

Importance of UNESCO and the consequences of rejection of Kosovo's bid for membership

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Abstract

After 10 year of the independence the Republic of Kosovo is facing difficulties in joining United Nation, and his specialized agencies, also facing the difficulties, to join international organizations as a way to secure recognition and complete statehood in international arena. This document explores the quest of Kosovo and will be focus on Kosovo's application to join UNESCO, the United Nations' cultural organization, the process and procedures of application from one nonmember in UNESCO organization in our case Republic of Kosovo. It begins with the role of the Kosovo supporters in application process and their counterparts, request for the admission of the Republic of Kosovo to UNESCO, who were the sponsors and cosponsors of the request, Kosovo's institutions statements and declarations on taking the obligations according to the UNESCO constitutions.

The second part of this paper will cover procedures followed and the decision of the hundred and ninety-seventh session of the UNESCO executive board (197EX/43), distribution of votes by states in favor of Kosovo's request, votes of the states against Kosovo and votes of states with abstention and absent states on voting process.

The third part will cover the recommendation of the UNESCO executive board, and proceed the decision and recommendations to secretary in order that Kosovo request to be discussed on the General Conference, part of the general conference discussion related to the Kosovo application and voting process on the General Conference distribution of votes from the states who voted in favor, against, abstention and absence during General Conference and rejection of Kosovo bid.

And the conclusions while what are the benefits on joining the UNESCO and the consequences for Kosovo in the rejection of bid to obtain a seat at the organization UNESCO, what are the next steps and the chances of Kosovo Institution and recommendations for future, and selection of approaches on the second bid to join UNESCO in the near future.

Keyword: UN, UNESCO, statehood, Executive Board, General Conference, request, Republic of Kosovo, rejection.

Introduction

Problem analysis and research goal

Faced with different challenges as a new state Republic of Kosovo, the independence which it declared on 17 February 2008¹, in coordination with majority of the countries of the international community, after a long process of establishment, consolidation of self-governing institutions and building operational and functional state capacities,

¹ Kosovo Assembly transcript http://www.kuvendikosoves.org/common/docs/proc/trans_s_2008_02_17_al.pdf (consulted 04.11.2018).

even 10 years after the declaration of independence, the Republic of Kosovo is facing with internal challenges such as political, economic and social challenges, but an even greater challenge is the contested independence and fierce opposition from Serbia and its supporters for membership in international organizations (Russia, China, India).²

In its journey as a state of the Republic of Kosovo, towards institutional consolidation on the **internal affairs**, a lot of efforts and reforms have been taken to strengthen the stable and reliable institutions serving to all its citizens, since the declaration of independence. The new state still faces political instability, elections, frequent changes of governments, the large number of political parties, non-governing governing coalitions, the rise of emotional causes, lack of general political consensus in addressing major issues that will open the country's perspective. All above mentioned issues make the state of Kosovo to slow down the overall socio-economic development perspective, internal problems are negatively reflected in the image of the new state, and vanish the integration perspective towards UN membership, European Union - EU, NATO and other international organizations, aspiration of the people and institutions of the of Kosovo, to be aligned with the countries with functional and developed world democracies.

In terms of **foreign policy**, the challenges are even bigger for the various reasons, taking into account the geopolitical changes at the global level, the obstacles that Serbia and its traditional allies Russia (a permanent member of UN Security Council)³, opposing membership on various international special agencies and organizations, lack of coordination of foreign policy and lobbying campaigns, makes Kosovo state foreign policy position much defensive on international area, from the offensive position up to year 2015, this situation turned into a delicate and defensive point for Kosovo, essentially after failing to secure the seat at UNESCO.

Following the **International Court of Justice**⁴ opinion on the legitimacy of unilateral declaration of independence of Kosovo, is in accordance with international law. The Republic of Kosovo is a member of two UN agencies that the International Monetary Fund - the IMF and the World Bank - BB, from the moment of failure to joint UNESCO in 2015, Kosovo has not been admitted to any UN special agency, even more there was no initiative by the country's institutions for preparation of new application for joining any United Nations agency / organization.

While remaining a state partially accepted at the international area, from total 193 member nations of the United Nations, 116⁵ countries have recognized the independence of Kosovo, and 77 UN member states are refusing to recognize independence at the moment, this situation creates barriers at the international area and Kosovo's foreign policy will also will be limited to actions and the establishment

² Join declaration Russia, China , India <https://www.rt.com/news/russia-china-and-india-insist-kosovo-and-serbia-resume-talks/> (consulted on 10.09.2018).

³ UN permanent members https://sq.wikipedia.org/wiki/K%C3%ABshilli_i_Sigurimit_i_Organizat%C3%ABs_s%C3%AB_Kombeve_t%C3%AB_Bashkuara (consulted on 12.11. 2018).

⁴ ICJ opinion on Kosovo independence, http://www.ambasada-ks.net/be/repository/docs/ICJ_Press_Release_22_Jul_2010.pdf (consulted on 13.11.2018).

⁵ List of states that recognise Kosovo as a Independent country <http://www.mfa-ks.net/politika/484/lista-e-njohjeve/484> (Consulted on date: 12.11.2018).

of bilateral, multilateral relations, which interstate relations will lead on ending of subjectivity as an independent and sovereign state.

No organization represents community of states more than the United Nations (UN). The UN provides balance, neutrality, security and stability for the international community. States invest more legitimacy in that than any other organization and through its universal membership, it serves as a road and guide to international norms.

In other hand the *United Nations doesn't have the competence to recognize states, but states recognize states. If you're not a UN member, it doesn't mean that you're not a state. The four criteria for being a state are determination of a territory, the populations, the government and ability to reach agreement with others.* (Alesdeir Bell 2016), taking in to the consideration those explanation, criteria for mutual recognitions of states lays on individual states to decide whether will recognize and enter in to bilateral agreement or not, it's a sovereign choice of the state itself.

Rules and procedures of membership in UNESCO

One of the major failures on the foreign affairs and Kosovo diplomatic effort, after the declaration of Kosovo's independence was the non-acceptance of Kosovo to joint UNESCO in 2015, Kosovo failed to become a member for only three votes. The whole process that Kosovo follows for joining the UNESCO as a non UN member state, which issue raises many questions, turning to UNESCO's admission regulations, which the right to enter the organization is regulated by the UNESCO constitution⁶. UNESCO is created with the mission of reaching peace and cooperation among peoples through culture, science and education. The UNESCO founding idea stems from the approach by which politics and economics are not enough to achieve reconciliation between people and nations in the world. Today, UNESCO counts 195 member states and 11 associate members⁷, this number clearly exceeds the number of UN member states as the founding organization, this number is a proof that joining an international organization helps new states to avoid bilateral recognition by states individually but with membership in UN special agencies this is easier way to confirm international subjectivity of new state. The most typical example when an entity without a recognized international subjectivity has managed to join a multilateral organization is the acceptance of the Palestinian Authority in UNESCO on 23 November, 2011⁸.

Membership of states in UNESCO is regulated with the Constitution and the Rules of Procedure of the General Conference. According to Article II, paragraph 1 of the UNESCO Constitution, *Membership of the United Nations Organization shall carry with it the right to membership of the United Nations Educational, Scientific and Cultural Organization.* However, Article II also foresees a procedure for non-member

⁶ UNESCO constitution http://portal.unesco.org/en/ev.php-URL_ID=15244&URL_DO=DO_TOPIC&URL_SECTION=201.html (consulted on date: 15.11.2018).

⁷ UNESCO member state <https://en.unesco.org/countries/member-states> (consulted on date 16.10.2018).

⁸ UN news 31 October 2011 Palestinian admission in UNESCO <https://news.un.org/en/story/2011/10/393562-unesco-votes-admit-palestine-full-member> (consulted on 17.10.2018).

countries of the UN: paragraph 2 of Article II provides that, “Subject to the conditions of the Agreement between this Organization and the United Nations Organization, approved pursuant to Article X of this Constitution⁹, states not members of the United Nations Organization may be admitted to membership of the Organization, upon recommendation of the Executive Board, by a two thirds majority vote of the members of the General Conference.”¹⁰ The Rules of Procedure of the General Conference also define the procedure for the admission of new members to the Organization. Rule 85 of Chapter XV – Voting requires a two- thirds qualified majority of Members present and voting for the admission of new Member States which are not Members of the United Nations, on the recommendation of the Executive Board Rule 99, paragraph 1 provides that, “Any state not a Member of the United Nations which desires to become a Member of UNESCO shall submit an application to the General Secretariat. This application shall be accompanied by a statement that the particular state is willing to abide by the Constitution, to accept the obligations contained therein and to contribute to the expenses of the Organization¹¹,”⁴ while Rule 100 provides that, “Applications by states not Members of the United Nations for membership of UNESCO shall, upon recommendation of the Executive Board, be dealt with by the General Conference in accordance with the provisions of Article II, paragraph 2, of the Constitution.

The Rules of Procedure of the General Conference describe the procedure to be followed by the states for membership in UNESCO, in the case of Kosovo all this rules and procedures are followed. Under these rules, any non-member United Nations which wishes to become a UNESCO member must submit an application to the Director-General, in this case Kosovo's request has been addressed to the Executive Board's Director on 4 August 2015 by the side of the Ministry of Foreign Affairs at that time by the Deputy Prime Minister and Minister of Foreign Affairs, which is part of the session document no. 197 EX / 43¹², explaining how Kosovo has expressed readiness to join UNESCO's organization.

This document clarifies that this request / article is included in the Executive Board's Agenda in its 197 Session at the request of Albania and co-sponsored by Austria, Bahrain, Belize, Burkina Faso, Chad, Costa Rica, Ivory Coast, Denmark, Dominican Republic, Guinea, Haiti, Honduras, Ireland, Jordan, Kuwait, Latvia, Lesotho, Luxembourg, Netherlands, Oman, Panama, Papua New Guinea, Qatar, Gambia, Saudi Arabia, Senegal, Slovenia, Somalia , South Sudan, Sweden, Togo, Turkey, United Arab Emirates, United Kingdom and Northern Ireland, United Republic of Tanzania, United States of America and Vanuatu

⁹ Article X of the constitution http://portal.unesco.org/en/ev.php-URL_ID=15244&URL_DO=DO_TOPIC&URL_SECTION=201.html (consulted on 20.10.2018).

¹⁰ The Rules of Procedure of the General Conference can be accessed at UNESCO basic documents: <http://unesdoc.unesco.org/images/0021/002161/216192e.pdf> (consulted on 21.10.2018).

¹¹ Quest for Statehood: Kosovo's Plea to Join International Organizations PHD Ermira Mehmeti (consulted on date (consulted on 23.10.2018).

¹² 43 Board decision pg.71 (197 EX/43) <http://unesdoc.unesco.org/images/0023/002351/235180e.pdf> (consulted on date 19.10.2018).

¹³ Request of Albania and Co sponsors pg. 1 <http://unesdoc.unesco.org/images/0023/002346/234649e.pdf> (konsultuar me 20.10.2018).

¹⁴ Application on behalf of ministry of Foreign affairs, pg3 <http://unesdoc.unesco.org/images/0023/002346/234649e.pdf> (konsultuar me 21.10.2018).

Explanatory Note by: Executive Board 197 session of UNESCO, addressed to the General assembly date 22 September 2018 .

1. By letter dated 4 August 2015 addressed to the Director General, His Excellency Hashim Thaçi, First Deputy Prime Minister and Minister of Foreign Affairs of the Republic of Kosovo, applied on behalf of his Government for the admission of the Republic of Kosovo to the United Nations Educational, Scientific and Cultural Organization.
2. In accordance with Rule 98 of the Rules of Procedure of the General Conference, this application is accompanied by a statement that the Republic of Kosovo is willing to abide by the Constitution, to accept the obligations contained therein and to contribute to the expenses of the Organization.
3. Under the terms of Article II, paragraph 2 of the Constitution of UNESCO, "States not members of the United Nations may be admitted to membership of the Organization, upon recommendation of the Executive Board, by a two third majority vote of the General Conference". As the Republic of Kosovo is not a member of the United Nations, it is the responsibility of the Executive Board to make a recommendation to the General Conference concerning the application for membership.
4. The United Nations Interim Administration Mission in Kosovo (UNMIK) has already confirmed in its letter dated 26 August 2015 that the issue of Kosovo's membership to UNESCO is solely for UNESCO and its organs to determine

Proposed decision

5. The Executive Board,
 - Considering the request of the Republic of Kosovo for admission to UNESCO submitted on 4 August 2015.
 - Having noted that the Republic of Kosovo accepts UNESCO's Constitution and is ready to fulfill the obligations arising from its admission and to contribute towards the expenses of the Organization.
 - Considering Article II, paragraph 2, of the Constitution of UNESCO, which stipulates that ... States not members of the United Nations Organization may be admitted to membership of the Organization, upon recommendation of the Executive Board, by a two thirds majority vote of the General Conference".
 - Recommends that the General Conference admit the Republic of Kosovo as a member of UNESCO.

The Executive Board adopted this decision following a roll call vote: 27 votes in favor, 14 votes against and 14 abstentions:¹³

Agenda of the 38th session of the General Conference

Discussion Point 8.3 - The request of the Republic of Kosovo for membership in UNESCO, by a decision of the Board 197 EX / 43 recommends that the Republic of Kosovo be accepted as a member of UNESCO. The decision on this request must be voted on by the General Conference, the subject proposed by Albania. 197 EX /

¹³ Voting process in Executive board for decision pg. 71 <https://unesdoc.unesco.org/ark:/48223/pf0000235180>

Dec.43, 197 EX / Dec.22 (I), 38 C / 60.

The session of the General Conference on 9 November 2015, at the beginning of the General Conference meeting, Serbia, as expected, has requested postponement of the vote on Kosovo's membership in UNESCO. Representatives of the Serbian state have asked for the discussion on Kosovo to be postponed for the next session, with the reason, as they stressed, to give space to the Kosovo-Serbia dialogue on normalization of relations, a dialogue launched in 2013¹⁴.

Immediate replication and response of the UK representative in UNESCO, who stressed that Kosovo's membership in UNESCO and the dialogue between Kosovo and Serbia in Brussels are two separate issues, pointing out that it has never happened that the General Conference refuses a decision of the Executive Board and if this happens it will be a precedent for the future function of organization. This request was also opposed by the German and Austrian ambassadors at UNESCO. The Serbian proposal was put in the vote, and the result was that 89 states have rejected Serbia's request to postpone the vote for reviewing Kosovo's membership in this organization. Meanwhile, Serbia's proposal has supported 59 votes, 22 states have abstained, of the 170 eligible country voters.

Immediately from after the voting process, requested by Serbia, continued the General Assembly meeting, reviewing this item on the agenda and the voting process for Kosovo's accession to this organization¹⁵.

Voting results in General Assembly related to the Kosovo bid to join UNESCO

Kosovo was not admitted to UNESCO, 142 members states voted, of which 92 member states voted in "favor" of Kosovo, while 50 member states voted 'against' and opposed their vote for Kosovo's accession to this organization. A total of 29 states abstained, among them states that have recognized Kosovo's independence, while representatives of 15 states were not involved in the voting process and were out of the hall of the General Conference meeting and the voting process.

To win UNESCO membership, Kosovo needed a two-thirds majority. Of the 142 countries that voted, 92 backed the motion, 50 voted against and 29 abstained, meaning the bid fell short by three votes.

Importance of membership of the Republic of Kosovo in UNESCO

The failure of Kosovo to join UNESCO is among the strongest setbacks to Kosovo's statehood on international area and its integration. This was one of the biggest diplomatic failures of Kosovo state, since the declaration of independence and as such should serve as a moment of reflection on important political and institutional point of view including changes. Kosovo and Serbia are in negotiating process since 2012,¹⁶ and the effects of the negotiations has very significant progress, even after six

¹⁴Request of Serbia for postponement of vote , Archive Lajmet pub. 09.11.2015 <http://www.arkivalajmeve.com/Deshton-kerkesa-e-Serbise-per-shtyrjen-e-votimit-per-UNESCO.1047881846/>

¹⁵ YOU TUBE Live stream General assembly discussion e 38session of UNESCO <https://youtu.be/LONz4RFdaOM> (consulted on date ; 30.10.2018).

¹⁶ EU facilitation process Kosovo and Serbia <https://eeas.europa.eu/headquarters/headquarters->

years of negotiations, while Serbia is using the alibi of negotiation to stop the progress of Kosovo in his path to join international organization and community. Serbia and its allies consider the frozen conflict with Kosovo is an advantage and expect a more favorable moment, even more using favors in the integration processes of Serbia in relation to the European Union.

Kosovo is the only country in the Balkans and in the world that has harmonized and fulfilled the entire legal framework for achieving international standards and obligations on cultural heritage, and protection and conservation of this heritage without being a member of UNESCO. The Kosovo legal framework for the protection of cultural heritage is generally in line with relevant international human rights standards. However, some responsible institutions, such as Kosovo Council for Cultural Heritage and the inter-ministerial working group for communication and implementation have largely remained ineffective.

UNESCO assists member states in developing a system of education, science, culture and quality and inclusive information through building their capacity to design and implement policies in member countries of this organization. Kosovo's membership in the United Nations Educational, Scientific and Cultural Organization of UNESCO will crown its efforts to comply with all international norms, standards and laws in multidimensional field-activity which is included in UNESCO¹⁷.

Creating an environment for the development of effective public policies, strictly monitored by commonly accepted rules KOSOVO - UNESCO, is not only a matter of political will but also an issue of institutional legitimacy. UNESCO membership would also have an impact on the strengthening of Kosovo's state subjectivity, entering into bilateral and multilateral relations, but also opening up new opportunities for membership in other UN agencies and ultimately shortening the path to membership of the United Nations. UNESCO will help Kosovo and its people address social and ethical challenges, promote and promote cultural diversity and intercultural dialogue. In practice, the areas covered by this organization in science, culture and education (UNESCO covers over 70 different programs)¹⁸ in which Kosovo could participate in the first year after membership, where human capacities with great intellectual baggage would be needed.

In the field of cultural heritage, Kosovo would apply for placing under the global protection of all categories of heritage such as: archaeological heritage (sites / reserves), architectural heritage objects, movable heritage, intangible heritage, cultural landscapes and natural heritage. UNESCO's action focuses on the main areas of education where 19 education programs are active¹⁹, where funds will be allocated to increase the quality of education and school infrastructure at all levels of education and studies. Direct Education Assistance and UNESCO is the issue of reforming, standardizing and exchanging educational programs globally.

Currently, UNESCO at world level, in the field of cultural and natural heritage, has 22 active programs and this is a missed opportunity for Kosovo because it homepage/14670/eu-facilitated-belgrade-pristina-dialogue-implementation-of-the-telecommunications-agreement_en

¹⁷ UNESCO worldwide prorammes www.internationals-buero.de

¹⁸ Educational frame work action 2030 <https://en.unesco.org/themes/education>

¹⁹ Educational programs <https://en.unesco.org/themes/education>

could benefit in building institutional and human capacity, standardizing laws and implementing conventions. Youth would have access to education in different countries and exchange of experiences in the field of cultural and natural heritage, funds and projects would promote a new level of responsibility for the protection, conservation and management of all categories of cultural heritage. Membership in UNESCO also has obligations and responsibilities, such as advancing legislation, inventorying or creating a list of permanent assets, cultural heritage protection as well as preservation and management. Kosovo benefits because it enters the map of destinations of cultural heritage and cultural tourism. But there are also the financial benefits for programs that are implemented around the world, various funds for the advancement and standardization of education, science and culture in the form of grants. It should be noted that UNESCO in Kosovo has supported the restoration of the Novo Brno Fortress worth several million even though we are not members of this organization. UNESCO Worldwide there is 2079 clubs, which are active. Kosovo would only benefit from twinning with clubs from countries that have recognized Kosovo's independence, expanded influence, but would also exchange experiences with clubs of countries that have not yet recognized its independence.

Conclusions

Kosovo's membership in various regional and international organizations does not imply direct or automatic recognition of its international subjectivity as a new entity. However, in practical terms, this form of action may aim to achieve that recognition as a political act. Kosovo has so far been able to sit on the same table with most of its neighbors and discuss on equal terms the various regional challenges.

Kosovo has proved that the Constitutional Framework, Laws, regulations and strategies are in harmony with all UNESCO Conventions and in particular for Education, Science and especially for the human rights and Cultural Heritage which requires not only laws and their implementation, but also institutional mechanisms for their implementation, this should be seen as an additional argument for defense mechanisms, which will be an additional argument for pledging respect for international conventions.

Finally, reforms in cultural heritage management, quality education, media freedom, gender equality, science and technology development and other areas of interest for UNESCO's work are of vital importance for Kosovo itself

Kosovo's membership in UNESCO will not only undermine the important legacy of Kosovo Serbs, but rather will create additional conditions and guarantees their protection in Kosovo.

Kosovo must prove to the world that it is interested and ready to be positioned along the progressive countries and taking concrete legal and institutional actions for the preservation of cultural heritage values, with unilateral approval of UNESCO conventions, the proclamation of cultural heritage properties in permanent protection, drafting of management plans for cultural heritage properties, internal dialogue in Kosovo for Orthodox heritage monuments, treatment of illegal constructions within protected areas of heritage and adoption of new law and strategy national heritage.

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