The Importance of Minority Rights for the European Union in the EU accession process of Kosovo.

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List of Acronyms:

EULEX: European Union Rule of Law Mission in Kosovo

EUSR: European Union Special Representative

FCNM: Framework Convention for the Protection of National Minorities

IPA: Instruments for Pre-accession Assistance

KFOR: Kosovo Force

KLA: Kosovo Liberation Army

LDK: Democratic League of Kosovo

OSCE: Organization for Security and Cooperation in Europe

RAE: Roma, Ashkali, Egyptians

SAA: Stabilisation and Association Agreement

SAP: Stabilisation and Association Process

UNMIK: United Nations Interim Administration in Kosovo
Introduction.

Kosovo declared its independence on 17 February 2008. Its Constitution states that it is "a multi-ethnic society consisting of Albanian and other Communities, governed democratically with full respect for the rule of law through its legislative, executive and judicial institutions", willing to protect the rights and positions of all the minorities present on its territory. It passed strong legislation for the protection of minorities, reaching even higher standards than many member states of the European Union. The Constitution makes extensive provisions for the respect of minority rights, for language rights, cultural rights and political representation.

But in June 2014, 8 years after the independence, riots broke out in Mitrovica, in the North of the country, after the municipality tried opening again to traffic the main bridge, that separates the two parts of the city, Albanian in the South, Serbian in the North. This illustrates that tensions are still running high between the majority Albanian population and minority groups, especially with the main Serbian minority.

Those tensions between the different communities are still there even though the European Union has been involved in the country for a long time. The daily life is now pacified, but contacts between the different ethnic and religious groups are limited and violent episodes can still happen. All the international actors are at least officially concerned with minority rights in Kosovo, and among them the European Union. The European Union has a lot of contacts with Kosovo, there are regular visits from representatives of its bodies and institutions, it finances a lot of projects, it takes interest in all matters concerning the country as part of the Accession process, and it has even set up a rule of law mission called EULEX to help the Kosovo government as well as the Kosovo judicial system and sent a Special Representative (EUSR) to the country.

Nonetheless, this high involvement does not come without questioning. The European Union and EULEX have been under high scrutiny for their actions in Kosovo, and criticism have arisen both in Kosovo and outside. Recently, the media picked up a

1 “Minority Rights | ECMI Kosovo.”
2 “Clashes in Kosovo’s Mitrovica over Bridge Blockade - BBC News.”
corruption scandal affecting EULEX. Even the European Commission itself recognizes that the slow progress of minority rights in the pre-Accession countries brings up the question of the effectiveness of the EU in this field.

The problematic I would like to study in my thesis is how important are minority rights for the European Union, and more specifically in the Accession Process of Kosovo. I want to examine the motivations, the concern and sincerity of the European Union. To see if they only ask for a nominal protection of minorities in the accession process, or if they are truly concerned with improving the protection of minorities and the implementation of the legislation, as a way to guarantee stability and democracy. Especially in such a crucial case as Kosovo where if there is no high level of concern, it is no likely that the EU would have a high level of concern in other countries, less at risk.

My research question is how can we see if there is a high sincere level of concern for minority rights on the part of the European Union in the EU accession process of Kosovo through its actions and implication in the country?

To answer this question we will first see why an action and involvement of the European Union is needed in that field in Kosovo, and in the second part of the work, we will examine how and if the European Union is applying pressures, mostly through the accession process, on the authorities in Kosovo to improve minority protection, through notably a control of the implementation of the legislation and through trying to improve inter-ethnic relations, that would prove a sincere and high level of concern.

There have been different steps in the history of the protection of minority rights. The idea of having specific rights for individual members of a minority appeared in the 19th Century but was more firmly established in International Law after the First World War, with the creation of the League of Nations' minority Treaties. After the Second World War, minority rights received less attention, and neither the United Nations Charter nor the 1948 Universal Declaration on Human Rights includes a reference to minority

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3 Zogjani, “Ombudsman Checks EULEX’s Corruption Probe - Balkan Insight.”
4 Directorate-General For External Policies, “Mainstreaming Human and Minority Rights in the EU Enlargement with the Western Balkans,” 67.
rights. Before the 1990s only a handful of UN Conventions and Covenants mentioned minorities, and mostly concentrating only on the principle of non-discrimination.\(^6\)

With the changes in Eastern and Central Europe in the 1990s, the need arose to have better instruments for the protection of minorities, and the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992) set a new minimum standard for the protection of minorities as well as the two Council of Europe treaties, the Framework Convention for the Protection of National Minorities (1995) and the European Charter for Regional or Minority Language (1992). Another actor, the OSCE, who has among others, a role of monitoring and implements projects in Eastern and Southern Europe, set out in 1990 in its Copenhagen documents the importance of minority rights.

Before continuing further, it is essential to try to define the terms minority and minority rights. It is hard to find one simple easy definition of what is necessary to constitute a minority, and this is something that has an impact on the way the European Union defines a minority. The term minority can refer to ethnic minorities present in a country as a result of immigration or what has been usually called "national minorities", ethnic groups that have been present on a territory for a long time but differ from the majority in language, culture and/or religion.

The international instruments have usually been addressing the issues of those minorities and were created as a way to ensure their protection. The problem of definition arises from the fact that it might be more or less difficult to define what constitutes a religion, a culture or a language, and by the fact that definitions of minorities might or might not include an element of ethnic differentiation, another hard point to define.\(^7\) Some elements are essential, for instance culture and traditions are compulsory in most definitions, but others are not. Another important element is the idea of self-recognition of the individual or the group as a specific minority. There is also no consensus on the need or the importance for an element of lack of political power and/or discrimination or oppression, but it is an important element of many definitions.

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\(^6\) Ibid., 4–5.
\(^7\) Ahmed, The Impact of EU Law on Minority Rights, 21.
The European Union started to really tackle the issue of minority rights at the beginning of the 1990s, when the question of the accession of the Central and Eastern European Country started to appear. Up to that time, there had been no attempt to integrate those issues in the *acquis* of the European Union. The EU drew from the existing standards set up by the Council of Europe, the UN and the OSCE, especially the Conventions and Treaties mentioned above. The need for a protection of minorities in order to enter the EU appeared in the Copenhagen Criteria in 1993. The idea was for the EU to ask a certain level of minority rights in the new member states to ensure stability and democracy, to promote diverse and prosperous societies and to have an impact on conflict prevention and resolution.

Nonetheless, if it was asked of new candidate countries, nothing was set up to ensure an uniform guarantee of minority protection in the existing member states of the European Union, which all have different standards. This problem of uniformity is an important question concerning the implication of the European Union in the field of minority rights, and this is why a study of their work in prospective candidate countries is of relevance.

Moreover it is important to have more than a symbolic protection of minorities for different reasons, and all apply in the context of Kosovo. The first obvious one is to benefit the member of the minorities protected. But also to prevent the erosion of National and Sub-National identities, of legitimacy of the European Union and finally to address the issue of instability and tensions, even violent conflicts that can arise from the non-protection of minorities, placing the EU in a position to replace or supplement the inadequacy of the States in such a case.\(^8\)

Even though the European Union drew on the expertise of other Institution and especially of the Council of Europe and on their established texts,\(^9\) they have also been developing their own body of texts to address the issue. When the Treaty of Lisbon entered into force, the Charter of Fundamental Rights of the European Union received the same legal power as any other treaty of the European Union, affecting both the Institutions and the member states. In it, there is a provision against discrimination on cultural, linguistic or religious basis. Since then, the Fundamental Rights Agency of the EU has been working on minority issues.

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As we have seen, the main problem in the field of minority rights with the EU conditionality and the Copenhagen Criteria is the problem of definition and lack of uniformity. Thus, the criteria are strong on the normative aspect but there can have only a relative impact on compliance and convergence. We will see that it is something that has happened in the case of Kosovo, where the legislation has reached the standards set by the European Union and the Council of Europe, but that the practical implementation of that legislation is still lacking.

Nonetheless, we can see that the respect for Human Rights and then minority rights has had a growing importance as compared to other criteria. A concern for Human Rights started to appear in the 1960s but minority rights have started to be taken into consideration when the first countries from Eastern and Central Europe applied for membership but remained a minor accession criteria, and as mentioned above, one that was mostly requiring that laws should be in place, without much follow-up.

But since the beginning of the 2000s and with the candidacy of countries from the Western Balkans, minority issues became more salient, and the EU has had to increase its focus on it. It can be due to the fact that the European Union had to face criticism in that field for too quick screenings after the accession of 2004 and 2007 or because the EU wants to delay more the accession of the new members. The EU is now even commenting on the definition of minorities in the countries in question and on specific implementation or areas of discrimination. It is still not one of the most important criteria but it gets mentioned early in the reports and Human and minority rights have their own section.10

The problem of the definition of minorities is even more complicated in Kosovo, where the situation is highly complex. There are a lot of discussions between Albanian and Serbian historians on who occupied the territory first, it is unproductive and not the place to enter such debates here, it is enough to mention that those minorities have not always been clearly defined. Kosovo has been for a long time a multicultural and multilingual environment, and identities were not as clearly defined as they are now, and mostly along religious lines.11

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10 Shoraka, Human Rights and Minority Rights in the European Union, 120.
Since Serbia still considers Kosovo to be part of its territory, most Serbians in Kosovo still refuse to recognize themselves as minorities. This is why in Kosovo, upon the insistence of the Serbs, minorities are referred to as Communities, as a way to reflect this complex situation.\textsuperscript{12} The use of vocabulary and language is a crucial element in Kosovo, especially for the name of places and cities. In this paper, in order not to complicate matters and not to be biased, I will simply use the names most commonly used and make note of the different versions if need be or if both are widely known.

Kosovo is a critical case and is the perfect setting to test the involvement of the European Union in many fields and especially in the field of minority rights. One of the main factors is the potential for conflicts of majority/minority relations in Kosovo, but also the fact that the European Union has been highly involved in Kosovo. We can assume that if the European Union is not concerned with minority rights in Kosovo, and if the European Union does not recognize this situation, where the stakes are very high, then, it would not recognize it elsewhere, for candidate countries or Member States where the risks are lower. It is especially crucial to study the level of implication of the EU concerning implementation and a widespread lack of implementation of legislation concerning minority rights, as it has already been seen as a problem during the accession process of the Central and Eastern European countries.\textsuperscript{13}

Moreover, because of the specific situation in the Balkans, we can see the beginning of minority issues permeating other aspects of the candidacy, in the case of Kosovo for instance in the need for the normalisation of relations with Serbia, but for all countries and most notably the improvement of the economy. To secure minority rights, it is essential to have a participation of the minorities to Society, and the integration into the national economy is one aspect of it.\textsuperscript{14} In the Western Balkans and in Kosovo this is especially critical for the Roma community, but also for the Serbs, as if they stay in their enclaves without contacts with the rest of the population they cannot be integrated into the economy and national society.

The European Union has been highly involved in Kosovo since 1999. Under the UNMIK administration, which started after the war, the EU was officially in charge of

\textsuperscript{12} Perritt, \textit{Road to Independence for Kosovo}, 143.
\textsuperscript{13} The EU accession criteria in the field of minority protection and the demands of ethnic minority parties, 122
\textsuperscript{14} Ahmed, \textit{The Impact of EU Law on Minority Rights}, 38.
economic reconstruction and development.\textsuperscript{15} Kosovo is now a Potential Candidate for the accession to the European Union; the country does not have yet the status of an official candidate, but of a pre-candidate country. The European Future of Kosovo has been recognized since 2002 by the European Commission, and a lot of work to prepare it has been done so fare, even though the country is lacking behind in several key areas, one of them being minority protection. The European Union is now involved in different ways in Kosovo. The EU rule of law mission EULEX is the largest Common Security and Defence Policy mission and has various roles in the country. A Special Representative (EUSR), who has a role of mentoring and advising the Kosovo government, also represents the EU. Nonetheless, the action of the European Union is hampered by the fact that five member states still do not recognize Kosovo. This has an impact on the way the European Union has to treat Kosovo, and limits their action in the country, and the way it is perceived, both by the authorities and by the citizens.

The European Union is not the only International Organizations still active in Kosovo. Even though the International supervision of the Kosovo has officially ended in 2012, UNMIK is still present in the country. There are now mostly responsible of helping the administration in the four Serbian majority Municipalities in the North. The OSCE is also very active in Kosovo. They have a role of monitoring, especially of minority issues and of implementation of projects. They have issued several reports insisting on the importance of minority protection in Kosovo and the risks if there are none. Finally, the Council of Europe is also involved in Kosovo. Like the OSCE they monitor the situation and the implementation and release reports on the situation.

For my methodology, in keeping with Euroculture multidisciplinary focus, I chose to approach my subject with a multidisciplinary scope that drew mostly on political science, but also on history, law and sociology.

I have started my work with a literature review but there has been little written specifically on the work of the European Union in Kosovo, and even less on the work of the European Union in minority rights in the country and I had to draw on other work on minority rights in the region. Concerning books about Kosovo, even though there are few, one needs to be careful on the matter of subjectivity, as they can quickly turn into almost

\textsuperscript{15} “UNMIK Background - United Nations Interim Administration Mission in Kosovo.”
propaganda-like materials, from both the Serbian and the Albanian sides. Because of that, the literature on the subject is difficult to navigate, not unlike the history of the country itself.

For the main part of my research, I have used a mixed method approach, with quantitative aspects in the statistical analysis of minorities in Kosovo and the broad review of the legislation and its implementation but also more qualitative aspects such as the text analysis of the documentations from the European Union and my own observations that I was able to make during my internship in Kosovo. I have used observation as a tool to complement what I found in articles or in the documents from International organizations and to a limited extent. Even though the question of the subjectivity remains I managed to be as impartial as possible as I was working in Mitrovica, in contact with both the Albanian and Serbian communities, and learned a lot about the specific conditions of the Northern part of Kosovo.

To answer my research question, my thesis will be organized in two parts. In the first part, we will examine why the European Union needs to be involved in the field of minority rights in Kosovo, and in the second part how they are getting involved, and we will study in details if they are concerned with implementation and their level of sincerity in their action.

In the first part, we will see what the minorities in Kosovo are, the history of minority protection and minority relations and the changes that have happened in the legislation of Kosovo in the recent years, and see if it has had an impact on the minorities present in the country. In the second part we will see if the European Union has had some influence on the authorities in Kosovo and if and how the European Union is putting pressure on Kosovo and its institution for better minority protection. This will be followed by a study of the level of concern of the European Union for implementation.
I. Why does the European Union need to be involved?

The first element of the study will be to examine in more details what constitutes a minority in Kosovo, the changes that have happened in the minority rights protection in Kosovo, and the impact it has had on minorities. The idea is to understand the situation of the country and to see why the European Union has to be involved in minority rights protection in Kosovo, and what they need to react to, what might be missing from the legislation. We will also try to see why the risks are higher in Kosovo and why the European Union needs to more involved in minority rights protection in Kosovo than in other countries by studying the differences with Montenegro, starting with a quick overview of the country and then a study of its legislation concerning minority rights.

Those elements will be important to understand how the European Union is acting in relation to minority rights in Kosovo, and the comparison with Montenegro will provide a counter point throughout the second chapter to see if the European Union recognized the specific situation of Kosovo and the higher level of risk linked to minority protection in the country.

We will see that through the different epochs and status of Kosovo the legislation has evolved a lot and has reached standards in line with those of member states of the European Union, and see that the approach towards minority rights in the country are different now from the approach that used to dominate. We will try to examine the problems still existing and if they are specific to the country. We will start with a discussion of what constitutes a minority in Kosovo and the evolution of the concept of minority, the evolution of minority rights in the country, and finally we will compare the situation in Kosovo to the one in Montenegro.
1. Who are the minorities in Kosovo and what have been their rights?

a. Minorities in Kosovo.

Kosovo has been a multiethnic society for a long time. As we have seen in the introduction, religion has been important in the Balkans to define the identity of the different groups present. In Kosovo, this religious identity has been complemented by the fact that it has been a place of contact between different influences and different ethnic groups. Kosovo has been the cradle of the Serbian Orthodox Church and of the Serbian monarchy, and those two elements are the basis of Serbian identity. Even today, Serbs refer to the date of 1389 as a central date of their national construction, the date of their lost battle in Kosovo Polje/Füshe Kosovo against the Ottoman army. This element of mythical importance of Kosovo has been and is still being used by Serbian nationalist and is a strong argument for the need of Kosovo to remain part of Serbia. Serbs also have a tendency to identify themselves strongly with the Serbian Orthodox Church and the Orthodox religion, in opposition to the other religions in the region.\(^\text{16}\)

The territory that constitutes Kosovo today has been part of the Ottoman Empire for a long period of time, from the 15th century up to 1913 and the end of the Balkan war. The region has been part of various entities and administrative units and has not always been united. There are many discussions between Serbian and Albanian historians on who where the population at the time, if they were mostly Serbianized Albanians or Slavs, but what is enough to know objectively is that both populations have been present since that epoch, and that the group that constituted the majority of the population has not always been the same. But it was also a period where identities were more flexible and could vary. Religion played a role in defining better the difference between the groups. Before the Ottoman conquest, Albanians were mostly Catholics, and some Orthodox Christians. Progressively, most Albanians did convert to Islam, which was in part a way to ensure social promotion in the imperial administration.

Nowadays, the majority of the population are ethnic Albanian, and there is a strong Serbian minority, as well as other small minority groups, such as the Roma, Turks, Bosniaks, Croatians and Goranis.

The religious distinction today is not so clear-cut as it seems presented by the nationalistic rhetoric. The vast majority of Serbs are Orthodox Christian and strongly identify with their church and the majority of Albanians are Muslim, but some are Catholic, a very small percent are Orthodox, and some Slavic-speaking groups, such as the Bosniaks or the Goranis are Muslim. But this religious distinction is what constitutes the basis of the definition of what a minority is in the Balkans, following the Ottoman Heritage. The religious distinction is also used a lot in Serbian nationalistic rhetoric.17

The religious aspect is less present in Albanian nationalism where for instance, you find statues of Mother Teresa all around the country, and even the non-Catholics see her as a National symbol. Tensions between the Kosovo Albanians and Kosovo Serbs have been intensified by religion; however, Islam is seen as mostly peripheral for most Albanian, not the central element of their identity.18

The Bosniaks minority was first recognized as a distinct category in 1961 as "Muslim in the ethnic sense". The term "Bosniak" started to appear after the war in Bosnia, when the Bosnian language started to be defined as different from Serbian and Croatian. There is an estimated 35,000 Bosniaks in Kosovo. Their language rights are recognized in three municipalities, but they suffer from shortages of textbooks and education options. Their leader Numan Balic is asking for more decentralization in their favour, and fears that their community will either face assimilation or leave the country.19

The situation of the Turkish minority is quite similar to that of the Bosniak one. Even though they have been present in Kosovo since the Ottoman rule. Today, their numbers have dwindled and were estimated by the OSCE at around 12,000 in 2001. They are concentrated in and around the city of Prizren, where the Turkish language has a special status.

17 For instance, in the book by Mirković, Le Martyre Du Kosovo, 104. The book is close to propaganda, it used as way to justify their "ownership" of the region and as a way to criticize the Albanians, presenting their conversion to Islam simply as move to advance in the rank of the Ottoman administration, because of a supposed lack of attachment to the Orthodox religion, thus, representing supposedly their lack of attachment to the land.
18 Perritt, The Road to Independence for Kosovo a Chronicle of the Ahtisaari Plan, 18.
19 Stevens, Filling the Vacuum, 8.
The Croat minority, strongly identified with Catholicism, used to be quite important in Kosovo, centred on a few market towns. There remains a few hundred, in the towns of Janjevo near Pristina, and in Letnica in the south of the country.20

Another small minority group are the Goranis. The Goranis are a Muslim group who speak a Slavic language, related but different to Serbian. The Goranis are present mostly in the mountain to the southwest of the country, the Gora Mountains, but there are smaller urban communities around the country, and especially in the Serbian Municipalities in the North, where they found refuge after the war. There are an estimated 6,000 in Kosovo. They have suffered since the war, as they were seen as collaborators of the Serbs. There are in a very difficult economic situation and there are problems with their language rights.

The Roma minority has been present in Kosovo since even before the Ottoman period. They are sedentary in Kosovo, and are separated in three groups, the Roma, the Ashkali and the Egyptians, with difference in language or in self-identification. Nonetheless, they are often regrouped in official documentation under the acronym RAE, but their right to self-identification as separate groups as been recognized first by UNMIK and later on by the Kosovo authorities and they are treated as separate groups for political representation. Like in all of the Balkans, they are in a very difficult economical situation and have been suffering, like the Goranis, of being associated with Serbs in the minds of Albanians after the war.21

The Serbian minority is the most numerous one in Kosovo. Even though their numbers are hard to evaluate, because they did not take part in the most recent census, there is an estimated 100,000-200,000 Serbian people left in the country. A lot have been displaced after the war and the rate of return has been low. They are now living for the most parts in the four Northern Municipalities, where they are the majority population, and in some enclaves in the rest of the country, such as Gračanica, close to Pristina. We will see that the participation to Kosovo society of the Serbs living in the enclaves is improving but that many problems remain with the situation of the ones living in the four Northern Municipality.

20 Ibid., 9.
Kosovo is extremely important in the Serbian national identity and it has been used a symbol extensively in nationalistic rhetoric. Kosovo has been a part of the first Serbian kingdom and it is there that the battle of Kosovo Polje took place in 1389, between Serbian forces and Ottoman forces. This battle marked the beginning of the Ottoman domination of the Balkans. But it acquired a legendary status for the Serbian people and it is still used a lot in nationalistic rhetoric. The Serbian Orthodox Church was founded in the region and three monasteries and the Patriarchate of Pec/Peja are on the UNSECO World Heritage List.22

The definition of identities and the concepts of minority and majority are further complicated in the case of Kosovo by the fact that it has been part of Serbia for a long time, and even though Serbians have constituted a minority of the population in what is Kosovo now for at least a couple of centuries, they were not the minority in Serbia. In the same way, Albanians were treated as a minority, especially during the period of the Federal Republic of Yugoslavia, but did constitute the majority of the population in Kosovo. It was an example of a situation of a numerical minority holding the power and the discrimination was against the majority. In many definitions of what constitutes a minority, there is an element of political power and discrimination and not numbers only, Kosovo was an illustration of this situation and this situation led to the war of 1999.

b. Minority rights in Kosovo from the Second World War to the end of the communist period.

Kosovo has always been a region of contact and exchanges. What is now Kosovo has often been on the border, or separated between different empires, countries, and religious influences. Concepts of minorities in the Balkans were influenced by this history of contact and also by the long reign of the Ottomans in the region. The Ottoman system of millet, allowed a level of self-rule to the different religious community and helped defined identity according to religion.23 For a long time, there was no distinction between

22 The monasteries and the Patriarchate are listed on the UNESCO list as for Serbia, since Kosovo is still not recognized at the UN-level.
Albanians and Serbian, but between Muslims and Orthodox Christian. Until the middle to the late twentieth century it was common in the Balkans to refer to any Muslims as "Turk". This concept was even further complicated by the fact that people from different background started speaking Turkish, as it was the language of the administration.

The Kingdom of Serbs, Croats and Slovenes (1918-1943) did not recognize the existence of any ethnic minorities in Kosovo, and started discussing the deportation of Muslims from Kosovo to Turkey. The Muslims in question were called "Turks" by the authorities but it is likely that most were actually Albanians. The standards of minority rights during that period were low, as illustrated by the project of deportation but also to due to general discrimination and the lack of specific rights, for instance Albanians did not have any language rights, even though Turkish had limited ones.24

The heritage of minority rights in Kosovo is also linked to its communist past, as a part of Yugoslavia. Kosovo was part of the Republic of Serbia, itself one of the 6 Republics constituent of Yugoslavia. Nonetheless, Kosovo enjoyed a special status, in the same way than the region of Vojvodina in the North of Serbia. Kosovo was integrated into Serbia at the end of the Second World War but enjoyed the status of an "Autonomous Region" called Kosovo-Metohija, the traditional Serbian name of what is now Kosovo.25

Right after the war, the situation of the Albanian population was complicated by the emphasis put on the collaboration of some members of the community with the occupation forces during the Second World War and by suspicious of collaboration with the regime of Enver Hoxha in Albania, who had became a problem for the Yugoslav regime. An Albanian independence movement also started in Kosovo in 1944 and continued for some years afterwards to fight the Communist regime. Because of this situation, it is hard to determine if the persecutions of Albanians in the direct aftermath of the war were the results of a liberate discrimination or more a part of a general struggle against anti-Communist activity and the fight between the different Communist countries of the region.26

Rapidly, the country was pacified and independence movements and parties started to disappear and improvements were made for the status of minorities. A huge step

24 Ibid., 353.
25 Malcolm, Kosovo, 316.
compared to the previous situation of minorities in the region has been that the use of minority languages was guaranteed in the administration and education. Cultural organizations for minorities were formed, and the government sponsored the publication of books and newspapers in minority languages. The last positive aspect of the early Communist approach towards minority was the opportunity for minorities to have representation in the party and at the regional level thanks to the establishment of the Autonomous region.\textsuperscript{27}

Nonetheless, until at least the middle of the 1960s, Serbs dominated the political and economical lives of the region, although Albanians already constituted the majority population in the region. As underlined by Malcom, "Serbs and Montenegrins, who were 27 per cent of the population, accounted for 50 per cent of the Party Membership and 68 per cent of administrative and leading positions".\textsuperscript{28}

Even though, beginning in the 1950s, the regime started to promote education for minorities, mostly in order to integrate them better in the system; the constitution of 1963 reduced further the autonomous status of Kosovo. Despite the fact that the name was updated to Autonomous Province, it became more subordinated to the Serbian Republic, and not the Central State anymore. Moreover, the region suffered from strong economical and social problems. On one hand, the central state was giving more power to Serbia as an effort of decentralization; on the other hand Tito himself criticized the lack of equal rights between Albanians and Serbs during a visit in 1967. This led to changes to the Constitution, confirming the autonomous Provinces as belonging both to Serbia and the federal structure, and giving the local government of Kosovo almost as much power as one of the Republics.\textsuperscript{29}

At the same time, a period of rapprochement with Albania brought an expansion of minority rights for Albanians. The most important one was the foundation of the University of Pristina\textsuperscript{30} in 1969, with teaching in Albanian and Serbo-Croat. Some more

\textsuperscript{27} Ibid, 74-75
\textsuperscript{28} Malcolm, Kosovo, 323.
\textsuperscript{29} Ibid., 325.
\textsuperscript{30} Before that date, there were a few faculties of the University of Belgrade implanted in Pristina.
trivial, such as the authorization to fly the Albanian flag, still angered and polarized the Kosovo Serbs, as some viewed it as a sign of a budging independence movement.\textsuperscript{31}

This trend was confirmed in 1974, when the final Yugoslavian Constitution entered into force. Kosovo was now almost a Republic but in name. The Autonomous Provinces now had equal status with the Republics in economical matters and in some matter of Foreign Policies. They had one representative each at the Presidency of Yugoslavia level, which was now a collective body. They even had now the right to draft their own Constitution. But this Constitution also showed the final limitation of the rights of minorities in Yugoslavia. Kosovo and Vojvodina were not turned into full-fledged Republics because their "nationality" already had a "nation", even though it wasn't part of the Federal Republic of Yugoslavia. This is under this theory that Montenegro had its own Republic, even though there were less Montenegrians in Montenegro than Albanians in Kosovo. In the case of Kosovo, this supposed reason went hand in hand with a fear that if Kosovo would be given Republic status they could eventually secede and unite with Albania.\textsuperscript{32}

That period marked the best period in terms of minority rights and participation in the economic and political life of Albanians until after the 1999 war. Their language and cultural rights were still guaranteed, and the new generation of students educated in the University of Pristina were starting to join the political and economical life of the region. It also marked a period of strong emigration of Serbs and Montenegrins out of Kosovo. Even though it is presented by some as the result of a deliberate policy of Tito and pressures from Albanians,\textsuperscript{33} the reasons were in a large part due to economical difficulties. Many Albanians also emigrated during that period but they had overall a higher birth rate. This led to a rise in the proportion of Albanians in the population, from 67-68 per cent between 1948 and 1961 to 82 per cent in 1991, while the proportion of Serb-Montenegrin went down from 28 to 11 per cent.\textsuperscript{34}

The last period of the experience of Kosovo as part of the Federal Republic of Yugoslavia is quite conflicted. One year after Tito's death, in 1981, riots erupted in Pristina, starting at the University and spreading in town. The rioters were in their great

\textsuperscript{31} Malcolm, \textit{Kosovo}, 326.
\textsuperscript{32} Shoup, “Yougoslavia’s National Minorities under Communism.”
\textsuperscript{33} Judah, \textit{Kosovo}, 59.
\textsuperscript{34} Malcolm, \textit{Kosovo}, 331.
majority Albanians and the 1980s saw a worsening of relations between Serbs and Albanians. In response to the demands of more rights for the region by Albanians, there was a radicalization of the Serbs, first in their discourse and then in acts. The Albanians were expelled from a lot of administrative and political positions and the language and cultural rights were progressively revoked.

What we can gather from the experience of the Federal Republic of Yugoslavia is some advancement of minority rights and the protection of minorities, but it had serious limitations. Moreover, the question of the motivations behind the official policies and definitions of minorities and minority rights are still debated and source of conflict in Kosovo, both Serbs and Albanians harbour resentment towards the other community for some aspect of the period. Furthermore, the communities were still very much polarized and inter-ethnic relations were at a very low point in the beginning of the 1990s and the end of the Communist regime. That polarization continued and was aggravated in the 1990s, and eventually led to the conflict of 1999.

When the first wars in the Balkans erupted, the independence movement in Kosovo did not consider itself ready enough to be able to fight against Serbia, but did organize a parallel regime, which provided basic services to Albanian citizens, such as health care and education and had a President elected, Ibrahim Rugova. In the midst of discrimination against Albanians, who were excluded from the normal system, and national rhetoric from Serbian authorities and especially President Milosevic, this parallel state was tolerated to a certain extent. The new system was organized by the LDK, the Democratic League of Kosovo, but soon another group appeared, the KLA, the Kosovo Liberation Army, which was not pleased with the strategy of waiting to garner sufficient funds and supports of the LDK and decided to start an armed rebellion against Serbia.

Throughout the 1990s, the KLA gathered momentum and became the recipient of the majority of the funds coming from the Diaspora, which allowed them to progressively raise their number of actions against Serbian authorities. The guerrilla escalated and in 1998 the Serbian authorities further accented their repression of the KLA, along with a campaign of harassment of the civilian population. This prompted NATO to launch a series of strikes against Serbia and Montenegro to force the Serbian forces to retreat from Kosovo. By

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35 Also known by its Albanian acronym, UÇK.
36 Judah, Kosovo, 75–79.
some estimates more than one million people got displaced during the war, most of them Albanian civilians and around 10,000 died, among them Albanian fighters and civilians killed by the Yugoslav forces but also Serbian military and civilians killed by the KLA and by the air strikes of NATO. 37 The organization then set up a force, the KFOR to ensure that the Serbian forces would not return and to ensure a peaceful transition, while the United Nations set up administrative mission to overview the region, UNMIK, under resolution 1244.38

c. The war of 1999 and its Aftermaths.

After the war, the Albanian nationalists, many of whom were part of the KLA, in the vacuum of power that was created, took over the public institutions and the administration of the country, even before the KFOR or the UN could be properly deployed and working effectively. It was then that in turn, the situation of Serbs became more complicated, as they became more stigmatized and society became more and more polarized. Serbs and other minorities viewed as having collaborated with Serbs suffered from reprisals from Albanians, often violent. In this situation of a high level of concerns for minorities and their rights, there was a very important movement of population, affecting mostly Serbs. The short-term solution that appeared was a move to enclaves, separated from the majority population, a situation that continues up to today.39

The problems faced by the Serbs and minorities associated with them in the first years after the war was illustrated by the March 2004 riots. Reports, which could be false, of the death of Albanian children who drowned in the Ibar River after being chased by Serbian teenagers, sparked series of riots all over the country. 28 people died during the events, and many houses and churches were targeted, mostly owned by Serbs and members of the RAE community.40 The riots are a good illustration of the high level of tensions between the communities in the first years after the war, and if the situation has improved since them, it is still remembered as a traumatic event in the country.

37 Ibid, 88-90.
38 “UNMIK Background - United Nations Interim Administration Mission in Kosovo.”
39 Bataković, A Turbulent Decade the Serbs in Post-1999 Kosovo, 53.
Nonetheless, it is at the same time that the legal framework for the protection of minorities took its modern shape in the country, under the supervision of UNMIK, who was in charge of the administration of the country. Even though Kosovo was neither part of the UN nor the Council of Europe, the UNMIK constitutional framework drew on the conventions and treaties of those two organizations.\footnote{Tainio, “Kosovo Turks: From Privileged Status to Fear of Assimilation,” 356.}

UNMIK set up an administration of the country and set up provisional institutions of self-government. In the meantime, former Finnish President Martti Ahtisaari drew a plan, the Comprehensive Proposal for the Kosovo Status Settlement,\footnote{Commonly known as the Ahtisaari plan.} to try to find a solution for the final status of Kosovo with Serbia. A compromised was not found between the leaders of Kosovo and of Serbia, but the Parliament of Kosovo declared its independence nonetheless in 2008, and the new Constitution was passed in August 2008. The Serbian deputies did not take part in the session and Serbia still has not recognized Kosovo. Since then, most of the roles of UNMIK have been transferred to the EULEX mission, established in 2008 and their powers have been progressively transferred to the Kosovo government.

The role and status of the KFOR and UNMIK, a concern that would later on affect EULEX in turn, brought up the question of their accountability. This has been one of the major issues concerning Human Rights during the international rule. At first there was little in place to ensure accountability, a case brought up to the European Court of Human Rights against UNMIK was considered inadmissible because the UN was considered responsible and not an individual state.\footnote{Behrami and Saramati vs France, Germany and Norway, “HUDOC Search Page.”} Because of those issues, UNMIK set up an office of Ombudsperson and later on a Human Rights Review Panel. The Human Rights Review Panel brought an end to the privileges and immunities that the UNMIK staff enjoyed, and which was not compatible with Human Rights. In the field of minority rights, they became accountable for their limitation of finding proper accommodation for the Roma minority and it further forced them to try to find solution to the problem of inter-ethnic relations. Overall, it set up a good precedent of accountability, and the position of Ombudsperson was created for Kosovo too when the country took its independence.\footnote{Fitzmaurice and Merkouris, The Interpretation and Application of the European Convention of Human Rights, 79.}
The mechanism of the Human Rights Review Panel will also be used by EULEX, as soon as it started its mission, in 2008. Its accountability was also extended, as each member states had had to assume responsibility and not the EU as a whole.\textsuperscript{45} The fact that the EU made the provision for accountability as soon as the mission started proves that the transfer of good practice was efficient but also that the EU was taking into consideration the Human Rights impact of its actions in Kosovo. This, however, will not fully protect EULEX of criticism about its accountability, as we will see later.

As we have seen, minority rights were taken into account during the International Rule in Kosovo to a certain extent, but it had very mixed results. A report released by the minority rights Group in 2006, after more than 6 years of UNMIK administration, criticized the UN for their track records.\textsuperscript{46} The main problem that they recognized what the remaining "segregation" between the different communities and that the work of UNMIK was not focused enough on inclusion and on moving past existing divisions. They also underlined the risks for Kosovo if the issues of minority rights were not addressed.

\section*{2. Minority Rights in Kosovo in recent years.}

\subsection*{a. The situation in the Constitution and legislation of Kosovo.}

As we have seen, minority rights were somewhat taken into account during the International Rule in Kosovo but little progress was made and the legislation evolved slowly. Since the independence there has been many improvement, even though progress still tend to be slow. It is now the Constitution of Kosovo and the legislation passed by the Assembly alone that decides of the minority rights in the country and the International Organizations, among them the European Union through EULEX only have a role to mentor and give advice.

\textsuperscript{45} Ibid, 83-85
\textsuperscript{46} Baldwin and Minority Rights Group International, \textit{Minority Rights in Kosovo under International Rule}, 6.
Minority rights in Kosovo are directly influenced by the International texts in the field, even though Kosovo is not a member of the Institutions that created them. In the case of the FCNM, even though Kosovo is not a member of the Council of Europe, the country is subject to a specific monitoring arrangement, as per an agreement signed in 2004 between UNMIK and the Council of Europe. The monitoring arrangement takes place every five years. First UNMIK through the OSCE prepares a report for the Council of Europe on the situation in Kosovo and its compliance with the FCNM, then an independent body does the same and finally a resolution is adopted.

Kosovo has been readying itself to be a member of the Council of Europe in the field of minority rights. As per the Constitution of Kosovo, the rights and freedom set out in the FCNM are directly applicable to Kosovo.\(^{47}\) Regarding the rights of minorities to use their own language, as well as education and freedom of expression, the Constitution stipulates that Kosovo has to follow the standards of the *European Charter For Regional or Minority Languages* of the Council of Europe.\(^{48}\)

The Constitution of Kosovo defines the country as multi-ethnic and that the official languages are Albanian and Serbian. "Turkish, Bosnian and Roma language can have the status of official languages at the municipal level or will be in official uses at all levels as provided by law".\(^{49}\) There is one chapter dedicated to the rights of Communities and their Members. The rights of Communities to express their "identity and community attributes"\(^{50}\) are guaranteed.

The political representation of Communities is also guaranteed by the Constitution. There are 20 reserved seats for representative of the minority communities, 10 for the Serbian community and 10 for the rest out of 120 seats in Parliament. They have also reserved seats in Committees and in the Presidency of the Assembly. There is a need for approval of the representative of the minorities on amendments and legislation of "vital interest" for the communities in question.

In Education, the *Law on the Use of Languages* guarantees the right for the communities to receive public school education in their mother tongue. The students and

\(^{47}\) *Constitution of the Republic of Kosovo*, Art. 22.

\(^{48}\) *Ibid*, Art. 58.2.


\(^{50}\) *Ibid*, Art. 57.
their parents can also decide in which official language the school records and reports will be issued. Use of the language in other matters are also guaranteed by this law, for instance during judicial proceedings. At the municipal level, if at least 5% of the inhabitants have as a mother tongue one of the minority languages, then the language will have equal status in that municipality, and all documents will have to be translated and be made available. A special provision applies to Turkish in the Municipality of Prizren, where it will be considered an official language, no matter what the percentage of the population is. A language will also have to be in official use at the municipal level if 3% of the population has it as a mother tongue or if that language was traditionally spoken in the municipality. Finally there is a provision for the right to establish media and broadcasting time on the public broadcaster in any language. The office of the Language Commissioner is in charge of the monitoring of this law.

Several institutions have been set up to safeguard the rights of minorities. The Office for Community Affairs, set up in 2008, is equipped to help the government with Community Issues and monitor the impact of policies, and raise awareness of Communities on their rights. The Office of the Language Commissioner has the role of "preserving, promoting and protecting the official languages, Albanian and Serbian, and their equal status in the Republic of Kosovo and its municipalities while ensuring language rights to the Bosnian, Turk, Gorani, Roma, Ashkali and Egyptian communities". The Advisory Office on Good Governance, Human Rights, Equal Opportunity and Gender Issues as the role to mentor and advise the government, while the Ombudsperson is an independent institution mandated to review cases brought to them by the citizens of violation of Human Rights. Finally, the Ministry for Communities and Return is working with a permanent committee of the Kosovo Assembly, the Committee on Rights and Interests of Communities and Returns.

There are many institutions at the municipal level too. There is a Municipal Office for Communities and Return to protect and promote the rights of minorities at the local level. Each municipality is required by law to establish a Municipal Human Rights Unit, to monitor compliance with Human Rights. There is also a Municipal Communities Committee where "any community residing in a given municipality must be represented by

51 “Institutional Framework | ECMI Kosovo.”
at least one representative in these committees”. Finally, if a community makes up for at least 10% of the population of a municipality, they have to be represented by a Deputy Mayor, to mentor and advise the Mayor on issues related to their community.

We can see that there is a broad set-up of institutions and legislation to guarantee all the rights of minorities and to ensure peaceful relations between the communities. We will see later however that many problems remain, mostly with implementation and inter-ethnic relations, even though the framework is of a high standard even compared to member states of the European Union.

b. Statistical Analysis, did the new legislation have an impact?

We have seen that the legislation in Kosovo has evolved a lot in recent years, and it is interesting to study the impact that it has had on minorities if possible. We have already seen that the repartition of the population has changed a lot, and the trend has continued in recent years. Nonetheless, it is important to remember that the last census before the war, conducted in 1991 was boycotted by Albanians, and the Serbs have boycotted the censuses conducted by the Republic of Kosovo after the war. Thus, the figures for the final repartition of the population are only estimates.

Now ethnic Albanians are estimated to constitute more than 90% of the population. The most numerous minority, the Serbian one, is hard to quantified because of their non-participation in the censuses organized by the Republic of Kosovo. Nonetheless, if officially there are 25,000, and constitute 1.5% of the population, there would actually be between 100,000 and 200,000 Serbs, putting them between 5 and 7% of the population. The RAE are at around 2.5-3%. All the other minorities, Goranis, Croats, Bosniaks and the Turks are at around 1% of the population or lower.

If we compare those statistics to pre-war date, we can see that the trends that had started before the war are still going strong, with an increase of the majority population. Nonetheless, it can be misleading to see those statistics as a proof only of discrimination or

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52 Ibid
53 “Ethno - Political Map of Kosovo.”
the result of ethnic cleansing, some accusations that are particularly made by Serbian nationalists and that has a heavy weight in the region, as it has happened a lot in the 1990s. There have been many occurrences of violence against Serbian family, Serbian cultural heritage, or against minorities associated to the Serbs after the war, mostly the Roma and the Goranis.\textsuperscript{54} But, even though the situation of discrimination and exclusion does exist, it is hard to know to what extent they are leaving the country or not returning to the country because of those difficulties or because of economical difficulties. Many Albanians are also leaving for the same reasons, as the situation in the country is economically very complicated, and it has been the case since the end of the war.\textsuperscript{55}

Nonetheless, disregarding those accusations, we can see that there has been improvement in many fields. First of all, all minorities are represented politically. As we have seen there are ample provisions in the law for political representation, and if at first, Serbs wouldn't participate, they are now participating in elections as well, especially the ones living in the enclaves in the South of the country. But participation is still lacking in the four Northern Municipalities. Moreover, there are still tensions and reluctance both coming from them and from the Albanian majority, as was shown by a scandal early this year due to the declaration of a Serbian Minister.\textsuperscript{56}

Secondly, all minorities have their own media outlets. For instance, the Serbs have 13 TV and Radio stations, 4 for the Turkish community, 7 for the Roma. It would be interesting to study the level of financing of the Serbian government, if at all, to see if there a will from Belgrade to maintain a high level of media presence in Kosovo.

Data on the economical situation of all minorities is harder to find. Unemployment in general is very high in Kosovo, estimated between 30 and 40\% and the average income very low.\textsuperscript{57} But the situation of the RAE communities is still a lot more difficult than the average. The other element is the situation of the Northern Municipalities. Because of the negotiations between Serbia and Kosovo, the Serbian government has had to stop paying the police and other administration in the North, but only some have been replaced by the Kosovo government as of now. This complicated even more the economical situation of a

\textsuperscript{54}This especially happened at the end of the war, in the vacuum of power before the KFOR and UNMIK was fully deployed and operational. Perritt, \textit{The Road to Independence for Kosovo a Chronicle of the Ahtisaari Plan}, 52.

\textsuperscript{55}``Exodus from Kosovo: Why Thousands Have Left the Balkans - Telegraph.''

\textsuperscript{56}Hajdari, ``Former Kosovo Serb Minister Charged with Hate Speech - Balkan Insight.''

\textsuperscript{57}``About Kosovo | UNDP in Kosovo''
region that is very isolated, unofficial estimates put the unemployment rate at more than 70%.

We will examine in the second part the statistics on the non-implementation of the legislation, but leaving aside the problem of the lack of funds to implement legislation, it is hard to see improvements in the other main issue, inter-ethnic relations from statistics. We can see that since the war, there is a stronger geographical separation between Albanians and Serbs. There are now in their very vast majority leaving in the four Northern Municipalities, and the rest are living in a few Enclaves such as Gračanica, scattered around the country, and separated from the rest of the population. This situation is clear by studying the map of their statistical repartition and I was able to confirm it through my own observation. In Mitrovica, the biggest of the four Serbian-majority Municipalities in the North, the two communities live for the most part separated on each side of the Ibar River and contacts are extremely limited and are mostly economical.

We have seen that conceptions of minority rights and of the legal framework to ensure the protection of their rights have evolved a lot. From a back and forth between autonomy and discrimination during the Communist Era to a polarized country during the 1990s and the war, the country now is officially an integrative multi-ethnic society where the rights of all minorities are respected.

Studying the level of minority rights protection in Kosovo gives the impression that they have reached the required standards set by the European Union. They have set up a extensive system to ensure the protection of minorities and their cultural and linguistic rights. We can assume that the influence of International Organizations and the will to enter the European Union and the Council of Europe seems to have influenced the decision-making and the shaping of the Constitution, to be able to have a legislative framework in par with those organizations. In the next part, we will study if and how exactly the European Union has been putting pressure on Kosovo.

But studying the statistics and the situation of minorities in Kosovo, we realize that the protection of minorities is far from achieved. The two main communities in the country are still very much separated, and the smaller ones live either in separation from the rest of society or in very difficult economical conditions. Tensions are still high and in many

58 “Ethno - Political Map of Kosovo.”
cases, the legislation can simply not be put in place for lack of political will or lack of money. What, if anything, is the European Union doing to ensure the implementation of the legislation? The study of this situation will be the subject of the second part of this work.

3. Is the situation different from Montenegro?

a. Overview of the country.

In order to understand the level of concerns for minority rights in Kosovo, it is important to compare it to the situation and the level of involvement of the European Union in another country. Montenegro is a good candidate for this comparison because of different similarities it shares with Kosovo, but it has some specific characteristics as well.

Montenegro has also been a part of the Ottoman Empire and has been like Kosovo, at the border and a place of contact of many different empires. The coastal areas of Montenegro have had a lot of influence from the Republic of Venice, and the Austro-Hungarian Empire reached Herzegovina and the newly independent state of Montenegro during the 19th Century, and later on rules parts of what is now Montenegro.

It is also during that period that the national identity of the Montenegrins started to emerge, as a distinct nation than the Serbs. The ties between Montenegro and Serbia are very strong, and for a long time they were seen as part of the same group, and the Montenegrin language was not recognized as different from Serbo-Croat. Before Montenegro emerged as an independent country in the 19th century, there was no distinction of nationality between Orthodox Christian in Serbia and in Montenegro, both were considered to be Serbian and religion was what defined their identity. Through the struggle against the Ottoman, a separate Montenegrin identity emerged but the debate on whether or not they are different from Serbs still remain to some extent. Now, the language is considered separate and the Church of Montenegro was restored in 1993, after almost a century.
Montenegro was also a part of communist Yugoslavia, but whereas Kosovo was an autonomous region, Montenegro was a Republic of its own. This responds to two different realities of post-war Yugoslavia. The status of Republic was given officially by Tito to recognize the role of the Partisans in the war against the Axis. But it also responded to a tactic by Tito to lower the predominance of the two main nationalities in Yugoslavia, the Serbs and the Croats, by giving more importance to the smaller nations. This also had a positive impact on the people defending a separate national Montenegrin identity. But the identity of the Orthodox people from Montenegro, the majority of the population then and now, remained close to Serbian identity.

The closeness of identity between Serbia and Montenegro might explain why when Montenegro organised a referendum on leaving Yugoslavia in 1992 over 90% of the population voted on remaining united with Serbia, in a country now called the Federal Republic of Yugoslavia. All along the 1990s, the idea of a separation from Serbia garnered momentum, illustrated by a dispute over the independence of the Montenegrin Orthodox Church and later, by the move away from Milosevic of the Prime Minister (and later President) of Montenegro, Milo Đukanović. When the war broke out in Kosovo, he even refused to allow Montenegrins to fight. This led to first in 2003 of the Union of Serbia and Montenegro, where both states were supposed to have equal weight and later to the independence of the country, in 2006 with a 55% majority.

If both Kosovo and Montenegro have gained independence recently, we can see that the way they achieved it differed greatly. This is a huge difference and has a huge impact on both inter-ethnic relations and on the role and implication of the European Union in the country. If the European Union has had to be involved to such a level in Kosovo, it is also because of the context and because international intervention was needed to end the war and for reconstruction.

59 Roberts, Realm of the Black Mountain, 32.
60 Ibid, 34.
b. The legislation and the participation of the country in international organizations.

Montenegro is a member of both the Council of Europe and the OSCE, and is a signatory of the Framework Convention on the Protection of National Minorities of the Council of Europe. Montenegro was even a member of the Framework Convention just after its independence in 2006, before it was a member of the Council of Europe, in May 2007, thanks to the fact that the Union of Serbia and Montenegro had been a member. This had an impact on the legislation concerning minorities in Montenegro, as a lot was already in place before independence and this is why in the few years since and thanks to some efforts, the country has achieved the completion of a satisfactory legislation in par with the requirements of the FCNM.62

The Law on Rights and Freedoms of Minorities defines minority in the same way the Framework Convention and guarantees the protection of the rights of the minorities. Following this law, there is a Governmental strategy to improve the implementation of the Law and improve the living conditions and integration of minorities. Minorities have their cultural and language rights guaranteed as well. Locally, they can use their own language officially when they constitute the majority or a large portion of the population in that municipality. Minorities constituting 1 to 5% of the population have a reserved seat in Parliament and the law also guarantees their proportionate representation at the local level.63

The Constitution established a Council for Protection of Rights of National and Ethnic Groups to preserve and protect the identity of minorities. Chaired by the President, it is composed of political representatives and important figures from minority groups. However, this council has rarely met and does not carry a lot of weight. The Parliament has a permanent body called the Council for Human Rights and Freedoms to give advice on legislation concerning minorities. Finally, the Protector of Human Rights and Freedoms is an independent institution of the Republic that helps protecting minority rights and review violations.64

63 Jankovic and Hasanaga Cobaj, Minorities in Montenegro, Legislation and Practice, 10–12.
The legislation is quite extensive and is close to the one in place in Kosovo, covering all minority rights. But there are a lot less problems with implementation that there are for Kosovo, and we will see that it is something that is taken into consideration by the European Union.

c. What are the challenges still present?

As we have seen, there are also different minorities in Montenegro, but there is less of a strong majority than in Kosovo, in the 2003 census only 40% of the population declared itself as Montenegrin. But the majority of the population is indeed Orthodox Christian, as a further 30% of the population declared itself as Serbs. The other minorities present in the country are the Bosniaks (a little over 9% of the population), the Albanians (around 7%) and other smaller minority groups such as the Roma or the Croats. It is interesting to notice that almost the same minorities are present than in Kosovo but in different numbers.

We have seen that there are some tensions between the Serbs and the Montenegrins, and there are also tensions between the two dominant groups with other ethnic groups, especially with Albanians in the South and East of the country. Nonetheless, relations are less tense than in Kosovo and the risks for conflicts and instability is lower.

The risks are lower thanks in part to the peaceful independence process. This fact helped in not polarizing the different ethnic groups, and in avoiding violent events. Moreover, Montenegro is a very scarcely populated country, whereas Kosovo is highly densely populated and demographic pressure could have played a role in reducing or increasing inter-ethnic tensions. Inter-ethnic relations are also more peaceful thanks to a more complete implementation of the legislation.

Nonetheless, there are still a huge problem of discrimination against the RAE community, and their integration in the economic life of the country. We will see that this is the main point the European Union is asking Montenegro to improve, but it is unfortunately also a main concern for the whole region, and is not specific to Montenegro.
The fact that there is a strong Albanian population in the East and South-East of the country is also a potential factor of risk. Inter-ethnics relations are quite good at the moment and the rights of the minority seem to be respected but the idea of the Great Albania is still important for a minority of Albanian nationalists. If they become more vocal, on both side of the border, in Albania and Montenegro, there could potentially be tensions.
II. How is the EU involved?

In the previous part, we have seen the evolution of the legislation on minority rights in Kosovo. In this part, we will study the influence the European Union might have had on this legislation and how the European Union can and is trying to apply pressure on Kosovo for a better protection of the rights of minority in the context of the EU accession process of Kosovo.

The hypothesis I wish to study here is that if there is a high level of involvement on the part of the EU and a high level of pressure that would prove a high level of sincerity on their part and a high level of concerns concerning minority rights. This is the first step to see if it is possible to see, through the actions of the European Union if there is a high level of concern for minority rights in Kosovo in its accession process and if it is something that is mentioned and at the forefront of the action of the European Union in Kosovo.

To see first if there is a level of concern, I will study the ways the European Union interacts with the authorities in Kosovo, the ways for them to apply pressure on them, and see if there is a consistent mention of minority rights, if the concern shows in the relations between the EU and Kosovo. Then, I will study the level of implication of the European Union with implementation, to see if the concern is genuine, first if it recognizes the problems faced by Kosovo concerning implementation and then to see if the EU is trying to help Kosovo overcome those problems.

We will also evaluate the role of other international organizations present in the country and the position of non-governmental organizations on the work of the EU. We will mention the level of risks that the lack of minority rights protection can entail and see if it is recognized by the international organizations present in the country.
1. Influence of EU on the evolution of the legislation?

a. How to determine the influence of the European Union?

It is important to realize that it is tricky to study the direct influence of the European Union on the evolution of minority rights in Kosovo. As we have seen, the legislation has evolved a lot in the past ten years and especially since the independence, and the standards of minority protection in the country are in par with the legislation of most Member States of the European Union. But the fact that the European Union does not have a common well-defined standard for minority protection complicates the evaluation of the legislation in Kosovo. It is not possible to compare it with one standard that is asked of any member state, as it does not exist.

As we have seen, in the previous EU accession rounds, the emphasis had been more on the normative intent and less on compliance and convergence. It was mostly enough to have the legislation in place to be accepted and this is something the EU has been criticized for. We have also seen that there is a trend in the accession process to take more into account minority rights with the accession of the Western Balkans country.65

So, is it possible to see an impact of the European Union in the current legislation of Kosovo? The direct impact is hard to see, but the general way of approaching minority rights in Kosovo has been influence by the Institutions the European Union rely on. There is a clear will from the government to bring the country in line with European standards, and sometimes even to go beyond, as a way to be exemplar at least in the legislation. The European Union has encouraged such changes, as we will see in the following chapter, and recognizes those changes in pre-accession reports.

The European Union has several ways to apply pressure on the Kosovo government and its institutions. The main one is through its Rule of Law mission, EULEX. EULEX is in direct relation with all the institutions in Kosovo, and has among other roles, one of mentoring of the government, a role that is shared with the EUSR. The EU can also apply pressure through the reports it does on the situation of the country, mostly the pre-accession progress reports. This type of pressure has a direct impact on the government

because the recommendations in the reports are what they need to do in order to become a candidate country. Another way to apply pressure is through the visits and communications of the various officials. This type of pressure is less direct than the other two and are not binding. However, it is essential for Kosovo to maintain good relations with the European Union and its officials, thus, giving weight and power to their recommendations. Finally, the last way of the European Union to apply pressure on Kosovo is through the demands that they make through the negotiations on the normalisation of relation between Kosovo and Serbia.

The European Union has a role to play in the potential it has to guarantee peace in the region by normalizing relations between all countries. Furthermore in the Western Balkans, peace can only be guaranteed if minority rights are being respected, as tensions are high in the regard. One of the main talking points with both Serbia and Kosovo is this normalisation of relations between the two countries.66

There has been improvement in that field, and one element of the normalisation of relations is finding a solution to the situation of the Serbian community in Kosovo, and especially the four Municipalities in the North. The European Union has forced the Kosovo government to take actions to solve the problem in the North, such as having the same administration than in the rest of the country and bringing the infrastructures in the Northern Municipalities to the same standards.

Studying the evolution of minority rights in Kosovo, it is clear that they have changed a lot after the war. There is an acceptation from the institutions that standard of minority rights have had to be brought in line with the standards of International Organizations, and of the European Union. Nominally at least, relations between minorities are regulated and if the legislation is respected, it does have the potential to reduce the risk of conflicts.

Nonetheless, there are still many problems in the country. The real situation of the willingness to apply minority rights is difficulty to know, the problems of the enclaves remain, and of course, there are the problems with the limitation of implementation and how much this is a concern for the European Union. There is also the question of whether

66 Centre for Transparency, Research and Accountability, BIRN Kosovo, and Internews Kosova, “Big Deal, Civilised Monotony? Civic Oversight of the Kosovo-Serbia Agreement Implementation.”
or not the current legislation is too broad and too ambitious. It has been imposed through the criteria of organizations outside of the country, and the existing framework might not be adapted to the reality of the country.

It is difficult to weight the real influence of the European Union, in relation to the difficulty for the European Union to define clearly what Member State and Potential Member States have to respect. Thus, the influence of the European Union is more as a part of a network of international organizations on which it relies and draws inspirations from in the field of minority rights. In that regard, once again, the European Union suffers from the lack of a clear line in the field of minority rights, and that affect its role and influence in Kosovo.

Nonetheless, it is important to remember that Kosovo is an important step in the protection of minority rights for the European Union, as there is a need for a high level of protection. It questions the level of implication of the European Union and if it wants to have influence or not in that field. We will see in the following part that the European Union is using the pressure it can have on Kosovo to try to improve minority rights, or at least make the issue visible by mentioning it and underlining the need to take it into account. That influence is very important, because no other International Organization has the weight and the number of medium of pressures that the European Union has.

The reward for following the recommendations of the European Union is very high for Kosovo, and that gives an added weight to the pressures. Kosovo has had a special path towards the European Union, first because special approach needed to be taken to separate its path from the Serbian one, even though the final status had not been decided, and since then, due to the fact that not all member states of the European Union recognizes Kosovo. If the EU has confirmed several times the European future of Kosovo, this particular situation led to special provisions but also to more practical concern, such as the fact that every report or mentions of Kosovo starts with an asterisk mentioning that the designation Kosovo is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.67

67 Ibid., 13.
b. What is the influence of the other International Organizations present in Kosovo?

As we have seen, the European Union is not the only international organizations present and working in Kosovo. In the field of minority protection, the Council of Europe and the OSCE, as well as INGOs, are also playing a very important role in the country.

As we have seen, the main influence of those organizations was through their treaties and conventions on the protection of minority rights. Those texts had an impact on the way the Constitution and legislation of Kosovo was thought out, as they follow the provisions of those treaties, even though Kosovo is not a member of the organizations, they do aspire to become one.

If Kosovo was not able to sign the Framework Convention on the Protection of National Minorities of the Council of Europe because it is not a member, it still has a special status. Since 2004 and an agreement between UNMIK and the Council of Europe, Kosovo is subject to a specific monitoring arrangement. Therefore, there is a strong presence of the Council of Europe and it has an official role of monitoring of the situation, something that the European Union can rely on.

It also means that those organizations have a certain weight in the country, because Kosovo aspires to eventually become a member. This is something that is clear in its relation to the Council of Europe, as being a member of the Council of Europe is important in the path to the European Union, as all the countries that have acceded to the European Union were first members of the Council of Europe. Kosovo is not recognized by five member states of the European Union and by fourteen members of the Council of Europe. Becoming a member of International Organizations is also essential to be recognized on the International scene and for the legitimacy building process.

The accession of Kosovo to the Council of Europe has been discussed by the institution itself, and a report released in 2013 by the Committee on Political Affairs and Democracy of the Parliamentary Assembly recommended that Kosovo be included in the programmes of the Council of Europe and be allowed to be involved more in the activities of the organization. Since then, Kosovo has joined Conventions of the Council of Europe.

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68 von Sydow, *The Situation in Kosovo and the Role of the Council of Europe*. 

Europe and a recent unofficial estimate showed that if their candidature would be put to the vote in the PACE it would have a majority in favour. By its own admission, the Council of Europe is getting more and more involved in Kosovo, often implementing project funded by the European Union.

The OSCE was responsible, under the UNMIK administration, of the pillar for "institution building, human rights protection and promotion, democratisation and access to services by all Kosovo communities". Its role is now mostly that of a monitoring of the implementation and the regulation concerning those topics, including minority rights, and of implementation of projects. However, it remains an essential actor in the Northern municipalities, where the control of the authorities from Kosovo is still not complete.

The OSCE has a huge office and strong presence in the North, and there the European Union has to work closely with them. In many ways, the way the European Union works with both the OSCE and the Council of Europe is an illustration of the fact that it relies on those organizations a lot in the field of minority rights, and it seems that the EU trusts their expertise. In all the reports from the three organizations, there are mentions of the work of the other two. It shows that they rely on each other and that they trust each other, but it also brings up a question of subjectivity, and it makes it hard to know if there is a critical approach of the work of the other organizations. That is why we will also use reports from INGOs in the last part of this work to try to work out an objective view of the situation of minority rights.

Risk assessment and risk management are now a big part of the work of international organizations, and the impact that inter-ethnic tensions and problems of implementation of minority rights can have on stability is taken into consideration. This idea of risk management is very present in the involvement of the EU and the other two organizations in Kosovo. Minority protection and inter-ethnic relations have the potential to put in jeopardy the stability of the country and even of the whole region, as the ethnic groups present in Kosovo are also present in other countries.

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69 In June 2014, Kosovo joined the Venice Commission of the Council of Europe, the previous year, the country had joined the Development Bank. “Kosovo Joined the Venice Commission of the Council of Europe - News - Ministry of Foreign Affairs - Kosovo.”

70 von Sydow, The Situation in Kosovo and the Role of the Council of Europe, 11.
There have been violent incidents recently in Macedonia involving the Albanian minority, and one of the reasons it happened is because of the lack of recognition of the Albanian minority in the country. If there are not very numerous, some people still defend the idea of a Great Albania, and in Kosovo too. If there are no improvements made in both inter-ethnic relations, minority rights protection and the general socio-economic situation of the country, the risk of similar events happening in Kosovo will remain.

c. Influence of the EU and Other Organizations in Montenegro.

The position of the European Union in Montenegro is very different. They do not posses the same potential to put pressure on the authorities there because they are not as involved in the country. There is no EULEX mission or Special Representatives who can easily apply pressure on the authorities. In the same light, the EU does not have the high-stake Negotiations with another country to force them to work on their problems.

But they still do have one of the most effective tools, the promise of an accession to the European Union. It is through the accession process that the European Union can apply the most pressure on Montenegro, and it is the reward of potential accession that will make the country work on its issues and try to come in line with the standards set by the European Union. Nonetheless, in the field of minority rights, the problem is the lack of clear guidelines and definitions of what a potential candidate should achieve in this field. Like in Kosovo, this undermines the action of the European Union in that field.

But contrary to Kosovo, as we have seen, Montenegro is a member of the Council of Europe and a member of the OSCE. Even though Kosovo followed the recommendations of those organizations in the passing of their legislation and the framing of their Constitution, the difference in being a member is that those organizations have more leverage than they have in the case of Kosovo. In the field of minority protection, the European Union relies already on those organizations, especially in the defining the terms and in monitoring the situation. If the country is a member of those organizations, the European Union can rely even more on them. This is one reason why the European Union

71 “Tensions En Macédoine Après La Mort de Vingt-Deux Personnes Dans Des Affrontements - Le Monde.”
is putting less emphasis on minority rights in the accession process of Montenegro than it does for Kosovo. The fact that Kosovo is not yet a member forces the European Union to involves itself more in the field of minority.

2. Is the EU pressuring the authorities in Kosovo in the field of minority rights?

a. Through the progress reports.

The first type that we will study and that the European Union use to apply pressure on Kosovo is through the Progress Reports. The Progress Reports issued by the European Commission indicates the official stance of the European Union towards the situation in Kosovo. The Commission started to issued Progress Reports even before the independence of the country, the first dating back to 2005.

In the progress reports, "minority rights, cultural rights and protection of minorities" have their own subsection, and is even mentioned in the title of the section, "Human Rights and the protection of minorities". The subsection is an important part of the section, which is already on of the first point to be mentioned in the reports. The importance of the subsection has been consistently since the beginning of the progress reports.

The reports include a broad overview of all types of minority rights, cultural rights, language rights, and education and in some they include the problems of inter-ethnic relations. There are direct recommendations to the authorities, to pass new laws and actions plans, but also to work on the implementation and the respect of the laws. They provide guidance on the area where the authorities need to improve.

However, it is clear that the recommendations of the progress reports only have a limited impact, as many recommendations stay more or less the same year after year. For instance, in the 2011 report, comments on the lack of textbooks in minority languages and the fact that Gorani teachers didn't sign contracts with the government are directly copied from the 2010 report.
It is recognized in the Reports that the integration of minority communities is a "key European Partnership priority". Throughout the reports, we can see the important thematic of the European Union. The integration of RAE is always an important part of the each report, and reflects the importance given to that issue on a European level by the EU and the Council of Europe. Language rights also appears as a major issue in the reports and are consistently mentioned, may it be on the legislation at the municipal level or in the media.

Nonetheless, what are missing from the reports are clear guidelines on how to achieve the goal set up. But it seems to have some impact on the authorities as we can see that the laws that were lacking have been passed. In the two reports since the end of supervised independence, there are mentions that the legal framework for the protection of minority rights has been preserved and is good.

Moreover, there are limitations simply inherent to what a progress report is. It is a compilation of elements and can sometimes fail to see the bigger picture or relate one element to another. In the field of minority rights for instance, minority rights are present only in its own section but there are often no mentions of minorities in other sections that can have an impact on minorities. But this problem has been recognized by the Directorate-General for External Policies in a report that was published on Kosovo, illustrating both the fact that there is no clear united guideline on the work of the EU in Kosovo and that some bodies of the EU are aware of the limitations of their work in Kosovo, especially concerning minority rights and try to improve it.

Montenegro is at a different stage of EU accession than Kosovo, it is already negotiating, but we can compare the importance given to minority rights in the reports nonetheless. Minority protection was mentioned from the beginning, in the opinion of the Commission on accession. The first point of membership requirement is "that the candidate

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75 Directorate-General For External Policies, “Mainstreaming Human and Minority Rights in the EU Enlargement with the Western Balkans.”
country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities".  

But the part of the reports on minority protection is a lot shorter and less thorough than for Kosovo. There is a quick mention of the situation and of the remaining problems. The main issue highlighted in the reports is the situation of the RAE community.

Overall, it is possible to see from the progress reports that the European Union is concerned by the situation of minority rights and minority protection in Kosovo. Moreover, they take a deeper and more thorough look at the question than they do for Montenegro.

b. Through EULEX.

EULEX is arguably the medium through which the European Union can exert the most influence on Kosovo. This EU rule of law mission was started as a sort of replacement of the UNMIK administration, which started to phase out of the country with the independence, but is still placed under its supervision. The EULEX mission was set up in 2008, it has been extended twice by the Assembly of Kosovo since then and is supposed to be running until 2016. The EULEX mission has different roles. The first official role of EULEX is "Monitoring, Mentoring and Advising" through its "Strengthening" division. Through its "Executive" division, to ensure support to the executive functions of local authorities, which means investigate, prosecute and judge war crimes and corruption and organised crimes cases. The third objective, called the "North" objective is to help fully restore the rule of law in the North of Kosovo and the fourth objective is "Support to Dialogue Implementation", and concentrate on helping implement the provision of the EU-led Serbia-Kosovo dialogue.  

EULEX has been less important since the end of supervised independence in 2012 but remains an important actor in Kosovo, mainly through their judicial work. In the

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description of its goal, EULEX puts an emphasis on its inclusion of Human Rights and gender issues. The main objective of EULEX is not the protection of minority rights but they do mention them. But the work of EULEX has a direct impact on inter-ethnic relations, as it is conducting actions in the North and helps implement the Serbia-Kosovo dialogue and is responsible for the judgement of war crimes committed by both Serbians and Albanians. However, most of the work of EULEX has no direct relation to minorities, and it is hard to evaluate the real impact they have on minority rights, as most of their work is done behind closed door.

But some success that took into consideration minority issues can be seen, such as the successful extension of the Kosovo police to the Serbian minority in the municipalities in the North in 2013. Before that date, policemen were still paid by Serbia, now they are part of the Kosovo police and work together with their colleagues from the South. I was also able to witness that they took minority protection into consideration in their work while working on the improvement of the detention centre of North Mitrovica. Through meetings with different actors in the municipality, I saw that EULEX was helping in trying to ensure sustainability of the project we were in charge of and the correct implementation of the legislation concerning minority inmates. They have also judged war crimes from all Communities, an important step and normalizing inter-ethnic relations.78

The situation differs greatly from Montenegro, as there is no such element put in place to advise and mentor the country. This is due to the history of the two countries, and the fact that Montenegro already had an existing government and state in place before independence. In the field of minority protection, there is also less need of direct intervention from the European Union into the affairs of Montenegro thanks to the fact that Montenegro is a member of international organizations guaranteeing minority protection. It is also due to the fact that there is less of a history of inter-ethnic violence in Montenegro and the independence process was peaceful.

The existence of EULEX confirms the importance of Kosovo for the European Project. It is the largest and most expensive mission that the European Union ever undertook. Its goal is to ensure that the actions of the European Union, but also of the

78 “Factsheet - Eulex Kosovo.”
International Community as a whole, have been justified in Kosovo, leading to an independent functioning democracy.

Overall, EULEX does officially take into consideration minority rights and the improvement of inter-ethnic relations. They do have achieved some success in both helping with implementation of legislation concerning minority protection and try to improve the situation to a certain extent. However, if we consider the weight and the special status of EULEX in Kosovo, it does not seem to be using its full potential in improving the situation, especially concerning the improvement of inter-ethnic relations. Nonetheless, only the fact that EULEX exists only in Kosovo and no such mechanism exists in Montenegro confirms the special status that Kosovo has for the European Union and that they recognize that more work needs to be done there, notably in minority protection.

c. Through the EUSR and visits.

The European Union is represented in Kosovo by a Special Representative. The use of EU Special Representatives has been established in 1997 in the Treaty of Amsterdam. Their goals are to represent the EU in troubled regions and to defend its interests and coordinate the action of the EU. They answer directly to the High Representative of the European Union for Foreign Affairs and Security Policy. The current Special Representative in Kosovo, Samuel Žbogar has been in place since 2012.

There has been numerous Special Representative around the world since 1997, but at the moment, there is only one other in Europe apart from Kosovo, in Bosnia. The fact that there is one Special Representative is a sign that the European Union is taking into consideration the risks that are still present in Kosovo and recognize that they need to have an impact in the country. In one of its communications, the European Commission, in 2002, insisted on the European future of Kosovo, and on a separate route than Serbia, at a time where the final status of the country were far from decided.79

79 FRIDE, The EU’s Challenge in Kosovo, 2.
The mandate of the EUSR covers various topics, such as political coordination of the European Union action in Kosovo to ensure effectiveness and consistency, local guidance to the Head of EULEX, support Kosovo's progress towards the EU. In the field of minority protection, the Representative has the role to contribute to the "development and consolidation of respect for Human Rights and fundamental freedoms in Kosovo"\textsuperscript{80}, including the protection of minority rights, and helping in the implementation of the Serbia-Kosovo dialogue.

Even though most of the work of the Special Representative, just like EULEX, is done behind closed doors, especially the mentoring of the government, it is still possible to measure his level of concern for minority rights by studying the communications published and see if they are related to minority protection or if there are mentions of the problems concerning the implementation of minority protection.

As mentioned, the role of helping in the protection of minorities and in the implementation is preeminent in the mandate of the EUSR. But it is also present in almost all of the communications coming from the office of the EUSR. It is also mentioned when other representatives of the EU are visiting the country, and it illustrates the importance than minority rights have taken in the accession process, and especially in the accession process of Kosovo.\textsuperscript{81}

We have seen that one of the mandates of the Special Representative is to improve the coordination of the different EU agencies and actors present in the country. In the field of minority protection, it is hard to see an impact and an improvement of the coordination. Nonetheless, the EUSR is helpful in bringing the problems of implementation to the attention of other agencies and institutions not present in the country. In their rapports and communications to the Foreign Affairs Committee or the European Parliament, there is a strong insistence on the protection of cultural and minority rights.\textsuperscript{82}

The fact that no EUSR exist in Montenegro is another element to confirm the fact that the specificity of Kosovo is recognized or at least that it has a special place for the EU.

\textsuperscript{80} The Council of the European Union, \textit{Council Decision Extending the Mandate of the European Union Special Representative in Kosovo}.

\textsuperscript{81} “Van Rompuy Visits Kosovo | EU Council Newsroom.”

\textsuperscript{82} Feith, “Address of the EUSR to the Foreign Affairs Committee (AFET) of the European Parliament”; Feith, “EUSR Remarks at the Institute of International and European Affairs”; Feith, “The EUSR in Kosovo Addresses the Foreign Affairs Committee of the European Parliament.”
But there are visits and communications about the country, albeit different, as Montenegro has already been accepted as a candidate country. There is less emphasis on minority issues in the communications about Montenegro, where the emphasis is more on a general respect of the rule of law.\textsuperscript{83}

Overall, minority issues and the problem of implementation are mentioned consistently in the communications of the representatives and officials of the European Union. Because of the highly symbolical position that the EUSPR has in Kosovo and in relation to the European Union, it is likely that what he is saying is taken into consideration by the authorities. It provides an addition to the progress reports for them to know what needs to be done in order to be more in line with the conditions of accession. However, the role of coordination of the action of the EU in the field of minority protection could still be improved, it confirms the importance of minority protection for the European Union as a whole and insist on the guarantees to it that countries willing to join the Union have to follow, but it still seems to fail at providing a clear and public line and clear guidelines for the authorities in Kosovo.

d. Through the Negotiations between Serbia and Kosovo.

The last way for the European Union to apply pressure on the authorities of Kosovo is through the negotiations between Serbia and Kosovo. Serbia is also a candidate country to enter the EU and they have their own negotiations in progress. But one of the main points in the negotiations is the normalisation of relations between Kosovo and Serbia.

Serbia does not recognize the independence of Kosovo and still claims it as part of its territory. There have been talks between the leaders of both countries since the end of the war, led by UNMIK and the United Nations as a whole, especially during the drafting of the Athiasaari Plan, as a way to try to find a suitable solution for both parties, but their success has been limited. Serbia stayed on its positions and continued to pay functionaries in Kosovo, funded the police and militia in the North and refused to recognize the border,

\textsuperscript{83} See for instance: “European Neighbourhood Policy and Enlargement Negotiations - Johannes Hahn Visits Serbia and Montenegro to Push Reforms and Negotiations - European Commission.”
for instance, not allowing holders of Kosovo passports to enter the country. This had a negative impact for minority protection in both countries, as tensions, especially in the North of the country, were very high.

The stakes of the negotiations and the normalisation of relations between the two countries are very high, especially for Serbia and Kosovo, but also for the European Union itself. For the two countries, it is an essential step in their EU accession process. If Serbia does not recognize Kosovo, or at least normalize its relation with it, it will simply not be able to access to the Union. Chapter 35 of their accession packet, titles "Other issues" will be, in the case of Serbia, mostly about its relation with Kosovo.

In the same light, it is also a requirement for Kosovo, especially since five countries already member of the European Union does not recognize its independence. If Kosovo successfully manage to normalise its relations with Serbia, or even get recognition of its independence from Serbia, there will be no possibility, or at least it would be harder, for the remaining members of the European Union not to recognize the independence themselves.

Moreover, it would provide necessary to have a normalisation of relations with Serbia to be able to fully join the organization of which Serbia is a member. One element of the dialogue is the obligation for Serbia not to block the accession of Kosovo to any International organization. It is also required in order to have freedom of movement in the North of the country, develop regional cooperation and engage Kosovo Serbs, and more practical matters such as the inter-recognition of diploma or being able to have its own international telephone code.  

For the European Union, it is essential to have a normalisation of the relations of the two countries to ensure the stability of the region. EULEX will end eventually, the direct influence of the EU will be lessened, and there is a need for a guaranteed peace even without the direct involvement of the EU. It will also be a justification of the work of the EU and its involvement in the region and in Kosovo.

84 Right now, Kosovo is using two networks, one with the international code of Slovenia, the other from Monaco, and of course, in the North of the country, the Serbian network is still active.

85 There are talks of ending the EULEX mission in as early as 2016.
There are many different topics included in the negotiations, and some would have a direct or indirect impact on minorities. Freedom of movement, civil registry, mutual acceptance of diplomas, regional cooperation, the organization of elections in the four northern municipalities according to Kosovo law, the establishment of an association of Serb municipalities and the agreement that neither country would block the other in their EU accession paths.\textsuperscript{86}

If some parts of the agreement have been implemented, for instance, elections took place in the North or the Kosovo police now officiates in the Northern municipalities, the progress are slow. The Kosovo Serbs in the South of the country have been integrated more and more in society, taking part in elections and there are almost now violence happening, the situation is different in the North, where the Serb minority, and to a certain extent the RAE community as well, still feel very much separated from the rest of the country and violence still happen, for instance in 2014 when the bridge reopened during the Summer or after the Serbia-Albania football match in October.

Overall, the negotiations between Serbia and Kosovo are a major element of the work of the European Union in Kosovo and it shows that the EU is taking its role in the region seriously and has a strong potential to help ensure peace in the Balkans. Even if the rate and progress of implementation is still low, it also shows that the concern for minority rights is present as it aims at finding a solution for the Serbian minority, especially in the North, where the majority of the problems with minority rights in Kosovo remain.

3. The problem of Implementation.

As we have seen, the European Union has many ways to pressure the authorities in Kosovo regarding Minority Rights, and it is using it to achieve advancement in the protection of Minorities, in the legislation and also in the field. The legislation of Kosovo is now in par with the standards set by the Council of Europe and the OSCE, and followed by the European Union.

But we will see in this part that the implementation of the full legislation is still very much incomplete at this stage. We will also see that one of the main issues is inter-ethnic relations and tensions between the different Communities. We will try to analyze the level of concern with the European Union and see first if they acknowledge the situation and then if they try to remedy to it.

a. What are the problems with implementation in Kosovo?

When studying the legislation, it is hard to see why there would remain so many issues concerning minority protection in Kosovo. The legislation is extensive and covers almost all aspects of minority rights. But maybe it is in part because of this extensive legislation that so many problems remain. The legislation put in place in Kosovo has been the result of international pressures, and of which a lot coming from the European Union. Those pressures pushing Kosovo to adopt a legislation in line with the international treaties and standards, and the authorities in Kosovo have been willingly adopting such legislation and basing their work on the Treaties and Conventions because they know that this is needed to achieve membership of the organizations who passed those texts and to be seen as a valid partner.

The lack of implementation of the legislation might be coming from this willingness to be in line with International and European standards. We have seen that the legislation in Kosovo follows the standards required by the important international organizations concerned with minority issues, and it has a more thorough legislation than some EU member states, covering all types of minority rights. But Kosovo does not have the human and financial recourses that EU member states have. The legislation might be too
ambitious in that will to follow international regulations, and might not be suited to the country.\textsuperscript{87}

As we have seen, the European Union has been using its mechanisms of pressure on the Kosovo authorities to help arrive at this legislation, and we will see in the next part their level of concern for implementation. But there is no mention in the various reports of this problem of level of ambition of the legislation. There might be a need for questioning the legislation and adapt it better to the situation of the country, as the gap is very wide between the legislation and the practical implementation of this legislation. Moreover, in some case, such as the dialogue between Serbia and Kosovo, the authorities see that the dialogue is done only because of the European Union, and because it has been imposed by it, and not because of their own agenda.\textsuperscript{88} It means that the pressure of the EU has an impact on the authorities, but fail to change their perception of the problem.

Even when the implementation is satisfactory there can still remain problems because of the wide scope of the legislation. For instance, the law on political representation is followed and all Communities have their representatives in the Assembly of Kosovo, but even small minorities in the number of voters have a fixed number of representatives in the Assembly. There are 20 reserved seats for minorities, 10 for the Serbs and the rest for the other minorities. Minority representatives also have a weight in the leadership of the Assembly and its committees, as well as at the governmental and judicial levels.

Nonetheless, there are still problems with political representation, and some might be linked to the fact that the legislation is so comprehensive. The minimum reserved seats are guaranteed, even in case of low turnout or small participation from the members of the minority. This situation, combined with the fact that there is a low understanding of the legislation from some part of the population and of some members of the minorities and the fact that even minorities with small demographic numbers have reserved seats and often do not have the choice between different candidates, created a situation where a

\textsuperscript{87} Lantschner, “Protection of Minority Communities in Kosovo: Legally Ahead of European Standards - Practically Still a Long Way to Go,” 488.

\textsuperscript{88} Hoogenboom, The EU as a Peacebuilder in Kosovo, 13.
number of representatives have guaranteed seats and work more on conserving their situation in the Assembly than working on the rights of their electors.  

The implementation of all the types of rights is limited or incomplete. In education, there is a lack of textbooks in minority languages, and a strong separation between the communities. For classes in Serbian language, schools use material from Serbia and run by Serbia. This creates a problem, as the views of history are very different and creates a differentiation between the communities, fail to create one common national view of the past and identity and do not contribute to reduce tensions. There are a lack of textbooks in Turkish and Bosniaks, the RAE community still faces discrimination in access to education and the lack of material in its languages. Language rights are also faced with problems of implementation. Many municipalities do not have the financial resources to ensure the translation of its documents in minority languages and broadcasting in minority languages on the national channels is not guaranteed, mostly due to a lack of funds.

There is also a problem with the high tensions that remain between the communities and inter-ethnic relations. Contacts are rare between the Albanian and Serbian communities and there is a general lack of communication. Sensibilities about the recent past are still very high, and for instance, recent declarations by the Serbian minister in the Kosovo government about Albanian protesters blocking the entrance of Orthodox Churches, calling them savages, sparked riots in Pristina and across the country, and he was forced to resign and is now charged with inciting "national, racial and religious intolerance".

The tensions between communities are a problem for the guarantee of cultural rights, and especially concerning the protection of the monuments of the Serbian Orthodox Church. The monuments used to be guarded by the KFOR but their protection is now ensured by the Kosovo police force. But there is a feeling amongst some members of the Serbian community than the monuments would not be safe if there were not guarded constantly, and use the memory of the 2004 riots to illustrate this fact.

Nonetheless, this is the feeling of only a part of the community and the relations between the Serbian minority and the Albanian majority has been improving in the South.

91 Hajdari, “Former Kosovo Serb Minister Charged with Hate Speech - Balkan Insight.”
On the other hand, it remains very much separated in the North and I was able to witness that contact are very scarce and tensions still high. In October 2014, after the events at a football match between Serbia and Albania, riots took place in Pristina in protest of the Serbian reaction, and in North Mitrovica, there was an outburst of nationalistic expression, illustrated by the display of a score of new Serbian flags around the bridge.

I was able to witness an illustration of both the problem of inter-ethnic tensions and the difficulty of a complete implementation of the legislation. If street signs are for the most part correctly installed in both Albanian and Serbian, they are often vandalized by the population, and the name of the cities in Serbian are cross-out, rendering it impossible to read.  

During and after the war many people got displaced and left their home, and either relocated in another city in the country, thus leading to the creation of the enclaves, or left the country. The rate of returns is a concern in Kosovo as it has been low since the war, and is linked to the situation of minority rights protection. In 2010, an estimated 220,000 displaced people still lived abroad and the returns were mostly to mono-ethnic areas. The Kosovo authorities have been allocating funds to help returns but the rate of return is still low and the feeling of insecurity concerning the potential returns is still affecting many potential returns.

But it is important to see if the issue with implementation is specific to Kosovo or is it widespread in the region. We have already mentioned that the situation of the RAE is quite dramatic in all of the Balkans and that they are affected by the lack of implementation of the legislation concerning them. If we look at Montenegro, we can see that there are also problems with implementation in that regard, but the overall concern is less than for Kosovo.

The problems with the implementation of the legislation concerning the RAE in Montenegro is different, as the government has been putting in place a Strategy for the improvement of the situation of the RAE with concrete actions, such as grants for students or access to housing and healthcare. The main problems they are still facing now are discrimination in their access to education and the general economic situation. ECRI, a

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92 See annex.
93 Hinz, “Is the Return of Kosovo Serbs to Their Homes Sustainable?”
body of the Council of Europe, has been raising awareness to the fact that the situation of the displaced and internally displaced persons from Bosnia and Herzegovina, Croatia and Kosovo is still a problem in the country, as well as the discrimination faced by RAE. The last element of concern is the problem of lack of "authentic representation in Parliament and proportionate representation in public services, state bodies and local self-government".94

b. Is the European Union concerned with implementation?

We have seen that there is a high level of concern about nominally guarantying minority rights and minority protection from the part of the European Union. But we cannot only study the way the EU impacted the legislation, as just a nominal protection is not enough. Because of the situation in Kosovo and the problems with implementation, if we want to see if the European Union is sincerely concerned with minority protection, we need to see if it is also concerned with implementation. First of all we will need to see if there is thorough analysis of the situation from the EU and then if it tries to remedy to the situation and how.

We could expect the European Union not to be concerned with implementation for different reasons. The fact that it has a normative approach can have an impact on the way it adapts to the specific and complicated situation of Kosovo. It might be that the requirements set out in the progress reports and the SAP are enough for the European Union to be content, and revolve essentially about the legislation and the Constitution. There could also be expectation of the fact that the EU is only nominally working on minority rights because that is what is expected from it, and does not really go into the heart of the matter. We have already seen that the concern for minority rights is quite present in the work of the European Union in Kosovo and that those critics do not really apply here.

But as I mentioned earlier, there have been critics of the work of the European Union in Kosovo that can be seen as a lack of concern with the implementation and respect of the

legislation concerning minority protection. This concern mostly EULEX and especially its Human Rights Records. The lack of accountability of EULEX is problematic and can be used to criticize the involvement of the EU in the field of Human Rights. EULEX has also been criticized recently for its opacity in a recent corruption scandal.  

Nonetheless, studying the EU relations with Kosovo and their mechanisms of pressure, we can see that the concern for implementation is present. It is consistently mentioned in the work of all the mechanism of pressures, in the progress reports, in the mandate of EULEX and its communications, where the situation of inter-ethnic relations is high on the agenda.

Not only does the European Union recognize the situation and the problems of implementation in the country, but it also uses its ways to apply pressure on the Kosovo government to help improve implementation. It is clear from the communications issued by the EU that it is pressuring the authorities of Kosovo to keep on working on implementation. Almost all communications from the EUSR start with mentions of the situation and often with mentions of the lack of implementation.

Nonetheless, this pressure from the European Union to improve implementation seems to have a low impact. Even if we take only the Progress Reports, not the most thorough publication on minority rights of the EU, the problems underlined often stay the same one year to the next, and disappear only slowly. The other bodies mention the problems and the situation but do not necessarily show that they are working on the issues.

But if we analyze in details the overall work of the EU in Kosovo we can see that it focuses a lot of its work on improving implementation of minority rights and inter-ethnic relations, or at least the situation of the Serbian minority in the North. In the SAP, a lot of the work focuses on minority and improving the protections of the rights of the Serbian

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95 Zogjani, “Ombudsman Checks EULEX’s Corruption Probe :: Balkan Insight.”
minority. Thanks to the IPA, there has been a progress of implementation, but with a focus mostly on institutions, and less on the citizens.  

However, the European Union does try to improve inter-ethnic relations too, through the projects that it finances, alone or in cooperation with the Council of Europe or the OSCE. Per capita, Kosovo has been the biggest beneficiary of the EU financial aid ever, and the EU is still financing more than 280 projects in the country at the moment.

The majority of those projects are not directly linked to minorities or improving the implementation of the legislation, but one of criteria in evaluating any project is its potential to improve the dialogue between communities. While answering to a call for proposals for new projects about the economical development of the Northern Municipalities, I was able to witness that the element of improving inter-ethnic relations was an important element of the criterion. One of the main projects financed through the IPA has a direct impact on minorities as it concerns the unification of the civil registration and address systems, something problematic especially in the Northern Municipalities. Minorities are the main target group of its awareness campaign.

During my internship, I was working on one project that had the support of EULEX, aimed at the improvement on the detention centre of North Mitrovica and the rehabilitation of Serbian detainees. The legislation concerning detention centres was not applied in the North, and the project was responding to that situation. The EU supported it, but could not ensure the sustainability of the project, and the municipality and the central agency for detention centres could not financially ensure the continuation of the project. It was an illustration of the will of the EU to work on implementation, but also of its limitation to improve the situation.

But is the European Union more concerned with implementation in Kosovo than it is in Montenegro? We have already seen that the general level of implementation is more complete in Montenegro than in Kosovo. This situation is recognized by the European Union and in its relations with Montenegro only concentrate on a few points where the country needs to improve. As we have seen, it is different in Kosovo where the EU insists

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97 Hoogenboom, *The EU as a Peacebuilder in Kosovo*, 9.
99 “European Union - EEAS (European External Action Service) | Kosovo & the EU.”
100 “Change4Kosovo - PROJECT ACTIVITIES.”
more on implementation and spends more money to help achieve the implementation and improve inter-ethnic relations, and can be seen as generally more concerned with implementation than for Montenegro.

c. Is the position of the European Union different from the position of other International Organizations and of INGOs?

The last element of analysis to study the degree of concern of the European Union is to see if their discourse on the problem of implementation in Kosovo is the same as the one from the other international organizations involved in the field and from the INGOs present in the country.

The way the European Union is criticizing the lack of implementation and underlying it as the main problem in the protection of minorities in Kosovo is in line with the discourse of the Council of Europe and the OSCE. If the Council of Europe and the OSCE are not working on the same issues, and they do not speak with one voice, their analysis of the situation and their criticism of the situation are close. Both organizations have recognized the lack of implementation and the problems of inter-ethnic tensions, even though they tend to insist on the improvement of the situation for the Serbian enclaves in the South and their rise in participation in the elections."}

The difference in the analysis is that both the Council of Europe and the OSCE usually go into more details in their reports than the EU does. They are more critical of the authorities and of the slow progress of implementation, and it might be due to the fact they enjoy a different position in the country than the EU, and their actions are under less scrutiny and suffer less criticism than the European Union.

In Montenegro, both the Council of Europe and the OSCE are more critical than the European Union. The EU seems to be more content with the state of implementation and only insists on continuing the projects to improve the situation of the RAE community.

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101 von Sydow, The Situation in Kosovo and the Role of the Council of Europe.
INGOs are even more critical than the International Organizations and that is where differences arise. Most share the same analysis of the situation, criticizing the lack of means and the lack of implementation to ensure minority rights protection. The lack of progress or the slowness of progress in minority rights protection and implementation has been more criticized that it has been by the EU. But there are also critics of the work of the EU and of the track records of the EU.

I have already mentioned the critics of the lack of accountability of EULEX and that is something that has particularly been brought up by INGOs. There are also critics of the fact that the EU is no concentrating enough on improving inter-ethnic relations and does not concentrate enough on the citizens. The INGOs tend to stress the importance of the EU in the region, and confirm that the improvement of the rule of law is the main goal of its involvement in the region, but that there are still many deficiencies in the respect of the rule of law, underlining once again the limits of EULEX, the main mission of the EU in the region.103

On the whole, we can see that the analysis of the situation is quite clear on the part of the European Union. It does not differ from the analysis of the other international organizations or even of the INGOs working in the field. Nonetheless, the EU tends to not go as deep as the other organizations in the reasons for the problems and in the analysis of the situation, and fails to address some of the issues raised by INGOs, especially those concerning the accountability of EULEX. The INGOs are also critical of the track records of the European Union in the country and illustrates the current limitation of the organization in the field of minority rights protection.

102 Centre for Transparency, Research and Accountability, BIRN Kosovo, and Internews Kosova, “Big Deal, Civilised Monotony? Civic Oversight of the Kosovo-Serbia Agreement Implementation.”
103 Stevens, Filling the Vacuum, 7.
Conclusion.

The situation of minorities in Kosovo has been improving in the past years, but it remains difficult. We have seen that it is a multi-ethnic, multi-religious society, that it has been for a long time, and that this fact is recognized in the new Constitution of the Republic of Kosovo. Even though there is a strong history of conflict and inter-ethnic tensions, since the independence, the country has improved its legislation and its Constitution to take into account the protection of all the rights of minorities and reach the standards set by the treaties and texts of the international organizations active in the field.

However, we also saw that the living conditions of many minority groups have not improved, or little, since the independence, and that the economical and social integration of minorities is still an issue. Overall, it is the general implementation of the legislation that is an issue in the country. We have also seen that the situation is riskier and more complicated in Kosovo than it is in Montenegro, because of various reasons, mostly the different recent pasts of the country and the fact that Montenegro is already a member of international organizations, and has been working on improving minority rights and inter-ethnic relations for a longer period of time.

The security and instability risk is one of the reasons why the European Union got involved in Kosovo and concerned with minority rights in the country. The evolution of the importance of minority rights in the EU accession process is growing since the 1990s and Kosovo is an extra step in that direction. It seems that the European Union recognizes that there is a special context and a special risk and have set up specific mechanisms to answer to that issue, and all its agencies are taking the issue into consideration in their work and has spent an unprecedented amount of money to reconstruct the country, trying in passing to improve the implementation of the legislation and inter-ethnic relations.

My research question had two elements to measure the level of implication of the European Union, level of concern and sincerity. First of all, I wanted to measure if the EU was concerned at all with minority rights, especially in the accession process, and if that concerned appeared in their interaction with the authorities in Kosovo. The second element, sincerity, was measured by studying the level of implication of the European Union with the issue, and to see if the problems of implementation were identified and if there was intent to
work on those issues and solve the problems to improving living conditions and integration of minorities and improve inter-ethnic relations, and to see if there was more emphasis on minority rights in the accession process of Kosovo than for Montenegro, a country with less inter-ethnic tensions and better implementation of the legislation.

We saw that, throughout all the types of pressures that the European Union can apply on the authorities in Kosovo, there is a consistent mentioning of minority issues. The EU uses the ways it has to contact, work with and influence the authorities in Kosovo on taking into consideration minority issues.

However, it is difficult to evaluate the real influence of the EU in the field, as the decisions taken by the authorities are the result of various factors, and the EU is not the only actor pressuring the Kosovo authorities to improve the legislation and the implementation. Both the Council of Europe and the OSCE are extremely active in the country, and the EU relies on them, not only thanks to their texts and treaties, but also because the EU trusts their expertise in the field of minority rights and their knowledge of the country.

But it is clear that the EU has a special leverage. The reward for following the recommendations of the European Union gave weight to its pressures. Even though it is hard to quantify the success of the pressures of the European Union, and which part of the improvement of the legislation is due to it, the fact that they consistently mentioning minority rights forces the authorities in Kosovo to take it into account and to work on it. This is shown by the fact that they have passed the legislation required, and that the Kosovo authorities have also started to mention it both in the Constitution and the legislation, and in their communications.

The second element, of sincerity, was measured through the level of concern from the EU concerning implementation. The concern shows through the Progress Reports and the communications of the EUSR and of EULEX, and it seems that all the actors of the EU have a good understanding of the problems faced in the country. The fact that they have a good understanding of the situation is corroborated by the fact that their analysis of the situation is also in line with the analysis of the Council of Europe and the OSCE and similar as well to the analysis of INGOs. Moreover, the Council of Europe and the OSCE acknowledge the fact that the EU is involved in the field of minority rights, especially through the financing of projects implemented by the Council of Europe and the OSCE.
The difference with the view of the INGOs lies in the fact that they tend to be somewhat critical of the track records of the work of the European Union in Kosovo, minority protection included. The main critics are that the EU is not doing enough to improve the situation, and critics of the actions and the accountability of EULEX. The accountability, or lack thereof, of EULEX is a major problem, affecting the way the EU is perceived in the country. If there have been steps to guarantee a certain accountability, it is limited and not completely perceptible for the public. The reputation of EULEX was further damaged by the corruption scandal that emerged last year, even if it turned unproven.

The way the EU is perceived is even more problematic in the Serbian Northern Municipalities, where it suffers from a lack of popularity. And even though the EU started new projects, thanks to the advancement of the talks between Serbia and Kosovo. Those projects are aimed at improving the economic situations of the North as a whole, but it is not widely known by the population that such projects are taking place. The lack of visibility of the actions of the EU is something I will comment on below.

 Nonetheless, minority rights in the EU accession process of Kosovo are very present. The EU recognizes the specific situation, but it is also present in the other countries of the region, but to a lesser extent, illustrated by the study of the accession process of Montenegro, due to the fact that less problems with implementation, minority protection and inter-ethnic tensions remain. The accession of the Western Balkans country, and especially of Kosovo, are an important step in the growing importance of minority rights for the European Union. It forces the EU to evaluate its work in the field and it has gradually given minority rights more weight in its work in the country and in the conditions of accession. That is why I thought it was important to study minority rights in the context of the EU accession process.

One major proof of the high level of concern for minority rights in the accession process of Kosovo on the part of the EU is the fact that there are still demands for improvement, even though we have seen that the legislation is in place. The EU recognizes that a nominal protection of minorities is not enough anymore to be able to enter the EU. It might be used as a way to delay the accession process of Kosovo, but it is also something that appears in the progress reports of Montenegro, on a smaller scale, when the EU puts an emphasis on the need to improve the integration of the RAE communities.
But there are limits to the involvement of the EU in minority rights in the EU accession process and to its impact. As proved by the study of the evolution of the legislation and of the implementation, and even though the EU spent a lot of money for the reconstruction of the country, progresses are slow. The legislation is evolving slowly, as illustrated by the remarks of the progress reports staying similar one year to the other, and the implementation is even slower in improving.

Another problem is the fact that most of the involvement of the EU in the field of minority rights seems to be limited to the mentions it makes in its reports and communications. It is hard to truly see the involvement without having a look at the financing of the projects and studying reports from other organizations mentioning the work of the EU. In the documentation from the EU, minority rights, even though it is present, is lost in the swarm of other topics covered by the EU, especially in the Progress Reports. Minority rights have been growing in importance in the accession process over the years, but this growing importance is not completely clear in the recent progress reports, where it is one but many topics.

Moreover, if this study helps confirming the fact that minority rights are important in the accession process, the problems of the guarantees once in the EU remains a problem. This is especially a potential problem for a country like Kosovo, where the risks are still likely to remain high in the years to come, despite the work that is being done on implementation.

This idea is linked to the problem of the lack of communication of the EU on their work on minority issues, and the lack of guidelines for the candidate country. The EU has not a fixed and defined rule of what should be followed, what legislation should be passed or what should be implemented concerning minority rights to enter the EU. Those two problems are affecting the impact of the EU in the field of minority rights in Kosovo. If there was a clear definition of what level of guarantee, it would be easier for the authorities in Kosovo, as at the moment the legislation is very ambitious, and goes beyond the legislation in place in some countries already members of the EU. The fact that it lacks guidelines is illustrated by the fact that in the Charter of Fundamental Rights, only anti-discrimination measures are required by member states, which is not sufficient to guarantee minority rights.
This broad scope of the Kosovo legislation, and its ambition, is not something that is really discussed by the EU itself. But the legislation, a result of the pressures and standards of International Organizations, among which the EU, might result very difficult and slow to fully implement in Kosovo, due mostly to a lack of resources.

The work of the EU in Kosovo in the field of minority rights seems to suffer from a lack of coordination between the different agencies and bodies. Even though a big part of the work of the EUSR is officially the coordination of the different EU actors in the country, this is not clear that it has an impact if not an insider. The different agencies and bodies of the EU have not always the same analysis and the same understanding of the situation, and that brings more confusion for the Kosovo authorities and further complicate the work to improve inter-ethnic relations and implementation.

The study of Montenegro provided two elements of interest, two insights that would not have been possible to learn with the study of Kosovo only.

First, it illustrated that the EU recognizes the specific situation of Kosovo and the higher risks. The EU has set up specific mechanisms for Kosovo, EULEX, the EUSR, that do not exist in Montenegro, and is spending more time, more space and more money to try to analyse and understand the situation in Kosovo, and try to improve both the implementation and inter-ethnic relations. The actions of the EU in Kosovo compared to its actions in Montenegro do prove sincerity and a high level of concern for minority rights.

The second element brings us back to the idea that there might be a problem in the follow-up of the requirements for minority rights once a country has acceded to the EU. If the risks are indeed lower in Montenegro than in Kosovo and the legislation is more fully implemented, it seems that the EU is relying a lot on International Organizations and is involving itself less in minority protection. It seems normal that there would be less interest if the situation has improved but this might affect the future of minority rights in the country, as because of the lack of clear guidelines, there could be a deterioration of the situation, as there is no specific mechanism or requirements to keep on improving the situation.

This is something that happened in the Eastern and Central European Countries that joined the EU in the 2000s and that is something the EU got criticized for, and it seems like there hasn't been an improvement in that field. There has been an improvement on what the
requirements should be before entering, but if there is little requirement once in the EU, that could have a negative impact on the Western Balkans countries. If there are little risks in Montenegro and the situation is not likely to deteriorate, this is something that could have an impact on Kosovo, especially if the deep-rooted problems affecting inter-ethnic relations are not worked on.

The findings of my study also suffer from limits. The criteria to evaluate the level of concern and the sincerity of the concern of the EU were self-established, and this brings a question of objectivity. I have tried to be as objective as possible in my estimation of the level of concern, but it remains something that I have defined myself. The mentions of minority rights, the projects implemented, the involvement of the EUSR, all the work of the EU, are there, but it could always be argued that it could have more impact and could do more, especially since the direct impact of the EU in the improvement of the situation of the country is impossible to evaluate. It has had an impact; this cannot be disagreed with, if only because of the fact that Kosovo has received more aid per capita than any other country, but scope of the impact is still open to discussion.

Another limits to my study is the fact that most of the work of EULEX and the EUSR is done behind close doors and is difficult to access. I tried to get interviews with EULEX and the EU delegation in Pristina during my time in the country but failed to finalize it. It would have been interesting and could have had the potential to add some elements of analysis, but feel that I had sufficient materials nonetheless to proceed with my study.

To sum up the answer to my research question, yes there is a high sincere level of concern for minority rights and the implementation of the legislation in Kosovo in the accession process of Kosovo on the part of the European Union but the effectiveness of the action of the EU is hindered by various factors and the concern shows through the constant mention of minority rights in the leverage mechanisms that exist towards the Kosovo authorities, by the analysis of the situation, the work that the EU is doing with other organizations and by the programs that are financed by the EU to improve inter-ethnic relations and the economic and social situation of minorities in the country. Furthermore, even though problems remain, the accession process of Kosovo is an essential step in the way the EU views minority rights for candidate countries and in the growing importance it has in comparison with other requirements.
It would be worth completing this study by a more extensive study of the reasons for the lack of implementation of the legislation. From my research, it seems that the main reason for the lack of implementation is financial but it could also be linked to political will or other factors and it could be worth for instance creating a database of the level of implementation of the legislation at the municipal level and the political parties in charge of the municipality. This is something that did not enter the scope of my research but could give valuable insight on how to work on improving the situation.

Kosovo has improved greatly its situation since the war and life there is not as difficult as it may seem from studying in details minority rights there. Tensions remain, but they mostly do not appear in the everyday life of citizens, it is true, in part also due to the fact that there has been the creation of enclaves and a stronger separation between the communities. But, as proved by the stronger involvement of the Serbs in the South and the negotiations between Serbia and Kosovo, the situation is improving and is bound to keep improving for minorities, of course, only if the political will to improve inter-ethnic relations and implementation stays. And that is why the role of the EU is crucial in the region; the reward of entering the EU is essential in keeping the political will to work on those issues alive.
Annex:

Photos taken on the Peja to Pristina road, November 2014.
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Source: wikipedia.org
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