

The Western Balkans in the Wake of the Ahtisaari Proposals – Fields of Action on the Path Leading to EU Membership

Dominik Tolksdorf, Center for Applied Policy Research

Key points:

- In order to ensure the stability of South East Europe, it is absolutely essential to resolve the Kosovo status issue. The proposals submitted by UN mediator Martti Ahtisaari will only turn out to be a success if they receive unconditional support from all of the member states of the European Union (EU), and if the EU shows its willingness to embark on long-term involvement in Kosovo. The German government should use the EU presidency in order to formulate a common European position and win over the critical member states. A Kosovo with restricted sovereignty can in the long term transform itself from an international protectorate into a functioning state only with robust political, financial and staffing support from the EU.
- After a decision on Kosovo has been made public, the EU should pursue a policy of active rapprochement between itself and Serbia.
- In the perceptions of the region, the prospect of EU membership, despite the assurances given by the Union, seems to be becoming rather elusive. The debate about the EU's "integration capacity" is increasingly obscuring what the South East European countries have achieved with regard to transformation and adaptation. At the same time important states such as Serbia have still not developed their own EU strategy. In order to preserve the dynamic nature of the rapprochement process, both sides need to pursue it in a more active manner.
- The citizens of the EU need to be informed more effectively about the advantages of EU membership for the Balkan countries and the possible consequences of non-membership or prolonged deferment.
- Efforts designed to bring about greater regional cooperation in the Western Balkan states must be intensified. Various kinds of cooperation may evolve in other policy areas on the basis of a South East European economic area.
- The self-responsibility of South East European policymakers must be strengthened. The international community should transfer competences to local actors wherever this is possible. New institutions such as the Regional Cooperation Council should receive support, since they can defend the interests of the region, and certain policy areas, once they have been communitarized on the regional level, should be integrated into the EU before full membership has been attained.

In the follow-up to the Serbian parliamentary elections of 21 January 2007, UN Chief Negotiator Martti Ahtisaari will announce his suggestions for a solution of the status issue within the next weeks. His proposal will probably amount to conditional independence for Kosovo. After Montenegro's peaceful secession from the state union with Serbia in 2006, another small state will start to prepare for membership of the European Union (EU) in the medium term. Whereas the international community is beginning increasingly to withdraw from the region, the EU has assumed responsibility for more and more tasks and competences. Concurrently, an ownership process is being fostered in parts of the region.

An unambiguous prospect of EU membership is essential in order to create and sustain stability in the area. This is the only way of promoting reforms and western-oriented political forces in the Balkan countries. It is in the vital interests of the EU and its member states. However, it is not only a question of "stability in the immediate neighbourhood." After the experiences garnered as a result of the last round of enlargement, it may be taken for granted that the EU member states will derive considerable profit from enlargement in the Balkans. In May 2006 the EU Commission issued a very positive account of the 2004 EU enlargement, pointing out that the old member states (with one or two exceptions) profited from the growth of the internal market in the shape of substantial increases in the levels of trade and investment. Although such fears were entertained in certain member states, EU enlargement in Eastern Europe did not lead to dramatic migration. Where there was an increased level of immigration, there were no noticeably negative effects on the labour market.

Since 1999 the EU has regularly emphasized that there is a prospect of membership for the states of the Western Balkans, though it has never defined a specific time frame for possible accessions. There is simply too much apprehension that this might weaken the dynamic nature of the transformation processes in the countries concerned. However, the prospect of accession in the medium term needs to be a realistic one, and must not become a game of never-ending deferral and delay. The process must be kept going, and it must be possible to sense the dynamic nature of rapprochement on both sides. For this reason it is important that, after the resolution of the Kosovo status issue, the two sides should design the steps leading to EU membership as effectively as possible, and to accept self-responsibility for the process. Various fields of action now become apparent.

Securing International Support for the Ahtisaari Proposals

The unresolved Kosovo status issue continues to endanger the stability of the whole region. The requisite political and social reforms in the countries of South East Europe, not to mention the rapprochement process with the EU, are in danger of grinding to a halt as long as the indecision about the issue persists. In this situation only a solution which is acceptable to all the international actors and the whole of the EU can suggest a way of overcoming the dilemma and offering the local actors – above all Serbian policymakers – a reliable frame of reference for future-based action.

However, careful thought needs to be given to how the issue can best be resolved. Immediate and total independence for Kosovo would probably lead to vocal demands for border changes in other states of the region. Thus there might well be a new debate about the still unstable statehood of Bosnia-Herzegovina. In Serbia immediate independence for Kosovo might also strengthen the role of the Radical Party under Vojislav Seselj, who is currently in custody in The Hague. Finally, there are fears that premature secession by Kosovo could serve as an argument for other demands for independence elsewhere in the world and, having set a precedence, might have unpredictable consequences for international relations.

A sensible way out of this situation will be indicated by the UN mediator Ahtisaari. His proposals will probably comprise restricted sovereignty with an institutional arrangement which guarantees the minority rights of the Kosovo Serbs, and a strong international representative. The issue of total and internationally recognized sovereignty for Kosovo will once again be on the agenda in a few years' time, if, that is, it has proved possible in the meantime to establish the remaining state institutions and to maintain the required standards.

While NATO will continue to deploy peacekeeping troops to Kosovo, the EU will assume many of the responsibilities hitherto in the hands of the UN, above all in the areas of policing and the establishment and supervision of the rule of law. Whereas it is true that a strong international presence will continue to be necessary in Kosovo, the international representative should not be given far-reaching powers of intervention. The example of Bosnia-Herzegovina demonstrates that, as a result of interventions by the High Representative, the political elites have failed to develop much of a sense of responsibility. From the very beginning an attempt should be made to give the Kosovars enough room for manoeuvre so that they themselves can determine as much of their political life as possible.

If the Ahtisaari proposals are to be a success, a precondition is that there should be a visible desire on the part of the EU to make Kosovo "fit for Europe" in order to prevent it from slipping into permanent stagnation as an EU mandated area. Thus the deployment of financial and human resources by the EU must be both purposeful and strategic.

A Key Role for Germany

Over the next few weeks a key role will be played by the German government. A status decision will probably be made public during the time of the German EU presidency. Furthermore, two of the most important international positions in Kosovo are held by Germans, Joachim Rucker, the head of the UN administration, and Roland Kather, the commander of NATO's peacekeeping troops. If there is a crisis, they bear the responsibility for dealing with it. Since it is feared that reverberations from the status decision will also be felt in Bosnia-Herzegovina, Christian Schwarz-Schilling, High Representative for Bosnia-Herzegovina, and Jochen Witthauer, commander of the EU Force in Bosnia-Herzegovina will also play an important role. The German government should agree unequivocally to Ahtisaari's proposals, should strive for a common EU

position (especially in the case of the critical member states, Spain, Greece and Romania), and should be willing to take all the necessary measures to ensure that there is no violent rioting.

As the process continues, it will be important to draw Serbia as close to the EU as possible so that, in the wake of the Kosovo decision, the radical elements do not gain enduring support. This will include making certain concessions in order to resume the negotiations on a stabilization and association agreement at an early date. For example, it might perhaps be conceivable to make complete cooperation with the International Criminal Tribunal for the Former Yugoslavia imperative only at a later stage of the stabilization and association process (this would also apply to Bosnia-Herzegovina). In this way cooperation with The Hague could come about more quickly than is currently anticipated. However, such a step would have to be explained to the politicians and the public in the EU member states in order to obviate unjustified suspicions that the intention was to reduce the scope of the mandate of the court in The Hague.

Making the Prospect of Membership More Credible

According to Article 49 of the EU Treaty, all European states have the fundamental right to apply for membership of the EU as soon as they are in compliance with the (Copenhagen) criteria. In 1999 the EU first extended the prospect of membership to the Western Balkan states, and reiterated this at the meeting of the European Council in Thessalonika in 2003. At that time, of course, the debate about an independent Kosovo still played a fairly insignificant role. It is true that later declarations also state that there is still a prospect of membership. However, the increasing emphasis on the criterion of what is known as "integration capacity" has led the potential candidates to ask some pointed questions.

In fact, the treaties now in force and the institutional structure of the EU do not envisage any accessions beyond the current 27 members. If the EU is serious about the prospect of membership it has repeatedly extended, certain changes will have to be made, with or without a European constitution. It is not enough to keep pointing to requisite changes in integration capacity.

The difficult final phase of the accession of Romania and Bulgaria is one of the reasons why the EU will in future only announce the dates of accession shortly before the end of the negotiations. However, it should be made clear to the states and the people in South East Europe that their efforts have not gone unnoticed and that they are leading to a goal. The EU should keep making it clear that the criteria are immutable and that they will not be modified or changed in the course of the process. Membership should in fact be possible by the year 2014 (as has often been suggested) if the criteria have been met.

At the same time it is up to the South East European countries to promote the process to the best of their abilities in a responsible and purposeful manner. If there is really a genuine interest in becoming part of the EU, policymakers, above all in Serbia and Bosnia-Herzegovina, must demonstrate more of a home-grown sense of responsibility. A specific EU strategy, as is

evidenced in the case of Croatia and Macedonia, is obviously useful in the process of moving closer to the EU.

Winning over EU Citizens for the Enlargement Process

Whereas almost all EU governments continue to emphasize that they will adhere to the prospect of EU membership in the medium term, it is becoming more difficult to explain the advantages to a population which is increasingly "tired of enlargement." According to a Eurobarometer survey conducted in July 2006, only 45% of EU citizens are still in favour of further enlargement, whereas 42% are now against it. In the autumn of 2005 this figure was still 39%. Furthermore, an increasing number of politicians, such as the Bavarian Prime Minister Edmund Stoiber, or the French Interior Minister and presidential candidate Nicolas Sarkozy, are openly calling for an end to the accession process (with the possible exception of Croatia).

Yet a study by the Bertelsmann Foundation published in September 2006 demonstrates that EU citizens view the prospects for EU enlargement realistically. A majority fully expects further rounds of enlargement by the year 2020.

With regard to the problem of enlargement, it is the task of policymakers to address the open contradiction between "tired" and "realistic" attitudes, and to change the whole tone of the debate. Member states such as Austria, Hungary, Greece and Italy, which border on the region, or which, like Germany, maintain links and contacts with the countries in question, bear a particular responsibility.

The population of France could turn out to be a real obstacle for future EU enlargement. In February 2005, in the midst of the heated debates preceding the referendum on the EU Constitution, the French National Assembly passed an amendment to the French constitution which states that every enlargement which did not receive the assent of the European Council before 1 July 2004 can be ratified only on the basis of a referendum in France. However, the entry into force of the new Article 88-5 is conditional on the ratification of the current EU constitutional treaty.

EU citizens need to be given more information about the significance of the accession of the states of the Western Balkans. The consequences (and the cost) of denying membership to the region should be borne in mind, especially against the background of the ethnic and political tensions, which could easily lead to new conflicts and bloodshed. It could also lead to a weakening of the political forces which are in favour of reform, to economic stagnation, and to a lack of investment. Enlargement is in the strategic interests of the EU.

It is of crucial importance to portray the region as a self-evident part of Europe. There are no immediately obvious reasons why South East Europeans should be excluded permanently from the integration process. It also needs to be emphasized that, whilst the inhabitants of the Western Balkans will of course profit from EU membership, they will also have to bear the brunt of the social consequences of the transformation process, and this should not be

underestimated. The population of the "old" EU should be made aware of the fact that EU enlargement is something positive. Once the states of the Western Balkans have fulfilled the criteria, it would be tragic if, after concluding the necessary negotiations, they were at the last minute to be barred from obtaining EU membership, for example, as a result of a French referendum.

Strengthening Regional Cooperation

There should be much greater regional cooperation, which is one of the aims of the Stability Pact for South East Europe. The EU regards intensified regional cooperation as a sign that the countries concerned are able to establish and maintain close relations with the Union. Such cooperation pertains not only to economic issues, but to many other areas. For example, the EU expects the various countries to cooperate more closely in the fight against organized crime. Bearing in mind what it experienced in the case of Romania and Bulgaria, the EU, when it next embarks on enlargement, will scrutinize very closely the actual progress that has been made in these areas.

In the region matters are complicated by the fact that there are fears that the European Union's efforts to establish a regional economic area amount to an alternative to EU membership. Thus they are frequently interpreted as an attempt to revive the former Yugoslavia. For this reason there needs to be a stronger perception in the Western Balkans of the fact that regional integration and the creation of a regional economic area is advantageous to all the countries concerned, and that it leads towards the EU and not away from it.

Against this background the signing of the Central European Free Trade Area (CEFTA) by the states of the Western Balkans in December 2006 was a step in the right direction. It simplified the complicated trade system between the states in the region, which had consisted of 31 bilateral trade agreements. In addition to deepening trade links, CEFTA will probably raise the region's extremely low export levels, and create greater incentives for direct investments. Trade in services and the protection of property rights should be strengthened as soon as possible. The progressive introduction of internal market regulations will prepare all of the participating states for EU membership.

How this economic area might one day be incorporated into the EU is clearly exemplified by the Energy Community South East Europe (ECSEE), which was founded in October 2005. In this energy pact, which resembles the foundation of the ECSC, EU guidelines will be implemented in the area of energy, and there is to be a stepwise liberalization of the energy market. In this way a common internal market for electricity and natural gas in which the EU and South East Europe are fully integrated will materialize by 2015. This example demonstrates the extent to which the EU could profit from regional integration. For the EU states new market opportunities arise from the fact that the Balkan states are abolishing their state monopolies.

It is to be expected that the abolition of trade barriers will lead not only an increase in the volume of trade, but also and increasingly to reforms in other policy areas. Certain kinds of cooperation are already in progress. For example, at the behest of the EU the five SAP countries acting within the framework of the Ohrid Border Process are currently working on an integrated kind of border management based on European standards. The abolition of travel restrictions is designed to promote economic development and the normalization of relations between the nations in the region.

Certain events in the recent past demonstrate that relations between states and people in the region continue to be burdened by the legacy of the past. Whereas it is true that there were official apologies for human rights violations committed during the war years, the diplomatic friction between Croatia and Serbia occasioned by a video (which came to light in August 2006) documenting crimes committed during Operation Storm, a Croatian military offensive during the fighting in Yugoslavia, shows that there are many things about which the truth still needs to be told.

Strengthening Self-Responsibility

For some time the international community has been working at the transfer of responsibility to local actors. In May 2006 it was decided that in future the countries of South East Europe acting within the framework of the regional cooperation council (RCC) will be permitted to chair the Stability Pact themselves. A Secretary General is to be elected in March, and he or she will be a well-known politician from the region. Whereas the RCC secretariat should be responsible for the coordination of the various policy areas in the region, its Secretary General should occupy a key position in the relations between the Western Balkans and the EU. As the representative of the region, the Secretary General's role should resemble Javier Solana's position in the foreign relations of the EU. The members of the RCC could thus speak with one voice when they are dealing with the EU, and function far more effectively in Brussels as a group.

However, the EU should not only promote the establishment of institutions such as this. It must also reconsider the way in which it provides financial assistance to the states of the Western Balkans. From a financial point of view the countries seeking admission derive very little profit from the conclusion of an SAA. It is only when they attain candidate status that the EU's pre-accession grants are increased to a level which makes it possible to start to work towards the economic and social standards of the EU. At the same time the EU Commission participates actively in the development of institutions and procedures which the countries will need as EU member states. The process of "member state building" should actually start at an earlier stage. Such simple steps will on the one hand enable the EU to demonstrate in a far more visible manner that it is interested in the region. On the other hand, such institutions and their adoption of EU legal norms can be of use in the establishment of a regional economic area.

Moving Ahead with Functional Integration

It is true that the EU Commission has emphasized that another round of enlargement in which several states are admitted simultaneously seems highly unlikely. However, if the countries of the region begin increasingly to make common progress, it remains to be seen whether the EU might wish to modify its present position, and whether, as in 2004, there will be a another substantial round of enlargement.

In order to be "on the same level" in the negotiations it would be advantageous if the states of the Western Balkans possessed a regional economic zone with various integrated policy areas. This would help the chair of the RCC to make his case. This process could be taken a step further. For example, it might perhaps be possible to integrate the states into certain EU policy areas as soon as these have been "communitarized" on the regional level before they acquire full EU membership. As in the case of Norway or Iceland (even though in their case the initial preconditions were different), the countries concerned could then be incorporated into the EU institutional structures in various areas. If this status were also to include the right to limited decision-shaping in less sensitive policy areas, it would constitute a great incentive for regional integration. In the preparatory phase the EU could grant the states permanent observer status in EU committees.

A very effective (in the short term) and widely discussed measure designed to diminish the feeling among the inhabitants of the Western Balkans that they are being excluded from Europe would be the simplification of visa regulations. Such measures are currently being planned by the EU Commission and were welcomed by the European Council in December 2006. However, they are restricted to students, researchers and businessmen. The categories of people to whom these privileges apply should be much wider from the very beginning. If the EU wishes to act as a model for greater regional cooperation, it must be made much easier for everyone in South East Europe to become acquainted with the European Union. This presupposes the effective implementation of repatriation agreements on the part of the Western Balkan states and is thus another way of increasing mutual trust.