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# Cutting or Tightening the Gordian Knot?

The Future of Kosovo and the Peace Process  
in the Western Balkans after the  
Decision on Independence

16<sup>th</sup> Workshop of the Study Group  
“Regional Stability in South East Europe”



Study Group Information



PIP Consortium of Defense Academies  
and Security Studies Institutes



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# Foreword

Predrag Jureković

After two years of Serb-Albanian negotiations without having achieved a political compromise, the Kosovo status issue since February has gone through tremendous changes: The Kosovo Parliament on 17 February 2008 declared the independence of this province under UN administration. While the greater part of EU member states and the US government have recognized Kosovo as an independent country or have announced their intention to do so, Serbia and Russia want to fight this as an “illegal” qualified decision with diplomatic means.

The EU plans to replace the United Nations Interim Administration Mission in Kosovo (UNMIK), in order to support state building and to monitor the implementation of minority rights in accordance with the Ahtisaari Plan. The conditions for the new EU missions are difficult due to a deteriorating security situation in the ethnically Serb dominated north of Kosovo and political resistance from the Serbian government in Belgrade. The heterogeneous government of Vojislav Koštunica broke up as a consequence of antagonist opinions on future relations with the EU after their support for Kosovo’s independence. Although a nationalistic setback in Serbia seems less probable due to the appointment of a mainly pro-European new government in July, as a consequence of preliminary elections conducted in May, the path to a more pragmatic policy towards Kosovo seems to remain rather difficult.

In Serbia’s and Kosovo’s neighbourhood – especially in Bosnia and Herzegovina and Macedonia – the fear of negative repercussions of the Kosovo development has increased. There is a genuine fear of a “domino effect” where other groups in neighbouring countries could also demand rights for self-determination, especially in Serbia proper, where in its mainly Albanian inhabited southern part a de facto division of Kosovo could lead to nationalistic demands.

This book includes contributions from the 16<sup>th</sup> workshop of the PfP Consortium Study Group “Regional Stability in South East Europe”. It was carried out in Reichenau, Austria, 23-25 May 2008, and aimed to go deep into the analysis of the latest developments in Kosovo: Does Kosovo’s declared independence mean that the Gordian knot has been finally cut and that the region after a turbulent interim period can concentrate on integration into the Euro-Atlantic institutions? Or was the February decision the starting point for new critical status issues, which appear as a consequence in Kosovo itself – this time driven by the Serbs – as well as in the neighbouring countries? What can the international organisations engaged in the peace processes do to guarantee a peaceful transition in Kosovo and to prevent a new cycle of instability in the region? How can the Euro-Atlantic institutions contribute to secure the whole region sticking to co-operation and integration? In this book outstanding experts in their analyses try to approach these questions, which are fundamental for the region’s further peace-building.

# Welcome Speech

Johann Pucher

Excellencies,  
Ladies and Gentlemen,  
Dear Friends and Partners within the PfP Consortium,

It is a pleasure for me to welcome you here on behalf of the Austrian Ministry of Defence at the 16<sup>th</sup> workshop of the PfP Consortium Study Group on “Regional Stability in South East Europe” also this year.

It is good to be here in Reichenau and to see so many well-known and well-respected faces representing international organisations being active in the Western Balkans.

As a co-organiser, we, equally, if not more importantly, appreciate the presence of representatives and experts from the countries in the region. A warm welcome also to many friends I personally have had the privilege to meet over the past years.

Dear participants,

The Austrian Ministry of Defence is a member of the PfP Consortium since 2000. Our main focus within the Consortium rests on its work in the Study Group Regional Stability in South East Europe. May I extend my sincere appreciation to Predrag Jureković from the Austrian National Defence Academy, to Professor Pantev from Bulgaria and to Professor Staničić from Croatia, for having guided the work of the Study Group for so many years.

The Austrian MoD is also involved in the work of the Regional Stability in the Greater Black Sea Area and Combating Terrorism Working

Groups and co-operates with the Swiss led Security Sector Reform Working Group.

The MoD remains fully committed to the Consortium's mission. In particular we want to promote contacts between individuals and institutions in Southeast Europe on different levels.

Austria as a direct neighbour of the Western Balkan countries, with strong historical, cultural, personal and economic ties with respect to the region, has been engaged in a comprehensive approach as far as its support for the peace processes in the region is concerned.

Firstly:

Our engagement in Peace Support Operations goes back to 1996. Austria had just joined the PfP in 1995. Our soldiers took part in the IFOR mission in Bosnia and Herzegovina, followed by our contribution to SFOR and later to KFOR and again to EUFOR ALTHEA in Bosnia and Herzegovina. About 900 soldiers are presently operating in the region. This is more than two thirds of our overall deployment. We will maintain our military engagement as long as required, taking into account the regional situation.

Secondly:

We have concluded bilateral Memoranda of Understanding on military cooperation with all countries, except Kosovo. All in all we are engaged in about 260 bilateral activities in the region. By gathering all the Western Balkan countries under the umbrella of PfP, NATO has created better conditions for enhanced confidence building and cooperation between the security actors in South East Europe. In its co-operation with NATO countries in various Peace Support Operations, Austria has profited a lot from its participation in the PfP.

Having our positive experience in mind we want to suggest to our friends in the region to use membership in PfP to develop their co-operation in the military and other fields. The Austrian MoD and MFA

have been running bilateral support programmes with Serbia and BiH to support their PfP approach. Enhancing military co-operation among other priorities means to co-operate in the field of education. In this regard I want to point out that we run a specific ESDP training program for SEE.

I also want to emphasize our support for the Peace Support and Operations Training Centre in Sarajevo, where Dr. Vetschera is providing support to the Bosnian colleagues in their effort to further develop this new important training institution. We are strongly engaged in RACVIAC and the SEE Clearing House Initiative. Together with other countries we have run several SALW activities, recently in Sarajevo. I shall not forget the Police Cooperation Convention for Southeast Europe run by the Austrian Ministry of Interior and DCAF. It supports improvements in justice and home affairs in the region. So all in all, Austria has managed to establish a certain degree of comprehensive approach between different ministries regarding the Western Balkans. It is a very constructive cooperation.

Austria welcomes NATO's invitation extended to Croatia and Albania to prepare their accession, although Austria itself is not planning to become a member of the Alliance. We would have found it helpful if this invitation also would have been extended to FYROM. Also the MoD sees the signing of the Stabilisation and Association Agreement with Serbia at the end of April and that such an agreement will be signed with Bosnia and Herzegovina in June as positive developments. The opening of the dialogue on visa liberalisation between the European Commission and countries in the region is an important step in this direction.

We hope that the Macedonian name issue will be solved soon to pave the way for the next steps there also. We understand the emotional reactions of Belgrade and Kosovo Serbs following the declaration of independence. However, certain red lines like the use of violence must not be crossed.

With the forming of a Serb government and the expected entry into force of the Kosovo Constitution on 15 June 2008 we enter a crucial period in

the region. Austria wants to make sure that EULEX can be active on the whole territory of Kosovo. We know of course how difficult the situation in the North is and it may not be sure, that the EU can start operations there immediately. We also know that the legal situation is complicated and not easy for the UN. In any case we all need clarity for the post-June 15 future. UNMIK needs it, the EU and NATO need it and not least the Kosovo government. Furthermore, we need to ensure a smooth handover from UNMIK to EULEX. The deployment of EULEX has already experienced some delay because the EU does not know whether we will be able to draw on UNMIK's assets. The most dangerous thing would be to have a security gap after 15 June because of a lingering confusion about the respective roles of UNMIK and EULEX. We must not come to a situation where local havoc might break out.

As you know our government has recognized Kosovo as an independent state and is supporting the implementation of Ahtisaari's Kosovo plan. Nevertheless Austria like the other EU countries – regardless of their position towards Kosovo's status – is aware how important it is to launch co-operation between Priština and Belgrade. The priority is about reducing security risks. As I said last year: we all hope that leaders in the region have the courage to overcome the darkness of the past two decades. We all hope that they have the dedication to look forward, for the benefit of their people.

The workshop comes at the right time again. Parts of the Western Balkans are in a defining phase of its stabilisation: a new state has been created, and this has caused considerable tensions. The achieved peace processes need to be strengthened nevertheless. We see this workshop as an opportunity to exchange different opinions on the actual developments in Kosovo and Serbia and their influence on the regional peace process in an open academic forum.

During the workshop we want to tackle some questions, which seem to be of special importance for the general topic:

1. What is the state or fate of the implementation of the Ahtisaari plan in Kosovo? What could be the consequences, if EU will not be able to fully replace UNMIK in mid June?
2. What will be the consequences of the elections in Serbia and the formation of the new government for relations between Serbia and Kosovo, for Serbia's bilateral relations with the neighbouring countries and for the integration policy of the Euro-Atlantic institutions towards the region?
3. How do the repercussions of the Kosovo status process on Southern Serbia, Bosnia and Herzegovina as well as Macedonia look like? Are they overestimated, or is more international engagement in this field needed?
4. Which means could contribute to improvement of inter-ethnic relations in Kosovo?
5. Is it possible to achieve again a common international position with regards to the peace processes in South East Europe or do we have to come to terms with the continuation of two Balkan policies – a Western and a Russian one?

A lot of pertinent issues. I hope that you all will be engaged in open and constructive discussions today and tomorrow. I look forward to listening to the lectures.

Ladies and Gentlemen, in concluding, it is a privilege to officially open the 16<sup>th</sup> Workshop of the PfP Consortium Study Group on “Regional Stability in South East Europe”.

Thank you for your attention



# Background Speech

Judy Batt

## Regional Stability in the Western Balkans

Stabilisation of the region has come a long way in the last few years. The past year has seen further positive developments in the integration of the region into Euro-Atlantic structures. Serbia, Montenegro and Bosnia-Herzegovina have at last joined the PfP, and signed SAAs. The Stability Pact has been superseded by the “locally-owned” Regional Cooperation Council, which has now set up headquarters in Sarajevo.

Nevertheless, despite these developments, there is a persistent sense of fragility and precariousness around the region’s stability, which became more tangible in the last year. This was due mainly – but not only – to the complex, bitterly contested and ultimately very messy outcome of the Kosovo status process.

The basic underlying challenge to regional stabilisation remains weak, and what we might call “unfinished” states: states that cannot yet be taken for granted as “given”. What do I mean by this?

EU annual progress reports regularly point to the lack of administrative capacities, the human and financial resources to deliver adequately what European citizens expect of their states: personal security, economic growth and employment, education and health services, pensions and care for the elderly. State institutions are very costly in terms of their demands on state budgets, but they don’t seem to do too much beyond securing their own existence. In fact, the state is often regarded by citizens as an obstacle to be bypassed as far as possible, rather than as the “enabler” of productive effort. Political elites are mistrusted, widely regarded as corrupt and self-serving. Democratic elections take place – indeed almost *too* often it sometimes seems – but the sense of public

accountability and responsibility is weak. “If elections could really change anything, they would be banned”. This sentiment, expressed in graffiti on a wall in Bulgaria several years ago, might sum up the mood in much of the Western Balkans today.

These weaknesses are readily understandable in a region suffering the consequences of an extremely difficult transition that has involved not only the decomposition of communist states and economies, but the formation of wholly new states, forged in bloody conflict. Most of the states of the region are not only poor, but small or very small. They are vulnerable to periodic internal crises, political paralysis and even the threat of meltdown, which have immediate knock-on effects for their neighbours.

The ultimate source of these problems seems to be traced to a fundamental lack of consensus over the most basic questions of statehood itself: *what* the state is for, *where* are we going, and above all *whose* state is it? The “we-feeling” that democratic politics (with its key principle of majority rule) take for granted hardly exists in the Western Balkans, which may seem like a paradox given the prevalence of collectivist ethno-nationalist rhetoric in politics. The problem of lack of consensus is not solely a matter of rival ethno-national identities competing for control of the state. Polarisation into irreconcilable camps, and politics played as a zero-sum game, are as evident *within* ethno-national groups as *between* them, as the recent elections in Macedonia showed. And take Serbia: despite the ostensible near-unanimity of the political elite on what is agreed to be the priority issue on the “national” agenda – the non-negotiability of Kosovo’s status, Serbian politics is wracked by paralysing division. A state that, on the face of it is *not* weak (Serbia does have considerable human, financial and administrative capacities) is failing to exploit those advantages to deliver practical, tangible outputs to its citizens. Serbia is stuck, not going anywhere, in danger of turning in on and destroying itself.

Regional instability is both cause and effect of the region’s “weak state” syndrome. It boils down to the fact that borders in the region are not yet

taken as “given”, i.e. psychologically accepted as unalterable, or least recognised as alterable only at quite unacceptable cost.

Reaching a “*finalité politique*” in terms of borders is the *sine qua non* of the region’s durable stabilisation, which means successful integration into the European mainstream. Past experience strongly suggests that achieving EU membership is only feasible with states that have *both* the minimal political consensus on the main goals *and* the functional capacities to pursue them.

The search is still on for “closure” on questions of statehood and borders in the region. I should explain what I mean by “closure”. This is a term derived from psychology rather than political science. “Closure” does not mean deciding to be happy with the situation you find yourself in. It does not mean you are fully (or even at all) reconciled with what has happened to you. You may well feel you will not, and cannot, ever want that. But it does mean recognising that grief and bitterness can take on self-destructive, suicidal dimensions. “Closure” is a way of somehow ‘ring-fencing’ the problem, shutting it up in a box and putting it to one side for the time being – recognising that, for now, nothing more can be done about it. It means taking a respite, focussing on something else, trying another tack. The result, in time, *may* be that the context changes so that either it becomes easier to tackle the problem, or you change your perception of its significance. That may of course not be the result – but at least meanwhile you have not destroyed yourself and may even have gained *something* of value, even if not the thing you most wanted.

If this psychological shift towards “closure” on questions of statehood and borders could be made in Balkan politics, it would prepare the ground for a shift from absolutist and non-negotiable ethno-nationalist demands and interminable zero-sum games to the more prosaic but usually more productive politics of “the art of the possible”.

Yet what I detect in the Western Balkans is a lack of serious interest on the part of political leaders to achieving closure. A mode of elite politics persists that can be dated back to the 1990s (and probably even before) that is attuned to, and feeds on, endemic uncertainty. It exploits, rather

than seeking to overcome, state weakness. The political interests of key political actors seem to be vested in the *status quo* that keeps open basic questions of statehood and borders, that can then be taken back out of the box whenever needed to win the next election. Ethno-nationalist mobilization is just so much easier and more convenient than devising complex economic and social programmes, whose results can be measured, for which you can be called to account.

But responsibility for changing the dynamics of Balkan politics lies not only with Balkan leaders. The international community's role in the Balkans is essentially to create an environment where "closure" begins to make sense for politicians and people in the region. Not much will be achieved by simply exhorting Balkan politicians to be more statesmanlike, far-sighted and responsible (like us?). Policies that offer incentives strong enough to change deeply-entrenched interests and patterns of behaviour are vital. And this is what the promises of EU and NATO integration offer, but this is not in itself enough. Integration may indeed offer new incentives and foster new behaviour patterns – but only when fundamental political blockages have been removed. Embarking on the integration process presupposes that there is at least the readiness to recognise these are blockages, and that they need to be tackled.

The Kosovo status process was meant to achieve "closure" on what has often been called the "last remaining open question" on the post-Yugoslav agenda. But it has not – yet – achieved that. This is not just because Serbia, with Russia's backing, has blocked it; but also because deep divisions have emerged among EU and NATO member states over the question of Kosovo independence. We thought we had consensus on the Ahtisaari plan, but it turned out not. How can Serbian leaders be expected to take the risk of developing a serious political strategy for achieving "closure" on Kosovo, to dare mobilise that neglected but significant proportion of Serbian public opinion that is ready to "move on", when they face not only high-octane nationalism at home, but also incoherent and ambivalent messages from the EU and NATO member states? Yet what is the realistic alternative to the Ahtisaari plan? Does it help Serbia to keep the Kosovo question on the boil and indefinitely at the top of its political agenda? Does it help the stabilisation of the region

to encourage Serbia to believe it will be treated with sympathy when it exploits its capacities to block Kosovo's full inclusion into regional co-operation processes? Will this not encourage others, like PM Dodik in Republika Srpska last autumn, to reopen the question the existence of Bosnia-Herzegovina, for example?



## **PART I:**

# **THE STATUS PROCESS AND ITS IMPLICATONS FOR KOSOVO AND SERBIA**



# **The Status Process and Its Implications for Kosovo and Serbia**

Lulzim Peci

The declaration of independence of Kosovo on February 17<sup>th</sup>, 2008 has marked the last stage of Kosovo's path to state building and also has closed the last chapter on the disintegration of Yugoslavia. The declaration of independence and the subsequent enacting of the Constitution by the Assembly of the Republic of Kosovo were not annulled by United Nations Mission in Kosovo (UNMIK). Therefore, the legality of this act was quietly accepted by UNMIK, despite the lack of agreement within United Nations Security Council (UNSC). In addition, a day before the independence was declared, the EU Special Representative for Common Foreign and Security Policy Dr. Javier Solana, appointed Mr. Peter Feith as the Head of International Civilian Office (ICO) and the Council of European Union decided to deploy the EULEX Mission to Kosovo as envisaged by the Ahtisaari's Comprehensive Status Proposal.

The subsequent recognition of Kosovo's independence by 47 countries, including US, more than two thirds of EU member countries, Japan and Canada, a number of neighbouring countries with Kosovo and Serbia has proved not to cause the very much speculated regional domino effect, like in Srpska Republic, Former Yugoslav Republic of Macedonia and Southern Serbia.

Nevertheless, Serbia, Russia and a number of states are considering the declaration of the independence and the deployment of ICO and EULEX as an illegal act that violates the international law, namely as a breaching of the UNSC Resolution 1244. However, the UNSC Resolution 1244 has not pre-specified the status and also has not stipulated that Kosovo should remain under the sovereignty of Belgrade, but mandated UNMIK with state-building and administrative mandate as well as with the duty to facilitate the political process for solving the final status.

These circumstances have created a legal and institutional ambiguity in the country, which are a consequence of a Russian grand strategy to gradually weaken the West, through keeping latent conflicts in the regions where Euro-Atlantic Allies are involved, as well as due to the lack of full unity within the European Union in backing the independence of Kosovo.

In the aftermath of independence a number of security incidents perpetuated and justified by Belgrade authorities happened at the border crossings between Kosovo and Serbia and in the northern part of Mitrovica that culminated with the killing of a Ukrainian police officer by Kosovo Serbian extremists on March 17<sup>th</sup>, 2008. Also, as a reaction to the declaration of independence, around 260 out of around 800 Kosovo Serb members of Kosovo Police Service left their posts, refusing to remain under the authority of Kosovo authorities.

On the other side, there was not registered a single major interethnic incident, thus proving the maturity of Government and the ethnic communities of Kosovo. Also, the Kosovo Serb Ministers and the Members of the Kosovo Assembly have not boycotted the institutions, but on contrary have continued to perform their duties. Managing of the situation in the immediate post independence period and lack of increasing of inter-ethnic tensions is a promising sign for the stability of Kosovo and the region.

Nevertheless, the Belgrade organized municipal elections for Serbian community in Kosovo that took place on May 11<sup>th</sup>, 2008, despite the fact that UNMIK declared them a breach of resolution 1244, may endanger the stability of the country and inter-ethnic relations specifically. Utilizing these illegal structures alongside the lines of Belgrade's Government Plan for "functional separation of Albanians and Serbs in Kosovo", represents the main threat to Kosovo and its people. The final aim of this plan is the division of Kosovo along ethnic lines, thus making impossible implementation of the decentralization accords as envisaged by the Comprehensive Status Proposal and ultimately annexation of the territory north of Ibar River. Furthermore, these elections undermine the Kosovo Serb political parties which are a part of Kosovo's Government;

undermine elements within the Serbian Orthodox Church and other Kosovo Serb leaders which oppose nationalist policies of Belgrade and seek a silent solution with Kosovo authorities; and legitimize SRS and other radical elements within Kosovo Serbs as legitimate representatives of the Serbian community.

The circumstances on the ground can be endangered if EULEX mission that is opposed by Belgrade fails to operate in the entire territory of Kosovo, specifically in the north. Situation is further complicated due to the lack of agreement between UNMIK, ICO, EULEX and Kosovo Government for future presence of international community and their respective mandates, competencies and responsibilities, that may lead to a governance crisis after entering in power of the Kosovo Constitution on June 15<sup>th</sup>, 2008. Kosovo can head towards state failure if ICO and EULEX become a second UNMIK and fail to carry on its duties according to their respective mandates.

These possible developments might severely damage the functionality of Kosovo as a state with direct impact on inter-ethnic relations and human security as a result of absence of the rule of law. Furthermore, the rise of radical forces among Kosovo Albanians can reignite as a reaction to Serbia's destabilizing actions and the ineffectiveness of the EU presence and Kosovo Government.

In this regard, it is necessary to measure Serbia's progress towards EU integration against its attitude towards ICO and EULEX. Simultaneously, Priština and Belgrade should be encouraged to build confidence building measures and gradually increase their cooperation until the normalization of relations between these two independent states is achieved.

Nonetheless, a number of questions still remain open: Will Ahtisaari's Comprehensive Status Proposal be implemented? What will be the format of international presence in Kosovo? How can EU be a decisive stabilizing force for the region if it cannot have a common policy on the regional issues? Is the EU carrot sufficient to change Serbia's state

policy to undermine the statehood of Kosovo? Will the EU carrot work out in Kosovo when there is not a clear EU future for the country?

However, there have been two very important internal developments in Kosovo. One – a new phase of development within Kosovo Serb community occurred after the declaration of independence. A number of local Serbian leaders have moved outside of Kostunica's nationalistic orbit, supported by elements from the Serbian Orthodox Church by openly opposing Belgrade's radical policies towards Kosovo which endanger the Kosovo Serbian community. Two – Albanian nationalism has been defused with the independence of Kosovo, thus proving wrong all the negative expectations that the creation of the new state will ignite it. These two aspects have created a new momentum for political dialogue and inter-ethnic reconciliation. This momentum must not be lost; it should be cultivated patiently and in good faith by Kosovo's Government and the Serb community leaders.

Both Kosovo and Serbia have democratic systems in place. However, none of the two have fully embraced democratic values, despite Kosovar attempts to build a state based on civic grounds and on a non-nationalist platform.

The integration in Euro-Atlantic institutions has proved to be the key agent for reforms, transition and reconciliation in Eastern Europe. It is very hard to imagine that the region will move from the current stage of latent potential conflicts if any of the states fail to progress towards the EU integration. Only a tangible EU future for both Kosovo and Serbia can close the chapter of conflicts and create the grounds for reconciliation, social development and economic progress. The EU should not sacrifice the European future of one country for the sake of the other, because in such a case none of them will have a future.

Nevertheless, the success of Kosovo and the region will depend from the full unity of EU and NATO countries in backing its independence and integration within these institutions. What Kosovo and the region do not need now is mixing signals and political ambiguity coming from European Union countries. The peace, security and prosperity in Kosovo and

the Western Balkans are a common and individual responsibility of each state of the Euro-Atlantic area, including Kosovo and Serbia. The final stabilization and integration of the Western Balkans will mark also the necessary consolidation and strengthening of the West at the times of resurgence of Russian hegemony.



## **PART II:**

# **THE IMPACT OF THE KOSOVO DEVELOPMENT ON REGIONAL STABILITY**



# The Independence of Kosovo and the Consolidation of Macedonia – A Reason to Worry?

Zhidas Daskalovski and Dane Taleski

## Introduction

On 17 February 2008 Kosovo declared independence, for many a sign of the final point of the brake up of Yugoslavia. In the period after, the US and the biggest EU member states, many of the Balkan countries and other countries around the world recognized the independence of Kosovo. As Serbian official position is still “Kosovo je Srbija” [Kosovo is Serbia], the EU has deployed a mission that is deeply involved in the nation and state building of Kosovo.

Macedonia until the end of May 2008 had not recognized the independence of Kosovo. Yet the main ethnic Albanian political parties in Macedonia, but also the political leadership in Kosovo, expect that the recognition is a done deal. The relations between Skopje and Priština have been minimal in the early 1990s. More recently, Macedonia has had a history of interaction with Kosovo, during the war in Kosovo and the refugee crisis in 1999 and during the 2001 conflict in the Preševo Valley. As Macedonia has scheduled early parliamentary elections on 1 June 2008, the issue of Kosovo recognition will be undertaken by the upcoming government.

After the 2001 conflict, Macedonia implemented the Ohrid Framework Agreement (OFA), an instrument for managing ethnic diversity, a new and innovative initiative considering the local and regional history.<sup>1</sup> Although the public opinion of the ethnic Macedonian and ethnic Albanians diverged on the OFA issue, both communities showed similar atti-

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<sup>1</sup> Daskalovski, Zidas: *Walking On the Edge: Consolidating Multiethnic Macedonia 1989-2004*. Skopje 2005.

tudes toward public institutions.<sup>2</sup> The stability and consolidation of Macedonia depends on a viable model for managing inter-ethnic relations. If the model sustains the test of time, it can further be used as a benchmark or best practice for other places, such as Kosovo. The viability of the model is dependent on the development and implementation of policies deriving from OFA and also on the public support for this process. The model is influenced by different internal and external factors. The independence of Kosovo is the most recent external factor that has arisen.

This paper has three chapters. The first part unfolds the past Macedonian ethnic politics and the status of Kosovo using instruments from theories of transition and consolidation. The second part is an analysis of the public opinion in Macedonia from May 2007 to May 2008, focusing more particularly on the views of the ethnic communities of Albanians and Macedonians in the Republic of Macedonia. The analysis encompasses the views toward Kosovo in various aspects from personal sentiments toward Kosovo to practical issues like the recognition and border demarcation. As a conclusion, the third and last part of the paper analyses the possible implications in Macedonia from the independence of Kosovo.

## **Macedonia's Ethnic Politics and the Status of Kosovo**

What are the implications for Macedonia of an independent status of Kosovo? Among the Eastern European countries Macedonia has had a distinct yet successful transition from authoritarian rule to democracy. Unlike most of the former Communist countries, Macedonia, together

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<sup>2</sup> Taleski, Dane: Minderheiten und Mehrheiten in Makedonien: Sichtweisen und Auffassungen der Bevölkerung [Minorities and Majorities in Macedonia: Attitudes and Perceptions of the People]. In: Brunbauer, Ulf/Voss, Christian (Ed.): Südosteuropa-Jahrbuch: Inklusion und Exclusion auf dem Westbalkan [Southeast Europe Annual: Inclusion and Exclusion in the Western Balkans]. München 2008, pp. 263-280.

with Slovenia, experienced an evolutionary path to democratic rule.<sup>3</sup> Yet, the peaceful and benign transformation of Macedonian society was preceded by an uneasy period of democratic consolidation. Among the different factors that negatively influenced this process were: the struggle for the international recognition of the country, the Greek diplomatic and economic pressure for the republic to change its name, the disruption of the economy due to the UN sanctions on Macedonia's main trade partner Serbia, as well as the financial impediments as a result of the NATO intervention in Yugoslavia and the Kosovo refugee crisis. None of these factors bears however, a stronger importance for the consolidation of the democratic system as the disputing of the character of the state by Macedonian Albanians.

Macedonia is a multiethnic country. Besides ethnic Macedonians comprising 64% of the total population, there are also 25% Albanians, 3% Turks, and 8% Roma, Serbs, and others.<sup>4</sup> The vast majority of Macedonians are Macedonian speaking and orthodox, as are the Macedonian Vlachs and Serbs. On the other side, most of ethnic Albanians, Roma, and Turks are Muslims. While Macedonians populate the whole country, ethnic Albanians are predominantly concentrated in the North-western corner of Macedonia, along the border with Albania. Macedonian Albanians also reside in the capital city of Skopje and the towns of Northern Macedonia along the border with Kosovo. Except Skopje, Macedonian Serbs also populate the region around the town of Kumanovo. The other ethnic groups are dispersed throughout Macedonia. Given the diverse character of its population and especially the relatively substantial size of the largest national minority, the democratic consolidation in Macedonia was difficult accomplish.

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<sup>3</sup> On the topic in general and the understanding of reformatory change of the regime, see Kis, János: *Between Reform and Revolution*. In: *East European Politics and Societies*, 1/1998, pp. 300-383, at p. 323; on the democratic transition in Macedonia, see Daskalovski, Zidas: *Elite Transformation and Democratic Transition in Macedonia and Slovenia*. In: *Balkanologie*, September 1999.

<sup>4</sup> For more details see the 2002 Census results from the State Statistical Office of the Republic of Macedonia <[http://www.stat.gov.mk/english/glavna\\_eng.asp?br=18](http://www.stat.gov.mk/english/glavna_eng.asp?br=18)>.

Relations between Macedonians and ethnic Albanians have remained tense since the country's independence. Much of the tensions resulted due to the different perceptions among the two communities about the underlying concept of the Macedonian state. In the early 1990s both Macedonians and Macedonian Albanians had ambiguous feelings towards the disintegration of former Yugoslavia. Macedonians were cheerful for having secured independent statehood. On the other hand, they realized that the Macedonian state will face many obstacles from the more powerful neighbours. Since throughout history Macedonia's neighbours have either consistently or at one time or another chosen to deny the existence of a Macedonian people, and hence its right to possess its own state, membership in Tito's Yugoslavia provided Macedonians with a "a sense of security both against unfriendly, even antagonistic states-Bulgaria, Greece, and to a certain extent Albania and against a condescending and patronizing partner and neighbour inside Yugoslavia, namely Serbia."<sup>5</sup>

Similarly, for the Macedonian Albanians independence from Yugoslavia was both a blessing and a curse. On the one hand, with the dissolution of federal Yugoslavia and the proclamation of Macedonian independence, Albanians from Macedonia escaped the destiny of their Kosovo kin suffering under the strict rule of Slobodan Milošević. Within the fledgling political system of the Macedonian Republic they could influence domestic politics to a certain extent. At least in theory Macedonian Albanians were guaranteed all civil, political and social rights. On the other hand, however, Macedonian Albanians regarded the independence of the country and the new frontiers vis-à-vis Serbia as an unnatural and burdensome obstacle to their relations with Kosovo Albanians. Ethnic Albanians in Macedonia perceive Kosovo Albanians as of sharing the same identity.<sup>6</sup> In fact, during Tito's times Priština was a regional centre for all Albanians in former Yugoslavia including those from Macedonia. Priština University educated many of the political and social elites of the Macedonian Albanians.

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<sup>5</sup> Rossos, Andrew: *The Macedonian Question and Instability in the Balkans*. In: Naimark, Norman N./Case, Holly (Ed.): *Yugoslavia and Its Historians*. Stanford 2002, p. 104.

<sup>6</sup> De Rapper, Gilles: *Crisis in Kosovo: Reactions in Albania and Macedonia at the Local Level*. Ethnobarometer Programme, 3/1998, Rome.

Although separated from their Kosovo kin, Macedonian Albanians have a perception that they are not a minority in the country. On the contrary they see themselves as equal partners to Macedonians and have ever since the late 1980s asked for the aforementioned legal status. When in 1989 a new constitution was adopted defining the Socialist Republic of Macedonia as “the national state of the Macedonian nation” rather than “the state of the Macedonian people and the Albanian and the Turkish minorities” as it had stood before, Macedonian Albanians vehemently protested. When a similar formula was accepted in the Preamble to the 1991 Constitution Albanian political elites again protested against these developments and demanded that the Albanian community living in Macedonia should be given a partner-nation status.

Moreover, “the demographic superiority of the Albanians over the other ethnic minorities living in Macedonia is the main argument in their struggle to improve the status of the Albanian community”.<sup>7</sup> Besides, ethnic Albanians present a significant percentage of the population in the areas they inhabit in Macedonia, representing an absolute majority in many municipalities in the North-western and Western parts of the country. Many Macedonian Albanians claim to be without citizenship although they have lived in the country for years if not decades, while also a number of ethnic Albanians from Macedonia have emigrated to Western Europe but keep a close contact with their places of origin. Treated as a “mere minority ethnic group” Macedonian Albanian perceived the new state and its institutions as lacking legitimacy.

On the other hand, throughout the post-independence period Macedonians felt themselves endangered and believed that granting partner-nation status to the Albanians would lead to a Bosnia-type situation. Before the Ohrid Framework Agreement Macedonians largely regarded the Republic of Macedonia as their nation-state, in which other ethnic groups are granted equal citizen rights. Macedonian political elites often argued that the minority rights for the ethnic Albanians in the country were on par with the highest standards of international legislation. Of particular con-

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<sup>7</sup> Babuna, Aydin: The Albanians of Kosovo and Macedonia: Ethnic Identity Superseding Religion. In: Nationalities Papers, 1/2000, p. 67-92, at p. 83.

cern to them was the fact that the percentage of the Albanian population in the country has significantly increased in the last decades. Before the conflict in 2001 Macedonians often pointed out that as a result of the very high birth rate of Macedonian Albanians and the migration of ethnic Albanians from Kosovo in the period from 1953 to 1993, the number of the Albanians had risen by 288 670 or 189.2% so that in 1994, the percentage of the Albanians was 22.6% of the total population in Macedonia, compared to 1953 when this percentage was only 11.7.

Partitioned during the Balkan Wars in 1912-13 Macedonians were faced with harsh assimilative practices, most of which continue even today in Greece and Bulgaria. As a result of long lasting repression Macedonians in these countries have been assimilated in great numbers. Macedonians in the Republic of Macedonia have thus felt doubly threatened; not only their presence in the historic region of Macedonia is rapidly dwindling but also, now that there exist a free Macedonian state, ethnic Albanians have vowed to overtake it both demographically and politically. By and large, rather than anticipating sustainable peace or coexistence, “Macedonians remain mistrustful of the Albanians” true intentions ... at worst they suspect designs for a “greater Albania” (or, more commonly, “greater Kosovo”).<sup>8</sup>

Indeed, the foundations of the new state in 1991 were not fully supported by the Macedonian Albanians. The independence referendum turnout for example, was 72% and it is most likely that ethnic Albanians did not take part in it being persuaded by its partisan leaders. Paradoxically, Macedonian Albanian politicians were, on the one hand, content with the changes of the system and took an active part shaping it. Ethnic Albanian legal experts were involved in the drafting of the new Macedonian constitution. Three ministers of the short-lived (March 1991-June 1992) non-partisan, “cabinet of experts” were chosen among the ranks of this minority. The 1992 coalition government led by Branko Crvenkovski’s Social Democratic Alliance (SDSM) as well as all the other cabinets since included one ethnic Albanian party with five minis-

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<sup>8</sup> Fraenkel, Eran: Macedonia. In: Freedom House (Ed.): Nations in Transit 2003. New York 2003, p.403.

terial posts. Throughout the years Macedonian Albanians took increasing number of posts in the diplomatic service, public administration, the police and the army. Nonetheless, ethnic Albanian politicians in Macedonia “in the early years of transition, adopted an obstructionist tactic”.<sup>9</sup>

Furthermore, the new constitution did not pass an important internal test as it was not approved by the Macedonian Albanian political parties. The special parliamentary session was boycotted by the PDP-NDP (Party for Democratic Prosperity-National Democratic Party) to protest the preamble of the constitution which formally declared Macedonia to be “the national state of the Macedonian people, providing for the full equality of citizens and permanent coexistence of the Macedonian people with Albanians, Turks, Roma, and other nationalities”. Formerly, under the socialist constitution, the preamble defined Macedonia to be a nation of “the Macedonian people and the Albanian and Turkish minorities” and in 1991 Macedonian Albanians felt that they have been demoted as they were not explicitly mentioned being constitutive nation alongside Macedonians.

As a matter of fact during the 1990s the Macedonian political elite clashed with their ethnic Albanian counterparts over the basic idea behind the concept of the state. Various elements in the constitution, the census, laws on education, local self-government, and public display of national minority symbols, the ethnic make-up of the police, army, as well as the public administration, were all contested by Macedonian Albanians in this period. These are all constituent parts of the idea behind the Macedonian republic, the fundamentals which are accepted by the general public or at least by the principal sectors in all liberal states.

Justice in liberal and ethnically heterogeneous states is provided if the state is not understood as a “nation-state”. In an ethnically divided society:

“The state which treats every citizen as an equal cannot be a nation state: it must be a co-nation state. It cannot be identified with a single favoured nation

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<sup>9</sup> Hislope, Robert: *Between a Bad Peace and a Good War: Insights and Lessons from the Almost-War Macedonia*. In: *Ethnic and Racial Studies*, 1/2003, pp. 129-151, at p. 139.

but must consider the political community of all the ethnic groups living on its territory as constituting it. It should recognize all of their cultures and all of their traditions as its own. It should notice that the various ethnic groups contend with unequal initial chances for official recognition and a share of public authority, and it should offer particular assistance to the members of disadvantaged groups in approaching a position of equality. The privileges which are meant to countervail the initial disadvantages are inevitably lasting (since the inequality of the relationships of force between the state-forming groups are also lasting) and they might need to be expressed as rights.”<sup>10</sup>

A plural state is more legitimate the more all its citizens and not only the majority consider the territory of the state their own homeland, the legal system of the state and their institutions, the insignia of the state as their own symbols. These are goods to be jointly shared with all of the other citizens. The political community of a liberal democratic but multicultural country will be just if:

“It is formed from a union of ethnic groups living together. Its official symbols, holidays, its cultural goods handed down in school, and its historical remembrance will absorb something from the tradition of all the ethnic groups belonging to it, so that everyone can see the state is also theirs: likewise, everyone can see that the state is not their exclusive possession but is held jointly with the other ethnic groups forming it.”<sup>11</sup>

In this context, the demands by the Macedonian Albanians can be interpreted as wanting such a just union. Indeed, when one looks at the claims put forward by political representatives of Macedonian Albanians one finds many which can be well suited in a just framework of relations in a multiethnic state. In the last ten years, the key demands of the Macedonian Albanians which became a bone of contention with the central government were: reform of the constitution, greater representation of Macedonian Albanians in the civil service sector, provision of university education in the Albanian language, and decentralization of state power.<sup>12</sup> Certainly, reforms were enacted and improvements were made as

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<sup>10</sup> Kis, János: Beyond the National State. In: Social Research, 1/1996, pp. 224-237, at pp. 224-225.

<sup>11</sup> Ibid, p. 237.

<sup>12</sup> See, for example, the reports by the International Crisis Group Skopje/Brussels: *Towards Destabilisation?* ICG Balkans Reports No. 67 (May 1999); *Macedonia's Ethnic Albanians: Bridging the Gulf*, ICG Balkans Reports No. 98 (August 2000);

the participation of the Macedonian Albanians in the civic sector has risen in the last years. Similarly, a law was passed allowing private education in other languages than Macedonian while a European financed trilingual university (Albanian, English, Macedonian) was opened in 2001. However, these changes have not been sufficient for the political parties of the Albanians in Macedonia.

While Macedonians have kept insisting on a unitary nation-state Macedonian Albanians have refused to be considered an ethnic minority in a Macedonian nation-state and have advocated for official bi-nationalism. Although Macedonia recognized the rights of national minorities and promoted pluralism in the media, native-language education, minority civil society organizations, and interethnic power sharing in the national government living standards sank as unemployment soared. Under such circumstances the political transformation was formulated as a zero-sum game, pitting ethnic Albanian grievances against Macedonian fears for “their” country’s security and integrity.

Consolidating a regime is difficult if a significant group of its citizens is actively disobedient. On different occasions Macedonian Albanians have not accepted claims on its obedience as legitimate, thus presenting serious problems for democratic consolidation. Neither did considerable political crafting of democratic institutions and norms take place in Macedonia between 1991-2001. Macedonian politicians avoided complex negotiations, pacts, territorial realignments or agreements with their ethnic Albanian colleagues. On the contrary, occasionally the government undertook drastic measures to uphold laws which were deemed controversial. The government did not act to consolidate democracy in a plural society requires the state attention to the needs of national minorities. With a major segment of the population challenging the very foundations of the state, Macedonia, before the 2001 OFA and the subsequent adoption of the amendments to the 1991 constitution could not consolidate its democracy.

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as well as Daftary, Farimah: Testing Macedonia. ECMI Brief, May 2001, Flensburg; Daftary, Farimah: Conflict resolution in FYR Macedonia: Power-sharing or the “civic approach”. In: Helsinki Monitor, 4/2001, pp. 291-312.

Unresolved inter-ethnic questions Macedonia surprised analysts and diplomats when they almost surged into a full-blown civil war in the first half of 2001. Led by Ali Ahmeti, the previously unknown National Liberation Army (NLA) was a motley group of former Kosovo Liberation Army fighters from Kosovo and Macedonia, Albanian insurgents from the Southeast Serbian regions of Preševo, Bujanovac and Medvedja, young Albanian radicals and nationalists from Macedonia, and foreign mercenaries. From February to August 2001, the NLA organized an armed insurrection against the Macedonian government. Following prolonged fighting and with emotions running high among government officials and between ordinary Macedonians and Macedonian Albanians, the danger of civil strife was real. The international community, led by the European Union, reacted swiftly bringing to life the OFA and the pacification of the NLA.

What did the Framework agreement stipulate? The main goal of the OFA has been to accommodate the grievances of the Albanian community, while at the same time preserving the unitary character of the state thus addressing the concerns of the Macedonian majority who fear a “federalisation” of the country and its eventual disintegration. The accord envisioned a series of political and constitutional reforms designed to address ethnic Albanian demands for equal standing. Consequently, the amendments to the 1991 constitution based on this agreement gave clear picture to the rights of national minorities and especially ethnic Albanians. The major provisions include: amending the preamble to the Constitution, instituting double-majority voting in parliament, increasing the representation of ethnic Albanians in the police force, and stipulating the use of the Albanian language in official proceedings. Other provisions from the OFA stipulate fulfilment of much of the demands raised by the Macedonian Albanians throughout the 1990s and introduced some features of power sharing, such as a system of double majorities requiring consent from minorities represented in parliament to key decisions of the Parliament, a substantial degree of municipal decentralisation, equitable representation in the public administration of the non-majority communities, as well as confidence-building measures to overcome the immediate consequences of the 2001 conflict.

Effectively, the legal changes based on the OFA gave clear picture to the rights of national minorities and especially ethnic Albanians. On a symbolic level, a significant step forward was made when in November 2001 the changes to the constitution were voted by the political representatives of Macedonian Albanians. The Macedonian paramount legal document is now legitimized in the eyes of ethnic Albanians. Other provisions from the OFA stipulate fulfilment of much of the demands raised by the Macedonian Albanians throughout the 1990s. Having solved the dispute over the character of the country, and the new government having implementing the provisions of the Framework Agreement, it is assumed that Macedonian Albanians as a significant and crucial group of citizens in Macedonia will not have an interest in disobeying the institutions of the state and that democratic consolidation is largely accomplished.

### **Kosovo Independent: Implications on the Public Opinion in Macedonia**

The wealth of information in the public space provides for a constant engagement in communication processes. According to Harold Lasswell, the communication process fulfils “three main functions” in society: a) surveillance of the environment that provides warning about imminent threats and dangers to the system of values of a community or its parts; b) correlation of the parts of society in responding to the environment; and c) transmission of the social heritage from one generation to the next or cultural transmission.<sup>13</sup> In the political sphere the second function of the communication process is present on a daily basis. The political environment changes under influence of different factors which have responses among the public, however in this process the public perpetuates an information feedback loop. In their work Jeff Manza and Fay Cook, overview the possible influence of the public opinion on the policy processes. They suggest that the underlying logic is to what extent is the influence present, rather than if there is any influence at all. Taking in con-

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<sup>13</sup> Mattelart, Armand/Mattelart, Michele: Theories of Communication. London 1998, p. 29.

sideration the existing literature on the opinion-policy link, they detect three sets of options: 1) public opinion has a significant and enduring effect on the policy process; 2) public opinion has a small and declining effect and 3) there are historical and institutional variations in responsiveness.<sup>14</sup>

The proponents of the first option use mainly quantitative studies to show “association between majority opinion and the adoption of new policies”, while the proponents of the second believe that public opinion is weak on policy issues and thus it is constructed through polling and surveys.<sup>15</sup> The third option is an in-between approach based on “relativity” logic. Namely, the proponents of this theory suggest that the influence of the public opinion varies over time and space, and is specific to the policy dimensions. The three theoretical approaches are not mutually exhaustive in practice, they combine and overlap. As the research findings reflected in this paper reflect the link does depend on the importance of the policy area to the public and in that respect the link or influence can be strong or weak. On a general level, Manza and Cook find that the three theoretical approaches “reach fundamentally different conclusions that can not be easily reconciled”.<sup>16</sup>

Our analysis does not intend to argue for or against such a conclusion, as not enough cases are explored, and sufficient variations to determine a supporting or contradicting argument are not presented here. This study is locked onto one policy dimension, and that is a pivotal point rather than the overall link between public opinion and policy processes. The following part of the paper analyzes the results from five distinctive data sets, deriving from five opinion polls done from May 2007 to May 2008. All opinion polls were conducted on nationwide representative samples (N=1 000+) with respondents over 18 years of age. However, we should mention that one has been conducted through face-to-face interviews, while the others were done over the phone. The results from these sur-

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<sup>14</sup> Manza, Jeff et al: *Navigating Public Opinion*. Oxford 2002.

<sup>15</sup> Manza, Jeff/Cook, Fay: *The Impact of Public Opinion on Public Policy: The State of the Debate*. In: Manza, Jeff et al (Ed.): *Navigating Public Opinion*. Oxford 2002, p. 17.

<sup>16</sup> *Ibid.* p.28.

veys on the perception of the Kosovo status and the implications for Macedonia are taken as the basis for the analysis of the Kosovo independence on the public opinion and public policy in Macedonia. In that respect, the public policy that is most likely expected to be influenced is the recognition of the Kosovo independence. Another point of the analysis is whether the Kosovo independence will have effects on other policy areas, and in particular, multi-ethnic relations in Macedonia.

From May 4<sup>th</sup> to 11<sup>th</sup> 2007, the Institute for Democracy in Skopje (IDS CS) conducted a phone poll, asking the respondents questions concerning the perceptions of the public toward the reconciliation processes in Macedonia and in the Western Balkan region, the orientation of Macedonian foreign policy and the personal closeness of the citizens toward specific countries and international organizations. The survey was done for the purposes of the research project “Securing the Community: Reconciliation, Trust and Integration in the Western Balkans” led by Dr. Suzette R. Grillot from the University of Oklahoma and was conducted on a standardized nation wide representative sample which has been stratified according to the representative regions in the country. The structure of the sample has been modelled to best fit the data from the last National Census conducted in the Republic of Macedonia in 2002. A total of 1 115 adult persons randomly chosen have been surveyed.

The results of the survey confirm the previously stated point – that most of the ethnic Macedonians are not fully content with the way that the conflict in Macedonia was settled. Although the perceptions are divided whether the conflict was successfully resolved the majority agree that a return of violence in Macedonia is quite unlikely. In the same time the poll showed very different perceptions of Macedonians and Macedonian Albanians toward Kosovo. The results relevant to this paper are presented in the tables 1 to 3 below and in graph 1.

In table 1 we see that for 12.4% of the Macedonians the conflict in Macedonia in 2001 was very successfully settled, however 38.7% say that the conflict settlement was very unsuccessful. At the same time 8.6% of the Macedonian Albanians said that the conflict was very successfully settled, while 28.4% said that it was very unsuccessfully settled.

**Table 1. Have the conflicts in your country been successfully settled?**

	<b>Macedonians</b>	<b>Albanians</b>	<b>Total</b>
Very successful	12.4%	8.6%	11.6%
Somewhat successful	23.3%	41.4%	28.4%
Somewhat unsuccessful	17.9%	20.1%	18.8%
Very unsuccessful	38.7%	28.4%	35.2%
NA/DK	7.7%	1.5%	5.9%

Source: IDSCS phone poll, May 2007, N=1 115

The differences in this respect are not that grave, however 41.4% of the Macedonian Albanians consider that the conflict settlement was somewhat successful, compared to 23.3% of the Macedonians. While the opinion of the Albanian community is split on the issue, within the Macedonian community the majority inclines to the perception that the conflict was unsuccessfully resolved.

However, neither the Macedonians, nor the Macedonian Albanians believed in May 2007 that a return of violence is possible in Macedonia.

**Table 2. Will the coming years in Macedonia be peaceful, or do you think that there will be a return to violence?**

	<b>Macedonians</b>	<b>Albanians</b>	<b>Total</b>
Peaceful	59.6%	75.0%	64.2%
Violence	24.1%	18.7%	22.0%
NA/DK	16.3%	6.3%	13.8%

Source: IDSCS phone poll, May 2007, N=1 115

The average 64% of those surveyed believe the future will be peaceful, but the interesting thing is that this high score is dependent on the 75% of Macedonian Albanians who share this belief, while an average of 22% fear violence.

Regarding citizen's feelings towards Kosovo there is a great divergence among the Macedonians and the Macedonian Albanians. While the Macedonian Albanians have predominantly positive views on Kosovo, the Macedonians view it strongly negative.

**Table 3. Please rate your feelings regarding Kosovo on a scale 1 (very negative) to 5 (very positive)**

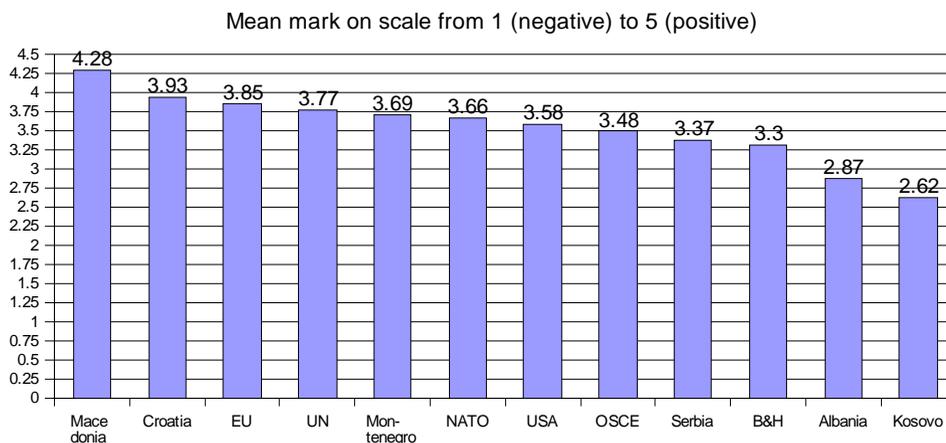
	<b>Macedonians</b>	<b>Albanians</b>	<b>Total</b>
1 (very negative)	40.4%	3.0%	30.7%
2 (negative)	20.6%	5.2%	16.7%
3 (indifference)	16.7%	12.7%	16.5%
4 (positive)	5.9%	26.9%	11.1%
5 (very positive)	4.8%	51.5%	16.1%
NA/DK	11.6%	0.7%	9.0%

Source: IDSCS phone poll, May 2007, N=1 115

In the total sum the negative feelings outweigh the positive; however, the difference is not that high as it is when comparing perspectives of the respondents from the two ethnic groups. The poll showed that the Macedonians and Macedonian Albanians have diametrically opposite views on the perception toward Kosovo. High majority of the Macedonians (over 60%) have generally negative feelings for Kosovo, while high majority of the Macedonian Albanians (some 78%) had generally positive feelings for Kosovo.

The IDSCS survey also compared the ratings of the feelings on a median scale for all of the countries and organizations that the respondents were asked to provide answers. In this comparison, as seen in graph 1 below, Kosovo has the lowest ranking from all countries and organizations. This shows that Kosovo is at the lower end of the list of positive perceptions in Macedonia.

**Graph 1. Please rate your feelings regarding the following countries/organizations on a scale 1 (very negative) to 5 (very positive).**



Source: IDSCS phone poll, May 2007, N=1 115

From December 8<sup>th</sup> to 17<sup>th</sup> 2007, Brima Gallup, for the purpose of the People Centred Analysis Report of the UNDP Skopje office, conducted a face-to-face survey on a nation wide multi-stage random probability sample of the adult population. A total of 1 309 respondents were interviewed.<sup>17</sup> The results from this poll show that the resolution of the final status of Kosovo was a top priority for about 10% of the ethnic Macedonians personally. Accordingly, 10% of the Macedonians considered that this is of importance to the Macedonian ethnic group. In the same poll 35% of the Macedonian Albanians said that the resolution of the final status of Kosovo is important for them personally, while 51% said that it is of top priority for the interest of the ethnic Albanians in Macedonia. The difference of 16%, not found among the Macedonians, could be due to the fact that “substantive share of ethnic Albanian community feels under pressure to report more ethnically rooted options are priorities”.<sup>18</sup> Generally, the results show that as time was unfolding, the resolution of

<sup>17</sup> See for example United Nations Development Programme “People Centered Analysis”, *Report* March 2008 (also available at <http://www.undp.org.mk/Default.asp?where=news&id=403&start=1>)

<sup>18</sup> *Ibid.* p. 54.

the final status of Kosovo was a much higher personal priority for the Macedonian Albanians in Macedonia and also a perceived priority for that ethnic community in Macedonia, while among the Macedonians that perception was quite low both on a personal and on a community basis.

This poll showed also some other interesting results considering the perception of the risk of inter-ethnic conflict in Macedonia. Over 50% of the Macedonians said that there is a high risk of inter-ethnic conflict, while another 30% said that there is a low risk of conflict. Below 20% of the Macedonian Albanians thought that there is a high risk of inter-ethnic conflict, while close to 40% said that there is a risk of inter-ethnic conflict.<sup>19</sup> Some 80% of the Macedonians and 60% of the Macedonian Albanians believed that there are some risks for inter-ethnic conflicts in Macedonia. However, when asked about the risk of ethnic conflict on a local level the positive answers diminish to 30-40% among the Macedonians and the Macedonian Albanians. The divergence of answers shows that the two biggest ethnic communities see more problems for the ethnic relations on national than on local level. One explanation for this could be that in the views of the people the local factors are less potent and that the situation is better on the local level, that the national developments and the situation on national level, which is closely connected to the regional developments. However, another explanation could be that there were no rising ethnic problems on the local level, but there is a presence of fear of conflict due to national politics or regional developments.

In early March 2008, the Agency for Public Opinion Research and Communications *Rating* from Skopje, conducted a phone poll on a nation wide representative sample of 1 045 adult respondents. The respondents were asked “when should Macedonia recognize the independence of Kosovo”. The answers show that the public is quite divided, while some asked for immediate recognition, other said that Kosovo should never be recognized while most say that the recognition should happen. The detailed results are found in table 4 below.

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<sup>19</sup> Ibid. p. 62, graph 3.3: The risk of ethnic conflict

**Table 4. Should Macedonia recognize the independence of Kosovo?**

	<b>Macedonians</b>	<b>Albanians</b>	<b>Total</b>
Right now	3.4%	89.7%	24.4%
After few months	7.9%	3.7%	7.2%
Never	33.9%	0.8%	26.1%
After the border demarcation	49.9%	5.0%	38.4%
NA/DK	4.9%	0.8	3.9%

Source: Rating Agency, March 2008, N=1 045

The results display the strong will and request of the ethnic Albanians leaving in Macedonia, for the Republic of Macedonia to support the independence of Kosovo. On the other hand, the view of a smaller part of the Macedonians was to never recognize Kosovo, while the majority requests conditioning the recognition with the demarcation of the border between Kosovo and Macedonia.

From 6 to 8 March 2008, the Centre for Research and Policy Making (CRPM), conducted a phone poll with 1 100 respondents aged 18+. The phone poll was made on a nation wide representative sample. The result showed that most of the population objected the recognition of Kosovo, and also that majority considered that the border demarcation should precede the official recognition. However when asked about the implications on the security situation in Macedonia, after the Kosovo recognition the answers of the public are quite dispersed.

The table below gives a glimpse of the results on the questions whether Macedonia should recognize Kosovo. Similarly to the results of the Rating agency, the poll showed that about 95% of the Macedonian Albanians support the recognition of Kosovo, while majority of the Macedonians (some 60%) oppose it.

**Table 5. Should Macedonia recognize Kosovo as independent country?**

	<b>Macedonians</b>	<b>Albanians</b>	<b>Total</b>
Yes	16%	95%	35%
I do not care	5%	1%	5%
No	60%	1%	45%
NA/DK	18%	3%	15%

Source: CRPM, March 2008, N=1 100

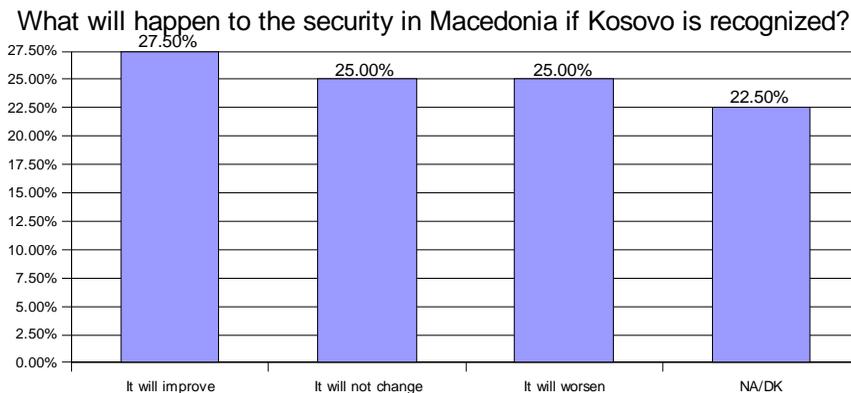
In this poll the demarcation of the border again was an important factor that influences the answers of the ethnic Macedonians. To the question “Should the border be marked before Kosovo is recognized?” some 55% answered positively, while 30% said that the recognition of Kosovo independence is more important than the border demarcation. There is clear polarization in the answers of the ethnic communities. Most of the Macedonians (74%) said that the border demarcation needs to be finished before Kosovo is recognized, while most of the Macedonian Albanians (85%) said that the recognition of Kosovo is more important than the border demarcation.

The public interpretation of these results range from the fact that the ethnic Macedonians see a safeguard mechanism against Kosovo expansionist policies in the border demarcation to be concluded before the independence of Kosovo is recognized, to the belief of the ethnic Albanians that the recognition is a needed immediately so as to support Kosovo. The fact that the Macedonian Albanians insist on sooner than later recognition despite that the border is not fully marked, has been interpreted as an indication of what the “real Albanian motives” for Kosovo to be recognized are. In this regard the motivation to recognize Kosovo and not insisting to first mark the border is interpreted as being only a prelude to staging territorial demand on parts of Macedonia.

However, these views, found across the public discourse in Macedonia, are not shared among the general population. In fact, the people do not see a clear and present implication for the security in Macedonia if Kos-

ovo is recognized. The scenarios for Albanian secession are not dominantly shared among the public as being realistic. In the poll the answers to the question of the implications for Macedonian security if Kosovo is recognized are fully dispersed across the spectrum of possible answers. This conclusion is supported from the results displayed in graph 2 below.

**Graph 2. Implications on the security in Macedonia if Kosovo is recognized**



Source: CRPM, March 2008, N=1 100

From all respondents 27.5% expect improvement of the security once Kosovo is recognized, 25% say that nothing will happen, and 25% believe that the security will worsen. Predominant part of the Macedonian Albanians (82%) believe that the security situation will improve once the independence of Kosovo is recognized, while 32% of the Macedonians said that they expect that the situation will worsen. To some extent these results support the thesis that the ethnic Albanians in Macedonia are radically and uncritically in favour of the recognition of Kosovo. They want immediate recognition and expect positive improvements from it. Ethnic Macedonians are more sceptical- even if they are not against the recognition of Kosovo per se, they have reserves concerning the security of Macedonia and are clearly focused on having the border demarcation done before anything else is finished. Here are again some of the find-

ings of the CRPM’s phone poll done on 24 and 25 April 2008. The poll was done on nation wide representative sample of 1 100 adult respondents. The answers to the question on the recognition of Kosovo are displayed in the table below.

**Table 6. Should Macedonia recognize Kosovo as independent country?**

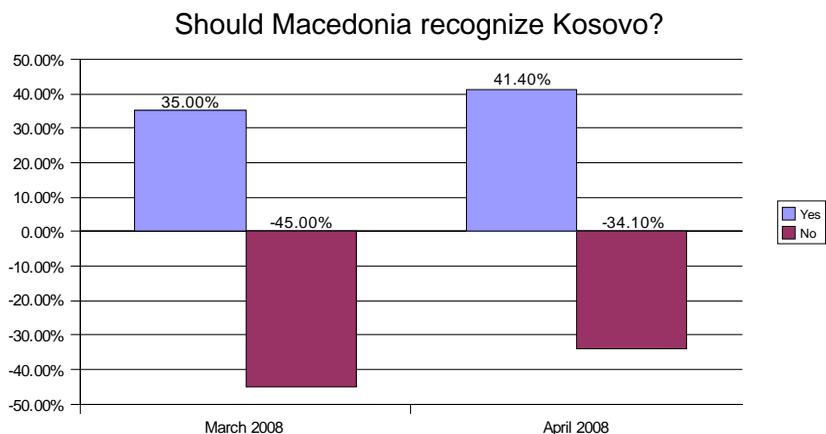
	<b>Macedonians</b>	<b>Albanians</b>	<b>Total</b>
Yes	20.3%	92.8%	41.4%
No	47.0%	3.5%	34.1%
NA/DK	32.5%	3.5%	24.5%

Source: CRPM, April 2008, N=1 100

A predominant part of the Macedonian Albanians, over 90% want Kosovo to be recognized, while just below 50% of the Macedonians object to that idea. However, in the same time some 20% of the Macedonians said that Kosovo should be recognized, while close to one third remained silent. The undecided, silent group could swing in any side. Having in mind the current and past ethno-centric behaviour in Macedonia, it is more likely that the “silent” ones will oppose the recognition or at least condition it, rather than giving full support for it.

On average most of the population agrees that Macedonia should recognize Kosovo, while the resistance to it is also quite substantial. In April 2008, 41.4% of the population said that Kosovo should be recognized, while in March in the previous mail this percent was 35%. In the same period the opposition to the recognition declined from 45% in March 2008, to 34% in April. The results are displayed in the graph below.

**Graph 3. Attitudes in Macedonia on the recognition of Kosovo**



Source: CRPM, March and April 2008, N=1 100

The shift of opinions and attitudes has been observed mostly among the ethnic Macedonians. On the one hand, the position of the ethnic Albanians has not seen any dramatic changes. Over 90% of the Macedonian Albanians were and remain supportive of the idea to recognize the independence of Kosovo. However, among the Macedonians in March 2008 some 60% opposed the recognition of Kosovo, while in April 2008 only 47% of the Macedonians said that they are against the recognition of Kosovo. Generally, the opposition to the Kosovo independence has decreased. It is quite unlikely that in one month slightly over 10% of the ethnic Macedonians have shifted from opposing the recognition of Kosovo independence to supporting it. But is more likely that in one month they have shifted from opposing the recognition of Kosovo to being 'silent' and not giving a specific answer, be it for or against recognition.

### **Kosovo Independence: Implications for Macedonia?**

How much Macedonia should be concerned with the independence of its northern neighbour? Certain events since the birth of Macedonia in 1991, like the Bit Pazar demonstrations in 1993, the clashes surrounding the opening of the “University of Tetovo” in 1994, as well as the so-

called Gostivar flag riots in 1997 indicate that interethnic conflicts might indeed be dangerous for the vitality of the Macedonian state. Bearing in mind that quite a few Albanians in Macedonia are closely related to the Kosovar Albanians we can understand the fear among many Macedonians especially since during the war in Kosovo in 1999 when many young Macedonian Albanians joined the ranks of KLA fighting the Serbian forces, while villages on the Macedonian border to Kosovo became their logistical bases. For Macedonians there is a strong feeling that “inter-Albanian” informal organization transcends international boundaries. The popular view holds that this solidarity results from a shared ideal to create a Greater Albania.

Indeed given that Albanians living in Macedonia are closely related to the Albanians in Kosovo there is a strong and important link between Macedonia’s and Kosovo’s political developments. Nationalistic discourse makes us believe that for Albanian radicals the current Kosovar territory is not where the imagined border of the “liberated”, “great”, Albanian state should be. The main question concerning Macedonian stability is therefore what kind of repercussions an independent Albanian Kosovo would have on the interethnic relations in Macedonia? Should Skopje fear Albanian nationalism if Kosovo becomes a sovereign state? Could there be a repeat of the warlike crisis that hit Macedonia in 2001?

The answer is clear. Macedonia’s leadership should not be worried with Kosovo being granted independence. This is mainly so because the conditions and the factors that led to the outburst of ethnic violence in Macedonia in 2001 are not prevalent at the moment. Some major issues have been modified or solved. The interplay of internal and external factors that led to the beginning of a mini-war in the winter of 2001 can hardly repeat itself now.<sup>20</sup> Macedonia is a more mature interethnic democracy and an EU membership candidate country.

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<sup>20</sup> See Daskalovski: Walking on the Edge or Daskalovski, Zidas: The Macedonian Conflict of 2001: Between Successful Diplomacy, Rhetoric and Terror. Studies in Post-Communism Occasional Papers, 7/2004, St. Francis Xavier University.

There are a number of reasons supporting this assessment. Let us briefly discuss the outburst of hostilities in the winter and spring of 2001. As previously discussed Macedonian Albanians and their political leaders have since independence fought for specific political rights for their ethnic community including changes of the constitution. When in 1998 the Social Democratic Alliance – then in coalition with the Party for Democratic Prosperity – lost power many among the citizens of Macedonia hoped that the economic conditions and the interethnic relations might improve. Ethnic Albanians assumed that their political demands would be fulfilled. Three years later many of them were dissatisfied since the largely corrupt government coalition between VMRO-DPMNE and DPA did not fulfil the expectations of the Albanians in Macedonia for faster reforms that would improve their status.<sup>21</sup> In early 2001, a number of young Albanians from Macedonia were radicalized to an extent that they were ready to fight for the nationalist cause.

Some of these young Albanians either directly or indirectly participated in the war in Kosovo in 1999. By the winter of the 2001, routes for transfer of weapons or soldiers across the borders in the triangle between Kosovo, Macedonia and Southern Serbia were still functional.<sup>22</sup> Many Albanians across the border in Kosovo were ready to help brothers in Macedonia. In addition, in early 2001, the Serbian security forces pushed away the armed Albanian rebels from the regions of Preševo and Bujanovac, adding new possible recruits for staging an uprising against Macedonia. Accidentally, at that time Macedonia signed a border agreement with the then existent Federal Republic of Yugoslavia. Since the agreement also confirmed the borderline between Macedonia and Kosovo, it was understood by Albanians in these regions as a kind of a provocation. The agreement was especially unnerving for those Alba-

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<sup>21</sup> See for example Pearson, Brenda: *Putting Peace into Practice: Can Macedonia's New Government Meet the Challenge?* Washington D.C. November 2002; International Crisis Group: *Macedonia's Public Secret: How Corruption Drags The Country Down*, Europe Report, N°133, August 2002.

<sup>22</sup> See for example Hislope, Robert: *Between a Bad Peace and a Good War: Insights and Lessons from the Almost-War in Macedonia*. In: *Ethnic and Racial Studies*, 1/2003, pp. 129-151.

nian groups that objected to a well defined border because of their clandestine activities across the border.

The great number of ethnic Albanian discontents needed a leadership and they easily found one. Ahmeti and Fazliu were influential among the Albanian Diaspora in the 1990s and instrumental in gathering funds to finance the struggle of the KLA. They and many Albanians from Macedonia who fought in Kosovo and Southern Serbia but personally gained little or nothing had an interest in starting a moderately intense warfare in order to achieve benefits denied elsewhere.<sup>23</sup> Combining these facts with the availability of small arms in Macedonia, typically used for guerilla warfare and the porous border one gets the picture why the war in Macedonia started in the winter of 2001.

Today in Macedonia such a configuration of factors does not exist. Although illegal weapons are still available to some extent and hot spots in particular regions of the country existent and radicalism among segments of the Albanian population still strong, Macedonian Albanians enjoy the benefits of the reforms enlisted in the 2001 OFA and implemented since. All the political elite accept the workings of the political system despite occasional dissatisfactions with electoral results or functioning of particular governments. Notwithstanding the enlargement fatigue suffocating Europe, Macedonia is firmly entrenched on the EU integration path having been granted the candidate status in the winter of 2005. Awaiting a date for beginning of negotiations with the EU, a unique success multiethnic story of the Balkans, Macedonia has the support of the whole international community. Lastly, the independent status of Kosovo is conditioned by a responsible policy making of the local elites. These factors negatively influence the possibility of an outburst of new violence in Macedonia following Kosovo's unilateral declaration of independence. Although we cannot absolutely guarantee such an outcome this analysis makes as believe that Macedonia should not fear from the independence of Kosovo.

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<sup>23</sup> Garton Ash, Timothy: Is There a Good Terrorist? In: The New York Review of Books, November 29, 2001 and in Wikipedia, the free encyclopedia: "Ali Ahmeti" <[http://en.wikipedia.org/wiki/Ali\\_Ahmeti](http://en.wikipedia.org/wiki/Ali_Ahmeti)>.

Some political actors have strongly, openly and publicly demanded recognition of Kosovo.<sup>24</sup> Namely, all Albanian political parties in Macedonia are unanimous that Kosovo needs to be recognized as soon as possible. After his temporary withdrawal from the governing coalition in March 2008, Menduh Thaci the leader of DPA, came back in the coalition Government with six demands, of which one was the recognition of Kosovo. It is interesting to note that the other five demands applied to the status of the rights of Albanians in Macedonia, i.e. were political demands related to domestic political issues. In the same manner, DUI the strongest political party of the Albanians in Macedonia, during the campaign for the early elections in June 2008 has demanded recognition of Kosovo and introduced the policy in its election campaign. Similar to DPA, DUI is introducing the issue of Kosovo recognition on the domestic political scene in Macedonia. The reaction of the political parties of the Albanians shows accommodation to the views and needs of the ethnic Albanians. In general, the political parties of the minorities in Macedonia are mono-ethnic, functioning as interest seekers, and willing to enter various coalitions to meet their rational and pragmatic interest and needs.<sup>25</sup> In that respect the political parties of the Albanians in Macedonia are accustomed to using ethno-mobilization especially during election campaigns. They are not forgoing an opportunity to request recognition of Kosovo when the overwhelming majority of the Albanians in Macedonia support that and regard it as an important priority.

It is quite likely that the future policies of Macedonia in its relations with Kosovo will be influenced in similar ways as the issue of recognizing the independence of Kosovo. Most likely the ethnic Albanians will be strongly in favour, while the Macedonians will be more sceptical to developing stronger ties to Kosovo, being concerned of various implications that the development of such relations may cause. The underlying factors of the Macedonian behaviour are the strong negative sentiments toward Kosovo, to a lesser extent, and to a greater extent the fears that the Kos-

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<sup>24</sup> Note by the editors: Macedonia recognized Kosovo on 9 October 2008.

<sup>25</sup> See for more details Taleski, Dane: Minorities and Political Parties in Macedonia. In: Friedrich Ebert Stiftung (Ed.): Political Parties and Minority Participation. Skopje 2008 (forthcoming).

ovo independence and further on the development of relations between Kosovo and Macedonia will cause the appearance of “Greater Kosovo” or “Smaller Macedonia”. Beside the negative sentiments, for the Macedonians the negative implications on the security are still seen as possible and thus the development of relations will not be favoured. In that respect the Macedonian Albanians will push for fast development of stronger relations with Kosovo, even taking the regional lead, while the Macedonians will push for a more cautious and slower approach.

The public opinion toward the policy area of developing relations with Kosovo is influenced by two factors, temporal and symbolical. The symbolical can be defined as a two-fold approach, one for the ethnic Macedonians and the other for the ethnic Albanians. The Macedonians need the act of border demarcation as a symbol for security, while the Albanians support the independence of Kosovo as a symbol of the commonness among the Albanians. The temporal factor shows that as time unfolds the eventuality of Kosovo independence was seen as a possible negative influence to the security and inter-ethnic relations in Macedonia. However, since the independence, the practice has shown that there has been no influence on the security and inter-ethnic relations in Macedonia. Possibly, in the future as time progresses and relations develop between Macedonia and Kosovo, the perceptions of a possible negative influence on the security and inter-ethnic relations will be changed. In the mean time the independence of Kosovo cannot play an important role since as previously explained the post-Ohrid Framework system in Macedonia provides for national consolidation and inter-ethnic cooperation. Kosovo plays a limited role as a symbol for ethno-political mobilization for the political parties of Albanians, but as long as the system set within the Ohrid Framework Agreement for managing the inter-ethnic relations is functioning, Albanians from Macedonia are more likely to go Priština via Skopje.

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# Implications for Southern Serbia

Shelly Ross

Southern Serbia, once a vibrant cross-roads for trade and social engagement, has seen its region fractured with the impositions of new borders and administrative boundary lines. The impact of conflict has been acutely felt in the region, through decreased investment, migration of people and the outbreak of violence. Although the region is currently described by many as “fairly calm” significant tensions exist below the surface. Within the context of the transfrontier project<sup>1</sup> that has been implemented by EastWest Institute (EWI) since 2003 in the region of southern Serbia, Kosovo and Macedonia, there are a number of observations that can be made with regard to the impact of Kosovo’s declaration of independence in February 2008 and its influence on Southern Serbia.

This paper is comprised of three sections. An overview of the current state of Southern Serbia and a brief history of recent conflict in the region set the context for an analysis of tension-causing factors as well as factors promoting stability in the region. In conclusion, in light of Kosovo’s declaration, a number of potential impacts are reviewed within the context of the on-going political debate throughout the Republic of Serbia.

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<sup>1</sup> Following the Kumanovo Memorandum of June 2002, which was signed by fifteen local mayors from Macedonia, Serbia, Bulgaria and Kosovo, with reference to the Stability Pact’s support in this area, EastWest Institute, SEE Change and key local municipalities launched project activities in early 2003, focusing on the municipalities of Gjilan/Gnjilane, Preševo and Kumanovo and in 2004, Trgovište, hence the name the GPKT Project. The three main areas of work include: Policy-level work, Municipal and Economic Development support and Community-level work through thematic working groups, capacity building and a micro-grants scheme.

## State of Southern Serbia

The area known as Southern Serbia contains thirteen municipalities in the Pčinja and Jablanica administrative districts. Within the six southernmost municipalities of the Pčinja district, the population includes 65% Serbs, 24% Albanians and 5% Roma, with the remaining 6% of the population comprised of small numbers of other ethnicities. While Roma families are fairly evenly distributed across the six municipalities,<sup>2</sup> the majority of Albanians are located in Preševo (89%) and Bujanovac (55%).<sup>3</sup>

Despite the gains made by the Republic of Serbia through reform implementation in recent years, significant disparities between Southern Serbia and the rest of the country remain. The economic situation is particularly dire in this region, which is regularly among the poorest and least developed in Serbia. The official unemployment rate is just below 20%,<sup>4</sup> although this ranges quite significantly according to municipality and is, most likely, not an accurate reflection of the true figures. Unemployment figures for municipalities containing a large percentage of national minorities experience significantly higher rates of unemployment. For instance, the municipality of Preševo has an unemployment rate exceeding 60%.<sup>5</sup>

According to a recent study commissioned by EWI, which surveyed 1 000 households across the broader region of Southern Serbia, Eastern Kosovo and North-eastern Macedonia, nearly half the respondents report that their monthly wages are not sufficient to meet most needs, with just under 20% claiming they can hardly survive. Three quarters of the respondents claim to be living on a monthly income of less than 300 Euro

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<sup>2</sup> Figures in the municipalities of Bujanovac, Vladičin Han, Vranje and Surdulica range between 1 200-4 700 inhabitants, with figures for Preševo (322) lower, and no one living in the eastern municipalities of Bosilegrad and Trgovište.

<sup>3</sup> Republic of Serbia – Republic Statistical Office. (December 2002). Final Results of the Census 2002.

<sup>4</sup> Republic of Serbia – Republic Statistical Office. Unemployment Rates for 2007.

<sup>5</sup> Kastratovic, E. and Vladimir Marinkovic. (January 2007). Key elements of a development strategy for the south of Serbia. *South-East Europe Review*, pp. 61-72.

and 10% of households stated that no one in their family is employed.

While a lack of investment has taken its toll on Southern Serbia, the high levels of migration have had a severely damaging impact on the social capital of the region. Some villages still suffer from a lack of electricity, paved roads, water or telephones<sup>6</sup> which, along with a lack of prospects, has resulted in significant shifts in population. In recent years, a number of villages in the Ground Security Zone (GSZ) have been completely depopulated, and the municipality of Trgovište has seen its population decrease by nearly two thirds in the past decade.

Despite this rather bleak picture, it is important to also look at the significant improvements that have been made in the region in recent years. A large number of infrastructure projects have drastically improved roads and the functioning of utilities. Extensive support to municipalities has improved the capacity of local government to prepare strategic development plans (all save the municipality of Trgovište) and implement efforts to improve government transparency, local judiciary and security functioning. Significant support has been provided for the development of small and medium enterprises through financial support packages and improved access to funding for business development activities has occurred. Citizen Assistance Centres have improved delivery of services, a region-wide development agency has been created and a significant amount of work has been done to promote cross-border trade. Local and international NGOs have been particularly active in a wide variety of areas such as health and education, promoting inter-ethnic dialogue and implementing projects on specific issues such as drug abuse and corruption, and working with target groups such as the Roma community, women, youth and refugees and internally displaced persons (IDPs).

Despite the significant problems the region faces, many people perceive their everyday life in the region as normal, with minimal overt problems. However, in Bujanovac and Preševo, significant mistrust and tension exist between the local and state institutions. While these tensions are

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<sup>6</sup> International Crisis Group (ICG). Serbia: Maintaining the Peace in the Presevo Valley. Europe Report No. 186. October 2007, p. 3.

not always readily seen, this may be attributed to the fact that ethnic groups live in separate spheres; they inhabit different parts of the municipality and attend their own schools and religious buildings. A recent policy report focusing on youth by EWI confirms these gaps – other than football matches and activities supported by local and international NGOs, most youth (ranging in age from 17-23) confirm that there is minimal inter-ethnic interaction.

## **Causes of Tension & Factors Promoting Stability**

Despite the fact that Southern Serbia is currently fairly calm, conflict is a recent memory for people in this region. Although the signing of the Konculj Agreement brought an end to the insurgency in May 2001, sporadic outbreaks of fighting continued in 2002 and 2003. A critical dimension to the conflict in Southern Serbia was that the focus of tension was between an ethnic minority and state institutions; fighting did not escalate to the point that neighbours were taking up arms against one another.<sup>7</sup> The riots in Kosovo in March 2004, although not resulting in violence in Southern Serbia, were a reminder of the simmering tension. Sporadic incidents in the recent past have been attributed more to banditry, with organised crime seen as a major threat to security in the region.

While many see a return to overt violence as unlikely, there exist a number of tension-causing factors in the region, which, if not addressed in a concrete and visible manner, will continue to hinder the development of the region.

### **Discrimination**

Since the early 1990s, ethnic Albanians have been under-represented in state administration and by the main employers in the region. They were

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<sup>7</sup> Thorogood, T. The South Serbia programme: Lessons in Conflict Prevention and Recovery. Private Sector Development. Issue number 06/2007.

almost completely excluded from the police and judiciary. Claims of biased distribution of state aid abound and cases have been cited where municipal intervention in business affairs has blocked investment opportunities for Albanians.

However, discrimination is not one-sided. When the Albanian majority came to power in the municipality of Bujanovac, Serb and Roma representatives were removed from their positions, in effect, creating a mono-ethnic city assembly. The use of discrimination to redress previous wrongs is a dangerous tactic and has resulted in an increase in ethnic tension in this area.

### **Unemployment**

Unemployment is a serious problem for all ethnicities in the region. However, its affects are more pronounced among the Albanian and Roma communities, where unemployment figures are highest. Bujanovac and Preševo municipalities allege unemployment levels near to 60% and 70%. There are a handful of private sector firms but the main source of employment is the public sector. Many people are involved in the grey economy and a significant percentage of the population relies upon remittances and small-scale agriculture.

The municipalities with the largest representation of Albanians have traditionally been an economically neglected region in Serbia, with per capita income falling far short of the Serbian average. Uneven investment on the part of the state continues to fuel frustration and the process of privatisation, marked by allegations of corruption and cronyism, further entrenches perceptions of prejudice.

### **Security Concerns**

Despite the relatively calm security situation, with respondents to the EWI survey stating that they feel safe in general, the presence of the Serbian Army and Gendarmerie is a notable cause for feelings of insecur-

rity among the Albanian population. Although the police force has taken significant steps to become more ethnically diverse, a large number of Albanian respondents from Preševo and Bujanovac remain concerned by the police forces. However, the main security issue for citizens in the region relates to criminal activity and banditry – not threats coming from other ethnicities.

A key problem with security appears to be a lack of communication. A lack of knowledge regarding the activities and aims of security forces in the region results in feelings of isolation among the Albanian community. There is a clear need for improved communication between Belgrade and their local counterparts, as well as between the army and police and local authorities.

A key component of security is organised crime and trafficking – of goods, people and drugs. This is a recognised problem for which many claim the political will and support for addressing it – in terms of financing, infrastructure and knowledge capacity – is insufficient. Porous border areas facilitate such activity, which has an obvious impact not only on security, but on perceptions of corruption as well. The presence of a large quantity of weapons seized by the local population after the end of the conflict is another factor contributing to the security threat.<sup>8</sup>

### **Central Government Mistrust**

According to Albanians in Southern Serbia, institutional discrimination is the cause of problems in the region – not local tensions. The policies of the Serbian government under Milošević have left a legacy of mistrust that, when combined with under-investment and unequal representation from Albanian communities and a clear lack of engagement, continues to place significant stumbling blocks before the sustainable improvement of relations. It must be noted at the same time that a lack of engagement on the part of the Albanian community – including boycotts of elections

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<sup>8</sup> Lazic, N. and Driton Salihu. (May 2008). South Serbia Simmers but Does Not Burn. Balkan Investigative Reporting Network.

and coordination body meetings as well as condemnation of Albanian politicians attempting to work from within the system in the recent past – has not helped improve relations with the state.

Albanian communities are not the only population for whom mistrust of the central government is a major issue. Across the board, municipalities participating in the EWI survey from Southern Serbia revealed a lack of confidence in their government. 100% of respondents from Preševo lack confidence in their government, while respondents from Bujanovac, Trgovište and Vranje all record figures of nearly 80%. While the reasons behind this mistrust obviously vary, what these respondents all have in common is their location. Communities located far from capitals often find themselves at the periphery of national debate. These feelings are further reinforced as, other than at election time, visits of high-ranking government representatives to the region are an extremely rare occurrence. This is particularly worrying for border communities where the effects of conflict are often most acutely felt.

### **Lack of Prospects and Education**

Few economic opportunities and low levels of investment have led to significant emigration from Southern Serbia, contributing to a downward spiral of underdevelopment. The plan outlined by Deputy Prime Minister Čović in 2001, which called for the clear integration of Albanians into the political, government and social system in proportion to their population, has stalled in recent years. Seven years on, the multi-ethnic police remains the only area where significant state integration has been accomplished.<sup>9</sup>

With regard to stability in the region, it is important to remember that when an individual cannot articulate a positive future for him- or herself, it is even more difficult for a community to do so. Education is an area that could play an enormous role in improving interethnic relations. Ho-

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<sup>9</sup> Huszka, B. The Presevo Valley of Southern Serbia alongside Kosovo The Case for Decentralisation and Minority Protection. (January 2007). Center for European Policy Studies. No. 120, p. 3.

wever, apparently multi-ethnic communities are more often than not divided through the fact of their children going to different schools. The disregard shown towards non-Serb ethnicities in the composition and translation of textbooks marginalises non-Serb students, making them feel that they are not a welcome part of Serbia. The fact that school books are not translated into Albanian results in the use of texts from Kosovo that are based on a different curriculum and do not prepare students for higher education in Serbia, with the result that most ethnic Albanians study at universities in Kosovo or Macedonia. A generation of children growing up in isolation from one another does not bode well for the future.

### **Irredentism**

There are Albanian politicians who continue to advocate for unification with Kosovo. Whether they think this is realistic is irrelevant – the problem is with the perceptions it fuels. On the one hand, encouraging isolation among the Albanian population from Serb neighbours, and on the other, fuelling mistrust among Serbs who view such calls as undermining Serbian sovereignty.

### **External Manipulation**

Following Kosovo's declaration, inflammatory rhetoric and manipulation by the government, religious institutions and media have played key roles in fuelling tension among the population. While it is absolutely understandable for people to express their frustration and unhappiness, it is irresponsible on the part of these actors to facilitate the conditions that have led to the destruction of property, the creation of fear among the population and even death.

### **Political Instability**

Internal quarrels and political in-fighting cause problems in a number of ways. Among the Albanian population, coalitions are constantly con-

fronted with quarrels, as parties vary greatly on their views with regard to engagement in political life in Serbia. Struggles for power have also resulted in the loss of development opportunities for Serb-majority municipalities in the region, which worsens tension surrounding unemployment and under-investment.

At the national level, the political instability brought about by the collapse of the government is taking its toll on the economy and governance, and this is magnified in southern Serbia, as the “wait and see” atmosphere discourages investment, blocks trade and holds people in an unsustainable state of suspension.

### **International Community**

The role of the international community has also fuelled tension in many respects. Although international agencies working in the region have, on the whole, good relations with municipal representatives, civil society and communities in general, claims of bias toward minority communities have been raised. Many donor agencies have left the area, although a handful of new projects have come to the region. While those countries who have pushed for Kosovo’s independence (as well as being involved in the NATO bombing campaign) are obvious targets for frustration, activity in the International Criminal Tribunal for the Former Yugoslavia and poorly-timed pronouncements supporting Kosovo’s independence while negotiations were on-going, among others, have certainly not helped diffuse tension.

Frustration at the lack of presence of the central government in Southern Serbia is an issue where many donors and international agencies are equally at fault. Except those with offices in the region, it is rare to see international representatives coming through and when they do, they rarely meet with local civil society unless they are funding them. Additionally, local participants are rarely seen at conferences or events abroad; even when civil society is the focus. Institutes, NGOs and other civil society representatives from the capitals (as well as private consulting

firms) are seen in abundance, but representatives from border communities and communities distant from the capitals are often absent.

The long list of tension-causing factors might seem worrying, but there are a significant number of factors contributing toward stability in Southern Serbia. The following list contains just a sample of those factors that possess significant potential to counter many tension-causing factors in the region.

- *Infrastructure Improvements*  
The region's infrastructure has visibly improved in recent years – the rebuilding of schools and roads, improvements to less visible infrastructure such as sewage and water supply, and development of economic infrastructure such as livestock and green markets are some of the areas that have been improved. The implementation of visible, concrete activities is key to helping people in the region regain a sense of hope for the future while concurrently assisting in removing some of the causes of tension in the region.
- *Albanian Participation*  
Albanian participation in elections in 2007 and 2008 represents a remarkable and positive turnaround from little participation in the past.
- *Leadership*  
Leadership and co-operation were critical to the successful management of the conflict in 2001, and this capacity has not left Southern Serbia, although the willingness of the Serbian government to engage as effectively as they did then remains to be seen. In the wake of the riots in 2004 leadership once again played a key role in maintaining calm, as the mayors of Gjilan/Gnjilane (Kosovo), Preševo and Kumanovo (Macedonia) joined together to issue joint statements against violence.
- *Multi-ethnic Police Force*  
The establishment of the multi-ethnic police force has contributed overall to an improved security situation in the region and is an example that must be further replicated.

- *Coordination Body*  
Should the Coordination Body, which has made moves to improve its image, be able to overcome the mistrust and scepticism of many in the Albanian community, it could prove critical toward improving ethnic relations and drawing the Albanian population closer to its fellow municipalities. This will of course require willingness to engage with the Body from the Albanian community.
- *Local Civil Society*  
Local civil society is quite active in the region and although the number of strong local NGOs is limited, they are a key player in providing support to issues that range from governance, health and education to youth engagement, corruption and economic development. More support to civil society is needed, as well as improved co-operation between civil society and local government.
- *International Activity*  
Local visibility of international activity, particularly the United Nations Development Programme's (UNDP) Municipal Improvement and Revival Programme (MIR) has had a major impact in terms of reassuring communities and helping to reduce tension.
- *Municipal Co-operation*  
Participation of the Bujanovac, Medvedja, and Preševo municipalities in the establishment of a regional development agency, along with ten other (non-Albanian) municipalities and the participation of municipal representatives, schools and civil society in cross-border co-operation are all positive signs.
- *European Integration*  
Local citizens cite EU integration as a key mechanism for improvement in the region. Nearly 50% of the respondents to the EWI survey see integration as critical to economic development in the region and 25% see it as important for regional stability and security.

## **Potential Impact on Southern Serbia**

Despite minor outbreaks of violence and banditry in Southern Serbia, the response to the declaration in February from Belgrade has been far less

forceful than initially expected, focusing more on strengthening parallel institutions in the Serb-dominated areas of Kosovo and using diplomatic means to attack the declaration. The predicted embargoes and tightened border regimes have yet to materialise, but there have been a number of impacts, particularly with regard to trade and the movement of people, in the region. One thing that is certain is that separation does not solve the problems that have fuelled tension and resulted in open conflict in the region. There is a real danger in current perceptions of some that it may be possible to draw a line under the history of the region and simply “move on”.

Although there has been political radicalisation to some extent in the region, participation in protests and political rallies surrounding the issue of Kosovo were lower than expected. An important point to make is that recent voting trends do not necessarily indicate radicalisation, neither on the part of the Albanian nor Serb communities, and have as much to do with dissatisfaction with current local government leaders and the economic situation in the region.

The declaration of independence made by Kosovo is a highly emotive issue throughout Serbia and does possess the potential to destabilise Southern Serbia, though most people do not predict an outbreak of serious conflict. However, the protracted negotiations over the formation of a government in Serbia contributed to a state of suspense in the late spring and early summer of 2008. This uncertainty has had a paralysing effect on political and everyday life. Prospects for investment have been put on hold in recent years and this may continue, having a negative effect on the already poor socio-economic situation, where evidence of decreased trade across borders has been reported.<sup>10</sup> The “wait and see” approach that has plagued the broader region in the past decade continues to persist, and without concrete and visible progress, simmering tension may rise to the surface.

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<sup>10</sup> Lazic, N. (May 2008). Business Pays the Price of Kosovo Dispute. Balkan Investigative Reporting Network.

In general terms, a more “pro-European” coalition would most likely see a state of non-recognition with minimal sanctions, allowing cross-border co-operation to continue and a resurgence of investment – though it remains to be seen if such investment will filter down to Southern Serbia as national interest in the region has remained minimal regardless of the ruling coalition. A more “hard-line” coalition would probably result in stricter border regimes, a more overt military presence in the region and difficulties for cross-border co-operation. Another impact of such a coalition would likely be protests, which may result in clashes between citizens. There may also be increased difficulty for media who are not seen to be “towing the line”, as well as for civil society. However, this may not surface as much in Southern Serbia, where there is tremendous support and encouragement for improved engagement between civil society and local government from local, international and municipal representatives.

At the local level, interest in improving living conditions remains a high priority and most municipalities have chosen, in the past, a more moderate approach, emphasising improvement in local living conditions. In this case, the continued distance of Belgrade could in many ways, be useful for the region should a hard-line approach be adopted in Belgrade.

The stance of Priština could also have a major impact on Southern Serbia. Any moves, such as border sanctioning (retaliatory measures such as fees for those with Serbian plates, perceptions of uneven checking of vehicles with Serbian plates, etc.) will impact trade and may result in retaliatory actions from Belgrade, further isolating Southern Serbia and affecting the movement of goods and people. It will also be important to pay attention to developments in the Serb enclaves in Kosovo. Increased autonomy through decentralisation will certainly impact claims for increased autonomy among Albanians in Southern Serbia and may fuel secessionist rhetoric, and any perception that Serbs in the enclaves are in any way under threat may also fuel tension.

Although there was an immediate build up of police and army presence in the border regions preceding and immediately following the declaration, this has been reduced. With regard to security, it is seen as highly

unlikely that the Albanian community will want to take up arms in order to join an independent Kosovo and most feel that the worrisome “domino effect” on Preševo will not surface. The leadership in Priština had certainly encouraged Albanian politicians to avoid inflammatory rhetoric during the period around the declaration. However, there is an expected increase in military presence, not only in existing bases in Southern Serbia, but also with the construction of the base in Cepotina, where 1 000 soldiers are expected to be based. The impact of such a presence will be influenced not only by the ruling coalition, but by local authorities as well. The construction of the base will obviously continue regardless of who is in power, but a hard-line stance in Belgrade might see a more overt display of military presence, which would undoubtedly fuel apprehension among Albanian communities.

Some claim that a further outflow of the Serb population from Kosovo and subsequent pressure in an already economically depressed region will threaten security and aggravate tension. While it is prudent to plan for such movement of people, this impact has not yet been seen; in fact, Belgrade has been doing everything it can to ensure that Serbs stay in Kosovo and sustain the parallel structures they are working to create. Further, any people moving into Southern Serbia are unlikely to remain, as opportunities are lacking and, as with previous movements of populations, many will simply pass through Southern Serbia on their way to other areas of the country.

Depending on the outcomes of local elections in Preševo and Bujanovac, the most likely response is continued lobbying for increased autonomy through decentralisation. Decentralisation at the municipal level is an option that would be welcomed by all municipalities in Southern Serbia and could be a feasible option for addressing Albanian concerns without fuelling tension among other municipalities who would see themselves benefiting as well. However, there is a danger in treating decentralisation as a panacea to the problems faced in the region, as there is equal danger that decentralisation of responsibility without the requisite financial support and capacity to provide services could further exacerbate problems.

The influence of Kosovo's declaration will, in many ways, be influenced by legislation in Serbia, which, if there is a political stalemate, could be detrimental. Continued privatisation could cause unemployment rates to increase further, thus fuelling tension, whereas continued improvements in financial legislation with regard to access to business loans for small and medium enterprises could have a significant and positive impact in the region.

The issue of freedom of movement is a critical one and once again, we find ourselves in a "what will happen when..." position. The creation of the Administrative Boundary Line (ABL) caused many problems as people found themselves suddenly grappling with a boundary between themselves and their business interests, relations and friends, and in some cases, schools, not to mention significantly increased costs for travel, non-recognition of Kosovo vehicle plates and communication problems linked to mobile phone networks. Perceptions among local communities indicate serious concern about travel between the two regions and what will happen when new passports are issued in Serbia is a question on everyone's mind, as this will prove challenging for those living in Kosovo who currently possess Yugoslav passports.

The poor regional cohesion that exists in Southern Serbia could be further weakened in the immediate future. Already the municipalities of Bujanovac and Preševo look towards Kosovo and Macedonia for opportunities and alliances, and Bosilegrad looks increasingly toward Bulgaria. While it is important for Southern Serbia to see itself in a larger regional context, a lack of engagement among different communities within south Serbia may only serve to sustain perceptions of mistrust and present significant stumbling blocks for development.

A final area of concern is potential spill over impact. While escalation of conflict in Southern Serbia might easily impact not only Kosovo but Macedonia as well, an intensified and continuing monitoring of the situation on the ground by the international community and increased international political engagement is strongly recommended.

## **Conclusion**

As a region for which conflict is a recent memory and where community tensions continue to simmer, Southern Serbia faces a number of challenges in managing tensions and addressing the causes of instability in the region. Southern Serbia's future depends, to a large extent, on the ability of its leaders – government, private and non-governmental – to co-operate in promoting progress on key areas of common interest, while at the same time seeking to ameliorate the causes of tension – particularly discrimination – in a manner that does not fuel tension for the majority.

Although this is an enormous task, the building blocks for such engagement do exist – what is required is a combined approach of concrete action complemented by continued relationship- and confidence-building. Despite activities carried out by a number of international and local organisations, the challenges for Southern Serbia outweigh the existing support structures and levels of financial assistance. Further support and engagement in the region is required in order to build upon the gains that have been made and fill the gaps that threaten to undermine these gains. Significant external support is essential in the process, particularly as the level and type of engagement coming from the central level remains unclear in the foreseeable future.

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# The Secession of Kosovo – A Precedent for the Region?

Heinz Vetschera

## Introduction

For almost nine years, Kosovo had been in limbo concerning its formal status, and sovereignty. On the formal side, it still retained its status as a province of Serbia. In real terms, power was exercised in parts by international actors, but also increasingly by local and more and more “national” authorities of Kosovo. The unclear situation was finally solved by Kosovo’s unilateral declaration of independence on 17 February 2008.

For Kosovo’s Albanian majority, the only solution for the undetermined situation had never been less than full-fledged independence. *Au contraire*, the Serbian side had consistently insisted that Kosovo belonged to Serbia – for all eternity, with no change of its status. Both sides had referred in their argumentation to two main principles of international law. The Albanian side claimed the right to secede on basis of the principle of self-determination; the Serbian side claimed the right of continued possession of Kosovo based on the principle of territorial integrity. Beyond its power political dimension, the question of the status of Kosovo – either independence or continuation as province of Serbia – had thus been inseparably linked to fundamental legal issues, which had only been exacerbated by the actual declaration of independence.

This is also true for others who are genuinely concerned about the future development of security and stability in the region. It reads that the secession of Kosovo from Serbia would set a dangerous precedent for the region, with far-reaching consequences. It would give the same right of secession to the various Albanian minorities as for example in Mace-

donia<sup>1</sup> or Montenegro, as well as to other ethnic groups and entities, with a specific emphasis to a possible secession by Republika Srpska from Bosnia and Herzegovina.

On the surface, the claims that Kosovo would set a precedent for possible future secessions in the region would thus look rather convincing. The term “precedent”, however, is also of a legal nature. Generally speaking, it would mean that a practice accepted as in conformity with the law could be invoked by all who might find themselves in a similar situation as justification for their claims, and is as such a cornerstone for the development of customary law which by definition requires precedents (“practice”) to build upon.

In order to assess whether the independence of Kosovo really would constitute a “precedent” under international law for other would-be secessionist forces in the region, it is necessary to analyze

- whether it has been undertaken within an already established set of rules or principles of international law which would contain the alleged role as a “precedent” within controllable limits, or
- whether the secession of Kosovo and its subsequent recognition by many Western States, including major powers, would indeed constitute a “precedent” in the legal sense, having opened Pandora’s box of uncontrolled and destabilizing further secessions both in the region and on a wider scale.

For this purpose, the paper will

- outline the legal framework for secession between the two contradicting principles of the right of self-determination on one hand, and of territorial integrity on the other hand;
- apply the legal framework to the case of Kosovo, and
- try to answer the question how far – if at all – the secession of Kosovo could be regarded a precedent for other secessionist movements and tendencies in the region.

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<sup>1</sup> The author recognizes Macedonia under its constitutional name.

The findings would then allow for an assessment whether the secession of Kosovo from Serbia undermines, or increases, the stability and security in the region.

## **Self-determination and Secession under International Law<sup>2</sup>**

It is a wide-spread perception that self-determination and secession are congruent terms.<sup>3</sup> This could also be seen in the developments around Kosovo, where the Albanian side frequently claimed having the right of self-determination and therefore the right to secession, whereas on the Serbian side the argument was frequently heard that Albanians in Kosovo would have no right for self-determination, and therefore also no right of secession.<sup>4</sup>

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<sup>2</sup> See also: Enver Hasani, *Self-Determination, Territorial Integrity and International Law*; PhD Dissertation; Published by Austrian National Defence Academy; [http://www.bmlv.gv.at/pdf\\_pool/publikationen/hasa03.pdf](http://www.bmlv.gv.at/pdf_pool/publikationen/hasa03.pdf).

<sup>3</sup> This also happened to the Badinter-Commission which “equated the right to self-determination solely to secession and changes in boundaries, and thus lost an opportunity to clarify alternatives to secession as a valid exercise of self-determination”; Ved P. Nanda, *Self-determination and Secession under International Law*; *Denver Journal for international Law and Policy*; vol. 29:4 (2001); pp. 305-325 (314), <http://www.encyclopedia.com/doc/1G1-87029934.html>.

<sup>4</sup> The author has as far back as 1993 quite frequently heard the following Serbian line of argumentation: Albanians in Kosovo are no “people”, and therefore have no right of self-determination – whereas Serbs e.g. in Croatia or Bosnia would be a “people” and therefore would have the right of self-determination, “naturally” understood as the right to secede.

This distinction is rooted in the constitutional law of the former Socialist Federal Republic of Yugoslavia (SFRY) which made a distinction between “*narod*” (“constituent people” of Yugoslavia, e.g. Serbs, Croats, Slovenes and so on) and “*narodnost*” (ethnic group which has a home country beyond Yugoslavia, e.g. Albanians, Hungarians, Slovaks, etc.).

The denial of self-determination for a “*narodnost*” is rooted in the mistaken equation of the specific term “*narod*” (which means literally “people”) of the SFRY’s legal terminology with the general term “people” within international law, which does not differentiate. Given the reason for the whole regulative framework

While both positions come to opposite results, they are both based on a simplistic equation of “self-determination” with “secession”, which is mistaken.

## **The Development of the Right of Self-determination under International Law<sup>5</sup>**

The concept of “self-determination” is of liberal origin and emerged during the period of enlightenment. It had its first political impact in the implosion and dissolution of empires in the aftermath of World War I<sup>6</sup> – both with respect to the Russian empire and the Austro-Hungarian Empire. At that time, however, its nature was not regarded as legal but rather as political.<sup>7</sup>

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of international law, it would mostly refer to what in the SFRY’s legal terminology would have been called a “*narodnost*”.

<sup>5</sup> See on the development V. P. Nanda; above; See also Richard A. Falk, the Right of Self-Determination under International Law: The Incoherence of Doctrine versus the Incoherence of Experience, in: Wolfgang Danspeckgruber/Arthur Watts; Self-Determination and Self-Administration; A Sourcebook; Lynne Rienner Publishers; Boulder (Colorado, 1997; ISBN: 1-55587-786-9; pp.47- 63. Another major contribution to the elaboration on Self-Determination can be also found in the Judgement of the Supreme Court of Canada concerning “*Certain Questions Relating to the Secession of Quebec from Canada; Secession of Quebec*”, [1998] 2 S.C.R. 217 August 20, 1998; <http://csc.lexum.umontreal.ca/en/1998/1998rcs2-217/1998rcs2-217.html>.

<sup>6</sup> Cf. the famous “fourteen points” by President Woodrow Wilson at his address to the Conditions of Peace, delivered at a Joint Session of Congress on 8 January 1918; reprinted in W. Danspeckgruber/A. Watts; Self-Determination; pp.463.

<sup>7</sup> See for example the findings of the International Commission of Jurists in the Case of the Aalands Islands. The Commission further concluded that the principle [of self-determination], while currently garnering support in the division of European territories (such as Ireland’s independence) had not yet attained the status of a positive rule of international law “*The commission further concluded that the principle was essentially political and thus could not be employed as justification of dismemberment of a clearly established State*”; ‘Aalands islands case (1920), LNOJ Special Supp NO. 3 3.5’; quoted in: Dajena Kumbaro; the Kosovo Crisis in an International Law Perspective: Self-Determination, Territorial Integrity and the

This changed with the adoption of the United Nations' Charter in 1945. Its Art. 1 (2) already contains a clear reference that the purpose of the United Nations is “*to develop friendly relations among nations based on the respect for the principles of equal rights and self-determination of peoples*”. A similar reference is found in Art. 55 which also refers to peaceful and friendly relations among nations “*based on respect for the principle of equal rights and self-determination of peoples*”.<sup>8</sup> The Charter as such does not, however, allow for an operational application of the right of self-determination in practice. It has not been enshrined as a concrete right, but as a principle.<sup>9</sup>

The principle was subsequently developed further in the context of human rights. The common article 1 of both the UN Covenant on Civil and Political Rights<sup>10</sup> and on Economic, Social, and Cultural Rights<sup>11</sup> contains the following wording:

1. *All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.*
2. *All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.*
3. *The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.*

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NATO Intervention; NATO, *Office of Information and Press; Final Report, July 2001.*

<sup>8</sup> Italics from the author.

<sup>9</sup> See also Kumbaro; p. 11.

<sup>10</sup> International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976.

<sup>11</sup> International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force Jan. 3, 1976.

While the emphasis was at that time clearly with de-colonization<sup>12</sup> and with concern to non-self-governing and trust territories, the wording of the first clause of Art 1(1) that *all peoples have the right of self-determination* affirms the universality of the right,<sup>13</sup> and not just a limitation to peoples under colonial rule.

The next and most decisive step followed within the Declaration on Friendly Relations,<sup>14</sup> which finally contributed to the formation of a set of general rules concerning the right of self-determination.<sup>15</sup> The Declaration “solemnly proclaims”<sup>16</sup> and elaborates on the principles of refraining from the threat or use of force; settling international disputes by peaceful means; the duty not to intervene in matters within the domestic jurisdiction of any state; and co-operation with one another in accordance with the Charter, but also

- the principle of equal rights and self-determination of peoples;
- the principle of sovereign equality of states.

The section dealing with the principle of equal rights and self-determination of peoples first reiterates some of the statements of earlier documents e.g. concerning the relation between self-determination and human rights and enumerates various modes how the right of self-determination may be exercised, as for example that

the establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people.

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<sup>12</sup> See also the Declaration on the Granting of Independence to Colonial Countries and Peoples; GA Resolution 1 514 (XV) ; 947th plenary meeting, 14 December 1960.

<sup>13</sup> Kumabro, op. cit, p. 13.

<sup>14</sup> 2625 (XXV). Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations; 24 October, 1970.

<sup>15</sup> See Kumbaro, p.17, also for the further elaboration of the character of General Assembly declarations as mere recommendations or binding legal rules.

<sup>16</sup> Thus the text of the Declaration.

While most of the provisions could be seen primarily in the context of de-colonization, the pertinent section also contains a paragraph which would constitute the first legal delineation balancing the principle of territorial integrity on the one hand, and of self-determination on the other. The paragraph reads:

Nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour.

The provision thus gives clear priority to territorial integrity, but with a caveat. In order to claim that right, the group has to [conduct itself] *“in compliance with the principle of equal rights and self-determination of peoples as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour”*. Priority of territorial integrity must no longer be seen as an absolute right, but only in balance with respect for the self-determination of peoples living within the respective country.<sup>17</sup>

In 1993, the Vienna Declaration and Programme of Action adopted by the UN World Conference on Human Rights on 25 June 1993 reiterated the position. Its paragraph 2, section 3 repeats the above position that *“[in] accordance with the Declaration on Principles of International Law concerning Friendly Relations and Cooperation Among States in accordance with the Charter of the United Nations, this shall not be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a Government representing the whole people belonging to the territory without distinction of any kind”*.

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<sup>17</sup> “The logical reading is that, to be entitled to protection of its territorial integrity against secession, a State must possess a government representing the whole people”; V. P. Nanda, p. 310.

The wording appears now more generic in the last sentence, referring no longer to “*distinction as to race, creed or colour*”, but to “*distinction of any kind*”.

Finally, the General Assembly in its Declaration on the Occasion of the Fiftieth Anniversary of the United Nations<sup>18</sup> reconfirmed this position practically in the same wording concerning *States conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a Government representing the whole people belonging to the territory without distinction of any kind*.

As a result from the above, we can come to the following conclusion:

- When the concept of “self-determination” appeared first in the aftermath of World War I, it was clearly seen as inferior to the principle of territorial integrity, being of a political rather than a legal character;
- It had been subsequently enshrined within the United Nations Charter as a principle, but not yet leading to concrete rules and rights;
- Finally, from the Declaration on Friendly Relations onwards, clear rules emerged concerning the balance of territorial integrity and self-determination respectively.

The legal situation since then presents itself in the following way:

- As long as states conduct themselves in accordance with the principles of self-determination, being truly representative for the whole population of the state without distinction of any kind, they are entitled to the undiminished right of territorial integrity. This so-called “internal self-determination”<sup>19</sup> within a state should be the rule, and would not give the right for secession;
- as an exception, secession (the so-called “external self-determination”) would become a justified option in the case of states not liv-

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<sup>18</sup> A/RES/50/6; 40th plenary meeting; 24 October 1995; Declaration on the Occasion of the Fiftieth Anniversary of the United Nations.

<sup>19</sup> On the distinction between “external” and “internal” self-determination see V. P. Nanda, *ibid.*, p. 307.

ing up to the demands of granting “internal self-determination”, by exerting discriminatory and repressive policies against peoples on their territory.

State practice does confirm the development in the legal sphere. Shortly after the adoption of the Friendly Relations Declaration the people in the then East Pakistan in 1971 revolted against Pakistani rule.<sup>20</sup> While the people in East Pakistan were predominantly Bengalis, they had to live under the rule of (predominantly Urdu-speaking) West-Pakistanis. The revolt led into full-fledged civil war which ended, after Indian intervention, with the successful secession of East Pakistan in 1972 which declared itself independent under the name Bangladesh. The new state was quickly recognized by the majority of other states.<sup>21</sup>

This does not mean that states would have done so in explicit and deliberate reference to the previously adopted Friendly Relations Declaration where the legal framework for justified secession had developed. The coincidence in time can be, however, seen as an indicator for a shift in paradigm. It expressed itself on the one hand in adopting a resolution which now sets rules and guidelines for exceptionally justified secession, and on the other hand in the political practice in recognizing a secession which had followed the criteria established a year before.

Further cases since then have concerned the secession of Eritrea<sup>22</sup> and of East-Timor,<sup>23</sup> in both cases based on previous repression by a state power of different ethnicity.

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<sup>20</sup> On the secession of Bangladesh see Library of Congress, Bangladesh: [http://lweb2.loc.gov/cgi-bin/query2/r?frd/cstdy:@field\(DOCID+bd0139\)](http://lweb2.loc.gov/cgi-bin/query2/r?frd/cstdy:@field(DOCID+bd0139)) through [http://lweb2.loc.gov/cgi-bin/query2/r?frd/cstdy:@field\(DOCID+bd0141\)](http://lweb2.loc.gov/cgi-bin/query2/r?frd/cstdy:@field(DOCID+bd0141)).

<sup>21</sup> See R. A. Falk, *op. cit.*, p. 56.

<sup>22</sup> After a decades-long guerilla war and the fall of the Marxist Mengistu government in Ethiopia, a procedure for the secession of Eritrea from Ethiopia was agreed in 1991, and a referendum held in April 1993 which resulted in a overwhelming majority for Eritrea's independence. On May 28, 1993, the United Nations formally admitted Eritrea to its membership. On Eritrea's war of independence see [http://en.wikipedia.org/wiki/Eritrean\\_War\\_of\\_Independence](http://en.wikipedia.org/wiki/Eritrean_War_of_Independence);

<sup>23</sup> On East Timor see P.V. Nanda, *ibid.*, pp. 324.

We may thus conclude that the simplistic equation “self-determination means secession” is utterly wrong. Neither legal norms nor state practice would support such statement. It is, on the other hand, also true that international law does no longer exclude secession, either. It is justifiable under rather limited but well-defined circumstances, as a last resort or “emergency exit” from unrepresentative and repressive regimes.<sup>24</sup> In a nutshell we may say the guideline reads “*no repression – no secession*”, with its reverse meaning – “secession is the consequence of repression”.

## **The situation in Kosovo<sup>25</sup>**

Kosovo had been for centuries been part of the Ottoman Empire and occupied by Serbia after the Balkan wars 1912/1913 under claims of an “historical right”<sup>26</sup> to this territory which had been seen as “the cradle of Serbian identity” – despite the fact that even at that time it was predominantly inhabited by Albanians rather than Serbs.<sup>27</sup>

During the “first Yugoslavia”, Kosovo had no special status but was regarded a district in Southern Serbia. To counterbalance the Albanian majority, frequent attempts were undertaken to redress the ethnic bal-

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<sup>24</sup> “[T]here could be circumstances which might lead to the acceptance of unilateral secession. One such exception ... is in the colonial context. The second exception is undemocratic, authoritarian regimes, which are not representative, thus not providing the opportunity for the “people” to participate effectively in the political and economic life of the State, especially when there is a pattern of flagrant violations of human rights”: P.V. Nanda, *ibid.*, pp. 325.

<sup>25</sup> On the historical background see Miranda Vickers; *Between Serb and Albanian, A History of Kosovo*; Columbia University Press; New York, 1998.

<sup>26</sup> Branislav Krstić, *Kosovo između istorijskog i etničkog prava* (Kosovo between historical and ethnic right(s); Kuča vid, Belgrade, 1994; the book deals primarily with population development. That author’s father had written a book about the Serbian colonization of Kosovo (Djordje Krstić, *Kolonizacija u Južnoj Srbiji* (Colonization in southern Serbia), Sarajevo, 1928; referred to in the introduction, p. 9.

<sup>27</sup> The first reliable population census of 1903 counts 111 350 orthodox, 69 250 muslim and 6 600 catholic Serbs and 230 000 Albanians, mostly (215 050) Muslim; quote from *The Development of the Situation in the Kosovo*; background working paper, CSCE Conflict Prevention Centre, fall 1993.

ance, inter alia by settling Serbs in what was openly called a “colonization” of Kosovo,<sup>28</sup> with simultaneous attempts to convince the Albanians to leave,<sup>29</sup> and some forced expulsions. Nevertheless, these attempts mostly failed as most of the “colonists” left Kosovo and settled elsewhere.<sup>30</sup> In reaction, some also called for more radical measures as for example the expulsion of Albanians from Kosovo.<sup>31</sup>

During World War II Kosovo was split with parts controlled by Bulgaria, others by German forces, and parts merged with Albania, under Italian domination.<sup>32</sup> After World War II, the original situation was re-established, with increasing respect for the Albanian population from the sixties onwards.<sup>33</sup> While Kosovo had until then still been a “district”, it was during the constitutional reform of 1963 turned into a “province”. Amendments to the Yugoslav constitution in 1968 and 1971 gave Kosovo increased competencies, which were finally enshrined in the Yugoslav Constitution of 1974.<sup>34</sup>

In accordance with the constitution, the competencies of the two autonomous provinces within the Socialist Republic of Serbia<sup>35</sup> were in practice almost identical with those of the republics. They had their own leg-

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<sup>28</sup> M. Vickers; *Between Serb and Albanian*; *ibid.*, chapter 6: The Colonisation Programme (pp. 103-120); See also the respective title of the book by Djordje Krstić, above; D. Krstić’s book is also frequently referred to by M. Vickers.

<sup>29</sup> M. Vickers; *ibid.*, p. 108.

<sup>30</sup> B. Krstić quotes his father that Serbs resettled from Kosovo as they did not feel themselves in Serbia.

<sup>31</sup> As for example Vasa Čubrilović in his infamous 1937 Memorandum to the Yugoslav king; See Vickers, pp. 116-120.

<sup>32</sup> M. Vickers; *ibid.*, p. 121.

<sup>33</sup> Repression lasted to a certain degree as long as Aleksandar Ranković served as Yugoslav Minister of the Interior. He was a Serbian nationalist and ousted in July 1966 after having bugged Tito’s bedroom. From then onwards the rights of Albanians in Kosovo developed.

<sup>34</sup> Ustav Socijalističke Federativne Republike Jugoslavije; published in the “Službeni list” (legal gazette) of the SFRY no. 9, of 21 February 1974.

<sup>35</sup> The other autonomous province was the Vojvodina.

isolation, jurisdiction and administration and were a constituent part of the republic and an equal part of the (state) federation.<sup>36</sup>

Albanians, however, frequently demanded the status of a full-fledged Yugoslav “republic” for Kosovo, pointing to their distinct ethnicity and the fact that Kosovo with an area of 10 877 square kilometres and a population of more than one million would be no lesser entitled to that status than Montenegro with an area of 13 812 square kilometres and a population of about 550 000.<sup>37</sup> The key slogan thus became the demand “Kosova-Republika”.

A students’ demonstration in Prishtina against the price increase of the students’ cafeteria in 1981 turned political with exactly that slogan, which led to a first crackdown. From 1981 until 1985 about 3 500 persons in Kosovo were accused of “political crimes”, out of which 668 were convicted.<sup>38</sup> Out of the overall 1 872 persons convicted in the whole of the then SFRY of “political crimes”, 1 087 came from Kosovo.<sup>39</sup>

At the same time, the issue of increased emigration of non-Albanians (in particular Serbs and Montenegrins – from Kosovo gained prominence) being allegedly caused by repression of Serbs by the local Albanian majority.<sup>40</sup> Between 1981 and 1986 more than 40 000 Serbs had allegedly emigrated, lowering their overall number to less than 10% in Kosovo.<sup>41</sup>

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<sup>36</sup> Ustav Socijalističke Federativne Republike Jugoslavije; published in the “Službeni list” (legal gazette) of the SFRY no. 9, of 21 February 1974; Art. 2.

<sup>37</sup> Quote from “Mutual Perceptions in the Kosovo”; background working paper, CSCE Conflict Prevention Centre, November 1995. The figures for 1981, when the last census had been taken in Yugoslavia, were a population of 1 245 000 for Kosovo and 583 000 for Montenegro.

<sup>38</sup> Neue Zürcher Zeitung (NZZ), 03. 08. 1986.

<sup>39</sup> Wolfgang Libal, *Das Ende Jugoslawiens*; Vienna, 1991, p. 112.

<sup>40</sup> The claim looks rather dubious, given the strong Serbian police presence in the province after the 1981 unrest. The author could verify the strong presence of heavily armed riot police in Kosovo in 1985 which makes the idea of the alleged “Albanian terror” rather unlikely.

<sup>41</sup> In an assessment of the situation, the majority of the Serbian members of the Central Committee of the League of Communists (i.e. the Party) pointed out, however, that emigration had been caused by the economic situation rather than by

Kosovo thus served as a catalyst for a re-emerging Serbian nationalism, which found its most significant early expression in the Memorandum of the Serbian Academy of Sciences published in September 1986.<sup>42</sup>

Subsequently, Serbian nationalism merged with illiberal centralist ideas, demanding a strong central state under Serbian domination.<sup>43</sup> Against this background the leadership in the Serbian branch of the League of Communists was taken over by Slobodan Milošević<sup>44</sup> who utilized the Serbian and Montenegrin emigrants from Kosovo and their frequent rallies in Belgrade as his power basis, with increasingly nationalist and anti-Albanian rhetoric.

In 1989 Kosovo's autonomy was mostly revoked. Police and justice were brought under direct Serbian rule. Demonstrations by Albanians were crushed by force, with several dozens of demonstrators killed. When at the end of June 1990 the Serbian Republican Parliament further limited the autonomy of Kosovo, the Albanian deputies to the Provincial Parliament of Kosovo declared their sovereignty. In response, the Serbian parliament completely dissolved the provincial parliament and government of Kosovo, *de jure* incorporating Kosovo under Serbian administration. Subsequently, on 7 September 1990 the Albanian former deputies declared their sovereignty still as a Yugoslav Republic, thus symbolically

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ethnic tensions and that out of the 10 000 annual emigrants from the Kosovo there were about 9 000 Albanians but only 1 000 Serbs and Montenegrins, thus roughly reflecting the ethnic composition of the Kosovo; quote from "Mutual Perceptions in the Kosovo"; background working paper, CSCE Conflict Prevention Centre, November 1995.

<sup>42</sup> See on the background: Yugoslav Situation Report # 11, RFE Research, November 1986, See on the contents: Christopher Cvičić, *Implications of the Crisis in South Eastern Europe*; in: *New Dimensions in International Security*; Adelphi Paper no. 265, IISS, London, 1991/92, pp. 82-92.

<sup>43</sup> In reaction to the growing assertiveness of Serbian nationalism and the closing of ranks with Communist centralist forces, opposition grew in Slovenia, Croatia, Bosnia and Macedonia against the ever growing centralist tendencies, which from 1991 onwards culminated in the wars of secession.

<sup>44</sup> On the role of Milošević for the further development see also: Aleksa Djilas, "A Profile of Slobodan Milošević", *Foreign Affairs*, vol. 72, no 3, summer 1993, pp. 81-96.

formalizing their long-standing demand of “Kosova-Republika”. Finally, on 28 September 1990 the Serbian Republican Parliament adopted a new constitution for Serbia which formally provided for some autonomy of Kosovo, but without serious competencies, subordinating it completely to Serbian rule.<sup>45</sup>

Immediately after that, a wave of repression against the Albanian population followed. Not only the political but also the cultural autonomy was eliminated, and the whole society went practically underground into civilian resistance.

The following years were characterized by an uneasy quietude, with the development of “parallel societies” of the Albanian and Serbian part of the population, and continued Serbian repression by Belgrade. A report by the then CSCE Conflict Prevention Centre in late 1993 described the situation as follows:

Since the establishing and further tightening of Serbian power the situation for Albanian individuals has consistently deteriorated. Cases of human rights violations have been described by the CSCE Missions and in the weekly surveys of the CPC since the departure of the Missions. More serious cases include the killing of unarmed persons by the police, where the Kosovo Helsinki Committee enumerates five cases alone for the period of mid-August to mid-September 1993 (plus two cases of death during police operations without the use of arms).

Reports give the impression that police and other forces of the Serbian side act like in an occupied territory, preferring to use their arms before asking questions. Other cases of human rights violations include arrests, often under accusation of acts against the territorial integrity of Yugoslavia (which would, however, correspond to the pledged objective of establishing an independent State of Kosovo). In the broader sense, it appears that force or humiliating treatment against Albanians are used on a large scale and at random.

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<sup>45</sup> W. Libal, *ibid.*, p. 134.

As a rule, Albanians have been evicted from the public service which has included, in accordance with the former Yugoslav economic system of “Socialist Workers’ Self Administration”, also any major enterprises. A recent report by the International Helsinki Federation claims that

- of the 500-plus Albanian judges, district-attorneys and other judicial officials, only 16 have remained in their offices after 1992;
- a total of about 6 000 Albanian policemen have lost their jobs;
- about 22 000-26 000 Albanian teachers have been dismissed;
- the health care system has been virtually depleted of Albanian personnel without, however, adequate replacement by other medical personnel, thus leading to a significant lowering of health care and public health; and
- an estimated number of 115 000 ethnic Albanians have lost their jobs since 1990, leaving only about 20% of the Albanians in employment.

While the report noted the significant absence of armed resistance against Serbian repression, it also considered the conflict potential in Kosovo as relatively high, although major armed confrontations have been avoided until now. Notwithstanding the high level of undeniable human rights infringements by the government and its agencies, no side of the opponents within the Kosovo has until now shown a tendency to escalate tensions into outright confrontation.

It foresaw, however, that, in order to recapture the attention on the international level, some segments on the Albanian side may consider it necessary to provoke, by violent means, heavy repression on the Serbian side. In a similar scenario, violence may erupt on the Albanian side simply because of frustration about the failure of the non-violent course, which may become discredited if it would not yield any results, and consequently could no longer be expected to be adhered to by the majority of the Albanian population.

On the Serbian side, tendencies towards deterioration have already been inherent to the practice until now. However, there may be new qualities,

as for example massive violence against the Albanian population, with large-scale “ethnic cleansing” of the Kosovo, or at least parts of it.<sup>46</sup>

The “uneasy quietude” ended in the late 1990s indeed as described in the scenarios above, fuelled by two events:

- On the one hand, the hope for internationalization of the Kosovo issue evaporated when the issue was sidelined in the Dayton/Paris peace talks, and the non-violent course had proven unsuccessful;<sup>47</sup>
- On the other hand, the melt-down in Albania in 1997 gave access to a vast amount of weaponry which then could be smuggled into Kosovo and used to arm resistance groups no longer non-violent.

The following situation led into full-fledged guerrilla war, which finally drew the attention of the international community to the problem. From March 1998 onwards, the UN Security Council in various resolutions urged the Yugoslav authorities to re-establish the autonomy of Kosovo, whereby the territorial integrity of Yugoslavia would have been respected.<sup>48</sup> Even during the negotiations in Rambouillet (6 to 23 February 1999) and Paris (15 to 18 March 1999) the Western proposals were based on the principle of “internal self-determination”, i.e. the maintenance of the territorial integrity of Yugoslavia and political autonomy for Kosovo but rejected by the Milošević regime.<sup>49</sup> Instead, the Serbian side increased its military efforts. In reaction, the West launched on 23 March an air campaign against Yugoslavia that lasted eleven weeks.

After the end of the conflict, the United Nations’ Security Council passed resolution 1244 which established a United Nations Administration (UNMIK), a robust peacekeeping force (KFOR), but also foresaw the

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<sup>46</sup> Quote from “*The Development of the Situation in the Kosovo*”; background working paper, CSCE Conflict Prevention Centre, fall 1993.

<sup>47</sup> See Vickers, *ibid*, p. 290.

<sup>48</sup> See in detail V. P. Nanda, *ibid*; pp. 319-321.

<sup>49</sup> See V. P. Nanda, *ibid*; pp. 320; The proposals would, however also have foreseen a “mechanism” for the final settlement for Kosovo, to be determined by an international meeting three years into the future, convened primarily on the basis of the “will of the people” of Kosovo – a clear reference to the right of self-determination.

“facilitating of a political process designed to determine Kosovo’s future status, taking into account the Rambouillet accords”.<sup>50</sup>

Internal peace and security have since then been maintained by a strong international military, police and administrative presence, with a gradual transfer of competencies towards local ownership until the declaration of independence.

## **Legal Assessment**

During the major part of Kosovo’s belonging to the Serbian/Yugoslav State, the Albanian population had been most of the time subject to Serbian repression, with little chance for “internal autonomy”. It was only the short period of autonomy – from the first incremental stages in 1968 and 1971 towards the full-fledged status of autonomous province under the 1974 constitution – when one could argue that Kosovo had indeed internal autonomy.

Previous repression before the 1960s does not count for the legal assessment, as the legal situation regarding the application of the right of self-determination had not yet been fully developed at that time. The establishment of the legal rules regulating self-determination and the development of Kosovo’s “internal self-determination” developed practically at the same time. However, when Kosovo’s autonomy was revoked in 1989/1990, this happened against already well-established rules concerning the right of self-determination. The abolition of autonomy was coupled with clear-cut discrimination and massive violations of the human rights of the Albanian population and lasted for practically one decade.

We may thus conclude that the secession of Kosovo has been finally justified by the elimination of Kosovo’s “internal self-determination” a decade earlier. It appears an irony and self-fulfilling prophecy that the Serbian actions were allegedly driven by the desire to “prevent the

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<sup>50</sup> S/RES/1244 (1999), 10 June 1999.

secession of Kosovo” – only to create a situation where it would have been finally justified.

There are some serious objections to this notion. One of them would claim that while the reasons for secession would have been valid throughout the time of obvious repression, they would have lost their validity with the end of the Milošević regime and the establishment of democracy in Serbia in late 2000. From now onwards, the rights of Albanians in Kosovo would be respected, and the appropriate solution would be a far-reaching autonomy.

Unfortunately, this view depicts the development of democracy in Serbia in too positive colours. It would have been to a certain degree true until 2003, when the development of a liberal political climate in Serbia was, however, brought to a halt with the assassination of Prime Minister Zoran Djindjić that year. Since then, the political climate took a backward orientation towards increasing nationalism, with the most nationalist force, the Radical Party, consistently turning out as the strongest party throughout the various elections. That party has not yet distanced itself from the policies of “ethnic cleansing”. Also, Vojislav Koštunica’s allegedly more liberal Democratic Party of Serbia (DSS), while formally advocating an autonomous status for Kosovo, has mostly referred to the “Serbian character” of Kosovo but said little about the rights of Albanians who are still implicitly regarded as “living on holy Serbian lands against our will”.<sup>51</sup>

Another argument would claim that the situation had now been stabilized due to the deployment of the rather robust KFOR peacekeeping force<sup>52</sup> of about 15 000 troops which would guarantee a secure environment and ensure public safety and order, and therefore there would be no further need for secession. This argument is self-defeating. It would presuppose to keep that force in place as the situation would be volatile without it.

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<sup>51</sup> One could argue that Serbs and Albanians are in agreement that Albanians should leave Serbia. They are, however, in disagreement whether the Albanians could take Kosovo with them, or should leave it behind ...

<sup>52</sup> The author encountered this argument during various discussions.

As a result, none of these arguments would invalidate the arguments brought forward for Kosovo's secession in reaction to the previous repression by Serbia. Neither has the underlying Serbian perception changed, nor could the situation be regarded as stable enough to exclude further confrontation over the disputed piece of land. Kosovo's secession has been and still is justified by the previous events.

But does it constitute a precedent for other ethnic disputes in the region?

## **Is Kosovo's Secession a Precedent for the Region?**

The first question in this context refers to the notion of "precedent". A "precedent" under international law would normally not refer to a specific region but to international law as such.

Here we may state that Kosovo is by far not the first case that a part of a State seceded under the exceptional circumstances of justified "external self-determination". As outlined above, the real precedent under the changed legal situation after the adoption of the Friendly Relations resolution happened with the unilaterally declared secession of Bangladesh in 1971, more than three decades before the application of the same criteria in the case of Kosovo. Since then, the secessions of Eritrea and East Timor have taken place, although these cases were resolved at the end by brokered solutions. Kosovo does thus in a legal sense constitutes no precedence at all.

What might be meant with the phrase might be, however, the question whether other ethnic groups, minorities, or entities in the region may have recourse to the example of Kosovo to legally secede from their current States.

For that, they same criteria should be given as in the case of Kosovo, or, as shorthand: *is there enough repression to justify secession?*

We shall thus evaluate the respective potential candidates along these criteria.

## **The Albanian minorities in Montenegro and Macedonia**

### Montenegro

Montenegro has an Albanian minority of about 5%.<sup>53</sup> The Albanian minority is politically represented by various Albanian parties (Albanian Alternative or AA; Democratic League-Party of Democratic Prosperity or SPP, a Democratic Union of Albanians or DUA) who have each one seat in the 81 seats parliament, more or less reflecting their percentage in population. The parties do not participate in the government.

The Albanian minority which is primarily concentrated in the South-East is fully integrated and has inter alia strongly supported Montenegro's peaceful secession in 2006.

There is thus no indication for repression of this minority, as much as there is – correspondingly – no serious political initiative for secession.

### Macedonia:

Macedonia has an Albanian minority of 25,2%, in accordance with the 2002 census.<sup>54</sup> After the end of the conflict in Kosovo some Albanians in 2001 initiated a similar uprising in Macedonia which quickly spread throughout the Albanian population of Macedonia. It was ended however by negotiations leading to the Ohrid-Agreement.

The Agreement was signed on 14 August 2001<sup>55</sup> and foresees inter alia amendments to the constitution which give the Albanian minority a large degree of cultural autonomy, as for example the implicit recognition of Albanian as the second official language besides Slavic Macedonian.

There are several Albanian parties which are also represented in the parliament – the Democratic Party of Albanians or PDSH/DPA with 11 deputies and the Democratic Union for Integration or BDI/DUI with 17

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<sup>53</sup> <https://www.cia.gov/library/publications/the-world-factbook/geos/mj.html#People>.

<sup>54</sup> <https://www.cia.gov/library/publications/the-world-factbook/geos/mk.html#Intro>.

<sup>55</sup> [http://www.coe.int/t/e/legal\\_affairs/legal\\_cooperation/police\\_and\\_internal\\_security/OHRID%20Agreement%2013august2001.asp](http://www.coe.int/t/e/legal_affairs/legal_cooperation/police_and_internal_security/OHRID%20Agreement%2013august2001.asp).

deputies. Other Albanian Parties exist but have no deputies in the parliament. One of the major Albanian parties – the PDSH/DPA – is currently in a coalition government with major Slavic Macedonian parties, with the BDI/DUI in opposition. It should be noted that before the elections in 2006, the BDI/DUI had been part of a multiethnic coalition government, then with the PDSH/DPA in opposition. In accordance with background reports, the political “cleansing” of ministries after the changes from one Albanian party to the other were more severe than in case of changes from a Macedonian to an Albanian minister.

While there had been secessionist tendencies up to 2001 which might have referred to what Albanians could have considered discrimination (e.g. the use of languages), the Ohrid-Agreement would have removed the justification for such concerns. On the other hand, it is also noted that the two ethnic groups increasingly lead “parallel lives” through cultural separation.<sup>56</sup>

## **The Republika Srpska**

The Republika Srpska (RS) was founded in the course of the armed conflict in Bosnia-Herzegovina, and later recognized by the Dayton Agreement as one of the two entities within Bosnia-Herzegovina. Its origin and ethnic composition are somewhat problematic as it had been conceived as an exclusively, “ethnically clean” Serbian “state”, with a clearly discriminatory policy against any other ethnic group, resulting in the expulsion and killing of non-Serbs, in particular Bosnian Muslims but also Croats and others. As a result, major areas which before the conflict had been predominantly non-Serbian have now become almost exclusively inhabited by Serbs, and the overall ethnic composition would indicate about 90% Serbs in the RS. Thus, there have been frequent references that the RS, being ethnically rather compact, would

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<sup>56</sup> Biljana Vankovska, The Framework Ohrid Agreement as a cradle of federalization, [http://www.transnational.org/Area\\_YU/2007/Vankovska\\_Maced\\_structure.html](http://www.transnational.org/Area_YU/2007/Vankovska_Maced_structure.html)

also have the right to secede from Bosnia-Herzegovina, as much as the ethnically almost homogenous Kosovo would have had.

These references are, however, mistaken. The key criterion for the right of secession is not the homogenous ethnic composition of the population but the question of repression and discrimination by the majority.

Here, the Serbian part of the population of Bosnia and Herzegovina as well as the RS present themselves in a rather favoured situation concerning both the legal and the de facto situation.

On the legal side, the Constitution of Bosnia-Herzegovina<sup>57</sup> gives far-reaching rights both to the Serbs in Bosnia-Herzegovina (BiH) and to the RS. Serbs are recognized as one of the “constituent people”<sup>58</sup> of BiH and have the right to use their language as well as to exert their (orthodox) religion. The State Constitution in its Article V on the (collective) State Presidency is based on parity and explicitly foresees that one of the three members must be a Serb. Within parliament, at the house of peoples one third of the deputies must be Serb (Art. VI, par. 1), while in the House of Representatives one-third of the Deputies have to come from the territory of the Republika Srpska (Art. VI, para. 1). Parity between all “constituent peoples” is also foreseen for practically all major public functions, e.g. any State level minister is supposed to have two deputies from the respective other “constituent peoples”. Serbs are thus not in a discriminated but rather privileged position within BiH.

Assessing the position of the RS within the State of BiH would come to similar conclusions. The Dayton Constitution has kept the competencies at the State level quite narrow, with the majority of competencies de-

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<sup>57</sup> Constitution of Bosnia-Herzegovina, Annex 4 to the General Framework Agreement (“Dayton Agreement”), Wright-Patterson Air Force Base, Dayton Ohio; 21 November 1995.

<sup>58</sup> Together with Bosniacs and Croats.

volved to the Entities. Key issues like public security or education but also justice are practically all at the Entity level.<sup>59</sup>

Both the Serbian population of BiH and the RS thus enjoy a high degree of internal self-determination which in many cases by far exceeds the established standards. The very existence of a “Republika Srpska” under this name constitutes a clear indicator against any ideas of repression or discrimination of Serbs in BiH.

Given the criteria under international law as established by the Friendly Relations Declaration and afterwards, the rather privileged position of the RS within the State of BiH would strongly speak against any justification of secession or secessionist tendencies.

## Conclusions

Based on the above findings, we can come to the following conclusions:

- The Secession of Kosovo is no precedent under international law. It has taken place under rather exceptional circumstances but within the set of criteria established under international law progressively for regulating both “internal” and “external” self-determination. While these criteria favour in principle the “internal self-determination” in the shape of autonomy within a State, thus giving priority, in principle, to territorial integrity, international law no longer excludes the right to secede when key criteria for “internal self-determination” are not met;
- it is also no precedent within the historical sequence. The first such case of justified secession under the above criteria was undertaken by East Pakistan/Bangladesh in the early 1970s, and quickly recognised by the international community. Similar cases can be seen in the secession of Eritrea and East Timor;

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<sup>59</sup> As was even defense until the Defense reform of 2002-2006 which established in a first step State control over the separate Entities’ armed forces, and finally a single army at the State level.

- the secession of Kosovo thus cannot be regarded a “precedent” in either respect. It happened in the context of an already established legal framework, and it has not constituted the first case, either, with earlier State practice to recognize such secession when it meets the established criteria;
- the same arguments would invalidate some of the claims made by advocates of Kosovo’s secession that it would constitute a “unique” case and thus constitute no precedent. As outlined above, there have been earlier cases, and we cannot exclude more to come whenever the criteria for justified secession would be met. While secession should be the exception rather than the rule, and justified only under rather limited and exceptional circumstances, the secession of Kosovo it is not a unique and isolated phenomenon, either. The fact that it does by itself not constitute a “precedent” (understood in a simplistic way) would not derive from its “uniqueness” but from the fact that it had to meet certain legal criteria to be acceptable;
- The secession of Kosovo does not constitute a “precedent” for the region, either. It was not justified because it had been undertaken in the context of the region, or of the breakdown of former Yugoslavia, or because the population would be predominantly Albanian, but for the simple reason of meeting certain necessary criteria. These criteria would have to be met by any other would-be secessionist tendencies or movements in the region (but also worldwide). These criteria which could be encapsulated in the formula “*no repression – no secession*” have not been met in the case of any other minority dispute in the region. Neither Albanians in Montenegro or Macedonia, nor Serbs in BiH are discriminated against, or repressed, in a way which would meet the exceptional criteria for “external self-determination”, i.e. secession.

## **Outlook : the Secession of Kosovo and its Impact on Peace and Stability in the Region**

Given the above findings, the secession of Kosovo should have no effect as “precedent” for secessionist tendencies in the region which would

lack the key criteria for justifiable secession. Taken in a proper perspective beyond simplistic and superficial analogies (“*any minority can secede*”), there should be thus no further impact on peace and stability in the region.

This does not exclude that nationalist and/or secessionist movements in the region would point to the example of Kosovo to claim that it has “set a precedent”, but we should be aware that this is a phony claim without justification in international law, based either on ignorance or – worse – on the deliberate misuse of the term “precedent” which must be rejected.

More important, however, any dispute about the alleged “precedent” set by Kosovo’s secession would have to ask the reverse question: What would have been the consequence if Kosovo would have been *denied* the right to secede? First of all, it would have sent a clear signal to all would-be repressive regimes that one could repress minorities without legal consequences. Attempts in “ethnic cleansing” would be without sanctions and could be repeated in due time, until they would have achieved their purpose.

Secondly, on the side of international law, it would have turned the development of the balance between territorial integrity and self-determination backward into the time before the adoption of the key instruments as for example the Friendly Relations Declaration, or even the adoption of the United Nations’ Charter. It is no coincidence that inherently authoritarian regimes were among the loudest to protest against Kosovo’s secession, as the right of self-determination is inseparably linked to the question of human rights, and any step backwards in this field would be seen by them with relief. Any such attitude also can be seen as expressing the view that the people – as much as the peoples – would be objects, rather than subjects of the State they live in.

Finally, any denial of the right of secession would have happened in visible contradiction to already established international law. The **denial** – and not the recognition – of the right to secede under the given specific circumstances would have indeed constituted a dangerous precedent, undermining the already developed legal framework for the balance of

territorial integrity and self-determination and sending international law back to the nineteenth century.

## **PART III:**

# **THE ROLE OF THE INTERNATIONAL ACTORS**



# **The Future International Presences in Kosovo**

Karin Marmsoler

## **Introduction**

Following NATO bombing in 1999, the United Nations Mission in Kosovo (UNMIK) started administering Kosovo, in cooperation with the European Union and the Organization for Security and Co-operation in Europe (OSCE). UN SC Resolution 1244 (1999) assigned UNMIK a temporary mandate with partial autonomy allocated to the local institutions until a future status settlement was found. After years of international administration, during which a range of competencies had gradually been transferred to the Kosovo Provisional Institutions of Local Self Government (PISG), in November 2005, the former Finnish President Martii Ahtisaari began conducting – on behalf of the UN – intense negotiations with Serbian and PISG representatives aimed at reaching a status agreement. The work of UNOSEK culminated in the Comprehensive Proposal for the Kosovo Status Settlement (CSP), presented to the UN Secretary General for consideration by the UN Security Council on 26 March 2007. The so-called “Ahtisaari Plan” provides for supervised independence and terminates the UN’s mandate in Kosovo, while laying the ground for a set of new international presences in Kosovo. Most prominently, Annex IX introduces the International Civilian Representative (ICR) charged with supervising the implementation of the Comprehensive Settlement Proposal (CSP). With an eye on enhancing Kosovo’s European perspective, the ICR is double-hatted as EU Special Representative (EUSR). Annex X of the CSP introduces the European Security and Defense Policy (ESDP) Mission designed to operate in various areas of rule of law. NATO should meanwhile continue securing a safe and secure environment and the OSCE Mission in Kosovo perform activities to foster democratic institutions.

Notwithstanding this clear-sketched design of post-status international presences in Kosovo, political events overturned the original plans: In June 2007, following the strong pressure by the Russian delegation, the UN SC did not endorse the CSP presented by the former Finnish President through a new SC Resolution, thus leaving Resolution 1244 (1999) in place. The subsequent mediation efforts, spearheaded by a Troika composed by the European Union, the Russian Federation and the United States, did not yield any success in identifying alternative solutions. As no agreement between the parties involved was in sight, the proclamation by the Kosovo authorities of a unilateral declaration of independence became ever more likely. Starting in late 2007, intensive consultations led by the *Quintet*<sup>1</sup> with the Government of Kosovo took place, trying to orchestrate what soon became known as coordinated declaration of independence (CDI).

On 17 February 2007, the General Assembly declared Kosovo as an independent Republic and formally invited the International Civilian Office (ICO) to supervise the initial period of independence<sup>2</sup> and the European Union to deploy a Rule of Law Mission.

Prior to outlining the current situation on the ground, a brief description of mandate and functions of the new international presences shall be provided for a better understanding of the multiple actors operating in the theatre.

## **European Perspective for Kosovo**

The idea of engaging in the European integration process as soon as Kosovo has achieved independence was repeatedly spelled out by the local leadership and most prominently anchored in the speech of the President

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<sup>1</sup> US, UK, France, Germany and Italy.

<sup>2</sup> “We invite and welcome an international civilian presence to supervise our implementation of the Ahtisaari Plan, and a European-led rule of law mission.” Paragraph 5 of the Declaration of Independence of 17 February 2008.

on the day of declaration of independence of Kosovo<sup>3</sup> and in the preamble of the Constitution.<sup>4</sup> On the other hand, the European Union has frequently reiterated its commitment to supporting overall stability in the Balkan region by mobilizing all its policy instruments and hence, provide Kosovo with a long-term European perspective. In the Council Conclusions on Kosovo one day after the declaration of independence, “the Council reaffirmed its commitment to fully and effectively support the European perspective for the Western Balkans.”<sup>5</sup> In practical terms this meant the agreement among the 27 member states to 1) deploy a EU Special Representative to Kosovo and 2) stand up the largest ever EU Mission under the Common European Security and Defense Policy (ESDP).<sup>6</sup> In light of the various European players on the ground, major efforts were made by the offices together with the Government to create the image of a European family operating in Kosovo and inject the idea of a European future for Kosovo.

## **The European Family**

### **The EU Special Representative – Making the EU Perspective a Reality**

The EUSR’s primary role is to coordinate the EU presences in Kosovo and provide political guidance to the local authorities with regard to Eu-

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<sup>3</sup> Paragraph 4 of the President’s speech on the day of declaration of independence states: “This means that Kosovo will be a democratic and multiethnic state, integrated in the region and in good neighbourly relations with the surrounding states, a state that moves fast towards full membership in the Euro-Atlantic communities. The people of Kosovo are determined and want a European future for their country.”

<sup>4</sup> Paragraph 6 of the Preamble of the Constitution states “with the intention of having the state of Kosovo fully participating in the processes of Euro-Atlantic integration.”

<sup>5</sup> Council Conclusions on Kosovo, 2851<sup>st</sup> External Relations Council Meeting, Brussels, 18 February 2008.

<sup>6</sup> Council of the European Union Joint Actions of 4 February 2008 on the Establishment of the EU Special Representative and on the Rule of Law Mission.

ropean Affairs. Four support staff, deployed in Prishtina and Brussels work closely with the Government, the EULEX Mission and the Office of the European Commission. On 4 February 2008,<sup>7</sup> the Dutch diplomat Pieter Feith was appointed as the EUSR.

### **ESDP Mission “EULEX” – Supporting Kosovo in the Rule of Law Area<sup>8</sup>**

The largest ever Mission under the ESDP is expected to deploy approximately 1 900 international judges, prosecutors as well as police and customs officers to Kosovo. Supported by additional 1 100 local experts, they will help fostering the rule of law and the core functions of society. For this purpose EULEX personnel will monitor, mentor and advise the local institutions in the areas policing, justice, correctional service and customs. In serious cases of corruption, property cases or inter-ethnic organized crime, the investigators, judges and prosecutors can make use of executive powers. EULEX personnel will be co-located with their local counterparts throughout the territory. Planning efforts started in 2006 with the EU Planning Team (EUPT), which transitioned to EULEX on 15 June 2008. The Mission led by the French General Yves de Kermabon is expected to build up to full strength and be fully operational by the end of October 2008.<sup>9</sup>

### **The European Commission – Helping Kosovo realize its EU Perspective<sup>10</sup>**

Similar to other candidate countries, the European Commission (EC) Office in Kosovo is tasked to drive reforms mainly through economic development and project funding. For this purpose, the EC has allocated 500 million Euros until 2010 to improve standards – amongst others – in education, environment, energy, public administration and civil society.

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<sup>7</sup> Council of the European Union Joint Action of 4 February 2008.

<sup>8</sup> Council of the European Union Joint Action of 4 February 2008.

<sup>9</sup> See also [www.eulex-kosovo.eu](http://www.eulex-kosovo.eu).

<sup>10</sup> See also [www.delprn.ec.europa.eu](http://www.delprn.ec.europa.eu).

To facilitate reforms, the Commission Office engages in close policy dialogue with the Kosovo authorities at technical and political levels. The office led by the Italian Renzo Daviddi also supports Kosovo in realizing its participation in regional and Europe-wide initiatives including the Central European Free Trade Agreement (CEFTA), the Energy Community Treaty or the European Common Aviation Areas. Taking over some functions previously covered by Pillar IV of UNMIK (EU Pillar) and the European Agency of Reconstruction (EAR), which ceases to exist on 30 June 2008, the European Commission Office in Prishtina will be staffed with approximately 80 people by the end of the year.

## **The International Civilian Office (ICO) and the Comprehensive Settlement Proposal (CSP)**

### **The ICO – Supervisory Body for Kosovo’s Independence**

The ICO distinguishes itself as an institution *sui-generis*. Headed by the International Civilian Representative (ICR) Pieter Feith (also EUSR), the ICO was invited by the Kosovo Government<sup>11</sup> to supervise the implementation of the CSP provisions. The powers of the ICR – who was appointed on 28 February 2008 by the International Steering Group (ISG) – were consolidated in the new Constitution.<sup>12</sup> The ISG is a growing group of states that recognized independent Kosovo and includes the *Quintet*, about two thirds of the EU member states, NATO, the Council of the European Union and the European Commission.<sup>13</sup> The ICR is supported by an office of 340 personnel, including international and local staff, and presences in all major towns of Kosovo. He shall have a fairly limited and short-term mandate, which consists in the supervision of the implementation of the CSP through active support and advise for

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<sup>11</sup> Speech of the President on the day of the declaration of independence, “Therefore Kosovo welcomes the establishment of the international civilian presence which will support continued democratic development of our country, but will also supervise the implementation of Ahtisaari’s plan.”

<sup>12</sup> Chapter XIV Transitional Provisions, Article 146 and 147.

<sup>13</sup> For a full list of ISG members consult [www.ico-kos.org/en/isg.html](http://www.ico-kos.org/en/isg.html).

the institutions, a regular assessment of the progress achieved and overall, the promotion of good governance, multi-ethnicity and the rule of law. Special attention is attributed to the rights of the communities,<sup>14</sup> religious and cultural heritage<sup>15</sup> and decentralization<sup>16</sup> provisions in order to ensure long-term sustainability of all communities in Kosovo.

The Constitution of Kosovo reserves the ICR the right to interpret the CSP-deriving provisions and to take corrective measures in cases of violations. Such executive powers shall however be used as last resort only, while the primary responsibility of implementing the CSP provisions rests with the Kosovo authorities. This point has been stressed by the ICR since his appointment and with a view of making a clear cut with the UNMIK Administration previously in charge. All relevant provisions relating to the rights of communities were included into the Kosovo Constitution in order for the ICR to certify it on 2 April 2008 and the Assembly of Kosovo to adopt it a week later. Simultaneously, 41 laws<sup>17</sup> regulating a variety of areas including community rights, the security sector and economic matters were approved by the Assembly of Kosovo,

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<sup>14</sup> Annex II assigns all communities the rights to express and maintain their ethnic and cultural identity, receive education in and use their own language freely, have their own media, symbols, names and freedom of association. Furthermore, all communities shall enjoy guaranteed representation in the Assembly, the Government and the Judiciary as well as equitable employment in the public bodies. In order to ensure continued commitment to communities at highest institutional level, the establishment of the Community Consultative Council is foreseen in the new Constitution. At local level, in those municipalities with over 10% minority communities, they will be represented by a Deputy-Mayor for Communities as well as Vice President for Communities of the Municipal Assembly.

<sup>15</sup> Annex V establishes 45 Special Protective Zones around overwhelmingly Serbian Orthodox sites, which shall be protected and preserved. The Serbian Orthodox Church will also benefit from tax privileges in order to ensure its sustainable well-being.

<sup>16</sup> Annex III promotes the idea of decentralization at two levels 1) the devolution of additional competencies from central to municipal level and 2) the creation of five plus one Serb-majority municipalities including: North Mitrovica, Gračanica/Gračanice, Ranilug/Ranillug, Partes, Klokot-Vrbovac/Klokot-Vërboc, Novobrd/ Novo bërdë.

<sup>17</sup> For the list of 41 laws see [www.assembly-kosova.org](http://www.assembly-kosova.org).

laying the ground for their subsequent implementation and oversight by the ICR.

## **Change of Course – UNMIK’s role in Kosovo after 15 June 2008**

Original plans which were driven by the Contact Group<sup>18</sup> were based on the Ahtisaari Plan and drawn upon the assumption that there would be a) a UN SC Resolution backing the plan and b) a subsequent gradual phase-out of UNMIK and transfer of specific competencies to the new international presences. Russia however started sliding away from supporting the Ahtisaari plan in early 2007 resulting in the lack of a new UN SC Resolution in June 2007 endorsing the CSP. The Troika negotiations were the last joint attempt by the Contact Group, including the Russian party, to reach an agreement. Subsequent political steps taken in late 2007 and early 2008 were driven without the consent of Russia, hence resulting in solely *Quintet*-driven actions. The Joint Actions for the establishment of the EUSR and the EULEX Mission were adopted by the Council of the European Union on 4 February 2008, i.e. prior to the orchestrated declaration of independence, so to ensure the support of all 27 EU members states. Given the lack of a new UN SC Resolution and the opposition of the Russian and Serbian delegation to back the Ahtisaari plan at UN level, it was clear that UNMIK would continue playing a role in Kosovo also after the entry into force of the Constitution on 15 June.

### **Transition Period 1 – 17 February to 15 June 2008**

The CSP establishes a 120 days transition period at the end of which, the EULEX Mission would deploy and replace UNMIK in the areas of rule of law. However, in the absence of a UN SC Resolution, the UN showed no signs to leave the battleground to the EU Missions while the timelines to deploy almost 2 000 international EULEX staff became increasingly

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<sup>18</sup> The Contact Group includes the *Quintet* member states and the Russian Federation.

tighter. Furthermore, the deployment of the EULEX personnel depended on the planned transfer of premises and equipment from UNMIK to the EULEX Mission, which for obvious reasons was not forthcoming.

During spring 2008, EU-representatives held numerous high-level meetings with the Department of Peacekeeping of the UN (DPKO) to find ways forward and unlock the *impasse*, attempts that were opposed by regular demarches of the Russian delegation to the UN. A variety of scenarios for the deployment of the EULEX Mission in Kosovo were contemplated, including placing the rule of law mission under the 1244 umbrella and dividing up the territory between UNMIK and EULEX according to ethnic lines. The latter option was considered not least because of the strong opposition of the Serbian Government, and hence the Kosovo Serb community, against the deployment of the EULEX Mission in Kosovo.

With time passing and the forthcoming entry into force of the Constitution on 15 June, the UN Secretary General came increasingly under pressure to move forward taking into account the changed circumstances on the ground and the loss of internal legitimacy of his SRSG. The local authorities also made clear in several instances that they would not tolerate the SRSG's authority deriving from the UN SC Resolution 1244 after 15 June, which they considered overruled by the new Constitution. The situation on the ground was *de facto* stalled and full of uncertainties, with UNMIK still in place but unwilling to hand over neither responsibilities nor any of its equipment, and hence, EULEX being unable to deploy. Only the legislative work – driven by the ICO – continued and kept the Assembly of Kosovo occupied while recognitions were slowly trickling in.

### **The UN-EULEX Umbrella Arrangement**

On 12 June 2008, Ban Ki-Moon finally made the long-awaited step, sending a letter<sup>19</sup> to the Serbian President and to the President of Kosovo

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<sup>19</sup> Letter of BAN Ki-Moon to Mr. Boris Tadić of 12 June 2008 and Letter of Ban Ki-Moon to Mr. Fatmir Sejdiu of 12 June 2008.

respectively announcing his intention to “reconfigure the international civilian presence” in Kosovo and allowing the European Union to take over an increased operational role in specific areas. The letter was broadly considered a major step forward in light of the pressure exerted by Russia and Serbia on the UN SG. It indeed launched the re-organization of the international presence in Kosovo following an arrangement, which places the EULEX Mission under the UN SC Resolution 1244, with UNMIK and EULEX personnel operating under the same umbrella. At this point in time, questions of chain of command and reporting requirements between UNMIK and EULEX officials still need to be defined.

Thus, Ban Ki-Moon’s letter opened a second transition period of additional 120 days, during which the re-configuration of UNMIK as per instructions provided by New York and including a substantial downsizing of UNMIK personnel would take place. Although initially received with distrust, in his response to the UN SG’s letter the President of Kosovo accepted the continuation of UNMIK and the SRSG’s reserved powers in six key areas, while requesting that dialogue with Belgrade to be conducted in a transparent manner.<sup>20</sup>

### **Re-configuration or Re-confusion?**

Expectedly, Russia and Serbia protested against the UN SG’s action, arguing that only the Security Council could decide over the re-configuration of the international civilian presence in Kosovo. Based on the Resolution in place though, the UN SG possesses authority to establish and – if need be – reconfigure the international civilian presence without putting into doubt the validity of the resolution as such. The newly appointed SRSG has been charged with setting up a dialogue with Belgrade in the following six areas: police, courts, customs, transportation and infrastructure, boundaries and the Serbian patrimony. By including the areas of police, justice and customs under the SRSG’s authority and, most importantly, under the UN SC Resolution 1244, the UN SG was

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<sup>20</sup> Letter of Fatmir Sejdiu of 16 June 2008.

able to kill two birds with one stone: a) to gradually engage EULEX personnel in its core operational areas while seizing down UNMIK personnel and b) to keep the door to Belgrade and the Kosovo Serb community open, which otherwise would refuse cooperating with EULEX. In addition, the “umbrella arrangement” also accommodated those EU member states that – although supportive of the ESDP Mission – do not intend to recognize Kosovo’s independence. Ban Ki-Moon’s letter specifies also that the dialogue conducted with Belgrade should be transparent to other stakeholders, including the authorities in Priština. Similarly, the SRSG made clear in public statements that this dialogue did not mean re-opening any negotiations.

The instructions for reconfiguration received from New York on 25 June, anticipate a sharp cut of UNMIK personnel over the next months, with a gradual take-over by EULEX judges and prosecutors, police and customs officers in the areas inhabited by Kosovo Albanians. In Serbian villages and in the North of Kosovo, UNMIK personnel will continue to be in charge until political circumstances allow otherwise. Nonetheless, the UN will retain certain residual functions described in the Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo (UNMIK), including 1) monitoring and reporting, 2) engagement in international agreements and 3) facilitation of the dialogue between Priština and Belgrade on practical issues.<sup>21</sup>

## **Conclusion and Challenges Ahead**

The installation of a triple EU presence in Kosovo, covering the political, rule of law and economic development spheres, is proving more cumbersome than anticipated. For the foreseeable future, the UN will remain stationed in Kosovo fulfilling certain residual functions and conducting a dialogue with Belgrade.

The new transition period will be characterized by *co-habitation* between the SRSG, legitimized by the UN SC and equipped with certain

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<sup>21</sup> Report of the SG to the UNMIK (S/2008/354).

executive powers and the ICR, locally mandated by the Kosovo authorities. Meanwhile, two legislative frameworks will be in place, including the one adopted earlier under the UN SC Resolution 1244 as well as the one approved by the Assembly of Kosovo during the first 120 transition period and applicable since 15 June 2008. Whereas UNMIK will continue to adhere to the former, the ICO/EUSR will – together with the Government – govern based on the Constitution and the recently adopted CSP laws. Operationally speaking, a hybrid situation will be in place, with UNMIK personnel operating in certain geographical areas, including the North, and EULEX personnel dispatched to the remaining territory of Kosovo.

Lastly, the difficulty of the various international presences in Kosovo currently also consists in the existence of two fronts, i.e. the status-neutral vis-à-vis the pro-independence one, the ICO being the latter's expression. By moving EULEX under UN SC Resolution 1244, the ESDP Mission has joined the club of status-neutral bodies, comprised of UNMIK, the OSCE Mission in Kosovo and the North Atlantic Treaty Organization (NATO). Cooperation and coordination between the players on the ground will prove extremely fragile and must be based on informal rather than formal contacts. In this conundrum of international players, the status-neutral EUSR may be playing a key role to bridge the gap and possibly become the direct link between UNMIK/EULEX and the ICO. Whilst a temporary solution was found by placing EULEX under the UN SC Resolution 1244 and by reconfiguring UNMIK, further challenges to the set-up and functioning of the international presences in Kosovo can be expected for the foreseeable future.



# **Kosovo's Independence: The Consequences for EU Integration Policy**

Franz-Lothar Altmann

Kosovo seems to capture a specific position in the integration policy of the European Union (EU). The EU's policy of integrating the countries of the Western Balkans started in 1999 after the end of the Kosovo War with the launching of two key initiatives; the Stability Pact for Southeast Europe and the Stabilization and Association Process (SAP). In the former the EU was the driving force, in case of the SAP the program was and is a pure EU approach which became more precise and distinct with regard to EU integration after the Thessaloniki Summit declaration of 2003 when all countries of the Western Balkans were labelled "potential candidate" for EU membership. However, both the Stability Pact and the SAP constitute important refreshing the intensification of regional cooperation in the Balkans, not only as a kind of precondition and prove for the ability and willingness of the countries concerned to effectually integrate later into the EU structures but also for supporting the desperately needed economic recovery of the region. Economic as well as political cooperation cannot be one way streets between the EU and the single Balkan countries but shall even more utilize on the existing opportunities of regional advantages, local resources and division of labour.

The most visible step in that direction of promoting and developing regional cooperation was the recent (spring 2008) transfer of responsibilities and tasks from the Stability Pact to its successor organization, the newly created Regional Cooperation Council (RCC)<sup>1</sup> seated with its secretariat now in Sarajevo, i.e. at the very heart of the region. An important task of the RCC will be to provide the already existing Southeast

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<sup>1</sup> More on the RCC see "Final Report of the Senior Review Group on the Stability Pact for Southeast Europe", Brussels March 6, 2006; and Joint Declaration On the Establishment of the Regional Co-operation Council (RCC), Sofia, 28 February 2008.

European Cooperation Process (SEECP), a hitherto only non-institutional political debating club of the Southeast European heads of states, with operational capacities. The RCC is destined to promote regional cooperation not any longer under the roof and guidance of the EU but under the principle of the ownership of the countries of the region, and under the roof of political cooperation and guidance of the Balkan states assembled in the SEECP. The EU will only accompany this new promising process supporting it by political and financial means. The RCC, if it functions appropriately, will be a sign of maturity of the region for future EU integration.

Here now comes the Kosovo issue into play. The official inauguration and start of the RCC coincided almost precisely with the declaration of independence of Kosovo! The prime reaction of Belgrade was the immediate freezing of diplomatic relations with all countries that recognize the independence of Kosovo, which includes also six important neighbouring countries in the region: Albania, Bulgaria, Croatia, Hungary, Slovenia and Turkey. It might be that Montenegro and also Macedonia will recognize Kosovo soon, Macedonia at least has signed a Free trade Agreement (FTA) with Kosovo as did Bosnia-Herzegovina, which like Greece and Romania will not recognize Kosovo in the foreseeable future due to very specific reasons.

For the initial phase of enhanced regional cooperation Serbia has announced that it will not participate in any RCC action where Kosovo tries to act as sovereign state instead of being under the tutelage of the UN Interim Administration Mission in Kosovo (UNMIK). At the last SEECP summit in Pomorje (Bulgaria) on 20 May 2008, Kosovo was one of the central issues. Serbian Foreign Minister Vuk Jeremić blocked the Albanian representative Skender Hyseni from addressing the meeting as chief of Kosovo's diplomacy insisting that an UNMIK official speak instead. During the entire meeting Serbia was adamant on not mentioning Kosovo at all in the document while Albania insisted on the opposite.

However, it cannot be expected that Kosovo will be represented in future RCC meetings and actions by UNMIK forever, but will insist in partici-

pating under its own sovereign terms that are already recognized by the majority of its neighbours. On the other hand, the Serbian blockage can result in jeopardizing major projects since Serbia is geographically the country in the very centre of the region, and the one with the largest population after Romania. How shall border-crossing projects on infrastructure or e.g. cooperation in the context of the EU-Southeast Europe Energy Community<sup>2</sup> function, if also the newly formed Serbian government is determined to either block out Kosovo or to refuse cooperation if Kosovo tries to act the role of a sovereign state? There was even concern in Serbia and in the EU that a government formed by the radicals and the Koštunica DSS party would reorient Serbia's economic and political future towards the East, i.e. Russia, abandoning thus permanently and consequently further regional cooperation with its neighbours who are primarily relying on ongoing support from the EU! Anyhow, even without a reorientation towards Russia but still backed by Moscow, the simple blockage policy of Serbia's new government may delay principal regional projects, jeopardizing thereby an important pillar of the EU's policy of rapidly integrating the Western Balkans!

What are the possible consequences of Kosovo's independence for the entire Stabilization and Association Process, the enlargement process, which it is shaping? There are two interpretations of possible effects: It may either accelerate or slow down the enlargement. Starting with the latter one must concede that over the last two years a general tendency of growing enlargement fatigue has developed among government officials in single EU-countries as well as in the broad public, whereas the EU Commission is still trying to pretend that enlargement policy is on an unchanged track! The poor performances of Romania and Bulgaria after their accession, with slowed down reforms and reluctance in fighting organized crime and widespread corruption, are not at all supportive for a positive discussion on further enlargement. Furthermore, the auspices of a Turkish membership have also prompted general concerns regarding further enlargement as such.

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<sup>2</sup> See more on the Energy Community in: Franz-Lothar Altmann: Südosteuropa und die Sicherung der Energieversorgung der EU. SWP-Study No. 1/2007. To find in: <<http://www.swp-berlin.org>>.

And now comes Kosovo! Fortunately there has not been formed a DSS-Radicals government in Serbia since they had programmed to not ratifying the EU-Serbia SAA! But confidence in the stability of the new DS-SPS government is also not too great in the EU. However, what makes the entire issue of implementing the SAP problematic is the split within the EU. Still six EU-countries (Cyprus, Greece, Romania, Portugal, Slovakia and Spain) have not recognized Kosovo's independence, and it will be interesting to see how these countries will decide when for example Serbia should receive candidate status in order to be further stabilized, and Kosovo not due to its disputed status.

Anyhow, can Serbia with its claim on Kosovo become candidate for EU membership when more than two thirds of the EU countries have already denied that position by recognizing Kosovo as a sovereign state? Will not the general attitude grow which argues that this trouble prone area, the Western Balkans, should not become integral part of the EU? The former notion to enlarge bloc-wise, as has happened before in all enlargement rounds, is not any longer feasible. Too heterogeneous and different in many respects have these countries become over the recent past, in particular in economic performance. And, in addition, can the SAP and thus the enlargement process proceed in the given framework, if Bosnia-Herzegovina, Macedonia and Montenegro do not recognize Kosovo, thereby fragmenting further the Western Balkans? Much pragmatism seems to be needed to overcome these obstacles!

On the other hand, the Kosovo issue can even have an accelerating effect on SAP and enlargement, and in fact it seems already that this is exactly what is happening. The uncertainty concerning the outcome of the parliamentary elections in Serbia in early June have prompted Brussels to offer the signing of an SAA for Serbia before the elections in order to avoid that an anti-EU Serbian electorate vote for a radical turn into isolation. Hope was also expressed that Belgrade would become more realistic and thus ready for some compromises in the Kosovo status question if a EU-friendly government would be the outcome of the elections. The arguments of the Radicals and of Koštunica's DSS were that Serbia should never accept partnership or even membership with a union that in majority is supporting the amputation of Serbian territory! Also the ac-

companying offer of free visa issues has to be seen as a usage of EU's integration perspective as a means of political influence before election date. However, reactions of Bosnia-Herzegovina, Albania and Montenegro to the signing of the SAA with Serbia on 29 April 2008, have been as expected critical if not fierce: Why does the aggressor who is not responding appropriately to the EU's conditions, in particular the full cooperation with ICTY in The Hague, receive such positive promotion and is allowed to march ahead towards European integration when others, who are trying really hard to comply with the requirements set in the SAA negotiations, are still sitting on the waiting bench?

Thus it became unavoidable that the integration process with these countries had to be accelerated, too. Bosnia-Herzegovina was invited to sign its SAA on 16 June 2008, although the general assessment of the results of the reforms remains sceptical. The so-called police reform is widely seen as a compromise based on the lowest denominator, and constitutional reforms are not any longer discussed due to the absolute chasm between the Muslim-Croat Federation and the Republika Srpska. Montenegro has been encouraged by the disputed promotion of Serbia to consider to officially applying for full EU membership already during the French presidency,<sup>3</sup> and Albanian opposition leader Edi Rama just recently complained that Serbia is treated undeservedly better than his country!<sup>4</sup>

Arguments have come up even that not only equal treatment should be applied but instead a more pro-active approach towards the neighbours of Serbia in a kind of setting incentive examples for Serb politicians! In that respect one could even state that Albania, BiH and Montenegro should be grateful for this general new momentum in enlargement politics resulting from the Kosovo quagmire, a momentum that goes contrary to the otherwise noticeable enlargement fatigue. However, can one undisputedly accept the obvious dilution of principles that had been up-

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<sup>3</sup> Montenegrin Prime Minister announces EU application during French presidency. BBC 15 July 2008.

<sup>4</sup> Opposition leader slams EU for treating Albania worse than Macedonia, Serbia. BBC 14 July 2008.

held for so long? Economic as well as political criteria had been the cornerstones of enlargement progresses so far, but now pure political considerations and not principles seem to dictate the process. Are the respective countries really well prepared for an acceleration that might prove too rapid and demanding for the economies and societies in the region?

Two questions must be raised in this context. The first concerns whether the EU really has an alternative to this stabilization approach. Can the EU live with a constantly instable region amidst its south-eastern tier, with countries that remain economically depressed with the related social tensions, with high unemployment and autarky not only from socio-economic embeddings into the worlds greatest trading and welfare area, but also from free movement into its direct neighbourhood?

The second question is whether a slow down of the integration progress due to non-fulfilment of the conditions such as ICTY cooperation would not have severe negative implications on urgently needed further reform steps? So far reform efforts could be substantiated with the argument that Brussels is demanding and pushing for them because otherwise next steps in the SAP could not be considered.

Finally, what about Kosovo itself? It is included into the SAP through the so- called tracking process, and it is clear that it must remain part of the Western Balkans' EU integration process. But how can that happen if at the same time Serbia submits its EU membership candidacy with the territory of Kosovo and Metohija as defined in its new constitution?<sup>5</sup> How can Serbia sign a document where 20 out of 27 counter-signatories do not acknowledge any longer the belonging of Kosovo to Serbia? On the other hand, the EU cannot leave Kosovo aside and proceed with Serbia. At the very end there is no possibility that under the present controversial positions concerning Kosovo's status both countries can become at the same time candidates for membership or even members in the EU. If Serbia insists in its position, then a point will come when all attempts of the EU to include it further on into the entire process may be stopped,

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<sup>5</sup> Interview with Serbian Foreign Minister Vuk Jeremić in *Politika* on 9 July 2008.

which would mean the exclusion and isolation of Serbia. It is not possible to keep Kosovo out when it is recognized by a two-third majority of the EU states but again it might not become possible to offer it at the very end membership when the remaining third is not willing to recognize Kosovo's sovereignty and will not enter the final ratification process! Furthermore, the EU taking over from UNMIK will not be able to sign the respective membership document for Prishtina with itself if it remains split. But also the Western Balkans *in toto* will remain split if Belgrade does not move!

So how to proceed? At the moment it seems as if all parties, the EU, Serbia, Kosovo, and its neighbours are behaving and proceeding as if there will come a miraculous solution in time. Until then the EU Commission will try to push forward the accession process which means that constant signals will be given to the region that even the Ireland referendum failure will jeopardize neither Croatia's entrance nor that of the other Western Balkans states at a later date.

However, discussion has already started whether intermediate steps between SAAs and full EU membership like the concept of concentric circles, of course the possibility of final membership included, could become a backdoor for overcoming eventual frustrations, if the stalemate scenario endures. In the Report of the Committee on Foreign Affairs of the European Parliament on the Commission's 2007 enlargement strategy paper such an approach ("... mutually permeable concentric circles ... to move from one status to another ...") has been mentioned!<sup>6</sup>

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<sup>6</sup> Report on the Commission's 2007 enlargement paper (2007/2271(INI)) by the Committee on Foreign Affairs of the European Parliament, rapporteur Elmar Brok, A6-0266/2008, 26.6.2008, para. 17.



# Kosovo: America's "NATO State" in the Balkans?

Matthew Rhodes<sup>1</sup>

## Introduction

Leading Serbian politicians accuse the United States of seeking to create a "NATO state" in Kosovo.<sup>2</sup> Although not as intended, this provocative formulation concisely captures the twin essential features of U.S. policy – to midwife Kosovo's establishment as a state and to rely on NATO as its principal instrument to make that process a success.

Significant progress has been made toward these objectives, but it remains incomplete and vulnerable to setbacks. Lingering disunity within the alliance, competition for attention and resources, and the approaching U.S. presidential transition all present potential obstacles to success. Moreover, while American diplomats understand it's too soon to switch to "autopilot" on Kosovo,<sup>3</sup> they now need assistance from partners in Europe to keep their own country's policy on track.

## Goals and Objectives

Critics in Serbia and elsewhere ascribe American support for Kosovo's independence to designs for a pliable client state in the region. Alleged motives include desire for permanent presence at the U.S. Army's Camp

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<sup>1</sup> The views expressed in this paper are solely those of the author.

<sup>2</sup> See for example the remarks of Prime Minister Vojislav Koštunica on March 23, 2008, quoted on the website of the Serbian Ministry of Foreign Affairs; [http://www.mfa.gov.yu/Policy/CI/KIM/240308\\_1\\_e.html](http://www.mfa.gov.yu/Policy/CI/KIM/240308_1_e.html).

<sup>3</sup> Assistant Secretary of State Daniel Fried before the Senate Foreign Relations Committee March 4, 2008.

Bondsteel (“Kosovo’s real capital”<sup>4</sup>), control over future pipeline routes, and an additional European missile defence site. One barbed jest suggests the Bush administration recognized Kosovo to ensure one foreign country remained pro-American.

Some of these perceptions contain grains of truth. The prevailing gratitude and goodwill toward all things American among Kosovo’s population, especially the ethnic Albanian majority, contrast sharply with more critical attitudes elsewhere. Likewise, the U.S. military’s European Command has openly stated interest in new operating locations south and east of its Cold War hubs.

Nonetheless, conspiratorial explanations exaggerate Kosovo’s direct strategic value. Even were its leaders the most willing puppets, the country would still be one of the smallest and poorest in Europe. Geographically, it adds little to the “shared facilities” already available to America’s armed forces in nearby Romania and Bulgaria.

Though perhaps less exciting, per the official line America’s overarching goal is advancing long-term regional stability.<sup>5</sup> From this point of view, Kosovo’s statehood represents both a natural outcome of the 1990s crisis and a necessary if not sufficient next step for Southeast Europe’s democratic integration.

Like the United Nation’s 2005 Eide report, U.S. policy turns the usual counter-arguments against Kosovo’s viability on their head. Rather than representing disqualifiers, the territory’s oft-cited social and economic problems (a weak economic base, rudimentary infrastructure, negligible

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<sup>4</sup> Prime Minister Koštunica’s spokesman Branislav Ristivojević, quoted in Umberto Pascali, “Kosovo: Toward the End of the Experiment?” *Global Research*, Sept. 25, 2007; <http://www.globalresearch.ca/index.php?context=va&aid=6900>.

<sup>5</sup> See John Erath, “The Kosovo Status – Key to Balkan Stability”, in *Approaching or Avoiding Cooperative Security – The Western Balkans in the Aftermath of the Kosovo Settlement Proposal and the Riga Summit*, Study Group on Regional Stability in Southeast Europe of the Partnership for Peace Consortium (Sept. 2007), pp.93-96.

investment, astronomical unemployment, minority isolation, widespread corruption and organized crime) evidence the need for the political-legal clarity and sense of ownership best offered by statehood. Neither return to Serbian administration, even with wide autonomy, nor indefinite perpetuation of the territory's ambiguous post-1999 status is viewed as offering a realistic alternative. Further delay in accepting these conclusions would only deepen local frustration and international fatigue.

U.S. officials also believe that supporting rather than resisting Kosovo's independence preserves their credibility and leverage to influence the process in positive directions. In particular it helped persuade Kosovo's leaders to coordinate the timing of their declaration and to accept the March 2007 Ahtisaari proposal for continued international supervision, decentralized governance, and minority protections as the guiding framework for their new state.

Taking the Kosovo question off the table is also seen as helping the broader region move beyond its contentious past. Unpopular as Kosovo's independence would be for Serbia, it would eventually stop claims to the territory from overshadowing and distorting all other developments there. Likewise, as long as Kosovo was neither partitioned nor merged into a Greater Albania, sui generis resolution of its status could advance inter-communal integration in countries such as Macedonia and Bosnia-Herzegovina.

To the extent ulterior motives play a role, these developments are also intended to support America's global strategic interests. Meeting the aspirations of the predominantly Muslim people of Kosovo would show the War on Terror was no anti-Islamic crusade. Helping democratic good governance take root in these countries would marginalize extremist ideologies within them and beyond. Finally, eventual normalization of the new status quo would allow further reduction and redirection of U.S. troop commitments in the region.

## **The NATO Toolbox**

Critique of NATO decision-making regarding Yugoslavia, especially 1999s Operation Allied Force, figured largely in the Bush administration's early preference for more flexible coalitions of the willing. Nonetheless, its more recent efforts on Kosovo have relied heavily on NATO as an instrument of choice.

### **KFOR**

The alliance's most direct contribution are the nearly 16 000 KFOR (Kosovo Force) peacekeeping troops remaining on the ground. Under UN Resolution 1244, KFOR retains overall responsibility for security in Kosovo. NATO's November 2006 Riga and April 2008 Bucharest summits reiterated commitment to that role. Unlike some UN missions that require periodic reauthorization, KFOR's mandate extends indefinitely until the Security Council votes to end it.

KFOR's task presumes sufficient capability to deter or react to any major acts of violence. In wake of its difficulties dispersing ethnic Albanian mobs in March 2004, the alliance reorganized sectoral boundaries, improved intelligence sharing, and reduced restrictive caveats on employment of national contingents.

KFOR's other key role has been working with Kosovo's authorities to train indigenous defence forces. Since 1999 this has meant the Kosovo Protection Corps, fighters from the old Kosovo Liberation Army refashioned as a civil defence force. The KPC still commands considerable prestige among Kosovar Albanians, so NATO has worked with sensitivity in preparing to replace it with a smaller, post-independence Kosovo Security Force.

## **Recognition**

A second desired contribution from NATO is a united front on recognition of Kosovo's statehood. Alliance unanimity in 1999 was taken to bolster the legitimacy of its intervention without a UN mandate. Nine years later diplomatic relations would be extended individually, but a clear consensus within this prominent body of democracies would likewise reinforce the accepted nature of the step and encourage other countries to follow suit. Agreement on Kosovo's new status would also greatly aid decisions on KFOR operations and offering Partnership for Peace or other formal ties.

## **Enlargement**

The third element the U.S. has sought to harness for Kosovo's success is NATO's enlargement process. Alliance "encirclement" of Serbia and Kosovo would help stabilize key neighbours and present a buffer against any negative spill over from independence. Over the longer term, it would also showcase integration's positive advantages for both states.

Accordingly, the Bush administration pushed hard for formal membership invitations to all three "Adriatic Charter" countries at the Bucharest summit. The case of Croatia was uncontroversial, but other member governments as well as independent experts doubted the readiness of Albania and Macedonia.<sup>6</sup> At the same time, the administration supported the offer of "Intensified Dialogue" to the "New 3" states (Bosnia-Herzegovina, Montenegro, and Serbia) that had joined Partnership for Peace after the Riga summit.

## **Obstacles**

Despite significant achievements, America's NATO-based policy for Kosovo remains beset by shortcomings.

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<sup>6</sup> Ronald Asmus, "A Better Way to Grow NATO" *Washington Post*, Jan. 28, 2008.

## **Allied Divisions**

Persistent disunity within NATO has been the first stumbling block. On 21 May the Czech Republic became the twenty-first alliance member to recognize Kosovo. Though constituting half of the total states to have taken that step, it still left five other NATO countries (Greece, Portugal, Romania, Slovakia, and Spain) unwilling to do so. Even in reliably Atlanticist Romania, President Traian Basescu condemned Kosovo's "illegal" declaration and a joint session of parliament voted 357-27 against recognition. Internal divisions and threatened Serbian sanctions have also inhibited regional NATO partners Bosnia-Herzegovina, Macedonia, and Montenegro from formalizing ties with their new neighbour.

The U.S. would prefer more solid agreement, but there are silver linings to having a few holdouts. First, the displays of policy independence rebut sceptics' claim that joining NATO equals submission to American domination. This could boost support for the alliance in both current and prospective members. Second, the stance of traditional "friends" such as Romania and Greece has helped maintain NATO links with Serbia. It has also lent credence to arguments there that the national claim over Kosovo is better defended through Euro-Atlantic engagement rather than self-isolation.

There were fewer upsides to Greece's veto of Macedonian membership at Bucharest. Though the concerns for Macedonia's and Albania's preparation were successfully set aside, the former's long-running dispute with Greece over its official name proved insurmountable. The most allies could salvage was agreement to issue an invitation once that issue is resolved. As a further interim measure, the U.S. signed a bilateral "strategic partnership" agreement with Macedonia in early May.

## **Resource Scarcity**

Unlike in the late 1990s, Kosovo is now a secondary issue for both America and NATO. Some indirect links to global counter-terrorism have been noted, but Iraq remains the "central front" of U.S. efforts.

Similarly for NATO as a whole, the Bucharest summit reemphasized the Afghanistan ISAF mission as “top priority”.

The combined demands of those two conflicts constrain the attention and resources leftover for Kosovo. In fall 2007, U.S. Secretary of Defence Robert Gates even threatened to pull the remaining 1 600 U.S. troops out of KFOR if other allies didn’t increase deployments to ISAF.<sup>7</sup> This year countries such as Great Britain and Italy have sent several hundred extra troops on short-term deployments to Kosovo. However, compared even to March 2004, when the alliance was able to rush in over 2 000 emergency reinforcements, the pool of readily available reserves is considerably less deep.<sup>8</sup>

To some extent again the U.S. and NATO have tried to make a virtue of necessity. Existing forces have thus far managed to prevent recurrence of the post-declaration attacks on border posts and government buildings in the north of Kosovo. However, KFOR has not impeded ethnic Serb communities from maintaining unsanctioned links with Belgrade, including by voting in Serbia’s May parliamentary and municipal elections against the objections of UNMIK (UN Mission in Kosovo). At least for the time being, toleration within limits of a de facto, soft partition of the Serb-majority North from the rest of Kosovo seems the accepted price for avoiding confrontations that might prove difficult to contain.

## **Presidential Transition**

The U.S. political calendar presents a final distraction. With elections in November, the Bucharest summit represented the Bush administration’s last major push on European issues. Increasingly limited by lame-duck status, it seems set to devote most of its time left in office to the Middle East.

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<sup>7</sup> “U.S. Pins Kosovo Force on NATO’s Afghan Commitment,” *Reuters*, October 21, 2007.

<sup>8</sup> See for example Sean Rayment, “UK’s Last 1 000 Soldiers Rushed Out to the Balkans,” *London Sunday Telegraph*, Feb. 17, 2008.

Meanwhile, Kosovo has been nearly invisible in the campaigns of Bush's would-be successors. The two presumed major party nominees, John McCain and Barack Obama, issued general statements in February supporting its recognition. However, Hillary Clinton's withdrawal will remove the candidate with senior advisors most personally attuned to new developments in the Balkans; former U.S. diplomat Richard Holbrooke and NATO military commander Wesley Clark.

The eventual election outcome aside, changes of administration inevitably create extended vacancies in key national security posts. Resulting gaps in development of detailed knowledge and working relationships are only partly filled by continuity among career professionals. Transitions to opposite party administration may be especially contentious, but intra-party turnovers are also subject to disjuncture.<sup>9</sup>

Taking these factors together, new top-level U.S. initiatives on Kosovo are unlikely for the next year or more.

## **Conclusion**

The first months of Kosovo's declared independence provide grounds for satisfaction with U.S. support via NATO. Violence and unrest have been less than commonly feared. Contra predictions of anti-Western backlash, Serbian voters increased their support for President Boris Tadić's "European Serbia" coalition at the expense of more strident rivals. Kosovo's political authorities proved able to pass the needed raft of legislation for their new state's constitution to come into force in June.

However, Kosovo as a "NATO state" is a transitional strategy rather than a long-term goal. As such, its success is threatened from two sides.

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<sup>9</sup> For a brief statement of the general problem, see Richard Armitage and Michele Flournoy, "No Time for 'Nobody Home'," *Washington Post*, June 9, 2008. For comments on the transition from the Reagan to the Bush Senior foreign policy teams, see Robert Hutchings, *American Diplomacy and the End of the Cold War: An Insider's Account of U.S. Policy in Europe 1989-1992*. Washington: Woodrow Wilson Press, 1997.

First, incomplete achievement of American objectives for NATO has weakened the alliance's envisioned stabilizing function. Second, that interim role was intended to pave the way for the European Union and its EULEX rule of law mission to pick up the broader tasks of assisting development and civilian institution-building. Postponement of EULEX's deployment due to uncertainty of its legal status threatens to create a vacuum uneasily filled by either NATO or the residual UNMIK presence, just as high-level American focus turns away to other matters. The longer delay becomes, the greater the danger of renewed stalemate (or worse) across the region will be.

A significant U.S. and NATO presence will be needed in Kosovo for several years to come. However, the most important next steps by the international community, from a way ahead for EULEX to resolution of the Macedonian name dispute, must come from European members of NATO and the EU. The fate of U.S. policy now largely rests with them.

German diplomat Wolfgang Ischinger, EU representative to the final Troika talks on Kosovo status in fall 2007, recently called on Europe to be a proactive partner for the next U.S. President.<sup>10</sup> Moving ahead on Kosovo as an "EU state" would be a good place to start.

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<sup>10</sup> "Europe has much to Offer the White House", *Financial Times*, May 4, 2008.



# The Russian “Return” to the Western Balkans

Martin Malek

## **Introduction:**

### **The Western Balkans in Russian Geopolitical Thinking**

After the demise of communism in Russia, Marxism-Leninism was in some sense replaced with geopolitical thinking. Meanwhile, Russian geopolitics is much more than an academic debate separate from public interest, but plays a crucial role in official foreign and security policy. Most of the current reflections on geopolitics in Russia hinge on the notion – accepted or actively advocated by the political elite as well as the public – that the country is “condemned to be a superpower” and that “Russia without an empire would be unthinkable”. On this premise Moscow has defined its interests in the southern periphery of Russia as well as within and outside the Commonwealth of Independent States, or CIS. In doing so, Russia’s way of dealing with geopolitics focuses, in particular, on certain “areas of influence”, “spheres of interest” (often emphasized by adding the adjective “vital”), “buffer zones”, “geopolitical regions” as well as competitors for natural resources and transport corridors.

In the context of such approaches, the Western Balkans plays a significant role. From Moscow’s point of view, it is – albeit its small territorial size – one of several theatres of a geopolitical struggle between Russia and its allies (and in particular, Serbia) on the one hand and the U.S. and NATO with their allies on the other. This is no new configuration; it was already obvious during the Yugoslav break-up wars in the first half of the 1990s and gained special momentum in view of NATO’s Kosovo campaign against rump Yugoslavia in 1999, when most of the Russian media and politicians (and even “democratic”-minded, not to mention nationalists and communists) were furious. Many demanded immediate

weapons shipments and/or the deployment of Russian military advisors to Yugoslavia, and some predicted even a “Third World War”.<sup>1</sup>

Nartov’s quite popular textbook on geopolitics for universities, whose fourth edition was published in Moscow in 2007, gives a good survey of the predominant Russian views on the Balkans, which are called “one of the most important geopolitical and strategic priorities” [of the Kremlin]. The volume condemns “the West” for its alleged attempts to “interfere in the domestic affairs of the Slavic peoples”. Russia “has to play a leading role in the Balkan game” and to “spoil plans of the Atlantists to impose solutions in the realm of security, which would rule out Moscow’s presence there, upon the Serbs and Bulgars”. And Moscow should “achieve, that decisions about the fate of the Slavic peoples are made by the UN Security Council [...] and not the U.S., Germany or England”.<sup>2</sup> Nartov calls the ethnic Albanian population of Kosovo literally “guests” (gosti), the Serbs of the region “masters” (khozyaeva). For him, it is beyond discussion that Albania wants to “annex Kosovo” and that “the Albanians” intend to “tear away” their ethnical territories from Macedonia. Nartov gives recommendations as well: “From a geopolitical viewpoint, it is most reasonable to support Serbia, because this grants presence on the Balkans and an essential [Russian] role there. A strong Serbia acts as a counterbalance to the rising influence of Turkey in the Black Sea, in Bulgaria and on the Balkans”.<sup>3</sup>

## **Russia and the Serbian Parliamentary Elections in May 2008**

From the Russian point of view, Serbian politicians like Zoran Djindjić, Boris Tadić, and Liberal Democratic Party leader Čedomir Jovanović are “theirs”, whereas Slobodan Milošević, Vojislav Šešelj, Vojislav Ko-

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<sup>1</sup> Martin Malek, *Rußland und der Kosovo-Krieg*. Erich Reiter (Ed.): *Der Krieg um das Kosovo 1998/99*. Mainz 2000, pp. 145-155.

<sup>2</sup> The reason for this is obvious – Russia as a permanent member of the Security Council has the power of veto.

<sup>3</sup> N. A. Nartov and V. N Nartov (eds.), *Geopolitika*. Moskva 2007, pp. 308-311.

štunica, and Tomislav Nikolić are “ours”. Nikolić, for example, recently said: “I admit that I like the Russians. This nation is very close to me”.<sup>4</sup>

*Kommersant*, probably Russia’s best daily newspaper, shortly before the elections featured the headline “Russia may receive the majority in the Serbian parliament”,<sup>5</sup> meaning that parties with a “pro-Russian” orientation could prevail over forces, considered as “anti-Russian”. And this really occurred on election day, 11 May 2008: The Radicals got 29.1%, Koštunica’s Democratic Party of Serbia, or DSS, 11.3 and the Socialists 7.9%. This gave them the control of 128 out of the 250 MPs. Nevertheless, many Russian politicians and media outlets had to try very hard to hide their disappointment, because Tadić’s coalition “For a European Serbia” won a relative majority with 38.7% and 102 seats.

## **Asylum for Milošević’s Family Members in Russia and the “Anchorman Scandal”**

Milošević’s widow, Mirjana Marković, and their son Marko Milošević entered a Moscow police station in March 2005 and made a formal request for political asylum. The Russian Federal Migration Service admitted at the beginning of February 2008 that both have been granted asylum despite the fact that they were (and are) on Interpol’s wanted list. Serbia’s Justice Ministry said in a statement later this month that it has formally asked Russia to extradite Marković and her son. Belgrade previously issued international arrest warrants for the two, who are wanted for fraud in connection with an alleged cigarette-smuggling ring that operated during the 1990s. On 28 February 2008, Russian news agency Interfax quoted a spokesman for the Russian Migration Service as saying

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<sup>4</sup> Renate Flottau, „Dann wird es Krieg in Europa geben!“ (Interview). Spiegel Online, 23 May 2008, <http://www.spiegel.de/politik/ausland/0,1518,553871,00.html> (accessed 24 May 2008).

<sup>5</sup> Mikhail Zygar, Serbia Tied with St. George’s Ribbon. Russia may receive the majority in the Serbian parliament. *Kommersant*, 12 May 2008, [http://www.kommersant.com/p890573/Russian-Serbian\\_relations](http://www.kommersant.com/p890573/Russian-Serbian_relations) (accessed 20 May 2008).

that “we will not extradite them. They were granted refugee status in Russia”.<sup>6</sup>

Konstantin Syomin, anchor of the “Vesti Plus” nightly news program of the “Rossiya” TV channel, commented at the occasions of clashes in Belgrade after the declaration of independence of Kosovo on 17 February 2008, referring to the killing of Serbian Prime Minister Djindjić in 2003: “The people of Belgrade surely remember today other demonstrations when they went berserk to overthrow good old Slobodan Milošević. How the nation, stupefied by liberal promises, lamented the dead Western puppet Zoran Djindjić – a man who destroyed the legendary Serbian army and intelligence services, who sold the heroes of Serbian resistance to [the International Tribunal in] The Hague in exchange for abstract economic aid and who got for all that a well-deserved bullet”.<sup>7</sup> The Serbian Foreign Ministry demanded an apology, calling Syomin’s comments “offensive”, “absolutely unacceptable” and “justifying the murder of a democratically elected prime minister”.<sup>8</sup> – “Rossiya” is a *de facto* government-controlled channel, and its news content is strictly censored by the Kremlin. There is no doubt that Syomin only frankly stated what a formidable part of the Russian political elite thinks. However, the affair did not lead to any noticeable deterioration of Russian-Serbian relations: Obviously, both sides proceeded from the assumption that only “the West” would benefit from a persistent dispute between them, so they decided to brush this scandal under the carpet as soon as possible.

## **Kosovo’s Independence and Serbian-Russian Relations**

Radical Party leader Nikolić demanded in December 2007 the setup of a Russian military base in Serbia. He continued that his country is not

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<sup>6</sup> RFE/RL Newline, Vol. 12, No. 41, Part II, 29 February 2008.

<sup>7</sup> Pavel Felgenhauer, Kremlin Continues to Blast the West Over Kosova. Eurasia Daily Monitor (The Jamestown Foundation), 27 February 2008.

<sup>8</sup> Ministarstvo spoljnih poslova Republike Srbije: Srbija protestovala zbog izjava na ruskoj televiziji, Beograd, 23. februara 2008, [http://www.mfa.gov.yu/Srpski/ Press frame16.htm](http://www.mfa.gov.yu/Srpski/Pressframe16.htm) (accessed 24 May 2008)

strong enough to fight NATO troops that have been deployed in Kosovo since 1999.<sup>9</sup> Nikolić was echoed by Bishop Artemije of Raško-Prizren, who stated in February 2008 that a Russian military presence in Serbia would be “necessary” in order to prevent Kosovo’s independence. Furthermore, he called upon “Russia and other countries” to “send their volunteers to help us in our righteous fight”.<sup>10</sup> – On the occasion of this statement, only very few Western European and North American observers and media outlets brought back to the mind of the public that Russian “volunteers” had joined Serbian paramilitary forces in Croatia, Bosnia, and Kosovo already in the 1990s.

Russia has harshly condemned the declaration of independence of Kosovo and its subsequent recognition by several countries. Moscow’s permanent representative to NATO, nationalist hardliner Dmitri Rogozin, told the press that European politicians may have been bribed by ethnic Albanian drug dealers to recognize Kosovo.<sup>11</sup> And so far, there is no reason to doubt Moscow’s assurance that it will under no circumstances recognize its independence. Yet in mid-May 2008, Russian Foreign Minister Sergei Lavrov called for a “resumption of talks” about a determination of Kosovo’s status between Prishtina and Belgrade.<sup>12</sup> Russia and China block Kosovo’s admission to the UN and insist that any decision about its status must be approved by the Security Council. Moscow even wanted the Council to nullify Prishtina’s independence declaration.

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<sup>9</sup> Serb radical wants Russia military base. UPI, 18 December 2007, [http://www.upi.com/NewsTrack/Top\\_News/2007/12/18/serb\\_radical\\_wants\\_russia\\_military\\_base/4356/](http://www.upi.com/NewsTrack/Top_News/2007/12/18/serb_radical_wants_russia_military_base/4356/) (accessed 19 May 2008).

<sup>10</sup> Kosovo bishop claims for Russia’s military presence in Serbia. Interfax, 14 February 2008, <http://www.interfax-religion.com/?act=news&div=4277> (accessed 1 March 2008).

<sup>11</sup> Rogozin: narkomafiya Kosova mogla sponsirovat protsess priznaniya kraya. RIA Novosti, 22 February 2008, <http://www.rian.ru/world/20080222/99873528.html> (accessed 24 May 2008).

<sup>12</sup> Rossiya, Indiya i Kitay vystupayut za peregovory mezhdou Belgradom i Prishtinoy – Lavrov. ITAR-TASS, 15 May 2008, <http://www.itar-tass.ru/news/?id=37004> (accessed 24 May 2008).

## Kosovo as a “Precedent” for Separatist State Entities in the CIS?

The United States and EU countries which support Kosovo’s independence stress that the matter is a “unique case”, while Moscow initially insisted that it would entitle Russia to recognize and officially protect post-Soviet secessionist state entities, in particular the so-called “Dniestr Republic” (Moldova), Abkhazia and South Ossetia (Georgia) and Nagorno Karabakh (Azerbaijan). The Russian Foreign Ministry at the beginning of March 2008 sent a note to the Executive Committee of the CIS informing it that it is lifting trade, financial, and transportation sanctions against Abkhazia. In April President Vladimir Putin instructed the Russian Government to draft measures to provide “specific support for the population of Abkhazia and South Ossetia”<sup>13</sup> and to establish cooperation with the bodies of the *de facto* state power in these regions in trade, the economy, social affairs, science, engineering, information, culture, and education. And in the aftermath of its military campaign against Georgia in August 2008, Moscow officially recognized Abkhazia and South Ossetia as “independent states”.

From the pragmatic Russian point of view, there are, apparently, two kinds of separatists – “ours” and “theirs”. Moscow supports the first and condemns and goes after the last. On the one hand, Moscow pledged to “wiped out”, “destroy”, “erase” etc. its own separatists in Chechnya and posed as defender of territorial integrity under international law with regard to Serbia; and on the other hand, Russia supports the seizure of territories from Georgia, Azerbaijan, and Moldova.

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<sup>13</sup> Russia Lifts Sanctions from Abkhazia. Kommersant, 7 March 2008, [http://www.kommersant.com/p864557/unrecognized\\_states/](http://www.kommersant.com/p864557/unrecognized_states/) (accessed 8 March 2008). – The CIS member states had imposed sanctions on Abkhazia in 1996. Several Russian media outlets took the abolishment of these “sanctions” as a response to Kosovo’s independence declaration. However, they have never been effective; it was always a matter of common knowledge that Abkhazia’s economy almost totally relied on Russia. For example, the separatists use the Russian rouble as their currency. Therefore Moscow’s withdrawal from the CIS “sanctions” had only symbolic, but no practical meaning.

## **Some Aspects of Russian Economic Expansion into the Balkans**

### **The Oil Pipeline Burgas – Alexandropolis**

On 15 March 2007 Russia, Bulgaria, and Greece signed an intergovernmental agreement to build the Trans-Balkan oil pipeline Burgas–Alexandropolis. It is designed to carry Russian and Russian-delivered Caspian oil from the Black Sea to the Mediterranean, bypassing the overcongested Turkish Straits. If carried out, it would become the first-ever Russian-controlled pipeline on EU and NATO territory.

### **The South Stream Gas Pipeline**

The South Stream project was announced on 23 June 2007, when Alexander Medvedev, senior manager of the Kremlin-controlled Russian gas monopoly Gazprom, and Paolo Scaroni, CEO of Italian energy company Eni, signed a memorandum of understanding about the construction of this pipeline. On 18 January 2008, Bulgaria joined South Stream. A week later, Serbia did the same.<sup>14</sup> President Putin said after the signing ceremony: “With the signing of these agreements Serbia becomes a key transit junction in the emerging system providing energy supplies from Russia [...] to the whole European continent”.<sup>15</sup> On 25 February 2008, Chairman of Gazprom Management Committee Alexei Miller and Srbijagas Director Saša Ilić signed in Belgrade an agreement on cooperation for the construction of a gas pipeline to carry natural gas across the territory of Serbia.<sup>16</sup> At the same day, Russia and Hungary agreed to

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<sup>14</sup> Serbia, Russia sign energy cooperation agreement. Government of the Republic of Serbia, 25 January 2008, <http://www.srbija.sr.gov.yu/vesti/vest.php?id=42603> (accessed 24 May 2008).

<sup>15</sup> Brian Whitmore, Russia: Gazprom’s Advance Into Europe Continues. RFE/RL Features Article, 25 January 2008.

<sup>16</sup> Agreement on cooperation between Serbia and Russia in oil and gas industries signed. Government of the Republic of Serbia, 25 February 2008, <http://www.srbija.sr.gov.yu/vesti/vest.php?id=43573&q=gazprom> (accessed 24 May 2008).

set up an equally owned joint company to build and operate the Hungarian section of the pipeline. On 29 April 2008, Russia and Greece signed an intergovernmental agreement on cooperation in the construction and operation of the Greek section of South Stream.

All these deals were heavy blows to the ambitions of some EU member countries and their oil and gas companies to build the so-called Nabucco pipeline, which would bring gas from the Caspian Basin and the Middle East via Turkey to Europe. The exact route of the South Stream pipeline is not disclosed yet, but it is obvious that it is a political project to counter Nabucco and to expand Russian economic and political presence in the region. The Nabucco project was conceived to allow the EU to reduce its dependence on Russia, which already supplies a quarter of the bloc's natural gas. However, the initiative has been dogged by logistical delays, lack of political will and disputes over financing.

### **The Gazprom-NIS-Deal**

On 25 January 2008, Gazprom Neft, Gazprom's oil arm, signed an agreement on the acquisition terms for a controlling stake (51%) in the Serbian state-owned oil company Naftna Industrija Srbije, or NIS. The Russian side expects to close the deal by the end of 2008. However, pro-European critics in Belgrade said that the agreement sells off NIS for a fraction of its market value to pay back a "political debt" to Russia for its support over Kosovo. Nevertheless, two days before the parliamentary elections in May 2008 the Serbian cabinet unanimously voted to conclude an agreement on oil and gas with Russia to allow Gazprom to acquire NIS.

### **Montenegro in Deripaska's Pocket?**

Montenegro attracts more foreign investment per capita than any other country in Europe, well over 1.000 US Dollars for each of its 650 000

people.<sup>17</sup> A sizeable share of it comes from Russia. Pro-Kremlin tycoon Oleg Deripaska has bought the aluminium factory KAP in the capital Podgorica, which is the biggest single contributor to the GDP of the country, and the bauxite mines of Nikšić. In 2007, Deripaska purchased 30 % of the Austrian company Strabag, a co-owner of Montenegro's road construction company Crnagoraput. His attempt to buy the coal-mine in Pljevlja and the only coal-fired power station of the country, which produces one-third of its energy, almost generated a political crisis as the acquisition would have placed Deripaska in control of about 40 percent of Montenegro's economy.

## **Conclusion and Outlook**

In the context of Russian post-Soviet geopolitical approaches, the Western Balkans plays a quite significant role. Russia has since the beginning of the 1990s never left any doubt that it considers rump Yugoslavia and then Serbia as its main partner. Moscow capitalizes on strong pro-Russian sentiments in Serbia's political elite and society and supports Belgrade in any significant issue, above all with regard to Kosovo. Russian state-controlled energy companies and pro-Kremlin oligarchs are very active in the Balkans, intending to expand Moscow's economic and political influence in the region and beyond.

Russia's stance on the Balkans will certainly not change in the foreseeable future. The EU so far lacks a clear-cut strategy to deal with this challenge – especially in the sphere of energy politics, where Moscow does its best to maintain and, if possible, to enhance the Union's dependence on Russian energy resources.

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<sup>17</sup> Oana Lungescu, Russians prompt boom in Montenegro. BBC News, 21 February 2008, <http://news.bbc.co.uk/2/hi/europe/7255240.stm> (accessed 24 May 2008).



## **PART IV:**

# **CONFIDENCE BUILDING UNDER DIFFICULT CIRCUMSTANCES**



# **From UNMIK to EULEX: An Outline of the Key Aspects of Governance, Cooperation and Confidence-Building Under the Conditions of International Supervision**

Enver Hasani

## **Introduction**

The Declaration of Independence of Kosovo on 17 February 2008 gave 27 EU Member States an opportunity to authorise a new European Mission to Kosovo to replace UNMIK in justice and police matters. EULEX, headed by General Yves de Kermabon, a former commander of NATO forces in Kosovo has replaced UNMIK since 15 June 2008. Its force shall be composed of 1 800 members having to supervise and assist Kosovo justice system and the Kosovo Police Service (KPC). Their task shall mainly be to offer an expertise and supervision in justice and police matters in order for Kosovo institutions to be able to fight hard crime and corruption and move towards rule of law and stability.

In addition to EULEX, mandated on 16 February 2008 by EU members, new EU Mission in Kosovo has its another element, ICO or International Civilian Office, headed by Peter Feith as International Civilian Representative (ICR), or European Union Special Representative (EUSR). Its task is to monitor and supervise the implementation of the Ahtisaari Plan for Kosovo. The ICR/EUSR shall have some executive powers in public life of Kosovo in cases when local authorities and institutions fail to comply with the Ahtisaari Plan's letter and spirit.

Following this change in the international mandate, UNMIK seems to have to face a deeper crisis in its legitimacy vis-à-vis local population, at least from 15 June 2008 onwards when its role shall be reduced further

as a result of entering into force of the Kosovo Constitution, a fact recognised clearly by UN Secretary General Ban Ki Moon.

The issue of governance, cooperation and confidence-building under the conditions of international supervision (or presence)<sup>1</sup> is more complicated and delicate than when it has to do with cases of fully sovereign and independent states.

In cases where sovereign and independent states have no supervision in exercising their sovereign rights, governance is entirely based on constitution without foreign interference, except in cases where a state has international duties to execute. In other words, in such cases a state is governed based on constitutional rules. Cooperation between institutions and citizens of a state is also based on constitutional rules so that social and political cohesion is dependent on the ability of state structures to maintain order. Confidence in the institutions and in public order is not at stake in such cases. However, history shows that confidence-building measures are needed in the societies in transition, in cases of weak and new states. These kinds of states have an urgent need to build stable and serious institutions to shape social and political cohesions of their societies. This is so because that social and political cohesion is damaged or destroyed entirely in the near past as a result of malfunctioning or total degeneration of state structures which, in turn, have turned against their own citizens destroying all cooperation, leading to an atmosphere of mistrust and lack of support for state institutions.

The years following the end of the Cold War brought back key concepts on governance, cooperation and confidence-building between sovereign states. In order to make things work, the key role to be played has been given now to international independent institutions (both regional and universal). These international institutions have through their interference been shown as an indispensable element and a tool of peace and

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<sup>1</sup> Here we use the term “international presence” or “international supervision” as a common denominator of all sorts of legally-based international presence within sovereign countries or parts of their territory with the aim of exercising some of sovereign rights instead (or on behalf) of original state structures, or supervision of local actors in their exercise of these rights.

security for all. They have in fact filled the vacuum left behind as a result of the collapse of state structures and institutions, sometimes even leading to genocide and massive loss of human life. The mere fact that these international bodies have played a crucial role in these weak and new states (e.g. societies in transition) vis-à-vis local state structures in the field of governance, cooperation and confidence-building shows that we have to deal with the lack of sovereignty on the part of these states. In former times, sovereignty has been exercised forcefully in order to achieve social and political cohesion within states. Nowadays, using brutal force within states is a sign of quite the opposite that is, a sign of weakens of states structures and institutions to produce prosperity, peace and security for their own citizens.<sup>2</sup>

The increase in role and importance of these international institutions is nowhere more obvious and clear than in the case of Kosovo after 10 June 1999. On that date, a new UN mission was installed, UNMIK (United Nations Interim Administration in Kosovo). This mission was very ambitious aiming to run and administer the whole Kosovo. UNMIK's structure stands for its failure to deliver development and prosperity, security and welfare for all Kosovo citizens, losing its legitimacy considerably by the end of 2007.

The aim of this paper is to present and analyze key concepts of governance, cooperation and confidence-building, its instruments through which to build a social and political cohesion in Kosovo after 10 June 1999.

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<sup>2</sup> See, for more on this issue, Barry Buzan, *People, States and Fear: An Agenda for International Security Studies in the Post-Cold War Era, 2<sup>nd</sup> Edition*, (Copenhagen: Hemel Hempstead, 1991), pp. 84-65, pp. 70-71; pp. 79-81; and pp. 97-99. Buzan explicitly distinguishes weak powers from weak states. See also Kalevi J. Holsti, *The State, War and the State of War*, (Cambridge: CUP, 1996), Chapter 2; Kalevi J. Holsti, *Taming the Sovereigns: Institutional Change in International Politics*, (Cambridge: Cambridge University Press: 2004). pp. 53-54; and James Gow, *The Validity of States: Sovereignty, International Security and Viable Political Communities* (unpublished paper for Failed States Project, World Peace Foundation, 2003).

In order to achieve this, the paper is divided into two parts. The first part deals with UNMIK as it stood until June 15, 2008, while the second part is devoted to the new EU Mission in Kosovo to replace UNMIK, that is EULEX, following Kosovo's declaration of independence on February 17, 2008 and its recognition as a sovereign and independent state by nearly 50 states of the world (mainly Western countries and their allies).

## **Instalment of UN Mission, UNMIK, and its Main Challenges**

History tells us that territories under trusteeship have been placed most often in cases when there has been conflict over territorial sovereignty (Gdansk, Saar Territory, Trieste, Jerusalem, etc.) or during the state-building of former colonies (e.g. Cyprus or Congo/Zaire).

Trusteeship in all these cases has proved a useful tool to mitigate interstate conflicts. This has been the greatest strength of all in cases of international supervisions of certain territories or countries. However, in some cases that international supervision took the form of an international administration, thus leaving local actors without any say in running their own affairs. Governance was not a concept and practice used by actors involved in international supervision. Such a case was with Congo/Zaire in the 60s, or with the administration of the Saar between two World Wars.<sup>3</sup> UNMIK was in this regard very different from past experience, as it sought to administer a part of territory of a sovereign country, that is, Federal Republic of Yugoslavia (Serbia and Montenegro) pending the solution of the status of Kosovo.<sup>4</sup>

Major weak point in all cases of international supervision of territories of foreign countries of the countries itself has been the lack of impartiality by international actors, thus very often leading to savage conflicts and wars of attrition (e. g. Rwanda, Cyprus, India/Pakistan, etc). In a

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<sup>3</sup> For a brilliant elaboration of this matter, see Meir Ydit, *Internationalized Territories*, (Leyden: A. W. Sythoff, 1961).

<sup>4</sup> UNSC Resolution 1244 paragraph 11 c) and d).

sense this happened in Kosovo in March 2004, when local Albanians rioted and burned down local Serbs Churches and monasteries, in daylight, with international administration being unable to interpose themselves and stop the violence. This event, however, marked a beginning of two parallel processes, that is, decentralization on behalf of local Serbs and transfer of competences on behalf of local Albanian population who was feeling frustrated by UNMIK's exercise of overwhelming power and competences vis-à-vis local institutions and populations. In the case of Kosovo, as well as in other cases, it again showed that international presence and supervision in its first years provides enough space for dialogue and development but when lasting over too much of a time it usually narrows that space and turns against its original aim.<sup>5</sup>

A lack of clear vision and goal on the side of international presence, with the passing of time strips of legitimacy such a presence and turns the local population against it. The population then becomes frustrated over this presence making inter-ethnic dialogue even harder. In such a case, there is little room for confidence-building and mediation between the local groups. In situations like these, one group may see international presence as siding with the other as that group endorses the international presence as a shield for the realization of its political goals. UNMIK since March 2004 started to be seen in Kosovo exactly in this way by both Albanians and the local Serbs. The later saw it ever since as a guarantor of Serb sovereignty over Kosovo while the former ones as a hindrance to their political goals, e.g. Kosovo's independence.

This political climate has left little room for confidence-building among Serbs and Albanians living in Kosovo. The report by Kai Aide has been first serious attempt alarming at the unbearable situation with the status quo created after 10 June 1999. It made clear that UNMIK in the format it used to be from 10 June 1999 was unsustainable and that it should

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<sup>5</sup> In fact, in the case of Kosovo, Resolution 1244 did not give a clear and concrete aim of the new UN mandate over Kosovo and its territory. For this reason, it remains an abstract and undefined text as such. Resolution 1244 clarifies much more the motives for the establishment of UNMIK rather than it gives a clear idea as to its vision for the future.

change.<sup>6</sup> This Report served as a basis for the commencement of technical dialogue between the parties in Kosovo.<sup>7</sup> This technical dialogue led to a more substantial dialogue and contact among Priština and Belgrade which eventually culminated with the adoption of the *Ahtisaari Plan for Kosovo*.<sup>8</sup> The *Ahtisaari Plan* presents without any doubt the institutionalization of a dialogue among the parties in Kosovo and is in essence all about confidence-building. It leaves no room for the status quo opening up new channels of communication between parties and development opportunities of Kosovo as a whole. This was not the case with UNMIK which tried until the very end to preserve its prerogative over the local population, their institutions and perspectives. In other words, the *Ahtisaari Plan* is all about confidence-building since it thoroughly addresses practicalities of living together in Kosovo. Provisions of the Constitution of Kosovo, modelled totally after the *Ahtisaari Plan*, reflect the realities in the ground. It only remains that new EU presence in Kosovo takes them seriously and monitors their implementation.

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<sup>6</sup> On 20 December 2003, UNMIK presented to the Kosovo Provisional Institutions of Self-Government (PISG) an eight point plan “Standards for Kosovo” as a set of targets that Kosovo must meet in order for the talks about the future political status of Kosovo to begin. The PISG achieved a lot of progress (at least on paper) on all the standards but the integration of communities proved very difficult to achieve.

<sup>7</sup> The author of these lines was a head of Kosovo Working Group on Technical Dialogue with Belgrade that started in Vienna in Autumn 2004.

<sup>8</sup> The *Comprehensive Proposal for the Kosovo Status Settlement*, known also as *Ahtisaari Plan*, in its 61 pages aims to define the provisions necessary for a future Kosovo that is viable, sustainable and stable. It includes detailed measures to ensure the promotion and protection of the rights of communities and their members, the effective decentralization of government, and the preservation and protection of cultural and religious heritage. In addition, the settlement prescribes constitutional, economic and security provisions, all of which are aimed at contributing to the development of a multi-ethnic, democratic and prosperous Kosovo. An important element of the settlement is the mandate provided for a future international civilian and military presence in Kosovo, to supervise implementation of the settlement and assist the competent Kosovo authorities in ensuring peace and stability throughout Kosovo. The provisions of the settlement will take precedence over all other legal provisions in Kosovo. The *Ahtisaari Plan* was officially forwarded as a text to the UN Security Council on 26 March 2007. See, S/2007/168/Add.1.

## European Presence in Kosovo as an Acceptable Solution for Local Institutions of the Country

Our main proposition regarding the new EU mission in Kosovo, due to start its work on 15 June 2008, is that it shall be more legitimate than UNMIK in its geographic and cultural proximity with the region. In fact, new EU Mission in Kosovo is about respecting local wishes and by its nature is less intrusive than UNMIK was. In addition to this, the very presence is based on the invitation of local institutions of Kosovo, as foreseen in the Declaration of Independence of 17 February 2008 and Kosovo Constitution which entered into force on 15 June 2008.<sup>9</sup>

The very mandate of EULEX and the EU Special Representative speak of supervision; not of administration over the territory of Kosovo and its population. This leaves local institutions to work under constant monitoring and with due regard for Western standards of political behaviour. In this sense, there is a huge difference between the former UNMIK administration over the territory of Kosovo and the current role of the EU mission due to begin soon. This fact leaves more room for work on confidence-building among parties, e.g. Serbs and Albanians, since it institutionalizes the dialogue. As opposed to UNMIK, the new EU Mission is more oriented to local ownership over the political process in Kosovo and reflects the wish of the majority Kosovar Albanian population. This means that the status of Kosovo, be it independence or not, is not any

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<sup>9</sup> The declaration of Independence of 17 February 2008, paragraph 5 states "...We welcome the international community's continued support of our democratic development through international presences established in Kosovo on the basis of UN Security Council Resolution 1244 (1999). We invite and welcome an international civilian presence to supervise our implementation of the *Ahtisaari Plan*, and a European Union-led rule of law mission. We also invite and welcome the North Atlantic Treaty Organization to retain the leadership role of the international military presence in Kosovo and to implement responsibilities assigned to it under UN Security Council resolution 1244 (1999) and the *Ahtisaari Plan*, until such time as Kosovo institutions are capable of assuming these responsibilities. We shall cooperate fully with these presences to ensure Kosovo's future peace, prosperity and stability". The same commitment is enshrined in the Constitution of Kosovo which is due to enter into force on June 15, 2008 (see, Chapter XIV, Art. 146-153 of the Constitution).

longer an issue and cannot be a divisive force among the parties. The status issue is considered closed and parties have to try and build their confidence taking in this context. The only flaw of this position is that one party, that is the Serbs, shall be inclined to see the new EU Mission as pro-Albanian and the other part, e.g. Kosovo Albanians, as a neutral force oriented to state-building of the State of Kosovo. All confidence-building measures foreseen in the Kosovo Constitution and the *Ahtisaari Plan* should be seen not as imposed but as necessary ingredients for building a sustainable democratic and tolerant society.

The mandate of the new EU Mission in Kosovo also means a distant monitoring of the work of local institutions, that is, this mission takes a kind of “behind the scenes” approach, that leaves local legitimacy intact so that in the eyes of the Kosovar population it shall serve as an impartial factor. Despite this positive side of the mission, it cannot however bridge the huge gap and build social and political cohesion in Kosovo since its basic duties are confined to the rule of law and security.

Focusing on the two aspects of rule of law and security offers ample opportunities for Kosovo local institutions to pursue European (Western) standards of life and political rule. International expertise in state-building shall in a long run be very much appreciated by all. Taking into account the weak local political culture, it is very likely that this new EU missions shall last longer than expected, maybe generations. This means that it can dry out financial resources of European taxpayers and make them feel fed up with Kosovo and the Balkans in general. This may in turn have repercussions on European unity and integration/expansion of EU in general.

The year 2008 seems to have been a year of big changes in Kosovo. The solution of the status of Kosovo meaning recognition of its independence by most powerful countries in the world seems to have produced a sense of stability and tranquillity in the country and the Balkan region as well.

## **Rifts Among Local Partners and Competition at the International Level**

The new EU Mission in Kosovo may lack proper legitimacy when it comes to the local Serbs, at least for quite some time. It shall, however, provide an ample opportunity for both Kosovo Communities and others as well, to strengthen their European (Western) appeal, which has been very weak. This appeal cannot be strengthened by itself. It requires hard work by the new EU Mission to prove to the locals in Kosovo that it means business and that it shall not pursue UNMIK policies without any vision for the future of the country.

It should, instead, make very clear that it shall use its executive powers if necessary and in case there is a need to reorient energies of the local leaders, institutions and the whole population towards EU and Western-oriented societies. This should be made clear especially when it comes to the implementation of basic standards on the rule of law, fight against organized crime and corruption within Kosovo society. This is the only way to prevent further ethnic divisions among Kosovo communities.

One other aspect that international community can and should perform better as compared with UNMIK is culture and education and their development. Learning local languages by Kosovo communities reciprocally as it once used to be a practice is not an option. Albanians and Serbs shall not learn any more their respective languages since there is not more incentive for it, as it once used to be in Communist Yugoslavia. In this sense, better way would be to follow global trends in culture and education and encourage both sides to insist in establishing, with international help, internationally-oriented institutions of culture and education, such as for example the opening of an international university in the town of Mitrovica.<sup>10</sup> This step would make changes in the near

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<sup>10</sup> The author of these lines had proposed in 2003 to the then Prime Minister Bajram Rexhepi of Kosovo a five-page idea for the establishment of an international and English-speaking University in the town of Mitrovica. At the beginning it was well received internationally but the idea did not see the light due to the political developments that ensued after March 2004 riots and thereafter.

future and create an example of coexistence and open up perspective for the future of all living in Kosovo. Joint economic and business institutions would be another option, too.

Rifts within Europe shall for sure encourage local Serbs to believe that Kosovo has no European future as a separate State and radicalize local Albanians regarding their Serb neighbours. The biggest mistake of Serb governments in the past has been and still remains their insistence to leave local Serbs the role of guardians of Serb sovereignty over Kosovo.

On the other hand, rifts between Europe and USA on one side and Russia on the other may prove too damaging for proper functioning of local institutions in the basic fields, e.g. the rule of law and fight against organized crime and corruption since Russian resistance to new EU mission might slow down the establishment of new monitoring mechanisms that are supposed to orient Kosovo towards West and Europe in all aspects. In this sense, it is very important that EU-USA partnership is clearer as to the limits and the role of Russian power vis-à-vis Kosovo and its future.

It needs to be made very clear to Russia that Kosovo is a European affair and that the money Europe and USA intend to invest in Kosovo is for the benefit of all and the very future of Kosovo. A continuous Russian resistance to the new EU Mission and its unlimited support and insistence on UNMIK may exacerbate and tension Kosovo Albanians who may take a very hostile attitude towards UNMIK and its activities in Kosovo in the future.

## **Conclusion**

The March 2004 and February 2007 riots, when human lives were lost, provide the most obvious examples of UNMIK's failure to deliver to its initial promise and mandate as foreseen by UN Security Resolution 1244 of 10 June 1999. The basic problem that UNMIK faced in Kosovo was the lack of independent mechanisms for police control and the lack of clear lines of responsibility towards those with whom it was supposed to

deal with. This proved to be very damaging for the image and authority of UN peacekeeping missions in the world in the future. The next big failure of UNMIK was its lack of control over Kosovo territory and its population which led to unchallenged existence of Belgrade-controlled parallel institutions in the north. These two factors have been a result of huge executive powers that UNMIK had at its hand and used them extensively, at least until March 2004 riots.

As for Serbs, UNMIK lost its legitimacy to a larger extent due to its failure to provide for more security for them and their property. However, after 17 February 2008, UNMIK regained some of its legitimacy as opposed to the EU Mission when it comes to the Kosovo Serb community. They now see UNMIK as a kind of “saviour” and the last resort to preserve their “acquired rights” (parallel life and parallel institutions). With UNMIK, the Kosovo Serbs seem to feel better off as they consider it to a substitute for a Serb State and its sovereignty over Kosovo. This means that EULEX might face many difficulties, as UNMIK did. First and foremost, EULEX will be resisted by the Kosovo Serb community in the North. Serbs living in the north of Kosovo most likely will regard it as an instrument of consolidation of independence and sovereignty of Kosovo due to the fact that it lacks the mandate of the UN Security Council. This will produce a stalemate and a new status quo in much the same way UNMIK expended its energy in futile political matters leaving aside development and prosperity of Kosovo and its citizens.

EULEX shall have executive powers not only in the field of the law and order, appointing and removing from offices persons deemed an obstacle to the implementation of Ahtisaari’s Plan, but it shall as well react against those persons going against post-status requirements of peace and stability in Kosovo.

This executive power can at the same time be the weakness of the new EU Kosovo Mission since it offers room for new rifts and conflicts among international and local population. This is more so taking into account that Kosovo declared its independence and was recognised as such by many important countries of the world, despite the fact that they

agreed to impose some restrictions on themselves through the Ahtisaari Plan.

Another possible complication is the fact that UNMIK will continue its existence in Kosovo as long as UN Security Council Resolution 1244 remains in force. This on the other hand very much depends on the way the UNMIK mandate is interpreted in the future by the UN DPKO (Department for Peacekeeping Operations). This interpretation can have negative impact on the work and success of the new EU Mission in Kosovo.

In order to become a success story for all, for the new EU Mission there is a need to work hard on improving and encouraging the establishment of proper educational and cultural institutions of Kosovo modelled upon Western standards. This is the only way to produce stability and long-lasting peace in Kosovo. It is only with investments in these two aspects of Kosovo life that one can see a solid space for dialogue and confidence-building among Kosovo communities.

# **International Support to Enhance Confidence Building in Kosovo**

Wolfgang Benedek

## **Introduction**

After the Kosovo Declaration of Independence of 17 February 2008 which triggered widespread protests among the Serb community, the creation of parallel institutions and the severance of links between the Serb and Albanians, it would seem unreasonable to think of confidence building measures working effectively between communities. Accordingly, Mr. Oliver Ivanović, a major representative of the Serbs in Kosovo advised that it is better to forget reconciliation right now or in the near future. Kosovo Serbs once again feel as victims of events shaped by the International Community, in particular the United States and the European Union, although the latter's members' approach towards recognition of an independent Kosovo does not make unanimity.

However, one could also argue that it is never too early to start with confidence building measures leading to reconciliation in the future and the reaction of the Kosovo Serbs do show that such measures are needed as quickly as possible in order to prevent an escalation of the situation, which might lead to further violence and the perpetuation of the conflict.

This contribution will first provide a short overview on confidence building measures in international relations on the level of the United Nations and OSCE and then investigate in particular the relationship between confidence building and human security of all groups concerned. Second, it will analyse some relevant instruments of the European Union with respect to confidence building to see which contribution they can make to the problems at stake. Third, confidence building will be looked at as a multi-stakeholder process with a particular focus on the role of media regulation and higher education. Fourth, the imple-

mentation of the Ahtisaari plan in constitutional law will be reviewed for its contribution to confidence building before some final conclusions are drawn.

## **Meaning of confidence building and human security**

There are numerous forms of confidence building measures. The maintenance or restoration of peace and security is a major purpose of the United Nations. Chapter VI of the UN Charter also contains a number of measures for the peaceful settlement of conflicts like negotiation, mediation, involvement of regional institutions or agreements. However, confidence building has to go further and deeper, because all these instruments have actually been employed in one way or the other in the Kosovo conflict without resulting in creating confidence between the parties.

The definitions of confidence building to be found in literature are mainly related to the area of security and disarmament.<sup>1</sup> According to different sources confidence building measures can be understood as efforts to reduce fear, anxiety and suspicion and to build trust among the conflicting parties. The tools employed can be diplomatic, political or cultural, but also military and policing measures. In post-conflict situations, confidence building is particularly important to make peace sustainable.

An organization that has particular experience in the field of confidence building, is the Organisation for Security and Cooperation in Europe (OSCE). Since its creation during the Cold War, it has pursued this objective with a variety of means and also has been active in the Kosovo conflict from the early stages. The typical list of activities which regularly appear in its Summit documents since the first meeting in Helsinki

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<sup>1</sup> Encyclopaedia of the Nations, United Nations, Confidence building measures; UNIDIR, Confidence- and Security-Building Measures, <http://www.unidir.org/pdf/articles/pdf-art2088.pdf>; Sarah Meek, Confidence building Measures: A tool for disarmament and development, <http://disarmament.un.org/DDApublications/OP9art02.pdf>; Multan, Wojciech, The role of confidence building measures in the prevention and resolution of conflicts, in: Conflict resolution: new approaches and methods / [contrib.: Yves Daudet ... et al.] / 2000.

in 1975 are human contacts, information, co-operation in the field of education and culture and respect for human rights, also called the “human dimension” of the OSCE. Furthermore, cooperation in other fields like the economy and the environment and support to the creation of democratic institutions, in particular also at the local level, have become typical activities. Through its country missions, OSCE has assisted also in the establishment of ombudsmen or media regulation bodies and undertaken numerous activities to overcome ethnic divisions.<sup>2</sup>

The present situation in Kosovo is similar to a Cold War. Personal contacts are minimal, there is wide-spread mutual fear and without the stabilising effect of KFOR and Kosovo Police Service (KPS), incidents between the ethnic groups might be more frequent.

What are the major concerns of the minorities, in particular the Kosovo Serbs, which need to be addressed in order to build confidence between the different ethnic groups? The 2006-2007 report of the Project on Ethnic Relations (PER), mentions “security and freedom of movement”, “unemployment”, “economic development”, “infrastructure improvement” (roads, telephone lines, energy supply), “equality in the privatisation process” and “more media in Serbian language”.<sup>3</sup>

Security is the overriding concern. The concept of human security emphasises “security of the person”. At the individual and group levels it can often overlap, but it is also different from strictly national – or regime – security. With regard to security of the human person, the distinction between freedom from fear and freedom from want provides a wider focus. Accordingly, individual security – which is always a priority aim of human security – but also threats to basic needs like health, food and education or employment come into focus. In terms of human rights, whereas freedom from fear can be associated with civil and political rights, freedom from want addresses the availability of basic economic and social rights. The Universal Declaration of Human Rights

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<sup>2</sup> See for the activities of OSCE in Kosovo, <http://www.osce.org/kosovo/>.

<sup>3</sup> Project on Ethnic Relations, Confidence Building Measures in Kosovo, Prishtina 2006-2007, Project on Ethnic Relations 2007; <http://www.per-usa.org>.

distinguishes between personal security, social security and international security.

In addition, there are also several procedural aspects of a human security approach, which should distinguish itself by several elements, like being holistic and inclusive, participatory, bottom-up and non-discriminatory, have a focus on the specific needs of vulnerable groups, based on common values of human rights, starting from the dignity of the individual, and includes the rule of law, good governance, democracy and accountability. Such approach seeks the empowerment of the people who are affected by threats and vulnerabilities, the prevention of conflicts and poverty and the sustainability of conflict transformation and peace-building. For this purpose it is also necessary to address the root causes of threats and vulnerabilities that may lead to conflicts or deprivation.

## **European Union Instruments for Confidence Building**

There are several European Union instruments, which can play a role for the purpose of confidence building. In particular, the “Instrument for Stability” adopted by the European Union in 2006,<sup>4</sup> in order to better contribute to stability in a crisis situation, or one posing threats to democracy, law and order or the protection of human rights and fundamental freedoms for the security and safety of individuals. The Instrument for Stability promotes confidence-building, mediation, dialogue and reconciliation. For this purpose, the European Union can give technical and financial assistance to a number of purposes starting from effective civilian administration to rehabilitation and reconstruction of key infrastructure, measures to promote and defend respect for human rights or support to the development and organisation of civil society and its participation in the political process and for independent, pluralistic and professional media. Assistance should promote stable conditions for the economic and developmental cooperation activities of the European Un-

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<sup>4</sup> See Regulation (EC) No. 1717/2006 of the European Parliament and of the Council of 15 November 2006, Official Journal of the European Union, L 327/1 of 24.11.2006.

ion. It also aims at post-crisis capacity building of international organisations, state and non-state actors in order to assist post-conflict reconstruction and rehabilitation.

The communication of the European Commission on “Western Balkans: Enhancing the European Perspective” of March 2008 indicates that 1bn Euro are earmarked for Kosovo during the period 2007-2010 for its political and economic development and the costs of the international presence. It also aims at visa liberalisation and for provision of scholarships to improve direct contacts among people. For this purpose, it gives support to mobility programmes, and the step-by-step integration of Western Balkan countries into programmes and agencies of the European Union. Activities to be funded include inter-cultural dialogue, media and youth programmes, which can be of direct relevance to efforts of confidence building and reconciliation.<sup>5</sup>

In addition, a European Union Support to Civil Society Facility has been announced, which should support dialogue in the field of human rights, non-discrimination, social integration, local initiatives and capacity building, with a particular focus on media workers, teachers, young politicians, labour unions, etc. It can give support to networks and partnerships and is complementary to the “Instrument for Pre-Accession Assistance” (IPA), which foresees an amount of 4bn Euro for the Western Balkan countries in the period of 2007-2011. The facility has been discussed at a Conference of Civil Society Organisations in April 2008 in Brussels.<sup>6</sup>

Accordingly, the instruments of the European Union can play a major role in providing much needed support ranging from institution building to civil society and economic cooperation, which all could benefit a confidence building process.

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<sup>5</sup> See Communication from the Commission to the European Parliament and the Council on Western Balkans: Enhancing the European Perspective, COM (2008) 127 final of 5.3.2008.

<sup>6</sup> See Support to civil society – a new financial facility under the Instrument for Pre-Accession Assistance (IPA), Eumonitor of 5 March 2008, <http://www.eumonitor.net/print.php?sid=95831>.

## Confidence Building as a Multi-stakeholder Process

Post-conflict situations like the one in Kosovo are usually characterized by the presence of numerous actors with different agendas and assistance potential. International organisations and state institutions need to cooperate with non-governmental actors, both international as well as local ones. The challenge is to orientate the multi-stakeholder process towards common objectives and to use the full potential of the many actors on the ground also for measures of confidence-building, which needs to take place between the communities inside Kosovo, but also between Kosovo and Serbia. There are different roles to be played by the governmental institutions, by international agencies or by civil society in a number of sectors like education and vocational training, which is particularly relevant for employment. There need to be efforts of “society-building” by overcoming stereotypes and prejudices as well as xenophobic and discriminatory attitudes.

Although minority and human rights have been top priorities for quite some time, the realities on the ground are far from satisfactory. For example, the Kosovo Standards Implementation Plan of 2004, which has been adopted after the violence of March 2004 has given minority rights and human rights particular attention, but appears never to have been fully implemented, although the role of human rights and minority rights has always been recognized as crucial for the final status of Kosovo.<sup>7</sup>

Civil society organizations have to play a crucial role for confidence building as does, for example, the activities of the Humanitarian Law Center. However, governmental support for the role of civil society is largely lacking as can be seen from a study undertaken by the Human Rights Centre of the University of Prishtina.<sup>8</sup> Accordingly, there is a need that governments do more actively involve and support civil soci-

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<sup>7</sup> See Wolfgang Benedek, *The Final Status of Kosovo: the Role of Human Rights and Minority Rights*, in: *Chicago-Kent Law Review*, Vol. 80 (2005) 1, 215-233.

<sup>8</sup> See Valon Murati, *The Role of Civil Society in Good Governance in Kosova*, in: Wolfgang Benedek (ed.), *Civil Society and Good Governance in Societies in Transition*, Belgrade Centre for Human Rights/NWV, Belgrade 2006, 77-114.

ety in its functions, in particular also with regard to confidence building, as civil society being closer to the people can make an important contribution.

As an example of good practice the recent report by the Kosovar Institute for Policy Research and Development (KIPRED) on confidence building needs to be highlighted.<sup>9</sup> KIPRED has attracted attention on the efforts of radical Serbs from Kosovo in building parallel institutions, but Kosovars themselves have done little to take genuine consideration Serb grievances into consideration, despite the recommendations it has made to all levels of government in Kosovo. These recommendations include the request for more leadership regarding the unity of the country, while strengthening the security of Serb settlements and implementing decentralization policies, improvement of public infrastructures in cooperation with Serb communities, reconstruction of Serb cemeteries, churches and monasteries. Also the donor community is invited to address socio-economic concerns. The improvement of educational opportunities and media is given particular attention.

There have been numerous efforts by KFOR, OSCE, or the Human Rights Ombudsman as well as UNMIK towards confidence building, which, however, have only partly been successful and suffered several setbacks, largely due to the overall political situation.

Education and the media play a particular role in confidence building. With regard to education, the Albanian pupils are not learning the Serbian language anymore, but also the Serbian side hardly shows interest in learning Albanian. At the higher education level, the University of Serb Mitrovica, developed hardly any cooperation with the Kosovo State University and efforts to develop joint programmes have not succeeded.

On the other hand, support to a University in Mitrovica or in one of the Serb enclaves, with high quality students have been proposed as a con-

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<sup>9</sup> Kosovar Institute for Policy Research and Development, Kosovo Serbs after the Declaration of Independence: the right momentum for confidence building measures, KIPRED Policy Brief #8, Prishtina, July 2008, <http://www.kipred.net>.

tribution to confidence building taking the model of the South East European University (SEEU) in Tetovo.<sup>10</sup> The SEEU is an initiative of the former OSCE High Commissioner on National Minorities and was established for exactly this purpose with impressive results. This shows the potential of the education sector for confidence building.

Summer schools like the one organized by the University of Prishtina, the University of Graz, the European Forum in Alpbach or international competitions like the “Balkan Case Challenge” organized by World University Service (WUS) Austria in all SEE countries with the finals in Vienna<sup>11</sup> can also contribute to confidence building by bringing young people together in a pluralist environment and by providing opportunities to meet and talk. A further step could be regional projects and finally also common projects in the educational field. WUS Austria with its offices in Belgrade, Prishtina, Podgorica, Sarajevo and Skopje has already ample experience in interethnic cooperation.<sup>12</sup> One pertinent programme implemented by WUS Austria on behalf of the Austrian Ministry for European and International Affairs is the “Experiencing Europe” Programme done in cooperation with the Djindjić Fund, which brings young Serbs to Austria for internships with Austrian institutions of all kind.<sup>13</sup>

The European Union supports the European Regional Master Programme on Democratization and Human Rights organized by the University of Bologna and the University of Sarajevo with a network of other universities from the EU and the region, which provides an opportunity for interested students from the whole SEE region and beyond to get a high level post-graduate education in human rights and democracy which allows them to reflect on the problems of the region and to learn to deal with them from a human rights perspective.<sup>14</sup>

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<sup>10</sup> See European Stability Initiative (ESI), Mitrovica: Kosovo’s Litmus Test, ESI Discussion paper of 28 April 2006, [http://www.esiweb.org/index.php?lang=en&id=156&document\\_ID=75](http://www.esiweb.org/index.php?lang=en&id=156&document_ID=75); see also Hasani, in this volume and KIPRED, *ibid.*

<sup>11</sup> See <http://www.bcchallenge.org/general/index.php>.

<sup>12</sup> See for details <http://www.wus-austria.org>.

<sup>13</sup> See <http://www.ada.gv.at/experiencingeurope>.

<sup>14</sup> See <http://www.cps.edu.ba/ENGLESKI/ermaprogram.html>.

WUS has also assisted in founding a network of human rights centres in West Balkan countries, which also includes the Human Rights Centre of the SEEU in Tetovo.<sup>15</sup> Through cooperation and common projects the divisions of the past are more easily overcome as the experience in Bosnia and Herzegovina shows, where joint educational and human rights projects supported first by WUS Austria and later by the European Training and Research Centre for Human Rights and Democracy in Graz<sup>16</sup> helped to build confidence and trust after the end of the war.

With regard to the media sector, the Independent Media Commission built up with support of international experts from OSCE has actually managed to provide a structure and regulation for the media sector, which included also a code of conduct with respect to electronic media.<sup>17</sup> The situation in the print media sector, which is only controlled by a press council, has been less successful in preventing cases of inflammatory reporting and misinformation. Again it proved difficult to get Serbian stations or newspapers to participate in those institutions although particular efforts were undertaken to win their confidence. However, as can be seen from Bosnia-Herzegovina, this is a long-term process and very much depends also on the general political climate. In any case, European standards of broadcasting can contribute to making the media responsible, with a mission to fulfil a public service function including reporting on minority concerns.

## **Implementation of the Ahtisaari Plan and Confidence Building**

When Ahtisaari realized that there was no possibility of agreement on the final status as such he emphasised the daily needs of people in a practical way. Accordingly, the “Ahtisaari Plan” has a focus on the rights of communities and their members, which were increased through

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<sup>15</sup> See <http://www.see-hrc.net>.

<sup>16</sup> See <http://www.etc-graz.at>

<sup>17</sup> See Independent Media Commission, Principles of Broadcast Regulation, <http://www.imc-ko.org/index.php?id=19&l=e>.

several instruments like decentralisation of competences, with redrawing the borders of municipalities or creating new ones.<sup>18</sup> Also the needs of preservation of religious and cultural heritage through protective zones and the strengthening of community rights and human rights have been included into the new Kosovo constitution and its by-laws. The international civil and military presence was continued in order to monitor the implementation for those provisions.

Accordingly, Kosovo's constitution provides for human security in its Chapter II on Fundamental Rights and Freedoms. Group rights are safeguarded in Chapter III on Rights of Communities and their Members while Chapter IV special seats for minorities in the Parliamentary Assembly. Chapter IV also provides special procedures when legislation deals with vital interests of the respective communities.<sup>19</sup> This system continues to have international judges and the police will be monitored by European Union Police. In addition, special relations with Serbia are foreseen for the Serb community. Although the practicalities of all these provisions still need to be tested, the international community in general and the European Union in particular have left no doubt that the overriding concern is to assure implementation of the Ahtisaari Plan.

The inability of the Security Council to reach a decision on the final status and to agree on the transition of the UNMIK agenda to EULEX<sup>20</sup> has created a blockage of the issue or a "frozen conflict" with potentially negative consequences for confidence building. Nonetheless, this can also be seen as an opportunity to undertake practical steps on the ground, wherever possible. Belgrade's recent overtures can be seen as an encouraging sign of good faith and pragmatism.

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<sup>18</sup> See Comprehensive Proposal for the Kosovo Status Settlement, by Martti Ahtisaari, UN Doc. S/2007/168/Add.1 (2007).

<sup>19</sup> See Arts. 64 and 81 of the Constitution of the Republic of Kosovo.

<sup>20</sup> See the contribution of Enver Hasani, in this volume.

## **Conclusions**

Although many roads have already been explored and many measures undertaken, there is still more that can and needs to be done to address the real needs of the people on the ground, starting from daily needs like electricity, better roads, schools, health, freedom of movement etc. The dependency on Belgrade is a matter of fact, but needs to be reduced and partly replaced by a better cooperation with Kosovar institutions. Strengthening of objective information channels, newspapers, radio and TV and the enlargement of minority programs and improvement of the quality of reporting also can play an important role. There is also a need to improve the quality of education including higher education for minority communities, which can only be done in cooperation with the international community but also by strengthening country-wide and regional cooperation in education and provide opportunities to meet outside the local context and relearn to do things together.

Confidence and trust needs to be built also by providing an objective judiciary system and active investigations into allegations of violence or mistreatment of minority communities. Cultural and social guarantees must be made explicit to minority communities.

Although Kosovo's unilateral declaration of independence and the negative reaction by Serbs is not conducive to building trust, concrete measures of confidence building can make an important contribution to overcome fears and suspicion and step by step build the much needed confidence, necessary for a common country. In view of the fact that the majority of Serbs live in central or southern Kosovo, separation of the Northern part is no viable solution for them.

The main responsibility for confidence building is with the government of Kosovo, but the international community has still an important role to play, while in the necessary multi-stake holder approach civil society organisations, both local and international could play a crucial role if given the opportunity to do so.

In conclusion, in spite of the lack of cooperation from the Serb side after the declaration of independence, in the longer term there is no alternative to working together again. A confirmation of a European commitment for the whole of the Western Balkans should be given greater importance than territorial concerns by local actors, while the international community should step up the efforts to make full use of its potential to assist confidence building in Kosovo as well as between Kosovo and Serbia, preferably with the help of civil society organisations.

# Untying the Gordian Knot in the Balkans: *Realpolitik*, “Business as Usual” or Thinking “Outside the Box” on Dialogue, Reconciliation and Integration into Euro-Atlantic Structures for Serbia and Kosovo?<sup>1</sup>

Dennis J.D. Sandole

## Abstract

This article explores options for *confidence building* between Kosovar Albanians and Serbs in Northern Kosovo and Belgrade, following the Kosovar Albanian declaration of independence for Kosovo on 17 February 2008, and the subsequent Serb reaction of rejection, supported by, among others, the Russian Federation. The options for confidence building identified and discussed derive from the theory *and* practice of the multidisciplinary field of *conflict analysis and resolution* (CAR), which, by definition, locates them outside “the box” of traditional (*Realpolitik*) diplomatic thinking and discourse.

## Introduction

Given the nature of its still evolving subject matter – relations between Kosovar Albanians and Serbs in Northern Kosovo and Belgrade – this article continues a discussion begun a year ago during the last meetings in Reichenau of the *Partnership-for-Peace (PfP) Consortium Study Group on Regional Stability in South East Europe* (see Sandole, 2007). At that time, the objective was to head off a confrontation between Albanians and Serbs in the Balkans, perhaps igniting renewed violence elsewhere in the region (e.g.: in Bosnia Herzegovina and Macedonia).

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<sup>1</sup> The author gratefully acknowledges Dr. Ingrid Sandole-Staroste who has read and commented on a draft of this article.

Former Finnish President Martti Ahtisaari had just completed his talks with Kosovar Albanians and Serbs, concluding that there was an impasse on how to further proceed. Yet, he offered a plan for the “managed independence” of Kosovo that was discussed in subsequent talks with the parties, leading, once again, to an impasse.

Serb parliamentary elections on 21 January 2007, resulted in a clear victory for the Radical Party of former paramilitary and indicted war criminal Vojislav Šešelj (the party is currently led by another former paramilitary, Tomislav Nikolić), causing concern among many in the international community, especially the European Union, that when the anticipated Kosovar Albanian independence of Kosovo came – as it did on 17 February 2008 – Serbs would respond violently. Other than an apparently orchestrated fire-bombing of the U.S. Embassy in Belgrade, such violence did not materialize. Indeed, during recent parliamentary elections that took place in Serbia on 11 May 2008, the pro-EU Democratic party of President Boris Tadić was the clear victor. As President Tadić completed negotiations to form a coalition government with the Socialist Party (BBC, 2008; Matic, 2008), one question now is how to keep the whole of the country (and region, including Kosovo) moving in a pro-EU trajectory through various confidence-building measures.

But first, to better understand and deal with the present, we need to better understand its historical background.

## **The Potency of Serb Nationalism**

Gavrilo Princip had no idea what he was starting on 28 June 1914 (First World War, 2003). Clearly, the assassination of Archduke Franz Ferdinand, the heir to the Austro-Hungarian Empire, and his wife Duchess Sophie, on that fateful day was a mere trigger embedded within a hostile system of competing alliances led by the Triple Entente of Britain, France and Russia and the Triple Alliance of Austro-Hungary, Germany, and the Italy (which eventually changed sides) (First World War, 2001). Still, it can be said that the actions of Princip, a 19-year-old Bosnian Serb high school student who had been rejected by the Serb Army for

his diminutive physical stature, helped to transform Europe into the most murderous region in the totality of human experience. Together with the Balkan wars of the 1990s that resulted in the implosion of former Yugoslavia and brought genocide back to Europe some 50 years after the end of World War II – a linear continuation of World War I – we can say that the 20<sup>th</sup> century both began and ended with Serb nationalism as a potent force. Given where the Balkans are at present, Serb nationalism has become a feature of the first decade of the 21<sup>st</sup> century as well!

Given this hundred-year-plus trajectory of virulent Serb nationalism – which is not in anyone’s best interest, including Serbs’ – it is the thesis of this article that, before confidence building can commence meaningfully between Serbs and Kosovar Albanians, this situation must be effectively analyzed and dealt with, which the remainder of this article attempts to do.

## **The Role of Kosovo in Serb National Identity**

Princip and his fellow conspirators representing the *Serbian Black Hand*, might have endeavoured to assassinate Archduke Franz Ferdinand no matter what day he visited Sarajevo, but the fact that the day of the visit was Sunday, 28 June 1914 speaks volumes about a core feature of Serb *national identity* that remains with us to this day: the role of Kosovo in the Serb national consciousness and discourse.

For many Serbs, Kosovo is their “Jerusalem”: their “holy ground ... where [their] most historic and religious monuments are located” (Dragnich and Todorovich, 1984, p. 1). Kosovo is the Serbs’ medieval kingdom, the “cradle of their nationhood, when they were virtually its sole occupants ... the centre of [their] empire of the middle ages, at one time the strongest empire in the Balkans” (ibid.; also see Dragnich, 1992, Ch. 9). On 28 June 1389, Kosovo fell to the Ottoman Empire, which eventually ushered into the region 500 years of Ottoman occupation. Serbia reclaimed Kosovo at the end of the Balkan Wars of 1912-13, only to have the dominant population there, over 90%, come to be represented by ethnic Albanians during the remainder of the century. That the major-

ity of Albanians (and Bosniaks) are Muslim is a consequence of the historical Ottoman presence in the region. Hence, for many Serbs, the “Turks have never left” their historical national homeland! Worse, the “Turks” have stolen Kosovo with their declaration of independence on 17 February 2008!

Princip and other *Black Hand* co-conspirators may have been particularly incensed by the Austro-Hungarian Archduke’s visit on 28 June 1914, not only because that was the day of Serb *national mourning* for the loss of their national homeland many centuries before, which they had reclaimed only a year or so earlier. In addition, Bosnia-Herzegovina had become a part of the Austro-Hungarian Empire in 1878, and Serb nationalists had figured that it, too, should belong to Serbia. This further added to the “narcissistic rage” (Kohut, 1971) and motivation to kill off the visiting imperialist, who was no better than his Ottoman counterparts who had occupied another cornerstone of Serb nationalism for centuries.

Suffice to say, therefore, that the virulent strand of Serb nationalism, which is represented by Šešelj’s Radical Party, does not include Albanians at all, and it certainly does not include an independent Kosovo. Even progressive, pro-EU Serb President Boris Tadić has indicated that he will never recognize Kosovo’s independence. This is the crux of the problem with which we are faced at present. Again, how confidence can be built between Kosovar Albanians and Serbs in northern Kosovo and Belgrade under such intense historical and contemporary circumstances is the challenge of this article as well for the actors themselves and others in the region and elsewhere.

## **The Potency of “Chosen Trauma” in Serb National Identity**

Kosovo represents for Serbs what Vamik Volkan (1997, pp. 48-49) characterizes as a “chosen trauma”:

I use the term *chosen trauma* to describe the collective memory of a calamity that once befell a group’s ancestors. It is, of course, more than a

simple recollection; it is a shared mental representation of the event, which includes realistic information, fantasized expectations, intense feelings, and defenses against unacceptable thoughts.

Since a group does not choose to be victimized, some of my colleagues have taken exception to the term *chosen trauma*. But I maintain that the word *chosen* fittingly reflects a large group's unconsciously defining its identity by the transgenerational transmission of injured selves infused with the memory of the ancestors' trauma. For example, Czechs hold on to the memory of the Battle of Bla Hora in 1620 when the Czech nation became part of the Hapsburg monarchy and lost its freedom for nearly three hundred years. Scots keep alive the story of the Battle of Culloden, precipitated by Bonnie Prince Charlie's vain attempt to restore a Stuart to the English crown in 1746. The Lakota people maintain mental representations of the massacre of the Big Foot band at Wounded Knee in 1890. Jews will "never forget" the Holocaust. Crimean Tartars define themselves by their deportation from Crimea in 1944 (emphasis in the original).

Shi'ites annually perform an extreme form of remembering a chosen trauma by commemorating their religious leader al-Husayn ibn'Ali through ritualized self-flagellation on the anniversary of his martyrdom. Memories and feelings about historic traumas may also be expressed in indirect or even concealed ways. Subtle symbolic protests against the Spanish conquest of Mexico, which took place nearly five hundred years ago, for example, are still enacted throughout present-day Mexico in folk dances. Officially, the dances celebrate the arrival of Roman Catholicism, but surreptitiously they act out a defeat of the conquistadores, a reversal of history.

In these particular comments, Volkan does not mention the potency of 29 May 1453 for Greeks when Constantinople and the Byzantine Empire fell to the Ottomans; 12 July 1690 for Irish Catholics when the Catholic King James II was defeated by the Protestant King William III (of Orange) at the Battle of the Boyne in Ireland, ushering in more than 300 years of Protestant marginalization and oppression of Catholics; or 24

April 1915 for Armenians when they were subjected to massacres at the hands of the declining Ottomans.<sup>2</sup>

Immediately following these comments, however, Volkan discusses at length the implications for current conflicts of 28 June 1389, when Serbs lost their beloved Kosovo to the Ottomans, ushering in 500 years of Ottoman occupation of the Balkans – the same date hundreds of years later when the Serb nationalist Princip assassinated the heir to the Austro-Hungarian Empire, touching off World War I. Volkan begins that discussion by relating the story of former U.S. President Jimmy Carter’s visit to Bosnia-Herzegovina in December 1994, in the midst of the genocidal unravelling of former Yugoslavia, to bring about a ceasefire between Bosnian Serbs and Muslims – efforts which actually led to a ceasefire for a period of four months. During the trip, President Carter and his group met with Bosnian Serb leader Radovan Karadžić and Bosnian Serb military leader Ratko Mladić – who six months later, in July 1995, would preside over the genocidal massacre of nearly 8 000 Muslim boys and men in Srebrenica (see Honig and Both, 1996; Rohde, 1997):

... soon after Carter and his group sat down across from Karadžić and Mladić, the Serbs began to explain the victimization that had begun more than six hundred years ago, after the Battle of Kosovo. The former president had already been briefed in Serbian history and was not surprised that in a meeting in 1994 about current, pressing issues the memory of events from 1389 was so prevalent. While Karadžić and Mladić spoke at length of the Battle of Kosovo, Serbian victimization, and their sense of responsibility to protect their group, the Americans remained silent, allowing the Serbs to discharge their emotions concerning a centuries-old memory (Volkan 1997, p. 50) ...

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<sup>2</sup> Competing framings of the Armenian massacres have, to this day, caused intractable conflict between Armenians and Turks about whether the massacres constituted the 20<sup>th</sup> century’s first genocide, providing a “model” for Adolf Hitler and other architects of the Third Reich to do the same against European Jewry and other groups during World War 2.

For our purposes here, the Battle of Kosovo and its aftermath can be summarized briefly as follows:

On June 28, [Serbian] Prince Lazar and his army clashed at Kosovo Polje, the Field of Black Birds, with the army of the Ottoman Turkish sultan, Murat I. Both Lazar and Murat lost their lives. Some seventy years later, Serbia fell under the control of the Ottoman Empire and remained a part of Ottoman territory until it received its autonomy in 1829. Serbia became fully independent in 1878, when it was recognized by the Congress of Berlin. But some areas, such as the province of Kosovo and neighbouring Albania, remained under Ottoman control until 1912 (*ibid.*, p. 51).

Despite the gap of seventy years between the Battle of Kosovo and the fall of Serbia [to the Ottomans], a popular belief gradually developed that equated the two events. *It is not the historical truth (or even one of many versions of it) that matters in the collective Serb psyche.* What is important is the shared mental representation of the Battle of Kosovo and of the characters who played key roles in it. As decades and centuries passed, *mythologized tales of the battle* were transmitted from generation to generation through a strong oral and religious tradition in Serbia, reinforcing the Serbs' sense of a *traumatized, shared identity* (emphasis added) (*ibid.*, p. 61).

This chosen trauma is an observable part of the contemporary Serb identity. When Albanians settled on the "holy earth" of Kosovo, it "took on the character of a festering wound in the national self-esteem". Political scientist Marko Marković states that *for Serbs the memory of Kosovo is a "sacred grief" and that "mere mention of that name suffices to shake a Serb to the depths of his soul."* He suggests an analogy: "That which the destruction of the Jerusalem Temple is for Israel [and Jews worldwide], and Golgotha for Christians, so Kosovo is for the Serbs" (emphasis added) (*ibid.*, pp. 61-62).

Clearly, "chosen trauma" is a force to be reckoned with, whether for Serbs, Jews, Palestinians, Armenians or any other *identity group* that has experienced profound loss *without appropriate mourning*, with an ex-

pectation that it could happen again! This is why “chosen trauma” is related to *post-traumatic stress disorder* (PTSD):

PTSD is a health condition that can result from wartime trauma such as being physically wounded or seeing others hurt or killed. Symptoms range from irritability and outbursts of anger to sleep difficulties, trouble concentrating, extreme vigilance and an exaggerated startle response. *People with the condition can persistently relive the traumatic events that initially induced horror or helplessness* (emphasis added) (Morgan, 2008).

According to Volkan (1997, pp. 41, 42):

... trauma exacerbates feelings of humiliation and helplessness, which can cause post-traumatic stress disorder (PTSD). In PTSD, the internalized version of a trauma remains in the minds of the victims long after the overwhelming physical danger disappears. ... *Individuals suffering from PTSD behave as though they have an internal theatre where the various actors (victim, victimizer, and rescuer) continuously perform a play* (emphasis added).

PTSD can also result from repeated, intense inter-generational transmission of “chosen trauma”, in which the trauma is experienced *vicariously* instead of directly and personally, but with similar effect. Again according to Volkan (*ibid.*, p. 43):

Transgenerational transmission is when an older person unconsciously externalizes his traumatized self onto a developing child’s personality. A child then becomes the reservoir for the unwanted, troublesome parts of an older generation. Because the elders have influence on a child, the child absorbs their wishes and expectations and is driven to act on them. It becomes the child’s task *to mourn, to reverse the humiliation and feelings of helplessness pertaining to the trauma of his forebears* (emphasis added).

When subsequent generations experience the trauma as it was experienced originally by one’s ancestors who were directly affected by them – “almost as if psychological DNA were planted in the personality of the

younger generation through its relationships with the previous one” (Volkan, 1997, p. 44) – then we have the phenomenon of *time collapse*:

Representatives of opposing groups act ... as if they themselves had witnessed such events, even though some had taken place before they were born.

This is an example of *time collapse*, in which interpretations, fantasies, and feelings about a past shared trauma commingle with those pertaining to a current situation. Under the influence of a time collapse, people may intellectually separate the past event from the present one, but *emotionally* the two events are merged (emphasis added) (Volkan, 1997, p. 35).

As another example of the generic nature of chosen trauma and time collapse, Richard Rose (1971, p. pp. 354-355) eloquently reports from his classic survey of Republican (Catholic) and Unionist (Protestant) perceptions of conflict in Northern Ireland that:

Londonderry on August 12, 1969, aptly illustrates how *time past and time present can fuse together in an explosive way*. Protestants there that day were commemorating the 280<sup>th</sup> anniversary of the liberation of the besieged Protestant bastion within the old walled city from Catholic hordes surrounding it. As they looked over Derry’s walls, the marchers could see that Catholics, as in Jacobite times, were present in great numbers in the Bogside just below their fortifications. Catholics did not have to turn their minds further back than the previous twelve months to anticipate what might happen next. In that period, the Royal Ulster Constabulary several times entered the Bogside in large numbers, assaulting Catholics on the streets and in their homes that official enquiries could later amnesty but not excuse. The Catholics began to build barricades to prevent a recurrence of this. *This recalled Protestants from ancient history to the present*. The barricades were interpreted as the beginning of yet another Catholic insurrection. The approach of the police to the barricades was seen by Catholics behind the lines as yet another instance in which Protestants sought, in the words of an eighteenth century Irish song, to make “Croppies lie down”. *In such circumstances, it hardly matters whether an individual interpreted events in seventeenth, eight-*

*eenth or twentieth century terms. In Northern Ireland, the conclusions drawn – for or against the regime – are much the same in one century as in the next (emphasis added).*

Since chosen trauma experienced in time collapse is a generic phenomenon, not unique to Serbs, it is hypothesized here that generic processes may be employed in helping Serbs to deal with their *unmourned loss* of Kosovo, and in the process, help them to deal with their virulent nationalism and the “narcissistic rage” (Kohut, 1971) that resulted in bringing genocide back to Europe during the unravelling of former Yugoslavia in the 1990s, especially in Srebrenica where the bodies of the hapless, helpless, hopeless victims are still being dug up as this article is being written.

That at least some Serbs – especially those affiliated with the Radical Party led by paramilitaries that wrought havoc in Bosnia-Herzegovina during the 1990s in the name of Serbs everywhere – could use assistance in this regard seems clear: “*Under Ottoman rule, Serbs became perennial mourners. The “defeat” of June 28, 1389, became the shared loss that could not be mourned but that had to be recalled continually*” (emphasis added) (Volkan, 1997, p. 64). The emotionalism that can be displayed on this issue was vividly expressed by a young Serbian soldier when Serbia reclaimed Kosovo as a result of the Balkan Wars of 1912-1913, some 500 years after it was occupied by the Ottoman Turks:

The single sound of that word “Kosovo” caused an indescribable excitement. This one word pointed back to the black past – five centuries. In it exists the whole of our sad past – the tragedy of Prince Lazar and the entire Serbian people ...

Each of us created for himself a picture of Kosovo while we were still in the cradle. Our mothers lulled us to sleep with the songs of Kosovo, and in our schools our teachers never ceased in their stories of Lazar and Miloš [one of Lazar’s son-in-laws] ...

My God, what awaited us! To see a liberated Kosovo ... When we arrived in Kosovo ... the spirits of Lazar, Miloš, and all the Kosovo martyrs gazed on us (ibid., p. 65).

More recently, just prior to the genocidal assault on some 8 000 Bosnian Muslim males by Serbs at the UN “safe area” of Srebrenica in Bosnia during 11-16 July 1995, Serb General Ratko Mladić told Serb television that, “The time has come to take revenge on the *Turks*” (emphasis added) (Williams, 2005). A year later:

Bosnian Serbs celebrated Thursday [11 July 1996] the first anniversary of the conquest of Srebrenica while, nearby, war crimes investigators were sorting through bones and fragments of [some 40 corpses believed to be just a fraction of the more than 7 000 Muslim] men and boys captured and shot after the Muslim enclave fell. ...

Serbs marked their victory ... and reiterated their goal of keeping the territory “*ethnically pure*”.

“There is no place for *Turks* in Republika Srpska”, said General Milenko Živanović, the regional commander, who led the final assault on Srebrenica (emphasis added) (AP, 1996).

Another Bosnian Serb official, in the disputed city of Brčko, proclaimed that year, “We will defend our frontiers *biologically*” (emphasis added) (Dobbs, 1996). Ten years after the slaughter at Srebrenica:

Fewer than half of Serbs polled ... believed the Srebrenica massacre took place. ... Instead of coming to terms with its past, Serbia has circumvented the issue with the narrative skills of a psychopath. For example, a debate on Srebrenica at the Belgrade Law Faculty earlier this year was initially titled “10 Years After the *Liberation* of Srebrenica” (emphasis added) (Brkic, 2005).

As a further perversion of Srebrenica and exacerbation of negative relations between Serbs and Bosnian Muslims (and by implication, Albanians and other “*Turks*”):

*In the Balkans, war crime pays.* This year a record 20 accused war criminals have been turned over to the International Criminal Tribunal for the Former Yugoslavia at The Hague, compared with only three in 2004. But NATO troops didn't nab these fugitives in daring dawn raids. Negotiators did much of the work, *offering generous financial incentives.* "Everybody here in Serbia believes the government gives big money to indictees", says Nataša Kandić, head of the Humanitarian Law Center in Belgrade. "If you want to go to The Hague, you'll be rewarded and your family will have a very good life." ...

Gen. Ratko Mladić, the accused architect of the Srebrenica massacre, was offered \$5 million to turn himself in, although in the end he decided to stay on the run. (The U.S. government still has a \$5 million reward for his capture.) (emphasis added) (Nordland, 2005).

So, by what "generic processes" can we – the concerned international community – help Serbs to stop living "in history" (Fukuyama, 1989, 1992), to take a "walk through history" (Montville, 1993) to deal with their "chosen traumas" (Volkan, 1997), in order to let go of the "heavy hand of the past" (Sherif, 1967) and move into the future working collaboratively with others in the region – including Albanians – on issues of common concern?

## **Dealing with History and other Deep-rooted Causes and Conditions of Complex, Identity-based Conflict**

Elsewhere, I have discussed the "*3 Levels of Conflict Reality*" (Sandole, 2007) where:

- Level 1 refers to *conflict-as-symptoms*.
- Level 2 refers to conflict-as-fractured relationships that lead to symptoms. And
- Level 3 refers to conflict-as-deep-rooted, underlying causes and conditions of the ruptured relationships.

Examples of *conflict-as-symptoms* are what occurred in Kosovo in March 2004 or, shortly after the fire-bombing of the U.S. Embassy in Belgrade following Kosovo's declaration of independence in February 2008.

Clearly, these symptoms reflect *conflict-as-fractured relationships* between Serbs and Albanians that have not changed for many years, except to worsen since NATO's 78-day bombing campaign during 23 March-10 June 1999 against Serbia to force a stop to its ethnic cleansing of Albanians in Kosovo.

*Conflict-as-deep-rooted, underlying causes and conditions* refers to the etiology of the fractured relationships between Albanians and Serbs, which have not really been addressed by the international community – the U.S., EU, Russian Federation and UN – during the negotiations which failed to lead to a breakthrough on Kosovo's status.

By what “magic”, therefore, can Serbs be helped to develop an identity that includes others in its region – among them, Albanians and Bosniak Muslims?

### **Lederach's Leadership Pyramid**

Part of that magic, I believe, stems from the field of *peacebuilding*. *Peacebuilding*, along with *peacemaking* and *peacekeeping*, were part of a typology first developed by the Norwegian Peace Researcher Johan Galtung (1975). Eventually, this typology left the sole confines of the academy to become part of former UN Secretary General Boutros Boutros-Ghali's (1992) *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-keeping*. John Paul Lederach (1997), an American Mennonite, was, as far as I can tell, the very first person to publish a book on peacebuilding. In it, he developed a “leadership pyramid” as part of his *Actors and Approaches to Peacebuilding*, comprising levels of any society embedded in violent conflict within which certain initiatives must be taken (ibid., p. 39):

**Figure 1: Actors and Approaches to Peacebuilding**

<i>Types of Actors</i>	<i>Approaches to Building Peace</i>
<b>Level 1: Top Leadership</b>	
Military/political/religious leaders with high visibility	Focuses on high-level negotiations Emphasizes cease-fire led by highly-visible, single mediator
<b>Level 2: Middle-Range Leadership</b>	
Leaders respected in sectors Ethnic/religious leaders Academics/intellectuals Humanitarian leaders (NGOs)	Problem-solving workshops Training in conflict resolution Peace commissions Insider-partial teams
<b>Level 3: Grassroots Leadership</b>	
Local leaders Leaders of indigenous NGOs Community developers Local health officials Refugee camp leaders	Local peace commissions Grassroots training Prejudice reduction Psychosocial work in post-war trauma

As one moves from the top level leadership to the grassroots, those affected by peacebuilding processes increase in number – hence, the “pyramid” metaphor. For Lederach (1997, pp. 41-42), the optimal level at which to intervene may be the middle range (level 2):

Important features of this level characterize the key actors within it. First, middle-level leaders are positioned so that they are likely to know and be known by the top-level leadership, yet they have significant connections to the broader context and constituency that the top leaders claim to represent. In other words, they are connected to both the top and

grassroots levels. They have contact with top-level leaders, but are not bound by the political calculations that govern every move and decision made at that level. Similarly, they vicariously know the context and experience of people living at the grassroots level, yet they are not encumbered by the survival demands facing many at this level.<sup>3</sup>

Before proceeding, let's say a bit more about each of Lederach's three leadership levels and how each relates to Kosovar Albanian-Serb relations.

### **Top Leadership**

For the top level, we can say that, to an extent, there were high-level negotiations between Kosovar Albanians and Serbs in northern Kosovo and in Belgrade, led by a highly visible, single mediator, former Finnish President Martti Ahtisaari, but that those negotiations were clearly inconclusive. There is a need, therefore, for further negotiations mediated by high-level persons, between:

1. Kosovar Albanians and Serbs (including religious leaders [see Shafiq and Abu-Numer, 2007]).
2. Kosovar Albanians and Belgrade.
3. The European Union and Serbian President Boris Tadić.
4. The European Union and other Serb political parties.
5. The United States and Russian Federation.
6. Potential foreign investors (e.g., Fiat) and Serbian and Albanian industrial and labor leaders.

As any of these dialogues are considered, depending on the political imperative to maintain silence about them, negotiations could be of a *back-*

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<sup>3</sup> It is at the middle-range level that the *Partnership-for-Peace (PfP) Consortium Study Group on Regional Stability in South East Europe* conducts its events. Its published proceedings are disseminated to government ministries and others, and then made available online at [www.bmlv.gv.at/wissen-forschung/publikationen/verlag.php?id=22](http://www.bmlv.gv.at/wissen-forschung/publikationen/verlag.php?id=22), which enhances access by members of all leadership levels worldwide.

*channel* nature (Pruitt, 2006). It is also useful to keep in mind that there are a number of formats to guide the challenging work of third parties involved in talks between representatives of conflicting parties who hate each other, which Ahtisaari and those who followed him may not have employed. One such approach is the “Tit-for-Tat” basis for “escaping” from the *Prisoners’ Dilemma* (PD) – a confounding situation which inheres in many real-life situations – associated with Robert Axelrod’s (1984) “Evolution of Cooperation” project. The PD can be graphically represented as follows (Rapoport, 1964, p. 49):

**Figure 2: The “Prisoners’ Dilemma” (PD)**

		<i>Party II</i>	
		<b>C</b>	<b>D</b>
<i>Party I</i>	<b>C</b>	+5, +5	-10, +10
	<b>D</b>	+10, -10	-5, -5

The PD structure involves a clash between *Realpolitik*-driven individual rationality (+10-10/-10+10) and *Idealpolitik*-driven collective rationality (+5+5), with the counterintuitive result being that individually rational choices, although seemingly successful in the short term, eventually lead to collective loss over time (-5-5). This is the danger that we currently face in the Western Balkans.<sup>4</sup>

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<sup>4</sup> In the classic formulation of the PD, two young men are apprehended by the police somewhere in the U.S., on the suspicion that they have committed a homicide. The two young men are taken to police headquarters, separated and interrogated *incommunicado*. Each is presented with the following options: “Confess and *you* go free, while we convict your partner. Remain silent and we get you both for a lesser charge (manslaughter!)” No matter how each frames and considers the issue, each winds up “defecting” (+10-10/-10+10) and, therefore, both *lose* (-5-5) (see Rapoport, 1964, note 13, p. 290).

In the research literature where PD tends to be “played” once, the *Real-politik* option is often dominant. In Axelrod’s (1984) study, however, the game is played repeatedly, thereby more closely approximating the “real world”. It has been in this context that Tit-for-Tat has emerged as the dominant strategy for the following reasons:

1. Tit-for-Tat is *friendly*; one should never be the first to defect (D) from a cooperative strategy (C).
2. Tit-for-Tat is *reciprocal* (provocable); one should always reciprocate the other’s choice, even if it is a defection (D).
3. Tit-for-Tat is *forgiving*; after successive, reciprocating defections (D), one can cooperate (C). This tends to inject *cognitive dissonance* (Festinger, 1962) into the process, generating an opportunity to pause, reflect and perhaps change behaviors, which could turn a *vicious circle* into a *virtuous* one.<sup>5</sup>
4. After the (1)-(3) sequence has occurred for some time, the Tit-for-Tat strategy is *clear*.

Tit-for-Tat appears to be a viable means for escaping from the PD even in situations where there is no central authority, no assumption of altruism on the part of the participants, and where the participants are intent on defending their own interests. What is essential, however, is that the participants expect that their *relationships* (fractured or otherwise) will continue over time – that there exists what Axelrod (1984) calls the “shadow of the future”. This clearly applies to Kosovar Albanians and Serbs, as it did to Croats and Serbs during the Balkan Wars of the 1990s.

## Middle-Range Leadership

The “high-level negotiations” led by a “highly visible, single mediator” under Level 1, involving “military, political, religious leaders with high visibility,” are “*track-1*” processes, where the players tend to be official, governmental actors whose objective is to strike some kind of deal with

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<sup>5</sup> “Cognitive dissonance” refers to an actor’s sense of breakdown between an actual state of affairs and an expected state of affairs. Experienced emotionally as anxiety (“acute psychological distress”), it provides an opportunity to re-achieve balance between expectation and reality (see Festinger, 1962).

their opponent. By contrast, the “problem-solving workshops” conducted under Level 2 tend to be “*track-2*” (*and beyond*) processes, where the players are nongovernmental actors whose objective is, in the presence of a trained, experienced facilitator, to share perceptions with the opposition about the conflict and how it might be dealt with (see Diamond and McDonald, 1996; Mitchell and Banks, 1996, p. 6; Reychler and Paffenholz, 2001, Chs. 5.1-5.2, 6.1-6.4, and 7.1-7.2). Quite often, track 2+ can help pave the way for track 1, especially where *communication, coordination, cooperation, and collaboration* are involved (Nan, 2003).

In some conflict situations, as in Cyprus, ethnic and religious leaders might be trained in conflict resolution theories and skills before they are brought together in a track-2 problem solving workshop so that, by the time they address their common conflict, they speak the “same language”. In addition, they “explore attitudes, values, wisdom, behaviours and interactive patterns; and ... consider how [to] integrate learnings on these subjects and apply them to back home situations” (Diamond, 1997, p. 357; Reychler and Paffenholz, 2001, Chs. 10.1-10.2).

Whether for training or problem solving workshops, “insider-partial teams” might be involved as part of the training or facilitation staff. Their obvious value is that, as “insiders”, they know the languages, cultures, parties and issues far better than the “outsider-impartial” (see Wehr and Lederach, 1991).

Peace commissions, including those conducted at the grassroots under Level 3, are attempts to bring *justice* to a situation where *human security* has been compromised (see Reychler and Paffenholz, 2001, Chs. 12.1-12.8). South Africans, who experienced a society-wide peacebuilding process (see Marks, 2000), had the Truth and Reconciliation Commission (TRC) led by Bishop Desmond Tutu (TRC, 2003). After the atrocities committed at Srebrenica, it is clear that Bosnia-Herzegovina is in great need of such a process. *Kosovo is as well.*

## Grassroots Leadership

Grassroots training also tends to be done by track-2 personnel. Skills are imparted to conflict participants to deal with a variety of issues necessary for rebuilding war-torn societies; for example, the conduct of elections, establishment of independent media, and implementation of the rule of law, and educational and economic reform. Such training can also deal with reducing prejudice – often expressed through virulent ethnocentrism or nationalism (Sandole, 2002) – in the minds and behaviors of the parties. Prejudice reduction and “psychosocial work in post-war trauma”, especially significant for those suffering from vicarious and existential chosen trauma/PTSD, are both significant for reconciliation:

Once individuals in conflict – whether at the interpersonal, intergroup, interorganizational, international or any other level – start to express themselves through [violent means], they may become brutalized, unable to view their “enemies” as anything but despicable subhumans. Under such circumstances, which can lead to an extension of the conflict beyond the lives of its original participants [e.g., as in Northern Ireland or the Balkans], potential third parties who wish to intervene effectively must be able to operate at the *intrapsychic* as well as interparty levels. Unless the first is dealt with adequately, the second may only worsen (emphasis added) (Sandole, 1987, p. 296; also see Sandole, 2002).

Hence, until the intra-psychic level – where Vamik Volkan’s (1997) chosen traumas are buried – is dealt with, there will be no reconciliation, no psycho-emotional rehabilitation or reconstruction, no *positive peace* (Galtung, 1969, 1996).<sup>6</sup>

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<sup>6</sup> *Positive peace* refers to the elimination of the deep-rooted, underlying causes and conditions of violent conflict (level 3 of the levels of conflict reality). By contrast. *negative peace* refers to the absence of violent conflict, which can be achieved either through prevention of likely violence or suppression of actual violence (levels 1-2 of the levels of conflict reality). Negative peace – which is what many consider to be “peace” – is often a prerequisite for positive peace (see Galtung, 1969, 1996).

## Dealing with Chosen Trauma

Dealing with trauma is Carolyn Yoder's subject matter, dovetailing with references to trauma and psycho-social healing in Jeong (2005, Ch. 6) and Ramsbotham, et al. (2005, Ch. 10). Yoder, the director of the *Strategies for Trauma Awareness and Resilience* (STAR) programs,<sup>7</sup> tells us that STAR was established in response to the events of 11 September 2001. As part of its mission to deal with trauma produced by acts of terrorism and other catastrophic experiences:

STAR integrates concepts from traditionally separate fields of study and practice: traumatology (including neurobiology), human security, restorative justice, conflict transformation, peacebuilding, and faith/spirituality. Tying it all together is a three-part model called *The Trauma Healing Journey: Breaking the Cycles of Victimhood and Violence* (emphasis added) (Yoder, 2005, p. 7).<sup>8</sup>

The first part of the model, the *Survivor/Victim Cycle*, comprises the following:

1. Traumatic event(s), act(s) of aggression.
2. Physiological changes.
3. Shock, injury, denial, anxiety, fear.
4. Realization of loss – panic.
5. Suppression of grief and fears – numbness, isolation.
6. Anger, rage, spiritual questions, loss of meaning.
7. Survivor guilt, shame, humiliation.
8. (Learned) helplessness.
9. Re-experiencing events, intrusive thoughts, avoiding reminders, hypervigilance.
10. Fantasies of revenge, need for justice (ibid., Ch. 3).

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<sup>7</sup> STAR is a joint project of the Church World Service and the Center for Justice and Peacebuilding at Eastern Mennonite University, in Harrisonburg, Virginia, with which John Paul Lederach is affiliated.

<sup>8</sup> This model derives from Botcharova (2001).

If a trauma victim makes it to level 10, then the second part of the model may become operational: the *Enemy/Aggressor Cycle*:

1. Seeing self/group as victims, increased group identity.
2. Unmet needs for safety and justice – shame, humiliation, fear.
3. Development of good-vs.-evil narrative.
4. Dehumanization of the enemy.
5. Seeing violence as redemptive.
6. Decision to pursue own needs even at the expense of others.
7. Social and cultural pressures, pride.
8. Attack in the name of self-defense, justice or restoring honor (ibid., Ch. 4).

John Burton's (1990, 1997) *basic human needs* (BHNs) theory has clearly influenced Yoder's development of an approach to trauma and trauma healing, as *needs for security and justice* are explicitly incorporated into the model. So is, by implication, the work of James Gilligan (1996) and James Garborino (2000) on *shame* and *humiliation* as drivers of violence in pursuit of justice.

Part 3 of the model, *Breaking the Cycle: The Journey to Healing and Security*, comprises the following:

1. Finding safety: Breaking free.
2. Mourning, grieving.
3. Accepting the reality of the loss.
4. Reflecting, understanding root causes, acknowledging the enemy's story, facing own shortcomings.
5. Committing to take risks.
6. Tolerance, coexistence.
7. Engaging the offender (or society).
8. Choosing to forgive.
9. Acknowledging responsibility, restitution, creative justice.
10. Negotiating solutions.
11. Integrating trauma into new self/group identity.
12. Possibility of reconciliation (ibid., Chs. 5-7).

The third and final part of the model is precisely what Armenians and Turks have not undertaken with regard to the issue of genocide pepe-

trated against Armenians during the final days of the Ottoman Empire (see Mooradian, 2003, 2005; Sandole, 2002). In the absence of successful implementation of this part of the model, the parties – or their surrogates (e.g., Azerbaijanis) – are likely to remain “frozen” in the second part: the *Enemy/Aggressor Cycle*. The same also applies to Kosovar Albanians and Serbs.

Trauma-healing efforts, therefore, must be embedded within comprehensive peacebuilding designs, with appropriately coordinated and sequenced sub-routines, in order to deal effectively with brutally assaulted needs (“*Survivor/Victim Cycle*”). In the process, they can move the parties from “*limbic rationality*” (zero-sum: +10-10/-10+10) to “*neocortical rationality*” (positive sum: +5+5) (see Sandole, 1990). Otherwise, the psycho-emotional “walking wounded” may find that the most compelling way to fulfill their needs for safety and justice may be through revenge-based acts of violent aggression against those perceived to have assaulted them. In the event, parties may justify an “attack against ‘the other’ ... in the name of self-defense, justice, security, honor, or freedom” (Yoder, 2005, p. 43):

But the security [they] yearn, fight, and die for is rarely the long-term outcome. *Violence, even within the parameters of a just war or holy war, leaves in its wake more traumatized, humiliated, hypervigilant, angry, fearful, and grieving peoples and societies. It creates more groups with a heightened sense of identity, with their own good-vs.-evil narratives, and with needs for justice and vindication. It starts more survivor/victim cycles that can morph into new enemy/aggressor cycles of violence.* And so, another tit-for-tat story, like those that fill our news every day, begins anew (emphasis added) (ibid.).

This danger will likely continue to face Kosovar Albanians and Serbs unless they and their advocates, with the assistance of trained and experienced third parties, take meaningful steps toward confidence building such as those discussed in this article.<sup>9</sup>

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<sup>9</sup> One appropriate local organization for encouraging such confidence building is the *Victimology Society of Serbia* (see Cotić, et al., 2007).

## Conclusion

The essential point of departure for this article has been that the concerned international community – including the *Partnership for Peace (PfP) Consortium Study Group for Regional Stability in South East Europe* – is dealing with a conceptual and empirical contradiction: a situation where Kosovo declared independence on 17 February 2008, which Kosovar Serbs and Belgrade have rejected. The “local” conflict has been internationalized to include the U.S. and 21 members of the EU which have recognized Kosovo’s independence, in contrast to Serbia, Russia and six members of the EU which have not.

Indeed, the expected transfer of “managerial” authority for Kosovo from the UN to the EU will likely not take place in the foreseeable future (originally scheduled for 15 June 2008) because of Russia’s implicit threat to veto such action in the UN Security Council (see MacDonald, 2008c). So, we have an independent state “in limbo”, with frustrated, angry people on all sides of the issue.

Serbian President Boris Tadić’s pro-EU Democratic Party unexpectedly came out of the recent parliamentary elections ahead of the Radical Party. President Tadić was faced with completing complex negotiations with the “kingmaker”, the Socialist Party – former Serb leader Slobodan Milošević’s Communist Party, led by Ivica Dačić – in order to form a viable governing coalition. Although the outcome of these negotiations was the formation of a pro-European led government, Serb nationalists represented by the Radicals and former Prime Minister Vojislav Koštunica’s Democratic Party of Serbia remain a strong force in Parliament. Indeed, the Socialists had previously agreed to join the Radicals and Koštunica’s party to form a new government, one which would have been decidedly anti-EU and pro-Russia (BBC, 2008; Matic, 2008).

As a consequence President Tadić must maintain a critical balance between Serbia’s anti- as well as pro-EU constituents to preserve the integrity of the country in the long term, nudging it ever closer to eventual membership in Euro-Atlantic structures, which is clearly his goal.

This equilibrium is analogous to the “edge of chaos” in *complexity theory*; i.e., it is inherently unstable. Even minimal movement in either direction could lead to a “catastrophic shift” in the reverse direction generating frustration and “narcissistic rage” on the part of those who support the losing option (see Waldrop, 1992; Sandole, 1999; Kohut, 1971). This has clear implications for the security of Serbia, Kosovo and the region, plus relations between the U.S., EU, and the Russian Federation. Hence, President Tadić’s careful balance between, on the one hand, pushing Serbia toward EU membership but, on the other hand, continuing to reject Kosovo’s independence.

In the meantime, security and stability in the region have already become issues as Macedonia, which also has not recognized neighbouring Kosovo’s independence, experienced violence in its Albanian regions during recent parliamentary elections:

Macedonia’s hopes of starting European Union accession talks have suffered a blow after violence marred the country’s weekend parliamentary elections.

The European Commission voiced alarm about the poll, during which one man was killed and nine wounded in gun battles in areas inhabited by the country’s ethnic Albanian minority. ...

The last parliament dissolved itself after Greece vetoed Macedonia’s membership of NATO in April this year over objections to the republic’s name. Pressure mounted as ethnic Albanians demanded recognition of Kosovo ... (MacDonald, 2008b).

Nevertheless, we must not lose sight of the fact that President Tadić’ and his pro-EU party won an impressive victory in Serbia’s parliamentary elections, where even Serbs in Kosovo were allowed to vote. This may have been due, in part, to the EU recently signing with Belgrade a *Stabilization and Association Agreement* (SAA), which conditionally places Serbia closer to negotiating entry into the EU or Italian car giant Fiat’s decision to produce two new models at Serbia’s state-owned Zastava car plant. One way or the other, “it is clear that the west should now do

more to further enhance prospects for the forces of enlightenment in Serbia to prevail over those that would return the country and the Balkans in general to the genocidal conflict of the 1990s” (Sandole, 2008).

For this to occur, Kosovar Albanians, Serbs, and others must enter the realm of the *multiple dialogues* addressed earlier, employing Axelrod’s (1984) “Tit-for-Tat” logic to break out of the *prisoners’ dilemma* trap whenever the parties recognize that they are in one – in effect, to extricate themselves from “history” (Fukuyama, 1989, 1992) and the “heavy hand of the past” (Sherif, 1967). The concerned international community must ensure that these dialogues include potential foreign investors, such as Fiat. Even the Radical Party’s acting head, Tomislav Nikolić, has admitted that foreign direct investment (FDI) is important for Serbia’s development (see MacDonald, 2008a). Shortly before the recent Serb parliamentary elections:

Nikolić [said] foreign investors [had] nothing to fear if his hardline nationalist organization – which opposes the European Union – over Kosovo – wins elections on May 11:

“I’m not going to jeopardize foreign direct investment”, Mr. Nikolić told the Financial Times in an interview. “Serbia has an enormous need for FDI.” ...

“FDI flow is limited, unemployment is growing and the EU is far from us”, he says. ...

As acting leader, [Nikolić] has taken the Radicals in a more moderate direction since the party’s chairman, Vojislav Šešelj went to The Hague to face trial on war crimes charges (ibid.).

In addition to this apparent demonstration of moderation on the part of the Radical Party, the Russians appear to want Serbia in the EU.<sup>10</sup> The

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<sup>10</sup> This revelation was offered by Sonja Stojanović, of the Centre for Civil-Military Relations in Belgrade, during the Reichenau meetings of the *PfP Consortium Study Group on Regional Stability in South East Europe*, 23-25 May 2008.

evolving situation in Serbia with regard to Kosovo, therefore, may be moving in a positive trajectory, which is further reinforced by the decision of the Socialist party to form a government with President Tadić's pro-EU party.

We must take nothing for granted, however. We must also implement other measures, such as ensuring that, among those dialoguing, there are representatives of parties from similar, *identity-based conflicts* elsewhere, such as Northern Ireland. Pádraig O'Malley, for example, has brought representatives from both sides of the Northern Irish conflict together with those from South Africa.<sup>11</sup> More recently, he has brought representatives from various sides of the Iraq conflict to meet with experienced negotiators from Northern Ireland and South Africa (Cullen, 2007). The objective in each case has been to bring "insider-partials" from different, albeit similar, conflicts together to learn "lessons" and "best practices" from one set of parties that may be relevant and transferable to another.

Finally, in the midst of these "multiple dialogues", one additional lesson from Northern Ireland must prevail. According to Jonathan Powell (2008), who was chief of staff to former British Prime Minister Tony Blair during ten years of negotiations leading to the Good Friday Agreement:

*... it is possible to draw some broad lessons [from Northern Ireland] likely to be relevant elsewhere.* Democratic governments, for example, should always be willing to talk, albeit, sometimes in secret, to their enemies, even when such contacts seem to offend common decency. Were Mr. Powell still in 10 Downing Street, he would be advocating a dialogue with Hamas.

Rightly so. Talking is not the same as surrendering – nor, indeed, as negotiating. If terrorist groups do put their weapons to one side, Mr. Powell continues, the imperative is to keep everyone in the room. This re-

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<sup>11</sup> Pádraig O'Malley is John Joseph Moakley Distinguished Professor of Peace and Reconciliation at the John W. McCormack Graduate School of Policy Studies, University of Massachusetts in Boston.

quires constant attention and engagement. Eventual success in Northern Ireland flowed from a strategy of “*never letting the talking stop*” (emphasis added) (Stephens, 2008).

This is precisely what the Kosovar Albanians and Serbs in northern Kosovo and Belgrade need to do in order for confidence building to start to take hold and for both to find their inevitable place in the European Union!

## Epilogue

Again, it is essential to point out that the conditions of ruptured relations and virulent nationalism are not unique to Kosovar Albanians and Serbs. These are generic phenomena, meaning that we can learn from one situation something about another situation, despite apparent differences. This is, in part, the value of Pádraig O'Malley's creative initiative to bring conflict parties from Northern Ireland to South Africa, or, more recently, from Northern Ireland and South Africa to meet with Iraqis – all could learn from one another in ways that would not be possible if they interacted only with “outsider-impartials”.

This assessment clearly applies to the most intractable conflict of our times, the Israeli-Palestinian conflict, which is a major driver of regional and global terrorism. In his review of Benny Morris' (2008) new book, *1948: A History of the First Arab-Israeli War*, Glenn Frankel (2008) begins with a powerful statement on the status of the conflict, which, against the background of our discussion of Kosovar Albanian-Serb relations, sounds remarkably familiar:

In a zero-sum world, one side's gain must be exactly balanced by another's loss [+10-10/-10+10]. In such a world, violence is inevitable, compromise is betrayal, neutral observers are enemies, and the only heroes are those willing to take the contest to its logical, lethal conclusion. *And the only histories worth publishing are those that validate your own self-sustaining myths.* [This] remorseless, zero-sum conflict ... has been going on for three score years [with] no end in sight (emphasis added).

According to Frankel, Morris provides much material that clashes with the competing Israeli and Palestinian narratives on the establishment of Israel in 1948, in the process further explaining the Palestinian position about which many in the West have not been too concerned until recently with the advent of suicide terrorism.

Frankel asks, “Why is all of this worth re-adjudicating six decades after the event?” His response is simple, yet compelling: “Because none of it has been resolved. For Israelis, 1948 is central to the legitimacy of the Jewish state. For Palestinians, it is an open wound.” Frankel concludes, “... 1948 has haunted, and still haunts the Arab world on the deepest levels of collective identity, ego, and pride. The war was a humiliation from which that world has yet to recover” (emphasis added).

As Americans (and others worldwide) contemplate the likely first occupant of the Oval Office in the post-Bush era, it is worth considering the value of renewed American leadership in devoting significant time, effort and resources to finally addressing these issues and resolving this most intractable of conflicts, which clearly feeds the clash of civilizations’ dynamic that undermines national, regional, and global peace, security and stability.

Indeed, the time has come for renewed American leadership in the Balkans as well, where it should complement the “multiple dialogues” plus President Tadić’s careful, complex balancing of his pro- and anti-EU constituents, with visits to the region by Pádraig O’Malley’s Northern Irish and South African conflict veterans. As part of these dialogues, Professor O’Malley can suggest that Kosovar Albanians and Serbs consider another Northern Irish “lesson”:

Since 1997 a total of 36 feature films have been made in [Northern Ireland], in whole or in part. Belfast has featured as New York, London, Copenhagen, and indeed itself. ...

Several thrillers are scheduled this year. One stars [Liam] Neeson and James Nesbitt, a fellow Northern Irishman, as two men “wracked by their experiences during the Troubles”. It may go down badly with Un-

ionists riled by another Belfast production – “Hunger”, which depicts the last days of the IRA hungerstriker Bobby Sands and won the *Camera d’Or* prize at Cannes this year. But many films [including “City of Ember” with Bill Murray and Tim Robbins and “Closing the Ring” with Shirley Maclaine and Sir Richard Attenborough] now make Belfast a backdrop for stories other than its own – *and are changing that story in the process* (emphasis added) (Northern Ireland, 2008).

Imagine a film about the Battle of Kosovo, made in Kosovo and Serbia with Albanian, Serb and other actors and production crew, *in which Albanians are accurately portrayed as fighting alongside Serbs and Hungarians against the Ottoman invasion on 28 June 1389* (Encyclopedia Britannica, 2008). Professor O’Malley and others could then consider taking Serb and Albanian as well as Northern Irish and South African conflict veterans to consult with their Israeli and Palestinian counterparts regarding “lessons learned” and “best practices” for that intractable conflict.

Accordingly, the time has come for the development of *inclusive* rather than *exclusive* identities in the Balkans and elsewhere, given the psycho-emotional interconnections between violent conflicts worldwide. This is no easy task, considering that Lederach (1997, Ch. 6) claims that effective peace building – the ultimate in confidence building and untying of the “Gordian Knot” – may take *more than 20 years* to have salutary impact at the *personal, relational, structural, and cultural* levels. Nevertheless, the prospect of eventual integration into the European Union – the ultimate *Kantian “perpetual peace system”* (Kant, 1983) – should make for a promising start to a longer journey in which the *PfP Consortium Study Group on Regional Stability in South East Europe* continues to play a constructive role.

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## **PART V:**

### **EXECUTIVE SUMMARY**



# Conclusions and Recommendations

Predrag Jureković

## General Estimation of the Post-status Development

The post-February development has neither led to cutting nor to tightening of the Gordian knot around Kosovo. It was clear for anyone involved in the Balkan peace processes that Kosovo's declaration of independence, its recognition by the US government, most of the EU countries and by other UN members will not resolve immediately all the problems in this part of the region.

However, pessimists who feared that the whole region may fall again into chaos have not proved to be true and there are no signals that this will happen. The clarification of the status of Kosovo allowed Serb-Albanian relations to enter a new phase of conflict transformation with the opportunity to improve but also to additionally worsen these relations.

The four key issues to address for moving forward in a positive direction are:

- a. finding a practicable arrangement for the international presence in the post-status period which will prevent "rivalry" between UN and EU presence in Kosovo;
- b. finding ways to build confidence between Belgrade and Prishtina despite the political and "emotional" gaps in the Serb-Albanian relations as well as between the Kosovo institutions and the Kosovo Serbs;
- c. preventing negative effects of the Kosovo status issue for regional stability, especially in regard to the sensitive interethnic relations in southern Serbia, the Former Yugoslav Republic of Macedonia (FYROM) and Bosnia-Herzegovina; and

- d. optimizing the influence of the Euro-Atlantic institutions for supporting proactive policies in regard to peace-building.

### **Concerning the International Presence in Kosovo**

As it was expected, mid June brought no clear cut and official handing over from UNMIK to EULEX and to the International Civilian Office (ICO). Most probably some elements of UNMIK will continue to exist alongside the new EU presence for a while. A negative consequence of that could be that frustration on the Kosovo Albanian side will increase with possible negative repercussions on the security situation.

In order to avoid a radicalization on the Kosovo-Albanian side on the issue of international presence new attempts to achieve Russia's and China's consent for EULEX in the Security Council should be made.

Russia seems to be in favour of Serbia's membership in EU and would not advocate Serbian self-isolation. This circumstance could perhaps open a window of opportunity to reconcile the western and the Russian policy towards Kosovo – at least as far as the international presence there is concerned.

### **Concerning Measures for Building Confidence between Serbs and Albanians**

The appointment of a mainly pro-European government in Belgrade in July was generally regarded as a precondition for achieving some progress in the Serb-Albanian relations and to open communication channels. Despite of the better political circumstances in Serbia, building confidence between the two sides will be a laborious and long lasting process.

The Serb government will not recognize Kosovo's independence. Direct contacts of Serb officials with representatives of the Kosovo institutions – even in a multilateral forum – are not very probable in the foreseeable

future. As a consequence of that also the Serb population in Kosovo will continue to avoid contacts with the Albanian majority and especially with the Kosovo institutions. In a short term there are just small possibilities to reduce the strong ethnic division in the Mitrovica area.

Nevertheless there is a chance that Belgrade could “soften” its rhetoric on Kosovo and establish contacts with the reconfigured international civilian presence there (including EULEX), due to the Serb governments priority goal to move forward in the process of European integration and its more proactive policy regarding the improvement of living conditions for their co-nationals in Kosovo. Evidence of this pragmatism can be seen in the apprehension of long-time war crimes suspect Radovan Karadžić, and his extradition to The Hague in late July 2008.

A Serbian move towards a more “pragmatic” policy on Kosovo could create space for using informal ways to increase confidence between Belgrade and Prishtina as well as between the Kosovo authorities and those Kosovo Serbs, who live south of the river Ibar. A precondition for such a positive development is to find areas of common interest, which are not directly linked to the status issue.

A first important step to start with confidence-building in the Belgrade-Prishtina relations would be to exchange information – via channels of international mediators and NGOs – on missing war persons and to support the other side in investigating these cases. Both sides have hundreds of such cases, which prevent the finally closing of the war period.

With regard to Serb-Albanian relations in Kosovo itself the initiative for building confidence must be taken by the Albanian majority. In order to address the Kosovo Serb tendency for self-isolation the dominantly ethnic-Albanian government of Kosovo should develop a proactive policy, which should follow the guideline of “positive discrimination”. Such a policy should include the rise of awareness for the human security needs of the Kosovo Serbs on the side of Kosovo authorities, above all in the police sector. Another measure that could contribute to a change of perception of the Albanian majority would be the Kosovo government’s

support for the return of Serbs as employees and workers in the public firms.

The possibly less complicated way to achieve improvements in interethnic relations – especially as far as young people are concerned – is to initiate joint educational programmes with international support and supervision. The Macedonian experience has shown that such educational programmes are highly accepted by the youngsters of the different ethnic groups, if the courses are held in a politically and ethnically “neutral” tongue, such as English. Such initiatives would be very welcome by the EU Commission that has received credit in South East Europe for having strengthened local capacity in the field of education and having supported successfully intercultural projects.

In Kosovo, the international side, compared to Bosnia and Herzegovina, has been less engaged in identifying and supporting moderate individuals and groups from civil society initiatives, NGOs or political platforms that could be driving forces for enhancing inter-ethnic confidence. Without fulfilling this precondition “confidence-building” remains an empty shell.

### **Concerning the Regional Implications**

The Kosovo situation influences the stability in the neighbourhood, especially in Bosnia and Herzegovina, FYROM and southern Serbia, but so far these implications are not so dramatic regarding their extent as some pessimists forecast.

In the Serb dominated entity in Bosnia and Herzegovina, the Republika Srpska, politicians who are involved in massive corruption, use the fear that the Kosovo situation could destabilize Bosnia and Herzegovina as a kind of shield. The international support for establishing functioning state structures in Bosnia and Herzegovina therefore should concentrate on building transparent economic structures. This would embarrass corrupt politicians in their society and would diminish their opportunities to manipulate political issues that are of importance for regional stability.

So far the status or post-status process in Kosovo has not influenced negatively the security situation in FYROM. Macedonian and ethnic-Albanian politicians reached a consensus to recognize Kosovo when the border issues will be resolved. In order to secure a common policy of Macedonian and ethnic-Albanian politicians in FYROM regarding relevant foreign issues, a faster integration of FYROM into the Euro-Atlantic institutions would be helpful. With regard to the problems connected with the integration of FYROM into NATO this would demand a more active role of the NATO partners to persuade also the Greek side of being more flexible in achieving a compromise with the Macedonian government in the name dispute.

A spill over from Kosovo could affect more seriously southern Serbia, although the present security situation can be described as relatively calm. Some of the leading local Albanian politicians openly show their mistrust in the central government in Belgrade and draw a parallel between their political demands and the political situation in the Serb dominated northern part of Kosovo.

The international actors that are involved in the processes of peace-building in the region should influence the new government in Belgrade to correct the mistakes of Koštunica's government towards the Albanians in southern Serbia. This means for Belgrade to dissociate from plans to (re-)militarize southern Serbia and instead of that to take much more care of programmes stemming from the Djindjić period (2000-2003), which aimed at improving the economic situation in this underdeveloped area. In southern Serbia like in Bosnia and Herzegovina and in the other multiethnic areas of the Western Balkans, reconciliation is very much linked to economic development. More donor engagement from the international side would be necessary in this field.

### **Concerning the Role of the Euro-Atlantic Institutions**

Despite Serbia's position on Kosovo, which contradicts that of the majority of EU and NATO member states that recognized Kosovo's independence the EU is rightly following the course to continue with the

association process. On the other hand, EU's flexible and open minded policy towards Serbia – as far as Serbia's efforts to integrate into the EU are concerned – may not lead to watering down the principle of regional co-operation.

So far this has been an important condition that all the Western Balkan candidate countries have to meet, in order to approach EU membership. EU should stick to this important principle. This means for the Serbian government that it has to find ways to communicate with the Kosovo representatives in regional forums by keeping at the same time its right to have a negative position towards Kosovo's independence.

Regarding the goal to improve Serb-Albanian relations NATO's influence on the Albanian side is certainly much bigger than in case of Serbs. This is valid in particular for Kosovo's security sector. The NATO-guided creation of the Kosovo Security Forces should have as a priority their ability to co-operate in a regional and international framework. Symbols and traditions, which could enhance fear on the side of Kosovo-Serbs, should be avoided.

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