CHAPTER TWO

THE LEGISLATIVE AND INSTITUTIONAL FRAMEWORK IN KOSOVO

2.1. INTRODUCTION

Events in Kosovo mark the beginning and the end of the crisis in the former Yugoslavia in the 1990s. For most interpreters, this crisis in the immediate vicinity of the European Union began with Milosevic’s rise to power in Serbia in 1987, which had almost immediate consequences for Kosovo.

Together with the Vojvodina, the territory of Kosovo had—from 1974 onwards—enjoyed a constitutional status of an autonomous province. As such, its status was slightly less than that of the six republics in the Socialist Federal Republic of Yugoslavia, but it had a number of competences that were almost identical to that of the republics. Kosovo was represented at the federal level in the same way as the latter: it had a right to adopt its own constitution and to amend it, to pass laws and to organize its own government. Kosovo also enjoyed considerable autonomy over its police and in the administration of justice, including the right to organize its judicial system and to establish its own constitutional court.

In 1987 Milosevic initiated his bid for power in the Serbian Communist Party by proclaiming that national rights of Serbs and Serbia over Kosovo were being violated and that therefore the constitutional position of Serbia and Kosovo had to change. In the early spring of 1989, following massive protests in Belgrade, the Serbian Constitution was amended giving it more direct control over Kosovo and its institutions. The (in)famous Milosevic speech at the Gazimestan Field on Saint Vitus Day in late spring 1989 can be considered as the starting point of the Kosovo crisis as such. This event was followed by the withdrawal of Kosovo’s autonomous status, and the introduction between 1989 and 1991 of the authority

155 This status was a compromise intended to provide extensive protection to the Albanian majority while putting a halt to secessionist tendencies. See, also in general, for a concise overview over the events leading up to the crisis, P. Hilpold, ‘The ICJ Advisory Opinion on Kosovo: different perspectives of a delicate question’, (2011) Electronic Copy, available at www.ssrn.com, at 3–7.


of Serbia’s institutions to act in “special circumstances”\textsuperscript{158} and of a series of discriminatory laws and decrees, such as limitations on transactions of immoveable property.\textsuperscript{159} This led to the establishment of parallel governance and education structures, and an initial response of the ethnic Albanians of peaceful resistance and nonviolent nationalism.

The withdrawal of the autonomous status had repercussions also for the law enforcement institutions in Kosovo, although their structural weaknesses date back to before 1989. With the withdrawal of the region’s autonomous status, Kosovo Albanians were forced out of jobs in the public sector in general, and the law enforcement institutions in particular by a policy of gross, government-sanctioned discrimination. The Albanian-speaking law school was closed down and the bar exam in Albanian was eliminated.\textsuperscript{160}

At first the general outbreak of the war in Croatia and Bosnia and Herzegovina took political attention away from developments in Kosovo, but after the Dayton/Paris Accords in 1995, the crisis in Kosovo slowly started to boil over once again. When the Kosovo Liberation Army (KLA) gradually became active as a paramilitary organisation, President Milosevic responded with increased repression. Following the adoption of UNSC Resolution 1199 (1998)\textsuperscript{161} demanding the immediate end to hostilities and the withdrawal of Serbian security units used for civilian repression, an international monitoring team under the aegis of the OSCE, the Kosovo Verification Mission, was deployed.\textsuperscript{162} This engagement of the international community was not sufficient to end the crisis.

When the peace-talks at Rambouillet\textsuperscript{163} failed to bring an end to the conflict, the NATO-led operation \textit{Allied Force} was carried out on the terri-


\textsuperscript{159} Law on Restriction of Real Property Transactions, Official Gazette of the Socialist Republic of Serbia 30/89, as amended, cited in \textit{ibid}.


\textsuperscript{163} The Rambouillet agreement of February 1999 was a last minute attempt to avoid the use of international force, providing for an extensive autonomy for Kosovo. The competences of the FRY would have been very narrow, limited to defence, currency,