

Peace Building and Reconciliation – European experience

Prof. Dr Iliriana Islami

Faculty of Law, University of Pristina

1.1 The Notion

Before the start on the subject, I will begin with the notion of the reconciliation, although I assume that my predecessors, colleagues went thoroughly on the notion. I believe that you all have learned that in technical terms, reconciliation is considered a 'polysomic' concept with the different meaning, and no consensus has been reached on a common definition. Scholars typically understand reconciliation **“as part of a forgiveness, process characterized by truth telling, redefinition of the identity of the former belligerents, partial justice, and a call for a new relationship”** and believe that it is conducive to the building of a persistently stable social order.

Some defines it as a goal striving, aspiration, hope, and to a certain degree as utopia. Moreover, some identify it with re-entering a friendship marked by trust that goes beyond traditional divisions. In order to achieve reconciliation, it is expected that once the conflicted parties express mutual recognition, appreciation and acceptance, as well as sensitivity towards the needs and interests of the other side, and to detect mutual interests and work on developing trust and building a peaceful relationship.

Reconciliation it is considered both a goal and a process, demanding strong leadership and momentum in order to be realized in a given context. As a goal, it seeks to attain the improvement of mutual relations between involved parties, and this evolves into a



www.anetrec.eu

long and multi-faceted negotiation process which leads to the gradual (re)establishment of trust.

Therefore, stable and lasting peace is characterized by mutual recognition and acceptance, invested interests and goals in developing peaceful relations, as well as fully normalized, cooperative political, economic, and cultural relations based on equality and justice, nonviolence, mutual trust, positive attitudes, and sensitivity and consideration for the other party's needs and interests." These characteristics can be divided into structural elements which peacemaking focuses on and psychological elements which reconciliation focuses on.

Conflict resolution and peacebuilding may be considered complementary activities whereby one is hardly sustainable without the other. In academic literature, conflict resolution and peacebuilding gained significance due to the rising number of internal conflicts, civil wars, and ethnic conflicts in the post-Cold War world. Both activities are most commonly practiced through the agency of third parties, normally international organizations, with the involvement of the parties to the conflict. In this context, a set of associated terms has been used in what is broadly understood as conflict management aiming on responding or acting upon different phases of the conflict cycle – such as conflict prevention, conflict settlement and conflict transformation.

Although the space dedicated to this process seems limited, reconciliation cannot and should not be reduced to only several high level meetings among political leaders, nor should it be seen as an issue which can be achieved with only political elites engaged in it. This constitutes an endogenous process that demands for multi-actor participation. As such, reconciliation as being comprised of “two key components—stable peace and an amicable atmosphere—that cover both intergovernmental and people-to-people relationships.” with an important role of the civil society.

Furthermore, there is a need to distinguish between reconciliation and peace building. In its most fundamental sense, **reconciliation** concerns how two countries deal with their unhappy past; it is a process in which two former adversaries reach agreement on

perceiving and treating their hostile history. **Peace building** indicates the actions to upgrade the state of peace; it is the process of reducing the probability of war between two countries significantly. Reconciliation is one of the mechanisms that lead to changes in the state of peace, yet it is not peace building itself. Besides reconciliation, peace building can result from other processes, such as state realignment, democratization, building of international institutions, and so on. Admitting reconciliation as an important mechanism for the emergence of deep peace does not need to negate the effects of other variables on peace building.

1.2 Three States of Reconciliation

We need to clarify that **non-reconciliation** means a relationship without rapprochement between the former adversaries, **shallow reconciliation** refers to a relationship between former adversaries characterized by such actions as words of apology from the perpetrator, negotiation on war reparation, and forgiving gestures from the victim. By comparison, **deep reconciliation** refers to a relationship characterized by common narration of history, de-sensitization of historical issues, and restoration of affection between two nations. Compared to the symbolic, verbal expressions of apology and forgiveness between political elites of two nations, deep reconciliation not only requires the expansion of mutual understanding of history from political elites to the society in the horizontal dimension, but also the upgrading of relationship from one characterized by discrete gestures of apology and forgiveness to more institutionalized and deeper mutual understanding and affectionate restoration in the vertical dimension.

Generally speaking, only through deep reconciliation do common historical narrative and identity change that go beyond ethnocentrism, become possible. By distinguishing between reconciliation and peace building and defining three states of peace and three states of reconciliation, we may be able to clarify the process of reconciliation and the process of peace.

1.3 Psychologic Elements



www.anetrec.eu

Have to do with the importance of beliefs about the adversary group. Another determinative condition for reconciliation is change of stereotypes about the adversary group. After years of Reconciliation, the members of the other group require legitimization and personalization. Legitimization allows members of the in group to view the adversary group as belonging to the category of acceptable groups, behaving within the boundaries of international norms. In essence, it grants humanity to adversary group members after years of denying it to them. Personalization, in turn, enables members of the in group to see members of the adversary group as human beings and to perceive them as individuals, as humane as members of the perceiving group are. In terms of stereotypes, the change of beliefs about the adversary group should lead to a balanced stereotyping of this group—that is, the addition of positive stereotypes to negative ones. In any event, the delegitimizing stereotypes must disappear. The change should also cause in group members to perceive differentiation among the adversary group members. They should not be viewed as a homogeneous and unitary group, but as consisting of various subgroups with differing characteristics and opinions. Of special importance is some kind of forgiveness for the harm done by the members of the adversary group in the course of the intractable conflict. Together, these changes are assumed to cause a new perception of the adversary group; they increase trust in the other group, enable consideration of the transforming themselves from foes to friends.

1.4 The nature of reconciliation

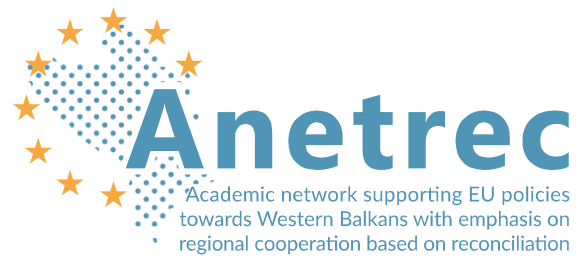
Of crucial significance for understanding the reconciliation process is the outcome of the conflict resolution—specifically, whether the result of formal termination of the conflict is that the two adversary groups must continue to live in one political system (e.g., South Africa, Bosnia, Rwanda, El Salvador) or will live in two separate states (e.g., Israelis and Palestinians, French and Germans, Poles and Germans). It can be assumed that these two differing outcomes of conflict resolution require different forms of reconciliation. In the first form, there is a need to establish one political, societal, economic, legal, cultural, and educational system that will incorporate the two past

rivals; in the second form, the past adversaries Reconciliation live in two separate systems.

The first form thus requires the establishment of the new system as part of the construction of the peaceful, cooperative, and trustful relations in a society. **Reconciliation in the second form** concerns the bilateral relations of two societies living in two different states. In view of this distinction, it is not surprising that different social scientists have emphasized different aspects of reconciliation, depending on the type of conflict. For example, studies of reconciliation in the conflict-ridden societies of El Salvador, Honduras, Chile, or Argentina emphasized the political processes of democratization and justice as a condition for reconciliation. This line of thinking also appears in studies of reconciliation in South African society. In this case, special attention is given to the process of reconstructing the past—with its acts of discrimination, injustice, killing, torture, and other violations of human rights—in order to foster societal healing. In this vein, scholar Lederach in (1997), who also focused on intra societal conflicts, proposed that reconciliation consists of four elements: truth, which requires open expression of the past; mercy, which requires forgiveness for building new relations; justice, which requires restitution and new social restructuring; and peace, which underscores common future, well-being, and security for all the parties in a society. In contrast, studies of reconciliation between states (e.g., France and Germany, Germany and the Czech Republic, Germany and Poland) referred to its function of building peace by creating new political, goal referred to its function of building peace by creating new political, economic, social, and cultural relationships between former adversaries. Nevertheless, all the approaches recognize that reconciliation requires a psychological change—a transition to beliefs and attitudes that support peaceful relations between former enemies.

1.5 France-German Case

The reconciliation process between France and Germany after the Second World War illustrates the changes in beliefs about goals. From continuous violent conflict and competition emerged new goals for the two societies, which stressed cooperation and



www.anetrec.eu

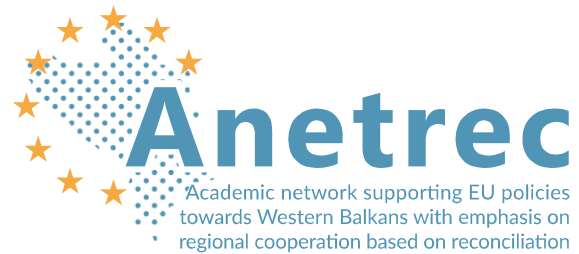
common interest. Both nations envisioned the political and economic union of Europe, with a Franco-German pillar as its foundation.

France and Germany have made their bilateral relations a benchmark for reconciliation.

In the post-WWII years and 1950s, though German politicians tended to view Germans themselves also as victims of the Nazi and their rare apologies were mostly exculpatory, the West German government “acknowledged and accepted responsibility for the Nazi-era crimes” and paid reparation to victims of the war (an example was the 1952 Luxemburg Agreement). German conservative politicians did not deny the Nazi crimes. Viewing themselves as victims, they criticized the Nazi, which was possibly the result of the defeat and collapse of the Nazi regime. For example, Western German Chancellor Konrad Adenauer stated to the Bundestag in 1951 that most Germans were “aware of the immeasurable suffering brought to the Jews in Germany and in the occupied territories in the era of National Socialism” and that the “unspeakable crimes... require moral and material restitution”.

Starting from the 1950s, to eradicate the possibility of conflict, Germany and France actively pushed for regional integration to deepen their economic and diplomatic cooperation. For example, in 1951, France, Germany, and four other European countries signed the Treaty establishing the European Coal and Steel Community (ECSC). West Germany’s active support for postwar European integration and self-restraint in rearming won trust from its neighbors, particularly from France.

Moreover, under the democratic political system, the ascendance of Leftist politicians drove the German public to reflect on the warring past. After the left-wing Social Democratic Party gained power in the late 1960s, the German government increasingly expressed contrition for the Nazi crimes in its official speeches. As a result, starting from the 1960s, France and Germany have reached mutual understanding of their unhappy pasts. When it came to the end of the Cold War, more and more people in both countries had developed a strong identity as Europeans. Their group’s needs and



www.anetrec.eu

make it more likely that the other group could be perceived as a potential partner or even an ally.

For France and Germany, **they entered shallow peace in the early 1950s** marked by the establishment of ECSC in 1951, and they entered shallow reconciliation at roughly the same time symbolized by West German government's paying reparation to victims of the Nazi crimes. And France and West Germany achieved deep reconciliation and deep peace by late 1960s when the Social Democratic leaders' contrition for the Nazi aggression increasingly drew the French and German understandings of history closer. By 1965, according to a French public opinion poll, West Germany was ranked as the best friend of France, gaining 20 % of the respondents' votes. The successful reconciliation between France and Germany indicates that regional institutions have provided reassurance for former foes-antagonist parties, so that they no longer view each other as threats, and regime change and democratization in postwar West Germany have paved way for reflections on the past.

In January 2019, France and Germany "[renewed their marriage vows](#)" in the Treaty of Aachen, whose goals were two-fold: to intensify the two countries' cooperation, including in economics, climate issues, foreign affairs, defense, and external and internal security; and to expand Europe's capacity to act independently in the twenty-first century. In concrete terms, bilaterally France and Germany envisage a common economic zone; a council of economic experts; a cross-border cooperation committee; a citizens' fund to support town twinning and cross-border initiatives; expanded youth exchange (through which nine million young people have spent time in the other country); a mutual defense clause; a common military culture; as well as joint programs in energy, renewable energy, and energy efficiency.

At the European level, the treaty reemphasizes the central aims of free trade and completion of the single market, commits to social and economic convergence and solidarity, promises to expand common and security policy, and indicates that they will consult on all EU issues in advance with the goal of common positions on all important EU decisions.

In evaluating the potential for success of the Aachen treaty, some observers identify the range of issues on which France and Germany disagree: Brexit; arms exports; climate policy, for example. However, the passage of reconciliation from 1949 to 2019 is studded with examples where there are large conflicts but the reality of compromises after thorough discussion and debate. It is not an easy process of coming to agreement but a reliable one. Merkel recently noted that the two countries “wrestle” with their differences, especially as [“there are different mentalities between us.”](#) President Emmanuel Macron has referred to their relationship as [“productive confrontation,”](#) the outcome of which is “to reach compromise.”

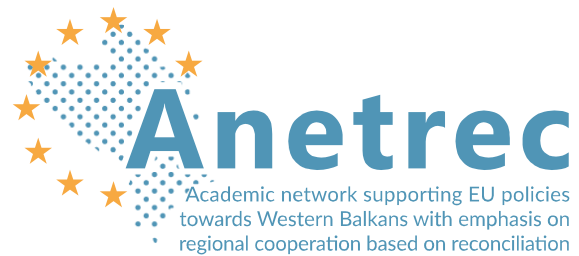
France and Germany have several factors in their favor in charting a way forward for bilateral relations and for Europe: the habit of cooperation over seven decades and the commitment and passion of its two leaders to address the challenges. What they do not have is time. Merkel is on her way out and Macron faces pressure from all directions at home. In the late 1940s and early 1950s, the capacity for France and Germany to embark on a path from fear to friendship and for Europe to begin its new trajectory of peace depended on leadership. That quality is in notably short supply once Merkel and Macron are gone.

1.6 Case study Ireland

Northern Ireland is marking 15 years as a ‘post-conflict’ society following the signing of the Belfast (Good Friday) Agreement in 1998 which eventually led to a power-sharing devolved government between the two largest parties (Democratic Unionist Party and Sinn Féin) and political stability.

Addressing the past is not necessarily in the interests of the political leadership (in the UK, Ireland, or in the Northern Ireland Executive and Assembly) who prefer to insist that the conflict is over. Yet it is clear from the interviews that Northern Ireland society remains deeply traumatized, and ignoring this fact presents a real risk of regressing.

Although the violence has largely ceased, there are still threats from dissident groups and an undercurrent of volatility most recently expressed in a dispute over the flying



www.anetrec.eu

of the Union flag, which led to street riots and disruption. Even though many of the contentious political issues have been resolved, there remain a number of problems which have proved intractable, including how best to deal with the past (victims of the 'troubles'); cultural parades and commemorations; a highly segregated society (in education and housing); the promotion of equality and good relations; and how best to achieve a more shared society.

Many within the unionist community believe that their values of tolerance and respect are being threatened by an increasingly aggressive republican agenda which challenges their British identity. The institutional realization of this intolerance is expressed, in their view, through the quota system which ensured affirmative action recruitment from the minority community into the new policing arrangements, and bodies such as the Parades Commission.

Nationalists see the changes to date as failing to deliver their political aspirations (of a united Ireland) but ensuring a more level playing field. In human rights terms, therefore most nationalists welcome an approach to peace building involving the identification, investigation and accountability of human rights abuses; a process of fundamental reform of the state and its institutions to prevent such a of human rights abuses; a process of fundamental reform of the state and its institutions to prevent such abuses reoccurring; and the construction of a society based on justice and equality in order to remove the causes and occasions of conflict. Notwithstanding these ongoing ideological differences, the Northern Ireland peace building model has been hailed as a success and shared with other conflict countries for the purposes of comparative learning.

Through Transitional Justice and Human Rights is addressed the reconciliation process therefore accordingly, it was argued that those who are working on the past need to liaise closely with the Bill of Rights campaigners. Also, it is considered that both fields need to work with the equality campaigners, and they all need to consider their role in addressing questions of youth unemployment, residential segregation, educational disadvantage, and so on.

One interviewee wondered why the debate around 'dealing with the past' seemed to be focused largely on ex-prisoners/ victims and the like, and to exclude any and all consideration of the legacy of socio-economic deprivation that both fueled the conflict and has been exacerbated by it. Accordingly, efforts need to be undertaken now to build some bridges. If anyone is to define these terms and this work, it should be the people working in these fields and making the two disciplines a lived reality; that will only happen if more explicit efforts are made to create value added in this fraught and sensitive topic.

1.7 EU and Northern Ireland relations in the process of Reconciliation

It is confirmed that the relationship between Northern Ireland and the European Union was, and is, much more significant than is usually recognized. European involvement in the search for a political solution in Northern Ireland was substantial, long-standing and deeply-rooted. The conflict was just a few years old when both Ireland and the UK joined the European Economic Community together in 1973 and almost of their shared work towards a settlement took place in the context of their partnership as members of that Community.

European involvement deepened after the first direct elections to the European Parliament in 1979. Unionists and northern nationalists, deputies from the Republic of Ireland and from Great Britain found themselves operating in the same parliament for the first time since Ireland's independence from the UK. Prior to 1984 there was extensive dialogue, cooperation, communication, and lobbying within EU institutions, especially within the European Parliament, with the objective of fostering a European dimension, in the six Northern Ireland counties.

From 1984 the European Community started to assess its engagement with the routine public policy-making of the region in a more determined manner, although still staying primarily focused on the economic component of Northern Ireland's engagement with EU Structural Funds.



www.anetrec.eu

Nonetheless, that policy remit was essential in demonstrating to Northern Ireland representatives and local authorities how they might gain greater control over their relationship with the EU. Such control was ultimately filtered through a range of new regional institutions and the development of relationships and networks on the whole island of Ireland. Finally, the window of opportunity for intensifying EU engagement arose in the aftermath of the 1993 Downing Street Declaration (DSD) and the IRA and loyalist ceasefires of 1994 when, after 25 years of violent conflict and uncertainty, paramilitaries finally declared a cessation of violence. In this context, EU PEACE programmes for Northern Ireland and the border counties of the Republic of Ireland yielded positive peacebuilding results in the region.

The increased contact, communication, and cooperation across the Irish border and across sectional divides helped to support a search for commonality and an increase in respect for minor cultural differences among participants. Most notably, the PEACE programmes consolidated previous attempts to engage grassroots organizations in peacebuilding initiatives.

The European Union is a political project, not just an economic one and so it was with European involvement in the Peace Process and cross-border cooperation in Ireland. Economic development was a central focus of the EU but this economic The EU and the Northern Ireland peace process in the shadow of Brexit 16 support was directed at the political goal of sustainable peace and helping to deal with the economic and social drivers of violent conflict.

1.8 Polish-German Case

On December 7, 1970, German Chancellor Willy Brandt fell to his knees at the memorial to the Warsaw Ghetto. This action, opened the way to reconciliation, but some today dismiss it as an "empty gesture."

The role which civil society continues to play in the process of peace building is significant. Independence of mind and often of funding (thanks to monies from the European Union's peace initiative and funders like Atlantic Philanthropies) has helped



www.anetrec.eu

non-governmental organizations (NGO Political and economic reforms followed. A "shock therapy" was implemented in economic affairs, and the foreign policy experienced its own shock as well, being re-oriented towards the West. The new key goals were accession to NATO and to the European Communities. It was clear to the new designers of the Polish foreign policy that Poland could achieve its goals only with German (and French) support. In early November 1989, Chancellor Helmut Kohl visited Poland with the aim of reconstructing the Polish-German relations. The visit was full of symbolical gestures of historical importance, their peak being the holy mass held in Krzyżowa on November 12th, 1989.

Reconciliation was the declared the goal of both governments. However, the visit had a very practical dimension as well. Eleven bilateral agreements were signed and a joint declaration was issued. Chancellor Kohl indicated during his talks with the Polish president that Germany wished to have equally good relations with Poland as with France. During the 6th Poland-Germany Forum on February 22nd, 1990, Polish Foreign Minister Kszysztof Skubiszewski argued in favor of the "Polish-German community of interests". Since the early 1990s, Polish-German relations have been determined by two expectations: first, they should achieve the quality of the French-German relations and second, a "Polish-German community of interests" should emerge. In the late 1989 and the early 1990 unification of Germany was again a major topic in the international arena. Poland supported the unification and raised two arguments for it: first, Germans should enjoy the same right as other European nations to live in a free, democratic, united, and sovereign country; second, only a united Germany could support Poland in its plans to join the European Communities and NATO. s)

1.9 Reconciliation and good neighborly relations: The Visegrad experience

The Visegrad Group – V4 for short – is an alliance of four eastern and central European states: **Poland, Hungary, the Czech Republic and Slovakia**. They take their name from the Hungarian city of Visegrad, where kings once met for economic and political negotiations.

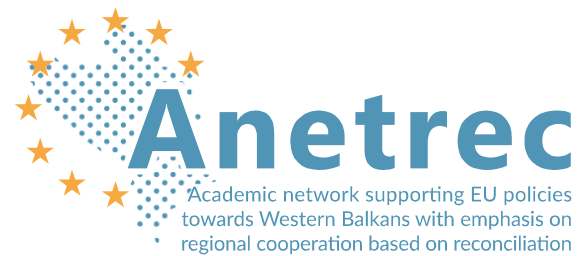


www.anetrec.eu

The V4 countries aspire to play the role of an important source of inspiration for the reconciliation process in the Western Balkans, both when it comes to the reconciliation between themselves and with third countries. The Visegrad Group was created in order to enhance cooperation between three (1991-92) and then four countries (1993-present). The aim of the signatories was to overcome problems from the past and concentrate on common challenges, one of which was the integration into European and trans-Atlantic integration structures. By declaring positive and pro-integration agenda, the Visegrad Group distinguished itself from the (at that time) unstable regions of Eastern and South-eastern Europe (namely, the former Soviet Union and Yugoslavia, which were undergoing the process of painful disintegration). Besides the intensification of regional cooperation, in particular the accession of the V4 countries to the EU was considered as another factor that would eliminate potential tensions between the countries and contribute to the reconciliation process. Though the impact of both has certainly been positive and the V4 can be described as a stable area, the potential for nationalist mobilization of some parts of the population has remained high in the region.

Therefore, the developments in the V4 area have not always been free from bilateral tensions and uneasy periods even after 2004. When it comes to the reconciliation between the V4 countries, the Slovak-Hungarian relationship can be perceived as the most complicated one. The statement is valid despite the fact that since 2010 (when the second Orbán Government came to power) the communication between the representatives of both countries has basically gain different perspective, positive one.

Regarding the reconciliation of the V4 countries with their non-V4 neighbours, relations with Germany in particular can be taken as a positive example. The existence of the reconciliation instruments in both Czech-German and Polish-German relations (especially the Czech-German Fund for Future, as well as Foundation for Polish-German cooperation) contributes to the reconciliation process and good neighborly relations. Even the fact that the idea of the re-opening of negotiations on post-war reparations appears time to time in Polish political discourse does not influence



www.anetrec.eu

negatively the status quo. The ability of the V4 to serve as a positive inspiration, however, might be endangered by some negative, developments in the region, including the rise of Islamophobia, widespread anti-Roma sentiments, or maintenance of negative attitudes towards “others”.

Intra and Inter State Reconciliation in the WB

Prof. Dr Iliriana Islami

Faculty of Law, University of Pristina

Dealing with a legacy of war crimes and human rights violations is a common challenge in post-conflict societies. This is particularly the case in the Western Balkan countries in which a “decade of internecine war in the region had left behind not only a terrible legacy of human losses and material destruction, but also an unprecedented level of traumatization among the population at large, which contributed to a widespread and generalized sense of victimhood on all sides of the conflict”. The violent conflicts cemented deep ethnic cleavages that were, as a result of peace settlements, mirrored in institutional mechanisms, which further contributed to a preservation of ethnic divides.

During the past 25 years, developments in this region were made in the process of the transition from circumstances of conflict and full-scale intra-and inter-state wars, through conflict settlement and “normalization” of processes.

The process of reconciliation based on intra and interstate reconciliation basis it’s tool on hybridity process which signifies the meeting of liberal (in principle external) and local norms, actors and practices that in their interaction create hybrid characteristics both on the structural and cultural plan of the post-conflict society, for example, at the same time coexisting liberal norms and norms opposite to liberal.

In sum, hybrid forms of peace represent an intersubjective mediation between lo-cal and international levels, institutions, norms, rights, laws, needs and interests,



www.anetrec.eu

depending on both power and legitimacy, whereby limits of global-local binary are blurred. A hybrid peace per se that means neither good or bad, is the result of an interplay of four factors that appear in different environments with more or less intensity.

2.1. Contribution of International Mechanisms-EU

Since the late 1990s, and following its early diplomatic efforts to mediate in the conflict that destroyed former Yugoslavia, the EU has been a lead international actor engaged in supporting the peacebuilding process in the Western Balkans, after it took over both military missions and civilian roles from NATO and the UN respectively. It has deployed a full array of military and civilian instruments available under the CFSP umbrella alongside enlargement instruments specially tailored to address the legacy of armed conflicts. On the territory of former Yugoslavia, five military and civilian missions mandated to maintain safe and secure environments for the implementation of peace agreements which ended armed conflict in Bosnia-Herzegovina (Dayton PA), Kosovo (UN Resolution 1244) and FYR Macedonia (Ohrid agreement), have been implemented. Those missions were upended by the launch of the Stabilisation and Association Process (SAP) as a broader policy framework to support peacebuilding by pursuing an EU member state-building agenda.

Although SAP has formally been the main framework for the EU engagement since 2001, in practice it has been paralleled by explicit instances of CFSP action outside and beyond the CSDP missions; moreover, the specifically tailored SAP conditionality works across the CFSP and enlargement policy portfolios.

2.2. Process of reconciliation

Regarding the nature of the process of reconciliation specifically in the Western Balkans, it should be emphasized that it is closely related to European integrations (for example, visible in the Thessaloniki Declaration of 2003), which points to the international level as the main impetus for reconciliation in the region.



www.anetrec.eu

There is no magical model allowing for a swift and painless reconciliation process for local societies. Nevertheless, reconciliation has to be considered a key part of the solution for the Western Balkans because at the end of the day all countries in the region are interdependent on each other and seek a common future perspective in the wider European framework. The establishment of the Berlin Process back in 2014 provided a new momentum for regional cooperation in the Western Balkans. In particular, it contributed to bringing back the attention to the role and importance of achieving reconciliation and inter-societal dialogue in the region.

Joint Declaration on Regional Cooperation and Good Neighborly Relations and Joint Declarations on War Crimes and Missing Persons signed at the 2018 Western Balkan Summit in London, created the regional framework for further providing political and institutional preconditions for reconciliation. Although these actions were of key importance, they approached only one dimension (political commitment) and were executed at one (regional) level of the reconciliation process and were executed at one (regional) level of the reconciliation process.

Therefore, other actors and dimensions have to be analyzed because the process has become partly blocked on other levels and from other perspectives. The reconciliation process is seen from different perspectives: of victims, perpetrators and by-standers as main target groups; state institutions (governments, parliaments, courts, security sector); civil society (NGOs, cultural and sport institutions, artists); economic actors (individual businesses, chambers of commerce); diaspora; regional political forums and organisations; regional civil society networks; international organisations (UN, Council of Europe, OSCE, EU); international judicial organizations (ICTY, ICJ) and international civil society networks. The process has different dimensions

In the meantime, the EU's policy towards the Western Balkans emphasizes in the first place the importance of building a state and its institutions in line with EU membership requirements, while fully neglecting the strengthening of aspects that require "post-conflict state building", that is, elements contributing to a wider reconstruction of society and the state arising from war and conflict. According to the EU logic, the



www.anetrec.eu

process of reconciliation is inseparable from the institutional transformation required by the process of EU approximation, which requires that all countries must unequivocally commit, in both word and deed, to overcoming the legacy of the past, by achieving reconciliation and solving open issues well before their accession to the EU.

Many officials in the EU believed that the legacies of the recent past would solve themselves once the countries of the Western Balkans gradually adopted “European standards”. This Europeanisation process mainly focuses on implementing liberal laws and regulations, the rule of law, democratic standards and reforming the economic market.

This needs to be further exploited in order to continue contributing to political stabilization and to create economic opportunities. Together with improved regional cooperation, further efforts towards reconciliation are crucial to firmly anchor peace and ensure lasting stability.

2.3. Skepticism on EU Intervention

For many skeptics, Regional co-operation, good neighborly relations and reconciliation cannot be imposed from outside. The leaders of the region must take full ownership and lead by example. They must avoid and condemn any statements or actions which would fuel inter-ethnic tension and actively counter nationalist narratives. There is no place in the EU for inflammatory rhetoric, let alone for glorification of war criminals from any side. The process of transitional justice is incomplete. The outstanding sensitive issues such as the handling of war crimes cases, including through full cooperation with the Mechanism for International Criminal Tribunals and the Kosovo Specialist Chambers, the fate of missing persons, refugees and internally displaced persons, as well as the identification and removal of remaining landmines in the region must be urgently addressed.

Others think that this logic is wrong because it is based on an unreasonable expectation that states and societies will confront their role and responsibilities for warfare.

Moreover, the opposite tendencies have erupted so that all ethnic groups emphasize their role of the victim without a critical assessment of their own actions during the war events, and war crimes are often politicized and instrumented independently of the existence of transitional justice mechanisms whose unintentional by-products often reinforce such unfavorable circumstances for the reconciliation process.

Through this line it is considered that democratisation and liberalisation efforts can also be counter-productive in post-conflict situations. Several authors, such as Burnell, have stressed that democratisation efforts in societies that are 'permeated by fear, mistrust and economic vulnerability may in fact rekindle divisiveness that led to the war in the first place'. Democratic elections can strengthen political parties that ground their power base on ethnic divisionism and fear, while post-conflict economic interventions can bolster elite groups that profited from the war economy, which in turn fuels corruption and undermines a well-functioning.

An interesting research shows that the intervention of western European states in terms of peacebuilding has overlooked the specific configuration of the networks that emerged under the auspices of the war and during the establishment of peace, adjusted their actions that held them in positions of power, and at the same time make it difficult to implement the policy of peace.

These are practically interest-based networks of closely related key social actors whose public interest (from reconciliation to general community development) is simply not even peripherally important in reality. Such interest, clientelistic and corruptive networks consist of representatives of the military, security services, political elites, organized crime, religious leaders who informally, as well as through formal resistance to EU peace policies in the fields of justice, economics and security, seek to maintain their social and political influence by creating the illusion of achieved peace. Such a peace is, in fact, an "elite peace" that the interest is primarily to keep the resources and influence gained during the war period.



www.anetrec.eu

In its conclusions of June 2019, the Council underlined once again the need to overcome the past legacies and foster reconciliation in the Western Balkans, on the basis of commonly shared values, such as tolerance, inclusiveness and mutual trust. Moreover, it highlighted the importance and contribution of civil society actors in this region-wide process, which should be further accompanied by stronger political determination.

From a political cooperation perspective, the Western Balkan leaders are still not taking seriously the importance of initiating a reconciliation process in the region, and even less establishing it as a theme for discussion in their political agendas. So far, reconciliation is invoked mostly at a declaratory level by the local elites while the national political leaders still do not demonstrate enough political will or ownership of it.

For now Western Balkans is a model that represent yet unreasonable expectation that states and societies will confront their role and responsibilities for warfare. Moreover, the opposite tendencies have erupted so that all ethnic groups emphasize their role of the victim without a critical assessment of their own actions during the war events. While war crimes are often politicized and instrumented independently of the existence of transitional justice mechanisms. Moreover, the EU's unfinished business in the Balkans, coupled with diminished economic membership incentives, has opened the door to various political, economic and security alternatives.

The drive for democratic transition must come from the region itself, as a key to sustainable change, by strengthening professional and transparent institutions. Only democratic institutions should be able to break the power of the patronage networks that are the main lines of connection between politics and citizens across the region. This is why the primary task of the EU must be to extend its support to reinforce state institutions that ensure respect for the rule of law.

Although the space dedicated to this process seems limited, tackling political level, reconciliation cannot and should not be reduced to only several high level meetings



www.anetrec.eu

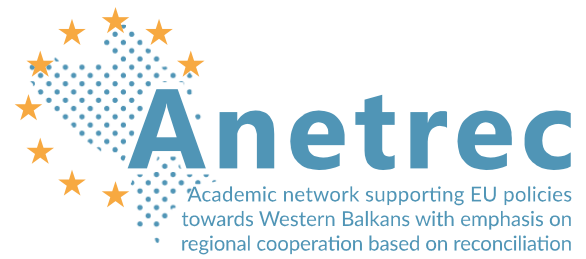
among political leaders, nor should it be seen as an issue which can be achieved with only political elites engaged in it. This constitutes an endogenous process that demands for multi-actor participation, with the civil society, and international civil society networks.

The process has different dimensions and actors. To support reconciliation and good neighbourly relations in the Western Balkans, domestic actors are crucial in taking action on legacy issues arising from the conflicts in the 1990s and on developing good relations with neighbouring countries. External actors could substantially contribute in this process, but if there is no political will from internal players, reconciliation aspirations cannot be fulfilled appropriately.

Besides, in the case of Serbia and Kosovo the term “normalization” is used in official negotiations instead of “reconciliation” indicating launching of the process that has to create conditions of nonviolent, mutually acceptable coexistence where former enemies come to re-envision one another as fellow citizens and/or people with equal rights.

In sum EU should consider more inclusive bottom-up approach to EU rule of law promotion, in which civil society actors are empowered to play a rights-holder’s role vis-à-vis public authority, is needed. This would help to push for compliance with key laws, monitor their implementation and influence norm internalization, both before and during negotiations. The broad inclusion of civil society in the accession process could help to build a wider constituency in favor of EU accession in the Western Balkans, as well as keep negotiations on track.

In concrete terms, civil society empowerment should strengthen expertise, capacities and technical organization, and provide for regional and international networking possibilities. Furthermore, the EU should maintain its support for the involvement of responsible civil society actors in an effort to put pressure on the government to do its job better, both before and during negotiations. Finally, EU officials and MEPs should regularly engage in direct communication with citizens, as this would allow them to



www.anetrec.eu

name and shame those elites who do not follow through on their declaratory support for EU integration.

State Building and Elements of Reconciliation (institutional design, power-sharing, minority rights)

Prof. Dr Iliriana Islami

Faculty of Law, University of Pristina

Secretary-General António Guterres stressed: “Reconciliation helps to repair fractures caused by an absence of trust between State and people.” Noting that successful reconciliation requires both institutions and individuals to acknowledge their role in past crimes – and perpetrators to muster the courage to face the truth – he joined others in underscoring that the international community’s idea of reconciliation must keep pace with the changing nature of conflict.

3.1. European Union intervention in the process of reconciliation

Conditionality has become driving force of many International Organizations. European Union, too is able to exercise a particular force on the countries through the system of conditionality. As long as European integration has become the decisive perspectives for the States in the Western Balkans.

Although the EU integration opens a way for transformative relations between adversaries and their competing claims, the preferred method to achieve this end is the use of carrots (offering rewards by investing in socio-economic development, institution building, and eventual EU accession) and sticks (withdrawing rewards, threatening or imposing embargoes) which is usually the approach of third parties with muscles.



www.anetrec.eu

Despite these arguments, being a world trade power and a major donor organization with a strong currency and exemplary in enhancing interdependence within the states by including regional or sub-national level role in policy-making, the Union's conflict resolution potential is quite impressive. As Solana argues in a Council's report on the Western Balkans: "The Union is the only institution capable of comprehensive action, ranging from trade, economic reform and infrastructure, humanitarian assistance, human rights and democratization, justice and police to crises management and military security."

The system of relations with the EU is very differentiated and asymmetrical according to the different situation in the countries and thus varies in each case. But at the same time it is based on the respect of certain conditions which are applied in a gradual approach becoming progressively more detailed and stringent. In this way, clearly, the EU's capacity of acting as a catalyst for reforms depends very much on its attractiveness. And in the last years the EU itself is not in good shape due to the consequences of the failure of the Constitutional Treaty, of the 'enlargement fatigue' after the last two rounds of enlargement in 2004 and 2007 and of the economic and financial crisis. This has serious and negative consequences for the progress made by the countries as reform efforts depend on incentives and realistic perspectives.

The Balkans on their way towards European integration are thus characterized by the internationalization of their constitutional law and by the visible circulation of constitutional models. Constitutional models have an important characteristic on the distribution of power and the nature of checks and balances. Also, another specific is the position of marginalized groups included in the political system.

Through this constitution building system, political parties play an important role in fighting marginalization, but if they do not subscribe to the principle of inclusion it can be problematic. The state can create laws and policies that can guarantee inclusion and offer remedies to the excluded. This would send the message that the state is for everybody, hence reducing the sense of grievance of excluded groups that can fuel conflicts. One important way in which policies shape the fight against marginalization

is by decentralizing the state and giving more power to the sub-national level of administration, so that resources are directed to other parts of the country beyond the capital.

Another key aspect at the state level is the composition of law enforcement agencies. These agencies are created to reflect the outlook of the country so that they are perceived as balanced by the majority of the population. This state-building processes look at social groups too, that have been marginalized, like women and youth, and are obliged to create special programmes for them, e.g., adult education programmes, where women can participate and benefit.

Women also need to be given access to credit, so that they can invest in some kind of economic activity and recover from the devastation of the war. Having an accurate documentation of history is a great asset to avoid having contested histories. Younger generations need to be included in this process so that they will not reproduce the conflict in the future.

A Constitution building in post-conflict Bosnia, Macedonia and Kosovo is a unique example of a regional organization's consistent intervention in state building in the aftermath of intrastate conflict.

In all three cases, international actors had an important stake in the developments. Kin groups, kin states and powerful diasporas all had central roles in the conflicts, while peace in all three cases of Balkans was achieved through foreign diplomatic and military intervention.

3.2. Nature of the Conflict

The cases differ from each other in two crucial structural aspects: the nature of the conflict and its intensity. The conflict in Bosnia and Kosovo was territorial in nature; the secessionist wars and polarized views of the cleavage groups centered on the issue of statehood. In Macedonia, the conflict revolved around the type of government; ethnic Albanians fought against continued discrimination and insufficient



www.anetrec.eu

representation, government policy responsiveness (or lack thereof) and a lack of autonomy in issue areas of vital importance to the group.

The ethnic Albanian minority in Macedonia never questioned the legitimacy of Macedonian statehood and did not attempt to secede. The Macedonian case also dramatically differs from those of Bosnia and Kosovo in terms of the intensity of conflict. The conflict in Macedonia was restricted in time, space and the intensity of violence. The conflicts in Bosnia and Kosovo lasted much longer, resulted in thousands of deaths and many more displaced persons, and were accompanied by a series of war crimes and crimes against humanity.

The three cases have largely adopted similar approaches to constitution building, diverting to a certain degree from the ideal model of constitutional design in each specific case. Bosnia exhibits the features of all of the consociational principles implemented through institutional mechanisms. Kosovo and Macedonia adopted all of the consociational principles. First, the principle of segmental autonomy was implemented in Kosovo and Macedonia not through a formal federal territorial structure, but through extensive decentralization in a formally unitary state structure. Second, the principle of mutual veto in Kosovo and Macedonia was restricted to certain issue areas and implemented through more indirect mechanisms.

3.3. EU and International Mechanisms Intervening in the Agreements

Strategies of EU involvement in constitution building of the three states will be analyzed. The initial stage of the constitutional design in Bosnia (the negotiation and signing of the DPA) was a product of the European Union's Involvement in Constitution Building in the Post-conflict Western Balkans of consistent US pressure to reconcile the warring sides. The EU's role in the Bosnian constitutional design process grew over the years and achieved its peak in the mid-2000s with attempts to reform Bosnia's constitutional system.

Bosnia experienced a rather heavy-handed and guided process of constitution building. The DPA, which put an end to the bloodshed, was signed several months after NATO



www.anetrec.eu

military intervention. The agreement was further incorporated into the Bosnian constitution and became the cornerstone of Bosnia's constitutional structure. Due to the severity of the crises, the depth of disagreements on the elements of the agreement and polarized views regarding Bosnian statehood, the mediators (including the EU) exerted pressure backed by the previous use of military force and the threat of further intervention, thus coercing compromise over even the most controversial issues.

The DPA, which put an end to the bloodshed, was signed several months after NATO military intervention. The agreement was further incorporated into the Bosnian constitution and became the cornerstone of Bosnia's constitutional structure. Due to the severity of the crises, the depth of disagreements on the elements of the agreement and polarized views regarding Bosnian statehood, the mediators (including the EU) exerted pressure backed by the previous use of military force and the threat of further intervention, thus coercing compromise over even the most controversial issues. This difficult process has also continued with regard to supervising the implementation and development of the constitutional framework through the establishment of the international administration in Bosnia. The Office of the High Representative for Bosnia and Herzegovina (OHR)—with the High Representative as its head—was created by the DPA and given unprecedented executive power.

OHR became the highest source of power in Bosnia with the authority to veto the decisions of all branches and levels of power and dismiss public office holders.

Most importantly, the OHR was granted (and still retains) the power to unilaterally enact legislation against the will of the domestic actors if they are unable to reach consensus (Peace and Implementation Council 1997). Over the years, the High Representative has exercised her veto power and unilaterally enacted legislation less frequently, and the EU's engagement strategy with the Bosnian authorities has evolved into dialogue and persuasion. This second phase of EU engagement in constitution building has taken place through the mechanisms provided by the EU enlargement policy and was consistently aimed at reforming the DPA.



www.anetrec.eu

The EU took the lead in the constitution-building processes in Macedonia and Kosovo and was the most important international mediator in all stages of the processes. The EU brokered the OFA between the Macedonian Government and the NLA. Elements of the agreement were subsequently incorporated into the amended Macedonian constitution of 2001.

The EU—along with the UN and the Organization for Security and Cooperation in Europe (OSCE)—was also one of the main actors in the constitution-building process in Kosovo. It had a crucial role in designing all the framework documents that shaped Kosovo’s constitutional structure, including the Constitutional Framework for Provisional Self Government in Kosovo (UNMIK 2001/2002), Standards for Kosovo (UNMIK 2003), the Comprehensive Proposal for the Kosovo Status Settlement (United Nations 2007) and, ultimately, the constitution of Kosovo (2008). Finally, the EU High Representative for Foreign Affairs and Security Policy was the international mediator who brokered the Brussels Agreement between Kosovo and Serbia in 2013.

Constitution building in post-conflict Bosnia, Kosovo and Macedonia has been a complex process that has involved initiating negotiations and exerting pressure to achieve agreements, implementing those agreements (in Bosnia and Macedonia). In the new post-conflict constitutional structures, introducing international executive administrative bodies (in Bosnia and Kosovo) and exerting further pressure to amend the post-conflict constitutional structures in all three countries. The initial stages of EU involvement in constitution building were marked by rather forceful measures, due to the severity of the crises and the divisions between the parties to the conflict; arriving at consensual decisions on the constitutional structure seemed impossible. Having committed to military intervention to end the war in Bosnia (and later in Kosovo), the EU and the United States added a powerful tool to their diplomatic efforts: the threat of further, deeper military involvement.

This diplomacy supported by force, though controversial from a normative point of view, succeeded in ending the bloodshed and coercing the parties to the conflict to compromise on even the most sensitive issues.



www.anetrec.eu

The Bosnian system features three main minority veto mechanisms that provide each constituent group with a veto over all decisions that, in their opinion, harm their vital group interests. The first mechanism gives veto rights over central government decisions to the units of the federation (RS and FBiH). Second, representatives of the three constituent peoples can veto. The European Union's Involvement in Constitution Building in the Post-conflict Western Balkans any central parliament decision that is against vital national interests. Third, a double majority is required to pass certain decisions in the central parliament. These veto mechanisms, which were established to protect the vital interests of the ethnic groups, have become the main obstacle to state functioning, which results in more forceful intervention from the international administrators.

3.4. Macedonia

The current constitutional and legal system in Macedonia is the result of the Ohrid Framework Agreement (OFA) of 2001 and of its implementation. Due to the fear of the potential for disintegration a territorial autonomy might produce, any legal link between ethnicity and territory has expressly been denied with the famous and categorical formula: "There are no territorial solutions to ethnic issues" (fundamental principles, Art. 1.2 OFA).

However, it is immediately followed by a guarantee for the smaller Albanian community: "The multi-ethnic character of Macedonia's society must be preserved and reflected in public life" (Art. 1.3. OFA). The implementation of the Framework Agreement is thus based on the inclusion of the smaller Albanian community at central level as well as on a strong differentiation at local level. The constitutional structure introduced by the OFA established a comprehensive institutional mechanism for incorporating ethnic Albanian grievances, providing the group with extensive access to power at the central and local levels. It also introduced a fully proportional electoral system that guarantees equitable representation for all minority groups in public office and a de facto recognition of Albanian as a state language. xiii One of the most important components was the implementation of wide-ranging decentralization



www.anetrec.eu

reforms that devolved considerable decision-making powers 20 International IDEA Learn as We Go: The European Union's Involvement in Constitution Building in the Post-conflict Western Balkans to local municipalities.

This was done in parallel with redrawing municipal borders, often artificially creating municipalities with a considerable ethnic Albanian population, which allowed the ethnic Albanian community to enjoy the fruits of decentralization.

The system also informally incorporated two core consociational elements: grand coalition and mutual veto. The grand coalition is not constitutionally prescribed, but is effectively an imperative; thus far, all the cabinets have incorporated representatives of the largest ethnic Albanian party and other minority groups.

The requirement of a two-thirds majority for adopting parliamentary decisions—and the bipartisan and highly polarized interethnic competition within the ethnic Macedonian majority—has made it impossible for any ethnic Macedonian party to form a government without incorporating a major ethnic Albanian party. Furthermore, the OFA's mutual veto mechanism is less rigid than that of the DPA, and has a rather limited capacity. Adherence to the spirit of the OFA and its implementation have since been the key benchmark for assessing Macedonia's reform process.

Moreover, the OFA and Macedonia's 2001 constitution did not produce a miracle; the interethnic relations in the country remained tense. The dominant political parties remain ethnic in nature, very frequently referring to symbolic politics and nationalist rhetoric. Since 2001 there have been sporadic outbursts of ethnically motivated protests, killings and street violence, but large-scale conflict

Kosovo Constitution

Constitution building in Kosovo has been the most guided of these three cases. The EU and other international actors have been increasingly involved in all stages of the constitution-building process. The conflict in Kosovo came to an end in 1999 after the massive NATO military intervention, followed by UN Security Council Resolution No.



www.anetrec.eu

1244, which established international administration over Kosovo with the Special Representative of the Secretary General (SRSG) as its head. The constitution-building process started in 2001 when the SRSG enforced the first constitutional framework document.

The international community has elaborated several other constitutional framework documents over the years. These documents were largely drafted by UNMIK and the SRSG, with expert assistance provided by the EU and other European organizations—primarily the OSCE, which is in charge of the institution-building pillar of the UN mandate over Kosovo. This extensive foreign involvement in constitution building resulted in a complete lack of local ownership of Kosovo institutions at the early stages of the process and growing domestic dissent. The domestic actors were involved only in the later stages of the process, starting in 2007. The Ahtissaari Plan (United Nations 2007) and the 2008 constitution were drafted with international mediation and expert assistance, but extensively involved local actors.

At the outset of the constitutional development process in March 2007, Kosovo had a number of very important goals. The first goal was to draft a document that would be broadly acceptable to the people of Kosovo—a document that not only "belonged" to Kosovo, but also was acceptable and impressive to the rest of the world.

The second goal was to provide a constitution that would help ensure broad international acceptance of the new country and quick recognition of Kosovo's independence. This was especially important due to anticipated opposition from Serbia, Russia, and others. And third, Kosovo hopes for eventual admission and membership into the European Union. Making the best decisions for the constitution could help speed that important process.

In addition, the new constitution needed to address the history of ethnic violence and the widespread belief that non majority populations would not receive a fair shake or even protection from the new government. Also, the commission would have to deal directly with the U.N. mediation process that had attempted to secure an agreement

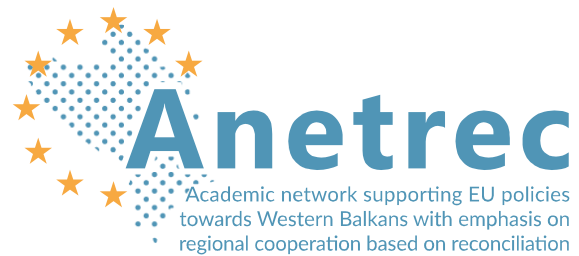
for Kosovo independence. The U.N. mediator, former Finnish President Martti Ahtisaari, had drafted a report that had been expected to form the basis for the agreement between Serbia and Kosovo.⁹⁰ It is considered as excellent document; we assumed that Kosovo expected many of its provisions, particularly those providing for the protection of minorities.

3.5. Minorities in the Constitution towards State-Building

Institutional design and at the end of the conflicts, proffered by the international community was the concept of civic states, whereby citizens and public officials owed their allegiance to the newly formed state institutions rather than to the ethnic group to which they were perceived to belong. In principle, this was a positive basis from which to begin the peace-building process in the region. However, in practice, minorities have often been discriminated against or have been unable to participate in public life in the way that they should, which has hampered reconciliation in the region. This is particularly the case in Bosnia and Herzegovina, where the complex constitutional architecture that it was left with following the 1995 Dayton Peace Agreement, has facilitated voting along ethnic lines.

Furthermore, minorities or the "others" that do not belong to the "three constituent peoples" (Bosniaks, Croats and Serbs), are unable to stand in elections for the House of Peoples or the Presidency, which has recently been held to be in violation of the European Convention on Human Rights. Steps have been taken across the region to bring in measures to combat discrimination.

All states are party to the Framework Convention for the Protection of National Minorities and Protocol No. 12 to the European Convention on Human Rights, which, among other things, prohibits discrimination on grounds such as race, colour, language, national or social origin and association with a national minority. Croatia, Montenegro, Serbia and Slovenia have all ratified the European Charter for Regional or Minority Languages. Bosnia and Herzegovina and "the former Yugoslav Republic of Macedonia" are signatories but have yet to ratify it.



www.anetrec.eu

Anti-discrimination laws have been adopted in Bosnia and Herzegovina (2009), Croatia (2008), Serbia (2009) and “the Former Yugoslav Republic of Macedonia” (2010), whilst Montenegro is currently in the process of drafting one with the assistance of the Venice Commission.

National minority councils have also been established in Bosnia and Herzegovina and Serbia to represent the rights and interests of minorities. The passing of these laws is a positive development as it goes some way towards ensuring that minorities are represented and their voices are heard. This is essential in countries that were, at one time, engulfed in inter-ethnic violence.

3.6. Minority rights in Bosnia-Herzegovina

The open character of the new Constitutions in the Balkans is best demonstrated by the provision on direct application of some International Treaties.

The Constitution of Bosnia and Herzegovina does even go further not only providing for the direct applicability of the fundamental freedoms of the European Convention of Human Rights, but also for their absolute supremacy over all other law (including the same Constitution): “International Standards. The rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in Bosnia and Herzegovina. These shall have priority over all other law.” (Art. II.2, Constitution 1995). Appendix I to the Constitution contains a list of 15 International Conventions regarding the protection of Human Rights and of national minorities, while Art. X.2 imposes an absolute prohibition of constitutional amendment regarding the rights and guarantees contained in Art. II.

However rigid constitutional system, based on the dominant ethno-religious social cleavages, empowered the ethnic groups that fought in the conflict (providing them with guaranteed stakes in the government and extensive autonomy)—and effectively deprived the central government of any consolidating power. The system has been widely criticized for its long-term effects on the functionality of the state structure, democratization and interethnic relations, as it essentially froze the divides and

eliminated any opportunity for intergroup cooperation. Instead, it created incentives for constant collision and deadlocks, which have been fully exploited by the dominant ethno-nationalist parties.

3.7. Macedonia

Macedonia avoided any forceful involvement in its constitutional design process. Peace was sustained in Macedonia through diplomatic means rather than military intervention, which resulted in much softer pressure on the parties to the conflict to arrive at a peace agreement.

The constitutional structure introduced by the OFA established a comprehensive institutional mechanism for incorporating ethnic Albanian grievances, providing the group with extensive access to power at the central and local levels. It also introduced a fully proportional electoral system that guarantees equitable representation for all minority groups in public office and a de facto recognition of Albanian as a state language.

One of the most important components was the implementation of wide-ranging decentralization reforms that devolved considerable decision-making powers Constitution Building in the Post-conflict Western Balkans to local municipalities. This was done in parallel with redrawing municipal borders, often artificially creating municipalities with a considerable ethnic Albanian population, which allowed the ethnic Albanian community to enjoy the fruits of decentralization.

The system also informally incorporated two core consociational elements: grand coalition and mutual veto. The grand coalition is not constitutionally prescribed, but is effectively an imperative; thus far, all the cabinets have incorporated representatives of the largest ethnic Albanian party and other minority groups.

The requirement of a two-thirds majority for adopting parliamentary decisions—and the bipartisan and highly polarized interethnic competition within the ethnic Macedonian majority—has made it impossible for any ethnic Macedonian party to form

a government without incorporating a major ethnic Albanian party. Furthermore, the OFA's mutual veto mechanism is less rigid than that of the DPA and has a rather limited capacity.

Minority Rights in Kosovo

well as in Kosovo, the participation of all groups in government is guaranteed. While in Bosnia, as a multinational State this guarantee translates into parity between the three constituent peoples, in Kosovo the minority communities, Serbs and others, are guaranteed by quotas in the elected assemblies and in the administration. In both cases, however, the over-institutionalisation of the ethnic factor has often caused a lack of political cooperation or even blockades and obstruction.

In all countries of the region, representation in Parliament is based on a proportional electoral system. In Macedonia a special design of the electoral districts has been used as an indirect means of promoting minority representation.

In Kosovo minorities are proportionally over-represented through the mechanism of guaranteed seats (in particular the Serb community): of the 120 seats in Parliament, 20 are reserved for minority communities (10 for Serbs, 3 for Bosniaks, 2 for Turks and 1 seat each for Gorani, Roma, Ashkali, Egyptians and for the last three groups together, Art. 64 Constitution of Kosovo, 2008).

In Bosnia and Herzegovina, a bicameral system exists at the State level as well as in the Entities, with the second Chamber (House of Peoples) representing the three constituent peoples. The total exclusion of 'Others', i.e. citizens not belonging to one of the constituent peoples, from the Houses of Peoples as well as from the Tripartite Presidency (reserved for a Bosniak, a Croat and a Serb) as a consequence of this constitutional reservation, has been judged as institutional discrimination by the European Court of Human Rights in 2009

Reconciliation in divided cities

Prof. Dr Iliriana Islami

Faculty of Law, University of Pristina

When looking at reconciliation in the context of post-conflict social reconstruction and social repair, the idea encompasses goals related to individual, social, and political change. At the individual level, survivors are supposed to understand both the context of the violence and the perspective of others. On a social level, groups are supposed to understand the perspectives of other groups. On a political level, states are supposed to create institutional reforms that enable different groups to share space. Given the variety of changes that must take place, reconciliation is a difficult, perhaps impossible, goal. When put into practice, goals from different levels may contradict. As a result, governments often develop interventions at different times. The timing and sequencing of interventions is just as important as which interventions are created.

(<https://soc.kuleuven.be/crpd/files/working-papers/working-paper-rowen.pdf>)

4.1. Mostar Case

In Bosnia and Herzegovina (BiH), the social and political divisions between national groups have increased since the 1992–1995 war. The violence occurred in the break-up of the former Yugoslavia and, while BiH is considered a post-conflict country, continuing social and political divides continue to threaten to reignite violence.

The Dayton Peace Accords ended the violence and divided the country into two entities, one that is predominantly Bosniak and Croat and the other that is predominantly Serb. The Dayton Accords created the Constitution and solidified

national divides. Croats, Serbs, and Bosniaks must rotate in government positions, and nationalist politics dominate all levels of government.

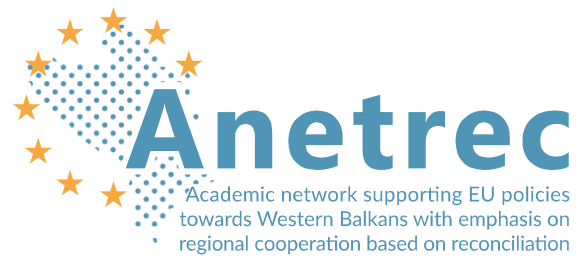
Moreover, the Constitution requires the president to be a Croat, Serb, or Bosniak, leaving out Roma, Jews, and other minorities. The European Court of Human Rights has ruled the provision to be a violation of the European Convention on Human Rights and the European Union has made it clear that BiH cannot join the Union with such a discriminatory policy. More threatening to the fragile peace, the leader of the Serb entity, Milorad Dodik, is an ardent nationalist who has threatened secession from the country.

Efforts to address the violence began even before the war's end, and these initial interventions have had long-term consequences on the region.

The most influential intervention was the creation of the International Criminal Tribunal for the former Yugoslavia, or ICTY. The tribunal was the first of its kind, an ad hoc United Nations organ created to ensure peace and security through criminal justice. With its well-resourced investigative unit, the tribunal was supposed to provide an authoritative account of the war's causes and consequences.

By individualizing guilt, the goal was for the tribunal to offset national divisions. Unfortunately, the ICTY has fallen far short of its task. Studies on the ICTY have repeatedly shown growing disappointment in the ways the court has pursued and resolved cases (Ivković and Hagan 2006).

Many of the complaints hinge on nationality; Serbs believe that they have been unfairly targeted for prosecution (the vast majority of defendants are Bosnian Serbs) and that the finding of genocide grossly misrepresents the nature of the violence, Bosniaks believe that there hasn't been harsh enough sentencing, and those few Croats who have faced sanction, like Serb defendants, believe that they were fighting a defensive war (Subotić 2014).



www.anetrec.eu

The tribunal's recent decisions to acquit generals from Croatia and Serbia have led even staunch supporters within BiH to question whether the tribunal retains any legitimacy in the region.

At the same time, the ICTY and its emphasis on establishing a collective 'truth' could not compete with a later intervention: Two Schools Under One Roof. This policy was initiated by the Organization for Security and Cooperation in Europe and was aimed at encouraging refugees to return to their communities.

It allowed students from different national groups to attend the same schools, only with different curricula. The results have been disastrous in terms of reconciliation. Nationalistic understandings of the war's causes and consequences are now entrenched in the new generation, as the youth have no memory of what the country was like before the war.

In terms of timing and sequencing, creating the ICTY in the midst of the war has had unintended consequences. Those who have studied the impact of the trials on reconciliation repeatedly emphasize that all sides are disappointed in the tribunal (Clark 2014), even though the tribunal has provided norms of justice in the region (Nettelfield 2010). BiH has created its own War Crimes Chamber to deal with lower ranking perpetrators and those whom the ICTY cannot try due to the fact that it's shuttering, and the verdict is still out on how beneficial this tribunal will be for reconciliation. Moreover, the ICTY created problems for later interventions geared at reconciliation.

Numerous civil society initiatives are working against institutionalized divisions that plague the country (Minow and Chayes 2003; Simić and Volčič 2013). In particular, there have been numerous attempts to create truth commissions, but these efforts have floundered. One of the better-known initiatives began under the auspices of the United States Institute of Peace (USIP). The ICTY's leadership was expressly against the creation of an independent truth commission because a commission might compete with the ICTY's fact-finding efforts and complicate trials. Not wanting to challenge the ICTY, the USIP abandoned its efforts (Kritz and Finci 2001).



www.anetrec.eu

Complaints about the ICTY both inspired and undermined one of the most ambitious attempts at reconciliation, an initiative known as RECOM (Rowen 2012). This initiative is a coalition to create a Regional Commission for Establishing the Facts about War Crimes and Other Gross Violations of Human Rights Committed on the Territory of the Former Yugoslavia (*Interestingly, leaders of the initiative have avoided the term reconciliation as they worry it implies forgiveness, but their goals are to bridge the divides between the different groups so that all can see themselves and each other as victims* (Rowen 2013) RECOM emerged because of disappointment in the way the ICTY treated victims and the limitations of the court's ability to explain the causes and consequences of the violence. RECOM focused on creating a treaty-based truth commission that governments in each country of the former Yugoslavia would support.

Their starting point would be the findings of the ICTY, and they would build from those findings to create a narrative so that all national groups might learn about each other's suffering. The initiative received a great deal of international attention, including millions of euros from foreign donors. However, it struggled to gain traction in BiH (Rowen 2012).

Issues of timing and sequencing are key to RECOM's challenges. On the one hand, it may be too late for a truth commission; perspectives on who is most responsible for the violence are relatively fixed and it is not clear what a truth commission could change. The perceptions have been solidified by the ICTY, if not established by the ICTY, and RECOM has little chance to alter the belief that individuals must be punished for the violence. On the other hand, it also seems that the country is not yet ready for a truth commission. Many Bosniaks want to maintain the victim status that the ICTY has helped solidify and seeing other groups as victims feels threatening. Those who disagree with the ICTY's pronouncements, particularly Bosnian Serbs, will not support a commission that has to follow the ICTY's pronouncements about genocide.

<https://soc.kuleuven.be/crpd/files/working-papers/working-paper-rowen.pdf>



www.anetrec.eu

The Old Bridge in Mostar is one of Bosnia-Herzegovina's most famous landmarks. Destroyed in 1993 during the Balkan conflict, it was rebuilt in 2004 and has been seen as a symbol of post-war reconciliation ever since.

Yet Sasa Kulukcija, a young man from Mostar, thinks otherwise. He thinks that the city – once well-known for its tolerance in having a high number of "mixed" marriages – is still divided, with Bosniak Muslims choosing to live on one side and Christian Croats choosing to live on the other.

<https://www.bbc.com/news/av/world-europe-44970561>

Twenty years since the start of the war, ethnicity is still a deep dividing line - no more so than in Mostar, where Croats hold the west bank, Muslim Bosniaks the east, in an uncomfortable co-existence that has resisted foreign efforts to promote reintegration.

A town of 72,000 people, it has two electricity companies, two phone networks, two postal services, two utility services and two universities.

Croat and Bosniak children go to separate classes, learning from different textbooks.

Mirroring the rest of the country, Mostar's budget is creaking under the strain of duplicate institutions and ethnic politicking that has paralysed the city more than once.

<https://www.reuters.com/article/uk-bosnia-mostar-idUSLNE83102N20120402>

4.2. Vukovar Case

Vukovar, is a small city in Eastern Slavonia close to the Serbian border. Soon after Croatian proclaimed independence from Yugoslavia in June 1991, conflicts escalated in those areas of Croatia populated by a large percentage of Serbs.

Nationalist leaders such as Franjo Tuđman in Croatia, and Slobodan Milošević in Serbia, were not motivated to create political and socio-economic reforms in the former Yugoslavia in a peaceful way. Milošević, with the support of the Yugoslav National Army (JNA), sought to encourage the efforts of the rebel Serb communities to secede

from an independent Croatia. The JNA leadership also aimed to decisively cripple or overthrow the new Croatian state.

A key element in this plan was the use of military forces to capture the Serb-populated region of Eastern Slavonia, and then to advance west from there to Zagreb, the capital city of Croatia, putting Croatia under military occupation. Militant propaganda from both Belgrade and Zagreb added to the tension, radicalizing many of the local population and encouraging each side to view the other in the worst possible light.

The city of Vukovar underwent a three-month siege in 1991 by the JNA, supported by Serbian paramilitary forces. The city was almost completely destroyed, and the majority of the Croatian population was forced to flee.

Fighting in this town alone accounted for over 2500 dead. The city fell to Serbian forces on November 18, 1991, and most of the non-Serb civilian survivors were expelled to other parts of Croatia. Approximately 800 men of fighting age were imprisoned in Serbian prisons. Many of the Croatian patients in the Vukovar hospital (around 260 people) were taken by Serb paramilitary forces to a nearby field of Ovčara and executed there. In 2005, Serbian courts sentenced 14 former militiamen to jail terms of up to 20 years for the killing of at least 200 prisoners of war seized at the Vukovar hospital.

Serbian authorities ruled the territory of the self-declared Republika Srpska Krajina (RSK) until November 1995, when as part of the Dayton process, Eastern Slavonia was reintegrated into Croatia with **the Erdut Agreement**. The Agreement outlined the terms of a twelve month period of transition under the control of the United Nations Transitional Administration for Eastern Slavonia (UNTAES) during which time between sixty and eighty thousand Croats, expelled from the Eastern Croatia Region between 1991 and 1995 returned to their homes (OSCE, 2002). In January 1998, UNTAES left and the Organization for Security and Co-operation in Europe (OSCE) remained as a monitoring mission.



www.anetrec.eu

Vukovar itself was inhabited by approximately 40,000 people at the beginning of 1991. It is estimated that there were more than 25 ethnic groups and at least ten religious' groups in the region. Croats constituted 52.9 percent of the city's population, and Serbs constituted 37.4 percent with Hungarians, Slovaks, Ukrainians, and not declared making up the remainder. Prior to 1990, the town's population was characterized by a high percentage of mixed marriages. It was estimated that at least 80 percent of the population had at least one first or second generation relative of another ethnicity (Zagar, 2000). In Croatia, Serbs and Croats lived in mixed communities, sharing schools, workplaces, and neighborhoods. Rural villages were more ethnically homogenous, and in these areas the interaction between Serbs and Croats was limited usually to the work and trade spheres.

Grassroots non-governmental organizations may play a significant role in the process of reconciliation as facilitator and mediator of cross-community relations.

The international community works with community NGOs to develop a conceptual, analytical and systematic multi-track peacebuilding process (Jeong, 2005). Building a sustainable long-term coordinated and integrated peace process combines development with reconciliation, security, and political transition to achieve goals, empower the grassroots, heal from the traumatic past and restructure relationships.

Local voluntary NGOs assist communities assume responsibility for change and in shaping their future. Community capacity building is connected to the development of interdependent relations with others. NGOs use their knowledge and expertise to work with grassroots communities to develop needed expertise by sharing and transferring knowledge.

Capacity building assists people to empower themselves and their communities in people-to-people interaction to build cooperation, repair relationships and structures in order to transform their environment and improve the quality of their lives by building sustainable peace.



www.anetrec.eu

Constructive conflict resolution involves partnerships between NGOs, local communities, external funding agencies and governments to relate to a new vision of thinking and doing (Byrne et al., 2006). Action thinking and the reform of institutional structures provides avenues to realistically transform conflict by changing negative attitudes and perceptions, socio-economic and political development, and the restoring of relationships in a process of shared responsibility.

Perhaps the most significant gateway to post-war confidence building is the deconstruction of collective guilt, for which the following three complementary processes are instrumental in Croatia: (1) consistent application of the Law on General Amnesty, paralleled by (2) impartial and efficient prosecution of all war crimes in national courts and International Crime Tribunal for former Yugoslavia (ICTY) and complemented by (3) careful initiation of community-based dialogue on hard and complex facts of war atrocities and their consequences on survivors. The 1996 Law on Amnesty, passed by the Croatian Parliament as a prerequisite of peaceful reintegration of the Danube region, is applicable to all involved in armed rebellions during the conflict who did not violate the laws and customs of war and/or who did not commit common crimes such as murder and theft of property. Nevertheless, in reality, Croatian survivors of the war in Vukovar, especially those with severe trauma, have difficulties to accept the difference between amnestied Serbs who were members of the military units on one hand and war crime suspects on the other. For that reason, transparent and credible processing of war crimes, complemented by a community dialogue on individual war experiences are instrumental for overcoming distrust that is especially strong against amnestied Serbian men who remained in Vukovar.

Inter-ethnic tensions and, even more importantly, the depth and sophistication of mutual isolation between the Serbs and Croats distinguish Vukovar from any other post-war community of Croatia. Even though the divisions are not immediately visible to outsiders, every public space and transaction is ethnically marked, including bars, cafes, most privately owned enterprises, shops, soccer clubs, market stands, churches, schools and even the kindergarten. Citizens of Vukovar still predominantly vote for

parties which are perceived as protective of their ethnic interests, as reflected by the structure of the City Council, where the Croatian Democratic Union (HDZ) has won 48% mandates, followed by 32% mandates of the Independent Democratic Serbian party (SDSS), 8% won by the Croatian party of Rights (HSP) and Croatian Peasants' Party and only 4% or only one mandate by the Social-democratic Party (SDP).

<http://www.policy.hu/skrabalo/pdf/42.pdf>

4.3. Mitrovica case

It has been over a decade since the 1999 conflict in Kosovo, which is estimated to have cost around 10,000 lives (Judah, 2008: 91), with around 3,000 Albanians and 800 Serbs and Roma subject to enforced disappearances and abductions (Amnesty International, 2009: 3). A staggering 848,100 Albanians were expelled from the country and many more were internally displaced, while an estimated 180,000 Serbs and Roma left Kosovo in the immediate aftermath of the bombing campaign by the North Atlantic Treaty Organization (NATO) (UNHCR, 1999: 11).

Since then, unprecedented international attention and funds have gone into “solving” the dispute in order to prevent a repetition of past mistakes in Europe’s backyard. Efforts have been made to reconcile the conflicting parties and thus to break the cycle of violence and hatred. This article analyzes both the difficulties, and possible opportunities, of the reconciliation process between the ethnic Serb and ethnic Albanian communities in Kosovo.

If reconciliation is about establishing mechanisms for peaceful dialogue and building trust between communities, then the first step must be the cessation of conflict and an agreement on the basic rules within which such a dialogue will take place. Preferably, such an agreement should be formalized through an official conflict settlement. In the case of Kosovo an official settlement is lacking. **The closest forms of official conflict settlement instruments are the United Nations Security Council Resolution 1244 and Martti Ahtisaari’s 2007 Comprehensive Proposal for the Kosovo Status Settlement (Ahtisaari Proposal).** The latter is accepted and implemented by Kosovo, but rejected



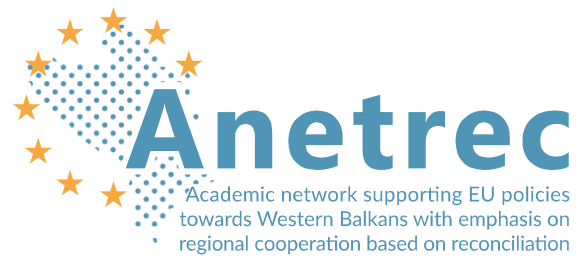
www.anetrec.eu

by Serbia, while interpretation of the former is fiercely contested: Kosovo argues that it supports its unilateral declaration of independence of 17 February 2008, while Serbia believes it reaffirms that Kosovo is an integral part of the territory of the Serbian state.

For a small country of under two million inhabitants, there are considerable regional divergences, the greatest being the difference between Kosovo north of the river Ibar (hereafter: northern Kosovo), inhabited for the vast majority by ethnic Serbs, and the larger territory south of the river Ibar (hereafter: southern Kosovo), inhabited for the vast majority by ethnic Albanians. While in southern Kosovo state institutions are generally able to exercise their authority without serious impediment, in northern Kosovo the Kosovo state plays a negligible role and institutions run by the Serbian state are effectively in control.

Much more than the rest of Kosovo, northern Kosovo remains a disputed territory. While the Kosovo government considers northern Kosovo a fundamental part of its territory, the Serb community in northern Kosovo unanimously rejects the independence of Kosovo and thus the authority of the Kosovo government. This is a situation that has prevailed since 1999, when, during the NATO bombing, Serbian security forces expelled the majority of the Albanian population living in northern Mitrovicë/Mitrovica. Since then the return of Albanians and Albanian-led institutions has been opposed; the return of Albanians and the aftermath of the 1999 conflict was actively resisted by a Serb paramilitary force called the “Bridge Watchers”, and the United Nation Mission in Kosovo (UNMIK) was only allowed to operate in northern Kosovo when it was agreed that almost its entire administration would be run by Serbs.

The change in the ethnic composition of both northern and southern Mitrovicë/Mitrovica was further exacerbated when, following a new eruption of violence in 2000, a large part of the remaining Albanian community in northern Kosovo fled south. This was also the case when, following the 2004 riots, most of the remaining Serbs in southern Mitrovicë/Mitrovica fled north (International Crisis Group (ICG) 2005: 2–5). The large numbers of people forced to leave their homes on both sides,



www.anetrec.eu

and the resulting resentment of these people (including due to the political manipulation of this situation), are additional hurdles to reconciliation.

Between 2004 and 2011, there were regular violent incidents as the Serb community struggled to resist any incursion by Albanian-led institutions or international organizations perceived to support the independence of Kosovo. On 25 July 2011, conflicting views on northern Kosovo again resulted in a serious confrontation, when the Kosovo government sent special police units to take control of two customs posts between Kosovo and Serbia in northern Kosovo. In response, members of the local Serb community set up roadblocks to block the movement of these police units and clashes ensued which resulted in the death of one Kosovo Albanian police officer (BBC, 27 July 2011).

The European Union Rule of Law Mission (EULEX) responded by airlifting Kosovo officials to the customs posts, while NATO's peacekeeping troops in Kosovo (KFOR) attempted to dismantle the barricades. The ensuing confrontations resulted in a highly volatile situation, involving regular and sometimes violent incidents between elements of the Serb community, KFOR troops and Albanian community members, including a confrontation on 10 November 2011 which resulted in the death of one Serb (ICG 2012a: 2). Although the situation has calmed.

Although the situation has calmed down, it should be clear that the "struggle" for northern Kosovo is still ongoing. Both parties continue to push for their own solution: the local Serb community and their political structures are fighting to ensure that northern Kosovo remains a part of the Serbian state, while the Kosovo government, with the support of the majority of the Kosovo Albanian community, is fighting for the diametrically opposed goal of effectively integrating the territory into an independent Kosovo.

Thus, while in northern Kosovo the Serb community still retains the belief that they can stave off an independent Kosovo, in southern Kosovo this viewpoint is increasingly less prevalent. In southern Kosovo, Serbs live in fragmented and isolated communities,

often far from the Serbian border, and surrounded by an Albanian majority and the strong presence of the Kosovo state. Kosovo institutions are also increasingly influential in Serb-majority areas, with institutions of the Republic of Serbia exercising progressively less authority (ICG, 2012a: 3–4).

This local reality of a retreating Serbian government from southern Kosovo is further supported by broader political developments, notably, the exclusion of the territory of Kosovo from Serbia's Stabilization and Association Agreement with the European Union (EU); and strong statements from influential European politicians such as German Chancellor Angela Merkel, who has consistently called on Serbia to dismantle their institutions in Kosovo (SETimes, 29 August 2011). Consequently, it has become increasingly clear to the Serb community in southern Kosovo that, while they might strongly disagree with the independence of Kosovo, this reality can be neither avoided nor changed.

This awareness has led to increased willingness on the part of a significant proportion of the Serb community in southern Kosovo to engage in peaceful and pragmatic engagement with Kosovo institutions, which in turn has created greater potential for reconciliation than in northern Kosovo. It should be noted that the prospect of independence has also increased the willingness of the Albanian community to compromise. For example, Kosovo has incorporated far-reaching minority rights protection into its institutional and legislative system, sometimes against the will of large parts of the Albanian community.¹⁰ In short, in southern Kosovo both Serbs and Albanians, to a far greater extent than in northern Kosovo, are ready to engage in peaceful coexistence and express disagreements through nonviolent means.

<https://www.idi.hr/wp-content/uploads/2018/11/ProcessofrecintheWBandT.pdf>

Reconciliation and education in the Western Balkans

Prof. Dr Iliriana Islami

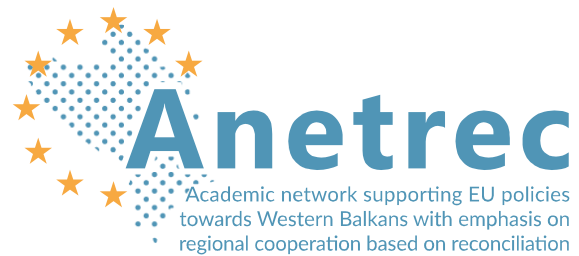
Faculty of Law, University of Pristina

The way of dealing with education in the aftermath of the conflict may either contribute to long-term peace or may fuel those tensions that date back to the conflict. In some cases, insufficient attention to educational reform in the peace process may affect the post-conflict societal development.

The reconciliation process in the Western Balkans is a multidimensional and complex issue for several reasons, including the number of countries involved in such a circumscribed geographical area with different ethnicities and religions professed by the local societies. The existing bilateral disputes in the region are both internal within a country and inter-state.

Sometimes, these disputes face also an external dimension reflected in the relations with third parties, like the case of Kosovo and Serbia and the general positioning of Albania. While countries like North Macedonia and Greece have managed to overcome the past dispute on the name issue through the Prespa Agreement and implementation of trust building measures, others are still in limbo, and with limited prospects for a viable solution in the foreseeable future.

The establishment of the **Berlin Process** back in 2014 provided a new momentum for regional cooperation in the Western Balkans. In particular, it contributed to bringing back the attention to the role and importance of achieving reconciliation and inter-societal dialogue in the region.



www.anetrec.eu

<https://europeum.org/data/articles/policy-paper-3.pdf>

States have a positive obligation – firmly entrenched in international human rights law – to tackle and eradicate school segregation. **In spite of this, generations of children in Bosnia and Herzegovina, Croatia, Kosovo and “the former Yugoslav Republic of Macedonia” have been educated in ethnically segregated schools under the pretext of the protection of language and cultural rights of a certain ethnic group.** In these communities’ children belonging to different ethnic groups only get to interact in high schools or universities when ethnic prejudices are already deeply entrenched in their minds and difficult to counter. **The most egregious example is the ‘two schools under one roof’ in Bosnia and Herzegovina which persist despite a domestic court decision which found the system to be discriminatory and numerous recommendations to the authorities by human rights bodies in this regard.** I am hopeful that students themselves can bring about the necessary changes, which was the case recently in the city of Jajce, Bosnia and Herzegovina, where student-led civic action led local authorities to abandon their plan to create yet another ethnically segregated school.

<https://www.coe.int/en/web/commissioner/-/reconciliation-stalled-in-the-western-balkans>

Kosovo

Education Reforms to Promote Non-Recurrence of Violence. In Kosovo, a number of educational reforms occurred in the aftermath of the conflict. The Government of Kosovo and the Ministry of Education Science and Technology have taken steps to improve the educational sector through the Kosovo Education Strategic Plans (2011-2016 and 2016-2021) and numerous new laws on education.

The Education Strategic Plans outline priorities at all levels of education which include: developing and supporting an inclusive system of education enabling equitable access to quality education; the education, training, and establishment of qualifications for teachers; improvement of school infrastructure; and implementing the Kosovo Curriculum Framework. **The Plans specifically address the inclusion of minorities in**

non-discriminatory education as well as vocational education, non-formal education, and trainings for adults who had their education interrupted during the conflict.

The new Kosovo Curriculum Framework of 2011 focuses on developing curriculum that incorporates the fundamental values and principles of human rights, living together, social justice, and inclusiveness. **An Independent Commission was established in 2009 in order to review Serbian language curricula and textbooks, in addition to other minority languages, in order to foster integration and inclusion. The Ministry is cooperating with the Ministry for Communities and Returns and UNDP in order to provide scholarships for students that are part of the Roma, Ashkali, and Egyptian communities. Equal access to education is also part of the Strategy for Integration of Roma, Ashkali, and Egyptian Community in Kosovo 2009-2015.**

ENG_TJ Summary of Institutions and Initiatives pdf

An entire study could be devoted to this case of educational apartheid in Kosovo's Serb.

The first addresses the controversial and highly emotive (apparent) compromise over Kosovo Serb teacher and school-director salaries. The second briefly reviews UNMIK's complicated struggle to influence education for Kosovo Serbs through political negotiations.

Salaries and symbols

The conflict over teacher salaries is about political control. UNMIK cannot really influence educators in Serbian areas if they are not on UNMIK and now MEST payrolls. The Ministry of Education in Belgrade pays all Kosovo Serbs teacher double their ordinary salaries. This is done, Serbian educators explained, because they view working in Kosovo a hardship posting. It is also done, UNMIK officials related to keep them in Kosovo.

In addition, if Kosovo Serbs teachers receive salaries from Belgrade, it certifies their allegiance to Belgrade's Ministry of Education and its commitment to implement



www.anetrec.eu

Yugoslav education policies and curricula. It is an act of preservation: preserving pre-war ties between Kosovo Serbs and Belgrade and preserving traditional Yugoslav education in Kosovo.

https://inee.org/system/files/resources/Sommers_Marc_Parallel_Worlds_Rebuilding_the_education_system_in_Kosovo.pdf

The Republic of Kosovo delegation on dialogue between Kosovo and Serbia, has reached an agreement on mutual recognition of diplomas between the two states of Kosovo and Serbia in Brussels, 2015.

With this agreement the parties pledged for mutual recognition of diplomas and respect the procedures and deadlines according to the respective legislation of each country. This agreement includes all university levels (Bachelor, Master and Doctorate), high school diplomas, vocational education, as well as the fifth level of qualification according to the European Qualifications Framework.

The process of certification of degrees of the respective institutions of education will continue through the certification by the European University Association (EUA), which will then be recognized by the respective countries on issues and goals of the labor market or for further studies, depending on the interest of applicants. This agreement ends the lack of period of recognition of university diplomas by Serbia, and requires that within five months all diplomas certified by the EUA over 400 certified diplomas that Serbia failed to recognize until now be recognized.

Also, this agreement defines the monitoring mechanism of the implementation process of the Agreement which consists of three parties (Kosovo, EU, and Serbia) and they have an obligation to report, assess and improve where necessary the process of implementation of the agreement.

<https://kryeministri-ks.net/en/agreement-on-mutual-recognition-of-diplomas-reached/>

Bosnia and Herzegovina

In Bosnia and Herzegovina (BiH), the post-conflict education structure shows how the lack of provisions on education in the peace accord played a huge role in perpetuating conflicting narratives and in contributing to tensions among the population. Segregation, ethnically-oriented curricula and mono-ethnic schools have been the feature of the education sector. In the words of a local peacebuilder operating in BiH, “Bosnian youths are the answer, the future. But they are divided”. To better understand the reasons behind this structure and whether this situation could change, it is necessary to analyse how the peace accord shaped the state and, indirectly, the education system.

The Education system

In this fragmented socio-political environment, a segregated education system has developed. Since the DPA did not give guidelines concerning the actors in charge of reforming education, its administration fell into the hands of the RS and the Federation. This made room for the development of different curricula: while the RS follows the standards developed by the RS Ministry of Education, within the Federation there are at least three different curricula. Curricula are also ethnically differentiated. The language of teaching differs according to the children’s ethnic belonging. The language differentiation traces back to the DPA, which recognized the existence of three national languages, the Bosnian, the Croatian and the Serbian, which are actually very similar but were politicized as different during the conflict.

The contents of curricula are ethnically oriented too. The so called ‘national subjects’, such as history or geography, are considered key channels for the transmission of the essential cultural values of an ethnic group. They include topics and interpretations of events that diverge according to the ethnic group they are addressed to. Finally, curricula diversification also influenced schools’ internal organization. There is a high number of mono-ethnic schools or schools based on the “Two Schools Under One Roof” model.



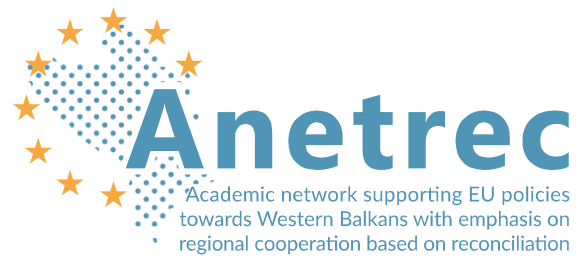
www.anetrec.eu

This model provides is for two different educational systems within the same building, the Bosniak and the Bosnian-Croat. In these schools, which are present only in the Federation, Bosnian-Croat children and Bosniak children attend classes in the same building but in different areas and they follow different timetables.

Education protectionism and future prospects

The presence of ethnicity issues in curricula proves how the education system is highly politicized. Schools in BiH are battlefields where war narratives are perpetuated and even in multi-ethnic schools, children are separated during the teaching of national subjects. This politicization is considered a form of educational protectionism which aims to strengthen the nationalistic feeling of belonging to different ethnic groups. If the origin of this geopolitical structure and of the educational system traces back to the DPA, its politicization and fragmentation resulted from the political unwillingness to change it. Several authors state that given the ethnically based political system, national and sub-national politicians deliberately use segregated education to strengthen divisive narratives and to remain in power. Currently, it does not seem that this system is going to change for example, in February 2018, the RS announced the willingness to unify the curriculum of the national subjects with the one issued in Serbia. Bosnian recent elections, held on October 7th, confirmed this tendency. The electoral programs of the winning parties, like the Croatian Democratic Union that won the seats of the Bosnian-Croat people, clearly reveal the will to keep the status quo of the education system.

Nevertheless, local efforts move in the opposite direction: in 2016, in the Federation, a group of Bosniak and Bosnian-Croat students attending a multi-ethnic school took to the street to protest the decision of the Canton administration to transform their school from multi-ethnic to mono-ethnic. Eventually, the administration decided to abandon the plan. According to a local peacebuilder, this protest was possible because these students had been attending the same classes for years.



www.anetrec.eu

In conditions where opportunities to meet are reduced, such as in mono-ethnic schools, these actions are more unlikely to take place. Nevertheless, this episode shows that once the process of integration has started, it is hard to stop it and to go back to segregation. Once a relationship has been established the status quo of war narratives and prejudices start to break and fall apart.

[Education in post-conflict Bosnia and Herzegovina. A challenge to peace \(mediterraneanaffairs.com\)](http://mediterraneanaffairs.com)

There are at least 50 schools around Bosnia in which students of different ethnicities are separated within the same building and studying on different floors, in different shifts or on different sides of the same building. An entire generation is growing up learning history, literature, art, music, math and science from textbooks designed by law especially for ethnic groups.

[In a Divided Bosnia, Segregated Schools Persist - The New York Times \(nytimes.com\)](http://nytimes.com)

Two Schools Under One Roof

Besides being divided among the main administrative units, the education in the FBiH has also been subject to further decentralization, thus leaving the education policies in the hands of the cantons.

Additionally, what makes the situation more complicated is Article 3 from the Section V of the Constitution of the FBiH, which states that each canton can “delegate its jurisdiction in relation to education (...), and it is obligatory to do so towards the municipalities in which the majority population, based on the national structure, is not the population that makes the national majority in the canton as a whole” (Parlament FBiH).

Education as such has been divided into the so called “two schools under one roof” system back in 1997, when children in the same school started to attend curricula in accordance to their ethnic affiliation, and thus separate classes have been created. The

system itself creates conditions for homogenization of one or the other (Sadikovic, pp. 26-28).

The purpose of the system itself was to temporarily encourage minority return to their previous addresses (Antidiskriminacija.org). But the system itself has been highly politicized. What was envisaged as a temporary solution, it turned out to be a very functional tool for the elites to enforce the ethnic and nationalistic discourse that works in their favor. There are currently 54 schools in three cantons in the FBiH that work under this divided system. (Antidiskriminacija, p.1)

What are the specificities of such a system? These schools work on a principle of “national subjects” which include language, geography, history, nature and society, but also arts (Low-Beer, p. 1). This means that these subjects are taken as a point for differentiation and division among students, and leads to an environment where the students of different ethnicities learn completely different things, and even things which are not particularly related to Bosnia and Herzegovina (in the case of Bosnian Croats, which will be further explained below). Although physical interaction between the students is minimal during classes, it seems that outside the classroom inter-student contact is on quite a low level too. [Segregation, Education and Nationalism: Two Schools Under One Roof System in Bosnia and Herzegovina - POLITHEOR](#)