

# Albanians in Montenegro

## Waiting for Godot?

By Cafo Boga & Stefan Wolff

*"Why are we here, that is the question. And we are blessed in this, that we happen to know the answer. Yes, in this immense confusion one thing alone is clear. We are waiting for Godot to come..."*

*"Let us not waste our time in idle discourse! Let us do something, while we have the chance! It is not every day that we are needed. But at this place, at this moment of time, all mankind is us, whether we like it or not. Let us make the most of it, before it is too late!"*

—Samuel Beckett, *Waiting for Godot*

### INTRODUCTION

It is surprising that some don't even know about the Albanians in Montenegro, though they have been living in this area since the antiquity. As a matter of fact, the Albanians' ancestors, the Illyrians, laid the very foundations of modern Montenegro.

Montenegro was founded as a state under its present name during the 15<sup>th</sup> century, continuing the tradition of the Illyrian state of Genta or Zenta, later the Roman state of Dukla. During next three centuries, the Republic of Venice dominated much of the coastal area, which became known as Albania Veneta. Following Ottoman invasion much of today's Montenegro fell under Ottoman control, except the coastal area, which remained under the Venetian control. With help from Russia, the central Montenegro (the Slavic speaking area) was able to maintain its quasi-independence during the Ottoman Empire's reign in the Balkans; its independence was formally acknowledged at the Congress of Berlin in 1878, which also brought about a substantial expansion of its territory at the expense of Albania. After World War I, it was absorbed into the Kingdom of Serbs, Croats, and Slovenes, which later became the Kingdom of Yugoslavia in 1929. Montenegro was also later part of various incarnations of Yugoslavia, until it regained its full independence from the federation of Serbia-Montenegro in June 2006.

Montenegro is a small country with a population of approximately 630,000 people. Montenegrins and Serbs are the predominant ethnic groups, together forming about 74 percent of the population. Albanians in Montenegro account for approximately 8 percent of the total population. They live in relative compact settlements along the Montenegrin-Albanian border, which stretches at times further inland to the eastern out-

skirts of the Montenegrin capital of Podgorica. Albanians in Montenegro are a national minority (members of an ethnic group who live within a *host-state*, but are simultaneously ethnic kin of another, often neighbouring *kin-state*). As such, Albanians belong to a type of minority group that is very widespread across Europe. Its country was created and shaped by the redrawing of Europe's political map following conflicts in its region—primarily the Balkan wars of the early 20<sup>th</sup> century, World Wars I and II, and the dissolution of the Soviet Union and Czechoslovakia as well as the collapse of Yugoslavia after the Cold War. Albanians' minority status within Montenegro, therefore, is not a matter of choice, but one of historical circumstance: inhabiting a contiguous homeland, nations were divided between expanding nation-states either in the process of direct territorial contests, as a consequence of post-war border changes, or after the disintegration of multinational states.

National minorities living in European host-states have been tolerated citizens at best. But in most cases, they continue to suffer the consequences of past and present discrimination. At the same time, it is a widely held belief among academics and policymakers that members of national minorities deserve and require specific legal protection in order for them to express, maintain, and develop their own identities without fear of discrimination or disadvantage:

"Persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will."<sup>1</sup>

This fundamental assertion of national minority rights was approved by the participating states of the Conference on Security and Co-operation in Europe (CSCE) at the 1990 Copenhagen Meeting on the Human Dimension. Section IV, Article 32, of the Copenhagen Document that resulted from the meeting details particular rights of minorities such as:

- The right to speak their ethnic language freely in private and in public (including the right to disseminate, receive, and access information in that language);
- The right to establish and maintain educational, cultural, and religious institutions and organizations (including the right to participate in international non-governmental organizations);
- The right to profess and practice their religion; and
- The right to establish and maintain con-

tact among themselves and across borders.

The signatory states of the CSCE further committed themselves to protecting the ethnic, cultural, linguistic, and religious identities of their minorities and to creating conditions in which these identities can be promoted, including, "appropriate local or autonomous administrations corresponding to the specific historic and territorial circumstances" of their minorities, wherever possible.

The approval of the Copenhagen Document in 1990 was not accidental. After the Eastern Bloc collapsed in 1989, minorities' rights and protections have become recurring political issues in central, eastern, and south-eastern Europe. Not only did the dissolution and disintegration of multinational states lead to the creation of new host-state minorities, but also liberalization and democratization in these states set the stage for competition among new or redefined groups. Group interests were increasingly defined in ethnic terms, and ethnic groups' claims to resources and security became influential factors in domestic and international politics across the region.

Confronting these issues, governments have had to formulate and implement policies that address a wide variety of minority-related issues—from separatist demands to EU accession conditionality—as one part of creating more fair and open societies. Against the background of foreign and domestic policy goals, governments have had to strike a balance between the interests of their majority and minority populations. Often the majority sentiment is more traditional and nationalistic while minorities' top priorities include equal rights and recognition.

The former Yugoslavia has seen this type of interest conflict play out more often than most other regions. Here the debate on how best to achieve such a balance of diverse and often competing interests has taken place in a setting shaped by the character and consequences of violent conflicts within and between several states. Moreover, with the exception of Albania, all the states of this Western Balkans region are essentially new states. That is, they had to build up or create their identities as individual states—rather than merely redefine themselves—and obtain legitimacy both domestically and internationally. In this context in particular, questions concerning minority rights have played a crucial role: they have determined, to some extent, the acceptance of these new states by their minorities and by third-party states recognizing them, and by international and regional organizations offering

them membership, although, some after a considerable delay.

The regional environment in which these dynamics unfold continues to be shaped significantly by hostility, mistrust, and resentment in both majority-minority and interstate relations. At the same time, the unprecedented involvement of the international community—especially of European and transatlantic regional organizations as well as the United Nations and its sub-organizations—has helped sustain crucial conversations around minority rights and protections. While the commitments made around these issues are often vaguely defined, third-party organizations can offer a lot of value by mediating talks and helping to define accountability in regards to these commitments.

Despite the fact that the protections of national minorities has been a high-profile item on the agendas of international organizations, NGOs, and national governments, progress in many cases has been incremental at best. Albanians in Montenegro, for example, have seen much political change in the Western Balkans over the past two decades but little improvement in their own group's situation. They are worse off in certain aspects than they were during the communist regime in former Yugoslavia. Having been subjected to discrimination for almost a century in the various incarnations of Yugoslavia, Albanians welcomed the democratization process and hoped it would usher in a new dawn. They expected to work with Montenegrins and other communities as partners in building a new democratic and multi-ethnic state, and thus voted overwhelmingly for their nation's independence. The reality of what has since transpired has fallen far short of their expectations; most Albanians now find themselves disillusioned about their future.

Montenegro's privatization process and economic reforms have created significant social dislocations, economic hardship, and corruption, all of which has contributed to rising tensions between Albanians and Montenegrins. These tensions could easily escalate, which could, in turn, spread to other nationalities and minority groups, threatening the very existence of Montenegro. A heightened conflict also could seriously destabilize this still volatile region, which includes Bosnia and Herzegovina, Macedonia, Serbia, and Kosovo. A weak economy has exacerbated tensions between the different ethnic groups in Montenegro as each group fears it will lose access to resources that are already scarce. These tensions, albeit not violent ones, are likely to persist into the future and need to be addressed through long-term preventive efforts such

<sup>1</sup> Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE. [http://www.osce.org/documents/html/pdftohtml/13992\\_en.pdf.html](http://www.osce.org/documents/html/pdftohtml/13992_en.pdf.html).

as a renewed focus on the political status of Albanians in Montenegro.

The purposes of this paper are to: examine the current situation in Montenegro and that of the Albanians within it; analyze what specific grievances this community has; and identify possible solutions that can address these grievances in a way that anchors Albanians in Montenegro and prevents the country from destabilizing. Such results also would help Montenegro attain one of its key foreign policy goals: integration into the European Union.

The paper begins with an outline of the current situation in Montenegro with respect to the protection of national minorities in law and policy. We then discuss Albanians' specific grievances in regards to the current state of affairs. The second part of the paper lays out a range of options for protecting national minorities, drawing on a broad range of examples from comparable situations across the Western Balkans region and beyond. We conclude with some recommendations on a sustainable approach to addressing Albanian grievances in Montenegro moving forward in a constructive and inclusive manner.

### THE CURRENT SITUATION IN MONTENEGRO

Montenegro gained independent statehood in 2006 following a referendum in which a majority of the population, including many members of non-Montenegrin ethnic communities, voted in favor of dissolving the region's union with Serbia. Broadly speaking, most ethnic Montenegrins strongly supported the Montenegrin government's drive toward independence. Albanians and other ethnic minorities mostly favored independence, though some had expressed doubts concerning their status in an independent Montenegro. The voting results show that Montenegro would not have been able to achieve its independence without the Albanian vote.

Following the country's declaration of independence, the Montenegrin Parliament issued a new constitution in 2007. According to the Constitution, Montenegro is an independent and sovereign state with a republican form of government. Furthermore, the Constitution states that Montenegro is a civil, democratic, and ecological state based on a social justice and the rule of law. But despite the fact that ethnic Montenegrins only account for 43 percent of the total population, the new official state symbols adopted by the legislature in 2004 and by the constitution in 2007 are based on the royal standards of King Nikola. To Montenegrins he is a national hero, a leader who managed to establish good relations with powerful European nations and Russia and achieved recognition of its nations independence in 1897. However, he was also a ruthless leader who embroiled his country in a series of wars between 1862 and 1878. He carried out these wars under the banner of liberation from the Ottomans, but with the ultimate goal of expanding Montenegrin

frontier and acquiring an outlet to the Adriatic Sea, primarily at the expense of Albania. Albanians and the other minorities who suffered under Nikola's rule have difficulties accepting him as a national hero of the new Montenegro.

The preamble to Montenegro's Constitution identifies the nationalities and national minorities of Montenegro—Montenegrins, Serbs, Bosniaks, Albanians, Muslims, Croats and others as citizens of Montenegro—free, equal, and loyal to a civic and democratic Montenegro. The new Constitution changed the country's official language from Serbian to Montenegrin, but also recognizes Serbian, Bosnian, Albanian, and Croatian. Gender equality right has become a separate category under the Constitution, while other rights, which have already existed in the Montenegrin legislation, such as the right to asylum, free access to information, and the right to conscience (the right to object serving military or other duty involving the use of arms based upon religious grounds or personal conviction) are now guaranteed by the Constitution. For the first time in history of the Montenegro the new Constitution gave precedence to international laws over the country's own laws.

While determining that "the official language in Montenegro shall be Montenegrin," the Constitution also notes that the "Cyrillic and Latin alphabet shall be equal" and that "Serbian, Bosniak, Albanian and Croatian shall be in official use" (Article 13). Special minority rights, whose exercise is subject to further legislation, are detailed in Part II, Chapter 5, and include:

- "The right to exercise, protect, develop and publicly express national, ethnic, cultural and religious particularities";
- "The right to choose, use and publicly post national symbols and to celebrate national holidays";
- "The right to use their own language and alphabet in private, public and official use";
- "The right to education in their own language and alphabet in public institutions and the right to have included in the curricula the history and culture of the persons belonging to minority nations and other minority national communities";
- "The right, in the areas with significant share in the total population, to have the local self-government authorities, state and court authorities carry out the proceedings in the language of minority nations and other minority national communities";
- "The right to establish educational, cultural and religious associations, with the material support of the state";
- "The right to write and use their own name and surname also in their own language and alphabet in the official documents";
- "The right, in the areas with significant share in total population, to have traditional local terms, names of streets and settlements, as well as topographic signs written in the language of minority nations and other minority national

communities";

- "The right to authentic representation in the Parliament of the Republic of Montenegro and in the assemblies of the local self-government units in which they represent a significant share in the population, according to the principle of affirmative action";
- "The right to proportionate representation in public services, state authorities and local self-government bodies";
- "The right to information in their own language";
- "The right to establish and maintain contacts with the citizens and associations outside of Montenegro, with whom they have common national and ethnic background, cultural and historic heritage, as well as religious beliefs"; and
- "The right to establish councils for the protection and improvement of special rights."

The right to access "mother-tongue" education is separately regulated in decrees on primary and secondary education. Explicitly, the Constitution of Montenegro prohibits forced assimilation and obliges the state to "protect persons belonging to minority nations and other minority national communities from all forms of forceful assimilation" (Article 80).

While this is a fairly impressive constitutional entrenchment of minority rights, significant shortcomings exist in terms of translating these constitutional commitments into law and policy. A Law on National Minorities has been under discussion for many years; interethnic controversies have kept it from passing. As a result, a newly adopted law specifically addressing minority rights has already been contested as unconstitutional. The absence of a specific minority law in Montenegro and the earlier failure to adopt and implement the federal law concerning minority rights has created a significant level of ambiguity in regards to these issues. A recent report by the Parliamentary Assembly of the Council of Europe states that "in the opinion of the Venice Commission, the wording of some provisions of the constitution, especially, those dealing with human and minority rights, could be further improved and brought closer to the wording of the convention for protection of Human rights and Fundamental Freedoms."<sup>2</sup>

Discrimination against ethnic communities has always been a problem in Montenegro; it is particularly widespread in the case of Roma. Local authorities often ignore or tacitly condone intimidation and abuse of Roma, some of whom are internally displaced persons (IDPs) from Kosovo. In 2007, 76 percent of Roma were illiterate, 80 percent did not speak the local language, 90 percent were officially unemployed, 40 percent had no access to public utilities, and 90 percent lived below the poverty level. Even though the unemployment rate had slightly improved from 95 percent in 2005 and 2006, the situation had worsened in terms of illiteracy and language competence. An additional problem is police harassment

of members of ethnic communities, particularly of Roma and Albanians, who suffer from ill treatment and, in some cases, torture at the hands of police officers.

The government does fund minority-related projects, but resources for such projects are very limited. For example in 2006, the government allocated €17,000 to the "Roma Presence in the Labour Market" program and €35,000 to the "Second Chance" project, while the Ministry of Education and Science supported a program for scholarships for Roma pupils in secondary schools and allocated €14,000 for minority education purposes. Other communities, including Albanians, receive even less state support and thus remain heavily dependent on foreign support.

By law, minorities are entitled to autonomy of cultural institutions and the freedom of religious expression. In the sphere of education, culture, and information, measures have been implemented to enhance equality through tangible projects and programs. The Ministry of Culture, Sports, and Media, for example, assists ethnic minorities in publishing magazines and books in their own language; presenting programs of folklore, traditions, and practices; and cooperating with institutions in their kin-state.

Specific media programming for minorities remains rare due to a lack of relevant legislation. The Albanian community is the only one in Montenegro that has received access to minority-specific broadcasting and media in recent years. As the Advisory Committee of the Council of Europe's Framework Convention on National Minorities pointed out: "national minorities in Montenegro merit increased attention in the on-going process of developing a public broadcasting service."<sup>3</sup>

Radio Montenegro broadcasts programs in Albanian twice a day for 10 to 15 minutes each. There are also private and commercial radio stations that broadcast in Albanian. In addition, Radio Montenegro broadcasts 24 shows a year intended for the Roma population. A large number of printed media are published in Albanian, Croatian, Romani, and Bosniak.

The Montenegrin Commission for Education of National and Ethnic Groups approved the use of textbooks in minority languages and allows 15 to 20 percent of the teaching to be done in minority languages. Albanian is used at all educational levels, while the education of other minorities, such as Bosniaks and Croats, happens within the single educational system because their languages are essentially the same.

Education in the Albanian language relies heavily on textbooks translated from Serbian and devotes little space to Albanian history and culture (2.5 percent of the classes in primary schools and 5.9 percent in secondary schools).<sup>4</sup> The establishment of teacher training in Albanian has caused tensions between the Albanian community and the government. At first, the government opened an Albanian-language section

<sup>2</sup> Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), Honouring of obligations and commitments by Montenegro, Strasbourg, 31 March 2010, <http://assembly.coe.int/Documents/WorkingDocs/Doc10/EDOC12192.pdf>.

<sup>3</sup> Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on Serbia and Montenegro, Strasbourg, 27 November 2003 ACFC/INF/OP/I (2004) 002.

<sup>4</sup> Minority Issues Mainstreaming: A Practical Guide for European Agency for Reconstruction Programmes, European Centre for Minority Issues (ECMI), 2006.

in Nikšić in 2003, but Albanians boycotted it, saying it was too far from major Albanian settlement areas. The program reopened in 2004 in Podgorica with 45 students and faculty from the University of Montenegro and the University of Shkoder in Albania.

Political representation of minorities in Montenegro is guaranteed by law. In practice, it takes place both through minority political parties and their inclusion into mainstream parties. Ethnic Albanians, Muslims, Bosniaks, and Croats participate in the political process and their parties, candidates, and voters participate in all elections. In 1998, five out of seventy-eight seats in the Parliament were set aside for Albanian voters. These five seats were to be elected in polling stations in districts populated predominantly by Albanians. In 2005, a total of 11 members of ethnic minority origin were elected to the 75-seat Parliament and three minority members were appointed to cabinet positions. By 2006, the number of ethnic minority members in the 81-seat Assembly had gone up to 14, but their number in the cabinet dropped to two. In 2007, minorities' political representation improved slightly, with 16 minority members in the Assembly and two in the cabinet. In July 2006, the Constitutional Court struck down a law that would have added reserved seats for Muslims, Bosniaks, and Croats.

## GRIEVANCES OF ALBANIANS IN MONTENEGRO

Against this backdrop of minority policy in Montenegro, it is not surprising that the country's Albanian community has significant grievances about its situation. The Government of Montenegro has failed to change the paradigm of written and unwritten policies of previous regimes, which in substance were designed to colonize lands inhabited by Albanians and squeeze non-majority populations out of the country. Sadly, these policies have been largely successful, reducing the Albanian population in Montenegro by almost half since their territories were annexed by Montenegro. This decline continues today.

This process has not involved open violence, but was instead managed through demographic "engineering": withholding basic services; confiscating thousands of hectares of land; limiting access to education, employment, and political participation; encouraging Albanian emigration from Montenegro; and privileging those Albanians willing to renounce their language and culture. Even those rights guaranteed by Montenegro's Constitution are not realized in practice or are otherwise circumvented by laws (municipality or otherwise) that are clearly unconstitutional. The difference between law and actual policy is striking in almost every aspect of Albanian life in Montenegro.

The Albanian community in Montenegro, so far, does not harbor any secessionist claims against the state in which they live, but their desire to play a full and active part in building a liberal, democratic Montenegro and contributing to its integration into the European Union are hampered by the country's denial of basic minority rights.

Albanians remain second-class citizens in many respects and are not accepted as equal members of Montenegrin society. They have little recognition or protection of their distinct history, language, and culture. Even



Physical Map of Montenegro (Elizon Maps).

though the Albanian-populated lands that were annexed by Montenegro pursuant to the Treaty of Berlin are clearly delineated areas with a long history of Albanian culture and tradition, Montenegro has never sought to develop a policy to preserve the Albanian language, culture, and heritage in these areas. To the contrary, there has been a long tradition of *changing* the local demography of these lands by bringing in non-Albanian settlers and by putting pressure on the Albanian population to assimilate into Montenegrin culture and society.

## EDUCATION

Montenegro's denial of basic minority rights is most evident in the education system, where everything that is Montenegrin is disproportionately glorified and almost everything Albanian is omitted, downplayed, or actively demonized. As one Albanian puts it: "First they teach their children to hate ours, then our children to hate themselves."

Albanians demand that they should have equal rights to use their own language and

develop their education systems in the areas they live in. However, most of the school textbooks continue to be printed in Slavic (Serbian or Montenegrin as it is now called in Montenegro) and university education is offered only in Slavic. Albanians have long insisted that denying them university education in their own language has hindered their national development. As previously mentioned, several formal requests by Albanians to establish a Teachers College in the Albanian language within the University of Montenegro have been denied by the government. Instead, the government has offered to open a Department of Albanian Studies in a city that has only Slavic speakers (the University of Nikšiq/Nikšić), rather than in Albanian population centers like Ulqin, Tuz, or Tivar.

The quality of education in Albanian elementary and junior high schools is very poor. The curriculum, for example, is established by the state in a centralized manner. A very limited number of classes cover Albanian history, literature, music, and arts. Albanian students are instead forced to learn about the history and culture of Slavic na-

tions. From the fifth grade to the eighth grade, students spend just 3 of 120 hours in history class studying Albanian history. This is equivalent to just 2.5 percent of their class time. In high schools, the percentage is slightly better: 10 of 170 academic hours (or 5.9 percent) are dedicated to Albanian national history. In Slavic schools, Albanian national history and culture are not taught at all.

Most Albanian schools are in such deplorable condition that hardly any meet the minimum state requirements for holding classes. The Montenegrin government has done nothing to improve these conditions; to the contrary, it has hampered an effort by the Diaspora in the United States to help improve or rebuild some of the schools. In addition, pursuant to applicable laws and regulations, the administration of the schools and the admission policy is to be established and managed by the school council. However, in many high schools with mixed nationalities (such as the one in Tuz), the Ministry of Education disregarded the council's decision and opted for offering more classes in the Slavic language. This

was done despite the fact that most of the students were Albanian and had successfully passed the entrance exam. Another interesting phenomenon is that, despite the collapse of communism more than 20 years ago, Albanian schools are still named after communist heroes and events, while other schools across the rest of Montenegro have been renamed since the 1990s. Requests from Albanians to change the names of their schools have been denied.

### THE ALBANIAN LANGUAGE

The Albanian language is recognized as an official language only in Ulqin, which has a predominantly Albanian population. In spite of the area's demographics, official documents are issued in the Montenegrin language (though some are translated into Albanian). With the exception of school transcripts of students who have attended Albanian-only schools, no official documents are issued in Albanian. Bilingualism in Ulqin is applied only to local institutions, whereas the state institutions speak only Montenegrin. Inter-institutional correspondence in Ulqin is predominantly conducted in Montenegrin even though the people involved are Albanians.

Albanian linguist Haxhi Shabani reached a conclusion in his book, *The Endangerment of Albanian Language*, that the Albanian-speaking population uses the Albanian language far less today than it did 10 or 15 years ago. This is due in large part to the increasing use of the Montenegrin language in written communication. Now the only time the Albanian language is used is when it is spoken out loud between Albanians. In communicating with Montenegrins, Albanians use only Montenegrin, even though most Montenegrins living in Ulqin understand Albanian. Road signs and city names in Albanian-populated areas are mostly in Slavic; in only a few places are they also in Albanian. The signs to Orthodox monasteries are all in Slavic, although some of them

have Albanian origin. Most importantly there are absolutely no signs for Catholic or Muslim religious buildings or monuments.

Another interesting phenomenon is the "correction" of Albanian surnames from the previously Slavic version into Albanian by basically using Albanian pronunciation and the Latin alphabet. The issue stems from the time of King Nikola who, upon annexation of these territories inhabited by Albanians, forcefully modified their surnames by adding suffixes like "ic" or "vic" to make them sound Slavic. Regardless of the fact that now all citizens have the constitutional right to have their original and unadulterated surnames, some are still denied this right by excuses such as "our computers don't have such letters." There are still Albanians in Montenegro of the same surname whose names are listed in two or more versions, creating problems with travel documents and other official records.

### THE ALBANIAN NATIONAL ACADEMY AND CULTURAL INSTITUTIONS

Although Montenegro claims to be a multi-cultural state, not one Albanian institution in the entire country does empirical research aimed at gathering, studying, and preserving Albanian culture and heritage and presenting it to the world. In addition, the Ministry of Culture and Tourism has not financed any serious cultural or scientific project concerning the Albanian heritage. To the contrary, tourist brochures and other marketing materials designed to develop tourism in Montenegro contain almost no mention of Albanians and their culture. To the outside world, Albanians are all but invisible.

International standards of minority protection, particularly those of European Union, are unequivocal about the fact that it is a government's responsibility to provide financial support for cultural activities that preserve the national heritage of all its citizens,

regardless of their race or origin. While this responsibility is implicitly accepted in the extensive catalog of national minority rights in the Montenegrin constitution, government funding for cultural activities of non-Montenegrin communities is extremely limited; therefore, the opportunities for Albanians in Montenegro to pursue any meaningful government-supported cultural activity are limited as well. Albanians in Montenegro have no national institutions to develop their folklore, ethnology, and ethnography. They have no national theater, national arts gallery, publishing houses, media centers, or national institute devoted to preserving the Albanian language and culture. Except for a weekly newspaper, *Koha Javore*, all other publications of books, journals, and magazines have been substantially financed through donations contributed by foreign organizations, NGOs, and Albanians from Montenegro living abroad (mostly in the United States). A radio station and a television station that broadcast in Albanian, established by private individuals, are struggling to stay on air.

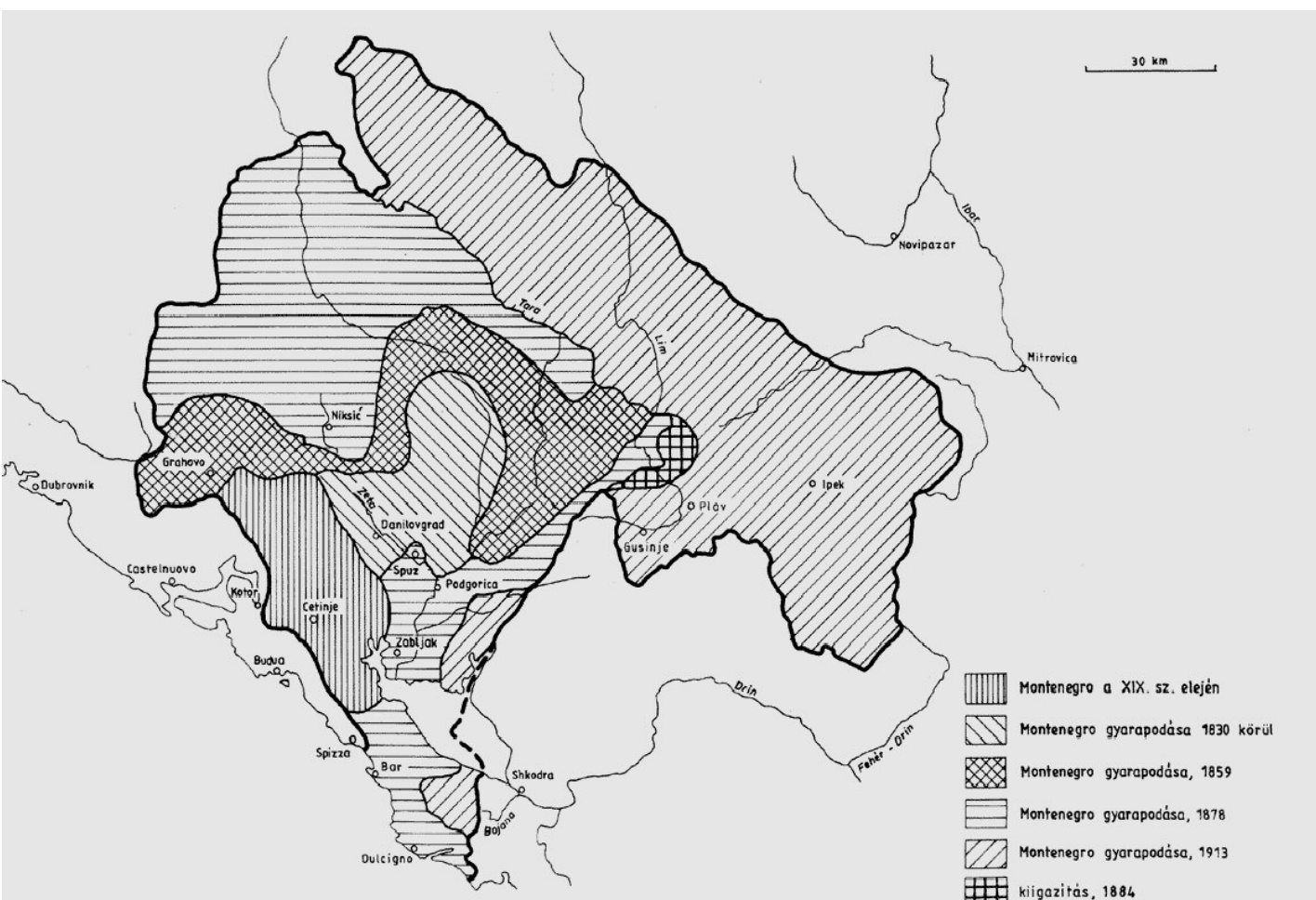
### CHANGES IN THE STRUCTURE OF ALBANIAN TERRITORIES AND THE ASSIMILATION OF THE ALBANIAN POPULATION

As already noted, following the provisions of the Treaty of Berlin that were ill-fated for Albanians, one of the primary objectives of the Government of Montenegro has been to change the existing ethnic structure within annexed Albanian lands. Hundreds of Slavic families were brought in to colonize Albanian cities as part of the government's plan to mechanically change the demographics of both the cities and their suburban areas. The goal was to suppress Albanian culture until it would simply cease to exist. Regrettably such policies, which were in place during King Nikola's regime (1860–1918), continued to some extent during the existence of Yugoslavia, and are still practiced in today's democratic Montenegro.

Here are some explicit examples of the misuses of Albanian land in Montenegro:

- The establishment of a new settlement in Karabushko Pole near Tuz for 500 non-Albanian Muslim families from the northern part of Montenegro;
- The Municipality of Podgorica granting 500 real estate lots to a commercial enterprise to solve the housing problem for its workers. The properties are located in an Albanian-populated territory near Dinosa and Mileshe, lands that lawfully belong to Albanian owners with valid deeds in their possession. Albanian landowners have filed lawsuits, but the court's decision has been continually postponed;
- The additional granting of land to a commercial enterprise promising to employ young peasants from all over Montenegro, although the lot is situated right next to Tuz High School and was dedicated by the predominantly Albanian community for expansion of educational infrastructure. The Municipality of Podgorica ignored the primary dedication of this land and the proposal to build an elementary school there;
- The allocation of a strip of land called *Plantazhe* to build 170 apartments and houses along the Tuz-Podgorica road near a Muslim graveyard. The government expropriated this land in 1975. According to the Law on the Return of the Property, the land should be returned to the legitimate owners; however, their demands have been ignored;
- The expropriation of an olive tree orchard that has historic significance; it was used during the Yugoslav regime as the site for an army base. The army destroyed hundreds of olive trees to provide military personnel with luxurious apartments and firewood. Since the Yugoslav army has gone, the property has not been returned to its rightful Ulqin owners. Instead it was transferred to the state. In effect, ownership of the Albanian land will now transfer to Montenegrins, Serbs, and others;
- The expropriation of the most valuable lands in the Municipality of Ulqin for the purposes of promoting tourism. Lands within the two beaches - Plazhat, Valdanos, Ada, and other parts with potentially rising value were transferred to the state without any compensation to the municipality; and
- The most vital enterprise in Ulqin, the salt factory, was also transferred to the state and then privatized so that a close relative of Milo Djukanovic, former prime minister of Montenegro, could become the owner for a negligible price. Apparently, plans are now underway to drain the area and build thousands of high-class condominiums and apartments on it without any consideration for sustainable development or ecological consequences. A World Bank study and other international studies have described this area as ecologically significant for birds migrating from northern Europe. It is one of the resting points for the birds during their winter migration to Africa.

There are many similar efforts designed to change the demography of Albanian-populated areas. Albanians recognize that in a free and democratic society, it's the right of all citizens to choose where they live, and that property owners have the right to buy or sell to whomever they want. But Albanians object when the state undertakes meas-



Montenegro and the territories acquired over the years. Most of the Albanian populated territories were acquired in between 1878 and 1881 (and are shown as pertaining to year 1878 in this map provided by <http://terkepek.adatbank.transindex.ro/>).

ures designed to change the demography of these areas without any consideration for the local inhabitants and sustainable development.

### THE DECENTRALIZATION PROCESS AND LOCAL SELF-GOVERNANCE

Following the collapse of communism and the implementation of democratic principles in Montenegro, Ulqin was the country's first municipality to establish a democratically elected local government. However, to counteract Ulqin's newly acquired municipality rights, the state of Montenegro enacted laws that essentially centralized the rights of local governments and stripped the municipalities of many competences and rights that should fall under their authority. While this centralizing move by the government may have had some plausible explanations, it is economically and politically harming to the Albanians in Montenegro. For example, the Municipality of Ulqin—the only municipality governed predominately by Albanians—has no authority to manage, explore, and directly benefit from its natural resources. Ulqin also has no authority over its judicial system, education system, health centers, or police departments. These are just a few of the municipal matters over which the local Ulqin government has no control. The municipality's powers essentially consist of collecting sales taxes and maintaining the city's sanitation systems.

Ulqin's authority was much stronger during the communist regime. Directors of all state institutions are now appointed by the central government without local input and with minimal consideration for the professional capacities of the appointees. Decisions regarding appointments to state institutions are primarily based on appointees' political affiliations. Similarly, appointments that local governments *are* responsible for filling have become bargaining commodities for local political parties in order to form coalitions.

Albanians in other Albanian-populated areas have not been able to establish or reorganize their own communities, although such rights are constitutionally guaranteed, representing a basic step toward self-governance. The law on local self-government states that local populations are guaranteed the right to participate in decisions concerning their own needs and interests. The organization of local communities is determined both by the Constitution of Montenegro and the laws of the Republic. It is important to recognize that, pursuant to Montenegro's law on local self-governance, a municipality can be established where certain prescribed conditions for realizing the rights and duties of the local inhabitants, their immediate and mutual interests, and their economic and social development are met.

In establishing a municipality, important starting points to consider include: the historic development and traditions of the region; whether the proposed municipality represents a geographically and economically integrated entity vis-à-vis the local population; the number of inhabitants in the area; the organization of services of immediate interest to the local population; natural gravitation toward a civic center; development and economic conditions; and other reasons or conditions important to the citizens of the area for the realization of their mutual interests and needs. Two fea-

sibility studies of these factors were independently conducted in the Malesia-Tuzi region. Both confirmed that the region satisfies all the historical, legal, economic, and other criteria prescribed by law for it to become an independent municipality and a local self-governing unit. Moreover, under the Constitution of Montenegro and international conventions for the protection of human rights and civil liberties, members of national and ethnic groups are guaranteed the preservation of their national, ethnic, lingual, cultural, and religious identities. Albanians strongly believe that in the region of Malesia-Tuzi, which is populated predominately by ethnic Albanians living on the land of their ancestors, these protections can best be assured by affording citizens the right—guaranteed to them under the Constitution of Montenegro—to form their own municipality and assume responsibility for their own governance and affairs.

Regardless of these facts, the central government has ignored several applications and written requests by Albanians for the formation of the Malesia municipality with its center in Tuz. This is a typical example of the double standard used by the Montenegrin government when dealing with ethnic Albanian issues vis-à-vis those of ethnic Montenegrins. For example, the government approved the municipality of Andrievica, a city entirely populated by Slavic inhabitants that has a much smaller territory and fewer resources than Tuzi and Malesia.

### ECONOMIC UNDERDEVELOPMENT

During the Ottoman Empire's occupation, the well-established trade and artisan industries in Montenegro's Albanian-populated regions made them some of the most developed areas in the state. Unfortunately a long history of little or no investment in the development of these areas has allowed them to slip into poverty. Likewise, the independence of Montenegro and its democratization process did not bring much change for the Albanians living there. In fact, it made things worse in many respects, completely ruining what few enterprises had previously been productive. Albanians were thus left with few choices in order to survive: use Albanian generosity to help one another—including relatives living abroad—or emigrate in search of a better life.

The municipality of Ulqin provides a good example of this economic destruction. Hotels that were once full of European tourists are now dilapidated or have been demolished. Other enterprises were privatized; essentially their assets were sold through political connections at nominal values, forcing businesses to fail. Municipalities' most valuable real estate has been expropriated by the state and is being sold to investors through long-term leases and other arrangements—without local consent or direct compensation to the municipalities. Similar conditions are prevalent in other Albanian areas including Tuz, Kraje, Plave, and Gusi, where previously profitable enterprises have ceased operations. In all fairness, the same has happened with other enterprises throughout the country.

The economic state of Montenegro today is a growing concern. There is hardly any production; the country relies almost exclusively on tourism and trade, including the sale of real estate and other assets. The absence of a functioning economy gives rise to corruption and the black market, both of

which flourished during the civil unrest in former Yugoslavia. Unemployment is high throughout the country, but Albanians are suffering the most due to a lack of access to government jobs. Over 20 percent of Montenegrins are employed by the state, as compared to only 10 percent of Albanians, which are employed mainly in Albanians-populated municipalities and localities. Albanians are underrepresented in the department of justice, internal security, and certain ministries. This is contrary to the international norms to which Montenegro has subscribed and a major concern for Albanians. Qualified Albanians are employed mainly by the educational and informational institutions within the Albanian sector and rarely by the state institutions of Montenegro.

Despite the current economic difficulties, Montenegro has tremendous potential to develop its economy, particularly tourism and related sectors of the economy. The Montenegrin government has managed to attract foreign investors including Russians, western Europeans, and Canadians, who recently bought properties along the Adriatic coast, supposedly for building high-class resorts for celebrities and other wealthy individuals. While these plans are admirable and promising, such plans should also include Albanian-populated areas, which compose the most beautiful part of the coast. Rural areas are still a major concern for Albanians in Montenegro. Without government intervention to develop these areas and bring economic opportunities to the people living there, high emigration rates will continue until these areas are completely empty. Regrettably, that has already become a reality in many Albanian villages.

### BIASED APPLICATION OF LAWS

Montenegro has enacted a number of important laws that on the surface meet international standards, but are either not fully implemented or are circumvented by other statutes or local municipality laws. The gap between what is legally declared through laws and what is implemented in practice is evident in every aspect of life in Montenegro.

The biased application of laws affects everyone in Montenegro, but Albanians are affected the most. For example, following the referendum on independence (which included significant contributions from Albanians), the Constitutional Court on July 17, 2007, revoked two important paragraphs of the "Law of Minority Rights and Freedoms." This law had guaranteed representation of Albanians in the Montenegrin Parliament. But the court declared that establishing a system of guaranteed representation for minority groups is unconstitutional because the articles are inconsistent with the principle of equality enshrined in the 1991 Montenegro Constitution. Considering the wording of the new constitutional text in 2007, a system of reserved seats must not be considered unconstitutional; but so far, the dispositions of national minorities' political representation have not been reintroduced.

Another example of an unfairly applied law is the law known as *Morsko Dobro*, which means "sea wealth." The law purports to regulate the development of the coastal zone. On the surface, this is a good law, but one can argue that it is also an unconstitutional mechanism designed to allow the central government to exploit municipality and private lands without fair (or any) compensation to municipalities. In the city of Ulqin,

in which Albanians are a majority, the coastal zone under the control of the government extends 2.5 kilometers inland. However, in other cities along the Montenegrin coast, the state's control extends just six meters inland. Because of this discriminatory law, the most beautiful parts of Ulqin's coastal area (i.e., Ada, Valdanosi, Long Beach, the Buna River) are expropriated from the municipality and are being sold by the government with 99-year leases. Similar discrimination is found in the draft of the "Law for the Territorial Organization in Montenegro" in which Albanians in Tuzi are denied the right to reinstate their town as an independent municipality.

Abuse of the law is also evident in the privatization process in which local authorities are hardly involved and ownership rights are essentially ignored. One example of this abuse of power is the privatization of a production facility and 500 hectares of land, sold at 6 cents per square meter to a relative of Milo Djukanovic, the former Prime Minister, according to the factory workers and the local population. Despite the fact that the area surrounding the factory is wetlands with significant importance to the European bird migration, the owner wants to build high-priced homes and condominiums there, completely altering the ecological and demographical makeup of the area. A number of the hotels that were supposedly privatized lay dilapidated or demolished, and no one knows whom to hold accountable. Local citizens were left out of investment opportunities, except during initial privatizations when workers received vouchers representing their share of the enterprise, based on government-approved formulas. Enterprises were then intentionally mismanaged to make the vouchers essentially worthless. That way the informed investors with government connections could acquire them for a nominal value. Albanians from Diaspora who submitted bidding proposals were all turned down for one reason or another; (e.g., due to an offer to acquire Hotel Otrant, equity ownership in Otrant Komerc).

### VIOLATIONS OF HUMAN RIGHTS AND CIVIL LIBERTIES

In a society with developed civil rights, judicial process is based on the democratic value that an accused person is innocent until proven guilty, not guilty until proven innocent. The case of "Operation Eagles' Flight" involving the arrest of several members of an alleged terrorist cell in Malesia is an example of how Montenegro has violated judicial process: the state allowed the media to publish state evidence against the accused before the trial began in order to impact the public's opinion.

Just days prior to the 2006 election on September 9, the Montenegrin Special Police and fully armed SWAT teams apprehended fourteen Albanians, including three who had dual American citizenship and who at the time were on vacation visiting their birthplace. According to media reports, during this action, the men and their families—including seniors, women, and children—were physically abused and also robbed by the police. The next day, the government released a statement to the press stating that the men were part of a terrorist group that was preparing to overthrow the government. For three months they remained in prison without being charged with any criminal offense, and yet they were routinely identified in the Montenegrin press as "ter-

rorists,” thus violating their presumption of innocence. During this time, they were humiliated, beaten for hours at a time, forced to remain in various positions for prolonged periods of time, and starved for days. No one knows exactly why they were arrested and what the government’s motivation was for apprehending them.

When the Montenegrin government finally filed formal charges, they did so against the entire group for “planning crimes of terrorism and insurrection,” yet according to court proceedings, the government failed to produce a single piece of conclusive evidence. Moreover, it is not clear why the government initiated this action or which branch of the government authorized these arrests. Some believe that this incident was fabricated to break the link between the Albanian-American Diaspora and the Albanian community in Montenegro. The growing strength of this link emerged in an effort by the residents of Albanian-inhabited Malesia to reclaim the municipal status of Tuzi, which was taken away by the Montenegrin government in 1957. Whatever the case may be, this action was a degrading act by the Montenegrin government. Acts of this nature are not in the best interest of the country and they hamper efforts of those who are working to build a multiethnic state, including most of the Albanian population. Moreover, this type of measure can evoke further animosities between Albanians and Montenegrins. If Montenegro intends to be a democratic country, its government has a responsibility to adhere to the rule of law and to protect the freedoms and human rights of all its citizens regardless of their race or ethnicity—especially with regards to its large ethnic Albanian population living in the land of its ancestors.

## EMIGRATION

Albanians in Montenegro have been struggling to protect their identity from the day their lands became part of Montenegro in 1878. Immediately following the annexation, a large number of Albanians moved to neighboring cities in Albania, such as Shkoder, Durres, and Lezhe. According to Dr. Nail Draga’s testimony to the Congressional Human Rights Caucus on October 20, 2003, this emigration was massive. For example, 413 households with more than 3,000 family members moved to Shkodra from Ulqin between 1878 and 1880. Ulqin lost 35 percent of its population, which caused a sizable shift in the demographic makeup of that city and damaged its economy. The Montenegrin government welcomed this Albanian exodus since it planned to bring thousands of Slavic families to Ulqin as colonists to change the ethnic structure of the city and its surrounding areas.

Political pressures exerted on Albanians during the existence of Yugoslavia was coupled (as noted above) with economic deprivation, causing a mass emigration immediately after World War II and again throughout the 1970s, 1980s, and 1990s. There are no statistics on the number of Albanians from Montenegro who live abroad, but the number is undoubtedly larger than that of those living in Montenegro, according to Diaspora estimates and listings. Most Albanians from Montenegro live in the United States, predominately in Detroit, Chicago, and the Tri-State area of New York, New Jersey, and Connecticut. Such mass emigration has changed the ethnic structure within most Albanian-populated areas. For example in Plave and Gusi, the Albanian percentage of the total population has dropped from 83 percent in 1908 to just 21 percent in 1991. Based on the past

trend, it is probably even lower by now. Similar phenomena have occurred in other areas such as Malesi, Kraje, Shestan, and Ana e Malit. Many rural towns have been abandoned due to a lack of resources and economic viability.

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Albanian grievances about their situation in Montenegro are very real; they stem partly from history and partly from the current situation in the country. But rather than seeking to point the finger of blame in any direction or look back in history, the purpose of this paper is to offer options for a constructive and sustainable solutions to these problems. Hence, the next part of this paper looks to comparable cases in the Western Balkans and beyond to identify potentially suitable models for addressing Albanian concerns in Montenegro.

## THE MANAGEMENT OF POPULATION DIVERSITY IN THE WESTERN BALKANS AND BEYOND: A COMPARATIVE PERSPECTIVE

Albanians in Montenegro are a national minority living compactly as a local majority in their historical homeland. This homeland is adjacent to the border of their kin-state, Albania. Given the trajectories of European history, this is far from a unique situation. Similar circumstances also apply to French-speakers in Italy, Germans and Lithuanians in Poland, Hungarians in Slovakia, Serbs in Kosovo, and Swedes in Finland. These and other cases offer important insights into how different countries manage such instances of population diversity within a liberal democratic context.

Apart from a general commitment to non-discrimination and human and minority rights (which are relatively standard mechanisms for the management of population diversity and are enshrined in constitutions across the region and beyond, albeit with varying levels of policy implementation), two other mechanisms have been widely applied: territorial self-governance and power sharing. In the majority of relevant cases, groups demand a certain level of territorial self-governance and meaningful participation in the wider policy process in order to have greater control over their own affairs and the development of their country.

### TERRITORIAL SELF-GOVERNANCE

As a mechanism to manage population diversity, territorial self-governance has been widely applied across Europe. Five different forms of territorial self-governance can be found:

**Confederation: extensive self-rule without institutionalized shared rule.** This is an empirically rare form of voluntary association by sovereign member states that pool some competences (e.g., defense, foreign affairs, and currency management) without giving executive power to the confederal level of government. Relevant examples include Serbia and Montenegro under the terms of the 2003–2006 constitution (which was never fully implemented), and Switzerland between 1291 and 1848 (Switzerland formally retains the term confederation in its official name; functionally, however, it is a federation). The relationship between Republika Srpska and the Federation of Bosnia-Herzegovina also re-

sembles a confederal arrangement, but also has increasingly clear federal characteristics.

**Federation: extensive self-rule with institutionalized shared rule.** In contrast to confederation, this implies a constitutionally entrenched structure in which the entire territory of a given state is divided into separate political units, all of which enjoy certain exclusive executive, legislative, and judicial powers independent of the central government. The most commonly cited contemporary example of a successful plurinational federation is Canada. Recent developments in Belgium, as well as the prolonged inability to form a federal government, have cast some doubt over the long-term viability of that federation, even though there is no suggestion of a violent disintegration. Historically failed federations are those of Yugoslavia, the Soviet Union, and Czechoslovakia.

**Federacy arrangement: constitutionally entrenched extensive self-rule for specific entities.** The main distinction between a federacy arrangement and a federation is that the former enjoys similar powers and constitutional protection as federal entities, but is distinct in that it does not necessitate territorial subdivisions across the entire state territory. In other words, federacy arrangements are a feature of otherwise unitary states. Examples include the Åland Islands (Finland), South Tyrol (Italy), Gagauzia (Moldova), and Crimea (Ukraine).

**Devolution: extensive self-rule for specific entities entrenched in ordinary law.** Like federacy arrangements, devolution can be applied to selected territories in a unitary state. In contrast to federated entities, however, the degree of legal protection is weaker in the sense that it is easier to reverse, and it extends only to protection by regular laws versus constitutional ones. The primary example here is the United Kingdom with its four devolution settlements (London, Northern Ireland, Scotland, and Wales). Northern Ireland enjoys additional international legal protection of its status through the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland (the so-called Belfast Agreement of 1998), to which the Northern Ireland Agreement was appended.

**Decentralization: executive and administrative powers at the local level.** Guided by the principle of subsidiarity, decentralization refers to the delegation of executive and administrative powers to local levels of government. It does not include legislative competences. Recent examples of the application of this form of TSG as a mechanism of conflict resolution in divided societies include Macedonia (under the 2001 Ohrid Agreement) and Kosovo (under the terms of its 2008 constitution and related “Athisaari legislation”).

Apart from these examples, the broader trend across Europe is that 50 national and other minority groups have in the past demanded some form of territorial self-governance, of which 36 have some such status: There are nineteen federacies, seven decentralization arrangements, five federations, and three devolution arrangements.

Looking more specifically to the Western Balkans region in which Montenegro and its Albanian community are deeply embedded historically, politically, socially, and

economically; the picture is quite similar. Among the region’s national minorities, Albanians in Greece, Greeks in Albania, and Serbs in Croatia are the only three groups that *do not* enjoy any particular form of territorial self-governance. On the other hand, Albanians in Macedonia and Serbs in Kosovo benefit from extensive decentralization arrangements; Bosniaks and Croats in the Federation of Bosnia and Herzegovina and Hungarians in Vojvodina have federacy arrangements in place; and the State of Bosnia and Herzegovina is itself a federation.

Territorial self-governance is only a meaningful mechanism to manage population diversity if it involves substantial competences. In this sense, the specific nature of the arrangement is less important: federations can be highly centralized with few real competences in the purview of the federal entities, while decentralization can be designed in such a way that it provides for very substantial autonomy in decision making for local communities. The latter point is well illustrated by Kosovo and Macedonia, where local administrations enjoy wide-ranging powers within their respective constitutional and other legal frameworks. These additional frameworks include competences for education, economic development, and various aspects of cultural policy such as maintaining links with and receiving support from their respective kin-states. At the same time, the most successful device for managing (and preventing) potentially violent conflict in such cases has historically been a federacy arrangement (i.e., constitutionally entrenched extensive self-rule for national minorities).

### POWER SHARING

As noted earlier, territorial self-governance is not the only mechanism by which population diversity can be managed successfully. In order to contribute to a sustainable settlement of potential conflicts, the *self-rule* that it implies is normally combined with measures of *shared rule*. Power sharing is thus another important dimension of ensuring that minority communities can meaningfully participate in managing both their own affairs and the overall development of the states in which they live.

Power sharing in Western Balkan countries happens both at the local level (that is, in ethnically diverse self-governing territories) and at the national level. Power sharing mechanisms include guaranteed representation in the government and/or parliament of a self-governing entity. Such is the case in the Federation of Bosnia and Herzegovina and the District of Brčko, where certain decisions are also subject to qualified or concurrent majority voting. As far as power sharing in central government institutions is concerned, guaranteed representation in the central government is a feature of the power-sharing arrangements in Bosnia and Herzegovina, Kosovo, and Macedonia. Qualified or concurrent majority voting procedures apply to a limited number of decisions in these three cases as well.

The combination of self-rule and shared rule has almost become a standard now for managing a wide range of minority conflicts involving geographically compact communities. Older examples include Belgium (and within it Brussels) and South Tyrol (with its nested consociations at the provincial and regional levels). Both of these examples

stand out for their longevity (the recent protracted government formation in Belgium notwithstanding). More recently, Gagauzia in Moldova has had an arrangement in place since 1995 under which senior officials from the autonomous government are co-opted into the national government. Farther afield, the 2005 constitution of Iraq involves power-sharing mechanisms, as do provisions under the 2006 Comprehensive Peace Agreement for Nepal. Power-sharing and territorial self-governance arrangements also operate in Bougainville (Papua New Guinea) and have made a significant contribution to conflict management in Sudan under the 2005 Comprehensive Peace Agreement.

#### A MODEL FOR MONTENEGRO: STATUS, COMPETENCES, AND GUARANTEES

As the illustrative overview of grievances among Albanians in Montenegro has indicated, the situation in this country is far from satisfactory. Albanians' identity as a community here is seriously threatened by a number of interrelated factors including the denial of citizens' rights and protection from discrimination, lack of meaningful opportunities for political participation, economic underdevelopment, assimilation pressures, and steady emigration. While the mistreatment of Albanians in Montenegro goes back generations and there is a historical dimension to it, bemoaning past injustices will not help bring about meaningful reforms moving forward. More importantly, contemporary opportunities need to be created and explored to improve the situation of Albanians in Montenegro and also to make Montenegrin democracy fit for the challenges of the 21<sup>st</sup> century. Potential benefits include Montenegro's aspiration for induction into the European Union, an aspiration widely shared across all of its communities.

The problems that the Albanian community experiences relate to questions of status, competences, and meaningful guarantees for a fully implemented legal framework that regulates status and competence issues. The comparative experiences that other countries have had in managing population diversity offer examples of what might be considered sustainable approaches to managing the challenges that have arisen in Montenegro.

#### STATUS: TERRITORIAL SELF-GOVERNANCE AND POWER SHARING

Given the size and territorial concentration of the Albanian population in Montenegro, as well as the overall ethnic and territorial demography of the country, the most constructive approach to the question of status for the Albanian community is to find a feasible and viable territorial self-governance arrangement. Bearing in mind the different options available (from confederation to decentralization), here are three options that deserve closer examination:

- A territorial reorganization of Montenegro that introduces large regions as intermediate layers of governance (similar to Spain) with exclusive com-

petences and possibly differential statuses in terms of the powers they exercise (similar to Iraq). In this scenario, all Albanian-majority districts could become part of a single region, recognizing their historically rooted distinctiveness and constitutionally entrenching this kind of self-governing status. Other regions could be created to incorporate Serbian-majority and Montenegrin-majority districts, possibly more than one for each community to achieve approximate equity between regions in terms of their population size. In such an arrangement, Podgorica could also become a region; capital cities often have special territorial status (e.g., Washington, DC; London; Berlin; Canberra). These regions could be represented in a special chamber of parliament, or representatives of their governments could be co-opted into the national government in order to complement self-rule with shared rule. (This option may require a redrawing of local/municipal borders.)

- A federacy arrangement specifically aimed at a single territorial entity comprising all Albanian-majority districts (possibly after a redrawing of local government borders). Such single-federacy arrangements have traditionally worked well in places like the Åland Islands in Finland, offering wide-ranging autonomy (self-rule) and combining it with specific mechanisms of coordination and cooperation with the central government (the Åland Delegation). Alternatively, or additionally, co-optation could ensure an appropriate level of shared rule to anchor the self-governing entity firmly in the common state, as it has in Gagauzia in Moldova.
- Decentralization would require no particular changes to the current territorial organization of Montenegro in principle. However, it would require that: the existing law on the territorial organization of Montenegro give due consideration to the formation of Albanian-majority municipalities<sup>5</sup> and that it be implemented and applied in a fair and equitable manner; that substantial and meaningful competences be assigned to municipalities; and that these arrangements be properly guaranteed in the Constitution and legal order of Montenegro. While Albanians, under this option, would not be able to form a single self-governing entity incorporating all or most members of their community in Montenegro, they would gain significantly enhanced status and control over their own affairs (provided that meaningful competences are assigned to municipalities). Moreover, in line with similar provisions in Kosovo, it should be left to municipalities to cooperate with each other in the execution of some or all of their competences, thus creating opportunities for Albanian-majority municipalities (as well as others) to work more efficiently and effectively for the well-being of their citizens.

Beyond the few power-sharing mechanisms touched on above in relation to the regionalization and federacy arrangements, additional provisions can and should be introduced regardless of the precise nature of the self-governance arrangement eventually adopted. While current

arrangements already provide for Albanians to have reserved seats in the Parliament of Montenegro, there is at present no arrangement for their participation in government or for any formal role in Parliament (such as speaker or deputy speaker positions, or the chairmanship of parliamentary committees). Given the ethnic diversity of Montenegro as a whole, specific provisions just for Albanians to be represented in this way may not be feasible, but a broader set of provisions might specify that particular posts or a proportion thereof be filled by members of national minorities. A different strategy for selecting chairs of parliamentary committees could be the application of a mathematical formula, like the d'Hondt system, which offers a sequential method for selecting chairs based on the strength of political parties in a parliament.

Moreover participatory power sharing could be extended to parliamentary decision-making procedures, requiring qualified majorities for the passage of legislation affecting in particular minority communities, such as legislation on language, education, or cultural policy matters. To the extent that specific legislation affects particular municipalities, concurrent majorities could be required; that is, legislation would only be passed if supported also by a majority of deputies representing the constituencies affected.

This could also apply to the ownership, exploitation, and sustainable management of natural resources—a key issue for Albanians in Montenegro—and special arrangements should be put in place to give local municipalities a say in these matters. While ownership should be shared by all Montenegrins, local municipalities should be able to participate in decisions on how natural resources are exploited. They should also receive a fair share in revenues gained and have significant input into policies that ensure the sustainability (and renewal, as it applies) of these resources.

#### COMPETENCES

The earlier overview of grievances that Albanians in Montenegro have with their current situation provides a reasonable guide to the competences that will need to be assigned to one or more self-governing, Albanian-majority entities. Territorial self-governance can only be meaningful and sustainable as far as managing population diversity if it involves substantive and well-resourced competences. Comparative practice offers a reasonable guide to the kinds of competences that self-governing entities should acquire: public services, urban and rural planning, environmental protection, economic development, finances (including the right to decide, collect, and spend municipal revenues and receive appropriate funding from the central government), communal activities, culture, sport, social security and child care, education, and health care. Depending on the nature of the arrangement chosen, competences may also extend to inter-municipal and cross-border cooperation.

Enabling minorities to maintain cross-border contacts with their ethnic kin is a very important competence for national minorities and is widely practiced across Europe. So too is allowing minorities to receive support for their various concerns (e.g., education, cultural development, preservation of their native language). The fact that this

right and practice is now widely recognized is also demonstrated by the fact that the OSCE High Commissioner on National Minorities has issued its Bolzano Recommendations, which deal with precisely this issue.

The constitutional entrenchment of these competences and of adequate central government funding for their exercise is equally important for the proper functioning of decentralization arrangements and thus for their overall contribution to the constructive management of population diversity.

#### GUARANTEES

No system of territorial self-governance and no allocation of competences can fully engender the support and commitment of national minorities unless it is secured by proper guarantees in a country's constitution and other domestic legal orders, as well as international law, where relevant.

In line with the options for a sustainable approach to managing population diversity in Montenegro, the proposed institutional arrangements that require guarantees go to the core of the Albanian community's concerns: territorial self-governance, two dimensions of power sharing (representation in the core institutions of the state and the rules that govern decision-making procedures there), and human and minority rights provisions.

When it comes to guarantees for territorial self-governance arrangements, the specific nature of arrangements is less important than how they are institutionalized. The two most common channels for doing so are a state's constitution and ordinary legislation. For example, the 2001 Ohrid Framework Agreement for Macedonia includes the following provision:

A revised Law on Local Self-Government will be adopted that reinforces the powers of elected local officials and enlarges substantially their competencies in conformity with the Constitution (as amended in accordance with Annex A) and the European Charter on Local Self-Government, and reflecting the principle of subsidiarity in effect in the European Union. Enhanced competencies will relate principally to the areas of public services, urban and rural planning, environmental protection, local economic development, culture, local finances, education, social welfare, and health care. A law on financing of local self-government will be adopted to ensure an adequate system of financing to enable local governments to fulfil all of their responsibilities.

This provides guarantees for territorial self-governance at several levels and in different ways. First, it prescribes the specific nature of the self-governance arrangement as local self-government (rather than as, for example, a federation). Second, it anchors the extent of competences for local self-government by listing them and by making reference to two regional standards: the European Charter on Local Self-Government and the principle of subsidiarity in effect within the European Union. Third, it provides a further guarantee in the form of specific constitutional amendments, also detailed in the Ohrid Framework Agreement as follows:

<sup>5</sup> The relevant provisions of this law could be phrased in a manner that they apply more generally to reflect local population preferences rather than exclusively to the Albanian community.

Article 114 (5) Local self-government is regulated by a law adopted by a two-thirds majority vote of the total number of Representatives, within which there must be a majority of the votes of the total number of Representatives claiming to belong to the communities not in the majority in the population of Macedonia. The laws on local finances, local elections, boundaries of municipalities, and the city of Skopje shall be adopted by a majority vote of the Representatives attending, within which there must be a majority of the votes of the Representatives attending who claim to belong to the communities not in the majority in the population of Macedonia.

Article 115 (1) In units of local self-government, citizens directly and through representatives participate in decision-making on issues of local relevance particularly in the fields of public services, urban and rural planning, environmental protection, local economic development, local finances, communal activities, culture, sport, social security and child care, education, health care and other fields determined by law.

While the revised Article 115 (1) constitutionally entrenches the competences of local self-government units, Article 114 (5) provides guarantees by determining the procedures according to which relevant laws are adopted (or amended), including by qualified-majority and concurrent-majority votes in Parliament.

The latter procedures cross over into political institutions governing the participatory dimension of power-sharing arrangements. Similar procedures are enshrined, for example, in the 1998 Agreement on Northern Ireland and a range of other settlements. These procedures often apply to core issues of vital interest to specific communities (also referred to as *vital interest legislation*). Yet power sharing also has a representation dimension: rules and regulations governing the representation of different parties within different institutions of government, such as the legislature, executive, judiciary, civil service branches, or armed forces. The Constitution of Kosovo, for example, guarantees minorities' representation in Parliament, the central government, and local governments.

A third area of sustainable management of population diversity concerns human and minority rights provisions. Guarantees here often occur in multiple forms simultaneously, including human and minority rights laws, special domestic and possibly international oversight mechanisms, direct applicability or incorporation into domestic legislation of international and regional standards, and, where applicable, direct access to relevant international courts. Such guarantee mechanisms are built into the 1995 Dayton Peace Accords for Bosnia and Herzegovina. Apart from the broad guarantees built into the General Framework Agreement on Peace, the Constitution of Bosnia and Herzegovina (Annex 4) provides for the direct applicability of various human and minority rights mechanisms, as does the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols and the European Charter for Regional or Minority Languages.

A separate Agreement on Human Rights (Annex 6) provides for the establishment of a Human Rights Commission, consisting of a human rights ombudsman, initially appointed by the OSCE Chairman-in-Office, and a Human Rights Chamber, eight of whose fourteen members were initially appointed by the Committee of Ministers of the Council of Europe. These eight were to come from countries other than Bosnia and Herzegovina or its neighbouring states. Annex 6 also issued an invitation to "the United Nations Commission on Human Rights, the OSCE, the United Nations High Commissioner for Human Rights, and other intergovernmental and regional human rights organizations to monitor closely the human rights situation in Bosnia and Herzegovina, through the establishment of local offices and the assignment of observers, rapporteurs, or other relevant persons on a permanent or mission-by-mission basis, and to provide them [i.e., the monitors] with full and effective facilitation, assistance and access."

The Constitution of Kosovo, similarly provides for the

direct applicability of international agreements and instruments in the area of human and minority rights and is given priority over provisions of laws and other acts of public institutions, including:

- The Universal Declaration of Human Rights; the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols;
- The International Covenant on Civil and Political Rights and its Protocols;
- The Council of Europe Framework Convention for the Protection of National Minorities;
- The Convention on the Elimination of All Forms of Racial Discrimination;
- The Convention on the Elimination of All Forms of Discrimination Against Women;
- The Convention on the Rights of the Child; and
- The Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment.

The direct applicability of these international instruments often includes the application of their respective monitoring and reporting mechanisms, as well as access to complaint procedures and legal redresses within the national and international judicial system. This can serve as a further mechanism for guaranteeing the full and faithful implementation of agreed provisions, as well as for dispute resolution.

Depending on the precise nature of the governance arrangements eventually adopted for an enhanced management of population diversity in Montenegro, a significant range of options exists for guaranteeing the proper implementation and sustainability of these arrangements. These options should include a constitutional anchoring for minority rights, including references to relevant international instruments, specific provisions for the status and competences of self-governing entities in the Constitution and relevant legislation, and provisions that require qualified or concurrent majorities to change these constitutional and/or other legal provisions to this effect. Mechanisms and procedures for dispute avoidance and dispute resolution should also be created, such as a parliamentary commission to preview any legislation that might have an impact on members of minority communities and a specific mandate for the constitutional court to resolve disputes over the exercise of competences between the central government and the self-governing entities.

## CONCLUSION

While focused on the Albanian community in Montenegro, the intention of this paper is not to create an exclusive "Albanian arrangement" in Montenegro, but rather to contribute to a broader reform of governance arrangements for the benefit of all of Montenegro's communities. However, the authors do not presume that this offers a blueprint solution that can be uniformly applied across Montenegro.

Having analyzed the current situation in Montenegro, itself partly a consequence of previous conflicts that stretch back almost a century, and the grievances that Albanians in the country therefore rightly have, we have emphasized the importance of looking *forward* rather than backward, of finding a constructive approach to solutions that are sustainable into the future rather than apportioning blame for past and present failures.

The analysis and recommendations in this paper are meant to compose one particular set of options, rather than represent the only prescription for future governance arrangements in Montenegro. They are presented as they relate to Montenegro's Albanian community, and within a context of current minority governance arrangements in Montenegro that are more broadly lacking in sustainability and that bear the potential for protracted conflict between the different communities that exist there. Seen from this perspective, the authors invite all of Montenegro's communities—minorities and majorities alike—and their political representatives to engage in fresh and innovative thinking about the future of a liberal, democratic, and multi-ethnic polity.

## ABOUT THE AUTHORS



**Cafo Boga** is a senior executive with a stellar professional career spanning multiple industries including public accounting, banking, investments, information technology, business process outsourcing, and real estate. In 2001, i-flex solutions, Ltd. (an Indian software company and a subsidiary of Citigroup) recruited him to establish operations in the United States and Canada. Mr. Boga served as the company's chief operating officer

and chief financial officer, and was a member of its Board of Directors until 2009. In this capacity he spearheaded finance and operations for what became a \$250 million-plus company providing software solutions and services to the financial service industry in the United States, Canada, and South America before the company was acquired by Oracle. Mr. Boga currently leverages his business expertise to perform business consulting and to handle real estate investments.

Mr. Boga's career includes expertise in domestic and foreign bank operations as well as corporate management. He has leveraged a breadth of financial and corporate acumen to deliver achievements in high-level transactions such as new business start-ups, corporate acquisitions and integrations, and infrastructure development, including all aspects of financial and operational management. He has conducted business in Canada, England, India, Chile, and all the Balkan countries. As a multicultural executive, he speaks fluent Albanian and Serbo-Croatian, as well as basic Russian, Italian, Slovenian, and Spanish.

Mr. Boga has been a highly visible leader in the community, the founder of Albanian-American Culture Foundation, and a charter member of the National Albanian American Council. For the past 14 years, he has been a member of the Board of Albanian-American Enterprise Fund—a prestigious appointment he received from former U.S. president Bill Clinton. He currently serves on the Board of the Albanian American Development Foundation, the Albanian American Chamber of Commerce, the International Virtual e-Hospital Foundation, and the EDEN II School for Autistic Children.

Born in Montenegro of Albanian descent, Mr. Boga was always interested in the plight of Albanians in Montenegro and has previously written on this topic. By teaming up with a world-renowned expert on ethnic conflict resolutions, Stefan Wolff, he hopes that together they can contribute to broader reforms for the benefit of everyone in Montenegro, including Albanians who have lived in this region since antiquity.

Mr. Boga holds a Bachelor's in business administration from Bernard M. Baruch College, City University of New York. He is also a certified internal auditor and a certified public accountant.



**Stefan Wolff** is a political science professor at the University of Birmingham. He is a specialist in contemporary security challenges and has written extensively on ethnic conflict, international conflict management, and state building. Among his 15 books are *Ethnic Conflict: A Global Perspective* and *The European Neighbourhood Policy in Perspective* (2010, with Richard Whitman).

Bridging the divide between academia and policymaking, Mr. Wolff has been involved in various phases of conflict settlement processes in Sudan, Moldova, Sri Lanka, and Kosovo. He is the author of the *Handbook on Power Sharing, Self-governance and Public Participation* and of the forthcoming *Handbook on Guarantees in Conflict Settlements*.

Mr. Wolff is a graduate of the University of Leipzig, the University of Cambridge, and the London School of Economics and Political Science. He writes here in a personal capacity as an independent academic, expressing his views only and not those of any institution with which he is or has been affiliated.