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State of play of Kosovo's international legal cooperation

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EXECUTIVE SUMMARY

Kosovo as a newly established state, is in great necessity to further its international legal cooperation with other countries through bilateral agreements, in absence of membership in international organizations. This cooperation is done on the basis of the Law on International Legal Cooperation in Criminal Matters, bilateral agreements and in their absence through the principle of reciprocity. The research reveals nine major findings and recommendations for effective cooperation in the future:

- It is well established that besides the objective to prevent and fight transnational crime, factors such as the number of Kosovars living in these countries have stimulated and encouraged these countries to conclude bilateral agreements on international legal cooperation in criminal matters with Kosovo.
- Cases such as that of the extradition of Baki Sadiku to Slovakia, is a proof a commitment of both countries to combat transnational crime, regardless the lack of recognition of Kosovo by this country, opening the door for future recognition of Kosovo by this country.
- Despite that Kosovo has been recognized by 111 countries of the world, it has concluded bilateral agreements on international legal cooperation in criminal matters, with less than 10 of these countries,
- It is well thought that the scarce number of bilateral treaties is caused due to Kosovo's fragility of rule of law and low credibility of the justice system. The case of Xhabir Zharku expose the negligence of Kosovo's in this aspect,
- The technical agreement on mutual legal assistance between Kosovo and Serbia is insufficient for better international legal cooperation and does not cover the extradition between these two countries; Serbia doesn't recognize Kosovo's court decision, making in this way Kosovo and Serbia the perfect escape for criminals.
- In the future, in the absence of bilateral agreements between Kosovo and Serbia, one can expect that based on dual citizenship principle, citizens who have the citizenship of Kosovo and Serbia can "shelter" themselves in one of these countries and provide for themselves "immunity" from the sentence or possible criminal prosecution,
- The Assembly of Kosovo approved the Law on the establishment of the Special Court that will deal will alleged crimes committed by the Kosovo Liberation Army by international actors, however, it

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puts lack of trust in the Kosovo judicial system to deal with these crimes, resulting in low credibility of Kosovo to reach additional bilateral agreements;

- Raising the number of bilateral agreements in criminal justice will bring Kosovo's legitimization to some extent, therefore internal norms (the Constitution of Kosovo, Criminal Procedural Code of Kosovo and the Law on International Legal Cooperation in Criminal Matters) on international legal cooperation have to adapt to these agreements and not the opposite.
- The unilateral declaration of Kosovo to undertake obligations under the agreements concluded by SFRY and UNMIK, does not necessarily indicate that they will automatically be applicable without further bilateral negotiations or agreements with other parties (states) to SFRY agreements. Kosovo must negotiate with these countries separately in order to reconfirm (with possible amendments) agreements on international legal cooperation in criminal matters.
- Forming joint groups to prepare a comprehensive cooperation agreement, and also monitor permanently its implementation by taking into consideration possible shortcomings in its implementation, can provide a better international legal cooperation in criminal justice.

INTRODUCTION

In the globalizing world that we are living, international legal cooperation in criminal matters is an inevitable and necessary instrument in order to prevent and combat transnational crime, which poses serious problems for national security and justice system. Crime affects each one of us, and fighting it must be a shared goal for all countries despite their political differences and relations between each other. In the current circumstances, the process of extradition, mutual legal assistance, transfer of criminal proceedings, execution of foreign sentences, recognition of foreign criminal judgments, confiscation of the proceeds from crime, collection and exchange of information, between intelligence and law enforcement services, is an imminent need in the fight against criminality.

Kosovo has little experience in this international legal cooperation in criminal matters, however due to post-conflict and post-independence transitions, there were number of crimes committed in Kosovo. Lack of a contractual relationship with EU and large international organizations such as INTERPOL and EUROPOL, prevents Kosovo to have effective collaboration with other countries. In order for Kosovo to bring before justice all those who wronged and undermined social values, an intensive international legal cooperation is desperately needed.

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The first section of this paper, attempts to analyze whether agreements concluded by Socialist Federal Republic of Yugoslavia (SFRY) with other countries and agreements concluded by United Nations Interim Award (UNMIK) period can be succeeded, since with the Declaration of Independence on 2008, Kosovo has agreed to undertake obligations arising from these agreements.

The second part of this paper will try to identify what has been done so far by Kosovo's institutions to further international legal cooperation in matters: the scope and number of bilateral agreements reached in this field, by analyzing factors have affected this process. It will focus on agreements with countries that has recognized the independence of Kosovo as well as will analyze a cases of with the ones that have not recognized it yet. The cases presented will provide a depth analysis on how international legal cooperation takes place, whether or no Kosovo has bilateral agreements with these countries.

Considering Kosovo's relations with Serbia and countries that do not recognize its independence, international legal cooperation in criminal justice is rather difficult. In addition, the paper will examine how this type of cooperation is performed between Kosovo and these countries and provide recommendations for substantial cooperation in the future.

METHODOLOGY

The lack of research on Kosovo's international legal cooperation in criminal matters hinders the identification and assessment of the factors which affect this significant process that is vital in preventing and fighting crime and its perpetrators. It will include a historical view of findings for the period prior to the Declaration of Independence of Kosovo - during former Yugoslavia period (SFRY) and UNMIK period. This research paper has been prepared considering the legislation of the Republic of Kosovo. For the purpose of this research, interviews were conducted with several relevant institutions of Kosovo, such as Ministry of Justice, Ministry of Foreign Affairs, and Kosovo Police.

SUCCESSION TO SFRY AND UNMIK AGREEMENTS

In international law doctrine the succession of States is defined as "a set of rules of international law governing the legal consequences resulting from the change of sovereignty over a territory". This matter concerned raises the question on what happens with bilateral agreements when this change of government occurs, or when a state is replaced with another. Whether they will automatically be applicable and passed to the new government, or whether the new state needs to declare if it agrees to accept the obligations arising from the former treaty. According to Vienna Convention on Law of Treaties, the Successor State has the right to decide whether to maintain the legal relations of the Predecessor State, to what extent or to even refuse to have any relationships with the party that the Predecessor State had legal relation with. However there has

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been controversies on Vienna Convention on Succession of States in respect to Treaties where Article 16 states that the newly independent state receive a "clean state" meaning it does not inherit any obligations nor it receives any rights of the colonial state while Article 34 (1) states that all other new states remain bound by the treaty obligations of the state from which they separated. In regard to extradition often the new state can adopt the predecessor extradition treaties, but not automatically.

Kosovo is a special case arising from Yugoslavia's nonconsensual breakup. For the period prior to the Declaration of Independence, based on the Resolution 1244 of the Security Council of the United Nations and the Constitutional Framework, Kosovo was stripped of competencies for concluding international agreements (including bilateral agreements on international legal cooperation on criminal matters) where the conclusion of agreements was within the competencies of UNMIK. In Paragraph 9 of the Declaration of Independence, the Republic of Kosovo agrees "to undertake the international obligations including those concluded on behalf of Kosovo, by UNMIK and treaty and other obligations of the former Socialist Federal Republic of Yugoslavia to which we are bound".

However there is no automatic obligation on the part of the recognizing states to be bound by paragraph 9 of Kosovo's Declaration of Independence in their bilateral relations. Countries in their statement of recognition of Kosovo's Independence have related specifically to treaty relations and have referred to this undertaking of obligations. For example in the verbal note by British embassy to Ministry of Foreign Affairs in Kosovo it said that "The British Government... has the honor to note that in that Declaration Kosovo expressly undertook its international obligations, including those concluded on its behalf by the United Interim Administration Mission in Kosovo and those to which Kosovo was bound as a former constituent part of the Socialist Federal Republic of Yugoslavia and the British Government hereby confirms that the British Government regards treaties and agreements in force to which the United Kingdom and UNMIK and the UK and SFRY and as appropriate the UK and the Federal Republic of Yugoslavia, were parties as remaining in force between the United Kingdom and the Republic of Kosovo".

Furthermore, in 2009 Kingdom of Belgium and the Republic of Kosovo have negotiated to succeed a number of previous agreements such as Convention on extradition and mutual judicial assistance in criminal matters between the Kingdom of Belgium and Socialist Federal Republic of Yugoslavia, and annex, signed in Belgrade on June 4,1971.

Hence, although Kosovo through the Declaration of Independence, has agreed to honor the obligations deriving from these agreements concluded by SFRY and UNMIK, it doesn't necessarily constitute that these states have accepted Kosovo's commitment to be bound by these treaties without further acceptance from each country separately (ex. Through negotiations or verbal notes).

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EXISTING INTERNATIONAL LEGAL COOPERATION

Kosovo's International Legal Cooperation is regulated by Law on International Legal Cooperation in Criminal Matters which provides that this area is regulated by international agreements, and in the absence of an international agreement between the Republic of Kosovo and another state, international legal cooperation shall be administered on the basis of the principle of reciprocity.

So far, Kosovo has concluded bilateral agreements on international legal cooperation on criminal matters with the following countries:

Agreement on Judicial Cooperation on Criminal Matters, between the Government of the Republic of Kosovo and the Government of the Federal Republic of Germany, published on 28.07.2015

Agreement on Mutual Legal Assistance on Criminal Matters, Between the Government of the Republic of Kosovo and the Government of the Republic of Hungary, 09.07.2015

Extradition Treaty between the Government of the Republic of Kosovo and the Government of the Republic of Italy, 19.11.2013

Extradition Treaty between the Government of the Republic of Kosovo and the Government of the Republic of Italy, 19.11.2013

Agreement on Mutual Legal Assistance on Criminal Matters, Between the Government of the Republic of Kosovo and the Government of the Republic of Croatia, 05.06.2012

Agreement on Extradition, Mutual Legal Assistance and Transfer of Sentenced Persons between the Government of the Republic of Kosovo and Council of Ministers of the Republic of Albania, published on 31.12.2011

Agreement on Mutual Legal Assistance on Criminal Matters, between the Government of the Republic of Kosovo and the Government of the Republic of Turkey, 18.07.2011

Agreement on Mutual Legal Assistance on Criminal Matters, between the Government of the Republic of Kosovo and the Government of the Republic Of Macedonia, published on 13.06.2011

Agreement on Transfer of Sentenced Persons, between the Government of the Republic of Kosovo and the Government of the Republic of Macedonia, 13.06.2011

Extradition Agreement between the Government of the the Republic of Kosovo and the Government of the Republic of Macedonia, 13.06.2011

Agreement on Transfer of Sentenced Persons, between the Government of the Republic of Kosovo and the Swiss Confederation, 05.06.2012

Kosovo has concluded the extradition treaty between Kosovo and US, agreement on transfer of sentenced persons and extradition agreement between Kosovo and Turkey as well as agreement on transfer of sentenced

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persons between Belgium and Kosovo. These agreements have been concluded and published on the official Gazette of Kosovo, but due to these countries ratification procedures, have not entered into force yet. Until 2016, negotiations are still ongoing with Montenegro, Slovenia and Croatia and should soon commence with Hungary, Austria and Bulgaria. The budget allocated to the Department for International Legal Cooperation (DILC) within the Ministry of Justice increased in 2013, in response to the growing number of requests for mutual legal assistance.

These agreements on international legal cooperation on criminal matters, contain standard and universal dispositions, however, they are not identical. Thus, in the extradition treaty between Kosovo and US, and Kosovo and Albania, the parties agree to extradite their own citizens. On the other side, in the extradition agreements with Macedonia, Italy and Turkey, the parties reserve the right to refuse extradition of their own citizens. The agreements on mutual legal assistance with Hungary and Croatia do not include neither the extradition nor the transfer of sentenced persons, but other aspects of legal assistance in criminal matters. With Switzerland, Kosovo has concluded agreement on transfer of the sentenced persons. Otherwise, the disposition on serving the sentence in the state where the convicted person has his/her nationality, is subject of all the concluded agreements.

These bilateral agreements have been very useful to forge better partnership between Kosovo and these countries and to make sure that criminals who pose a threat to public order and safety, will be prosecuted and brought to justice. States' interest to fight crime with international elements is predominant in the conclusion of such agreements as stated also on the objective of the text of these agreements. These countries have shown great interest to cooperate with Kosovo in criminal matters. "The fact that organized crime and corruption in modern world knows no borders is indisputable. Criminals are quite successful in evading prosecution. It puts the preventive and repressive function of criminal law into question as well as the international and regional legal framework for prevention of crime" the Minister of Macedonia declared when the Agreement on Extradition and mutual legal assistance was signed between Macedonia and Kosovo.

If we analyze the bilateral agreements concluded by Kosovo with other countries, it is seen that in these countries live a large number of Kosovars and it is in these countries' benefit to cooperate with Kosovo on criminal matters. For instance, an important factor in Kosovo-Turkey relations, is the presence of a large community of Turkish nationals from Kosovo in Turkey, and the presence of ethnic Turkish community in Kosovo. It is reasonable to assume that this fact has influenced Turkish government to conclude bilateral agreements on legal cooperation with Kosovo.

However, the number of countries with which Kosovo has bilateral agreements on international legal cooperation in criminal matters, seems very small when taking into consideration that 111 countries recognize Kosovo's Independence. It is groundless to assume that political reasons might have affected this

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lack of bilateral relations on the field of criminal matters with these countries, since all of them have honored and accepted Kosovo's Independence. For instance, Hungary is considered to be one of the transit countries for Kosovars on their way to Europe, and still no agreement on extradition has been concluded between these two countries. Progress reports on Kosovo by European Commission indicate that conclusion of these agreements remain among the obstacles to the effective rule of law. The competent institutions of Kosovo were unable to produce a justifiable answer on the lack of bilateral agreements in international legal cooperation on criminal matters, especially agreements on extradition which as viewed on the table above, there are only five extradition agreements. Whether Kosovo has addressed its interest to cooperate to these countries, it remains unknown.

However, since main problems seems to derive from the fact that Kosovo is not a member of Interpol and Europo and not a party to multilateral agreements that would facilitate this type of cooperation, in absence of bilateral agreements. Precisely for this Kosovo's institutions should negotiate with countries that we have interest to cooperate, to reach bilateral agreements. It remains that the lack of better international legal cooperation is due to the negligence of Kosovo's institutions

According to the international law doctrine, a prerequisite for a state to conclude bilateral agreements is the will and capacity of a state to conclude such agreement. The capacity to fulfill potential agreements, depends on the credibility and integrity of the judicial, prosecutorial and investigatory system, namely the rule of law, followed by profiled experts and supported by material and financial resources, human resources and legal infrastructure. Hence, every country needs to evaluate its internal circumstances and its capacity to conclude international agreements before concluding the same ones.

As for the requirement whether Kosovo has sufficient capacity to conclude bilateral agreements in criminal matters, Progress Report of the European Commission 2015 establishes that the administration of justice system is slow and there is insufficient accountability of judicial officials. Judiciary is still prone to political interference and there is still a lack of human resources. Lacks compatibility of the judicial system with EU standards and that the application of such system it's even more alarming. Kosovo's judiciary and investigatory system is still vulnerable to political influence and rule of law institutions suffer from lack of funding and human resources.

In regard to the lack of capacity and credibility of the judicial system and rule of law of Kosovo, a case at point would be by the approval of the resolution for the establishment of the Special Court of Kosovo by its Parliament. This court constitutes that member of Kosovo Liberation Army charged with crimes during 1999-2000 in the territory of Kosovo, must be tried by international judges and with indictments of international prosecutors. However this approved decision shows the fragility of rule of law in Kosovo in light of international legal cooperation. As mentioned above the precondition to conclude bilateral agreements is the capability of the country to fulfill the obligations that derive from these potential agreements. Countries that

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want to conclude bilateral agreements with Kosovo in criminal matters, need to believe in Kosovo's justice system and rule of law. By rendering this decision on the establishment of the Special Court, Kosovo's justice system is admitting itself that doesn't have the capacity to try these crimes and to ensure that justice will be served. The establishment of the Special Court of Kosovo, where the decisions will be rendered by international judges, prosecuted by international prosecutors where the same ones will not be accountable to any of the institutions of Republic of Kosovo, shows that Kosovo lacks capability to judge and treat itself these suspected crimes. Special Court of Kosovo, is still a court of Kosovo and acts in accordance with Kosovo's law. Herein, it's included even the extradition of these accused persons that eventually will be tried outside Kosovo. It could be established that this law have shaken the foundation of the credibility of the institutions of Kosovo and will most likely affect international legal cooperation in criminal matters with other countries.

Kosovo has had a number of complex cases on international cooperation in criminal matters, based on bilateral agreement or reciprocity, which emphasizes the necessity of this type of cooperation, despite countries' political differences. With some of them Kosovo has bilateral agreements on three types of international legal cooperation: extradition, mutual legal assistance and transfer of sentenced persons. In absence of these agreements, principle of reciprocity rules.

A key case is the *Baki Sadiku* case, who was extradited to Slovakia, despite Kosovo's lack of recognition by this country. By the request of the Slovak authorities, EULEX has helped successfully the extradition process of Baki Sadiku. This particular case is a proof a commitment of both countries to combat transnational crime, despite their political issues. It also gives Kosovo another benefit of political nature. Although Slovakia has not recognized Kosovo formally, it was still a guise of factual recognition based on the practice of international public law. State recognition can be done in two ways: implicit recognition and explicit recognition. Recognition of a state is implied if a state undertakes some sort of intercourse with another as in concluding treaties with it or sending diplomatic representatives to it, without, however, having recognized it, thereby revealing at least intent to recognize it explicitly at a later time. According to international law doctrine, implicit recognition of a state does not release a formal state but recognizes the state by some acts which imply that the state is being recognized. Extradition-the handing over of an alleged offender (or a convicted criminal who has escaped before completing his term) by one state to another, is an intercourse between two states (not an intercourse between a state and a non-state). Given the fact that Slovakia has undertaken an intercourse (extradition of Baki Sadiku) with a state (Kosovo), it can be well assumed that Slovakia has opened the door to take into consideration the recognition of Kosovo formally.

Another successful case worth mentioning, is the mutual legal assistance of Kosovo with the Kingdom of Bahrain, a country which has recognized Kosovo, but which doesn't have an agreement in this aspect. In the case beforehand, five Kosovar citizens (also the case is known as the burglars of Rolex Watches), have committed a criminal act in the Kingdom of Bahrain but they were caught in the territory of Kosovo. Persons

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concerned were tried in Kosovo based on the submission of evidence by Bahrain to Kosovo. However, they were not extradited to Bahrain because they were citizens of Kosovo and according to Law on International Legal Cooperation in Criminal Matters, Article 6, paragraph 2.1 states "the following persons cannot be extradited against their will: 2.1. Kosovo citizens, unless otherwise provided by an international agreement between the Republic of Kosovo and the requesting state or by international law..." Thus, the mutual assistance in criminal matters was accomplished through submissions of evidence from the state of Bahrain, which were used during the trial in Kosovo. These persons were found guilty and convicted in Kosovo.

Furthermore, there is also the case of *Agron Latifi* who was extradited from Hungary (which has recognized Kosovo) to Kosovo, a case of international legal cooperation without extradition agreement. This is the first extradition performed by members of the unit comprised of the Kosovo Police. Prior to the establishment of this unit, the extradition of suspects in Kosovo was conducted by members of the UNMIK police and EULEX police.

There are cases of criminal legal cooperation also with Macedonia, where Kosovo has extradited Shukri Aliu to Macedonia. He was suspected of being implicated in the quintuple murder in Smilkovc village near Skopje. This case is known as the case "Monstra", and the person concerned was arrested in Kosovo and immediately extradited to Macedonia. This extradition was done on the basis of the extradition agreement that Kosovo has with Macedonia.

With Albania, it is known the case of Idris Shiqeri against whom, the arrest order was issued by the District Court of Gjilan and approved by UNMIK. He was accused of murder and illegal possession of military weapons. Idris was arrested at the Port of Durres as a result of cooperation with Interpol Tirana and UNMIK Kosovo.

In the case of *Uke Rugova and others*, the international legal cooperation in criminal matters was accomplished with Italy, where the state concerned submitted and gave explanation of evidences that will be proceeded in the trial, tried by the judicial body of EULEX. The trial is on-going and Italy has an extradition treaty with Kosovo. Italy has recognized Kosovo.

With Serbia, it is known the case of policemen Shukri Binaku and Sami Beqiri who were arrested under the pretense that they were armed in the territory of Serbia against whom investigations were initiated in Serbia. The policemen were handed over to EULEX authorities, who sent them back to Kosovo. However, it is clearly seen that in this case, the purpose of this arrestment was not to solve the issue beforehand. This due to the fact that Serbia did not seek the continuation of the criminal procedure or the sentence of the policemen Shukri Binaku and Sami Beqiri.

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Herewith, from these data, it is mostly viewed that the cooperation with other countries does not have a common denominator, such as bilateral agreements or the recognition of Kosovo, but only the goal to solve criminal cases and put criminals to justice, except the case, as discussed above, in regard to policemen arrested in Serbia.

There are some cases of attempted legal cooperation with Sweden concerning Xhabir Zharku, former mayor of the Municipality of Kacanik, where Kosovo has sought extradition of Zharku, but was denied due to it Swedish citizenship. Former mayor of Kacanik was sentenced to three years in prison by a court in Pristina, for several offenses of war in April 2011. But today he escaped and lives freely in Sweden. According to Ministry of Justice of Kosovo, extradition of Zharku was denied due to his Swedish citizenship, but according to Swedish authorities, they simply expect a warrant to seize the person in question. However, it remains unclear due to political speculations, if Kosovo has requested that the Zharku case to be transferred to Sweden and suffer the punishment there, as it should in case the extradition it's denied based on the citizenship of the person.

In the case of Naser Kelmendi, accused of murderers and organized crime in Bosnia, although Kosovo law prevents the extradition of its citizen without their consent, Bosnia announced that it will still send request for extradition of Naser Kelmendi to Bosnia. Although, Bosnia does not recognize Kosovo as a state and has no diplomatic relations with it, the country declared that will demand the extradition of Kelmendi to be prosecuted in Sarajevo. EULEX Special Representative in the Ministry of Justice has facilitated contact between Bosnia and Kosovo, however, EULEX, operating as it does under Kosovo law, has no mandate to extradite any Kosovo citizen. According to the declaration issued by the Ministry of Justice of the Republic of Kosovo, it has not received a formal request from Bosnia, since it does not recognize the Republic of Kosovo.

In this regard so far, and for political known reasons, Kosovo does not have a formal and direct international legal cooperation with countries that do not recognize Kosovo's independence. This cooperation is realized through a technical arrangement on mutual legal assistance between the Ministry of Justice and EULEX. On the basis of this technical arrangement, from September 2013 to April 2014, EULEX transmitted 93 requests and responses from Kosovo to non-recognizing states (excluding Serbia) and 90 requests and responses from non-recognizing states (other than Serbia).

The requests for mutual legal assistance between Kosovo and Serbia are performed through EU Special Representative in Kosovo and EU Delegation in Serbia (DBES), and there has been a technical agreement for mutual legal assistance on this regard. This cooperation until the installation of this body of EU, was realized through UNMIK and was based on resolution 1244. From September 2013 to mid-May 2014, EULEX has

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transmitted 855 requests and responses from Kosovo to Serbia and 756 requests and responses from Serbia to Kosovo.

In regard to extradition, based on the information obtained by the Division of International Legal Cooperation, there have not been extradition cases with Serbia. For known political reasons, these two countries refuse to extradite persons to each other, in this way becoming a safe paradise for criminals, because they simply can cross the borders to escape the justice. Serbian government does not accept any document from the Kosovo courts, because it does not recognize their authority. Serbia also refuses to cooperate when Kosovar criminals wanted by Interpol are hiding in Serbia, and also when Serbian criminals are hiding in Kosovo. A case at point would be Predrag Vulicevic, a Serb citizen known as "Pedja", who was arrested in March 2015 by the Kosovo police in the north of Mitrovica with an Interpol arrest warrant which was issued by the Serbian authorities. He escaped from Serbia to Kosovo and was kept in custody in Kosovo. He was soon released, because according to his lawyer, Serbia did not seek his extradition because it does not recognize Kosovo court decisions.

Another case that emphasizes the abuse of this situation between Kosovo and Serbia, by criminals who are enjoying their freedom without the fear of being arrested is the case of Leme Xhema, former director of Post and Telecommunication of Kosovo. She was requested by Interpol and convicted in absentia for abuse of official position, but was escaped in her homeland, Serbia and was not extradited to Kosovo. Kosovo Criminal Code provides that if a person who has been sentenced to jail, is not in jail twice of the period, then he /she should remain free. In other countries who are part of INTERPOL, criminal such as her would have been in jail, and not to run for elections.

International legal cooperation in this aspect cannot be realized without bilateral agreement between Kosovo and Serbia. But even under the assumption of the existence of such agreement, bigger problems will arise, in regard to the extradition of persons that have citizenship of both countries. The institution of dual citizenship often is abused by felons, which has been seen on cases between states that have emerged from former Yugoslavia. Since many citizen of Kosovo also have the citizenship of Serbia, and according to the Constitution of Kosovo, in case there is a lack of bilateral agreements for international legal cooperation and the person does not want to be extradited, they cannot be extradited to any country, even to Serbia. In the future, in the absence of such bilateral agreement one can expect that based on dual citizenship principle, citizens who have the citizenship of Kosovo and Serbia can "shelter" themselves in one of these countries and provide for themselves "immunity" from the sentence or possible criminal prosecution.

Lack of membership in Europol and Interpol and insufficient number of bilateral agreements in criminal matters, creates obstacles and difficulties for Kosovo's institutions to prosecute persons who have committed crimes during the war, and also in regard to all offenses committed after the war, and possible offenses in the future, in cases where these offenders are found outside the territory of Kosovo, namely in the territory of

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of Serbia.

RECOMMENDATION

Kosovo, a newborn country, is still economically, politically, militarily a weak state. By raising the number of bilateral agreements in criminal justice will bring Kosovo's legitimization to some extent, in relation to international community and to the rest of the countries that have not recognized its independence yet. Therefore, internal norms on international legal cooperation (the Constitution of Kosovo, Criminal Procedural Code of Kosovo and the Law on International Legal Cooperation in Criminal Matters) without their international legal basis which are bilateral or multilateral agreements, will remain only an expression of our wishes, because these norms are also of legal procedural nature and as such they have to adapt to these agreements and not the opposite.

Since with the Declaration of Independence Kosovo has agreed to undertake the obligations that derive from SFRY with other countries, Kosovo must negotiate with these countries separately in order to reconfirm (with possible amendments) agreements on international legal cooperation in criminal matters, taking into consideration the fact that Kosovo has not been granted the right to inherit automatically of Former Yugoslavia's treaties after its breakup according to Badinter Commission. In this case, the unilateral declaration to succeed these agreement is not sufficient without reconfirmation of country parties. However, it needs to be noted that what was considered a crime at during SFRY (for example distribution of pornographic material) is no longer one, Or during SFRY, the act of terrorism was not provided as a criminal offense and now is a major and a cruel one. Due to changed circumstance, parties need to take into consideration possible amendments of SFRY agreements that they wish to continue with Kosovo.

The Constitution of the Republic of Kosovo has provided that Kosovo undertakes to honor and comply with many international conventions, but without being a party to these conventions, it does not impose any obligations or rights for Kosovo. The Declaration of Independence, the Constitution and laws cannot be the source of other states to act according to the provisions laid down in these acts. As discussed above, the technical agreement on mutual legal assistance between Kosovo and countries that do not recognize Kosovo' Independence including Serbia, it's not sufficient for a more comprehensive cooperation, in terms of international legal cooperation between countries. In this regard it could be a good idea to form joint groups which are not just going to prepare a comprehensive cooperation agreement, but that would also monitor permanently its implementation and take into consideration possible shortcomings in its implementation to provide a better international legal cooperation in criminal justice.

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BIIBLIOGRAHPY

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- Extradition Treaty between the Government of the Republic of Kosovo and the Government of the United States of America, published on the official Gazette of Kosovo on 4 April 2016.
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- Agreement on Extradition between the Government of the Republic of Kosovo and the Government of the Republic of Turkey, published on the official Gazette of Kosovo on 18. July 2011.
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