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**Serbia:
The Battle Within**

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Key Points

*** Serbia:**

- The future of Serbia is in the hands of Serbia, especially in the hands of its elite. The slogan: 'Only unity saves the Serbs' has never been more true than today.
- A vicious circle continues between the continued nationalist trend impacting state dysfunctionality, contributing to poor economic performance, electorate dissatisfaction and relations with the West.
- The rules of the game on the political scene have little changed – thinking is very much along the lines - look out for your own interests and the country...which country?
- The possibility for political 'instability' in Serbia is limited but should not be excluded. The key factor will be the way the current Kosovo status negotiations are handled by the West.
- At the electorate level there is a real lack of alternative – significantly contributing to a growing prevalence of undecided or absentee voters
- Serbia must show that it means what it says regarding ICTY cooperation. However, the judgement regarding the level of cooperation should be left to the ICTY alone.
- Reform is very slow, sporadic with little long-term vision and determination at the political leadership level with little institutional engagement.
- The distribution of power between the President and the Prime Minister will be a crucial issue during the forthcoming period. It is vital an adequate and workable solution is found to enable reforms to proceed unhindered.
- Serbia was not happy with Montenegro going its own way and represented a personal failure for the Serbian government. After a down-turn in relations over the short-term, they are likely to improve as both countries have strategic interest in maintaining good relations.

*** Kosovo:**

- Regional peace and development achieved through a multi-ethnic and sustainable Kosovo are key stated policy objectives of the international community and the region. This will require a balanced and fair solution to the Kosovo status issue, placed mid-way between the desires of Belgrade and Priština.
- The time-factor is a good 'pressure tool' but forcing a solution by 2006 is unrealistic and counterproductive. Furthermore, unless intentionally applied, it only highlights the diversity in Western thinking.

- Conditional or any other type of independence for Kosovo is NOT the only reasonable and sustainable option. This paper argues that the best option is 'independence without full sovereignty' – resting firmly between Serbian and Albanian positions and fully supporting Western interests.

- Idealistic views that Kosovo can represent a special case are designed to meet political objectives. In reality the status issue of Kosovo is keenly monitored at a global level and will represent a precedent if not based on a just and logical settlement supporting international law and order.

- The possibility of Serbs leaving Kosovo is real and presents an important threat to Western policy objectives.

- Decentralisation is the best solution for Kosovo's troubles, based on a compromise. It must offer the Serb community as well as other ethnic minorities a sustainable option within Kosovo with significant Western economic commitment.

- Current plans for Kosovo's sustainable development are unrealistic and based on little more than political desirability and effect, with occasional manipulation of figures.

* **Other:**

- The West needs a stable Serbia more than Serbia needs the West. The continuation of Western, and especially EU, engagement is crucial to improving the quality of political life in Serbia, thus helping build consensus and the implementation of reforms.

- If Serbia is key to the region and a strategic actor to Western interests, then a re-evaluation of Western policy toward the country is required. The past 6 years since the democratic bloc forced the end of Milošević regime have shown an ill thought through policy depicted in unreasonable, contradictory demands, such as the expected divorce between issues within Serbia and the status issue of Kosovo. Primacy should be given to a more cooperative partnership engagement – aimed at strengthening the democratic bloc.

- If Serbia is asked to forget its past and move forwards, so must the West. Many decision makers with a 'negative history' with the Serbs can not be deemed neutral.

- Regional integration is important, not only in terms of improving economic development but also addressing reconciliation and advancing European 'values'.

- PfP membership should be offered to Serbia as this small carrot will help advance reforms.

- ICTY conditionality should be maintained and any continuation of EU negotiations should rest on a positive evaluation and the sincerity of the latest ICTY Action Plan.

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INTRODUCTION

Serbia is still lost and needs to find itself. It desperately needs to reconcile with its past and decide on its future. In a way, it needs to find its lost 'soul'. For this reason it is not sufficient simply to place it under the umbrella of 'weak states' in terms of failure to deliver political objectives.¹

These are strong words that echo widely and deeply, and easily heard on every street corner in every city in Serbia. But little is done about it. Life just simmers on in Serbia with little change. Whether it be ignorance with a bit of *inat* or lack of information and trust, or maybe just post-war weariness is not relevant in this context and in this time. Events have overridden this question and imposed upon Serbia a time frame in its own right.

Thus, whether Belgrade wants it or not, the period 2006-2007 will be a great challenge for Serbia, to say the least. That is not to say that all issues addressed below will be - or should be for that matter - resolved within the same year, but certainly a 'thorough sobering' will be required across the full spectrum if anything close to a positive outcome is to be achieved. The commencement of negotiations regarding Serbia's southern borders has been described as the finale to something that started in 1990. This paper will challenge such one-track thinking by arguing that:

- This beginning to an eventual end may last in Serbia longer than some predict or hope;
- Any 'unjust' settlement on Serbia will not necessarily provide the finale the West is hoping for unless notable compensation is offered as an alternative.

The main dilemma today is that while on the one hand the desperation caused by the *status quo* can not be maintained and reforms must be initiated with urgency if the desired policy objectives are to be met, on the other there is a requirement not to add heat to the simmer as pressure is piled on Serbia from all sides. The Serbian electorate requires the former while the West desires the latter.

The role of Serbia's leadership is critical in this process, especially in terms of reaching a political consensus. Sitting between the two dilemmas above, it is in a difficult position. The situation is further exacerbated by the fact that the political scene has not moved away from personality driven politics to stable party politics and a more significant role for the civil society. It could easily be observed that there is not a single political leader fighting for Serbia and its future. Opportunity after opportunity has been missed and excuses or explanations will simply not do any more. While the flavour of democracy and the rule of law are still fresh in this region, the costly mistakes of the past must not be allowed to happen again and the country as a whole requires a new start. Some might say, at least the boat is not sinking as it was under former Yugoslav President Slobodan Milošević, an argument

supported by modest economic recovery. However, such yesterday's arguments are not sufficient to allow Serbia, and the region, to make up for lost time and move towards European integration.

In all this the West has an important part to play and will continue to do so. For many in the Balkans, its policy to date has been oriented towards last minute and quick fix solutions. Some might argue that still the West has failed to grasp the Balkans in-depth, while others will argue that such is the nature of global international engagements and *realpolitik*. In this process Serbia, the biggest and strategically the most important actor in the region has been neglected and pushed aside.

There has been little change in the West's policy towards Serbia, which has been personality driven and not institution driven, which has allowed bias to come into the equation and thus ultimately alienates any country, and especially one like Serbia. This continued mismanagement has certainly influenced the tempo of reforms and played a significant role in determining the state of affairs in Serbia today.

The paper will address three issues that are of strategic importance for Serbia in the short to medium term, all of which affect the current *status quo*. These are:

- Internal political dynamics within Serbia
- The future status of Kosovo²
- The role of the West in the equation.

Each one of these issues is specific and separate, yet as everything in the Balkans, they are all related both in the historic context and the current political debate.³ They all reflect the epilogue to the fall of Yugoslavia, the maturation of political thought, Western engagement in the region and desperately needed reform in line with the wider processes in Europe.

Where possible the paper focuses on the view from Serbia, as this view is often neglected or ignored completely. The continuation of this policy, especially with regard to the future of Kosovo, will be detrimental to the future of this new and delicate democracy, still in the making.

THE DOMESTIC POLITICAL SCENE

Shaky Foundations: Nationalism

Understanding Serbia's recent history is key to understanding current internal disorder, from prevailing levers of power to electorate voting patterns. After more than 12 years in power, Slobodan Milošević left a dysfunctional state, one that is almost 'at war' with itself. In this respect, Serbia has 3 major unresolved issues, all interrelated. These are:

- Pervasive nationalism
- Dysfunctionality and Division
- The War Crimes issue, the 'Serbian Question' and reconciliation with the past.

One can argue that all three are being resolved slowly, not by Serbia itself, but by others on its behalf. Today Serbia remains divided in almost every aspect of political-socio-cultural life.⁴ The perseverance of nationalism, with its historical rhetoric - from Vojislav Šešelj's radical nationalism to the more modest Vojislav

Kostunica type - is the tumour that Serbia is unable to rid itself of.⁵ While the idea of 'Greater Serbia' has been defeated during the course of the 1990s, no-one knows the borders of new independent Serbia. Ramifications of the whole 'Serbian Question' are clearly visible, especially on the political scene. The authors of the famous *Serbian Memorandum* (1986) are still very much alive and influential.⁶ The question is: has Serbia the strength to fight nationalism?

On the one side is an argument that recognises the existence of the nationalist-radical camp but negates their real importance in decision-making, while on the other the 'realist' side looks at election results with passive acceptance: the nationalist-radical camp took over 30 percent of every electoral vote since 2000.⁷ A partial explanation can be found in the low voter turnout.⁸ The nationalist-radical camp takes between 1.2 and 1.5 million votes, which is high considering that only half the 6.5 million eligible voters show up on polling day. Statistically, the nationalist-radical camp is for the time being the 'strongest' team in town' – considering the divisions within the democratic bloc. For example, at the 2004 local elections in the northern province of Vojvodina, the Serbian Radical Party (*Srpska radikalna stranka - SRS*) took the largest number of votes (137,000) with the Democratic Party (*Demokratska stranka - DS*) led by Boris Tadić coming second (102,000). Even the latest opinion polls give the SRS some 35 percent, with the DS coming second with 23 percent, the DSS with 14 percent and the G17Plus with just over the minimum threshold 5 percent.⁹ It is clear that the nationalist-radical camp has to be taken seriously.¹⁰

Looking deeper into the composition of the nationalist-radical camp - mainly composed of Vojislav Šešelj's SRS and the old Milošević Socialist Party of Serbia (*Socijalistička partija Srbije - SPS*) - may aid the understanding of forthcoming arguments.¹¹ Among the attributes frequently paraded by the followers of this camp one can frequently hear excellent organisation, party and leader loyalty, clarity in its vision and policy, minimal corruption and a strong belief in democratic principles.¹² While this view is debatable to say the least, there are some elements of truth in it.

At the last parliamentary elections, the slogan of the SRS was: "I know what I want. I want better, radically better". This slogan attracted significant numbers of voters, given the widespread dissatisfaction with economic-social reforms since 2001 when the democratic bloc came to power.¹³ It is as if those voters forgot what Serbia was like when the SPS was in power during the 1990s. Simply, the electorate has no alternative – whom does one vote for?

This dissatisfaction at the electorate level plays a significant role in the fortunes of the nationalist-radical camp. It directly affects the swing (undecided) voters and further disillusiones the passive or non-voter, estimated to number over 700,000.¹⁴ Thus, it impacts not only in pre-election party manoeuvring, but also determines the direction the country will take in the future. Party politics in Serbia is very much personality driven, with little strategic vision – common in the case of weak organisational party structures.

A worst case scenario would be a negative shift against Serbia's strategic interests, such as the loss of sovereignty over Kosovo and the destabilising effect this might have on the internal political scene. The potential for the nationalist-radical camp coming to power under such circumstances should not be ignored. The question is how worrying should this be for the West?¹⁵ The answer is largely negative, in that the radical forces, having been brought to power under a reactionist cloud that they would inevitably help shape themselves, would isolate the country and stop reforms

– especially those towards Euro-Atlantic integration - but would not pose any destabilising threat towards the neighbourhood.¹⁶

There is always the possibility that the SRS might genuinely attempt to do a ‘good job’ if it came to power, despite its continued Serb nationalist ideology driven by its leader.¹⁷ However, the limited positive results of their policies at the local level could not be duplicated at the national level, as they lack not only the capacity but also the allegiance of the Serbian elite and the critical mass of the professional middle class.¹⁸ Thus any electoral victory would be short-lived and would ultimately lead to their demise. However, the possibility of the nationalist-radical camp coming to power in the near future is more worrying on the domestic front than it is or should be for the West, because despite some dubious tactical moves to appease the West – especially towards the EU - the core thinking has not moved much from the 1990s.¹⁹

Ideally, the SRS should attempt to transform like the Croatian Democratic Union (*Hrvatska demokratska zajednica - HDZ*) has tried to do under the leadership of Ivo Sanader, to become a more moderate centre-right European Conservative Party.²⁰ While the death of Slobodan Milošević might help transform the SPS over the medium term by allowing more modern reformist leaders to the fore, any change in the SRS will have to wait the fate of Šešelj at The Hague.²¹

The current fragmentation of power within Serbia in conjunction with the personalisation of politics oriented towards short-term political gaming means that reaching political consensus – the critical catalyst to advance reform - is still a distant dream.²² Arguing that Serbia lacks the capacity for democracy is a little severe and dramatic, but it is certainly true that Serbia’s fragile democratic institutions and its leaders need to mature and provide the electorate with hope and the will to vote.²³

Is the West partly to blame for the continuation of nationalist fortunes in Serbia? This is a justifiable question in that through a continuous policy of conditionality and pressure - not always equally applied – the West has done no favours to the democratic bloc. The war crimes tribunal issue certainly tops the agenda, but so do other economic and political conditions, not least the issue of Kosovo, discussed below.

Lack of Reform

The direct consequence of all the above is a clear lack of reform, which is desperately needed considering the years of sanctions and losses, suffered both privately and collectively. Responsibility for this lack of reform rests clearly at the leadership level, understood in this context to mean not only those in government, but all levels of Serbia’s elite and the decision-making mechanisms.

The government has been in office for over two years and, as many will say, its biggest achievement to date has been that it has managed to stay in place, partly due to the skill of the Prime Minister, Vojislav Koštunica, and partly due to the desire by many – including the SRS - to retain the *status quo*. While this has helped bring stability to Serbia, something many argue to be the most important attribute of the period, the minority government, led by Koštunica’s Democratic Party of Serbia (*Demokratska Stranke Srije - DSS*) has been slow to advance reform in almost every sector, from legislature to the police and military.²⁴ The only real area where some progress has been made – the economy – is under the G17Plus party and its Minister of Finance Mlađan Dinkić.

The slow, almost passive, work methodology of Vojislav Koštunica - a constitutional lawyer often described as both a Western liberal and a Serb nationalist - has much to do with the slow reform process.²⁵ Those that argue in support of this methodology say that not much more could have been done in any case, considering the broader picture prevailing in Serbia, the region and especially considering the current negative attitude of the international community. However, this reveals a failure to realise the inadequacy of the work to date and the comparative stagnation in Serbia considering progress made in the region. Serbia's new democratic bloc has long passed the stage of learning to walk and ought to come up with a much better strategy, offensive in nature and methodology.

The 'necessary' alliance with SPS is a further hindering factor, especially on the issue of Kosovo and ICTY cooperation. It shows either DSS's readiness to keep power at any price or a synergy and natural cohabitation, even to some extent continued from the past, between these two parties. Koštunica's frequent consultations with the SPS and SRS leadership acknowledge not only his desire to reach consensus on strategic issues such as Kosovo, but also their importance as a political force and a potential destabilising factor.²⁶ Furthermore, it complicates issues for Koštunica, as recently shown by the SPS threat to stop supporting the government if General Ratko Mladić, former Bosnian Serb military commander, is transferred to The Hague or if Milošević was not offered a state funeral.²⁷

Like most states in transition, Serbia suffers from weak public administration. Coupled with personality-led policies throughout government administration, from recruitment and selection of personnel to policy implementation, it represents a further serious handicap to the reform process. While officially recognising this lack of capacity, selective engagement of expertise from civil society has had little effect and is usually *ad hoc*.

Boris Tadić's presidential victory in 2004 and his willingness to see the current government in power - for the sake of 'stability' - is further proof that the *status quo* suits all sides. So the current government - best suited to carry through this mandate - pushes through the toughest decisions during its mandate. One could argue that during 2004-5 the government had no real opposition, with most happy to see the simmer in Serbia continue. However, this cohabitation between DS and the DSS came to an end in October 2005 when the DS decided to abandon Parliament due to the 'unlawful and unconstitutional reduction in their parliamentary seats'.²⁸ Under normal circumstances such a move could be seen as very negative as only through parliamentary participation can one influence change. However, considering the lack of desire by the DS to lead any real opposition to the DSS-led government, the result of this 'unhelpful' move was only to weaken the party and distance it further from the DSS.

Arguably, in terms of policy the DS is the best chance for Serbia to move forward in the short to medium term. The charismatic leadership practised by Tadić appeals to many, including the West. However, his leadership is frequently undermined at lower levels. On the whole his camp, while forward looking and reformist, still lacks sturdiness and experience. The DS will have to lead the way in terms of political maturity and transformation, breaking with bad habits from the past. The future will very much depend on its readiness to do so.

There will be no real reform in Serbia without political consensus among the democratic bloc. This will require at the very least better working relations among all those in the bloc.²⁹ Surprisingly, this has not been easy to date, with priority being given to personal rivalry and short term party benefit rather than to what

many in Serbia see as international (Western) demands or interests. As will be argued below, in this sense international conditionality has not worked.

The one thing for which direct credit goes to factors outside Serbia is the possible future crystallisation of the domestic party political scene. Many smaller parties are simply losing credibility as the electorate is increasingly frustrated and not interested in politics, forcing consolidation for pure survival. Moves by the G17Plus towards DS are a recent indication of this – the threat to leave the government at the suspension of EU negotiations a good example.³⁰ Thus, the next elections will be primarily a race between the DS representing the most promising but far from perfect democratic Serbia and the SRS still hooked on the past and dangerous nationalist-radical rhetoric that if pursued will lead Serbia and the forthcoming generation only backwards.³¹

This analysis is supported by the latest opinion polls which give SRS 40 percent and DS 30 percent of votes, but also note an increasing number of absentee and swing voters (voters that do not vote, but stay at home or are undecided) which is estimated to stand at 2 million.³² It presents a worrying case for the West, some segments of which are pushing against the domestic move towards early elections. This shows the power of the electorate, whether they vote or not, as both the domestic political parties and the West do take note of opinion polls. Such an approach, while present elsewhere, is reinforced by personality driven politics and not counterbalanced by any major long-term consistent planning at any level. The issue of the new Constitution, discussed below, is a clear indication of the manipulation of the political scene through the analysis of electorate moods and voting patterns.

Reform of military-security structures is a good indication of progress, considering the post-conflict scene in the region. The war and Western engagement during the 1990s - characterised by coercive diplomacy and sanctions - had the net result of institutionalising the military-security apparatus in support of state policy, including building up a grey economy. For this reason, security sector reform is fundamental in Serbia not only as an indicator of reform, but also as a crucial part of overall development. To date, the military-security area has witnessed some reform, with police, military and intelligence services receiving significant input from foreign sources. Progress has been mixed and *ad hoc*, dependent on personalities and policy.³³ Police reform is supported largely by the OSCE, which has been established in the country for a number of years. The military has been pushed by the desire to join NATO's Partnership for Peace programme. However, while some reform has taken place, especially in terms of strategic documents, this is not as substantial as required. The intelligence services have arguably been least reformed, apart from nominally placing them under civil control. The obstacles are many, from social challenges resulting from reform to the financial means for implementing desired effects. However, as already mentioned the fundamental obstacle is the lack of political consensus to advance issues. For this reason, this paper supports the view that the international factor, acting as the driving force, is fundamental. PfP membership – as a very small carrot but with a strong domestic political message -should not be delayed, as it is the best way to place the West firmly in the driving seat in this delicate area.

Regional Policy is another interesting aspect to look at. The success of further integration and cooperation is directly related to stability in the region – including Kosovo's future sustainability.³⁴ This issue is very important in Serbia's drive towards EU accession, not only because of EU conditions, but also because this is the area where Serbian policy failed in the last decade, resulting in unprecedented destruction and suffering and consequentially bringing about the current situation.

Serbia knows it is reliant on its neighbours in order to advance its own position. It is with this belief that the democratic bloc has conducted its foreign policy since coming to power in 2001.³⁵ The old policy has been replaced by a more friendly, open approach, although the old tendencies have not completely disappeared. Personality driven policy naturally places some constraint on the implementation of good intentions, but this is usually pre-election driven and short term. All senior political leaders, from Vuk Drašković to Boris Tadić, play the same tune at the strategic level. It can even be argued that the stance between the political elite is more unanimous on this front than among the populace.

Montenegro's independence is a good example demonstrating the above. In the regional context it represented the resolution of one of the three outstanding questions from the dissolution of the former Yugoslavia and a continued threat to regional stability. For Serbia (as for the EU) the success of Montenegro's controversial referendum was a defeat at all levels. While President Tadić acted slightly more warmly to his neighbour's newly gained independence, the government and Koštunica never directly acknowledged independence. The Serb populace at large took the independence drive from a negative perspective and take the loss seriously, with many Serbs boycotting the Montenegrin tourist season. While this negative stance will not last long, as relations between the two will improve over the medium to long term, Serbia's political elite is keen to emphasize its 'positive' reaction to Montenegro's independence as further proof of a New Serbia – especially in relation to the current Kosovo status negotiations.

However, while Serbia is playing a reasonably positive role in terms of regional cooperation, policies pursued by its government do not do Serbia many favours – placing limits on how much Serbia can do at this present time. It will be in Serbia's own interest to support its new southern neighbour – especially through institutional mechanisms aimed at increasing security in this region. However, due to past relations over the independence issue, it will be difficult for this to occur while Koštunica is in power.

Economy: Still Light Grey

Reform of the economy is probably the only bright light on the horizon, albeit as the only light grey colour amongst all the dark colours on a palette of problems facing Serbia. In real terms reform of the economic sector is slow and thus not contributing to real progress in areas that matter. The GDP increase from some \$10 billion in 1994 to over \$28 billion in 2005 and growth rates increasing from 1.4 percent per annum to 6.3 percent per annum during the same period are below what is required to push Serbia up to regional standards. The 8 million population sees little change in the quality of life or a better standard of living. Unemployment at over 30 percent and large, outdated and costly state-owned enterprises are not helping.

There are many pressures on Serbia's ill-balanced economy.³⁶ The inability to keep inflation under control – due to accelerating domestic demand – is once again becoming a running concern, with annual figures exceeding 15 percent during the previous year, forcing anti-inflationary measures such as restrictive fiscal spending.³⁷ However, so far macroeconomic stability has been maintained – just. This is the main strategic policy objective of the government,³⁸ and has meant a balance between conservative pressures that favour a *status quo* and those advocating a more rapid and open reform agenda in line with European norms which would directly negatively affect the former group.

The inherited 'grey structures' from the Milošević period still prevail, with power and financial leverage that is hard – and dangerous – to eliminate.³⁹ The continued desire of these structures, as well as the political elite, to 'influence' the functioning of an open economy is a major obstacle to reform, as seen in the National Bank of Serbia affair in 2003.⁴⁰

A major obstacle in the way of revitalisation is the continued isolation brought about by a stalemate in ICTY cooperation, and which is still hampering major foreign direct investment (FDI), which is ultimately the only way Serbia can advance its economic transition as increasing domestic savings in the short to medium term is impossible. The political risk attached to doing business with Serbia is still high compared to other countries in Central Europe.⁴¹ Furthermore, weak state institutions, poor governance and an inefficient judiciary are serious deterrents to foreign investment. Building effective state institutions and implementing comprehensive legal and judicial reform is, therefore, essential for a return to sustainable growth.⁴² The figures presented in the table below, while looking positive when taken in isolation, do not compare well with the region, especially when to a large extent they stem from privatisation:

FOREIGN INVESTMENT IN SERBIA 2000-2005⁴³

Year	2000	2001	2002	2003	2004	2005	TOTAL
In mil. USD (net)	11	35	326	1,071	796	1,423	3,664

For example, between 2000-2004, Bulgaria received approximately £7 billion, Croatia and Slovakia received \$12 billion, while Serbia received only \$3 billion.⁴⁴ Per capita also, Serbia is behind Bulgaria and Romania, with Croatia and Slovakia recording double figures. Although the EU has made it clear each country is evaluated separately, this regional 'competition' is important from the domestic perspective, as people, especially the older generation, remember the good old times in Yugoslavia and are always comparing.

Radical and unpopular reformist policies to which Serbia signed up with the IMF are likely to be eased as Serbia enters a pre-election period. The key question for the long term is whether Serbia's current economic policies, manifested in 6% growth rates, will cause problems for the future, as they are largely based on privatisations, foreign donations and credits.⁴⁵ Furthermore, although exports have been increasing (by 37 percent in 2005), they are still only 50 percent of imports, with the large state-owned enterprises unlikely to meet requirements for export-led growth – at least in the short to medium term. The economic consequences of the suspension of EU negotiations will not be felt immediately. Investment will continue to come, but primarily through privatisations, meaning that there will be no real new investments bringing new jobs and opportunities – especially if the privatisation money is used for short-term political gain by the government and in particular the G17 Plus party.⁴⁶

Thus, the current relatively positive economic trend is unlikely to continue unless reform efforts are unhindered by political and other pressures.⁴⁷ The planned large-scale privatisations, such as that of the national oil giant, NIS, will be a good indicator of trends to follow. The way the money has been invested, such as the 1 billion plus Euros collected from the sale of MOBTEL, will be detrimental to long-term success.⁴⁸

The EU: The Final Frontier

Under the current political setting, the only real benchmark of reform is the EU and its Stabilisation and Association process (SAP). Serbia is not the first EU aspirant country and the values and norms imbedded within the process are well known. Thus, in terms of *realpolitik*, all other interpretations of the reform process are irrelevant. The Serbian government was happy that after a slow start, the EU accession process finally got under way with Stabilisation and Association Agreement talks initiated in October 2005. Deputy Prime Minister Miroljub Labus stated ‘...Serbia had passed two-thirds of the road to the EU’.⁴⁹ However, this naivety was soon over when EU talks were suspended, due to Serbia’s failure to meet its obligations and declared commitments.⁵⁰

There is no need, as is often sought in Serbia, to develop special scenarios or formulate a winning strategy in the EU talks – locally interpreted as negotiations, as if Serbia is negotiating in a ‘win or lose’ game.⁵¹ What is more important is that all sides are committed not only on paper, but in terms of deliverance. There is no point in insisting on policies based on the rule of law when in real life they are mostly not implemented, even at the very basic level. The EU understands Serbia’s desire for speedy EU accession.⁵² However, Serbia is still not showing it means business, and while its negotiating teams are well prepared and skilful, declaratory statements with little substance by Serbian leaders diminish their effectiveness and the electorate is affected most. The current ICTY Action Plan is in fact only a smoke screen for inaction and possibly will serve as a political ‘way out’ for the West as regards continued Euro-Atlantic integration.⁵³

The mood of the Serbian electorate is a difficult subject to address for the leadership. After years of falling standards, late pensions and thousands of displaced persons, just to mention a few, asking for more patience is difficult for any politician. But making the mistake of promising what is not possible is irresponsible to say the least and has only short-term benefit. As Srđan Gligorijević, a local EU expert, rightly stated:

*‘It looks like a paradox: people want to joint Europe but without sacrifice, effort, concession or any fundamental change. Hence, there is always a Damocles sword hanging over any democratic, EU-oriented government in Serbia.’*⁵⁴

In the EU Council Document dated 30th January 2006, Serbia has a long list of priorities, among them:

- Full cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY)
- Revise the Constitution in line with European standards and reform the judiciary
- Implement full democratic control of all military-security structures
- Reform of the public administration and public sector employment
- Introduce effective anti-corruption legislation with a zero-tolerance policy
- Sustain macro-economic activity and implement price liberalisation
- Implement an active privatisation policy and restructure state owned enterprises
- Advance the regional free trade agreement
- Enforce the independence of the media
- Respect human rights and rights of minorities
- Fully respect UN Security Council resolution 1244 (99).

In reality progress is difficult to quantify as they are still underway – at least officially - and reliable statistics are hard to come by.⁵⁵ However, one would not be wrong in stating that progress in all these sectors is more or less non-existent or at the very best is just in an initial phase. A closer analysis of the issues surrounding the passing of a new Constitution for Serbia provides a clear idea of the obstacles and divisions facing this country, at almost every level.

It is important to briefly look at the EU's stance towards the region as well – potentially seriously impacting countries such as Serbia. In June 2003 at the Thessaloniki Summit, the SAP was confirmed as the EU policy for the Western Balkans. Has the failure to ratify the EU constitutional treaty been a setback for the Balkans?⁵⁶ For example, France in the past declared its readiness to veto the approval of Macedonia's (FYROM) candidate status, instead proposing a new debate as to whether there should be any further EU enlargement at all. The United Kingdom has also proposed a new budget for the EU that would preclude any serious pre-accession assistance for the Western Balkans for the 7-year budgetary period.⁵⁷

Such a policy negatively impacts on the good work done so far in the region.⁵⁸ Stefan Lehne correctly states that 'the stability of the region is intrinsically linked to that of the EU.'⁵⁹ In simple terms, the EU accession process, backed up by NATO membership is the best guarantor towards stability. Any assumption that the region is already stable and thus accession processes can be put into second gear are easily challenged by looking at the extent of Western engagement in the region, from EU police and monitoring missions to Special Representatives, from Bosnia & Herzegovina to Macedonia (FYROM). Their targets include not only weak states, but displaced persons, organised crime and ill-reformed military and security structures.

The New Constitution

Legal reforms are a problem for most EU aspirant states, Serbia among them.⁶⁰ Strengthening the rule of law is crucial for political and economic development, the protection of minority rights, and the maintenance of stable internal and regional security environments. Indeed, the rule of law is the foundation upon which reforms should be built. However, the Serbian judiciary still remains subservient to politics, with hardly any real reform taking place, including the lack of implementing the Lustration Act, passed in 2003.⁶¹ However, apart from the difficulties in advancing reform as part of the overall improvement in public administration, Serbia's biggest dilemma is passing a new Constitution, which again hit the headlines following Montenegro's pro-independence referendum.⁶²

Passing a new Constitution has been a priority task for all elected governments since 2001. The Constitution should be the anchor for Serbia's reform efforts, providing the legal basis for strategic policy objectives. However, the issue has rather acted as a heavy loop slowing down all such efforts. All new governments were initially committed to ridding Serbia of 'Milošević's Constitution'. However, for party political and short term interests, all these governments sidelined or stalled on the idea. Retaining the *status quo* always seemed more important at the time.

The process is not helped by the procedural difficulty in passing a new Constitution, as the current Constitution requires not only a 2/3 majority in Parliament but also a 50%+1 vote in a subsequent referendum and a new law on constitutional amendments.⁶³ Many, such as Slobodan Vučetić, President of the Constitutional Court, have argued that such a formulation is positive, since the

consensus required to amend the Constitution would mean a quality product with long shelf life.⁶⁴

As recently stated by Tadić, the new Constitution must be passed following the standard procedure, and alternative methods used only if this fails. Considering the domestic political scene in Serbia, this is currently almost impossible. In many ways this has served as a perfect excuse for not advancing the issue. The best chance for change was lost in 2001 by the non-convocation of a Constituent Assembly – something that is still an option, albeit with slightly less legitimacy.

Koštunica has by now become famous for his statements on such issues, fitting nicely into his ‘Rule of Law’ policy preference:

‘...2006 must be the year of the new Constitution! Not only because I think this is necessary, but because this condition is given by the EU...So, we shall need a new Constitution by November...For all the impatient, after the Constitution, there will be space for new elections.’⁶⁵

It is strange how the issue has not been resolved during the last 5 years, but one can now find solutions very quickly, as he stated with optimism recently, following a meeting with Predrag Marković, Chairman of the National Assembly of Serbia. According to the plan, the Committee for Constitutional Issues within the Serbian Parliament, responsible for presenting a workable draft of the document, will suddenly meet and advance the issue.⁶⁶ As explained by Zoran Lutovac, a local political analyst:

“If we know that the lack of political will is the main reason why Serbia has yet to pass a new Constitution, then the question that needs answering is are conditions right for reaching the required level of political consensus. The Constitution has only been a debatable issue when the Government was forced into it...”⁶⁷

Two issues will force the Constitutional question. One is the EU requirement for Serbia to amend its current Constitution, but more importantly Serbia has now become an independent state, following Montenegro’s pro-independence referendum. Again, a key issue for Serbia is being dictated by outside factors.

The latest stage in the process was initiated in March 2004 when a 2/3 majority in parliament agreed to set in motion the necessary procedure. However, in two years there has been little movement and there are currently two realistic models: one proposed by the government and the other by the president’s office, their main disagreements being on the definition of the state, the sharing of executive power and decentralisation and territorial organisation.

The current government’s draft model, taking up 183 Articles, makes it clear in the first article that Serbia is a country of Serbian people and all citizens who live within it. Placing emphasis on the Serbian people is explained by their historic role in defining the state and does not negate the rights or the role of other minorities within its borders.⁶⁸

Related to this is the issue of decentralisation, a precondition for the development of local government and thus the democratic order of the state. Serbia has 29 regions, which have very little autonomy.⁶⁹ The central authority is slow to relinquish its power, even though there is recognition that this will be necessary. Many large state companies, which in many cases represent a local employment hub, are dealt with

centrally, with uniform policies and expensive subsidies from the state in order to maintain a *status quo*, rather than looking for solutions at a local level.⁷⁰ Local budgets are limited in terms of small to medium business promotion, and are thus unable to stimulate local employment and growth.

However, it seems that the principal issue is that concerning the sharing of executive power, between the president and the government. The current debate over the armed forces is a good example. Following the end of the State Union between Serbia and Montenegro, the question of who controls the military has become an open battle. The current constitutional provisions are not very clear on this point, with current debate at the 'bickering level' stuck on the interpretation of the term 'managing the armed forces' (*rukovodi oružanim snagama*).⁷¹ Under Article 83 of the current constitution, "the President of the Republic shall conduct affairs in the sphere of relations between the Republic of Serbia and international organisations and command the Armed Forces in peacetime and war". However, Article 90 states that "the Government shall conduct the policy of the Republic of Serbia and control the budget".⁷² While the government will have little choice but to engage the presidential office on this subject, there is a clear conflict of interest between the two that will have to be resolved, either by a new law in the short term or eventually by the new Constitution.

Serbia and the ICTY

Serbia's relationship with the ICTY has been difficult from day one. For a variety of reasons it has also remained at the top of the agenda since the democratic bloc took power in 2001. Considering the extent of nationalist sentiment and the past decade of war and destruction of both material, human and most importantly moral standards at all levels of society this should not be surprising. Furthermore, those that devised the ideology and rhetoric that to a large extent influenced conflict on the territory of the former Yugoslavia are still free and even continue to do so.⁷³

Two issues are relevant in this context: the view of the ICTY among the Serb electorate; and the effects of this on the domestic political scene. Years of propaganda by the radical-nationalist camp have created a negative image of the ICTY among the Serbian public, which in general is little informed about the Hague Tribunal and the process in general. Prejudices attributed to the ICTY mostly revolve around an alleged conspiracy against the Serbs and only Serbs being on trial, receiving harsh punishment when crimes by others are conveniently minimised or ignored.⁷⁴ The natural conclusion is that the ICTY is not an international court with the task to try persons accused of committing war crimes and violating international law, but is a political tool to enforce various conditions on Serbia.⁷⁵

Furthermore, the EU and other international organisations appear to be reinforcing this view in practical terms by presenting cooperation with the ICTY as a matter of bargaining rather than justice and legal obligation. The effect of this on the domestic political scene is significant and multi-layered, but also selective. Its effects hit ordinary Serbs more than they do those against whom they are meant – the political elite. To date, there is little evidence that conditionality has worked in Serbia, especially where it was meant to work – the extradition of high-profile people like Mladić. To date no Serb politician has been willing to touch this sensitive issue for fear of losing popular votes and thus credentials. In a sense it is politically more important for them to defend Serbia through the lens of the past, than show courage and look towards the future.

Although a number of reasonably prominent ICTY transfers have taken place in the past 12-18 months, there are still six at large, most importantly Mladić, who is proving the most difficult person to apprehend and transfer, impacting on negative ICTY assessments and continuous warnings to the Serbian government that it might lead to the postponement of the Stabilisation and Association Agreement (SAA) negotiations.⁷⁶ Due to numerous factors the EU, as the most important international actor for Serbia, has shown a high degree of flexibility and willingness to continue talking to Belgrade. However, this goodwill could not run indefinitely. The matter was decided when Koštunica's committed himself to the transfer of Mladić by end of April 2006.⁷⁷ But they failed to deliver. The EU suspension of discussions in May 2006 will be a good test of whether the balance between the past and the future has been turned in favour of the future. The DSS government is unlikely to fall because of ICTY cooperation.

Considering the ICTY end-date is not far away, strengthening special domestic courts is an important element in the overall effort to provide long term stability and development through the prevalence of a working justice system. Furthermore, more openness and transparency in ICTY's operations should encourage further reform processes.⁷⁸

THE QUESTION OF KOSOVO

The unresolved status of Kosovo and the current negotiations have great importance in Serbia for a variety of reasons. They not only represent the last unresolved territorial dispute from the 1990s and all the legacies that come with that, but Kosovo also links Serbia to nationalism, war crimes and other post-conflict and still unresolved issues. By linking Serbia with the past, the issue plays a significant role in feeding the nationalist-radical elements within the country and thus has a direct bearing on current political events. It is exactly for this reason that many are keen to turn a new page on this whole issue as soon as possible.

The question regarding Kosovo sits within a triangular prism of interlinked, but distinct, positions. On the first corner is the international community with a overriding goal of sustainable peace in the region but little cohesion in terms of how best to get there. On the second corner is Serbia, which knows what it does not want, but is still lost in terms of how best to secure for Kosovo 'more than autonomy, less than independence'. The third corner is occupied by the Kosovo Albanian side, which has a single-mined goal of independence at any cost, supported by influential lobby groups and a financially powerful diaspora.

Several questions are addressed in more detail below. The first question relates to legitimacy and a fair process, connected with the precedent Kosovo will create. Related to this is the issue of 'rubber stamping' any future negotiated settlement, thus giving it validity. The second question is the relationship Serbia desires with Kosovo, as it is clear that there is no interest in an 'in-depth' relationship. The third question, and the most important in the context of this paper, is the effect the issue will have on Serbia itself, and thus on regional stability and prosperity. Why is it important to address these questions and reach the right balance between them? The answer is simple. Because peace and stability, a top priority for all Western countries, can only be achieved in the long run if such a balance exists and all sides are seen to have gained something, not least justice.

Kosovo in Belgrade

Since mid-1999 when Serb security forces pulled out from Kosovo, the Serbian political elite has gone through a number of phases with regard to the issue of Kosovo. Approaches fluctuated from the frequently made statement that *'Kosovo is admittedly no longer a problem for Serbia since 1999'* or that *'How can Serbia lose something that has already been lost'* to the current thinking *'less than independence, more than autonomy'*. The story fed to the public was also constantly in a flux.⁷⁹ However, on the whole it was told that Kosovo would never be given up, that it would always continue to be part of Serbia. Simply put, this most strategic of issues for Serbia, that in many respects touches its soul, best confirms the divisions within the country at every level, and prevents a firm response from Belgrade.⁸⁰

The latest official position – less than independence, more than autonomy – with which Belgrade has entered the UN-led status negotiations, shows a readiness to approach negotiations with flexibility – at least tactically. However, while this stance shows to a certain degree the acceptance of the mistakes of the past and the impossibility of returning to the pre-1999 status, at the same time the Serbs are adamant in the historic rightness of their position. Kosovo is part of every Serb, whether he be a nationalist, democrat or something else.

The more nationalist view - at least declaratory - is shown in the following three statements. The official stance was presented by Koštunica at the UN Security Council:

*"...the dismemberment of a democratic state and the change of its internationally recognised borders against its will are options not to be contemplated. This would not only be an unprecedented case in international law and the practice of the UN, but also a dangerous precedent with grave long-term consequences for the international order in general."*⁸¹

The nationalist writer Dobrica Ćosić has depicted the ideological thinking in his latest work on Kosovo, a view the government is keen to sideline, at least publicly, but many Serbs will agree with:

*"I ask myself: is the US and Europe, blinded by its short-term interests, finally ready to conquer the Serbian people, to cripple and frustrate the Serbian people, by making it lose its identity and huge cultural heritage, ethos and dignity. Why? Because it is still not behaving as a conquered people."*⁸²

The Serbian church, which plays an important role in the Kosovo issue, supports such a view as well. At the recent Vidovdan celebrations at Gračanice, Vladika Artemije explained the church's position very well:

*"Kosovo and Metohija must stay what it was in our past...our spiritual and cultural cradle, our Jerusalem."*⁸³

At the other side of the spectrum and pitted against this is the view that Serbia does not really need Kosovo or any 'in depth' relationship with the Kosovo Albanians. Again the reasoning behind such views, expressed by the minority, mostly younger liberal Western orientated Serbs, is not unanimous. It can be categorised in two very broad groupings, neither of which excludes the other:

- Those that see Kosovo and its 2 million (and rapidly growing) population as a burden not worth the hassle.
- Those that see any renewed confrontation with the West having a negative impact on EU desires, with borders disappearing in any case over the medium to long run.

As expressed by Dušan Popović from the DS:

“There is something more important than Kosovo, and that is how and HOW WILL seven million people in Serbia live.”⁸⁴

That does not mean this is their preferred option. Rather it means that they are more willing to accept the fundamentally changed situation. For them, Serbia lost Kosovo in 1998 when it sent 50,000 troops into Kosovo which led to the NATO bombing campaign – rightly or wrongly. Moreover, they see it as absurd that those who caused the ‘loss’ of Kosovo, again have an important say in the current negotiations and are portrayed as the greatest protectors of Serbian Kosovo.

What does Serbia really think and feel with regard to Kosovo? There is no universal answer, as all the above statements are partially true in Serbia today. What is fundamental is that Serbia feels it has a historic and legal right over Kosovo, but at the same time wants little to do with the province. It seeks some formal recognition that Kosovo is connected to Serbia, protection of historic-cultural rights and protection for the small Serb populated enclaves throughout Kosovo.

The importance of Kosovo to Belgrade is clearly seen by the passing of some 4-5 strategic documents and resolutions by the Serbian Parliament since 1999.⁸⁵ The EU itself has also voiced concern about similar resolutions also passed by Priština, saying they are not productive in terms of status negotiations. However, these resolutions do have a significant role to play with regard to domestic self-congratulatory political consumption. It is hard to see Koštunica deviating from this strategy, not even for the sake of stalling prospects for EU membership.

“Parliament is the only real, democratic forum where the issue of Kosovo-Metohija can be discussed... if we consider the worst solution, the position of Serbia would be to conclude that Kosovo-Metohija is part of Serbia. This is no empty rhetoric but a constitutional and legal formulation.”⁸⁶

Furthermore, no party or political figure wants to accept the historic burden of being seen as negatively contributing to the final status of Kosovo.⁸⁷ Hence, there was even a resolution regarding the forthcoming negotiations, which established the readiness for compromise but with the requirement to keep Serbian territorial integrity.⁸⁸ Even the Democratic Party attended the parliamentary debate during the passing of the Resolution, despite the party’s parliamentary boycott (though it abstained from voting), giving it full legitimacy and the negotiating team the mandate to enter negotiations.⁸⁹ The parliamentary resolutions thus serve as a good way out – burden sharing. Furthermore, the Resolutions have served to unify Belgrade’s official thinking – at least on paper.

Belgrade is not only sensitive about official statements regarding Kosovo, but also private statements made by people perceived to have influence on the status negotiations. This is reminiscent of the time when Kosovo was an internal problem of Serbia. Officials are not happy to hear negative assessments of pro-independence voices. The public statement by the Slovenian President Janez Drnovšek that the only real option for Kosovo was independence from Serbia was welcomed with hostility in Belgrade and his official visit was cancelled.⁹⁰ A similar reaction

occurred recently to the Slovenian Foreign Minister's statement connecting Kosovo with Serbia's EU bid.⁹¹ The fierce reactions to Drnovšek's and Rupel's words can be interpreted as part of wider attempts to show Serbian voters that the authorities are considering Kosovo as the first-rate national interest and will not trade with 15 percent of its territory.

At the same time it must be noted that the general public is well informed about all possible options currently being put forward and the academic and policy community discusses them. All possible scenarios regarding the outcome of the status negotiations are being floated in the press. There are even those in Serbia calling for a referendum on the issue of Kosovo, if the negotiations go wrong – justifying the move by domestic legal requirements. The gesture will not cause much turbulence in Brussels and Washington, but it is taken seriously in Serbia. As recently explained by Sanda Raškoviš-Ivić, the Head of the Kosovo Coordination Centre:

“The referendum is not just a gesture and it is not a therapeutical method...it is a legal method. Legally we have the right to legally state what to do with a piece of our territory.”⁹²

The Serbian President, Boris Tadić, is trying to be constructive and open, but at the same time playing a rather confusing role. On the one side he has tried to please the West by saying that independence can certainly not be excluded as an option – the only senior Serbian official to state this publicly, while at the same time arguing for an alternative plan that envisages *de facto* partition, thereby upsetting the West.⁹³ However, there is a need to differentiate between declaratory statements made by Serbia's political elite, in most cases for domestic political gain, and real intention or ability to act, especially in terms of sacrificing daily or short-term interests. The end result is that the Serbian public is aware of possible outcomes, with the latest opinion polls indicating that the Kosovo issue is regarded with less emotion than ever. According to CeSID, 27 percent of those polled believe that Kosovo will become an independent state in the near future⁹⁴. Research shows that Serbs are more concerned about the improvement of their own living standards and the hot emotions that surrounded the Kosovo issue are on the decline.⁹⁵

Unlike the international community, the Serbs see the issue in a historical perspective. While not many Serbs remember the Kosovo Albanian uprising in 1944-5, many do remember the Albanian uprisings in 1981 under the slogan 'Kosovo-Republic', Kosovo Albanian boycott of Serbian institutions and elections and so on. Thus, for the Serbs problems with the Kosovo Albanian population date back decades if not longer, and are not the result of the Milosevic regime. Milosevic exacerbated the already bad situation, thus providing the Kosovo Albanians with the green light to intensify their long pro-independence drive. For this reason, it is difficult for Serbs to understand the demand that Kosovo must be granted full independence due to sufferings imposed by Milosevic and his regime. In trying to understand the Serbian position one must begin with at least the following three points –which have much to recommend them, but are often ignored.

1. The KLA Connection

By exploring the origin and activity of the Kosovo Liberation Army (KLA), one can answer a number of prevailing questions, and most importantly those of sustainability and legitimacy. The end of the war in neighbouring Bosnia & Herzegovina certainly influenced the thinking of many Kosovo Albanians and directly led to the rise of the KLA in 1997 - as opposed to the Rugova-led peaceful

resistance up to that period. As Veton Surroi, the editor of the Priština daily *Koha Ditore* pointed out:

*“The Bosnian accords imply precisely the opposite for the “conflicting parties”, namely that ethnic territories have legitimacy, and can be achieved through violence. If international attention can only be obtained through war, and if war is merely an intermediate stage on the road to recognition of the right of self-determination, this is a sufficient signal to forces distrustful of peaceful methods in Kosova, perhaps in Macedonia, and someday possibly in Albania.”*⁹⁶

Without negating the human rights violations by Serbian security forces, the KLA certainly provoked Belgrade into ‘negative’ action – something Milošević did not need at the time.⁹⁷ These provocations gradually increased in scope and by 1998 the KLA was in open conflict with the Serbs. Serbian police sources claim that during this time there were over 3,000 separate terrorist type attacks specifically aimed at Serb targets. Even if this figure is halved and then halved again, there is no doubt that many of the provocations during this period originated from the KLA.⁹⁸ To this the Serb security and ‘other’ state forces responded with increased ferocity and brutality, especially after March 1999.⁹⁹

By the mid 1990s the US State Department and the EU publicly acknowledged that the KLA engaged in terrorist and criminal activity throughout Europe.¹⁰⁰ Drug and other forms of trafficking provided the funds that enabled the organisation to ‘grow and prosper’ following the collapse of state institutions in Albania in 1997.¹⁰¹ In 1999 the State Department justified contacts between the US and the KLA by saying that ‘they were a recognition of the reality on the ground, even though Washington did not support the KLA’s separatist aims’.¹⁰² However, at the same time NATO fell into a trap which it found difficulty in exiting. The British Foreign Secretary clearly showed the understanding at the time:

*“His (Milošević) behaviour has been totally counterproductive and has left us with the UCK (KLA) that is stronger and controls more territory and is better financed than at the start.”*¹⁰³

2. Standards –What Standards?

The questions of standards is fundamental to the future of Kosovo as a multi-ethnic society, as demanded not only by Belgrade, but also by all international actors, including the United Nations. The question relates to two issues: the first is the sustainable return of displaced Serbs to Kosovo and the second is the normalisation of relations between the two main ethnic groups at the very least, based on the principle of a functioning multi-ethnic Kosovo with ‘freedom of movement’ for all. The framework within which it rests is UN Security Council Resolution 1244 (99), Article 9c, which clearly envisages:

“Establishing a secure environment in which refugees and displaced persons can return home in safety, the international civil presence can operate, a transitional administration can be established and humanitarian aid can be delivered.”

Annex 1 of this resolution stated the conclusions of the G8 meeting on 6th May 1999, with regard to the general principles of the political solution to the Kosovo crisis:

“Establishment of an interim administration for Kosovo to be decided by the Security Council of the United Nations to ensure conditions for a peaceful and normal life for all inhabitants of Kosovo.”

Population movement is a key component of the standards issue. It is an issue which the Serbs regard as a one way street. The table below clearly demonstrates the point and is correct in that the number of Serbs in Kosovo has been shrinking over the years. Moreover, since NATO forces took over control of Kosovo under a UN umbrella, the KLA and other radical elements were allowed an almost free hand, resulting in the expulsion of some 100,000 to 120,000 Serbs from Kosovo. As a result, towns such as Peć and Prizren, which had 10,000 and 6,200 Serb inhabitants respectively, today have hardly any.¹⁰⁴

Population Change in Kosovo 1931-2001¹⁰⁵

YEAR	TOTAL 000	ALBANIANS %	SERBS & MONTENEGRINS %	OTHERS %
1931	552	60	27	N/A
1953	808	66	27	7
1971	1,243	73	21	6
1981	1,584	77	15	8
1991	1,956	82	11	7
2001	c2,000	c95	c4.5	c0.5

Apart from those in North Mitrovica, which remains the last significant outpost of Serbs in Kosovo, those that remain are rural Serbs surviving in isolated small enclaves, often described by Serbs as ‘ghettos’.¹⁰⁶ They attract some but not sufficient international attention, which has recently shifted from the standards issue to the status issue, as seen below.¹⁰⁷ As described by Dobrica Ćosić:

“The UN protectorate in Kosovo & Metohija with its two missions, UNMIK and KFOR, in existence for over five years, has not realised UNSC resolution 1244. That resolution has been used for the forming of Albanian statehood on Kosovo & Metohija...Kosovo & Metohija is the only territory in Europe where free movement of people does not exist. Serbian farmers can not work their fields without KFOR protection. Serbian children can not go to school without KFOR protection...Kosovo & Metohija is today a land of constant violence based on greater Albanian ideology and implemented by indoctrinated and criminalised Albanians.”¹⁰⁸

The vast number of statements and studies conclude in a similar negative fashion.¹⁰⁹ For example, the Venice Commission, the Council of Europe’s legal consultative body, in 2004 presented a rather pessimistic report on human rights in Kosovo. Its main conclusions were:

- **“Lack of security** – the security of the non-Albanian communities in Kosovo (Serbs, Roma, Ashkali, Egyptian, Bosniak and Gorani communities) has been and is seriously and continuously threatened. Numerous incidents, including fatal ones, have occurred since 1999...
- **“Lack of freedom of movement** – since the conflict in 1999 it has been extremely difficult for members of non-Albanian communities, in particular the Serbian and Roma communities, to move freely in Kosovo. In certain cases, Kosovo Serbs in particular have been confined to their places of

residence, relying mostly on escorted transport for occasional visits to other places in Kosovo...this situation affects the possibility of having access to basic public services, such as education, medical care, justice and public utilities..."¹¹⁰

Even 12 months later, despite immense international pressure and the fact that status negotiations were about to commence, UN Special Envoy Ambassador Kai Eide's report on standards stated:

*"The main findings are mixed. What I found were significant achievements in some areas, such as building of institutions...and then there are some very, very important shortcomings. The justice system is very weak; the question of respect for rule of law is weak too. There is no doubt about that. Regarding inter-ethnic problems, I believe very little has happened and the reconciliation process has not yet started."*¹¹¹

The 'Standards before Status' policy was the main pillar of international policy up to 2004 with a Kosovo Standards Implementation Plan devised to address the 8 key areas that needed immediate improvement.¹¹² Robert Sorenson, the US Deputy Chief of Mission made this clear on 15th March 2004, just two days prior to the start of major disturbances:

*"...Whether Kosovo becomes part of Europe as an independent country, as part of Serbia and Montenegro, as part of some regional grouping, or in some other manner determined by its final status is not the question at this time; instead our focus is on achieving these standards that are now the norm in Western democratic countries as these standards are vital to Kosovo's future...We should not rush into the process of final status. Before we undertake that journey, we need to do two things: prepare Kosovo's institutions of self-government through fulfilment of the Standards, and allow the passage of enough time for war-wounds to heal a bit... The process of Standards, then, supports the right kind of outcome - an outcome of a final status that everyone in the region can accept as being in their own long-term best interests and in the interests of the region..."*¹¹³

The UN Security Council reiterated this position in April 2004, immediately after the March 2004 events.¹¹⁴ Indeed it had its logic in terms of international law and stood exactly for the reasons NATO became involved in the region in the first place. As Nicholas Burns, the US Under Secretary of State for Political Affairs and the Department of State's third ranking official stated:

*"NATO did not go war to save the Albanians from ethnic cleansing only to see them mete out the same fate to the Serbs. Failure to secure a multi-ethnic Kosovo would be a failure of our efforts over the past six years and indeed, over the past decade."*¹¹⁵

The March 2004 disturbances in Kosovo represented a turning point in many respects. Considering they lasted only 2 days, destruction was immense.¹¹⁶ The well documented attacks by over 50,000 Kosovo Albanians inflicted irreversible material and human damage – with several dozen fatalities including KFOR troops, 600 homes and 30 churches destroyed and 4,000 displaced persons.¹¹⁷ It was clearly a sobering experience for all, especially as it became clear that much of the violence and destruction was preplanned.

The Kosovo leadership (with a few exceptions, such as Prime Minister Bajram Rexhepi who personally went to the fierce clashes at Caglavica on 18th March) was very slow to react to the disturbances, with many of the statements issued by the ethnic Albanian leadership refusing to condemn the violence or even acknowledge that Serbs had been a primary target.¹¹⁸ The response of Kosovo's President Ibrahim Rugova was particularly weak. During his March 18 appeal for calm, for example, Rugova expressed his "deepest regret" for the wounding of UNMIK police officers and KFOR soldiers, but made no mention of Serb victims. The Kosovo Democratic Party (PDK) - whose leader, former KLA commander Hashim Thaci, was on a visit to the United States at the time — issued a strong anti-Serb statement:

*"Serbs are misusing the Albanians' goodwill to create an equal society for all. They don't want to integrate in Kosovar society. Proof of this is yesterday's [children's drowning] and today's [Mitrovica violence] events. Their will has remained in the previous five years only for violence against Albanians. This can no longer be tolerated."*¹¹⁹

The disturbances acted as a wake up call for Belgrade. At the very least they showed the Serb political leadership that it still had a role to play in Kosovo and that the issue could not be ignored. Serbia feels that the standards issue is key to the survival of Serbia's interests in Kosovo.¹²⁰ While many use this to their political advantage, some within Serbia see that 'people are more important than territory'.¹²¹

The disturbances reminded everyone that the five years that have elapsed under international administration had not shown an improvement in the standards.¹²² Indeed, during this period over 900 non-Albanians (mostly Serbs) were killed in Kosovo and over 7,000 ethnically motivated acts of violence registered.¹²³ This forced a re-examination of international policy. Carl Bildt, the former UN Envoy to the Balkans, described the thinking very well: *"Instead of the mantra of "standards before status" we must now urgently choose between either a policy of status or a policy of standards."*¹²⁴

Towards the end of 2004, the 'Standards before Status' policy was - at a strategic political level - put aside, despite public statements to the contrary.¹²⁵ On the ground, the change in thinking was felt in a sharp decrease in international funding towards the standards issue, especially in terms of the 'returns' programmes.¹²⁶ This situation prevails today. There has been a sudden reporting of improved standards, despite a drastic decrease in funding the return of Serbian and other minorities - which form the baseline from which a multi-ethnic Kosovo can exist. Were 'standards' an unrealistic objective to begin with or have they now become an obstacle to short-term political objectives? If the standards issue is the benchmark against which Kosovo's readiness for final status will be measured - how does one explain the current position with regard to the final status negotiations? And what is the degree of manipulation in determining or measuring progress in the status issue?

3. The Question of Sustainability

Unlike the standards issue, the question of Kosovo's sustainability is not that important for Belgrade, as Serbia can not directly influence much in this respect. Belgrade can have legitimate concerns about the Serb community within the province, property rights and the effect a 'failed state' scenario would have on Serbia itself, especially in terms of organised crime and instability in South Serbia. Kosovo will need to be sustainable, no matter in what direction the current

negotiations go, as international engagement will want to decrease over time. That economic development can not wait until the resolution of the status question was clearly confirmed by the EU Thessaloniki Summit, where Kosovo was firmly anchored in the framework of the Stabilisation and Association Process.¹²⁷

To date the international community has invested over 2 billion Euro into Kosovo, in the form of humanitarian assistance, physical reconstruction and the development of a range of public services.¹²⁸ Investment in reconstructing the outdated and ill-maintained energy sector alone amounts to over 1 billion Euro.¹²⁹ The Kosovo Energy Corporation (KEK) was the largest recipient, receiving some 400 million Euros in direct investments.¹³⁰ Yet power cuts still continue throughout Kosovo, not only causing problems for the population and local businesses but also discouraging foreign investors.

Furthermore, this substantial international assistance, especially in the immediate post-war period, fuelled high growth rates (over 10 percent per annum). However, this is more to do with immediate post-conflict recovery than with making new headway. As international assistance decreases, so does the growth rate, with domestic growth not able to offset the shortfall. Furthermore, the presence of high numbers of international personnel with well paid positions is a further stimulus to the local economy, by some estimates contributing between 5-10 percent to Kosovo's GDP.¹³¹ Remittances, valued at over 300 million Euro per annum, from Kosovo Albanians living abroad have been an economic factor to date, but are showing a downward trend as well.¹³² The likely impact on the local economy (including the grey market) in the medium term should not be neglected.

There are also other impediments, such as lack of infrastructure, skilled and educated labour and most importantly at the highest level of authority, a set of value judgements with sound strategic vision and courage to commit. For example, the biggest obstacle to sustainable development in the strategic energy sector is that people and businesses do not pay their electricity bills. The present mantra is a simple one – status first, economics later.

Mixed results to date continue to enable Belgrade to argue that Kosovo is simply economically not viable, since it has a bad history of utilising investments. For example, through special funds, the former Yugoslavia invested over 10 billion Euro in Kosovo between 1970-85, but there is not much to show for this.¹³³

In the short term Kosovo needs to focus on traditional areas for economic growth, such as agriculture and the extraction industry – ironically low-profit economic activities, despite Kosovo's substantial mining potential.¹³⁴ Even these require substantial foreign direct investment (FDI). For example, the planned Kosovo-C 1800-2000 MW power plant with associated infrastructure requires over 700 million Euro alone. Over the long term efforts should be made towards diversification into more profitable activities, with an increase in FDI again being the most important prerequisite. However, this is unlikely to improve given the inability to address issues such as infrastructure, organised crime, corruption and the grey economy, which are almost imbedded into the state more than anywhere else in the neighbourhood.¹³⁵ A positive legal (paper) framework alone will not be enough to encourage a growth in FDI.

Moreover, mechanisms have to exist that will link FDI with improvements in standards of living for all – not just the select few. There are many examples of countries rich with natural wealth but with poor standards of living. The western liberal market approach might not be the best short-term approach considering the

overall backwardness of the country and the social services the inherited grey economy performs.¹³⁶

Closely related to this is the question of institutions. Kosovo will require solid and reliable state institutions, something in which there is minimal local experience.¹³⁷ During the past 5 years, it was the international community that formed and staffed all public bodies, with Kosovo Albanians taking a secondary role.¹³⁸ The current attempts at forming the Justice and Internal Affairs Ministries is a good example. The ability to engage the local ownership dimension will be fundamental.

How does this relate to Serbia and its interests? Without addressing the fact that Serbia is still servicing Kosovo's some 1 billion Euro foreign debt and the issue of privatisation in Kosovo, is important to look into some basic detail of the general living conditions that prevail in Kosovo. At least 30 percent of the population lives below the poverty line.¹³⁹ Even if official unemployment figures are accepted at 38 percent, poor education and a very young population present difficult obstacles to overcome.¹⁴⁰ Over 80 percent of the unemployed are long-term unemployed, 70 percent are under the age of 40 and over 50 percent are unskilled.¹⁴¹ Taking into account the current birth rate, the local economy would have to generate over 20,000 new jobs per annum just to keep the current level of unemployment over the next 10-15 years. It is a paradox that the largest single employer in Kosovo is the US military base BONDSTEEL.

The situation for the Kosovo Serbs is even worse, with little prospect for improvement in the short to medium term. As for Kosovo Albanians, possibilities are primarily limited to small businesses, agriculture and local institutions, with heavy reliance on Serbia.¹⁴² Serbia has offered some help through various mechanisms, primarily as an opportunity for internal political battles. The most useful at the practical level so far, but contrary to UNMIK desires, has been 'support' for Serb parallel structures, serving almost as a guarantor for their survival.¹⁴³

The economic sustainability dimension is important, as according to some reports, it is not only the lack of security that is driving the remaining Serbs out of Kosovo, but also the lack of jobs and educational opportunities.¹⁴⁴ This has been well reported and documented, but little has changed – even though this is an area that could have been addressed.¹⁴⁵ In short it can be observed that the Kosovo Serbs live in a vacuum, isolated and divided, physically, politically and economically.¹⁴⁶

As for Mitrovica, which is likely to endure as the last remaining Serb settlement in Kosovo, it will over the short to medium term depend largely on handouts from Belgrade and resist any suggestion of substantive integration with the rest of Kosovo. However, this is not a long-term option and thus an innovative approach may be required. The example of Brčko in neighbouring Bosnia and Herzegovina might be a good starting point. The alternative is the gradual de-population of this Serb dominated region. Considering political repercussions of population movements in the Balkans over the last decade, as long as it is gradual, it is acceptable and excusable.

Furthermore, over the long run, for Kosovo to become a functioning multi-ethnic society trade between the two largest groups, the Kosovo Albanian majority and Serb minority, will have to improve. To date the Kosovo Albanian side has shown little interest, with sporadic symbolic gestures as a means of appeasing international policy-makers during the last year, rather than a real effort. Other questions that Serbia will have a keen interest in are property rights and organised crime. The former will require a just solution based based on experiences from

Yugoslav succession, while the latter will have to be looked at within the regional context.

Current plans for Kosovo's sustainable development are unrealistic and based on little more than political desirability and effect, with occasional manipulation of figures.¹⁴⁷ However, the final status will ultimately decide sustainability. It is likely that unless Serbia and Kosovo Serbs see some 'justice' on the political front during the current negotiations, backed up by realistic prospects for their long-term survivability, those populating the isolated enclaves will emigrate to the north – either towards Mitrovica or Serbia proper.¹⁴⁸ This alone will bring into doubt the 1999 intervention and the objectives of NATO and the West.

There is no doubt that sustained international engagement (and presence) is a critical condition for Kosovo not sliding towards a failed state. Moreover, if Kosovo is to succeed as a multi-ethnic society, then efforts towards the Kosovo Serbs and other minorities must be increased substantially. Otherwise, the Kosovo Serbs' current struggle for survival in the province is simply unviable.¹⁴⁹

Current Negotiations

After 5 years of waiting for the dust to settle, the international community has forced the issue of status negotiations for a variety of reasons – most importantly out of conviction that the *status quo* can not be maintained and the desire for a gradual disengagement from the province.¹⁵⁰ Little has been achieved. There still exist two distinct viewpoints, not including the 'interests' of the international community. The main issue on the table is the status issue, i.e. sovereignty and the level of independence Kosovo should have. Two equally important elements are the issues of decentralisation with minority rights and the mandate of a new UN (NATO and EU) presence on the ground. Sustainability of all these is the underlying desirable factor.

Serbia's objective is to maintain some form of sovereignty over Kosovo, based primarily on legal and historical right. It has more or less accepted that Kosovo is independent but wants some limitations to this independence for a variety of reasons, the most important being the rights of Kosovo Serbs within the province. As such, Serbia's starting position is UNSC resolution 1244 (99). It recognises that much wrong has been done in the past and in recognition of the Contact Group preconditions, Belgrade has sought to present a flexible approach in its negotiating position, promoting the slogan 'less than independence, more than autonomy'.

Serbia's negotiating team entered negotiations offering Priština 'Essential Autonomy'. This has been interpreted to mean that Priština would have all the institutions that it has now, giving it almost complete independence, short of a seat in the UN and a Foreign Ministry. Furthermore, there would be no Ministry of Defence, as Belgrade proposes Kosovo to be a demilitarised zone.¹⁵¹ In effect what Belgrade is offering is almost the same as Kosovo had under the 1974 constitution. It is likely that Belgrade entered the negotiations with such a platform, given the need for domestic consensus and to leave scope for compromise and bargaining during the latter stages of the process.

The problem for Belgrade since 1999 has been making the West listen. The Serbian negotiating team has some useful and good ideas, but the main problem is that they come from Belgrade and not many are interested in addressing them. The common view is simply "Belgrade should not be telling us (the West) anything about

Kosovo". The natural questions are therefore what is the purpose of the negotiations and how important Belgrade really is in the whole process.

The Kosovo Albanian position is clear: nothing short of absolute independence.¹⁵² It is important to note that this position is not new, nor is it based on the actions of Milošević's forces during the late 1990s, but dates back decades.¹⁵³ *"The people of Kosovo will decide their own future...If Kosovo does not become independent, there will be serious consequences"*¹⁵⁴

The problem for the Kosovo Albanian leadership is that it has managed to implement almost none of the standards requirements, for a variety of reasons, from the lack of personal desire to address the issue to an inability to influence the extremist elements of the Kosovo Albanian community. Most of the current public figures lack the long-established weight of politicians like Ibrahim Rugova.

*"Since November 2005, when Mr Martti Ahtisaari was appointed the UN Special Envoy for Kosovo, the Kosovo Albanian leaders have made significant progress in preparations for the status process. However, progress by Kosovo's Provisional Institutions and the Kosovo Albanian leadership on standards implementation and other major political processes has been too slow."*¹⁵⁵

Another argument often promoted is that independence will help end extremism within the Albanian community. It is clear that the basis for negotiation has been a threat of violence. In effect, the main reason for Kosovo's independence is not the impossibility of alternatives, but rather the lack of will by the international community to deal with this threat.

At this stage two observations regarding the role of the international community in the ongoing status negotiations stand out:

- The continued divergence of views among the Contact Group and the UN Security Council.
- The desire for a solution, with little institutional memory and logic, based primarily on personality-driven agendas and interests.

As far as the local actors are concerned, the main international factor is the United States. Second in line comes the EU, led by the Contact Group member states, with the UN third in line, despite the fact it is the final sanctioning body.

Many Serbs remember 1999, including the younger generation, seeing NATO's actions as unjust and the 'collateral' civilian damage as criminal. However, there is a significant minority who agree that the engagement of the West is necessary as the only lever that will enable Serbia to move forward and in the case of Kosovo help resolve the dispute. Even among this group many believe the West is biased towards one side and ignoring the other. There certainly is some truth in this 'double standards' theory. At the very least many fail to understand how the West can ask Serbia to move forwards, when many decision-makers in the West have not made such a shift themselves – still perceiving the need to punish Serbia for past wrong-doing.

Last November the Contact Group issued a set of Guiding Principles for the Kosovo status process. While it did not specify an outcome, it did laid down three conditions that form the basis for the current negotiations: there will be no return to the pre-1999 situation in Kosovo; there will be no changes in the current

territory of Kosovo, that is, no partition; and there will be no union of Kosovo with any country or part of any country. Furthermore, the Contact Group stipulated the following desirable guidelines:

1. A negotiated solution should be an international priority and once started will be brought to a conclusion
2. The issue should be fully compatible with international standards of human rights, democracy and international law and contribute to regional security
3. The settlement of Kosovo's status should contribute to realizing the European perspective for Kosovo.¹⁵⁶

US Ambassador John Bolton reinforced the Contact Group principles when he addressed the UN Security Council:

"The final settlement of Kosovo's status must enhance regional stability, promote democratic government and accelerate Euro-Atlantic integration of the region...Any status outcome must be acceptable to the people of Kosovo...We must be realistic about possible outcomes. Independence is a possible option.

"We have to keep in mind that the violent disintegration of Yugoslavia, the ethnic cleansing and humanitarian crisis of 1999 and the extended period of international administration under UNSC resolution 1244 make Kosovo a very, very special case."¹⁵⁷

The West says that it understands the importance of Serbia to the West and its objectives in the region and within this it accepts the importance Kosovo has in Serbia, especially in terms of the domestic political scene. As recently explained by Rosemary Di Carlo, Deputy Assistant Secretary of State for South Central Europe at the State Department, 'The political process to decide Kosovo's status is not a reflection on the current government of Serbia and Montenegro'.¹⁵⁸

As some have explained the strategy, it is in fact for Serbia's own good, just that Belgrade does not see it:

"We do argue for Kosovo's independence and we never hid this position. But, this is not because of any special love towards the Albanian side, but because we feel that this is the smartest solution for this region – when looking at both the Serbian and Albanian side. It is not in the interest of the Serbian state, nor in the Serbian national interest, to keep Kosovo."¹⁵⁹

This lack of neutrality is a clear worry for Belgrade. Officially most international officials dealing with Kosovo have argued that the West is only facilitating the status negotiations, with the focus being on an agreement between Belgrade and Priština. However, such arguments do not sound convincing on the ground.¹⁶⁰ For example, during a recent visit by a senior Foreign Office official to Belgrade and Priština, a statement was made that 'independence was, naturally, an option and some would say the only sustainable option'.¹⁶¹ This was interpreted by most in Belgrade as a 'probing' way to say that the Contact Group had already reached a decision on the matter. The real reason is probably that the West is trying to put pressure on Belgrade towards a compromise that will ultimately be to its liking. Other high-level officials have stated similar views, with little impact on Belgrade apart from further entrenching or upsetting the decision-making circle.

Other forms of pressure on Belgrade include the use of conditionality. The time factor clearly puts more pressure on Belgrade than it does on Priština, which has only one objective in mind. Membership in international organisations is a further tool to impose pressure on Belgrade. For example, Nicholas Burns recently stated a US condition with regard to Serbia's NATO aspirations, in order to persuade Serbia to seek a settlement.¹⁶² However, this form of conditionality will simply not work, as the stakes are not high enough nor timely.

Until recently, Belgrade saw Russia as a counter-balance to unreasonable Western demands against Serbia's territorial integrity. However, it was realised that Moscow might once again side with the West because of its own interests.¹⁶³ Indeed, recently Moscow has indicated a change in its policy.¹⁶⁴ New thinking was advanced by President Vladimir Putin in January 2006, when he said that any future recognition of Kosovo's independence will create a precedent which could be universally applied to other unrecognized states.

"Western colleagues would like to have it written down that the Kosovo settlement will not create precedents for conflict situations in neighbouring countries... We do not agree with this."¹⁶⁵

Moscow's most likely aim is to use the Kosovo model as a way of preventing Western involvement in its own efforts to 'resolve' post-Soviet conflicts, at a time when both Washington and Brussels are contemplating increasing their involvement in these areas.¹⁶⁶ Simply put, it wants a tool to carve Abkhazia and South Ossetia away from Georgia. For this reason it does not see Kosovo as a special case, as argued by the Contact Group, especially the United States.¹⁶⁷

Decentralisation – the way out?

The key to this subject is the commitment by all sides at the current negotiations that Kosovo must remain multi-ethnic. Serbia's interests in Kosovo relate primarily to the small Serbian community still present and a number of religious and cultural locations within the province. According to Kostunica, the main issue is how decentralisation will work on the ground:

'how will the Serbs live in municipalities where they represent the majority and how in small enclaves...what will be the status of religious and sacred objects...Thus, the main thrust of initiatives should be on how to prevent people leaving...'¹⁶⁸

While at a practical level Belgrade's and Priština's positions on decentralisation do not differ that much, at a broader level the two viewpoints go to the heart of the problem: fundamentally opposed starting positions.¹⁶⁹ Whereas for Belgrade the decentralisation debate is directly connected to the status issue, for the Kosovo Albanian side it is simply a matter of reforming local administration – fearful that too much power at local level could lead to a division of the province. However, decentralisation is not only a matter for the Kosovo Serbs and other ethnic minorities, but a design for a better functioning Kosovo as a whole.¹⁷⁰

The strongly opposed positions are seen in the latest Kosovo Serb boycott of the current negotiations, saying they would not accept being treated as a minority group. Belgrade wants the issue of minorities to be addressed in the final settlement. As an advisor to the Serbian President and a member of the Serb negotiating team explained, 'They (Kosovo Serbs) are a constituent nation of

Kosovo...they feel they cannot be degraded as a minority...futhermore, it would be accepting the results of ethnic cleansing that has happened after June 1999...¹⁷¹

Issues that will need to be agreed in detail include new municipalities, their size, power sharing arrangements and so on.¹⁷² Since 2002, when decentralisation was first addressed in a serious manner, it has been realised that new municipalities will need to be established.¹⁷³ Discussions between the two main groups have taken place under UNMIK auspices and on this subject there is reasonable agreement. After the March 2004 disturbances, Belgrade drew up its own plan, which has received minimal interest from both UNMIK and the Kosovo Albanians, leading to the boycott of Kosovo elections the following year. This has negatively impacted on the position of the Kosovo Serbs and drew attention to the division within Serbia on the subject of Kosovo.¹⁷⁴

The Belgrade plan provides double guarantees to Serbs in Kosovo if Belgrade got its own way – as the province would be autonomous within Serbia and the Serbs within Kosovo would be directly connected to Belgrade.¹⁷⁵ These direct links would be primarily in areas such as culture, healthcare and education. The Serbian side is also asking for increased local competencies related to finance and security at municipal level, something Priština is strongly opposed to. The solution will probably be between the Ohrid model adopted in neighbouring Macedonia and the Serb position.

If the policy is for a multi-ethnic province, then the argument should be against creating ethnically based divisions. However, this might be the only option as the hatred and animosity between the two sides will take a very long time to reach normal tolerance levels. Any argument to the contrary is simply based on wishful thinking.¹⁷⁶ Furthermore, there already is division along ethnic lines, as the Serbs have for the past 6 years lived in isolated areas, although with no legal form.

The question during the negotiation is whether the Kosovo Albanians can accept a solution that does not have the consent of the Serb community in Kosovo, especially with regard to the parallel structures currently in operation within Serb areas. If the Kosovo Serb community does not agree to disband these, a tactic used by the Kosovo Albanians during the 1990s, then Priština will have a serious problem. In this respect, Mitrovica is a particular concern that will be much easier to address with rather than without Belgrade's backing.¹⁷⁷

The goal of the latest UN suggested plan, following several rounds of direct talks between Belgrade and Priština, is to improve good governance by bringing administration closer to the cities and to address concerns of ethnic minorities. It would allow municipalities to establish partnerships on concrete issues such as education, health and cultural affairs and also to establish an association of municipalities. However, a difficult point was whether to include displaced persons in the population count or just look at the situation as it is on the ground.¹⁷⁸ The issue of returning Kosovo Serbs is still very much an unknown. As explained by Albert Rohan, the UN Deputy Special Envoy:

“On the one hand nobody wants to create ‘ghost municipalities’ in the hope that somebody may come...On the other hand there is the hope of the international community – that the maximum of people will indeed return.”¹⁷⁹

The problem is even more complex with regard to the Serb minority within Kosovo.¹⁸⁰ Will it stay or leave, especially the southern enclaves? The aim is to

ensure substantial autonomy for local communities in administering their own affairs and to bring them up to European standards. It is not just about giving minorities a stake in the future of Kosovo but also about bringing the central government closer to the people.

There has also been much criticism about Belgrade's attitude towards the Kosovo Serbs, even when it comes to decentralisation.¹⁸¹ There is an obvious conflict of interest between the two sides of the same team, although both aim to keep Kosovo linked in some way to Serbia. Belgrade is fighting for status, while the Kosovo Serbs are fighting for what they see as the basis for their survival.¹⁸² Many have accused Belgrade of using the decentralization issue as a bargaining chip, rather than a negotiating tool. In this context the Serbs will have to be aware of the dangers of placing too much emphasis on decentralisation alone, as this may suggest the acceptance of the premise that the status issue has already been decided and that the current negotiations are nothing more than a smoke-screen. There is an obvious need to get the Kosovo Serbs more closely engaged in the status negotiations, as without them Serbia will lose its last 'living' link with Kosovo and the international community its dream of a functioning and sustainable multi-ethnic Kosovo. The Contact Group, which is keen to have agreement at all levels, should address this issue.

Related to decentralisation is the idea about partition, which is frequently floated.¹⁸³ Many, including Priština, regard it as Belgrade's Plan B. The Contact Group is against any form of partition, fixated with an almost idealistic vision that a sustainable multi-ethnic society will thrive over time in Kosovo. As explained by Albert Rohan,

*"We want to give municipalities a maximum of competencies, they should be able to run their affairs, always within the limits of the Kosovo legal status...this does not mean and can not mean the creation of a separate entity which is, so to speak, taken out of the normal legal institutional structures of Kosovo. We shall oppose any division, or internal division of Kosovo, and we shall also oppose any third layer of governance between the central authorities and the municipalities."*¹⁸⁴

Since *de jure* partition has been excluded at the highest political level, a *de facto* disguised partition or separation is an option, at least in the short to medium term.¹⁸⁵

Status - The End Game

Although still early days by any standard, especially for such a complex issue, the fact that some in the international community are pressed for time, raises the importance of this question.¹⁸⁶ The limited options under such circumstances become even more limited, as political interest and manoeuvring replace logic and procedure. Moreover, the awareness of the time limit – while playing a role in terms of applying pressure – hinders the scope for mutually acceptable compromise, meaning that the only way to reach a solution will be to impose one, endorsed by a new UN resolution.¹⁸⁷ Albert Rohan suggested that the international community will have to consider the middle ground, as the two negotiating sides are not ready to compromise.¹⁸⁸

The key for the international community is preventing a failed state. However, at a local level the dispute is fundamentally about control of territory.¹⁸⁹ A compromise agreement between Belgrade and Priština is vital in terms of long-term stability and

development. Furthermore, such an approach has support in the region as well.¹⁹⁰ A major problem is that the negotiations are still seen as a zero-sum game and giving (or reaching compromise) as a loss (or capitulation). For this reason the likelihood of achieving the required compromise is almost non-existent, forcing upon all sides the only other option – an enforced final status. Any such solution will have to base its proposals on the following if the desired objectives of a sustainable and multi-ethnic Kosovo are to be achieved:

- A zero-sum game is not possible – both sides have to perceive they have won something¹⁹¹
- Any solution must be endorsed by the UN and all other international actors and key Contact Group members – unanimously, not just on paper
- There should be a time limit, as the *status quo* is not sustainable, but this time limit should be reasonable. The end of 2006 is rather optimistic, naïve and counter-productive.

The West should stick to its main principles regarding the negotiations: functional, just and final. As a result what will be needed is innovation. However, as Kai Eide's UN report suggests, a 'lessons learned' approach must not be ignored, especially from the region. It will also be impossible to ignore the basic principles of international order, just as the international community will have to maintain a presence for a significant period of time to come.

This paper argues that the notion of full independence (sovereignty) for Kosovo as the only possible solution has NO standing, not even in *realpolitik*. Firstly, it has dubious legal standing.¹⁹² One can start at the Montevideo Convention of 1933 which provide guidelines for the recognition of new states, none of which are met in Kosovo.¹⁹³ The 'Declaration on the Guidelines on the Recognition of New States in Eastern Europe and the Soviet Union' issued by the EC Foreign Ministers in December 1991 is relevant, as is the Badinter Commission, both of which deal with the former Yugoslavia and are negative towards Kosovo independence.¹⁹⁴ Even if one is to go back to the 1974 Constitution, then it is clear that Kosovo was never a constituent republic, although it had almost all the institutional aspects. The 1974 constitution clearly distinguishes between 'nations' and 'nationalities'; the latter had mother countries outside the former Yugoslavia. Accordingly the Hungarians in Vojvodina and the Kosovo Albanians were regarded as minorities and did not have any right to self-determination and secession.

Secondly, based on the above the precedent would have detrimental effects on international order and other frozen conflicts and secessionist aspirations. In this respect the question is: would Kosovo's independence be perceived broadly as an instrument of 'conflict management' or simply as 'appeasement' towards the Kosovo Albanians within the province?

Lastly, the claim that Kosovo is a 'special case' is simply unrealistic and dangerous. Such a view can not be imposed by an article in the final status document. It is seen as a political statement with a clear objective. It implies a political rather than a legal or even logical interpretation, clearly against several Contact Group Guiding Principles. However, recent years have witnessed recognition of new states moving away from a legal and closer to a political domain. In other words, such decisions tend to be taken on political desirability and power equations at a given time.¹⁹⁵ The current status negotiations have gone a long way in this direction, unimaginable only a few years ago.

Considering all the above, only two real options that meet all the criteria come to light. The first option is closer to the Serbian view, where Kosovo would get ‘independence without full sovereignty’ while the second option is closer to the Albanian side with ‘controlled’ sovereignty where the Kosovo Albanian side would get full independence, but circumscribed through decentralisation, through which Serbia would get recognition of its historical and religious links.

The third option, ‘conditional independence’ as suggested by the International Commission on the Balkans in 2005 makes little sense. Once recognised a state can not and need not apply for recognition again. In other words, it can not be de-recognised if it fails to meet the conditions – as has been the case so far. It either has sovereignty or it has not. As Richard Caplan correctly argues, ‘the potency of conditional recognition, although considerable, is not enduring, while the reform it seeks to effect needs to be’.¹⁹⁶

This paper argues that considering all the above, the best option is ‘independence without full sovereignty’. It would:

- Represent a move beyond that given to Kosovo in 1974, reflecting Serbia’s action in the province during the 1990s
- Meet Belgrade’s desire to retain some link to Kosovo, *de jure* but not *de facto* and indirectly support the idea of a multi-ethnic Kosovo supported through decentralisation
- Provide the Kosovo Albanians with international guarantees of independence, making sure Belgrade never rules over their lives again. It would also go beyond the level of independence they enjoy now, by providing access to international financial institutions.
- Be in line with legal advice and thus support the prevailing international order, without introducing a new precedent that could never be defended as a special case.

This solution is not close to current thinking and may sound unusual and awkward. However, this is a small price to pay and should be considered seriously as the best solution. Moreover, it would be based on precedent, represented by the case of Taiwan.

The second option, while realistic and practical on the ground, would over time turn into disguised partition which is a risky option to pursue. It could only be balanced by strong international guarantees, i.e. long-term political commitment and strong EU support towards eventual membership – but this would again mean conditionality or the use of coercive diplomacy backed up by force.

If the above argumentation is accepted, then again the question of conditionality comes into play. Jacques Rupnik recently repeated an often stated view: “The only way to obtain important concession on all sides’ incompatible nationalist agendas is the promise of a more important gain, which can only be membership of the EU.”¹⁹⁷

However, while Kosovo will not be able to survive isolated and will be moving towards EU integration, any accession process is not as straightforward as some suggest. As the EU Enlargement Commissioner Olli Rehn recently stated:

*“The EU will...help Kosovo to make progress towards its European aspirations, provided its political leaders demonstrate a clear commitment to democratic principles, human rights, rule of law, and economic reform.”*¹⁹⁸

Conditionality must be consistent and targeted. Lessons learned show that it can not be used in a broad context with a sledgehammer mentality. It has not been, neither towards Belgrade nor Priština, and has thus not worked. Within the status negotiations, conditionality could yield some fruit, especially in persuading Pristina to yield more, as long as the conditions are not so costly as to threaten the very foundation of the state or its political leadership. It will not work in the case of Serbia, as suggested above, as there is little the EU can deliver in real terms – while the costs for the state and political leadership would be too much to bear.

This paper has made it clear that Kosovo is an important issue on the domestic political scene in Serbia. Although the statements and viewpoints were never unanimous, Kosovo has always been headline news. Serbia does not recognise the frequently heard justification for the loss of Kosovo based on Kosovo Albanian suffering in the hands of the Serbian state. Today most Serbs will reluctantly admit that all sides have behaved badly and that all sides have broken the rules, especially during the last decade. They see mass graves still being discovered, clearly showing that both sides have blood on their hands.¹⁹⁹ They see that what the Serbs did in the 1990s is now repeated by the Kosovo Albanians. The Serbs are now the ones operating parallel structures and boycotting any institutional engagement. Moreover, for many Serbs the Milosevic regime inflicted as much pain and suffering on its own people as it did on others.²⁰⁰ If one accepts the argument that peace is not the lack of war but the prevalence of justice, then it should be obvious that recognising that any loss of Kosovo would in fact punish Serbia even more, and continue Milosevic's destructive policy.

Serbia is also worried about future regional implications. It is worried that Kosovo might initiate a process of unifying with other Albanian lands, i.e. in the south of Serbia (Preševo valley), Macedonia and ultimately Albania – as already attempted in 2000-2001. The success or failure of the Ohrid peace plan signed in 2001 could prove a major test of this theory.²⁰¹ More recently diplomatic statements to the same effect have also been voiced.²⁰² For example, the Kosovo Albanian rejection of the negotiated border settlement between Belgrade and Skopje in 2001 is clear proof of a lack of commitment to good neighbourly relations, regional integration, European norms and practices.²⁰³

The international community has sought to address all the challenges of Kosovo's status through a set of guiding principles. While many are very important and non-negotiable, the fact that the rule of law has been replaced by political reality will mean that in future there will be no way to prevent another *fait accompli* if appeasement continues to be the preferred policy option.

Furthermore, if Serbia is the key to regional stability, any further isolation of Serbia would have serious implications, especially in terms of organised crime. This is a good place to repeat the words of Nicholas Burns:

*“Serbia to us is the keystone state in the Balkans. If the Balkans is going to be an area of increasing prosperity and stability, Serbia has to be a successful story.”*²⁰⁴

CONCLUSION

***'It is not the same as before, but Serbia is not sufficiently different.'*²⁰⁵**

Serbia is still rife with nationalism, with much resting on the Kosovo issue. For significant segments of the population there is an inability to be rid of the past, accept reality and move towards the future.

The democratic bloc is not unified and has shown little courage and inventiveness in addressing Serbia's real problems, rather preferring a *status quo*. In this context the real question is when is one reformed? Can one be transformed overnight into a reformist, modernist and pro-European, just by implementing one act – in most cases not on one's own initiative? This is the dilemma the West is facing in Serbia. Has the DSS changed from the days when its leader was heavily into nationalist rhetoric – albeit soft? Has the DS put its corrupt past behind it, and is it really a 'force for positive change' as suggested by its leader Boris Tadić,²⁰⁶ on the 5th anniversary of Serbia's October revolution and on exactly the same day as the DS voted to walk out from Parliament.

The concept of local ownership in Serbia is strong in terms of desires but weak in terms of implementation, especially relating to strategic policy commitments and promises made. Euro-Atlantic integration is the chosen strategic policy objective of Serbia. However, the problems identified above mean it is not easy to move as quickly as some would like in this direction. Serbia is strategically the most crucial country in terms of regional stability. However, in terms of integration with the West, it is certainly the last in the chain of aspirant countries from the region. Reasons for this are numerous, resting heavily on the shoulders of Belgrade, but also those in London, Brussels and Washington. While the regime of Slobodan Milosevic was negatively positioned towards Euro-Atlantic integration *per se*, the successive pro-democratic leaderships in the last six years have done little more than just state a policy orientation towards the West in a formal way.²⁰⁷ Naturally, at the lowest level of analysis one can blame the lack of cooperation with the ICTY as the crucial factor determining progress. While this is certainly a real stumbling block it is not a justification for the slow progress Serbia has made to date.

The role of the international community must not be ignored, as it represents the equally important other side of the coin. It is argued that the West has so far failed to deliver on its policy objectives in the Balkans. If after more than a decade we are still struggling to understand which way will Serbia go, whether in the direction of Belarus or Slovenia, then this obviously casts into doubt the usefulness of the hawkish policy, whose principal instrument has been conditionality with almost nothing in the form of carrot, and much in the form of stick.

The failure of the international community to help Serbia help itself must not be excluded from any analysis. Is this a just criticism? The answer can be found between Serbia's strategic desire to integrate with the West and the West's desire to continue to play a role in the Balkans within which Serbia is recognised as the most important actor. In other words the West, having become involved, has an obligation to help the democratic bloc in Serbia, not just for the sake of Western policy objectives, but also for the sake of Serbia - to help improve the quality and tempo of reform in Serbia. Only this will guarantee a long term ally in this important Balkan country.

The way the current Kosovo status negotiations are handled will be detrimental for Serbia, especially in the short to medium term. Can the West afford Serbia to slide

away from a desirable path, even for the short to medium term? This is something serious Western policymakers must address immediately. Economic development and the prospect of EU membership are the best carrots that can be offered in the short to medium term and any deviation from this policy will have negative impacts not only on the region but Western interests as well. There is a natural logic in replacing Kosovo with accelerated EU prospects. However, not only does Belgrade not accept this logic, but it is simply not realistic, as it can not be implemented.

Endnotes

¹ See 'Rebuilding Weak States' in *Foreign Affairs*, Jan/Feb 2005.

² The term 'Kosovo' will be used henceforth with reference to the Province of Kosovo & Metohija (*Socialist Autonomous Province of K&M*), within the borders defined by the former Yugoslav (SFRY) Constitution of 1974 and in recognition of its current legal status as defined by the UNSC Resolution 1244 (99). It does not in any way refer to any future political or status connotation.

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⁵ A good example is the recent funeral of Slobodan Milošević attended by over 50,000 people, and the one (two) minute silence that was allowed in the Serbian Parliament. See: 'Milosevic divides Belgrade in death' in *BBC News*, 18th March 2006 and *Danas*, 15th March 2006. For an interesting perspective see: Jacques Rupnik, 'The demise of Balkan nationalism? A sceptical view' in Judy Batt (ed.), *The Western Balkans: moving on*, Chaillot Paper No. 70, ISS-Paris 2004.

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See:

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