

Republic of Serbia
 State negotiating team for Kosovo-Metohija
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Comparative Overview of the Cases of Hong Kong, Åland Islands, and the Serbian Status Proposal for Kosovo and Metohija

	Hong Kong	Åland Islands	Kosovo and Metohija
Basic features of the Cases	<ul style="list-style-type: none"> • In 1997 returned to China's sovereignty – after 155 years of British colonial rule • Ethnic majority – Chinese (95%) • <i>HK Basic Law</i> stemming out from the 1984 <i>Sino-British Joint Declaration</i> 	<ul style="list-style-type: none"> • After Russo-Swedish War (1808-1809) Russia gains Finland and ÅI • Ethnic majority – Swedish (95%) • In 1917 Finland independent • After 1917, 96,2% of adult population signed the petition for unification with Sweden • In 1921 the League of Nations decides that ÅI remains within the sovereignty of Finland, with a high degree of autonomy • Current constitutional-legal framework: <i>Act on the Autonomy of Åland</i> in accordance with Article 120 of the <i>Constitution of Finland</i> 	<ul style="list-style-type: none"> • Since June 1999 (8 years) under UN administration • Ethnic majority – Albanian (81%) • Current constitutional-legal framework: <i>UN SC Res 1244</i>, <i>Constitution of Serbia</i>, and <i>Constitutional Framework for Provisional Self-Government in Kosovo</i> • Proposal: internationally guaranteed status agreement on KM, new <i>UN SC Res</i>, <i>Constitution of Serbia</i>, and <i>Constitution of KM</i>; 20-years timeframe
Constitutional-	<ul style="list-style-type: none"> • Upholding national unity and 	<ul style="list-style-type: none"> • The sovereignty of the ÅI is 	<ul style="list-style-type: none"> • [...] the Province of Kosovo and

<p>Legal Definition of Territory</p>	<p>territorial integrity and taking account of the history of HK and its realities, the PRC has decided to establish, in accordance with the provisions of Article 31 of the Constitution of the PRC, a HK Special Administrative Region upon resuming the exercise of sovereignty over HK. (Sino-British Joint Declaration, Article 3.1)</p> <ul style="list-style-type: none"> • The HK Special Administrative Region will be directly under the authority of the Central People's Government of the PRC. The HK Special Administrative Region will enjoy a high degree of autonomy, except in foreign and defence affairs which are the responsibilities of the Central People's Government. (Sino-British Joint Declaration, Article 3.2) • The state may establish special administrative regions when necessary. The systems to be instituted in special administrative regions shall be prescribed by law enacted by the National People's Congress in the light of the specific conditions. (PRC Constitution, Article 31) • The HK Special Administrative 	<p>recognised to belong to Finland. (Decision of the Council of the League of Nations on the ÅI, Article 1)</p> <ul style="list-style-type: none"> • The territory of Finland is indivisible. The national borders can not be altered without the consent of the Parliament. (Constitution of Finland, Section 4) • The ÅI have self-government in accordance with what is specifically stipulated in the Act on the Autonomy of the ÅI. (Constitution of Finland, Section 120) • The ÅI are autonomous, as hereby enacted. (Act on the Autonomy of Åland, Section 1) • Åland comprises the territory it has at the time of the entry into force of this Act and the territorial waters directly adjacent to its land territory according to the enactments in force on the limits of the territorial waters of Finland. <p>If the jurisdiction and sovereignty of the State are extended beyond the limits of the territorial waters the jurisdiction and sovereignty of Åland may be likewise extended, as agreed by the State and Åland. (Act on the Autonomy of Åland, Section</p>	<p>Metohija is an integral part of the territory of Serbia, that it has the status of a substantial autonomy within the sovereign state of Serbia and that from such status of the Province of Kosovo and Metohija follow constitutional obligations of all state bodies to uphold and protect the state interests of Serbia in Kosovo and Metohija in all internal and foreign political relations [...] (Constitution of Serbia, Preamble)</p> <ul style="list-style-type: none"> • In the Republic of Serbia, there are the Autonomous Province of Vojvodina and the Autonomous Province of Kosovo and Metohija. The substantial autonomy of the Autonomous province of Kosovo and Metohija shall be regulated by the special law which shall be adopted in accordance with the proceedings envisaged for amending the Constitution. (Constitution of Serbia, Article 182.2) • Reaffirming the commitment of all Member States to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other States of the region, as set out in the Helsinki Final Act and annex 2, [...] (UN SC Res 1244,
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	<p>Region is an inalienable part of the PRC. (HK Basic Law, Article 1)</p>	<p>2)</p>	<p>Preamble)</p> <ul style="list-style-type: none"> • Reaffirming the call in previous resolutions for substantial autonomy and meaningful self-administration for Kosovo, [...] (UN SC Res 1244, Preamble) • "Establishment of an interim administration for Kosovo as a part of the international civil presence under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, [...] (UN SC Res 1244, Annex 2, Point 5)
<p>Competences</p>	<ul style="list-style-type: none"> • Exclusive competences of China: foreign policy, defence, supervision of legislation • Exclusive competences of HK: all other 	<ul style="list-style-type: none"> • Exclusive competences of Finland: foreign policy, defence, immigration policy, fiscal policy, supervision of legislation • Shared competences: foreign trade, criminal and labour law, health • Policy area of co-operation: civil defence • Exclusive competences of ÅI: domicile, public order and safety, additional and municipal taxes, collective contracts with ÅI public servants, urban and rural planning, environmental protection, protection of religious and cultural heritage, 	<ul style="list-style-type: none"> • Reserved competences of Serbia: foreign policy, border control, protection of Serbian religious and cultural heritage • Defence: reserved competence of Serbia not to be applied in KM; • Policy areas of co-operation: monetary policy, customs policy • Exclusive competences of KM: all other (budget, economic policy, agriculture, media, education, environmental protection, youth, sport, fiscal policy, home affairs, health, energy, infrastructure, employment...)

		education	
Separation of Power	<ul style="list-style-type: none"> • HK has legislative power in areas of its exclusive competence, but the Chinese National Congress may invalidate legislation enacted by the HK Legislative Council • PRC participates in the process of electing the Chief Executive (head of HK territory and government) • HK has its own independent and complete judicial system 	<ul style="list-style-type: none"> • ÅI have legislative and executive branches • Governor of ÅI represents Finland, appointed by the President of Finland in agreement with ÅI Speaker • Åland Delegation is joint Finland-ÅI authority. Resolves certain types of disputes • ÅI parliament (<i>Lagting</i>) has legislative power in areas of ÅI's exclusive competence • Finland's Ministry of Justice, Åland Delegation, and President of Finland participate in the supervision of legislation 	<ul style="list-style-type: none"> • KM autonomously elects and regulates its own institutions – without Serbia's involvement; • KM has legislative power in areas of KM's exclusive competence and in other areas as per agreement; Serbia cannot revoke or invalidate KM legislation; • KM has executive branch • KM has its own independent and complete judicial system with jurisdiction over cases from KM's exclusive competences and over other cases as per agreement; interim EU oversight; international judges.
Participation in Central Authorities	<ul style="list-style-type: none"> • HK citizens participate in China's parliamentary elections (MPs Chinese National Congress in Beijing) 	<ul style="list-style-type: none"> • ÅI citizens participate in Finland's parliamentary elections (MPs in Helsinki) 	<ul style="list-style-type: none"> • Participation in executive (MFA) and judicial authority (Constitutional Court of Serbia's special panel for constitutional appeals from KM)
Foreign Policy	<ul style="list-style-type: none"> • China – subject of international law • In areas of HK's exclusive competence, HK negotiates with other states and international organisations • HK has own international economic, trade, financial and monetary, shipping, 	<ul style="list-style-type: none"> • Finland – subject of international law • ÅI Government may suggest international negotiations on a certain agreement to relevant Finland's authorities • ÅI Government will be informed on international agreement related to ÅI competences 	<ul style="list-style-type: none"> • Serbia – subject of international law • In areas of KM's exclusive competence, KM negotiates with other states and international organisations. Preparation of agreements in consultation with Serbia. Formal signatory Serbia, co-signatory KM. if Serbia is rendered

	<p>communications, tourism, cultural, and sports relations.</p> <ul style="list-style-type: none"> • In areas of China's competence, HK not included in international negotiations and preparation of agreements; • HK – 33 trade/economic offices abroad (in places of HK's own interest) • HK – member of regional initiatives and international organisations that allow non-sovereign territories to be members • China – provides consular protection to all citizens • China's MFA liaison office in HK • Status of foreign diplomatic and consular offices in HK – up to the General Consulate level 	<ul style="list-style-type: none"> • If there is a special reason, ÅI Government may participate in international negotiations as a part of Finland's delegation 	<p>liable for not fulfilling KM's international obligations, KM would be held liable <i>vis-à-vis</i> Serbia</p> <ul style="list-style-type: none"> • In areas of Serbia's reserved competence, KM representatives included in international negotiations and preparation of agreements; signatory – Serbia • KM – trade/economic offices abroad (in places of KM's own interest) • KM – member of regional initiatives and international organisations that allow non-sovereign territories to be members • Serbia – provides consular protection to all citizens; KM consular affairs offices within Serbia's diplomatic and consular missions abroad • Serbia's MFA liaison office in Priština; • Status of foreign diplomatic and consular offices in Priština – up to the General Consulate level
Defence Policy	<ul style="list-style-type: none"> • Responsibility of the PRC • People's Liberation Army HK Garrison 	<ul style="list-style-type: none"> • Responsibility of Finland • ÅI demilitarised 	<ul style="list-style-type: none"> • Temporary international military presence • Demilitarisation of KM
Policing	<ul style="list-style-type: none"> • HK 	<ul style="list-style-type: none"> • ÅI 	<ul style="list-style-type: none"> • KM
Border Control	<ul style="list-style-type: none"> • HK 	<ul style="list-style-type: none"> • Finland 	<ul style="list-style-type: none"> • Borders Crossing Points (land

			and air) – Serbian Police Service
Monetary Policy	<ul style="list-style-type: none"> • HK has its own central bank and currency 	<ul style="list-style-type: none"> • Finland 	<ul style="list-style-type: none"> • KM has its own central bank and currency • Gradual harmonisation of two systems according to the EU requirements
Customs Policy	<ul style="list-style-type: none"> • HK has its own customs service 	<ul style="list-style-type: none"> • Finland 	<ul style="list-style-type: none"> • KM has its own customs service • Gradual harmonisation of two systems according to the EU standards • Serbia to monitor
The Final Instance of Human Rights Protection	<ul style="list-style-type: none"> • HK 	<ul style="list-style-type: none"> • Finland 	<ul style="list-style-type: none"> • Constitutional Court of Serbia; special panel for appeals from KM • EU Mission engagement in judicial reform in KiM
Cultural Policy	<ul style="list-style-type: none"> • HK 	<ul style="list-style-type: none"> • ÅI 	<ul style="list-style-type: none"> • Exclusive competence of KM, except in reconstruction and protection of the Serbian religious and cultural heritage – Serbia sets reconstruction and protection policy and implements reconstruction • Physical protection of the Serbian religious and cultural sites in co-operation with international military forces and KPS
EU Integrations	<ul style="list-style-type: none"> • N/A 	<ul style="list-style-type: none"> • The relation of ÅI to EU legal system regulated by a special protocol which is a part of Finland's accession agreement. This protocol can be changed only with consent of 	<ul style="list-style-type: none"> • KM continues STM until the start of SAA negotiations, at which moment Serbia is to be involved on issues falling into Serbia's reserved competences

		<p>all EU member states</p> <ul style="list-style-type: none"> • ÅI parliament (<i>Lagting</i>) decided that ÅI should join EU • ÅI Government has the right to participate in preparing Finland's position before the decision making process in EU • In case that Finland and ÅI do not reach common position, ÅI position to be presented along with Finland's 	<ul style="list-style-type: none"> • Serbia and KM sign SAA for KM as an annex to Serbia's SAA • Further process of KM's EU integrations (status of a candidate and accession negotiations) will be co-ordinated with Serbia
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