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(Final version)

Application by Kosovo* for membership of the Council of Europe

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A. Draft Opinion

1. Kosovo* (Throughout this text, all reference to Kosovo, whether to the territory, institutions or population shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.) applied for membership of the Council of Europe on 12 May 2022 with a letter signed by Ms Donika Gërvalla-Schwarz, Deputy Prime Minister and Minister of Foreign Affairs and Diaspora. On 24 April 2023, the Committee of Ministers transmitted the letter to the Parliamentary Assembly for consultation, in pursuance of Statutory Resolution (51) 30 A adopted on 3 May 1951. The decision on the transmission clarifies that it is “without prejudice to the Committee of Ministers’ future consideration of this application to accede to the Council of Europe”.
2. Having taken note of the eminent lawyers’ report, the Assembly acknowledges that Kosovo’s legal framework is broadly in line with Council of Europe standards and that its Constitution is a very progressive instrument, incorporating the key provisions of the Ahtisaari Plan and providing for the direct applicability of the European Convention on Human Rights (ETS No. 5) and its Protocols, the Framework Convention for the Protection of National Minorities (ETS No. 157), the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210, “Istanbul Convention”) as well as some United Nations human rights instruments.
3. The Assembly acknowledges the progress made by Kosovo in the areas of human rights, democracy and the rule of law and commends the advancements made by the current government, including as regards the fight against corruption and a civil partnership for same-sex couples (“Civil Code”).
4. The Council of Europe, in synergy with the international community, has supported the strengthening of standards in Kosovo through a wide range of activities including legal advice, co-operation and specific solutions which have enabled Council of Europe monitoring mechanisms to regularly assess the situation in specific areas of human rights law. Kosovo joined the Council of Europe Development Bank (CEB) in 2013 and the European Commission for Democracy through Law (Venice Commission) the following year. Since 2016, a delegation of the Assembly of Kosovo has participated in the work of the Parliamentary Assembly. The Association of Kosovo Municipalities participates in the work of the Congress of Local and Regional Authorities.
5. The Assembly believes that Kosovo’s aspirations to join the Council of Europe should be met with a positive response. Membership would lead to the strengthening of human rights standards by ensuring access to the European Court of Human Rights to all those who are

Amendment 2

Tabled by Ms Dunja SIMONOVIĆ BRATIĆ, Ms Biljana PANTIĆ PILJA, Ms Elvira KOVÁCS, Mr Branislav BORENOVIĆ, Ms Dubravka FILIPOVSKI, Ms Snježana NOVAKOVIĆ BURSAC

In the draft opinion, delete paragraph 3.

Amendment 3

Tabled by Ms Dunja SIMONOVIĆ BRATIĆ, Ms Biljana PANTIĆ PILJA, Ms Elvira KOVÁCS, Mr Branislav BORENOVIĆ, Ms Dubravka

under Kosovo's jurisdiction. It would also enable the Council of Europe to have greater oversight of domestic developments and to deploy all the instruments at its disposal to contribute to consolidating democracy and the rule of law. Furthermore, membership of the Council of Europe would represent a milestone in the process of Kosovo's European integration.

**FILIPOVSKI, Ms Snježana NOVAKOVIĆ
BURSAĆ**

In the draft opinion, replace paragraph 5 with the following paragraph:

"The Assembly believes that Kosovo's aspirations to join the Council of Europe should not be met with a positive response. Membership would lead to further persecution and impunity, as many particularly ethnically-motivated crimes remain unpunished. It would also enable the Council of Europe to have greater oversight of domestic developments and to deploy all the instruments at its disposal to contribute to consolidating democracy and the rule of law. Kosovo's relationship with the European Union is heavily dependent on the fulfillment of the key provisions of the Stabilisation and Association Agreement, particularly those that relate to the Belgrade-Pristina dialogue, and normalisation of relations between Belgrade and Pristina."

6. Kosovo's membership of the Council of Europe would be the culmination of a dialogue which has developed over a span of two decades but should in no way be seen as the end of a process. On the contrary, membership should catalyse momentum for Kosovo to continue to make progress in strengthening human rights, democracy and the rule of law and address outstanding challenges and matters of concern.

Amendment 4

**Tabled by Ms Dunja SIMONOVIĆ BRATIĆ, Ms Biljana PANTIĆ PILJA, Ms Elvira KOVÁCS, Mr Branislav BORENOVIĆ, Ms Dubravka FILIPOVSKI, Ms Snježana NOVAKOVIĆ
BURSAĆ**

In the draft opinion, replace paragraph 6 with the following paragraph:

"Kosovo's potential membership of the Council of Europe would be the culmination of the violation of core rules and principles of international law, including but not limited to the violation of the Charter of the United Nations. Membership of the Council of Europe would be understood as a negation of all of those principles."

7. Amongst such issues are a gap between the normative framework and its effective implementation; the need to improve the protection of the rights of non-majority communities and to foster a climate and public discourse which is conducive to trust, reconciliation and inclusion; focusing on language, education and youth policies to ensure that Kosovo's multi-ethnic society is cohesive rather than fragmented along ethnic or language cleavages; ensuring full compliance with the rule of law irrespective of political considerations; promoting interinstitutional respect; and strengthening the quality and efficiency of the judiciary.
8. Since Kosovo applied for membership of the Council of Europe, the security situation in Kosovo's northern municipalities has considerably deteriorated in parallel with a stall of the normalisation of relations with Serbia and in the dialogue between Pristina and Belgrade facilitated by the EU Special Representative Mr Miroslav Lajčák. Many events have contributed to a serious

escalation of tensions, including: land expropriations; the decision to enforce the use of Kosovo car licence plates; violent demonstrations; the mass resignation of Kosovo Serbs from the police, the judiciary and public offices; local elections which gave results deprived of democratic legitimacy; the use by the Kosovo authorities of the special police for ordinary police tasks; and the enforcement of the decision to introduce the euro for financial transactions to the exclusion of other currencies, later postponed.

9. On 24 September 2023, a major security incident in Banjska resulted in the death of a Kosovo police officer and three Serb assailants. The gravity of this attack, its consequences and the attackers' connections with Belgrade abundantly showed that the risk of open violence in Kosovo is all too real and that security depends on the protection of the rights of the Serb community, the de-escalation of tensions and the normalisation of relations between Kosovo and Serbia.
10. Against this background, the Assembly welcomes as a major breakthrough the implementation, on 14 March 2024, of the judgment of the Constitutional Court in the case of the Visoki Dečani monastery, which had been awaiting execution since 2016. Its implementation is a tangible sign of the commitment of the government to act in full accordance with the rule of law, irrespective of political considerations. The Assembly and the Committee of Ministers should continue to follow this matter with a view to ensuring that the judgment is fully implemented.
11. The Assembly considers the establishment of the Association of Serb majority municipalities an important step and a way to enhance the democratic participation and empowerment of Kosovo Serbs and ensure the protection of their rights. The Assembly considers that the establishment of the Association should feature in the Committee of Ministers' future consideration of Kosovo's application to accede to the Council of Europe, as a post-accession commitment for Kosovo.

Amendment 5

(If adopted, amendment 13 falls)

Tabled by Ms Dunja SIMONOVIĆ BRATIĆ, Ms Biljana PANTIĆ PILJA, Ms Elvira KOVÁCS, Mr Branislav BORENOVIĆ, Ms Dubravka FILIPOVSKI, Ms Snježana NOVAKOVIĆ BURSAC

In the draft opinion, replace paragraph 11 with the following paragraph:

"The Assembly considers the establishment of the Association of Serb majority municipalities to be a prerequisite for the continuation of the process of consideration of the application by Kosovo for membership of the Council of Europe."

Amendment 13

(Falls if amendment 5 is adopted)

Tabled by Ms Elisabetta GARDINI, Mr Marco SCURRIA, Ms Domenica SPINELLI, Ms Ester MIELI, Mr Fabio PIETRELLA, Ms Lucrezia MANTOVANI, Ms Maria Cristina CARETTA, Mr Zsolt NÉMETH

In the draft opinion, replace paragraph 11 with the following paragraph:

"The Assembly considers that the establishment of the Association of Serb majority municipalities is an indispensable step towards the normalisation of relations between Pristina and Belgrade, an international obligation undertaken

within the aegis of the EU-facilitated dialogue, and above all a way to enhance the democratic participation and empowerment of Kosovo Serbs and ensure the protection of their rights. The Assembly, therefore, expects that the Kosovo Government will take substantial and tangible steps with a view to establishing the Association at the earliest possible date. The Assembly considers that the establishment of the Association should feature prominently in the Committee of Ministers' future consideration of Kosovo's application to accede to the Council of Europe.

12. Furthermore, the Assembly expects that expropriations are conducted in the strictest respect of the law and that any future legislation in this area is fully in compliance with the Ahtisaari Plan, including with regard to the protection of the properties of the Serbian Orthodox Church. In this context, the Assembly recommends that the draft Law on Expropriation of Immovable Property which has been submitted to the Assembly of Kosovo be amended accordingly, at the earliest possible date.
13. Against this background, the Assembly welcomes the commitment made in a letter dated 3 March 2024 by Mr Albin Kurti, Prime Minister of Kosovo, to sign and ratify an extensive list of Council of Europe conventions, including:
 - 13.1. at the time of accession: the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5);
 - 13.2. within one year of accession:
 - 13.2.1. the General Agreement on Privileges and Immunities of the Council of Europe (ETS No. 2) and its Protocols Nos. 1 and 6 (ETS Nos. 10 and 162)
 - 13.2.2. the Framework Convention for the Protection of National Minorities (ETS No. 157)
 - 13.2.3. the European Charter for Regional and Minority Languages (ETS No. 148)
 - 13.2.4. the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210)
 - 13.2.5. the Council of Europe Convention on Action against Trafficking in Human Being (CETS No. 197)
 - 13.2.6. the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ETS No. 126)
 - 13.2.7. the European Convention on the Suppression of Terrorism (ETS No. 90)
 - 13.2.8. the Council of Europe Convention on the Prevention of Terrorism (CETS No. 196)
 - 13.2.9. the Protocol amending the European Convention on the Suppression of Terrorism (ETS No. 190)

- 13.2.10. the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198)
- 13.2.11. the European Charter of Local Self-Government (ETS No. 122);
- 13.3. within two years of accession:
 - 13.3.1. the European Convention on the Exercise of Children's Rights (ETS No. 160)
 - 13.3.2. the European Convention on Nationality (ETS No. 166)
 - 13.3.3. the European Social Charter (revised) (ETS No. 163)
 - 13.3.4. the Civil Law Convention on Corruption (ETS No. 174)
 - 13.3.5. the Additional Protocol to the Criminal Law Convention on Corruption (ETS No. 191)
 - 13.3.6. the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 106) and its protocols
 - 13.3.7. the European Convention on the International Validity of Criminal Judgments (ETS No. 70)
 - 13.3.8. the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116)
 - 13.3.9. the European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes (ETS No. 82)
 - 13.3.10. the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS No. 182);
- 13.4. as well as:
 - 13.4.1. the Council of Europe Convention on the Avoidance of Statelessness in related to State Succession (CETS No. 200)
 - 13.4.2. the Convention on Cybercrime (ETS No. 185) and its Additional Protocol (ETS No. 189)
 - 13.4.3. the European Convention on the Legal Status of Migrant Workers (ETS No. 93)
 - 13.4.4. the European Cultural Convention (ETS No. 18)
 - 13.4.5. the European Convention on the Recognition of University Qualifications (ETS No. 32)
 - 13.4.6. the Convention on the Academic Recognition of Qualifications concerning Higher Education in the European Region (ETS No. 165)
 - 13.4.7. the European Convention on the Equivalence of Diplomas leading to Admission to Universities (ETS No. 15)
 - 13.4.8. the Convention on the Elaboration of a European Pharmacopoeia (ETS No. 50).
- 14. Furthermore, the Assembly takes note of and welcomes the following commitments undertaken by the Kosovo authorities:

Amendment 15

Tabled by Ms Dunja SIMONVIĆ BRATIĆ, Ms Biljana PANTIĆ PILJA, Ms Elvira KOVÁCS, Mr Branislav BORENOVIĆ, Ms Dubravka

**FILIPOVSKI, Ms Snježana NOVAKOVIĆ
BURSAĆ**

In the draft opinion, before paragraph 14, insert the following paragraph:

"Potential ratification or implementation of the provisions of some of the treaties is without prejudice of the international legal status of Kosovo and Metohija, as a territory under international administration and as a part of the Republic of Serbia."

- 14.1. as regards the functioning of democratic institutions and the respect of the rule of law:
 - 14.1.1. fully respect the independence of the judiciary including by refraining from undue criticism undermining trust in the judiciary;
 - 14.1.2. continue to improve the quality and effectiveness of the judiciary;
 - 14.1.3. continue to fight against corruption and organised crime;
 - 14.1.4. ensure that expropriations are conducted in the strictest respect of the law and that any future legislation in this area is fully in compliance with the Ahtisaari Plan, including with regard to the protection of the properties of the Serbian Orthodox Church; amend accordingly the draft Law on Expropriation of Immovable Property, which has been submitted to the Assembly of Kosovo, at the earliest possible date;
 - 14.1.5. take all measures to de-escalate tensions in the north of Kosovo and refrain from decisions which may affect the rights and living conditions of the Serb community and lead to a further deterioration of the security situation;
 - 14.1.6. take urgent measures to promote the reintegration of Kosovo Serbs in the police force, the judiciary and the prosecution in the north of Kosovo;
 - 14.1.7. refrain from using special police in the north of Kosovo for ordinary police tasks, ensure that they are deployed only in case of necessity, and step up co-operation with KFOR (Kosovo Force) and EULEX (European Union Rule of Law Mission in Kosovo);
- 14.2. as regards human rights and protection of non-majority communities:
 - 14.2.1. ensure the effective implementation of the legal framework for the protection of national minorities;
 - 14.2.2. take substantial and tangible steps with a view to implementing all articles of the Brussels and of the Ohrid Agreements which includes establishing the Association of Serb majority municipalities as soon as possible;
 - 14.2.3. address urgently the absence of a comprehensive and co-ordinated approach on minority matters and rights; such an approach needs to be developed and implemented in co-operation with those concerned and in ways which reflect the specific needs of different communities;

- 14.2.4. allocate sufficient resources to effectively implement the legislation on the use of languages and ensure the legal entrenchment, independence and provision of adequate resources for the Office of the Language Commissioner;
- 14.2.5. step up measures to support the socio-economic integration and political participation of persons belonging to non-majority communities;
- 14.2.6. take visible and meaningful measures to promote reconciliation between Kosovo's communities, including in political discourse; adopt concrete strategies for inter-community dialogue and for reconciliation-oriented spaces and activities, in particular in education, in order to pave the way for inclusive societal development and trust;
- 14.2.7. promote teaching of non-majority languages in schools;
- 14.2.8. ensure the effective access to good quality primary and secondary education and textbooks for all children, including children with disabilities, children belonging to non-majority communities and children from disadvantaged groups;
- 14.3. as regards international relations:
 - 14.3.1. continue to engage in the EU-facilitated dialogue and honour the commitments and obligations undertaken under its aegis;
 - 14.3.2. put genuine efforts into the process of normalisation of relations with Serbia;
 - 14.3.3. settle international disputes in a peaceful manner and promote good neighbourly relations in the region.
- 15. The Assembly also recommends that Kosovo signs and ratifies the following Council of Europe Conventions and Partial Agreements:

Amendment 11
Tabled by the Committee on Legal Affairs
and Human Rights

In the draft opinion, after paragraph 15, insert the following paragraph:

"The Assembly invites Kosovo to: - fully participate in the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) and to thereafter implement its recommendations without delay; - amend the composition of the Kosovo Prosecutorial Council (KPC) in line with the recommendations of the European Commission for Democracy through Law (Venice Commission) in its Opinion CDL-AD(2023)043 adopted on 15-16 December 2023; - refer the new draft law on expropriations to the Venice Commission, for an Opinion; - ensure self-restraint of politicians, who should refrain from criticising decisions of the judiciary; - improve respect for administrative procedures, in particular for expropriations and public appointments and consider introducing an administrative complaint procedure; - launch procedural reforms to tackle the excessive length of judicial proceedings and consider creating a specific remedy for excessive length of proceedings; - reduce excessive recourse to

pre-charge and pre-trial detention for unduly lengthy periods of time and without proper reasons; - promote the use of de-escalatory policing techniques, especially by police deployed in the north of Kosovo; - improve language training and education to meet the constitutional requirements for bilingualism in actual practice, especially in the police force and the justice system; - foster awareness among police officers, prosecutors and judges of hate crimes and strengthen their ability to treat victims of such crimes with sensitivity; improve the response of these actors in the judicial system to the issue of domestic violence."

Amendment 1
Tabled by the Committee on Equality and Non-Discrimination

In the draft opinion, after paragraph 15, insert the following paragraph:

"The Assembly reasserts the importance of protecting the human rights of all, including the rights of persons from non-majority communities, women's rights, the rights of LGBTI persons and the rights of persons with disabilities. It calls on the authorities of Kosovo to: - ensure the legal recognition of civil partnerships for same-sex couples; - step up efforts to combat discrimination on any grounds; - promote gender equality; - prevent and combat gender-based violence, and prosecute and punish perpetrators of this violence; - prevent and combat hate speech."

- 15.1. Protocols 1, 4, 7, 12, 13 and 16 to the European Convention on Human Rights
- 15.2. the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201)
- 15.3. the Criminal Law Convention on Corruption (ETS No. 173)
- 15.4. The enlarged partial agreement setting up the Council of Europe international cooperation group on drugs and addictions (Pompidou Group)
- 15.5. the enlarged partial Agreement on the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine.
- 16. In light of the above, the Assembly considers that Kosovo is able and willing to:
 - 16.1. fulfil the provisions of Article 3 of the Council of Europe Statute which stipulates that "[e]very member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms";
 - 16.2. collaborate sincerely and effectively in the realisation of the aim of the Council of Europe as specified in Chapter I

of the Statute, thereby fulfilling the conditions for accession to the Council of Europe as laid down in Article 4 of the Statute.

17. The Assembly, therefore, recommends that the Committee of Ministers:

Amendment 9

(If adopted, amendment 14 falls)

Tabled by Ms Dunja SIMONOVIĆ BRATIĆ, Ms Biljana PANTIĆ PILJA, Ms Elvira KOVÁCS, Mr Branislav BORENOVIĆ, Ms Dubravka FILIPOVSKI, Ms Snježana NOVAKOVIĆ BURSAC

In the draft opinion, replace paragraph 17 with the following paragraph:

"The Assembly therefore recommends that the Committee of Ministers postpone its decision on the application for membership until the United Nations Security Council finally determines or endorses the status of Kosovo and Metohija."

- 17.1. invite Kosovo to become a member of the Council of Europe with the name "Kosovo";

Amendment 14

(Falls if amendment 9 is adopted)

Tabled by Ms Elisabetta GARDINI, Mr Marco SCURRIA, Ms Domenica SPINELLI, Ms Ester MIELI, Mr Fabio PIETRELLA, Ms Lucrezia MANTOVANI, Ms Maria Cristina CARETTA, Mr Zsolt NÉMETH

In the draft opinion, at the end paragraph 17.1, insert the following words:

"as soon as all articles of the Brussels and the Ohrid Agreements are implemented, including the establishment of the Association of Serb majority municipalities."

- 17.2. allocate 3 seats to Kosovo in the Parliamentary Assembly.

18. While supporting Kosovo's membership of the Council of Europe, the Assembly is aware of the unprecedented circumstances of this application, as a number of Council of Europe member States do not recognise Kosovo as a State. Diplomacy, dialogue and compromise are necessary to ensure that the prospective admission of Kosovo does not create a fracture in the unity of Council of Europe member States, thus undermining the spirit of the Reykjavik Summit. The Assembly, therefore, invites the Committee of Ministers to ensure that:

Amendment 10

(If adopted, amendments 6, 7, 8 falls)

Tabled by Ms Dunja SIMONOVIĆ BRATIĆ, Ms Biljana PANTIĆ PILJA, Ms Elvira KOVÁCS, Mr Branislav BORENOVIĆ, Ms Dubravka FILIPOVSKI, Ms Snježana NOVAKOVIĆ BURSAC

In the draft opinion, replace paragraph 18 with the following paragraph:

"The Assembly is aware of the unprecedented circumstances of this application, as a number of Council of Europe member States do not recognise Kosovo as a State. Diplomacy, dialogue and compromise are necessary to ensure that the prospective admission of Kosovo does not create a fracture in the unity of Council of Europe member States, thus undermining the spirit of the Reykjavik Summit. The Assembly, therefore, invites the Committee of Ministers to ensure that Kosovo acts in accordance with the Agreement on Regional Representation and Cooperation reached on 24 February 2012 under the European Union facilitated dialogue

and fully implements other agreements reached under the EU facilitated dialogue."

- 18.1. Kosovo's membership of the Council of Europe is without prejudice to individual member States' positions as regards the statehood of Kosovo;

Amendment 6

(Falls if amendment 10 is adopted)

Tabled by Ms Dunja SIMONOVIĆ BRATIĆ, Ms Biljana PANTIĆ PILJA, Ms Elvira KOVÁCS, Mr Branislav BORENOVIĆ, Ms Dubravka FILIPOVSKI, Ms Snježana NOVAKOVIĆ BURSAC

In the draft opinion, delete paragraph 18.1.

- 18.2. member States, irrespective of the position they may express in relation to Kosovo's membership application, respect the decision made by the Committee of Ministers and collaborate sincerely and effectively in its implementation, ensuring the smooth functioning of Council of Europe's institutions, bodies and mechanisms;

Amendment 7

(Falls if amendment 10 is adopted)

Tabled by Ms Dunja SIMONOVIĆ BRATIĆ, Ms Biljana PANTIĆ PILJA, Ms Elvira KOVÁCS, Mr Branislav BORENOVIĆ, Ms Dubravka FILIPOVSKI, Ms Snježana NOVAKOVIĆ BURSAC

In the draft opinion, delete paragraph 18.2.

- 18.3. once Kosovo is admitted as a member State for the purposes of the Council of Europe Statute, the Organisation discontinues its status-neutral policy.

Amendment 8

(Falls if amendment 10 is adopted)

Tabled by Ms Dunja SIMONOVIĆ BRATIĆ, Ms Biljana PANTIĆ PILJA, Ms Elvira KOVÁCS, Mr Branislav BORENOVIĆ, Ms Dubravka FILIPOVSKI, Ms Snježana NOVAKOVIĆ BURSAC

In the draft opinion, delete paragraph 18.3.

19. Likewise, the Assembly calls on the Committee of Ministers to spare no diplomatic and political effort to ensure that Kosovo's membership is not only beneficial to Kosovo and all those who are under its jurisdiction but is also a factor of stability, democratic security and peace in the Western Balkans and Europe.

20. With a view to ensuring compliance with commitments and obligations, the Assembly decides, pursuant to its Resolution 1115 (1997), to open the monitoring procedure for Kosovo as from its accession to the Council of Europe.

Amendment 12

Tabled by the Committee on Legal Affairs and Human Rights

In the draft opinion, paragraph 20, after the words "with a view to ensuring compliance with commitments and obligations", insert the following words:

"and monitoring the implementation of its recommendations".