

The Status Process and Its Implications for Kosovo and Serbia

Lulzim Peci

The declaration of independence of Kosovo on February 17th, 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 17th, 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 11th, 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 15th, 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.