

The European Unions role in Kosovo/Serbia negotiations Success or Failure

RA Churcher MBE April 24, 2013
Former Director of the International Crisis Group in Kosovo

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Summary

There are in reality three participants in the current, (Spring 2013), European Union (EU) run negotiations between Kosovo and Serbia, each with their own separate hopes and agendas, and a fourth, in the shadows, the Bosnian entity of Republika Srpska. While ostensibly the Brussels talks are about settling the status of northern Kosovo, (currently in effect a Belgrade run Serbian protectorate) all sides in their own ways are actually looking at the future, or their future.

The current talks have been rejected by Belgrade over four issues – control of the police, control of the judiciary, KFOR, and “planning” – widely viewed as “executive control” but more relevant in the narrow sense of being able to control who builds and where – in effect the executive power to deny Albanian Kosovars ability to return and rebuild. On the other hand Kosovo (and the EU) sees Prishtina’s control of all of these functions as leading to a unitary state. This might be seen as a laudable objective by many, but with the hidden Kosovar thinking that this will enable Albanian returns, and perhaps financial control of

business enterprises – leading to Serbs feeling marginalized and leaving for Serbia proper.

For the EU this negotiation is perhaps seen as the first test of a relatively new EU Foreign Service, under the personal leadership of Catherine Ashton, who herself is seen in some quarters as inexperienced politically and ineffective. Whatever the truth of this it does mean that for EU diplomats the EU badly needs an agreement whatever form it takes. In addition, the sub-text to all this, in the background, is Republika Srpska, a poverty stricken and badly run entity within Bosnia whose main political aim is to block all progress, and any Bosnian refugee returns until the International Community gives up and allows it to amalgamate with Serbia.

In practice the likely outcome of these competing aims is further concessions to Serbia, in order to get any agreement, and the result will be the creation of a second “Republika Srpska like” entity in northern Kosovo, with all the potential attendant future difficulties. The only way out of the present impasse is if the United States is prepared to exert sufficient pressure on Belgrade to sign up to an agreement allowing the creation of a unitary Kosovar state.

This paper also touches briefly on the probable reason for the dysfunctionality of both Albanian states, and what many consider a potentially more successful (but less politically feasible) long term solution, that of territorial adjustments to what are only very recently imposed internal but now state borders.

The EU role in the current Kosovo/Serbia negotiations

As noted, there are actually three participants in the current, (Spring 2013), EU run negotiations between Kosovo and Serbia, rather than two sides and a facilitator or chair-person as might be seen on the surface. All of the participants have their own separate agendas, and their own “hoped for” timelines. Furthermore, behind all of this in the background is the failed example of the Dayton peace talks with Milosevic and the separatist Bosnian entity of Republika Srpska, which has prevented any progress to a unitary Bosnia, or EU membership.

While ostensibly the current Kosovo/Serbia talks are about settling the status of northern Kosovo, (currently in effect a Belgrade run Serbian protectorate), all sides in their own ways are actually looking at the future, or their future, but each has a different time-frame, vastly different at times. In particular Belgrade can take a long view, in that they have total control of the north at the moment, and for Serbs it's just a question of regularizing it, or adding a legal veneer. As background, Northern Kosovo, Kosovo north of the Ibar River, was always going to be difficult for the International Community (IC). Geographically closer to Serbia proper, though with statistically only 30% of the Serb population of Kosovo, northern Kosovo was given to the French as their KFOR sector after the 1999 war. For whatever reasons this resulted in a violently resisting entity or political mess, which neither the United Nations nor the later EU administration has been able to control in any way. What Albanian speaking Kosovars there

were, were driven out – to be fair much as many Serbs were elsewhere – and Belgrade, with local Serbs, continued to run all aspects of the government there, in particular a barely hidden and violent local police force.

The worst problem with this arrangement in northern Kosovo however was that there was no customs service, or not one that returned any revenue to Prishtina. In effect Kosovo's northern border was open; making a mockery of the early UN attempts to raise revenue through high customs taxes. This meant that anything imported from Albania was impossibly expensive, and that Macedonia found it cheaper to export to Kosovo via Serbia. The situation of northern Kosovo made legal revenue raising virtually impossible, and lead directly to a situation where only smuggling and tax evasion was competitive.

The current/recent EU sponsored talks in Brussels were predictably rejected on each "last day" by Belgrade, in a standard Serb tactic of negotiating up the last moment and then refusing what everyone had been led to believe was an agreement, (in the hope of course of getting even more concessions later). Whatever people might feel about this tactic, it might work, and has done in the past, in my personal experience. Recent evidence in support of this, admittedly from undocumented sources in Brussels would be *"diplomatic sources in Brussels say that in an effort to make the agreement acceptable for Serbia, Pristina could be requested to make one more step towards a compromise regarding composition of police in the north, the appeals court and non-deployment of KSF for some time in the north"*. And *"But perhaps Pristina is ready for a temporary compromise, said a European*

diplomat". Interestingly the US Ambassador in Pristina Tracey Ann Jacobson also added a plea for further compromise "in the interests of Kosovo".

There are, for the Serbs, several "non-negotiable" main issues that cannot be conceded by any Serb politician who wishes to keep his job. These are control of the police, control of the judiciary, and the non-deployment of any KFOR forces into the north. However, hidden in the small print, so to speak, is an issue of executive control termed "planning" – widely viewed as part municipal powers but more relevant in the narrow sense of being able to control who builds and where – in effect the executive power to deny Albanian Kosovars' ability to return and rebuild or set up businesses. This, in combination with the other issues, is crucial to maintaining the north as a Serb-controlled entity, with the long term sub-text of one day reuniting with Serbia proper.

The Serbian demand that KFOR should not be deployed in the north is also bizarre. In the rest of Kosovo KFOR has effectively "kept the lid on things", but it has hardly been regarded by anyone as an implementer or indeed enforcer of anything, except perhaps as a guard force for illegal Serb road blocks, run in the guise of political protests. The only conclusion that might be drawn from this objection is that Belgrade is afraid that KFOR might enforce something, and that Serbs want total and effective control in the north for themselves.

On the other hand Pristina (and the EU) sees having these functions run from Prishtina as leading to a unitary state. Seemingly an uncontroversial objective, but with the hidden agenda or thinking that this will enable Albanian Kosovars to

return to the north of Kosovo, and possibly of course quite rightly. The detail would be that more central government or control (Albanian Kosovar in effect) would also facilitate establishing or re-establishing Kosovar run enterprises and perhaps financial/tax regulatory control of business enterprises – leading possibly to Serbs feeling marginalized and leaving for Serbia proper. Within this last part is the continual Kosovar dream, myth or hope, (and possibly a realistic hope) that the mineral wealth of the country lies in the Trepca mining complex, located largely north of the Ibar River. Whether Trepca could be as economically viable in the future as most Kosovars hope it will be is actually very questionable. Trepca has been worked for centuries, and intensively for the last 130 years, especially in WWII and under communist Yugoslavia. As a mine it is semi-derelict, and would take huge amounts of money to get back to past production levels, if the reserves justified it, and there seems to be only a remote possibility of new reserves being found. However, despite “the facts” it remains a firm Kosovar political voter calculation that somehow Kosovo would be rich if they could only get Trepca back, (and as evidence it should be noted that it hasn’t made northern Kosovo Serbs rich as yet).

Finally the EU, in the form of the European Union Foreign Service, may see a successful Kosovo/Serbia agreement, (in the sense of any agreement of any sort), as crucial to its and its leaders credibility, with all the “add ons” of budgetary considerations, bureaucratic expansion and power. Fairly openly most European countries national foreign ministries are not overly favorable to a new “supra-national” EU Foreign Service, so success, at whatever cost, may be seen

as essential for the EU Foreign Service and Mrs. Ashton. For the EU this negotiation is perhaps seen as the first test of a relatively new EU Foreign Service, under the personal leadership of Baroness Catherine Ashton, a Labour party official appointed by the previous UK government in the last days of Prime Minister Gordon Brown, who herself is seen in some quarters as inexperienced politically and having been both ineffectual and profligate in setting up the new service. Whatever the truth of this it does mean that the EU Foreign Service badly needs an agreement between Kosovo and Serbia whatever form it takes.

As a side note this may well lead to a similar situation to that at Dayton in 1995, where Richard Holbrooke was widely perceived as so anxious to get any sort of agreement with Milosevic that he allowed the creation of Republika Srpska and agreed to keep the Kosovo issue “off the table”. This made Bosnia unworkable as a country, and incidentally by failing to reward what the Kosovar LDK saw as their peaceful approach, to the Kosovo war of 1999.

Thus the sub-text to all this, in the background, is Republika Srpska, (RS) a poverty stricken and badly run entity within Bosnia whose main aim is to block all progress to a unitary Bosnian state, and any Bosnian refugee returns, until the International Community gives up and allows the RS to amalgamate with Serbia.

Unfortunately the likely outcome of these competing aims, Serbia’s desire to get all Serbs into one state, and the EU’s need for an agreement of any sort, is likely to be further concessions to Serbia, a “Dayton like” surrender to Belgrade in

order to get some sort of an agreement, and the creation of a second “RS like” entity in northern Kosovo, with all the potential attendant future difficulties. Once again I would suggest that the only way out of the present impasse is if the United States is prepared to exert sufficient pressure on Belgrade to sign up to an agreement allowing the creation of a unitary Kosovar state.

Despite the example of Dayton there is the possibility of success here. As an example the 2001 conflict in Macedonia was ended by the US brokered Ochrid Agreement. This was in marked contrast to the virtually derisory effects of the earlier efforts of the EU team. The United States still has enormous respect in the Balkans, and US pressure could easily be effective in stabilizing Kosovo. Leaving this situation with a nascent European Union Foreign Service, with all the competing interests of both the new service and competing European state interests is not likely to lead to a stable long term outcome, and never was.

Regrettably another driving factor for Europeans is that most European States, and particularly France and the British Foreign ministry, still see Serbia as some magical factor of stability in the Balkans. This is a possibly unwelcome fact which did so much to prolong the Bosnia war, and to trigger Milosevic’s attempt to expel Kosovar Albanians in 1998/99. He thought the Europeans would never do anything decisive, and that Serbia would be able to prevent refugee returns by “legal” bureaucratic procrastination – which has worked successfully in both Bosnian RS and northern Kosovo.

Moving further back in history (always a problem in the Balkans) European support for Serbia dates both to the First World War, when paradoxically far from blaming Serbia for starting the war the peace agreement rewarded the Serbs by the creation of Yugoslavia, to be a Serb run state run from Belgrade. There, in a centralized state, all revenue went through Belgrade, giving the illusion of economic activity, rather than what was in fact merely “rentier” control of the Croatian and Slovenian economies. This fixed idea, that somehow Serbia must be made strong, is central to most European Foreign Ministries solutions in the Balkans but has always been based on a misapprehension – that Serbia was (and is) potentially the strongest state in the Balkans. In reality both Croatia and Slovenia were economically and politically more stable, hence their deciding to break away. Serbia was always merely the country most likely to cause trouble if not placated. Ironically both Croatia and Slovenia were probably more stable due to being more ethnically homogenous, despite their Serbia minorities.

In addition to this most European states, such as Spain and Slovakia, are concerned by the precedent of allowing part of a state – in this case Yugoslavia, to break away. This is despite the very different situation of the internal borders, which in Yugoslavia’s case date from quite late in the 20th Century. Despite acquiring much of the mid-Balkans by conquest from the Ottoman Empire in 1913, Yugoslavia only created the Kosovar borders as late as the 1960s – up until then the internal borders had been quite fluid, with different Belgrade Ministries having different borders.

However, despite the international foreign policy mantra of no changes to borders, the internal borders of Yugoslavia were by no means fixed, and the IC decision that the break up of Yugoslavia must follow the internal boundaries was never likely to lead to a satisfactory outcome, hence the Croatian, Bosnian and Kosovo wars. Which in turn all leads to the question of whether the current Brussels negotiation, and potential agreement, with the differing and competing agendas of all three participants, is likely to lead to a stable outcome at all, or that much like Dayton it is only storing up potential future problems?

Lastly there is the question of, in crude terms, “what is in it for Serbia” to surrender the north of Kosovo. Europe, and particularly Germany, clings to the idea that offering some sort of route to integration within the European Union is sufficient “carrot”. However, given the present state of the EU, the Euro, and the general financial situation whatever attraction this had for Serbia is now severely compromised. Politically it is not something that appeals to many Serbs, who would rather rely on what they see as a more reliable ally, their long and historic connection to mother Russia. Losing what Serb voters see as “Kosovo” in return for a long and uncertain route into the EU is not what most Serbs would vote for.

Territorial Exchange – to think the unthinkable

Moving on from the reasons behind the potential failure of the present Brussels negotiation is the unmentioned problem of population and ethnicity – specifically that there are at present no longer very many Albanian Kosovars living in northern Kosovo. It might be sensible to ask Prishtina if they really want such a troublesome, and potentially RS like entity as part of their state, if the agreement is going to preclude any attempt to “Albanianise” it. A pragmatic view might be that any agreement acceptable to Belgrade will simply lead, in reality, to endless disfunctionality.

A more sensible solution has been proposed by, of all people, Dacic, whose recent suggestion has been for a voluntary territorial exchange with the present Serb run northern Kosovo entity going to Serbia in return for the rather smaller Albanian speaking area of South Serbia, known as the Presevo Valley, and itself the location for a smaller war in 1999/2000, being transferred to Kosovo. To be fair to Dacic this probably wasn't a serious suggestion on his part, but more of a negotiating tactic designed to extend the Brussels talks ad-infinity, but in an ideal world it would be worthy of consideration, in that it might produce a more permanent and stable solution for the future.

It should be said that the Kosovar leadership is not in favor of this idea, and interestingly nor is Ali Ahmeti, the current political leader of Albanians in Macedonia, and a leading member of the KLA in the Macedonia war. The reasons for the Albanian political leadership not favoring any territorial exchange

is likely to be that under international diplomatic guidance or pressure they do not wish to raise the issue of anything that looks like a “greater Albania”. The real reason in all probability is that with higher birthrates among Albanians they hope to one day acquire these territories anyway.

The whole issue is worth noting, simply for the huge disparity in the reciprocal rights or lack of them, of the inhabitants of the respective territories. Serbs in northern Kosovo basically look to Belgrade for pensions, health care, policing and so on. Whereas Albanian speakers in southern Serbia are at the mercy of the para-military Serbian Gendarmerie, and have no connections to their brethren across the border in Kosovo.

To briefly summarize this issue: territorial exchange is not attractive for Albanian politicians, but in reality it would be a better alternative to the possibility of ending up with a new Republika Srpska like entity in what is now northern Kosovo.

Poor Governance as an effect of the lack of secure Sovereignty

And lastly, and completely outside of the scope of the Brussels negotiations or agreement, is the question of why both Albanian states have such a reputation for poor governance, to put it politely. The immediate reason in the case of Kosovo is that following 1999 Kosovo was, as an unrecognized entity, forced into political, economic, and social limbo because it lacked sovereignty. The lack of certainty inevitably led to poor governance, competing interests, and the current reputation for corruption and illegality. It is hard to establish the rule of law when the state has no sovereign legal basis.

I would venture to suggest that Albania itself failed to develop a functional government (and subsequently became an extreme communist failure) is due to the instability of its own borders, and the desire of both Greece and Serbia prior to WWII to take large parts of it, if not all. The constant threat of invasion and state failure stifled the development of a stable functioning government, in contrast to the more successful central rump of the Ottoman Empire, Turkey itself, which did form a relatively stable and certainly effective government after 1922. Perceived Albanian “criminality” is simply a function of a state being unable to form a viable democratic government in the face of uncertainty over such fundamentals as security and stable certain borders.

CONCLUSION

The whole basis of the hidden competing agendas of Serbia, Kosovo and the EU are such that any agreement, even if signed with much fanfare, reached on the basis of the present talks in Brussels will simply be storing up further trouble in the Balkans.

For there to be an effective stable unitary state within the present borders of Kosovo will almost certainly take further diplomatic pressure on Serbia by the United States. Leaving it to the EU alone is not likely to work.

If the agreement is signed in some form it is likely to be too late to produce a stable, permanent solution for Kosovo. However, if no agreement is signed it would be worth considering other solutions, perhaps based on territorial exchange.

Kosovo, and probably Albania, are not likely to turn into model European states without a permanent solution to the problem of their borders, and this might be better established on the basis of ethnic borders rather than some rather recent, in historical terms, internal borders from the former Yugoslavia, in itself a failed state.