



## **Policy Recommendations**

of the PFP-Consortium of Defense Academies and Security Studies Institutes

Study Group Regional Stability in South East Europe

and the

Kosovar Institute for Policy Research and Development<sup>1</sup>

### **Beyond Frozen Conflicts in South East Europe: the Belgrade-Pristina/Pristina-Belgrade Dialogue and its Regional Implications**

#### **Overview of the Security and Political Developments in Kosovo**

On 17 February 2008, Kosovo declared independence after nine years of civilian administration by the United Nations Interim Administration Mission in Kosovo (UNMIK). The unilateral declaration was also a result of lack of a joint agreement on Kosovo's final status during the UN-led talks between Pristina and Belgrade. Kosovo's declaration of independence, supported by the US and several European Union countries, changed the negotiating positions of Pristina and Belgrade. In cooperation with some EU member states, Serbia submitted a resolution to the United Nations claiming that the unilateral declaration of independence of Kosovo was a breach of international law. The International Court of Justice, the presiding authority over the case through an advisory opinion stated that Kosovo did not violate any international laws by unilaterally declaring independence.<sup>2</sup> It was then clear that neither Kosovo, backed by international supporters, nor Serbia, claiming sovereignty over Kosovo, were ready to

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<sup>1</sup> These policy recommendations reflect the findings of the 23<sup>rd</sup> RSSEE workshop on "Beyond Frozen Conflicts in South East Europe: the Belgrade-Pristina/ Pristina-Belgrade Dialogue and its Regional Implications" convened by the PFP Consortium Study Group "Regional Stability in South East Europe" and the Kosovar Institute for Policy Research and Development, from 22 – 24 September 2011 in Pristina. They were prepared by Shkamb Qavdarbasha and Dita Dobranja with contributions of Adem Gashi from KIPRED, valuable support came from Ernst M. Felberbauer and Predrag Jureković from the Austrian National Defence Academy and John Kane, Acting Director of the PFP Consortium of Defense Academies and Security Studies Institutes.

<sup>2</sup> In accordance with international law of the unilateral declaration of independence in respect of Kosovo, Jurisdiction of the Court, Advisory opinion, I.C.J., 22 July 2010, No. 141. See <http://www.icj-cij.org/docket/files/141/15987.pdf>.

compromise. Their unwavering position on the issue of sovereignty and independence sparked the need for freshly mediated talks.

Due to a number of factors, including regional involvement and the prospects of both countries to ascend to the European Union, the EU took over the mediation of the talks. The dialogue targeted the resolution of technical issues to improve regional cooperation, freedom of movement and the rule of law. All these issues are central to the aspirations of both Kosovo and Serbia to join the European Union. The talks have been mediated by Robert Cooper, a counselor in the European External Action Service who, upon listening to each side's deliberations, drafted conclusions or as they are otherwise known, agreements. The process and its deliberations and conclusions are held behind closed doors, de facto barring the public from obtaining consistent information. This has prevented domestic publics from clearly perceiving the nature of the dialogue, and hinders their readiness to accept any conclusion as legitimate.

Since the beginning of the dialogue in March 2011 six rounds of talks have been conducted. The progress, however, was slow with merely five agreements reached. The seventh round of talks set for the end of September was postponed. The dialogue, however, comes with its own set of issues as adhering strictly to a technical agenda is impossible between two countries with political baggage.

One of the main reasons behind the postponement of the talks lies in the north of Kosovo. Populated largely by Serbs, the north has so far been refusing any form of authority from Kosovo institutions and EULEX<sup>3</sup>, collaborating occasionally only with the KFOR<sup>4</sup>. Serbia run institutions in the north lack the ability to have full authority in the north, similar to Kosovo institutions and EULEX, leaving open gaps in the rule of law and security sector. This creates a buffer zone enabling different criminal groups to operate in lax legal conditions turning an apparently frozen conflict into a case of serious concern. This became clear when the failure of the dialogue to break the impasse over the Kosovo Customs stamps led Kosovo to take reciprocity measures against Serbia's ban on Kosovo's products. Due to the failure of delegations to agree on the Kosovo stamps, on July 25, Kosovo authorities attempted to set up control at the border crossing points in order to enforce reciprocity measures. Kosovo Police encountered violent protests featuring road blocks, burning down of one of the border crossing points and killing of a police officer of the special unit.

The postponement of the talks brought into question the stakes of both countries in the dialogue. On one hand Serbia relies on the successful outcome and implementation of the agreements of the talks in order to attain candidate status for the EU. On the other hand Kosovo hopes that the successful completion of the agreements will establish its sovereignty as well as improving visa liberalization measures with the EU. The EU, however, has not stipulated any clear outcomes for any of the countries, with Kosovo lagging further behind than Serbia.

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<sup>3</sup> The European Union Rule of Law Mission in Kosovo under UNSCR 1244.

<sup>4</sup> NATO's presence in Kosovo under UNSCR 1244.

Besides the specific problem that Kosovo faces, the reasons for the lag it is experiencing in relation to its EU perspective comes from the lack of readiness from five EU members to recognize Kosovo's independence. Therefore, a unified stance on Kosovo from the EU is hard to achieve due to the internal diversity of opinions on the issue. The EU's lack of a consistent incentive system for Kosovo, as opposed to their approach to Serbia, lowers their credibility with local actors in Kosovo damaging their leverage both in the country and in the mediation.

The problem with leverage is also one that affects the international presence in Kosovo since it lacks a strategy on how to restructure its role to shift from supervision to representation. This strategy should properly entail a sizable reduction of international presence and influence in the country. It must also offer an opportunity to local actors to develop ownership, responsibility and know how in dealing with domestic issues.

In the meantime, the unresolved issues between Kosovo and Serbia and the unrest in the north of the country have their own spillover effects in the western Balkans. Debate regarding the north of Kosovo and the current tense situation there has sparked insecurities about a possible renegotiation of the border lines. Such a step would open domestic debates in neighboring countries. Primarily, such a gesture would cause tensions among ethnicities in neighboring Former Yugoslav Republic of Macedonia. These would come as a result of groups within its Albanian minority population aiming for secession, as has been witnessed right after the war in Kosovo in 1999. On the other hand, if border renegotiation in the Balkans becomes a possibility, internal divides in Bosnia would flare up as well, further driving the divide between Republika Srpska and the rest of the country.

## **Summary of Recommendations**

### **The Dialogue and its Circumstances**

The current dialogue between Serbia and Kosovo regarding technical issues is facing decreasing support in the domestic publics. The main reason for this lack of support is the lack of transparency regarding almost every aspect of the talks. As a result, immediate steps should be taken to increase the transparency of the talks including, possibly, the involvement of an independent, silent, observer.

The dialogue, despite being held between Kosovo and Serbia, also features a third crucial player, the European Union. As a moderator and an actor with leverage in the talks, it is up to the EU to stipulate the expected outcome of the dialogue, further binding the sides to the conclusions of the talks. Furthermore, because of its in-depth involvement, the EU should clearly outline the steps needed to be taken to secure the implementation of the agreements, in order to consolidate progress out of the dialogue. Consequently, a mechanism that will ensure the successful and timely implementation of the agreements is necessary.

The most effective mechanism to ensure the implementation should be decided among Serbia, Kosovo and the European Union. This mechanism should ensure the independent, regular and detailed scrutiny of the implementation of agreements by both participants in the dialogue. The mechanism should be advisory in essence rather than binding. Possible frameworks of the mechanism could be:

1. Include the mechanism for the monitoring of the implementation of the agreements in the process of ascension to the European Union. Non-implementation of agreements could be reflected in the Progress Reports of the EU and the ascension be used as a motivator for the resolution of at least technical issues.
2. The mechanism could be conceptualized in the form of common Coordination Bodies comprised of governmental representatives and civil society from both sides as well as European Union Special Representatives to both countries. A result of this could be the establishment of bodies around the EUSRs in Kosovo and Serbia, with the EUSRs being the main reporting body regarding the implementation of the agreements. Both of these mechanisms would include Serbia and Kosovo in the implementation monitoring process, giving ownership to sides for shortcomings and achievements and providing grounds for further communication. The work of these task forces should be open to scrutiny by civil society.

The success of both the dialogue and the implementation monitoring mechanism will depend also on the support of the domestic publics of Serbia and Kosovo. In order to generate such support, the Serbian government needs to establish the notion that the dialogue is happening between Belgrade and Pristina, and not between Belgrade and Brussels. For their part, the Kosovo government negotiating team needs to include Kosovo Serbian representatives in the dialogue process after initial agreements show signs of implementation.

### **Kosovo's North**

Having in mind that the majority of the Serb population in Kosovo lives in the south and not in the north, strengthening the capacities of these Serb communities will result in better representation and promotion of the interests of this community.

The north of Kosovo has so far presented the international community, Kosovo institutions and to some extent Serbia itself with a range of problems. The latest developments in northern Kosovo have disrupted the prolonged status-quo and established a new realm which requires all parties including Kosovo authorities, Serb citizens living in the northern Kosovo, authorities in Serbia, and the EU to agree upon a sustainable solution. The resolution for the northern part of Kosovo is crucial to the success of the dialogue, as well as to regional stability.

The first measure that needs to be taken is the peaceful removal of all barricades that have been placed by protesting Serbs in the north of Kosovo. Besides calming tensions, this would prove as a measure of goodwill from Belgrade to achieve a peaceful resolution to Kosovo. This action should be reciprocated by an agreement from Pristina not to engage in any unilateral steps without prior coordination with KFOR and EULEX.

The concrete steps taken to improve the current situation in the north should be followed by an immediate cease of the undiplomatic foreign policy approaches by both Serbia and Kosovo. Rhetoric between Serbia and Kosovo has been highly charged, polarizing local audiences, which has to change in order to truly aid the dialogue process and discourage a violent conflict in the north of Kosovo. This should be especially stressed for local Serb community leaders in the north, particularly in regard to their rhetoric toward KFOR and EULEX, who are fuelling unconstructive approaches in the general public.

All of the aforementioned steps should be taken in order to pave the way for the implementation of a comprehensive development plan targeting Mitrovica. This development plan needs to include steps to legalize and legitimize the local governing authorities in the north of Kosovo through an election process that would have at least the tacit consent of authorities in Kosovo and Serbia. Apart from establishing recognized representatives by both sides, such an approach would make drafting a roadmap for democratic institutions in the north possible. This roadmap needs to adhere strictly to Ahtisaari's proposal, not impinging on any rights of the Serbian community in Kosovo. Another crucial component of the development package should be the provision of development funds for investment into infrastructure and services and seek a way that Serbia funding would be done through proper channels and in transparent manner.

The development package should be optimally proposed by Brussels and enjoy the support and strict adherence of the European Union. This will greatly help its adoption by all parties upon their agreement to implement such a plan.

### **The International Presence in Kosovo**

Currently, the international presence in Kosovo is still necessary in different capacities. However, the premise of a constant international supervisory mission is sure to lower the will of local institutions to take ownership over decision making and increase accountability. Thus, the establishment of a clear roadmap for the transfer of full decision making to Kosovo institutions and the transformation of the role of the international presence is highly necessary.

As part of this transition, the authority of the European Union in the country has to be clearly specified according to the Ahtisaari package. Therefore, the European Union needs to immediately implement the requirements of the Lisbon Treaty in establishing a single EU representation mission in Kosovo. Besides its specific duties, this mission needs to work in

stopping the uneven approach that the EU has toward Serbia in contrast to Kosovo. Kosovo should be given clear targets regarding its path to visa liberalization and ascension.

Overall, the international supervision in Kosovo should slowly, but consistently, start drafting a plan to transform into a representative mission. This should entail the establishment of contractual relations between EU and Kosovo in contrast to the supervisory role the international presence in the country has had so far.

A clear implementable timeline for the above mentioned shift would offer the international presence in Kosovo far higher leverage than it currently has. Kosovo institutions would be pressed to work more closely with the supervisory presence in order to establish rule of law and good governance faster. Furthermore, this would possibly influence non-Albanian ethnicities in a positive way, serving as an incentive to take more ownership in Kosovo institutions.

### **Regional Implications**

Even though there is extensive presence of NATO missions in South Eastern Europe which has enabled a more secure environment, the frozen conflicts in this part of Europe are severe and have the potential for escalation anytime. The EU has never been able to consolidate its role in solving the frozen conflicts rather the lack of a common position of all EU states has diminished the power of the EU in the region.

Kosovo's situation is crucial to the region's stability because of a number of factors such as the Albanian populations in surrounding countries, prior conflicts and the lack of bilateral agreements. Opening the debate about redrawing the borders of Kosovo will drive a chain reaction in the Former Yugoslav Republic of Macedonia, Serbia and possible Montenegro as well as Bosnia and Herzegovina. Therefore, international actors, especially the EU, should reiterate that the partition of Kosovo is not an option.