


Advanced Research and Assessment Group

Balkans Series

07/31



What Could the EU Accomplish in Kosovo? Between the Hammer and the Anvil

Aleksandar Vidojević

October 2007

Defence Academy of the United Kingdom

What Could the EU Accomplish in Kosovo? Between the Hammer and the Anvil

Aleksandar Vidojević

Key Points

- * The EU presence in Kosovo is critical to prevent possible conflicts and further disintegration of the region;
- * A multi-ethnic Kosovo has failed and can not function if the current state of affairs persists in the short and medium term;
- * The EU integration mechanisms could bypass the conflict of principles of state sovereignty and self-determination, which is one of the key problems of the Kosovo crisis.

Contents

The EU and Kosovo	1
Could the EU integration mechanisms cure the root of the Kosovo crisis?	3
The EU in a sandwich	6
What is the way forward?	7

What Could the EU Accomplish in Kosovo? Between the Hammer and the Anvil

Aleksandar Vidojević

The EU and Kosovo

The basic question that anyone from the EU has to ask him/herself is what we can do if Serbs and Albanians do not want to live with each other in Kosovo? Furthermore, is EU interference necessary and helpful if the level of animosity is so high that the local players are even ready to physically exterminate “the other side”?

The obvious answer is that the EU, the USA and the international community have to be involved in Kosovo, or things could escalate even more. In addition, many decision-makers and scholars from the West would argue that Operation Allied Force which, according to them, was a “humanitarian intervention”, prevented further ethnic cleansing in Kosovo and saved many civilian lives. Therefore, the common opinion in Western circles is that NATO military intervention in 1999 was morally justifiable, although perhaps not on the firmest legal ground since it was not explicitly approved by the UN Security Council under Chapter VII of the UN Charter.

Although the USA masterminded Operation Allied Force both politically and militarily, EU involvement was significant. Even more important is the fact that the EU role in post-conflict reconstruction of Kosovo is pivotal. Ambitiously proclaiming its goal to create a “robust and modern economy”¹ in Kosovo the EU, under UNMIK Pillar IV, set a long term goal which would not be easy to accomplish. Working under the UNMIK structure, the EU in Kosovo established close cooperation with the Kosovo Provisional Institutions of Self-Government in order to assist Kosovo in reforming its economy and to help integrate it into the regional and global marketplace. The Union donated to Kosovo around €1.6 billion through the Community Assistance for Reconstruction, Development and Stability (CARDS) programme.² A major facilitator of the CARDS programme in Kosovo is the European Bank for Reconstruction and Development (EBRD).

In addition to the economic development of Kosovo and the Western Balkans in general, the EU holds another powerful ace – the enlargement process. The prospect of EU membership is a powerful incentive for institutional and market reforms in all Western Balkan countries. After the Copenhagen European Council (1993) which was recognized by the Zagreb Declaration (2000) and Thessaloniki European Council (2003), the EU firmly committed itself to boost the process of integration of the Western Balkans into the EU. Since the EU recognized all Western Balkan countries as potential candidates, the EU is in a process of negotiation with each of them about its path to joining the Union (the Stabilization and Association Process). Croatia and the Former Yugoslav Republic of Macedonia are candidate countries, Albania and Montenegro have signed Stabilization and Association Agreements (SAA). The only two who are behind the other countries of the region are Bosnia and Herzegovina and Serbia, which still have not signed a SAA. Although Serbia recently

completed technical talks, it is not clear if it can sign the SAA with the EU due to the lack of cooperation with the International Tribunal for War Crimes in the former Yugoslavia (ITCY).

However, Kosovo could not be treated in the same manner as an internationally recognized state since its future status has not yet been determined. Kosovo is still a Serbian province under UN administration, so the EU needed to take a different approach in its case.³ For the EU, implementation of the Standards for Kosovo (UNMIK's standards before status policy, etc.) is a major element in Kosovo's European perspective. Institution building and institutional reform along with the rule of law are some of the key EU priorities in Kosovo. Therefore, mechanisms were created to track whether Kosovo complies with the standards required. The first European Partnership Action Plan (EPAP) for Kosovo was prepared in January 2005. The Kosovo government then prepared the present Kosovo European Partnership Action Plan (2006) which now provides the framework for the EU and Kosovo relationship. This envisaged Kosovo's integration with the EU without reference to the integration of Serbia (however, at the beginning of the plan it is clearly expressed that Kosovo's status still needs to be resolved). The plan defines areas where standards need to be improved and provides specific recommendations and mechanisms. An evaluation of the implementation of standards will be reviewed by the SAP (Stabilization and Association Process) Tracking Mechanism (STM)⁴ which was created specifically for Kosovo. Olli Rehn, EU Enlargement Commissioner, said in April 2007 that Priština would follow the same EU accession model as the other Western Balkan states. He added that "Kosovo had a clear European perspective" and that "as the rest of the region, it will have to meet the same conditions in order to make progress on the road of EU integration". He concluded that "after the status settlement, a new European partnership for Kosovo will have to be adopted to spell out the priorities for Kosovo to move closer to the EU".⁵

Along with its economic and political roles, it is likely that the EU's military role in Kosovo might grow in the future. That includes some additional aspects which are not incorporated into the EU mandate under Pillar IV of the UNMIK structure. These new tasks will bring additional involvement of the EU in the context of the European Security and Defence Policy (ESDP) and the monitoring of implementation of any agreement on the Kosovo status settlement. Therefore, the European Council decided to establish the European Union Planning Team (EUPT) on 10 April 2006. The main responsibility of the EUPT is "to prepare a possible future EU crisis management operation in the field of rule of law and possibly other areas in Kosovo".⁶ The Union is preparing to take over UNMIK administration over Kosovo after the resolution of the future status of Kosovo. However, the EU makes a clear division of labour among the International Civilian Office (ICO), the ESDP mission and the European Commission (EC). The ICO and ESDP mission will assist the local population to implement a status settlement, while the EC will help Kosovo institutions to improve their governing capacity, to meet EU requirements.

According to preliminary plans, the ESDP mission in Kosovo will be the largest one, consisting of "1400-1800 police, judges, prosecutors and customs officials from EU member states as well as from invited third party states".⁷ Additionally, although NATO will stay in charge of maintaining security in Kosovo, it is likely that KFOR will be transformed into EUFOR troops. However, there would be no major shift of troops on the ground since most of the KFOR troops in Kosovo come from EU member states.

The EU is trying to shape the future mission in Kosovo according to the model from Bosnia and Herzegovina when the EU took over the UN's role in civil administration

and the peacekeeping operation. In practice this means that the UN administration in Kosovo will be replaced by an EU administration with far less authority. The main goal of the EU is to help Kosovo institutions handle the transitional period from UNMIK rule to independence. The other goal of the EU is to be a watchful eye in Kosovo over its development and to monitor its compliance with the rule of law, its protection of minority rights, and to combat organized crime, as well as oversee the implementation of other standards that the EU has set for Kosovo.⁸

The EU plans to create special kind of representation in Kosovo that would replace the institution of the UN Special Representative of the Secretary-General (SRSG). The ICO should be led by the international civil representative, who would also have the capacity of the EU Special Representative (ICR/EUSR). This hybrid model, or as the EU likes to call it, “double hat”, should have some reserved but very limited executive powers, very moderate in comparison to the SRSG.⁹

Could EU integration mechanisms cure the root of the Kosovo crisis?

Regardless of the arguments, analysis and macro-mechanisms mentioned above, one needs to ask how effective EU macro mechanisms will be if there is very little improvement on the micro/community level. That is primarily associated with insufficient progress of institution building, responsible local governance, proper functioning of judiciary and local police and refugee return. One can notice huge discrepancies in attitudes and practices among local communities in Kosovo.

In addition, it is unclear to what extent the citizens of Kosovo and Serbia truly want to adopt European values. Is it possible to impose a progressive institutional structure on a society which has no experience with these models, and cultural underpinnings that do not necessarily support those structures? If such a model is implemented, what is the likelihood of the model taking root and functioning effectively for the people? The dilemma is clear: while the EU certainly must assist in the stabilization and nation building process of Kosovo, the most effective way to achieve those goals depends on local will.

It is well known that the EU was born out of the effort to create a positive economic interdependence that would prevent future wars between nations. Therefore, one could safely say that multi-ethnicity is the binding glue of the EU and its foreign policy. However, not all the nations in Europe have reached a point where they can put ethnic differences and conflict behind them. Maybe one of the most important and the most controversial truths is that the model of peaceful multi-ethnic life in Kosovo has failed. Massive violence, a high level of ethnically based animosity, and almost endless mutual attempts to drive each other out of Kosovo, point to the conclusion that Serbs and Albanians cannot live together in Kosovo at least at present. Among the darkest sides of the Serbian – Albanian relationship are numerous atrocities that these two groups have committed against each other. Unfortunately, cycles of violence and ethnic based hatred have become the leitmotiv of their relationship. The question is where that hatred comes from. One might argue that this mutual hatred derived from fear, negative stereotypes, anxiety and an inability to integrate into a common society due to differences in language, way of life and other cultural elements.

The history of Kosovo was often used by Kosovo Albanians and Serbs for national mobilization, as a source of nationalism and for the creation of negative images of the other side. “National interpretations” of the history of Kosovo and manipulation

by politicians, the media and some scholars have contributed to negative stereotypes which have deepened the gap between the two communities. The leading leitmotiv of those stereotypes was the creation of images of victimization and suffering caused by unjust oppression by the “other side”. History was often used in the service of daily policy and the on-going needs of political leaders.¹⁰

One important clarification which should be made is that *multi-ethnic life (life with each other)* includes certain common elements and mutual integration in spite of ethnic, cultural and religious differences (tolerance, shared values, mixed marriages – this can be seen in Bosnia and Herzegovina). On the other hand peaceful *coexistence* does not include elements of integration or ethnic mixing and could be defined as *side by side* life of two or more ethnic communities. It does not include any kind of integration. In my opinion both of those models have failed in Kosovo. The two nations cannot live with each other. However, all citizens should have the right to live in their homes, and nobody should be forced to move somewhere else. That also includes the right of refugees and displaced people to return to their homes in Kosovo.

“Population exchange” could not work in Kosovo because it would introduce new conflicts; it has failed in the other regions of former Yugoslavia. Ideas and plans for a “population exchange” produced suffering and destruction in Bosnia and Herzegovina, and after three years of war none of the sides was able to implement their cruel models in spite of mutual atrocities and ethnic cleansing. Bosnia and Herzegovina is perhaps not a role model for multi-ethnicity, but peaceful coexistence among the three nations does now function at a satisfactory level.

In spite of some modest efforts of UNMIK and the Kosovo government to help Serbian refugees and displaced people to return Kosovo, the process is slow and insufficient. Serbian returnees face significant obstacles and the hostility of local Kosovo Albanians. Under such conditions it is very difficult to see how multi-ethnicity can survive in Kosovo. However, there are already instances of multi-ethnicity in Kosovo: Kosovo Albanians are on good terms with local Turks, Ashkali, Egyptians and Bosniaks who are also Muslims like the majority of Kosovo Albanians. However, a truly multi-ethnic society should be made up of all inhabitants who lived in the province before 1999. That also includes Serbs, Montenegrins, Gorani and Roma. The international community was fully justified in stopping ethnic cleansing and the genocidal deportation of Kosovo Albanians in 1999. Kosovo Serbs and other ethnic groups whose rights are in jeopardy in Kosovo nowadays should have the same treatment.

Following the example of Serbian-Croatian relations where inter-ethnic distance and a level of distrust might stay very high for the next 10-15 years, relations could gradually improve if there are no open issues. However, that is not very likely since Kosovo is considered by both sides as a territory that has always belonged exclusively to them. Such is the core of the Kosovo conflict. Since future status is being seen as a zero sum game by both sides, one side will lose and there will always be the open or hidden goal to return to the control of the side that lost it.

Despite this, the EU and the international community in general should not give up the goal. Surrendering to the ghost of nationalism and sacrificing multi-ethnicity in Kosovo could, in the long run, erode European values. On the other hand, the EU has to be aware of the blunt truth that in order to shape its future role in policymaking, it needs to avoid the traps of wishful thinking. The real dilemma is what the EU could do as the *de facto* government in such a situation, where it has very little ability to influence the core problem – the inability of Serbs and Albanians live in peace.

However, the EU and the international community should not solely take the burden of resolving problems of interethnic relations, institution building and the economy. The stability of Kosovo also depends not only on the ability of Kosovo institutions to function properly and provide citizens with a normal life, but also on their capability to maximise assistance provided by the EU and international community. So far the performance of the Provisional Institutions of Self-Government (PISG) has a mixed record. In spite of some positive developments there are numerous obstacles in their work. The PISG have to cope with serious challenges, starting with daily electricity supply and underdeveloped basic infrastructure up to insufficient refugee return and a low level of Serbian participation in the institutions. This could be complemented with a long list of problematic issues such as: weak institutions, organized crime, poverty, unemployment, corruption, underdeveloped healthcare and educational systems.

Although one could notice serious efforts by institutions of local self-governance in Kosovo to consolidate services and improve the general standard of living at provincial and municipality levels, these efforts still need greater political, financial and logistic backing by the PISG and international administration. Unfortunately, decentralization and municipality self-government have become highly politicized topics connected with the Kosovo status issue. That produced additional obstacles to reform and development of the municipal institutional system.

The performance of local police and judicial systems in Kosovo, especially related to ethnically motivated crimes, represents a serious barrier not only to stability but also to faster development of the province. According to the OSCE Report on the Administrative Justice System in Kosovo, in April 2007 courts at all levels in Kosovo were overloaded with cases. It is not uncommon for cases to remain unsolved for many years.¹¹ Although Kosovo's Assembly has adopted a criminal code, implementation of laws is still an issue of great concern. That all generates a high level of distrust in PISG among the local population. PISG and the Kosovo Assembly are among the lowest ranked institutions by the Kosovo population, with a satisfaction rating of 31% (UNMIK), 36% (PISG) and 32% (Kosovo Assembly). The special representative of the Secretary General (45.9%) KFOR (81.8%) and the Kosovo Police Service (79.3%) scored much higher.¹²

It is likely that PISG, due to various weaknesses, will not be able to function without some kind of international stewardship and assistance. Keeping in mind the EU's ambition to continue to assist the development of institutional infrastructure in Kosovo, it is likely that dependency between PISG and the EU will continue in the future. In the economic sphere the EU could continue to expand its role by providing expertise and financial support in areas such as: reform of the economic system, restructuring of state owned enterprises, construction of roads, sewage systems, water supply systems and electric power plants.

The EU may establish a similar role in Kosovo to that it already has in Bosnia and Herzegovina. Although the EU mandates in Kosovo and Bosnia and Herzegovina are different, a common point is EU efforts to strengthen institutional infrastructure on all levels in both societies. Although Bosnia and Herzegovina¹³ is in better economic position than Kosovo¹⁴ and institutions are more developed, there are still significant problems which from time to time paralyze proper functioning of the state. The current problems with the process of police reform in Bosnia and Herzegovina demonstrate the complexity and difficulty of the EU position in the nation-building process. The Dayton Peace Agreement in Bosnia and Herzegovina and UN SC Resolution 1244 in Kosovo are safeguards of peace and stability, but at

the same time they sometimes represent obstacles to progress. On the other hand these safeguards are so sensitive that even the slightest change may lead into instability. The EU High Representative to Bosnia and Herzegovina Miroslav Lajčák's attempt to change the decision-making mechanism in a multi-ethnic government in Bosnia and Herzegovina generated hard opposition by Bosnian Serbs, who believe that Lajčák exceeded his mandate, endangered the existence of Republic of Serbska and violated the Accord. The Special Representative of the Secretary-General in Kosovo made various attempts to expand the framework of UN SC Resolution 1244 in order to boost the institution building process. These attempts were characterized by the Belgrade authorities as a violation of Serbian sovereignty and the UN Resolution. Therefore, the EU should not expect a smoother ride in Kosovo when it takes over from UNMIK.

It is likely that the EU will continue to be the main nation-building force in both Bosnia and Herzegovina and Kosovo, and we can expect a long-term military, political and economic EU presence in both societies. Nevertheless is hard to predict when, or even if PISG will be able to perform their tasks independently and professionally without direct EU assistance. Chances for substantial progress in both cases are highly unpredictable.

The EU in a sandwich

The status of Kosovo illustrates a clash of two fundamental European values – the right of people to self-determination and the sovereignty of states. This is also a dilemma for many EU and non-EU countries. To name only a few, potential secessionist regions include Transnistria in Moldova, Basque regions in Spain and France; Kurdish areas in Turkey and Iraq; Abkhazia and south Ossetia in Georgia. One of the reasons why the EU policy on Kosovo is not always coherent is a legitimate concern in some EU countries of a domino effect secession. Troubled regions like Nagorno-Karabakh (Azerbaijan), Western Sahara (Morocco) and Papua (Indonesia) closely follow the Kosovo precedent in international law which could help their separatist causes.

One should also keep in mind that Kosovo Albanian leaders put independence as their ultimate demand and that they cannot retreat easily from the platform that keeps them politically alive. On the other hand it is unclear if political leaders have sufficient influence in the overall situation in Kosovo or whether there are some other decision-making circles behind the scene. According to the World Bank, the people of Kosovo are experiencing severe economic difficulties and 37% of its population lives in poverty, and 15% in extreme poverty.¹⁵ The unemployment rate is around 40% and the GDP per capita is €964.¹⁶ Recent reports indicate that Kosovo is also facing significant problems with organized crime.¹⁷ Kosovo is a very explosive place with a lot of weapons among the general population and organized crime members. One of the most acute problems its leaders and government, local and international, face is how to control those groups and how to prevent the creation of more such local armed groups. The EU should certainly plan against renewed attacks on international forces when independence does not go smoothly.

The independence of Kosovo might boost the radicalization of the Serbian political scene and its rapid distancing from the EU integration process. However, this scenario is not very likely without extreme developments in Kosovo. On the other hand, Belgrade's relationship with the EU is determined by duality. It is clearly expressed many times by various political leaders in Serbia that EU membership is one of the top national priorities for Serbia. However, there is a significant

difference among Serbian political parties how to get there. The Prime Minister of Serbia Vojislav Koštunica¹⁸ insists that Serbia should not join NATO and that Partnership for Peace (PfP) is a sufficient form of co-operation with the North Atlantic Alliance. He believes that Serbia should be a militarily neutral country which should develop stronger ties with the Russian Federation. It could happen that in the case of radicalization of the Kosovo crisis, Koštunica and his party might look for coalition partners outside the democratic block, seeking collaboration with the ultra-nationalistic Serbian Radical Party which is the strongest party in the Serbian Parliament,¹⁹ and which has argued for a long time in favour of closer collaboration with Russia in all fields, including military co-operation. The strengthening of Serbian-Russian military ties could put Serbia in the position of “a new Cuba within NATO”.

At the other side of the political spectrum is pro-West Democratic Party (DS) which controls some key ministries like Defence and Foreign Affairs. The President of Serbia, Boris Tadić, who is also the leader of the Democratic Party, seeks a second mandate as president, which is a bargaining chip among the ruling coalition and the source of pressure on the DS to make concessions to the DSS. As a result, one could have the impression that Koštunica still runs the show by making key internal and foreign policy decisions.

In addition, one should keep in mind that although both Belgrade and Priština expressed their commitment to the European integration process, they have firm links with two non-EU countries, the USA and Russia. Kosovo Albanians play more on America than on the EU, and like it or not, the EU is in a junior position in that relationship triangle.

Any Serbian government has to take Russian interests into careful consideration. On the other hand, the EU and the US influences are also very strong, so the issue is not whether these three key influences in Serbia will stay for a long time, but which of them will prevail. A poetic interpretation of the traditional Serbian heraldic symbol, the two headed eagle, could nicely depict this fundamental division in Serbian society.²⁰ One head of the eagle is looking towards the West and modernity, and the other towards traditionalism, the East and Russia (or Byzantium in older times).²¹ This all means that, in spite of some influence, the EU might not have the strongest say on the key political decisions in Serbia, despite having to manage the effects of the implementation on the ground.

What is the way forward?

Kosovo is important for the EU for various reasons. The mission in Kosovo is planned to be the largest so far, thus Kosovo is a test for the EU's ability to exercise a coherent foreign policy. So far the EU has not been able to develop its full leadership potential in the case of the former Yugoslavia and it has always needed backing from the USA. One could say that the EU is under pressure to perform in Kosovo, because its failure could produce unpleasant side effects. If the EU is not able to handle problems in its backyard, how would it play a more significant global role? Its performance in Kosovo would also affect its ability to integrate Turkey and other countries with diverse cultural and religious heritages. Unfortunately, the local actors in Kosovo might not necessarily entirely share the vision and ideals of a united Europe. They still are not sure where their national borders are, or if they are going to have their own national flag, passports, licence plates. They also do not understand entirely the idea of a united Europe or what European values are. For

them, the EU is attractive because in their perception it is primarily associated with economic prosperity, various development funds, good roads and visa-free travel.

What could be done in such situation? One possibility is to do nothing, isolate the local actors, and let them continue with mutual destruction. That could not be a valid option for the EU since it is already deeply involved in Kosovo and could not easily pull back. The other option is to try to talk reason into Serbs and Albanians at the negotiation table. Rambouillet, Vienna and recent Contact Group/Troika experiences do not leave much room for extensive optimism that the two sides could reach a compromise solution on future status. One of the reasons for the current deadlock is that both sides are hoping to get more away from the negotiation table.

Kosovo Albanians are relying on support of the USA and many EU countries and are not motivated to consider any option other than independence. They also believe that if they declare independence the US and many EU and regional countries will recognize it bilaterally or collectively on the fast track even without a resolution of the UN Security Council. Some Kosovo Albanians believe that if diplomatic efforts do not yield results in the near future, military intervention, similar to the Croatian Operation "Storm" in Krajina, could be undertaken against the Kosovo Serb population. KFOR is well aware that if they try to stop such Albanian groups it is likely that international forces will face some heavy resistance. The EU cannot afford to be dragged into a guerrilla conflict on these lines, but on the other hand, it has very little means to prevent it.

One should also keep in mind that it is not very likely that Kosovo Albanians will wholeheartedly welcome a second protectorate. Albin Kurti, leader of the Kosovo Albanian movement Vetëvendosje (Self-determination) recently organized protests against UNMIK and the international administration in Kosovo. The slogan of his movement is that "self-determination is the right of all colonized people".²² Kurti and his organization are the outspoken part of a wider movement which could include organized armed groups which are not satisfied with the slow progress of independence. Those groups hold that the international military presence and administration has lost its purpose since Serbian institutions, military and police forces were expelled in 1999. They believe that Kosovo Albanians should enjoy rights like any other nation and that the international presence prevents them exercising that right.

On the other side of the coin, Belgrade, which has significant influence over Kosovo Serbs, has a similar type of dependency relationship with Russia. Serbian – Russian ties have grown rapidly over last two years, the result of many factors including strong pressure for Kosovo independence coming from the USA and some EU countries. The West did not use the opportunity to integrate Serbia into NATO and boost its accession process to the EU after the democratic revolution of October 2000 and the ousting of Milosevic's regime. Serbia remains a geo-politically undefined country with significant internal problems and weak support from the West. Like many times in its history, Serbian society is polarized on traditional/nationalistic political lines with a pro-Russian foreign policy and pro-West, reform oriented political groups. It is likely that due to the great pressure which the West is perceived to have exerted, pro-reform forces will be marginalized, and that traditionalists will establish a more centralistic rule. That could lead to a new isolation of Serbia and even greater dependence on Russia.

It is also likely that Russia will continue to provide political support to Serbia regarding Kosovo, for its own interests. Russia has an obvious ambition to project its foreign policy power and the Kosovo case is a much-needed example in which to demonstrate its new global role. Additionally, the Russian position holds solid

arguments based on the principle of sovereignty of states and the UN Charter. However, Russia could not prevent bilateral recognition of Kosovo by the USA and the EU or by individual states outside the UN Security Council, an idea which seems to be gaining support. It could retaliate by recognizing some territories in its neighbourhood which are seeking independence from their mother states. In order to protect its foreign policy credibility Russia could also play harder on the issues of the West interest like energy supply and prices, the Missile Defence Shield, Iran, etc. However, chances for a dramatic radicalization of the West-Russia relationship over Kosovo issue are not great. In that power game, Serbia might end as the only loser, which would be not only a product of Serbia's own choices but also a consequence of the complexity of the great powers' interests that go far beyond Serbia's reach.

On the other hand, Belgrade is not keen on using force to resolve the Kosovo conflict, and most of its decision-makers explicitly reject such a possibility. But violence against Serbs in Kosovo might lead things in the other direction. As in Kosovo, arms are easily accessible in Serbia. The creation of guerrilla groups which would not be under direct and official control or command of the military and police structures could not be rejected as an option. KFOR or its EU successor might be caught in between two guerrilla factions clashing with each other and the international force.

How would KFOR handle that situation? Would it take sides or stay neutral? How would KFOR react if Kosovo Albanians declare independence, and on which border would it restrain its troops, the administrative border between Kosovo and Serbia, or on the border between the northern part and the rest of Kosovo?

There are many in the USA and the EU who believe that Kosovo should be recognized after the end of negotiations on 10 December, 2007 even with Russian opposition to the idea. However, that would create not only a dangerous precedent but also provoke regional instability. It is certain that Serbia would need to react somehow, and that it would be difficult not only to keep reform forces politically alive, but also to prevent an internal and external eruption of violence. That would also mean that the Euro-Atlantic path of Serbia would be dead for some time. Although recognition of the independence of Kosovo might seem near, it is hard to believe that such a delicate matter with global implications could be resolved in a resolute way before presidential elections take place in the USA and Russia. On the other hand one should not totally reject that possibility.

Any solution of the status of Kosovo will not bring complete stability to the region. The Westphalian principle of sovereignty of the nation state and self-determination are not compatible in the Kosovo case. Both sides have legal and moral rights to insist on their arguments. Therefore, the resolution has to be primarily based on a realistic and impartial cost benefit analysis: which solution will bring less instability? A zero sum game which would create total winners or total losers would perpetuate the problems. The key issue is how to separate Serbs and Albanians in a way that would avoid conflicts. The proposed solutions thus far create either troubled population exchange scenarios or a zero sum game. And even a bloodless partition of Kosovo would be only one element of the overall solution.

The other crucial element would be connected with the issue of formal sovereignty of Serbia in Kosovo. Many Belgrade decision-makers know that it is impossible to turn back the clock to before 1999 and to establish full institutional and security control of Serbia over Kosovo. On the other hand, the formal sovereignty of Serbia in Kosovo goes beyond UN Security Council Resolution 1244 (1999) and reflects the

fundamental Serbian interest to keep its borders intact for the sake of stability of other potential trouble regions like Sandžak.

Keeping the sovereignty problem in mind along with Albanian interests to create an independent state, and the EU ambition to integrate Serbia and Kosovo into its system, one possible solution is that Belgrade accepts to transfer some fundamental elements of its formal sovereignty over Kosovo to the EU. On the other hand that would require that the EU exercise those fundamental elements of state sovereignty internationally on behalf of Priština (with representation of Kosovo institutions and a certain level of coordination with Belgrade), without the ability to transfer it to Kosovo.²³ Priština would exercise sovereignty internally, including some prerogatives which would include the ability to be represented abroad and sign international contracts.

This proposal would in effect require fast-track integration of both Serbia and Kosovo into the EU. The scope and details of transfer of formal sovereignty from Belgrade to the EU would need to be regulated by an international contract which would be guaranteed by the EU, the USA and Russia. Prior to that, Serbs and Albanians would need to negotiate about the border line of internal partition, and membership in the UN and other international organization. Such a solution would also require a regional initiative which would strengthen the ties of countries like Albania, Macedonia and Bosnia and Herzegovina with the EU.

Although the scenario is not risk free, it would allow for a long-term resolution and the reconciliation of the principles of sovereignty and self-determination. That could be a win-win solution where each side could declare victory. Additionally, the success would create a new momentum which would strengthen the EU's legitimacy and leadership role in southeast Europe and open a way for a smoother ESDP mission. Nevertheless, the chances for such a development are not high since both Serbs and Albanians are still not ready for compromise and they believe that they could get more with other options.

Finally, the resolution of the Kosovo problem does not entirely depend on power games between the great powers but also on the readiness Serbs and Albanians to put the past behind them and turn to the future, accepting the right of "others" to live in peace and prosperity. Meantime, in one way or another, the EU will continue to be a nail between the hammer and the anvil.

Endnotes

¹ http://www.euinkosovo.org/uk/about/about_pillar.php

² http://www.euinkosovo.org/uk/express/express_article.php?cat=15&eniid=11&id=111

³ "In keeping with the decision (2005/56/EC) of the Council of the European Union of 30 January 2006, setting out the terms of the European Partnership, this Action Plan does not prejudge the determination of Kosovo's future status in international law. The status process has however begun and the Special Envoy of the Secretary-General of the United Nations for the future status process for Kosovo has said he wants it to finish in 2006." Kosovo Action Plan for the Implementation of European Partnership (2006), P 7

⁴ The Association Process Tracking Mechanism (STM) is the EU stabilization mechanism specifically created for Kosovo. "The STM has been devised to provide the Provisional Institutions of Self-Government with the EU expertise and policy guidance enabling Kosovo authority to benefit as much as possible from the various instruments of the SAP". Ibid.

⁵ "EU Slowly Prepares for Kosovo", Olli Rehn, interview to Balkan news agency dtt.net: EUOBSERVER (21 April 2007) http://www.b92.net/eng/news/politics-article.php?yyyy=2007&mm=04&dd=21&nav_category=92&nav_id=40816

⁶ EU Planning Team (EUPT), European Union Factsheet: Fact sheet EUPT and the future ESDP mission <http://www.eupt-kosovo.eu/>

⁷ “The Head of the ESDP mission will be appointed by the EU council. The EU Political and Security Committee shall provide the political control and strategic direction of the ESDP Mission...The EU's Political and Security Committee will exercise the political control and the strategic guidance of the ESDP mission under the responsibility of the Council of the EU.” Ibid.

⁸ “The mandate of the ESDP mission will be terminated when the Kosovo authorities have implemented the terms of the Status Settlement and developed and gained enough experience to guarantee that all members of society benefit from the Rule of Law.” Ibid.

⁹ “Specified executive powers would include the authority: to make certain defined appointments in the economic sphere; to investigate and prosecute serious and sensitive crimes, jointly with Kosovo authorities or independently; to annul decisions taken and laws passed by governmental bodies or by Assemblies (at central and local level) which are at odds with the letter or spirit of the settlement; to sanction, or, in extremis, remove individuals whom he/she judges to be acting in a manner designed to prevent implementation of the settlement.” ICO-EUSR Preparing Team, EUPT Kosovo - <http://www.eupt-kosovo.eu/>

¹⁰ Former Yugoslav and Serbian President Slobodan Milošević made his charisma on the Kosovo issue, starting in 1987 with the famous sentence which he said to Kosovo Serbs: “nobody will dare to beat you”, and the very important speech in Kosovo Polje in 1989 during the celebration of the 600th anniversary of the Kosovo battle. He managed to mobilize great national energy for his political goals by manipulating the fears of the Kosovo Serb population.

¹¹ There are around 2000 pending cases at the Supreme Court - OSCE Report on the administrative justice system in Kosovo (April 2007) P 4

¹² UNDP Early Warning Report Nr.17, April/June 2007 (P 15)

¹³ According to World Bank in Bosnia and Herzegovina 2005 GNI per capita was \$2,680 (<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/BOSNIAHERZEXTN/0,,contentMDK:20629017~menuPK:362034~pagePK:141137~piPK:141127~theSitePK:362026,00.html>).

¹⁴ In Kosovo in 2005 per capita income was \$1,600 (<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/KOSOVOEXTN/0,,contentMDK:20629286~pagePK:141137~piPK:141127~theSitePK:297770,00.html>)

¹⁵ <http://see.oneworld.net/article/view/122303/1/2232>

¹⁶ http://www.eciks.org/english/invest.php?action=total_invest&main_id=13

¹⁷ Sweden daily, Dagens Nyheter reports that “Kosovo has become the hotbed of injustice, anarchy, crime, a European center of women and drugs trafficking”. See more on http://www.b92.net/eng/news/politics-article.php?yyyy=2007&mm=09&dd=24&nav_category=91&nav_id=44009

¹⁸ Vojislav Koštunica is also the President of the Democratic Party of Serbia (DSS) which is in coalition with the Democratic Party whose leader is the President of Serbia Boris Tadić.

¹⁹ The Serbian Radical Party holds 81 seats in the Serbian Parliament. The Democratic Party of Serbia with its coalition partner New Serbia controls 47 seats. Democratic Party has 64 seats in the 250 seat Parliament.

<http://www.parlament.sr.gov.yu/content/lat/sastav/grupe.asp>

²⁰ The two headed eagle is a common heraldic symbol and it usually represents the ruler (a tsar, a king and people – parliament etc). That also applies in the Serbian case.

I thank Srđan Gligorić, Director of Analysis, ISAC Fund-Belgrade for this interpretation.

²² http://web.ukonline.co.uk/shkupi/kosova/biografia_albin_kurtit.html

²³ A similar idea was popularized by EU and Serbian liberal analyst Dušan Janjić. See more on:

http://www.b92.net/eng/news/politics-article.php?yyyy=2007&mm=09&dd=25&nav_category=92&nav_id=44054

The author is a Ph.D. candidate at the University of Vienna,
Austria

Want to Know More ...?

See:

EU Planning team (EUPT), <http://www.eupt-kosovo.eu/>

James Pettifer, "Kosovo – Third Time Lucky?". *Advanced Research and Assessment Group*, Balkans Series, 07/27, September 2007.

Disclaimer

The views expressed in this paper are entirely and solely those of the author and do not necessarily reflect official thinking and policy either of Her Majesty's Government or of the Ministry of Defence.

ISBN 978-1-905962-28-0

Published By:

**Defence Academy of the
United Kingdom**

Advanced Research and Assessment Group

Defence Academy of the UK
Block D, JSCSC
Shrivenham
SN6 8TS
England

Telephone: (44) 1793 788856

Fax: (44) 1793 788841

Email: arag@da.mod.uk

<http://www.defac.ac.uk/colleges/arag>

ISBN 978-1-905962-28-0