

## The independent Kosovo and the new constellation in the Balkans

### Debate with Veton Surroi, Sciences Po-CERI, 7 Oct. 2010

**Veton Surroi** is a popular Kosovo Albanian publicist and politician. He is the founder and former leader of the ORA reformist political party, and was a member of Kosovo assembly from 2004 to 2008. In 1997 he established one of the biggest Kosovo Albanian daily newspapers *Koha Ditore* and was the editor-in-chief for a number of years before deciding to enter politics in Kosovo. Veton Surroi is currently President of the Foreign Policy Club in Pristina.

### Introduction and chair: Jacques Rupnik, Sciences Po-CERI

JR: There are two observations. First one is that since the independence no predicted catastrophic scenario has come true. Second, due to the ruling of the International Court of Justice (ICJ)<sup>1</sup> the context is about to change. This is a very interesting evolution.

VS: The process to independence was quite careful. It was not a process that came out of a sense of urgency – it was a managed process. There was nothing impulsive but many efforts were being made to put away emotions in favour of rationality.

There are four problems that have arisen since independence:

1. Kosovo was born with limited sovereignty and with a frozen conflict in the North<sup>2</sup>.
2. Problem of international legitimacy (which is not something new) although independence was a product of an international process.
3. Weak institutions despite the internationally managed process.
4. Unclear international presence. It is unclear who is supervising the independence. Both UNMIK (Interim Administration Mission in Kosovo) and EULEX (European Union Rule of Law Mission) are trying to balance.

Now it is about to build safe conditions for the people. How do the previous mentioned problems affect everyday's life?

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<sup>1</sup> On the 22 July 2010 the International Court of Justice gave its Advisory Opinion on the question of the Accordance with international law of the unilateral declaration of independence in respect of Kosovo (request by the General Assembly of the United Nations by its resolution 63/3 of October 2008). This Advisory Opinion pronounces that the Court "is of the opinion that the declaration of independence of Kosovo adopted on 17 February 2008 did not violate international law."

<http://www.icj-cij.org/docket/index.php?p1=3&p2=4&k=21&case=141&code=kos&p3=6&PHPSESSID=3329ae13daa9befacbbfd1362b4a6076>

<sup>2</sup> The northern part of Kosovo has an ethnic Serb majority and the last two years Kosovo conducted a policy of keeping the North as a frozen conflict through permanent organised presence and control from Serbia.

The limited sovereignty implicates problems of border crossing to and from Serbia. The establishment of one zone in terms of borders and one custom zone in terms of respect of the law of customs is urgently needed. A border police and custom officers have to be placed at Gates 1 and 31. This is one of the tasks within the mandate of EULEX.

Another example is the problem with Kosovo's phone numbers. We have phone numbers with a country code of Monaco, Serbia or Slovenia. This has practical effects on business relations and security issues.

Weak institutions have an effect on democracy.

There is a lack of clarity for international organisations. UNMIK was the last two years in the North. EULEX did deployment the last two years (!) and had no clear mandate. Therefore EULEX had to invent and reinvent their mission.

The last two years Serbia has focused on how to destruct. Tax collectors and teachers were not paid but policemen got two salaries (one from Kosovo and one from Serbia). With Serbia's demand to the ICJ to give an opinion, they wanted to bring the question from the political sphere to the legal one. After the Court gave its opinion on 22 July they wanted to bring it again back to the political sphere. For some of the third world countries Kosovo is a product of US-imperialism. Serbia relied on Russia which used the opportunity for low-investment. Russia had a good opportunity to point a finger at the West: "You see, we can give you as well a frozen conflict." Throughout the nineties Milošević continuously tried to play the EU's Member States off against each other.

The ICJ ruling is the turning point for the way we are going to treat the four insufficiencies of the painful birth of Kosovo. Serbia went to the UN-Assembly with a kamikaze draft and the EU did a resolution<sup>3</sup>. Serbia gained ground because it showed that Kosovo's independence was still disputable.

Two details of the ruling are very important:

1. The ruling treats the independence as an evolution including 1244. This implies the obligation to treat Kosovo as one territory which means that Kosovo's territory is not disputable and this is important for future negotiations.
2. The question is moving from the UN to the EU because of the resolution.

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<sup>3</sup> Between the EU and Serbia an agreement was reached to co-sponsor a United Nations General Assembly (UNGA) draft resolution on the ICJ Advisory Opinion on Kosovo which should pave the way for dialogue between Belgrade and Pristina with the EU as a facilitator. Statement by Catherine Ashton, High Representative of the Union for Foreign Affairs and Security Policy: [http://www.eu-un.europa.eu/articles/fr/article\\_10068\\_fr.htm](http://www.eu-un.europa.eu/articles/fr/article_10068_fr.htm)

The positive side of the resolution for Serbia is that Kosovo is again disputable and the negative one is that the issue is shifting to the EU and not to the Russian favoured UN. The EU showed strength because it made Serbia a resolution but the resolution is *faible*. Serbia has not given up and is not playing the EU-rules. The frozen conflict situation has to be solved and Russia has to get away.

The playground for the EU is not a fair and solid one as there are 22 Member States against 5. How is it possible in this case to obtain a unified opinion? This is a conceptual problem for the EU. The word dialogue should invite the parties to talk. The EU is trying to establish a soft pattern of negotiations from easier issues to the core ones but this process will maybe fail. You cannot draw the bow from issues as waterworks or energy to the question of “why shouldn’t we find a way to live together?” You cannot discuss questions like who is the authority for this and that and then as a sudden you are talking about the status. Why shouldn’t we tackle this by “grab the bill by the horn”?

What is the objective of these negotiations?

1. To find a modus vivendi? If yes, in which context and for which period of time?
2. To find a historical accord? If this is the case why are we talking about pipelines for water?

The process of the negotiations should lead Serbia and Kosovo into the EU.

Let’s imagine that we have to establish working groups and task forces (the EU gave its blessing) for different issues; Serbia becomes candidate; Kosovo has been told that it has a European perspective; Serbia gets into the EU and Kosovo stays outside.

The negotiations have three layers:

1. The nature of relationship between Serbia and Kosovo
2. The nature of relationship between Serbia and the EU
3. The nature of relationship between Kosovo and the EU

The expectations are to achieve mutual support for Serbia and Kosovo to get into the EU. We need to have an intermediate process. The next five years Serbia has to work on the chapters and Kosovo on the Stabilisation and Association Process (SAP). Kosovo and Serbia should prepare their talks with the EU. The EU is and has been the transformative energy for their societies.

**Questions/Comments:**

**JR:** Kosovo is an unfinished state. The EU is in an unusual position. It has to shape the future of an unfinished state and finds itself in a state-building process.

**VS:** Kosovo is not the only unfinished state. We are in good company. Bosnia has a constitutional problem. Serbia is also unfinished because it doesn't know where it borders end. Macedonia is unfinished in terms of its disputed identity (name and people). There are also other places in the world as Israel for example. Israel has problems of borders and regarding democracy. The EU has the power to make this last push of state-building. Kosovo cannot resolve its state-building process by itself. It is the same for Bosnia and as well for Serbia who needs strong leadership. Cyprus is an unfinished state and entered the EU. This scenario should not be repeated. The EU can have the power to finalise these states. The self interest of the EU is to proof its capacity of its Post-Lisbon Foreign Policy, its capacity to transform and to get away from peace-building policies to integration-policies. But you cannot do state-building without a safe and secure environment (see Israel).

**Question:** The establishment of the rule of law is one of the biggest challenges in the Balkans and especially in Kosovo. As you said before, EULEX, the biggest rule-of-law mission of the EU, did essentially deployment in the last two years. How do you analyse its efforts to establish the rule of law? And who else will do it if EULEX is not capable?

**VS:** I am maybe not completely fair with EULEX. EULEX had a difficult time (22 Member States against 5). The problem is that the objective is very broad. Peace-stability is very broad. We have to define the objective and define the term. EULEX is a unique opportunity and has full support of the population as a foreign force to implement law in Kosovo. There is a big support for the rule of law. We need to work on a timetable and we need an exit-date for EULEX. For example a period of two years but within this time frame we need to make the process measurable. We have to obtain these benchmarks in order to put the process forward.

**Question:** The ICJ-ruling says that "the act did not violate international law" but not that the independence is legal. Isn't that a little trick?

**VS:** There are 150 interpretations of the ICJ-ruling.

**Question:** In an article in the journal "Survival" they propose four solutions for the North:

1. To stick to the status quo
2. The application of the Ahtisaari plan
3. Increased independence
4. Partition

How do you evaluate these four propositions?

**VS:** For Kosovo the option of partition is unacceptable. We don't want that the principle of ethnic separation is gaining over political and economical ones. The shopping list of rights that the Serbs need does not have to do anything with territory.

**Question:** What are the concrete technical consequences in everyday's life when you are not a state?

**VS:** There is a lack of financial support if you are not a member of the UN for example. The loans have the quality of high risk. When you want to buy a house you have to take a credit of 30-50%. This is what you usually call a credit shark. There is no security for these loans because of lack of recognition. The bank bears a higher risk than in the rest of the region.

Another example is sports. We cannot participate in any international competition. We have strong basketball-players but it is impossible to get into the FIFA because Serbia is blocking it. We are not allowed to participate in any international competition. One of the consequences is that children do not aspire to become professional sportsmen. Just a remark on the side: there were three Kosovars in the Swiss football team – the only team that beat Spain during the World Cup.

**Question:** Keyword minorities. Last summer I spent some time in Kosovo and the information I got from Serbs and Roma is that they don't feel very safe in Kosovo. What is done for the protection of minorities?

**VS:** I think that there are less and less people that feel unsafe. Roma are in a difficult situation especially those that returned from Germany. They have no economic opportunity because in general there are not a lot of opportunities. We developed a legal framework which is one of the most advanced in the EU. For a society that moves from war to a constitution where the Roma-language is officially recognised is a great success for Kosovo.

**JR:** The EU appeared as the honest broker between Serbs and Kosovars and is a key player on both sides. This does not exclude that the UN has also a role to play but the big difference today is that the EU and the US do not have diverging approaches. The US is seen as an important partner pushing in the same direction.

**VS:** There are two new elements or rather problems.

1. The first trial of the Post-Lisbon EU Foreign Policy will be Kosovo and we are still in the process of interpretation of the Lisbon Treaty.

2. It is the first time that the EU is dealing with an unfinished state – with something where it needs the consensus of everyone without having it.

Serbia will have to prove that it is building up good relations with Kosovo. Concerning Kosovo there are no options for Serbia. How will they build up good neighbourhood relations? The question is not how we hinder each other but how can we help each other. It is in Kosovo's interest that Serbia gets into the EU and vice versa. We have to find a way of negotiating which creates the climate for this aim.

**Question:** Do you really believe in the possibility of negotiations?

**VS:** There is an evolution in Serbia that we have never had before. From Milosevic to the Kostunica–Tadic coalition that was not a very good partner in Vienna. If it won't be done with this generation of politicians it will be done with the next ones both in Serbia and Kosovo. Our natural habitat is Europe and negotiations should lead us there.

**JR:** The situation is desperate but not serious as English would say.