

The EU's Challenge in Kosovo

FRIDE Democracy Backgrounders

Democracy Backgrounders provide factual information relevant to topical international challenges related to democratisation, and analyse policy implications for the international community.

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Kosovo's final status is scheduled to be decided soon. After extensive and unsuccessful negotiations between the main parties to the dispute, the decision on the final status of the Balkan entity will be taken to the United Nations Security Council (UNSC). If a resolution conceding supervised independence is approved, the EU will be set to implement one of the biggest operations in its history. But uncertainties remain, including over Russia's possible use of its veto powers; Serbia's response to an independent Kosovo; and division among European countries over the future of the entity. Indeed, many analysts observe that the uncertainties have increased during the last year, and that the granting of independence now looks far from assured. Published in the lead-up to a resolution that is due to decide Kosovo's final status, this Backgrounder considers the challenges for the future EU mission that is set inter alia to monitor ethnic relations and strengthen Kosovo's nascent democratic institutions.

I. Current EU Instruments

- The EU's presence in Kosovo dates back to 1999, when UNSC Resolution 1244 authorised the setting up of the United Nations Interim Administration Mission in Kosovo (UNMIK) to administer and establish the conditions for a peaceful Kosovo. Under UNMIK's four-pillar structure,¹ the EU has been in charge of supervising macroeconomic reform.² This has included supervising and regulating Kosovo's banking sector through the Central Banking Authority of Kosovo; advising the Special Representative of the Secretary General (SRSG) on matters of macroeconomic policy, taxes and budgetary issues through the Fiscal Affairs Office; supporting the implementation of privatisation programmes; and enhancing the viability of socially-owned and public enterprises through the Kosovo Trust Agency.
- The EU has also been involved in the process of institution building in the region since 1999 through the Stability and Association process (SAP). Rather than integrating Kosovo into Serbia's SAP, it was decided in 2002 that Kosovo would be set on a separate route towards EU membership, given the uncertainty surrounding Kosovo's final status and its unique set of challenges associated with progress towards EU accession. A parallel forum to the

regular SAP, namely the Stability and Association Process Tracking Mechanism (STM), was thus created in November 2002. Commission officials, UNMIK and Kosovo's provisional institutions have since meet on a regular basis to discuss progress and compliance with the Copenhagen criteria and the SAP. This process has also involved the inclusion of two separate budget lines within CARDS, the Commission's main aid instrument for the Balkans.

- The STM together with the Annual Progress Report are the two key instruments that the EU has in place to monitor progress in Kosovo, and have involved regular meetings between European officials and local authorities. While contractual relations with Kosovo are not possible until a decision on final status is made, both European and local authorities have been undertaking the preparatory work for possible accession. Progress made thus far includes the adoption by UNMIK and Kosovo's institutions in August 2006 of Kosovo's Action Plan for the Implementation of the European Partnership, which replaces the previous action plan for the implementation of the European Partnership and the Kosovo Standards Implementation Plan (KSIP).³
- Additional EU instruments on the ground include the Technical Assistance Information Exchange Office (TAIEX), which helps Kosovo's institutions 'draft legislation in conformity with EU standards and assist in its implementation and enforcement,⁴ and the Tempus Office for Kosovo established in 2003 with the aim of promoting mobility in higher education. In addition to the EU Pillar of UNMIK,

¹ UNMIK's activities are organized around four pillars: Police and Justice, under the supervision of UNHCR; Civil Administration, which is run by the UN Department of Peacekeeping Operations; Democratization and Institution-building, under the leadership of the OSCE; and Reconstruction and Economic Development, which is administered by the EU.

² See the United Nations Mission in Kosovo portal at www.euinkosovo.org

³ UNMIK, 'Kosovo Action Plan for the Implementation of European Partnership 2006,' Available at <http://www.unmikonline.org/eu/epap.html> [Accessed on April 10, 2007].

⁴ European Commission (EC), "Communication from the Commission: A European Future for Kosovo," Brussels, April 20, 2005.

the EU is present in Kosovo through the European Commission's Liaison Office in Pristina, set up in September 2004; the Personal Representative of the EU High Representative in Pristina, Fernando Gentilini, who was appointed in April 2004;⁵ the European Agency for Reconstruction, which since 2000 has managed EU assistance programmes in Kosovo; and the European Union Monitoring Mission, which monitors political and security developments in the region. (The European Community Humanitarian Aid Office – ECHO – ceased its post-reconstruction assistance programmes in 2003). Thirteen member states have diplomatic representation in Pristina.⁶

- For their part, Kosovo's institutions have established a European Integration Processes Office under the Prime Minister's Office and linked to the UNMIK European Integration Office, which synchronises government activities with the EU. There are also plans to set up a European Integration Committee within the Kosovo Assembly.⁷
- If Kosovo is granted supervised independence, the region will be co-administered by a so-called International Civilian Office (ICO) responsible for monitoring inter-ethnic relations and implementation of the UN resolution.⁸ This could include a team of around a hundred officials and will be led by a EU special representative who will be 'double-hatted' and enjoy executive competences similar to those of the

High Representative in Bosnia.⁹ In addition to leading the ICO, the EU is set to implement an ESDP mission with police and judicial competences in order to fight organised crime and assist Kosovo authorities in the area of the rule of law.¹⁰ According to a confidential report, the EU mission will include a team to help local authorities draft a new constitution; a policy unit in charge of monitoring government work; and a legal unit with the competence to 'advise on whether new legislation is compatible with the Security Council resolution.'¹¹ The EU envisions the deployment of a 72-member EU delegation and a team of up to 200 local personnel.¹² It will also draw on up to 1500 police and judicial experts and an ongoing 16,500 NATO force on the ground. The mission's cost is estimated at 24 million euros for its first year in operation. Two bodies – the ICO-EUSR Preparation Team and the EU Planning Team – have been sent to Pristina to undertake preparatory work for the setting up of both operations.

- It is still unclear how the EU will proceed if the Security Council fails to adopt a resolution granting supervised independence. It also remains uncertain exactly how the EU will take over from UNMIK. The EU favours a short transition, ranging from three to four months, while the UN argues for six to nine months.¹³ It additionally remains to be determined how the EU's mission will coordinate with NATO forces¹⁴ and how the European Commission and the Council will coordinate efforts on the ground.

⁵ Stefan Lehne was appointed EU Representative to the Kosovo status process on 7 November 2005.

⁶ The European Commission Liaison Office, "How is the EU represented in Kosovo?" Available at http://www.delprn.ec.europa.eu/en/eu_and_kosovo/member_states.htm [Accessed on April 10, 2007].

⁷ See EC, April 20, 2005, op.cit.

⁸ The new mission will not replicate UNMIK; direct responsibility for running the entity will not fall to the international representative but local authorities. See Levic, Slobodan, "EU report reveals plan for Kosovo," Associated Press, March 12, 2007.

⁹ B92, "EU Diplomacy Chiefs Discuss Kosovo," March 30, 2007.

¹⁰ ICO/EUSR preparation team – EUPT Kosovo, "Background: Preparing for the Future International and EU Presence in Kosovo," March 2007.

¹¹ Lekic, Slobodan, "EU report reveals plans for Kosovo," Associated Press, March 12, 2007.

¹² Ibid.

¹³ International Crisis Group (ICG), "Kosovo Status: Delay is Risky," *Europe Report* N. 177, November 10, 2006.

¹⁴ Helly, Damine and Nicoletta Pirozzi, "The EU's Changing Role in Kosovo: What's Next?" *European Security Review*, N. 29, June 2006.

- Since 1999, the EU has channelled over 2 billion euros through the different European instruments in place. The IPA budgetary line (which replaces CARDS as of 2007) will provide Kosovo with a total of 200 million euros within the accession process for the period 2007-2009. This will include support for two out of four IPA components: institution building and transition support; and cross border cooperation. In addition, EU member states will be asked to provide 1.5 billion euros to finance the future EU mission and the development of post-status Kosovo.¹⁵

II. Potential Scenarios

- On Russia's initiative, a UN mission to Pristina and Belgrade, led by Belgian UN ambassador Johan Verbeke, has been commissioned by the Security Council to evaluate potential risks regarding the adoption or the rejection of the Ahtisaari plan.¹⁶ The conclusions of the UN fact-finding mission will serve as the basis for the UNSC's resolution on the future of the Balkan entity. Three potential scenarios arise. First, a new round of negotiations, which is the outcome favoured by Russia and Serbia. Second, the adoption of a new resolution based on Ahtisaari's proposal, the option favoured by both the US and the EU. Third, the adoption of a resolution informed by the fact-finding mission, which could well involve the recognition of a special status for North Mitrovica or additional guarantees for the Serb minority in Kosovo.

- Given the lack of agreement between the parties involved since final status negotiations started in 2005, the opening of a new round of negotiations could not be regarded by most as like a promising scenario and may simply lead to more delays. The risks are all the greater given the prospect of having Kosovo Albanians declare independence unilaterally if a decision on final status is not reached by the end of the year. This outcome, however, remains the favoured option among Serbian and Russian officials. In a state visit to Belgrade in mid April, Russian Foreign Minister, Sergei Lavrov, declared that Kosovo status talks needed to continue and opposed any imposition on Belgrade.¹⁷ As for Serbia, despite some conciliatory statements from democratic forces during the run-up to the elections in January 2007,¹⁸ the prospect of new elections militates against compromise. Serbian president Boris Tadić has repeatedly declared that an independent Kosovo remains unacceptable, while suggesting that Serbia would 'take a constructive part in further talks.'¹⁹ Prime Minister Kostunica has offered a model of supervised autonomy for Kosovo.²⁰ Further talks could however delay the EU mission.

- UN and other diplomatic sources still believe the adoption of a final resolution based on the Ahtisaari plan is possible. Indeed, many analysts are confident that there will be an agreement in June 2007, when US president George Bush, Russian president Vladimir Putin and German Chancellor Angela Merkel meet.²¹ Russian politicians have frequently

¹⁷ BBC News, "Russia warns against Kosovo split," April 19, 2007.

¹⁸ See FRIDE, "Serbia's elections and the Challenges Ahead," January 2007.

¹⁹ B92 News, "Tadic: Independence is unacceptable," March 26, 2007.

²⁰ B92 News, "Kostunica Offers Supervised Autonomy for Kosovo," April 29, 2007.

²¹ B92 News, "No quick exit for peacekeepers in Kosovo," 8 March 2007.

¹⁵ Dempsey, Judy, "1.5 billion expected from EU for Kosovo development," *International Herald Tribune*, April 1, 2007.

¹⁶ B92 News, "UN Kosovo mission to test Russia," April 15, 2007.

insisted that they will block the option of supervised independence. But it remains unclear how much brinkmanship such posture contain, with Moscow seeking to maximise trade-off gains on other issues in return for accepting the Ahtisaari plan.

- Should such an agreement fail to materialise, UN sources have pointed to the viability of the third option,²² namely an agreement among the major powers to concede a special status to North Mitrovica, without mention of the term partition, or further assurances to protect the Serb minority in Kosovo. The key challenge here, including for the EU, would be to convince Kosovo Albanians to accept such an option. Some European diplomats have already engaged in discussions with Serbian authorities to study possible alternatives along these lines. Austrian Chancellor Alfred Gusenbauer, for example, has recently declared that a revised formula that does not 'humiliate' Belgrade is needed and hinted at South Tyrol as a model for North Mitrovica within an independent Kosovo.
- It is also possible that no agreement at all will be reached. It is unclear whether all EU member states would support an EU mission under such circumstances, or whether Russia would authorise one. This situation would involve considerable risk for the EU, which could find itself managing a mission with deeply frustrated Kosovo Albanians. If a unilateral declaration of independence followed, the EU would be in an uncomfortable position at best and perhaps even an unsustainable situation on the ground.
- While EU member states agreed to an EU mission aimed at implementing a UN resolution, monitoring

ethnic relations and bringing the province closer to Europe, widespread differences remain among European governments. Hungary, Romania, Greece and Slovakia are more inclined against Kosovan independence.²³ The UK, Slovenia, Germany and Austria are firm supporters of granting supervised independence. Other countries such as Spain, Italy and Cyprus have expressed some discomfort at the prospect of Kosovo's independence, but have declared their willingness to follow a common EU line provided that this is supported by an UNSC resolution. Spain's State Secretary for the European Union, Alberto Navarro declared in March 2007 that Spain would not veto EU support for the Ahtisaari plan as long as there was a 'clear resolution in order to provide a legal basis for Kosovo.'²⁴ In short, the prospects of gaining agreement for an EU mission in the absence of a UNSC final status resolution look uncertain.

- A second risk lies in how Serbia's political leadership will react to an agreement on supervised independence for Kosovo. Serbia may refuse to accept a UNSC resolution and support the *de facto* partition already in place in Kosovo's Serb enclaves.²⁵ Serbia's volatile political situation - a government has not yet been formed after elections in January 2007 - makes this outcome more likely. Serb politicians currently have limited domestic scope to 'take the blame' for losing Kosovo. Serbian authorities across the political spectrum have expressed on repeated occasions their insistence on a partition arrangement, in order to have a Serb entity in Kosovo similar to that in Bosnia.²⁶ However,

²³ Slovakia, currently a member of the SC, has even expressed the need for further talks. See Dempsey, *op. cit.*

²⁴ B92 News, "EU diplomacy chiefs discuss Kosovo," March 30, 2007.

²⁵ See OSCE, "Parallel Structures in Kosovo," October 2003.

²⁶ Blic, "Both entities in Serbia," November 17, 2006.

²² Interview with UN officials, New York, April 17, 2007.

diplomatic sources stress that if Russia agrees on a UNSC resolution granting semi-independence to Kosovo, Serbia's room for manoeuvre will be rather limited, having no option other than to accept the *fait accompli*. Serbian economics ministry coordinator Milan Parivodić stressed in this respect in April 2007 that Serbia 'will never recognise Kosovo's independence, but only accept a de facto situation.'²⁷

- Given the potential for unstable inter-ethnic relations (particularly for the Serbs living south of the river Ibar) and the logistic and operational risks these will pose for the future European mission, the role that the EU plays in managing Serbia will be critical. The accession carrot could be played in a way that does succeed in enticing the Serbian population and political elites. UN sources have indicated that Serbia's political elite could agree to Kosovo's supervised independence if in return Serbia were granted fast track integration into the EU, together with Croatia.²⁸ Serbian authorities have expressed their desire to join the EU as soon as 2012.²⁹ Some European actors have increasingly sought to use EU leverage to entice Serbia as the crunch moment on Kosovo's final status has approached. Swedish foreign minister Carl Bildt declared that the EU could 'offer candidate status within a year to Serbia.'³⁰ In a similar vein, the EU was scheduled to meet with Serbian officials in April to discuss the offer of new moves on visa and readmission agreements, a long-standing Serbian request.³¹

- But the EU remains divided over Serbia and the enlargement process, especially regarding cooperation with the International Criminal Tribunal on Yugoslavia (ICTY) as a precondition to start SAA negotiations. Some member states are willing to accept that Serbia's cooperation with the ICTY should only be demanded at the very end of the SAP process, namely prior to the actual signing of a Stabilisation and Association Agreement. Other member states insist on a firmer line, with cooperative moves from Serbia before talks recommence. Serbia has used these differences skilfully, sowing new doubts over a final status resolution.

III. Taking Over UNMIK

Regardless of the ability of major powers to reach an agreement in the UNSC on Kosovo's final status, the EU's future mission in the Balkan entity will face a number of challenges on four domestic issues: the entity's poor socio-economic situation; the high potential for violence; a fragmented and weak political-institutional structure; and widespread corruption. Additionally, the very establishment of the mission will also face logistic and operational challenges associated with helping to build a state from scratch. The lessons learned from previous experiences will be critical.

Kosovo's economic performance will be a key variable for the stabilisation of democratic institutions. While some progress has been made – including the creation of a relatively well functioning banking system –

²⁷ B92 News, "Serbia wishes to join the EU in 2012," April 13, 2007.

²⁸ Interview with UN officials, New York, April 2007.

²⁹ B92 News, "Serbia wishes to join the EU in 2012," April 13, 2007.

³⁰ Quoted from B92, "Failure in Kosovo will damage EU," March 29, 2007.

³¹ It is very likely that both agreements are signed in September, taking effect in January 2008. See B92 News, "Serbia, EU, discuss visa next week," April 19, 2007.

³² The World Bank, *Kosovo Poverty Assessment: Promoting Opportunity, Security, and Participation for All*, June 16, 2005.

poverty effects almost 40 percent of the population.³² Unemployment reaches 70 percent in some municipalities; the privatisation programme has been disorderly and limited in scope,³³ and power outages cause major economic problems. A further injection of financial assistance is needed, especially if Serbia comes around to recognising independence and Kosovo 'inherits' a debt of 1.3 billion euros. The scale of economic restructuring and new foreign investment will condition the success of the vast institution-building project that is about to commence in Kosovo.

Violence could erupt as a result of two scenarios. First, if independence is denied Kosovo Albanian radical groups that oppose the current Ahtisaari plan could gain support among an already frustrated society.³⁴ Support for such groups has significantly dropped since the Ahtisaari plan was announced, but could grow again if this plan is not put into practice.³⁵ Second, if economic and social conditions deteriorate instability is eminently possible. High unemployment rates, especially among the younger cohorts of society, and general social dissatisfaction increase the likelihood of violence and social instability. Furthermore, disillusionment with the future international administration and with the Kosovo Albanian political establishment could turn civil society towards more radical, underground movements. A recent study on light arms in Kosovo estimated that there were around 400,000 weapons in the province.³⁶ UN sources believe, however, that even though there is high potential for violence, violent instances will only occur

if those who have a position of authority allow them to take place.³⁷ Mitrovica represents a concern, as Kosovo's authorities have a limited ability to control grassroots movements in that area.³⁸ Given the unstable, potentially explosive social situation, the EU needs to help ensure the development of a civil society outside underground and radical movements and encourage inter-ethnic civic associations.

The EU mission will also be obliged to work from and within a weak institutional framework. Widespread, mutual distrust between the two main Kosovo Albanian parties,³⁹ which have separate security services, will pose additional challenges. The poor functioning of multi-ethnic institutions and systems of governance resembles in some senses the case of Bosnia. Where external organisations enjoy widespread executive powers, the problem invariably arises of domestic political actors using international actors to avoid domestic accountability and political responsibility. The EU will need to learn lessons from Bosnia in this regard.

Lastly, the pervasive problems of corruption and organised crime will make it more difficult for successful democratic institutions to take hold. One report observed that, 'the failure to use the last six years to move Kosovo closer to having a modern economy has kept politics locked into patron-client systems.'⁴⁰ As a result, many doubt that Kosovo possesses the political and social foundations deemed necessary for building a sustainable state.⁴¹ UN officials argue that notwithstanding the challenges, Kosovo has come a long way since 1999, when

³³ Pettifer, James. 2004. "Kosovo March 2004: The Endgame Begins." Conflict Studies Research Centre, Balkan Series, Report 04/04, April 2004.

³⁴ ICG, November 2006, op. cit.

³⁵ Gashi, Krenar, "UN Plan Drains Support from Kosovo Radicals," *Balkan insight*, April 5, 2007.

³⁶ SEESAC (South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons). SALW Survey of Kosovo. Belgrade: SEESAC, Saferworld, June 2006.

³⁷ Interview UN officials.

³⁸ ICG, November 2006, op. cit.: 15.

³⁹ ICG, "Kosovo after Haradinaj" *Europe Report* No. 163. 26 May 2005..

⁴⁰ ICG, Kosovo: The challenge of transition. *Crisis Group Europe Report No. 170*. February 16, 2006.

⁴¹ See *ibid*.

institutions were practically non-existent. Dismantling the security services that the two main Kosovo Albanian parties have maintained and laying the basis of a transparent multiparty system will be high priorities for the future EU mission.

While the intervention in Kosovo is likely to be better resourced and coordinated than previous interventions in the region, there are logistic and operational issues that the EU will have to overcome. Given the limited European experience in handling cross-pillar operations in post-war and divided societies, the EU

needs to take stock of previous experiences in Bosnia and learn from UNMIK's record in Kosovo. Three lessons are of particular significance in this respect: the need for better targetting and tailoring to domestic conditions; the need for better coordination, not only between EU institutions but also among the different international actors on the ground; and the need for sufficient resources, with a minimal gap between aid amounts pledged and the amounts actually disbursed. If the EU fails to incorporate these lessons the chances will be less that it will be successful in ensuring that Kosovo avoids quickly becoming a failed state.

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