in Southern Serbia.³⁸²

As implied by the name of the “First Agreement”, many others will follow. The second round of dialogue between Kosovo and Serbia began in April 2014.³⁸³ According to the authorities in Prishtina, the failure to implement the first agreement lies on Serbia. Judicial authorities were originally planned to be integrated into the Kosovar system by the end of 2013, but with the second round of talks taking place, this has still not happened.³⁸⁴

The scope of the aim of normalization of relations has now been significantly reduced. This perspective of a long-term negotiation process will have huge negative consequences for Kosovo, as it leads internal challenges to be a second priority. Kosovo’s domestic functionality should be given a higher priority than Serbia and Kosovo’s road toward the EU.³⁸⁵ The key objective of the dialogue is now for

Serbia and Kosovo to agree upon a solution for Northern Kosovo, which is satisfactory for the EU process of both.³⁸⁶ The process of normalization has now turned into a tool to aid Belgrade's EU aspirations.³⁸⁷

9.0 The European Union

EU membership is seen as essential for Kosovo's further domestic and international development. EU membership is believed to bring with it economic, political and security benefits, which are essential for Kosovo's challenges. Kosovo has clear domestic challenges to deal with before accession might start, but the EU has its own interests; the fight against corruption is of high importance along with the enforcement of the rule of law. It is in the EU's own interest to make Kosovo a success story and to secure a stable democratic state due to its geographical locations, as Judah notes.³⁸⁸ Due to Kosovo's problem with corruption and organized crime, a worst-case scenario for the EU would be a free trade zone for organized crime, traffickers and terrorists, and a return of conflict.³⁸⁹

The EU's main focus has been to encourage Serbia and Kosovo to focus on their European future; it has not sought to change the domestic situation inside Kosovo.³⁹⁰ Ahtisaari, Rohan, and Ischinger, who were the architects of Kosovo's independence, purported that Kosovo essentially was a European problem. In 2009 they wrote, "*The EU has the primary responsibility to turn (Kosovo) into a "success story". Regrettably the Union's inability to agree upon a common policy has not only weakened its role on the international level, but also become a major obstacle to determined action in the country itself.*"³⁹¹ They hold that the EU needs to develop a unified position, and Kosovo needs to be given a clear European perspective and help to meet the challenges.³⁹²

Since 2012, there has been an intensification of the relationship between the EU and Kosovo, and there have been important developments of a practical nature, which increase Kosovo's chances for accession into the Union.³⁹³ The process toward membership is set in motion; the triggering factor being the agreement with Serbia. The Commission and The High Representative of the Union for Foreign Affairs and Security Policy reported that Kosovo had met all short-term priorities set out in the feasibility study.³⁹⁴ The SAA is generally recognized as constituting the first formal step for these Balkan states toward EU membership.³⁹⁵

The SAA is an important milestone in Kosovo's European integration process. While this is a step forward for Kosovo, there are still great domestic and external challenges for accession into the EU. Besides the obvious ones of the Copenhagen criteria, and the relationship to Serbia, there are states within the Union, which do not recognize Kosovo's independence. These are obstacles Kosovo will need to deal with before it can integrate into the Union.³⁹⁶

9.1 Stabilisation and Association Agreement

In 2012, the European Commission declared Kosovo "largely ready" to start the SAA negotiations in the form of an EU-agreement, after taking some measures domestically, regarding the rule of law, public administration, the protection of minorities and trade.³⁹⁷ Kosovo was proclaimed ready to open the negotiations after the signing of the First Agreement; the European Commission held that Kosovo had addressed the aforementioned priorities.³⁹⁸ This once more confirmed that the external criterion is more important than the internal one. At least the short-term priorities were not sufficient on their own, signalling that the external criteria are more important than reform and implementation of the internal criteria. The "*Commission*

*considers that Kosovo has engaged seriously and constructively in taking steps toward a visible and sustainable improvement of relations with Serbia.*³⁹⁹

As a consequence of Cyprus, Greece, Romania, Slovakia and Spain's non-recognition, the EU itself still does not recognize Kosovo. All EU documents relating to Kosovo have a footnote regarding its status: *"This designation is without prejudice to position on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence"*.⁴⁰⁰ The lack of recognition did not constitute a legal barrier to the contract of the SAA, the Commission held: *"From a legal point of view, the EU can conclude a Stabilisation and Association Agreement with Kosovo, as per Articles 217 and 218 TFEU. A Stabilisation and Association Agreement between Kosovo and the EU can be concluded in a way that it respects the positions of Member States on the status of Kosovo."*⁴⁰¹

The EU confirmed that the SAA did not constitute recognition of Kosovo, by the Union nor by individual member states.⁴⁰² While none of the states took their political concerns to the point of vetoing the negotiations of SAA, they might take a firmer line when it comes to the ratification of the SAA. It is implied that the negotiations will be finished by spring 2014.⁴⁰³

The SAA agreement is an obligation that every potential candidate country needs to fulfil.⁴⁰⁴ The EU report from 2012 confirms that Kosovo needs to demonstrate both commitment and progress in several areas, such as the rule of law, the fight against organized crime, public administration, the protection of minorities, and trade.⁴⁰⁵ As part 1 clearly showed, Kosovo has large domestic challenges which need political commitment and a willingness to proceed with the implementation of policies. The obstacles Kosovo is facing needs to be overcome both for an EU future and to secure a liberal democracy. It is essential both for Kosovo's domestic

challenges and for EU membership that recommendations are implemented and enforced. As part 1 indicated, the implementation has not been the problem, but the challenge lies in actual change and enforcement of the laws in place. EU legislation and international standards should be implemented. Northern Kosovo is one of the more delicate problems, which still needs work and progress. Kosovo is obliged to protect minorities, and to promote a multi- ethnic society; i.e, Prishtina needs to create conditions for Kosovar Serbs to feel part of Kosovo's future and conditions for the return of persons who wish to do so.⁴⁰⁶

Kosovo will need to establish a free trade area where the four main Union policies are guaranteed, with free movement of goods, services and capital. Kosovo will further need to align its national legislation with EU rules, and cooperate more with the EU in certain areas; such as education, social affairs, culture and environment.⁴⁰⁷ While these are clearly set out areas of cooperation, there is uncertainty regarding the EU's role in the implementation of the first agreement in Kosovo. This is especially the case in Northern Kosovo, where the EU's commitment and active role are essential for a solution and to reach a level of success.⁴⁰⁸

9.2 Copenhagen criteria

The Copenhagen Summit in 1993 defined the general criteria for the integration of the countries of Central and Southeastern Europe, which wanted to join the Union. In the Treaty of Maastricht one single admission procedure was established. The European Union's fundamental principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law was thereon included by the Treaty of Amsterdam, which entered into force on 1 May 1999. This treaty codifies the essence of the first Copenhagen criterion. Potential membership candidates

should respect and fulfil these criteria to prove their capacity to take on the obligations of membership.⁴⁰⁹ As shown in the introduction of this thesis, these fundamental principles are also found in Article 49, which holds that *“Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union.”*⁴¹⁰ While Article 2 then holds that *“The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.”*⁴¹¹ Democratic countries, which want to join the EU, should respect and fulfil these criteria to prove their capacity to take on the obligations of membership.

The political criteria include that Kosovo needs to achieve stability of institutions guaranteeing democracy, the rule of law, human rights, and the respect for the protection of minorities. The economic criteria relate to the existence of a functioning market economy, and the capacity to cope with competitive pressure and market forces within the Union. Potential members need to implement EU legislation. There is also an additional criterion for the Western Balkans, coming from the 1999 Stability Pact for South Eastern Europe and the Stabilisation and Association Process, with a condition of regional cooperation and good neighbourly relations.⁴¹²

Normalization of relations between Serbia and Kosovo is an EU requirement, as seen earlier in this thesis. The EU has stated that this is not a new criterion for membership; good neighbourly relations have always been a demand for potential members.⁴¹³ While the SAA negotiations began after the signing of the First Agreement, there needs to be a further development of the relationship between

Kosovo and Serbia before accession can begin. Still Kosovo needs to fulfil the key requirements, and deal with the challenges presented in part 1 of this paper. In spite of the accession process that has started, Kosovo has large challenges to overcome before it can achieve membership in the Union.

There has been a critical shift of preconditions that need to be fulfilled for EU integration. Especially the concern discussed above, the external criteria will become more important than the internal criteria. While they both are criteria for EU membership, it seems more likely that the EU will focus mostly on the external criteria in the case of Kosovo. It even seems like the EU is going to demand more than good neighbourliness and good regional relations. With the promise of European integration, Kosovo could be lured toward compromise and normalization of relations.⁴¹⁴

Both the Council of Ministers and the European Council have to act unanimously when taking enlargement decisions. One state could stop the accession process, if it should believe that it might not be in its interest. The enlargement decisions are largely based on the Commission's reports, and the recommendations made. However, with the non-recognizers, Kosovo faces an extra challenge to its accession process. Potential members will only be permitted membership when it is judged that their accession will have beneficial consequences for the whole EU.⁴¹⁵

9.2.1 Has Kosovo fulfilled the EU's criteria's?

The European Commission issues a Progress Report yearly, which I have discussed in part 1. The purpose behind this is to develop and strengthen communication about the challenges Kosovo is facing, and recommend measures that the government should take in the view of accession to the EU. The government of Kosovo is

committed to EU membership, and has adopted laws to make accession into the EU a possibility. As shown in part 1, the problem for Kosovo is not the adoption of laws, but implementation and enforcement.

For EU membership, Kosovo will need to fulfil the Copenhagen political criteria, i.e., stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities. It also monitors regional cooperation and good neighbourly relations. Already in 2009, democracy, respect for the rule of law, corruption, and the protection of minorities were set as priorities for Kosovo's progress toward the EU.⁴¹⁶ As part 1 illustrates these are still the main challenges Kosovo faces today in terms of the political criteria, and in its aspiration toward establishing a liberal democracy. As these are direct criteria, and requirements for EU accession, Kosovo will need to demonstrate actual willingness and improvement in these areas before it can join the Union. Kosovo seems to have experienced a democratic setback in its efforts to build strong and independent institutions of democratic governance. There are several issues of serious concern, which could harm Kosovo's aspiration toward EU membership.

The 2013 Progress Report points to the Kiqina case, where the Assembly tried to adopt a decision interfering with the judicial process. In terms of administrative independence, Kosovo has made little progress since the EU reports began, especially in terms of financial and administrative independence. As clearly set out in part 1, corruption is hindering Kosovo's progress in both democratization and economic development. The lack of transparency and accountability is an issue of high concern, according to the 2013 Progress Report.⁴¹⁷ Corruption and political interference are hindering professionalism, and Kosovo will need to demonstrate

change in these areas. Overall, Kosovo will need to demonstrate actual change, and implementation of legislations in all areas.⁴¹⁸

In Freedom House's ranking, Kosovo has the worst indicators of judicial framework and independence, with a rate of 5.50 out of 7. Compared to other nations in transit, this shows the problems Kosovo is facing in this regard. It indicates that there is a low level of democratic progress.⁴¹⁹ Kosovo is ranked with 6.0 in corruption according to the Freedom House index. Compared to the nations in transit, it has a higher number than the average. It has the fourth worst index of European countries, with only Russia, Belarus and Ukraine worse in score. This is a bad indicator for eventual EU accession, especially since Kosovo has not demonstrated any progress since 2004 in this index. Kosovo also has the lowest level of democratic process and in national democratic governance of all European nations in transit. Freedom House ranks Kosovo as a semi- consolidated Authoritarian regime.⁴²⁰

Both the Progress Report and Freedom House's findings illustrate the challenge Kosovo is facing in regards to the rule of law, and especially in terms of corruption. The situation is of serious concern, according to the Progress Report. For Kosovo to be admitted into the EU, effective prevention of corruption at all levels of society needs to be given a higher priority. When Kosovo signed the SAA, the EU held that it had met the short- time criteria.⁴²¹ I believe, in accordance with the section on Serbia, that these domestic criteria were not as important as the normalization of relations. The EU's main concern was the normalization of relations. The lack of domestic progress illustrates this statement. When it comes to actual accession into the Union, Kosovo will need to demonstrate concrete action in enforcing the Copenhagen criteria. The only concrete action Kosovo has taken is the implementation of a legal framework that is in accordance with the EU's standards; it

has not demonstrated any actual enforcement or actions to improve the domestic situation. Kosovo will not be able to join the EU before changes are carried out, especially in fighting corruption.

Kosovo's main challenges according to the commission's report also include the situation in Northern Kosovo. The situation with a parallel structure has hampered the democratization process, and has been an obstacle to the consolidation of the rule of law.⁴²² While this can possibly change with the First Agreement according to the 2013 Report, I believe that success is not certain. According to the Progress Report from 2013, the First agreement "*represents a fundamental change in relations between the two sides.*"⁴²³ Much now depends upon the agreement on the ASM, and the implementation of it. In the 2010 Progress Report a key priority was that Kosovo needed to be able to deliver public services to the whole of Kosovo.⁴²⁴ The EU is rather optimistic in its view, and claims that the sustainable improvements of relations to Serbia have already led to a number of irreversible changes on the ground.⁴²⁵

To join the EU, Kosovo will need to have full respect for human rights. Kosovo will need to continue to cooperate according to the ad hoc agreements, and report to the UN treaty bodies and the Council of Europe on human rights. During the period that the EU Reports have been issued, there has been limited progress with regards to the promotion and enforcement of human rights.⁴²⁶ The main challenges lie in the protection of civil and political rights.⁴²⁷ The Progress Report of 2013 holds that Kosovo's key challenge in relations to human rights is to "*improve implementation of the existing legal framework and enforcement of decisions remedying human rights infringements.*"⁴²⁸ Kosovo's challenges in the protection of human rights lie in the freedom of expression, protection of minorities, freedom of assembly and

association, freedom of thought, conscience and religion, women's rights and gender equality, anti-discrimination, and in protection of the LGBT community.⁴²⁹

While much of Kosovo's legislation on human rights is in line with international standards, Kosovo's challenge is the implementation and improvement of the actual situation. For example there has been a lack of investigation and prosecution of violent incidents against the LGBT community, and in the protection of minorities and cultural rights – which remains an important challenge. Kosovo remains reliant upon support from the international community in the area of protection of the Roma, Ashkali, and Egyptian communities.⁴³⁰ The difficulty Kosovo is facing in regards to the protection of human rights is a great challenge for the development of a liberal democracy – but is also a direct hindrance for EU accession. It is a key priority for European partnership to have full respect for human rights. To secure success, recommendations from international bodies should be implemented.

The other side of the Copenhagen Criteria relates to the economic situation. Membership in the Union requires the existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union. As part 1 clearly showed, Kosovo does not for the time fulfil the EU's criteria – and it will most likely not do so for some time. Corruption and lack of clear political willingness and action are obstacles in the area of economic development. The high level of corruption in this area and the high unemployment are directly hindering membership. While foreign direct investment (FDI) is held to be the solution by the Kosovar government, this will not happen with the high level of corruption. In 2012, FDI even declined to the lowest level since 2005, according to the Progress Report from 2013. The weak rule of law and an underdeveloped policy framework have continued to hamper the economy.⁴³¹

For EU membership, Kosovo will need to demonstrate full compliance with EU standards. To estimate a time frame for this process is impossible, due to the many challenges and incalculable variables in play. Kosovo clearly does not satisfy the Copenhagen criteria. The Progress Report of 2011 describes Kosovo as far away from European standards.⁴³² When Kosovo signed the SAA, despite not having dealt with all challenges, it signalled that it understood that it will not receive membership until actual change has taken place. For Kosovo to fulfil the Copenhagen criteria there needs more than a legal framework implemented, there needs to be a radical change in the society, rolling back corruption and strengthening democracy and the rule of law.

Kosovo has a complicated relationship with the EU, as the Kosovar state is committed to accession, but at the same time lacks the political will to act upon recommendations. As the indicators from the Freedom House show, Kosovo has large challenges in its aspiration for EU accession. Due to earlier mistakes committed by the EU in early admission of members, Kosovo will need to demonstrate full compliance with EU standards. Bulgaria and Romania waited 12 years after their application for membership, but still this is perceived as too rapid. By too rapid accession the EU experienced difficulty in intervening in a country's internal politics once it has become a member.⁴³³ This means that Kosovo needs to demonstrate political acceptance and willingness along with enforcement of the recommendation to show progress in its aspiration to gain EU membership.

9.2.2 Additional problems for Kosovo's EU membership

With the difficulties Kosovo is already facing in its accession process, there are other factors which could delay it even more. For the EU, the goal behind accepting new

members is to maximise its benefits as previously explained. Due to Kosovo's domestic challenges and its small size, with few available resources, the benefits for the EU are marginal. Kosovo's membership to the EU is unlikely without domestic improvement, due to the costs in terms of political tension, weak democracy and corruption. There are few benefits for the EU to accept Kosovo as a member to the Union. For membership Kosovo would need to maximise the perceived benefits, and minimise the cost, i.e., fight corruption.⁴³⁴

In terms of getting accepted as a member of the Union, the clearest external obstacle is the resistance of states within the EU, which have not recognized Kosovo's independence: Spain, Greece, Slovakia, Romania and Cyprus. The five non-recognizers within the EU have prevented further advancement of Kosovo on the international scene, according to Arbër Vllahui.⁴³⁵ They have at least limited Kosovo's position in the relationship with Serbia. The position of the non-recognizers within the EU has weakened Kosovo's claim, and led to the lack of recognition from the EU as a legal entity. But the biggest obstacle is their ability to hinder Kosovo from joining the EU, if it by a miracle did fulfil the Copenhagen criteria. In order to be accepted into the EU, Kosovo needs full recognition and a consensus within the Union. This could then evolve into a situation where these five could block Kosovo's membership.⁴³⁶

The issue of Northern Kosovo and Serbia could prevent membership, and create several challenges for Kosovo in the future. While the First agreement gave the framework for a solution, its implementation has not taken place successfully at this time. The prospect for success is also limited, as Northern Kosovo seems to reject cooperation with Prishtina. The normalization of relations is essential for EU membership, as the Union clearly does not want to import internal security problems.

While Kosovo was allowed to start the SAA, the agreement with Serbia has not yet achieved success or a common ground of Serbia and Kosovo. While Kosovo describes the agreement as a de facto recognition of sovereignty and territorial integrity of the whole of Kosovo, Serbia holds that no such recognition has taken place, and that it's not an acceptance of Kosovo's independence. Success in the North is essential of Kosovo's road toward the EU. While Cyprus accessed to the Union at the same time when the authority of the government did not extend to the Turkish territory, the EU has made it clear that such a situation will not be permitted for Kosovo. Nugent holds that Northern Kosovo could stay an issue into a new generation of politicians. A solution might not be fully realisable until those currently in power are gone, due to their direct and bitter memories of the armed conflict- both governments have entrenched beliefs. While the EU has clearly had success in pressuring Serbia to sign an agreement, normalization of relations is not yet accomplished.⁴³⁷

Without the signing of the First agreement, Kosovo doubtfully would have received the SAA – this shows that its road into the EU is closely linked to Serbia. Periskopi argues that in the case of Kosovo and Serbia the EU seemingly has adopted additional criteria for integration- as it emphasizes the criteria of good neighbourliness and good regional relations more than it did in the case of Croatia-Serbia.⁴³⁸ It is further held that such a new criterion should not have been added, and Kosovo's way into the EU should be negotiated separately from that of Serbia. To prevent further problems in for Kosovo's road toward EU membership in the external criteria, the term of normalization should be defined, with a official time frame for this announced.⁴³⁹

9.3 Kosovo's relationship to the EU

Despite the lack of diplomatic recognition, Kosovo has started the SAA negotiations, it remains unclear if this agreement will be ratified by all of the Union members once it is finished. Non-recognition of Kosovo's independence could prolong the accession process even more. More stressing for Kosovo's citizens, if Serbia receives membership before Kosovo, it could block Kosovo from joining the EU. The EU has for now set aside Kosovo's domestic challenges, and chosen to focus on the external one, and the normalization of relations with Serbia. But it is certain that the Copenhagen criteria will serve as the basis for Kosovo's accession into the Union. Kosovo is the only state in the region, where the path toward EU membership is not based on a contractual agreement.⁴⁴⁰

EU has not fulfilled its promise to Kosovo, as it was led to believe that it would receive visa liberation for the technical dialogue with Serbia.⁴⁴¹ Originally the requirements for the SAA and visa liberation overlapped with each other. This is an indicator of the challenge it's facing in its aspiration to obtain membership and the difficulties, which lie ahead. While the domestic challenges were put aside for the SAA, it has not been put aside for the visa liberation.⁴⁴² This situation also shows the incomplete EU policy on Kosovo. As Arbër Vllahiu argues; *"it does not exist any clear vision of that Kosovo means to the EU, or what the EU means to Kosovo."*⁴⁴³

Kosovo has been told that EU membership is at least a decade away, according to Assembly member, Albin Kurti.⁴⁴⁴ Taking into consideration the challenges of corruption and lack of economic development, and the absence of a clear EU position and lack of recognition, this could be an optimistic view. There is clearly a need for large changes, both in Kosovar institutions and in the society. This

has been the case for other states in the region. As an example, it took twelve years between the application from Bulgaria and Romania to their accession.⁴⁴⁵

10.0 Conclusion

I argue that for Kosovo to become fully a recognized member of the international community, and to enter the EU, the prerequisite is to develop a liberal democracy. This is clearly set as a criterion for potential EU candidates, and it is in Kosovo's own best interest to function as a liberal democracy if it is going to be accepted into the international community. Kosovo has today no prospects of being admitted into the UN. Today there are 109 states that recognize Kosovo's independence. As this thesis has shown, Kosovo's disputed statehood is above all a political problem, and not a legal one. As Gary Wilson holds, Kosovo is in the unusual position of having been neither effectively accepted, nor rejected, by the international community at large.⁴⁴⁶

Kosovo's domestic challenges are a direct obstacle for EU membership. The implementation of EU legislation has started. Some recommendations have been followed up upon as shown in part 1, but the EU demands actual enforcement and a willingness to change. The main challenges lie in the same areas as in the establishment of a liberal democracy, the rule of law, economic development, and stable political institutions. An additional challenge to Kosovo's aspiration to gain EU membership is the lack of legal recognition from some of the members of the Union itself. However, it is clear that accession into the Union will not depend solely upon the EU; for membership in the EU, Kosovo will need to intensify its campaign against corruption and show progress on all the required criteria. It will take much time and effort for Kosovo to improve its record on the domestic aspects of EU requirement,

and not least, willingness for the politicians. So far, the requirements are not satisfied. To have any chance of achieving accession into the EU, above all, domestic change is needed. Kosovo is facing the challenge of becoming a state based on the principles of democracy, the rule of law and human rights. As Arbër Vllahui puts it *“from a country with EU aspirations and the international determination for development, Kosovo has become in the last two years exactly what it did not want to be, the ‘black hole’ in the Balkans”*.⁴⁴⁷

Kosovo is not a state based on democratic values, nor is it a system of parliamentary democracy despite the reassurance in the constitution. As Inglehart and Welzei note, *“one cannot assume that making democracy work is simply a matter of having the right constitutional arrangements.”*⁴⁴⁸ Corruption and the homogeneous political system are undermining the democratic system and the core foundation of a liberal democratic state. As noted in the introduction, it is not enough to be democratic, i.e., have free and fair elections. The political system needs to have a liberal character, which is defined by the rule of law, toleration, a commitment to equality, and the protection of basic liberties of speech, assembly, religion, and property.⁴⁴⁹ As Ramet argues, in line with Zakaria, elections are no guarantee of liberal democracy. She argues that elections held before the rule of law is established in a state, are a recipe for dysfunctionality, not for liberal democracy.⁴⁵⁰

Today Kosovo is better described as a corrupt polycephalous oligarchy. Democracy entails other crucial elements, such as multi-party elections – this has been realized only superficially in Kosovo where there is no real choice in politics. Di Palma holds that an important factor in a democracy is the existence of competitive parties, and a selection of alternative candidates.⁴⁵¹ I would say that it is a corrupt

pluralist system, with no accountability for politicians. The lack of separation of powers is hindering the development of a stable democratic state.

Corruption is undermining all functions of the state, and is a threat to the stability and sustainability of Kosovar institutions. As Ramet points out, corruption does not only entail giving private gain priority over public interest in the decision-making of corrupt office-holders, but it also creates an organic bond between corrupt office-holders and organized crime. This bond, as she holds, severely compromises the efforts to consolidate the rule of law.⁴⁵² Economic development will not take place until corruption is dealt with; this entails enforcement of the legal framework in place. To have a functioning democratic state, a certain degree of economic prosperity is necessary, according to Di Palma.⁴⁵³ Unemployment, poverty, and the trade deficit need to be prioritized if Kosovo is to move forward. According to the World Bank, corruption and bribery remain a key factor deterring companies from investing in Kosovo. Corruption is an obstacle to attracting investment, hence is a obstacle for economic development. The fight against corruption and organized crime is one of the key criteria for Kosovo's further European integration.⁴⁵⁴

Other challenges are the protection of human rights, ethnic separation and the ongoing radicalisation of Kosovar Muslims. Kosovo's key challenges are to implement and enforce the existing legal framework, especially to enforce decisions remedying human rights infringements. In order to ensure the development of a liberal democracy the focus should be on integration rather than segregation of the Kosovar Albanian and Kosovar Serb population. Much of the domestic situation inside of Kosovo is now depending on the establishment of the ASM. It also needs to secure an independent and active civil society. All of these are essential factors in the development of a democratic life.

Kosovo faces large challenges in the development of a liberal democratic state. It is of outmost importance that it accomplishes change and improvements economically and institutionally. Programmatic pluralisation in politics needs to be pursued, along with the establishment of the rule of law. It should secure a liberal character by guaranteeing individual rights, equality and the protection of human rights, all of which are essential for a liberal democracy, Kosovo needs to develop a political system, which is defined not simply by free and fair elections, but also the rule of law, toleration, a commitment to equality, and the protection of basic liberties of speech, assembly, religion, and property.⁴⁵⁵ To tackle the domestic challenges is essential not only to liberal democracy, but also for the political and social stability which Kosovo needs to move forwards – both into the international community, and in its aspiration on joining the EU.⁴⁵⁶

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