

KOSOVA NEGOTIATIONS - BACKGROUND AND PERSPECTIVES

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Key Points

- * The Kosova talks that are about to start have been long anticipated by the international community.
- * There are major differences of principle between the two sides.
- * The decentralisation of power in Kosova is likely to be the major issue
- * Different interpretations of the decentralisation concept are likely to dominate the early stages of the process.

Introduction

The international community (IC) has always envisaged the talks that are due to start shortly in Austria on the future political status of Kosova. As long ago as 2001 there was considerable and sustained diplomatic pressure for negotiations between the leaders of the Albanian majority and the Serb minority, although in those days the emphasis was generally on what were seen as 'technical issues' such as trade, customs and car number plates rather than the more fundamental issues of territoriality and sovereignty. In that period, it was generally the Albanian leaders who were slow or reluctant to agree to open negotiations, as in those days they were acutely aware there was still a view in some sections of the IC that Kosova could be nursed back towards remaining part of the Serbia-Montenegrin Federation, or even a future 'Yugoslavia'. The opening of 'technical' negotiations was then seen as a trap by the Albanians, where a pattern of small deals on minor issues could lead to the central issue of sovereignty being elided by the IC, and a gradual de facto reabsorption of Kosova into the Serbian power orbit would occur over time.

In the changed climate in the region four years later, these concerns have disappeared, as it is generally accepted throughout the IC that a return to pre-

1999 Serbian sovereignty is out of the question, and would rapidly lead to a breakdown of the institutions constructed since 1999 and the strong possibility of widespread inter-ethnic violence and a new war. In most of the IC, it is also accepted that a form of independence is inevitable, and that the substance of the Vienna negotiations will only be about protection of the rights of the Serbian minority within a scheme for the decentralization of power. This is not the case with Russia, which holds to the position that the IC has an open mind on the content of the talks, and independence is not the only option.¹ In practice, it is likely that the IC is content for the Russians to articulate this position, as it means that it may be less likely that the Serbian side will boycott the talks, or stage some kind of walkout.

The timing of the talks has been affected by the illness and death of President Ibrahim Rugova, as the existing outline plan for 2005-2006 talks was accelerated as news of his terminal condition spread. Rugova was seen as a 'moderate' (although his policy on independence was identical with all other parties) and someone who was more likely to be able to compromise with the Serbs in talks. In fact, there was little substance to these views. The talks are now scheduled to start on 20th February. In reality the vital background factor has been the strong commitment of the United States to Kosova Democratic League (LDK) hegemony both during the talks and in a post-independence Kosova, in turn linked to the Republican administration in Washington and the strong position of the LDK in the US Albanian diaspora. It is important for the administration not to be seen to be giving undue support to the very specific Clinton/Blair backing of the aspirations of the Kosova Albanians. The best way to do this is to ensure that LDK figures with close links to the Republican Party in the US diaspora are the winners after the independence process.

Rugova did not play a central part in the Rambouillet talks that preceded the NATO bombing campaign in 1999, and the 'militant' Hashim Thaci played the main role in getting the Kosova Liberation Army leaders to sign the conference document, but historical truth has rarely disturbed the preferred image of Dr Rugova in some sections of the international community and the often ill-informed Western European press.² His passing has led to a delay of several weeks in the commencement of the talks and a power struggle over the future of the LDK may have only been temporarily postponed by the election of Fatmir Sejdiu as Rugova's successor.

The same processes of rewriting biographical history for spin purposes are already being applied to President Sejdiu. ³ Sejdu's main virtue is that he represents continuity with Rugova, but he has in the past expressed support for the concept of a cultural 'federal Albania', or 'ethnic Albania' which in Serbia is often seen as a coded version of a political 'Greater Albania'. His associations in this respect are in fact no more than the normal Albanian cultural hegemony agenda in regions of other countries like Macedonia where they are a substantial minority, but it is possible that the issue will reemerge over time. He does not suffer the disadvantage in US eyes of the previous acting President and Speaker of the Kosova Parliament, Nexhat Daci, of family connections with the Preshevo valley Albanians, but whether he is likely to be any more flexible in negotiations is open to doubt.⁴

As a new leader plunged into a major role without much preparation, he will be intensely scrutinized by his Albanian public for signs of any weakening on the central issues of the talks. It is indeed arguable that the arrival of Sejdiu has strengthened the hand of the non-LDK sections of Albanian opinion, and Hashim Thaci and his PDK opposition party in particular. Thaci had a good working relationship with Daci when he was acting President during Rugova's last months of life, and if the talks do not deliver quick clear results for the Albanians, Thaci and the PDK may be tempted to distance themselves from the negotiation process. This would have been much less likely if Daci had been the likely post-independence President, when Thaci could have realistically aspired to become the first Prime Minister.

At the heart of this debate is not an issue of personalities or policy but a difference of approach and instinct between the US and many of its allies over the nature of Kosova government and institutions. The Europeans (which on this issue also includes the British) have been keen to build functioning Kosova parliamentary electoral-based institutions, and a genuine multi-party system, and to draw the ex-Kosova Liberation Army people into peaceful politics by this method.⁵ The US has also respected these objectives, but in practice since the arrival of the Bush administration has worked much more within the inherited traditions of Yugoslav Kosova, with its presidential emphasis, and with the implied assumption of a post-independence spoils system with the biggest party dominating institutions through patronage. This policy has seemed very responsible within the IC, as it has strengthened the LDK as the only Kosova Albanian party the Serbs feel at all comfortable with, but carries the danger of weakening and destabilizing Kosova institutions if there has to be an imposed deal where the LDK could be blamed for any failures.

The experienced and respected leader of the IC team, Martti Ahtisaari is likely to be conditioned in his approach by his 1999 Rambouillet experience, where to many observers he often seemed less of a negotiator than a messenger carrying NATO views. His main difficulty is likely to be the fixed positions of the Serbs and Albanians on many issues, which may make the talks difficult.

The Vienna Setting

It is generally believed that the pattern of the negotiations will fall somewhere between the 'Geneva' and the 'Dayton' models, where although there will not be a fixed time limit for the talks, there will be a degree of physical isolation of the IC negotiators and the Albanian and Serbian sides. There is a strong and understandable impulse within the IC for the talks to be concluded by the end of 2006. The Serbs stated in early 2005 that they would refuse to attend negotiations of the 'Dayton' type, with what in their eyes would be a coercive pattern of talks that would lead inevitably⁶ to independence. In practice, given the issues involved, substantial agreement on many subjects is very unlikely, and most observers privately feel that an imposed solution through the Security Council is probably inevitable. This perspective seems realistic. The emphasis in the IC on securing 'moderate' leadership on the Albanian side is designed to make a process of at least partial consent to the degree of UN imposition more

convincing to the Kosovo Albanian public. It is very questionable whether this, though, is realistic. Any settlement would have to be approved and ratified by the Kosovo Assembly in Prishtina, and there is every likelihood - indeed virtual certainty - that any deal which involved any significant retention of Serbian sovereignty would not be ratified. The same may well apply to the various notions of 'conditional independence' that have been floated in the IC by some parties. Apart from the practical fact that there are few, if any, precedents for this situation, there is also the problem that the reimposition of UN rule after some condition was actually or allegedly violated has no precedent at all and would meet with the opposition of the vast majority of the population.

Decentralisation/Partition - The Ghost in the Machine

There has always been a main current in Serbian thinking about Kosova that a partition of Kosova where the Serbs would get most or all of the mineral and industrial resources would be a possible settlement. This was a popular viewpoint under the Milosevic regime, although rarely mentioned by Milosevic himself. The current IC has definitively rejected partition, as the precedents (particularly within the British decolonisation process) do not provide models for long-term stability. In the case of Kosova partition would not even provide a short-term 'solution', as it would be almost certainly accompanied by pogroms of the Serb minority within south of the Ibar Serb areas outside the new border. Large-scale population movement has accompanied most partitions in twentieth century history. The traditional choice for a partition line was the Ibar River dividing Mitrovica, but more or less half the Serbian community lives south of this line.

The IC response to the partition issue has been to promote the concept of decentralization of power within the Serbian minority community, to give local cultural and other rights without any question being raised of the division of Kosova. The core issue in the negotiations has been targeted as decentralization, and the leading light of the younger generation of the LDK, ex-Mayor of Gjilane Lufti Haziri as Decentralisation Minister within the current government will deal with this within the Kosova Albanian delegation. This appears to be a sensible decision, as Haziri was involved with the Kosova Liberation Army in the wartime period and has good relations with ex-KLA figures in the non-LDK parties such as Hashim Thaci and Bajram Kosumi. Conditions for the Serbian minority within the Gjilane general area have been much better than in many parts of Kosova, and many IC figures see Haziri as a future national leader as a result of the achievements in this region.

A key aspect of the decentralization discussion within the negotiations is likely to be the exact meaning and definition of decentralization. This in turn is related to various complex social, economic and geographical realities. The two areas envisaged by the IC and the Albanian side are the obvious opstinas of north Mitrovica and Leposavic adjoining Serbia, and an arc, roughly banana-shaped, of eastern Kosova with Kamenica/Gurash as its main town stretching north towards Novo Brdo/Gjytelli and south towards the border with the

Preshevo valley. These delineations rest on a secular and administrative notion of the main centres of Serbian population concentration.

Serbian perspectives are very different. Although different documents have been produced at different times, the Serbian focus has extended to several other proposed regions, such as Gracinica, near Prishtina. These in practice involve thinking which is much closer to the cantonisation concept, and often imply an inscription of territoriality over and above local cultural hegemony and ethnic projection. The state of more or less denial of Kosova realities that persists in the mind of many, perhaps most Serbs has prevented clear thinking on many issues associated with decentralization, and is likely to prove a problem in the negotiations. What could be termed the 'Haziri model' only carries weight in relatively benign local conditions, where in south eastern Kosova the war was only marginal for many people, and where post-1999 a sustained and efficient US-army led security operation and US Aid - led development plan has produced quick results and where some Serbian refugee returns have been possible. Few if any of these conditions prevail north of the Ibar River, or anywhere else in Kosova.

In reality, Serbian thinking is tied to the interests of the Serbian Orthodox church, with a combination of legitimate and questionable concerns. After the March 2004 riots and extensive damage to Serbian churches and church property, the security of these buildings and their occupants is a matter of obvious and urgent concern to Serbs, whatever the political situation. However, the issue has also been used to put forward the argument for de facto cantons where only very few Serbian people now live.

Public Discourse and Parallel Structures

Both sides have substantial political assets that are not involved in the public discourse of the negotiations. On the Serbian side, although the old 'bridge watcher' system has been disbanded, there remains substantial Belgrade-controlled security and intelligence apparatus in the northern opstinas, and a number of the enclaves such as Gracinica are also believed to be similarly influenced. The Albanians claim that there are several hundred active agents of the Serbian secret intelligence service in post in Kosova. Although this may be an exaggerated number, there is no doubt the political proclivities of some KFOR national contingents and neglect have allowed Belgrade to build up an apparatus of some capacity.

On the Albanian side, both major parties, the LDK and PDK have their own intelligence and security organizations, the latter with close links to the security apparatus in Albania itself. If the talks go badly, or look like breaking down, it will be quite possible for either side to initiate street politics activity/stir up ethnic tension that could stymie the negotiations. Although NATO has made security plans for the negotiation period and the probable increase in political tension, it is unrealistic to suppose that NATO/KFOR forces can enforce peace in every single locality in Kosova. In particular, there is little evidence to suggest that NATO would be able to really control events in northern Kosova in the event of a local Serb rejection of any deal. This knowledge, which is widespread

in all Kosova communities although not admitted by NATO and the police, effectively gives the Serb minority a 'blackmail' factor which in many ways as strong an influence over events as anything the Albanians have. On their side there have been regular reports of the appearance of various new armed underground groups, particularly in central Kosova in Drenice, and in western Kosova. It remains to be seen if the liaison between the political and security actors in the negotiation period will be sufficiently close to prevent the emergence of these parallel structure factors as the talks process unfolds.

International Perspectives

It is generally believed in Kosova that the international community, through the Contact Group, has an overall strict plan for negotiations, including the detailed outcome. This is probably not the case.⁷ One of the numerous reasons why the passing of Dr Rugova has not affected the atmosphere very much is rooted in this perception. If any significant elements in the decentralisation talks interact as suggested above, it may well be, though, that the familiar 'Devil in the detail' syndrome affecting Balkan negotiations will begin to come into play. The Albanian side cannot allow any element of territoriality to enter the talks or be written into any future agreement, as it would enable Belgrade at a later date to undermine the principle of undivided sovereignty. If this is present, Belgrade could always claim to have the right to intervene in Kosova affairs to protect the Serbian minority. On the Serbian side, such an element would help disguise the practical loss of Kosova

Border Security

At the moment the borders of Kosova, running as they do through many wild and remote districts, are secure and all the main roads are adequately controlled by KFOR and the Kosova border police. It remains to be seen, though, what the situation will be in the final stage of the status period. There are many minor roads and tracks in forests and uplands which permit illegal population movement. The proposed settlement of political status will be linked to a NATO/KFOR drawdown, and it will be necessary to consider what new NATO mandate is needed for regional security purposes. The improvements in the leadership and orientation of the Serbian forces do not preclude local interventions and provocations by small extremist armed groups, some of whose members from the Milosevic-era continue to reside in Mitrovica and Leposavic.

Conclusion

At the moment a generally fairly optimistic atmosphere pervades the IC over the negotiations. If almost any of the negative factors indicated above begin to come significantly into play, or if some random security event causes problems, it may well be that this optimism will be misplaced. The Serbian Church has a more important role in the process than may at first be apparent, and it will be difficult to reconcile the claims of the Church and the associated property issues recently raised by Serbian Prime Minister Vuk Draskovic with modern

secular concepts of cultural devolution. The role of Russia is ambiguous; most observers feel that the Putin government sees independence as inevitable, but it is likely that in the new atmosphere Putin may wish to test the West's effective limits of influence in the Balkan region through diplomatic intransigence, as by using the energy weapon he has efficiently destroyed hegemonic illusions in Ukraine and Georgia.⁸ A major problem for the IC is that with the changing atmosphere in the European Union about further enlargement, the main 'carrot' that used to be offered to Serbia to get it to do what the West wanted, namely rapid EU membership, has lost practical force. The most likely immediate prospect for the talks is a period of 'phoney war' when each side presents positions on the central decentralization issue, followed by a period of stagnation as the difficulties of reaching an agreement emerge. The low level of representation in both delegations (i.e. on the Serbian side there is no government minister, on the Albanian side no key party leader) would tend to indicated modest local expectations of the outcome.

Endnotes

¹ For further information on Russian views, see CSRC paper by Mark Smith No 06/01 'Kosovo's Status: Russian Policy on Unrecognised States' January 2006 www.da.mod.uk

² As, for instance, in the recent Rugova obituaries in the British press, which with one or two honourable exceptions combined historical inaccuracy and sentimentality in about equal measure.

³ Thus a recent NATO statement (UNMIK Media Report 14-2-06) said that 'Sejdiu brings moderation and a readiness for a compromise which is necessary in this period that leads Kosovo to its status'. In reality Mr Sejdiu has made no statements on substantive new policy issues before or after his election to the Presidency. In his remarks on general issues to the local media in Kosova, he has continually stressed his commitment to the Rugova heritage of clear and undivided independence.

⁴ Sejdiu comes from Podjeve/Besian, a town with arguably one of the strongest nationalist traditions in Kosova, and somewhere where many of the Kosova Liberation Army leadership came specifically from within the LDK, e.g. Rustem Mustafa (Captain Remi). See 'War for Kosova' by Safet Zejnullahu, Zeri, Prishtina, 2001.

⁵ Italy is perhaps an exception, within Europe, due to the Italian and Vatican 'special relationship' with Rugova.

⁶ See the new paper by the International Crisis group www.crisisgroup.org for more discussion of this subject.

⁷ As recently pointed out by Daniel Serwer of the US Institute for Peace.

⁸ Russia has recently purchased a very large new building in Prishtina that seems destined to be a post-independence Embassy.

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