

## **Kosovo: A New European Nation-State?**

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*After declaring independence in February 2008, Kosovo's challenges changed from the quest for independence to the realities of establishing a stable and economically viable state from nothing. The challenges are exacerbated by an emerging global economic crisis and ensuing increasing pressure on many of the institutions that would be integral to Kosovo's long term security and success. After briefly reviewing Kosovo's recent history, this paper examines Kosovo's performance and progress since independence. Using academic papers, media and NGO reports, and a series of discussions with those involved in the process, as well as independent observers, the paper considers the legal and diplomatic uncertainties emerging from the declaration itself and assesses the political, economic, justice, rule of law and security pillars and their immediate challenges. The paper concludes that whilst the U.S. still remains committed to the stability and success of Kosovo and the wider Balkans, it is the European Union (EU) which, once it overcomes its own current internal issues, offers Kosovo stability and the best prospects as it strives to emerge as a European nation state.*

**Keywords:** *Kosovo, Nation-State, EU, U.S., NATO*

### 1. INTRODUCTION

On 17 February 2008, Kosovo declared unilateral independence from Serbia. It was eight years after the NATO's eviction of Serbian forces from the then Province followed by administration by the United Nations Mission for Kosovo (UNMIK). Sixteen months onwards and the euphoria has all but passed and the realities of living in a free country, albeit a fledgling democracy, has become the dominant issue. Unfettered by the remaining uncertainties and the complex challenges ahead, the majority of the Kosovar<sup>1</sup> population of Kosovo remain optimistic and expectant, hopeful for the country's future political and economic stability. Meanwhile, Kosovo's minorities, in particular the Kosovo-Serbs, still face uncertainty. As noted by Agron Bajrami, the editor of Kosovo's largest daily newspaper, *Koha Ditore*, "... the euphoria over freedom has evolved into a sober set of hopes and fears among Kosovars and a new realism has evolved. For the average person it is about life tomorrow and life today" (Marquand 2009). There is a widespread recognition that the realization of this desire is best achieved through Euro-Atlantic status. While Kosovo is determined to gain membership of the North Atlantic Treaty Organisation (NATO) and aspires to enter the European Union (EU), Serbia's intentions are less clear. Kosovo acknowledges that, for reasons of culture, geography, and history, Kosovo's future lies within the European family of democracies. Thus, Kosovo continues to seek further international recognition of its independent status and gain membership of the United Nations (UN) so as to secure its full status as a nation state.

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<sup>1</sup> The term "Kosovars" refers to Kosovo-Albanians whereas the more recent title of "Kosovans" refers to the entire population of Kosovo, both Kosovo-Albanians and Kosovo-Serbs. The paper will use the most commonly used name of "Albanian" or "Serbian".

Recent events in the region particularly those affecting Albania and its recent NATO membership, have focused attention on Kosovo's development. Conscious of the delicate positions of some of its Balkan neighbours including Croatia, Serbia, the Former Yugoslav Republic of Macedonia (FYROM, hereafter referred to as Macedonia), Kosovo needs strong political leadership and a credible and responsible government and administration. However, lacking authority and having gained little experience during the period of UNMIK administration, Kosovar politicians have been slow to demonstrate the ability to meet the challenge. Since 1999, after the initial political infighting, all parties were united around the quest for independence. Once this was achieved, it was shown that there was little difference between the parties. The fledgling democracy began to have difficulty in trying to gain international credibility. Altruism and vision are generally not widespread across the Balkans, and even after the prolonged period of international leadership, Kosovo is no different. There are regular accusations of political patronage and nepotism levelled against the authorities. Kosovan politicians must adapt or make way for a new, younger and more progressive political and technical generation. Not yet in evidence, this class will have to be identified and nurtured. But with the improved education and training opportunities both in Kosovo and abroad, this could be achieved. The litmus test will consist of attracting modernist achievers and reformers into the public sector which is expected to be difficult, given the comparatively low financial rewards and potential resentment of an older generation reluctant to make way for the newcomers.

The international community, primarily the EU, will have to commit to a long term strategy to ensure Kosovo's development into a responsible and viable democratic nation state that can fully participate in the European community and the wider world. Without this Kosovo, will at best languish in its status quo or, more likely deteriorate, which as an already fragile state, would have potentially severe implications, not least in terms of security. Given that the entire international community through the UN and EU, has invested in Kosovo to ensure its stability, it cannot contemplate accepting such an outcome. The implications would have far greater long term diplomatic, political, economic, security, and potentially military, impact if they are not immediately addressed as part of a controlled plan of assistance and development. Notwithstanding other challenges, all parties must demonstrate their commitment now.

Despite its declared independence which is now recognised by 60 countries, Kosovo's position in the world community remains contested. The 'myriad of complications' cannot be overstated and few with even the remotest knowledge of the Balkans expect Kosovo's progress to be anything but easy. The legacy of political and administrative segregation and neglect during the repressive Milosevic era left Kosovo dilapidated and weak. The 'considerable disinvestment' of that period was exacerbated by the impact of the 1999 conflict. Despite the immediate post conflict aid and international assistance (both financial and practical), there is still a long way to go before Kosovo can be economically self-sustaining and truly independent. Achieving this and creating security and stability is of critical importance for all parties.

The paper will analyze the key aspects of Kosovo's rule of law and security. It will argue that Kosovo's best prospects as an emerging European nation state lie with membership of the EU. However, this comes at a time when tensions within the EU exacerbate Kosovo's challenge. Although there is much that is beyond Kosovo's control and influence, the paper will conclude that Kosovo has to play its part to earn membership by meeting the required criteria. This aside, inclusion of Kosovo and Serbia as EU members is within the interests of

Europe and the wider international community.

Nation-state building involves the construction of a functioning state. This concept was first used in connection to the creation of states in Western Europe and focused on the use of state power in society. This paper will conduct its analysis based on this concept.

## 2. INDEPENDENCE AND LEGAL ASPECTS

The Rambouillet Accord of 1999 fuelled the expectation of independence. This may have been the long term aim for Kosovo – and the international community. In the short term, however, it did not help Kosovo's development, not least its economy. With the benefit of hindsight, some believe that the process of independence and the staged transition of Kosovo economically, might have been better achieved by extending it over a longer period of time. This would have required a different approach by the international community and UNMIK. This would have required a more gradual process leading up to the adoption of the new Kosovo constitution and legislative process, potentially offering a better approach and an ultimate solution.

Of the 60 countries that have recognised Kosovo's independence, some, in particular the U.S. and several key EU members, have established embassies in Pristina. Of the EU's 27 members, 5 member states have held back recognition, including Cyprus, Greece, Romania, Slovakia and Spain. Meanwhile, in 2008, Kosovo opened 11 interim embassies and dispatched interim ambassadors to offer basic ambassadorial services: in Britain, Dr. Muhamet Hamiti heads a small office that opened in November 2008. Additionally, 12 more embassies are due to open in 2009. Neither Russia nor China have recognised Kosovo, claiming that such act is an impairment of territorial integrity of a state.

Russia does, however, have a diplomatic office in Pristina in spite of its limited direct interest in Kosovo. Due to its historical links with Serbia and its own territorial disputes with Georgia over Abkhazia and South Ossetia, Russian recognition is highly unlikely for a long time, despite the Kosovar attempts to prompt debate over the issue. In response to the comments of Kosovo's Prime Minister, Hashim Thaci in February 2009, in which he cited a statement in the Serbia press suggesting that Moscow was considering softening its position on recognition, the Russian Foreign Minister Sergey Lavrov's retorted, "I believe Mr. Thaci is indulging in wishful thinking. He is the last man to speak for Russia.... Our support for Serbia's course of action in defending its sovereignty and territorial integrity also stays firm" (Balkaninsight 2009).

The basis for Kosovo's independence remains its right to self determination. From the Serbian perspective, whilst much of Serbia's population may not condone the actions of 1998/99, Kosovo is still regarded as the cradle of Serbian Orthodoxy and so perceived Serbian legitimacy over it remains resolute. Regarding the declaration as illegal, Serbia clearly and strongly opposed Kosovo's independence. Given the significance of the legality issue, one may say that the legal issue lies at the core of the question of Kosovo as a state. Further, the issue impacts the progress of the country. Thus, this should be considered at the International Court of Justice (ICJ).

Publicly, Serbia states that the case is a legal rather than political matter. The Serbian motion, a thousand page document, was handed to the Court by Sasa Obradovic on 17 April 2009. Kosovo engaged Sir Michael Wood, a Briton, to represent its interests. There is no doubt that he has significant experience in Balkan issues participating in both the Dayton and

Rambouillet negotiations. Britain, along with the U.S., has been a more proactive partner within the crisis group and international community and pressed for development within the Balkans. The Kosovo motion which amounts to a 200 page document was submitted amidst much internal publicity on the same day. Additional documents were submitted until 2010.

Other countries were also allowed to submit written explanations of support for either of the two parties. Both Kosovo and Serbia received copies of these in order to amend their motions as desired. As of 30 May 2009, 35 countries had submitted explanations with 14 in support of Serbia and 21 in support of Kosovo. The two countries have until 17 July to review and amend their motions and prepare final written arguments and comments on each other's motions. These comments will then be reviewed by the Court. The Court will then decide on the suitability of a hearing between the two countries. The international community is keen to complete the ICJ case as quickly as possible. However, the chances that the case will come to the court before the end of 2009 is low. The hearing is expected to take months. The international communities' desire is to recognize the need to remove obstacles from the much needed engagement to improve conditions for both countries and their people.

Prior to February 2008 and the stalemate following independence, Belgrade and Pristina had established some limited but pragmatic relations. Since the ICJ's acceptance of Serbia's petition, however, both countries have withdrawn from any form of meaningful engagement and instead has retreated to volleying rhetorics of historical claims. Now, an effective stasis exists as both parties seek to avoid causing adverse international reaction which can weaken international support for their respective causes. Practically however, there is a real need to re-open relations. This can be initiated through addressing less contentious but mutually beneficial issues. This will assist in the gradual thawing of bilateral relations direct contact and gradual building of confidence at the grass roots level.

Serbia expects support from countries that face similar internal nationalist movements and is assured of the support of Russia, China, some South American countries and the EU's 5 "non-recognisers". Meanwhile, Kosovo looks to increase international recognition of its status. After a surprising reluctance of the Muslim countries in the Middle East, Saudi Arabia's decision on 20 April 2009 to recognise Kosovo's independence was a significant relief for Pristina. Kosovo now hopes that this will unlock the reluctance of other Middle Eastern countries. But despite continued pressure and optimism, and with some 12 other countries still considering recognition, the number falls far short of the current 192 UN members.

Regionally, the impasse is obstructing important and much needed negotiation and development on practical areas of tension. The first is the dire electricity situation and the need for regional co-operation in the interests of all parties. Secondly, there is a very clear need for the restoration of full border and policing protocols between the two countries, particularly in northern Kosovo where there are reported cases of serious organized crime. Thirdly, negotiations must continue over matters of cultural heritage. Finally, the specific issue of the policies and measures for governance and status of the Kosovo-Serbs in Kosovo must be addressed.

Serbian politics and motives are traditionally difficult to read and the current Serbian position is often regarded as "schizophrenic" due to a lack of consistent national policies. Speculation exists over Serbia's motives for applying for the ICJ trial. One explanation is that it is Serbia's attempt to mobilize international support for its cause and to seize the moral and legal high ground over what they perceive to be Kosovo's unlawful declaration of

independence. Alternative views have been posited suggesting that the ICJ petition is part of a wider Serbian strategy to buy time for both domestic and international political reasons with the final intention being for partition.

However, there is a general agreement that, regardless of the eventual non-binding ICJ proclamation, independence cannot be reversed and it is simply too late practically. Knudsen notes, "A return to Serbian rule is impossible, too, both because Serbia has lost its moral right to rule over Kosovo in the eyes of much of international public opinion, and because of the fact that the Albanian community is not going to accept such a solution under any circumstances" (Knudsen 2006: 162). It is anticipated that the ICJ will avoid a clear cut decision in favour of either country and that the judgement will be a form of "a draw." Additionally, the U.S. Vice President Joseph Biden's comments on 21 May 2009 that "independence is irreversible" (Hajdari 2009) sets out the U.S. position clearly.

Contrary to Serbian claims, the independence issue has become highly politicized and a part of wider regional politics including Serbia's entry into the EU. It is difficult to predict Serbia's strategy and actions following the final ICJ judgement, in particular if Kosovo's independence was deemed illegal. If Serbia were content with the international recognition of Kosovo, as seems likely, it could seek to use the situation as a leverage for other issues such as concessions over its own EU accession or more direct economic gain, including resolution of its outstanding debts. What is clear is that Serbia's recognition of Kosovo's independence is not conditional on its own EU accession.<sup>2</sup> However, it is likely to impact its desire for inclusion in the current Visa Liberalisation considerations.

### 3. POLITICAL AND ECONOMIC DIMENSION

The tasks confronting Kosovo's still immature government and political class are considerable. The most complicated one is the resolution of the ethnic divide between Northern Kosovo and the rest of the country. To add fuel to the fire, the Serbian regime in Belgrade has been accused of manufacturing, in addition to supporting, the agenda of the Serb minorities in Kosovo (Cohen 2006: 241). Even for a more experienced government, the task would be challenging. Furthermore, there are concerns that Kosovo lacks the capability to provide incentives for the North to co-operate over issues such as decentralization. Meanwhile, the Kosovo-Serbs in the North now find themselves as political pawns between Belgrade and Pristina and between Belgrade and the international community.

The close and complex family, criminal and political networks in North Kosovo and its almost reclusive position geographically makes it difficult to assess the leverage of Belgrade over the area. However, it is generally accepted that the links between politics and crime within the North are extremely close. More often than not the politicians are also the leaders of the organized crime networks in the North. Politically, they are affiliated with the more right wing Democratic Party of Serbia (DSS) party of former Serbian Prime Minister, Vojislav Kostunica. Although the DSS may exert some influence, politics is better seen as a front for criminal activity. Such groups stand to gain little from a more stable environment in the North where a return to the rule of law would disrupt their criminal activities. This places an increased responsibility on European Union Rule of Law Mission in Kosovo (EULEX).

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<sup>2</sup> The only condition is Serbia's commitment to bringing the last two fugitive indictees, Mladic and Hadzic, to the International Criminal Tribunal for the Former Yugoslavia (ICTY).

However, the rule of law in the North cannot be achieved without the active participation of Belgrade. International pressure must continue to be applied on Belgrade for it to release its hold and allow development unhindered by regional and ethnic politics.

Elements of the Kosovar elite and some international quarters are concerned that the present government in Kosovo is at the end of its political abilities. Many of its politicians lack experience due to their exclusion from the political scene since the 1980s and those with pre-1980's experience are too old to be serious political players. In short, the present political generation was effective at delivering independence but lacks the intellectual ability and experience to meet the considerably more demanding tasks now confronting Kosovo. Ahmeti alleges that this generation does not 'know the language nor have the vocabulary' to advance the process. The International Community Representative (ICR) on behalf of the international community has identified this and is putting in place assistance programs to develop the indigenous political and administrative skills and capacities. Unsurprisingly, Ahmeti notes that independence was not the central issue at stake: "For 10 years we linked every problem to status. It was not. Independence has removed a mental block among Kosovars. Now, in every poll, the priority is not status, but jobs. We've moved from survival, to development and prosperity as a great need we don't yet have" (Marguard 2009). Growing public dissatisfaction was highlighted with the release of a United Nations Development Programme (UNDP) Early Warning Report on 15 May 2009. It identified a fall in the public's approval of Prime Minister Thaci of 24% and President Sejdiu of 23% since October 2008, which was mostly attributed to 'poor governance.'

The result of poor governance has led to pent-up frustration from high expectations amongst the population which must now be managed or will 'backfire' on the government. The question remains over the speed and resolve of Kosovo's leadership and how quickly it can hand over responsibility to a new, dynamic generation of leaders and technocrats that can take the country forward. Given that the government lacks the ability to resolve the sensitive and complicated inter-ethnic issues that surround North Mitrovica and the enclaves, what is now required is the introduction of much needed political reforms and changes. Whether this next generation exists at all is a question. Hamiti is not confident that the next generation of political leaders within Kosovo yet exists.

Already under intense economic pressure, the current global economic crisis is forcing Serbia to reduce its financial support to the Kosovo-Serbs. Since 1999, public sector professions in local government, culture, health and education appointments have received inflated salaries from Serbia. In return, Kosovo-Serbs were required not to take the salaries being offered by the Kosovo Government funded from the Kosovo Consolidated Budget (KCB). This political initiative was taken to keep the Kosovo-Serbs in Kosovo and reduce their reliance on the Kosovo-Albanian authorities. More recently, Belgrade is isolating Serbs from Kosovo institutions. This is a main plank in its policy of undermining the independence of its former province. Serbian salaries have been reduced from 200% to 150% and in some cases down to 100% of the KCB salaries. Economically driven, there is no evidence of a reduction of Belgrade's control over the Kosovo-Serbs. However, coincidentally, particularly in the south, there are increasing signs of preparedness on behalf of the Kosovo-Serbs for closer relations with the Kosovo institutions. The International Crisis Group (ICG), a leading think tank, notes "Contrary to Belgrade's boycott calls, Serbs in increasing numbers [have] found ways of engaging pragmatically with Kosovo institutions relying on them for services, applying for Kosovo documents and accepting Kosovo (as well as Serbian) salaries." (ICG Report 200, 2009: i) The situation offers the opportunity for the Kosovo Government to build

a relationship with the Serb minority but again this relies on the political direction and technical capability amongst the current political leadership.

Serbian politics is difficult to read but the ongoing nationalist rhetoric over the Kosovo-Serb situation adds to the complexity. A view has been espoused that within Belgrade there is a policy to delay any resolution on Kosovo's status issue for at least another 3 years from 2010. It suggests that Serbia is playing a wait-and-see game and has reconciled to the eventual partition of Kosovo with the possible exchange of North Mitrovica for the Presevo Valley. This would not be unique as partition had been on the table as early as May 1999 when Milosevic wanted the Russians to assume responsibility for the northern sector of Kosovo during a peacekeeping operation (this, however, was opposed during the Rambouillet negotiations by the negotiation team) (UN Foundation 1999). Furthermore, before his assassination in 2003, former Serbian Prime Minister Zoran Djindjic had also openly called for discussions over partition (Server 2007). Such a situation would pose a dilemma for the international community given that partition has been and currently remains unacceptable. By 2005, the international community had reached consensus on three points in which one of them dictated that "no territorial linkage or any new sovereignty association of Kosovo territory with neighbouring states" (Cohen 2009: 241). Proponents such as Ahmeti believe however, that should the situation arise, and if both Serbia and Kosovo agree, then the international community would drop its objection to partition. Partition is always politically sensitive, and territorial exchanges between Serbia and Kosovo would be used in similar situations such as those between Russia and Georgia, Spain and the Basques, and in Cyprus.

It is believed that the Kosovo Government is aware of this view, but does not know how to respond to such Serbian policy. Whilst there have been some gradual advances in the government's capability and maturity, the administration is regarded as still barely muddling through. Both the government and administrative institutions remain heavily reliant on the guidance and advice of the international community, through embassies and offices in Pristina. Primary amongst these is the U.S. with the authority and influence of the U.S. Ambassador, Tina Kaidanow. It is generally accepted that she wields major influence over decisions and policies in Kosovo. Fortunately, the U.S. is seen very much as a "force for good" within Kosovo.

Despite its continued frustration over the European Security and Defence Policy (ESDP) and EULEX, the U.S. remains committed to Kosovo and the region.<sup>3</sup> It has invested considerable resources (finance, time and energy) in Kosovo, clear examples being its large embassy in Pristina and the placing of U.S. advisors in key government departments and organizations. Similarly, it retains considerable military presence in Kosovo as part of Kosovo Force (KFOR). Occasional tensions over differences in policies between the American and European positions have been generally resolved at the working level. Overall, the U.S. relationship with the EU Special Representative (EUSR) and International Community Office (ICO) Office and EULEX is good, in part assisted by having several Americans serving on the EUSR/ICO staff.

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<sup>3</sup> "Giving a Shunt to Europe," *The Economist*, May 23 (2009): 39.

#### 4. US – KOSOVO RELATIONS

The U.S. influence over Kosovo and the popularity of the U.S. amongst the Kosovars remains as strong as it was in June 1999. This is clearly evident from the numerous array of U.S. flags flown from buildings across Kosovo as well as from the large public turn out and enthusiastic reception of Vice President Joe Biden's visit to Kosovo on 21 May 2009 (Dragai 2009). The roots of the U.S. support for Albanians are linked back to the role of President Woodrow Wilson at the Paris Peace Conference in 1919 following the end of World War I. In response to a plan by the European powers to divide Albania among its neighbours, as the U.S. President, he vetoed the proposal and concluded that Albania's territorial integrity should be preserved. More recent Kosovar support stems from the U.S. commitment to the Balkan region with Bosnia in the mid 1990s, Macedonia in 2001, and Kosovo in 1999. This commitment was seen as anti-Serb. Tim Judah notes, "In Kosovo, there remains an enormous well of gratitude to the United States for having taken the lead in ending Serbian rule" (Judah 2008: 150). But within the U.S. it would be inaccurate to state that the Albanian lobby is stronger than that of the Serbian.

Early U.S. recognition of Kosovo's independence maintained this support and gained further gratitude of the majority Kosovo-Albanian population. The former U.S. President, Bill Clinton, remains an iconic figure in Kosovo, following the 1999 NATO intervention. With a central street in Pristina renamed "Clinton Boulevard" in 2000, plans have been drawn up for the building of a statue of him in the city as late as 2009.

Under the Obama administration the U.S. commitment in the Balkan region and in Kosovo particularly, looks set to continue. Initial signs emanating from the U.S. Secretary of State Hilary Clinton at the start of the year have now been reinforced with the Biden visit. As one diplomat in Sarajevo put it, "the Clintonites are back." The visit was heralded by Pristina as a positive sign for continued U.S. support. But it is significant that the regional visit started in Sarajevo, following growing serious concerns at the deteriorating situation in Bosnia just at the time when the EU is poised to pull out its remaining 2,000 troops. Practically there can be little doubt of the U.S. commitment in Kosovo not least through the retention of its main military base, Camp Bondsteel, which is considerably bigger than what is needed for its current commitment of 1,500 troops. Some observers believe this forms part of a U.S. regional defence strategy.

The Biden visit should lead to a "crystallisation of the U.S. position over Kosovo and the region and set the world agenda for the near future." But as the Economist warns, this must not turn into a turf war between Washington and Brussels as it offers, "an opportunity for America and the EU to push the western Balkans forward together, if they are up for it."<sup>4</sup> What is clear, however, is that the current Kosovo Government recognizes the need to garner continued U.S. support, a keystone for the aspiration of NATO membership but also influence over EU membership, too.

#### 5. EURO-ATLANTIC INTEGRATION

Although Kosovo courts American support, there is recognition that Kosovo's future lies

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<sup>4</sup> Ibid.



within the European family and with membership of the EU and NATO. Kosovo's aspiration for NATO membership has been resolute from the end of the Kosovo Liberation Army (KLA) campaign in 1999. These have been reinforced following Albania and Croatia's NATO membership in April 2009. As Dr Hamiti states, "We [Kosovo] are committed to becoming a full member of the international community, integrating into the EU and NATO, and last but not least membership in the UN." He added, "There are challenges ahead, but also a lot of opportunities for our nation" (Saywell 2001). Kosovo's hopes for NATO membership are genuine, and optimistic, as voiced by the former Prime Minister, Kosovo Liberation Army (KLA) and the Kosovo Protection Corps (KPC) leader Agim Ceku who stated that, "Kosovo should expect NATO membership within 10 years, half of that it took Albania" (Hetemi and Jahiri 2009: 3).

The strategy for the "Europeanization" of the Balkans was set out in the Thessaloniki Declaration of 2002 and this remains current.<sup>5</sup> However, the process is also affected by regional and international politics. Accession to the EU must be by a nation-state, and so with the ambiguous outcome of the Rambouillet Accord and the language of the 1244 now further complicated by the ICJ case, Kosovo again finds itself in a chapter of uncertainty" (Judah 2008: 150).

Having limited immediate economic prospects and natural resources, a sustainable Kosovo is best placed within regional and EU structures. The ongoing progress through the EU accession process of the Stabilisation and Association Agreement and Plan (SAA/SAP) by other Balkan nations including Albania, Croatia and Montenegro, offers some incentive. Conversely, Macedonia's stagnation, due to objection raised by Greece over the name has led to an almost regression in the process, and this has highlighted the effects of mishandling issues in the process. This serves to demonstrate to Kosovo and its population the need for a careful and sensitive handling. It calls for wise leadership and sensible and mature behaviour on behalf of the population.

Kosovo's road to EU integration started in 2002 with the European Commission's so-called Stabilisation and Association Process Tracking Mechanism (STM) which is the instrument of the SAP for Kosovo. This type of mechanism was introduced in Kosovo, owing to Kosovo's unique status under the international administration, due to which Kosovo was not able to commence with the SAP. The STM constitutes a parallel track to the EU's regular SAP and is intended to support Kosovo institutions in preparations of policy-making relations within the framework of the EU's Stabilisation and Association process. This mechanism ensures that Kosovo is not isolated from the path of EU-compatible transition and development of South Eastern Europe. The process is a comprehensive one and its objective is to help Kosovo in capacity-building activities in different fields such as legislative, economic, institutional and other social aspects based on the principles of the EU.

Meanwhile the most effective means to advance the EU process is through joint action and assistance over the more practical issues such as building a transport council and developing student exchanges with EU member states. As Hamiti states, "Kosovo and Serbia, as independent and sovereign nations, should aspire to Euro-Atlantic integrations, and leave the tragic legacy of the past behind" (Saywell 2009). Meanwhile, the signatories of the Schengen Agreement are considering a policy of "visa liberalisation" for various Balkan countries which currently include Serbia, Macedonia and Montenegro. A decision is expected by the end of 2009. This would enable greater opportunity for overseas education,

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<sup>5</sup> [http://ec.europa.eu/enlargement/the-policy/index\\_en.htm](http://ec.europa.eu/enlargement/the-policy/index_en.htm) (accessed 30 March 2011).

work experience and business. The process requires nations to have biometric passports, which Kosovo chose not to introduce in 2008 when it started to issue its new passports. To benefit from liberalisation, Kosovo will first have to change policy and re-issue biometric passports which would increase cost and time.

In autumn 2009, the EU will conduct “a Study”<sup>6</sup> of Kosovo on membership possibilities. The ICJ hearing will likely lead to a delay in the early stages of the EU accession process, given the position of the 5 EU ‘non-recognisers.’ As Tomas Valasek, Director for Foreign Policy and Defence at the Centre for European Reform states, Kosovo will have to overcome ‘three massive hurdles in the membership process.’ Other than the position of the ‘EU 5’, he cites resistance within the EU to further enlargement and the great reluctance, following the EU’s experience with Cyprus, to admit members who are in territorial disputes. The latter point is vital, since internally the EU has considerable doubts over the Lisbon Treaty and future enlargement. But as Serbia seeks EU accession, despite rhetoric that its membership would be used to block Kosovo from entering the EU, some form of conditionality on Serbia to prevent this would be inevitable. The ongoing territorial dispute over the Bay of Piran, in which Slovenia objects to Croatia’s accession (Lungescu 2009), clearly has serious consequences for the potential cohesion of the organization.

Currently, there is a growing expectation that Greece will soon reconsider its position over Kosovo’s independence. If it recognizes Kosovo’s independence this would leave the remaining 4 countries more isolated and potentially more disposed to change their own positions. Meanwhile, Kosovo should seek to influence the EU and lobby the EU and its member states for a bespoke mechanism that might shorten the normal EU accession process. This will demand skillful diplomatic maneuver and patience. If planned carefully, with the support of international allies and with the desire to prevent Kosovo becoming a source of continued instability within the Balkan region, the Kosovo government might achieve a faster accession process. The timescale is difficult to forecast but accession is still realistically possible.

The dual appointment of Pieter Feith as the EUSR and the ICR in Pristina is a complicated set-up for many Kosovans, and also to external analysts, to decipher. It places on one individual a difficult responsibility where he potentially has to take opposing viewpoints on the same issue. As the EUSR, he is responsible for judging and advising the EU on Kosovo’s suitability for accession. But as ICR, his role is more of a nature that is supportive of Kosovo’s institutions to develop according to international standards and eventual EU membership. He can therefore be encouraging of Kosovo’s performance while at the same time being publicly critical. Whilst there is clear evidence that Feith manages both capacities with considerable skill, and whilst there may also be practical benefits for one individual holding the two responsibilities, very often the situation is less clear for both the national and international public, when he is effectively contradicting himself. Given the nature of the two roles, this is not wholly surprising but it is therefore all the more important that such statements and their logic and background are clearly explained and a coherent public narrative is presented.

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<sup>6</sup> Normal European Commission parlance of “Feasibility Study” is regarded as inappropriate given the *sui generis* status of Kosovo.

## 6. SECURITY AND MILITARY DIMENSIONS

Unlike the current concerns over the situation in Bosnia, and notwithstanding the riots of March 2004 sparked by a localized incident in Mitrovica taking indigenous authorities and the international community by complete surprise,<sup>7</sup> it is widely accepted that a return to the violence of 1999 is unlikely in Kosovo. Indeed, despite warnings over the backlash effects of declaring independence, the general security situation has been stable with, “not one Serb death since that date.” The only serious violence since independence occurred in Spring 2009 in Brdjani, following demonstrations against the return of 5 Albanian families to their former homes. With some KFOR support, the EULEX has successfully controlled minor violence. The overall security situation continues to be “stable but fragile.”

As part of the economic difficulties confronting the country, some commentators warn of the potential insecurity resulting from concerns over social conditions. A traditionally resourceful and adaptable people, Kosovars’ deep-seated emotions are stirred when they are unable to take care and cater for their families, in particular, to feed them. Such concerns cause volatility which can quickly be exaggerated and lead to overreaction. As Shpend Ahmeti observes, “The people of Kosovo are one of the most optimistic peoples in the world. But it is when they are unable to put food on the table that vulnerability makes them unpredictable and incites the possibility of violent reaction.” Although Hamiti believes in the realistic outlook of his ‘compatriots,’ the Kosovo government will have to maintain a commitment to ensure that such social conditions that can de-stabilise process and jeopardize the country’s security are prevented from developing.

The KFOR remains a respected organization amongst the Kosovo population. However, there is widespread recognition in particular in NATO, that a troop numbering 14,000 soldiers is not necessary and might best be replaced by an EU force, as had been in the case of Bosnia in 2005. This process has now become politicized through the process involving Turkey’s aspirations to join the EU. Meanwhile many hard pressed troop contributing nations desperately seek to downsize contingents to meet the growing demands in Afghanistan. Britain and Lithuania will withdraw contingents in 2009 and there is speculations that Ireland, Denmark and Estonia, will cutback or fully withdraw contingents in 2009. Spain has already withdrawn its contingent in early 2009.<sup>8</sup>

The KFOR and NATO’s popularity has weathered its difficulties, notably its performance during the 2004 riots. Several separate national caveats and poor tactical performances led to an embarrassment of the Force and NATO. Whilst some of these shortcomings have since been addressed, some caveats in particular limiting movement during periods of high tension and involvement in public order still exist. This detracts from the KFOR’s need to be a smaller agile force that can maneuver freely across the country demonstrating its political intent and military capability as well as its need to reassure all communities.

NATO has continued to be involved in the transformation of the KLA into the KSF. It

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<sup>7</sup> The Economist, *Op. Cit.*

<sup>8</sup> The Kosovo declaration of independence led to the Catalan separatist movement becoming an issue in 2008 Spanish election campaign much to the annoyance of the Spanish Government. The Spanish withdrawal is believed to have been the result of Spain’s displeasure although other views suggest that the decision was a purely military one made within the Spanish Ministry of Defense and was not political.

handled skilfully the demobilization of the KLA in 1999 and transition of some 5,000 former KLA into the Kosovo Protection Corps (KPC), a civil protection and crisis response organisation that was widely seen as, 'an army in waiting' (Judah 2008: 96). As a UN Protectorate, with its security assured by NATO, it was judged that Kosovo did not need an army, an application for which was denied by the international community. But not least as a symbol of nationhood, and following the high public standing of the KLA, there has been a strong desire for an army in Kosovo. Furthermore, it has long been believed that such an army should be within NATO. Following one of the Ahtisaari recommendations, it was agreed to establish a multi-ethnic KSF force of 2,500. Today, NATO is in the process of recruiting and training this force. In its symbolic commitment, which far exceeds its minor practical demands, NATO's effect and influence on the stability in Kosovo should not be underestimated. In the event of transition from a NATO to an EU force, careful consideration will be necessary over the continued development and mentoring of the KSF. A likely solution would be the retention of a residual NATO team to undertake this task similar to the NATO team in Bosnia in 2005 which led the War Crimes and Defence Reform. Although most believe that a force of 2,500 will only be capable of assisting in its own internal policing and stability, future NATO membership will continue to underwrite Kosovo's territorial defence under Article 5 and allow Kosovo to meet its desire to contribute to wider NATO activities and missions.

## 7. CONCLUSION

From NATO's intervention in 1999, Kosovo's unique and complicated circumstances and their effective resolution have taxed the international community. This has demanded, and continues to demand, innovative and at times controversial solutions, in addition to the political will and means to deliver them. Precedents from Kosovo have tested, and will continue to challenge, the resolve and the cohesion of key international and regional institutions including the UN and EU. The UN circumvented and its failure was exposed. This led to a failed effort to gain consensus for action in 1999 and also in the Ahtisaari Plan in 2007. In the intervening years, its performance in running the protectorate through UNMIK was barely satisfactory. Although the UNMIK has handed over its responsibilities to the EU/ICO and EULEX, the UN still has a key role to play. Kosovo's determination to gain UN membership will have regional repercussions and this membership albeit some way off, notwithstanding that it is only recognised by a third of the UN General Assembly (UNGA). With the support and influence of its major allies, its membership of the International Monetary Fund (IMF) and the World Bank (WB), appears inevitable. Frustration over the time taken for full international recognition and achievement of economic stability is quite likely. The international community, through the EUSR/ICO and the Kosovo Government, must manage these expectations in a delicate manner. In addition, although the U.S., supported by Britain, will continue to be a major player over Kosovo's future, regional engagement through the EU is integral to the process.

The ICJ hearing is an impediment to progress. This will have to be carefully managed in light of the economic pressure that might potentially exacerbate ethnic friction. What transpired in March 2004 is a stark reminder of the consequences of misjudging the public mood and mishandling the situation. Either way, the ICJ finding will have a significant bearing on the course of events. In addition, the effect on other similar international disputes,

particularly regarding Russia's seat on the UNSC, its own disputes and its close relationship with Serbia, cannot be ignored. Indeed, although its direct interest in Kosovo's future is minimal, Russia will remain a key actor.

NATO's support to EULEX will continue to underpin Kosovo's internal and external security. In the short term and notwithstanding that pressures to meet growing demands in Afghanistan and elsewhere will shape its longer term commitment and prompt the reform of KFOR, it must continue to maintain its commitment to the development of the KSF. Burden sharing with the EU offers a pragmatic and effective way ahead but will require deft political handling. In addition, NATO will have to resolve the controversies over its own enlargement with growing expectations following the membership of further Balkan nations, but also with the aspirations for membership of Serbia and Kosovo. Although this is a complex problem, the opportunity exists to reinforce NATO's relevance and credibility and promote effective regional stability.

Short term EULEX will have to complete its mission and transfer power to local authorities in order to set the conditions for further integration between the North and the rest of Kosovo. Decentralization offers the greatest opportunity for this and the international community must continue to pressure Belgrade to release its grip on the North and allow self-determination. Pressure on Serbia will eventually weaken its hold on the Kosovo-Serbs on the North who will probably follow the current trend of the Serbs in the southern enclaves in moving towards more support for integration. The Kosovo government must do more to demonstrate its genuine commitment for decentralization with greater practical measures to reach out to the minorities across the country, in particular the Kosovo-Serbs, to create a stable and secure multi-ethnic country. This effort must be genuine and be carried out in a transparent manner. Furthermore, it must play its part through pressing forward with simplifying and strengthening the rule of law, further institution and capacity building and economic reforms.

Membership of the IMF has enhanced prospects for Kosovo's economic future. Membership of the WB will magnify this effect enabling access to much needed international loans with which to improve conditions and enhance economic growth and development. Privatization of former state-owned enterprises (SOEs) will help stimulate the private sector which in turn will benefit from greater export opportunities offered by access to a sea port and improved road and railway networks across the region. Regional opportunities primarily through membership of CEFTA must be maximized, building on recent positive growth. Meanwhile, an improved rule of law will also assist with full revenue collection. Until it attains full EU membership, other forms of international support will be required to maintain progress and avoid regression. Economically, Kosovo will never be amongst Europe's wealthiest countries but it could avoid being one of its poorest, thereby forming a viable, stable and sustainable nation state within Europe.

The EU's role is critical for Kosovo, as it will be a manifestation of EU's own credibility. On the one hand, the EU and ESDP through the EULEX mission will continue their successful engagement in Kosovo. On the other, the lack of unity and cohesion over Kosovo's independence risks deepening schisms within the EU over enlargement and the failure of the Lisbon Agreement. This in turn risks weakening the EU's role and influence. The EU must hold its nerve and sustain its economic and political commitment if it is to deliver progress. Relations involving the 5 EU non-recognising countries have to be resolved and consensus reached, most likely starting with Greece. A combined solution involving Serbia's and Kosovo's memberships is the most likely way ahead. Both countries must

appreciate that their destinies are irrevocably linked: a stable Balkans is key to European and global stability and security. Significant international effort and capital has been expended on Kosovo with considerable sympathy and support for it to succeed. Whilst Kosovo still has some way to go before it is ready to take its seat within the EU, its future as an independent and European nation state is assured.

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