

THE DIPLOMATIC BATTLE OVER KOSOVO: A SECOND CYPRUS ON THE EU DOORSTEP?

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Former Bosnia and Herzegovina (BiH) High Representative Carl Bildt once asked if there was to be a partition of BiH after the Dayton Peace Agreement (DPA) whether there would be anything to prevent the Albanians of Kosovo from demanding independence, triggering not only a war with Serbia, but also possibly the same demands from the Albanian population in Western Macedonia (FYROM) and leading to instability in south-east Europe (Bildt, 1997). It seemed that his fears fell on deaf ears as eleven years later, Kosovo unilaterally proclaimed independence (Kecmanovic, 2007).

This crisis over territory is a tragedy not only for the local protagonists but also for the rest of the international community. It represents the typical zero-sum ethnic conflict in which claims for self-determination and independence helplessly clash with claims to sovereignty and territorial integrity (Yannis, 2009).

Although the UN Security Council Resolution 1244 confirmed the territorial integrity and sovereignty of the Federal Republic of Yugoslavia, Kosovo had self-proclaimed independence in 2008. As of September 3rd 2010, 70 out of 192 United Nations Member States had formally recognized the Republic of Kosovo. Within Kosovo the self-determination acts of Kosovars in terms of creating a new state have met a fierce opposition among some 100,000 Serbs who still live there, mostly situated in the municipalities of Zvecan, Zubin Potok and Leposavic in the north of Kosovo. The northern city of Mitrovica also has a Serbian majority, these demographic trends have caused the Kosovo Albanians to fear the creation of a new Republika Srpska within Kosovo as well as the Kosovo Serbs to fear for their well-being in an independent Kosovo (Berg, 2009).

When Kosovo unilaterally declared independence the United States and many countries in Europe believed that Kosovo would gain quick worldwide recognition. Their hope was that once this *status quo* had been accepted and capital and investment flowed into the newly proclaimed country, the ethnically Serb parts of the province would then want to take part in the post-independence economic boom and, as a result, the problem would be solved. However this has not been the case as Kosovo has not experienced an 'economic boom'. According to U.S. Assistant Secretary of State, Philip Gordon, Kosovo is affected by high unemployment, low investment rates, and a relatively small economic base. It also remains a regional transit point for narcotics, weapons and human trafficking and corruption is said to be a major problem (Foreign Affairs, 2010).

Furthermore Serbia did not reconcile itself to the *fait accompli* of Kosovo's independence proclamation (De-Construct.net, 2009). It challenged the legality of the unilateral declaration of independence arguing that, according to UNSC Resolution 1244, this proclamation was illegal as it was made without the consent of both parties to the conflict and did not receive acceptance from the United Nations. More importantly, it violated Serbia's territorial integrity. Serbia asked the International Court of Justice (ICJ) to rule that Kosovo's independence declaration was illegal.*

The decision over the legality of Kosovo's independence declaration was finally delivered by the International Court of Justice (ICJ) on 22nd July. As was expected and as will be shown both sides to the conflict interpreted the decision in their favor. The ICJ decision favored the Kosovo Albanians and they believe that this diplomatic win will lead to countries that have so far not accepted Kosovo's independence to do so. On the other hand the Serbs have lost this one diplomatic battle but not the war. They have turned their attention to the wording of the ICJ decision which neither endorsed that this unilateral declaration was a unique case, the court also failed to approve the province's avowed right of secession from Serbia, or any purported right to self-determination for Kosovo's Albanians. One of the arguments in the opposition within Serbia was that the Court answered the question of the legality of Kosovo's independence declaration whereas the real question should have been the legality of Kosovo's secession (Politika Online, 2010b); Wall Street Journal, 2010).

The issue regarding Kosovo has also led to divisions within the EU, where five member states – namely Greece, Slovakia, Spain, Romania and Cyprus – have supported Serbia's territorial integrity in order to satisfy their own domestic interests. In addition, Spain also remains deeply aware of the potential for frozen conflicts in the Balkans. The Kosovo case is a perfect example of a conflict which can further complicate the Western Balkan region's journey towards the EU (The Guardian, 2010).

The declaration of independence was based on the hope that the unfinished processes of the conflict over Kosovo and the dissolution of former Yugoslavia would finally come to a conclusion. Although independence did help break the stalemate by offering a radical solution, it has neither fully resolved the conflict on the ground between Kosovars and Serbs nor has it settled the future of Kosovo and the region (Yannis, 2009).

* The chance for a renewal in negotiations is unlikely to bring about an immediate breakthrough in the deadlock. The government in Pristina will not withdraw its declaration of independence nor will the countries that already recognized Kosovo remove their recognition. On the other hand, no government in Belgrade will recognize the current boundaries in Kosovo as legitimate (Foreign Affairs, 2010; KosovoCompromise, 2010). According to the State Secretary of Serbia's Ministry for Kosovo and Metohija, Oliver Ivanovic, any chance at a future successful dialogue could occur if it was initiated by the United States and the European Union (EU) (Examiner.com, 2010).

Prior to this ICJ decision Balkan analyst Obrad Kesic made some important points in an interview with regard to the Kosovo issue. One of the main points derived from this interview and one which is prominent in conflicts elsewhere is the issue that the conflict will remain a 'frozen conflict' despite the ICJ decision. Kesic has so far been correct that both sides are looking at points in the ICJ decision which satisfy their own views with regards to Kosovo and on which they are not so flexible. However there is one consensus that exists amongst all sides and this is the fact that there should be new negotiations (B92.net, 2010). The Serbs believe that negotiations should focus on the status of the province whereas the Kosovo Albanians, along with the majority of the EU member states, believe that the negotiations should focus on technical issues such as telecommunications and housing. The problem with the second approach is that there is disagreement on these matters and that if one is to start looking at the technical issues it will only be a matter of time before the status of the province of Kosovo is raised (Politika Online, 2010b).

With regards to leverage in the negotiations there is one major point which needs to be raised. The biggest threat ever since the discussions over the status of the province started was that if the Kosovo Albanians were not happy with the way that the negotiations were headed, then there would be a chance for new conflict to erupt in the province just like in March 2004. One of the important points with regard to Pristina's relationship with the United States and the EU is the belief of Brussels and the United States that the Kosovo Albanians are prepared to use force to achieve their national interest which is an independent Kosovo. The current Serbian government has stated numerous times that this is a diplomatic battle in order to achieve Serbia's national interest, which is for its territorial integrity to remain intact. The issue that the Western counterparts are well aware of is that unhappy Kosovo Albanians are a bigger threat to peace and stability in the Balkans than unhappy Serbs. This fact gives more leverage to the Kosovo Albanian side with regards to future negotiations over the province. The two sides have different expectations with regard to this conflict and it is naïve to assume that this ICJ decision will solve them. The ICJ decision should be interpreted as representing the first battle in the diplomatic war over Kosovo. There is also the possibility that if the Americans and those who supported the ICJ decision read too much into it and proclaim it as a new step in international law. In that case they risk opening several other frozen conflict trouble spots not only in Europe but in other parts of the world as well (B92.net, 2010).

According to Nikolas K. Gvosdev, professor of National Security Studies at the U.S. Naval War College, Belgrade and Pristina may come to an eventual agreement if the question of boundaries is split from the theoretical question of independence. Such talks should include preconditions that Serbia should not be required to change its constitution to cede legal and territorial claims to Kosovo, nor should the government in Pristina abandon its earlier declarations. In terms of territorial adjustment, the broad outline of a settlement is already clear. The Serb-majority regions north of the Ibar should remain part of Serbia, with some sort of arrangement made for important Serbian heritage sites and enclaves in the south. One possible model for this is the agreement

reached between Italy and the Vatican in 1929. The Catholic Church for decades had not recognized the takeover of Rome by Italy in 1870; the Italian state was similarly not inclined to cede its claim over its capital city. The Lateran Treaty resolved this issue by establishing Vatican City as a neutral but independent state. The Vatican also received extraterritorial rights over sacred sites in and around Rome and in other parts of Italy. The Kosovo case is not identical but some points could be raised from the Lateran model for future negotiations over the status of the province (Foreign Affairs, 2010).

Unfortunately, in the Balkans for the time being, multi-ethnicity has failed not only in Kosovo but in Bosnia as well. The United States and the four main EU members Germany, Britain, France and Italy remain defiant in the failure of their policies toward the region. On the one hand there is an attempt to centralize the Bosnian State at the expense of the Serbs and Croats, and on the other hand there is an attempt to go the other way by supporting the secession of Kosovo. Clearly the aspirations for tolerance and multi-ethnicity have been nothing but empty rhetoric (The Independent, 2007).

The countries of the Western Balkans have the same goal: the accession of the region into the European Union. The problem, however, is that they have different answers as to when and where the collapse of Yugoslavia ended; did it end with the secession of Kosovo or earlier? (Politika Online, 2010a).

The Western Balkans are a part of Europe and the EU must not be placed in a position where it will lose credibility in the region. However, one of the seeming facts of the conflict between the Serbs and the Albanians over Kosovo is that it has the chance of turning into 'a second Cyprus', meaning that it will be a 'frozen conflict' just like the one between Greek and Turkish Cypriots. This is undesirable to the EU as it plans on solving the conflict before all of the Western Balkan States accede. The diplomatic battles over Kosovo will continue as the fight is a long way from being won or lost. The attempt to find a 'middle way' in the negotiations will be a true test not only for the local protagonists to the conflict but also for the international community. The ICJ decision and the responses from both sides have so far reinforced the fact that a 'middle way' is a necessity if a workable solution is to be reached.

This 'middle way' will be difficult to find as so far there is no balance in the negotiations between the Serbs and the Albanians; in fact, the negotiations have not yet begun. The Albanians hold an advantage because, as mentioned above, they are prepared to use force to achieve their national interests. The Serbs, on the other hand, are not. As long as there is this dissimilarity then future negotiations will be very difficult.

The stability of the whole Western Balkan Region depends on a successful solution to the Kosovo issue amongst all sides. So far this has not been achieved and the EU is in for a big challenge. One of the starting points of these negotiations could be the general consensus that there should be improvements in people's standard of living both economically and socially,

regardless to their ethnicity. This fact should be the first stepping stone to future negotiations between the Serbs and Albanians.

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