

DIIS REPORT

KOSOVO INDEPENDENCE
– DE JURE VERSUS DE FACTO

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Abstract

This report will first describe the present status of Kosovo, and then review relevant considerations of its future status, on the one hand focussing on international law – the *de jure* status, and on the other hand focussing on sustainability – the *de facto* status. This approach of *de jure* versus *de facto* is primarily an analytical tool, chosen because it sheds light on a number of considerations relevant to the negotiation process that will determine the future status of Kosovo. Second, this approach reflects the fact that while the Kosovo Albanians want maximum self-determination, they realize that they are dependent on international assistance. In contrast, the Serbs believe that international legal considerations of a conservative or conservationist nature are essential, but they admit that they cannot take responsibility for Kosovo's security or economy. To put it briefly, the Albanians want independence *de jure* but not *de facto*, while the Serbs want independence *de facto* but not *de jure*.

The report then explains the international negotiations, its actors and substance, which will lead to the independence of Kosovo. Finally the report accounts for regional considerations and Kosovo's potential contribution to regional security.

Kosovo is already *de facto* independent from Serbia and the status negotiations are therefore centred on how to make this status permanent as it is the wish of the Kosovo Albanians. The red lines of the negotiations are drawn in the conclusions.

Resume

Rapporten beskriver Kosovos nuværende status og belyser derpå relevante overvejelser over dets fremtidige status, på den ene side folkeretligt – de jure status, på den anden side med henblik på bæredygtighed – de facto status. Denne de jure, de facto tilgang er i første række et analytisk værktøj, som afdækker en række betragtninger, der vil indgå i forhandlingerne om Kosovos fremtidige status. I anden række afspejler den, at mens Kosovo albanerne ønsker størst mulig selvbestemmelse, så erkender de at være afhængige af international bistand. Omvendt mener serberne, at folkeretlige hensyn af bevarende karakter er afgørende, men indrømmer at de ikke kan tage ansvar for Kosovos sikkerhed eller økonomi. Forenklet kan man sige, at albanerne ønsker uafhængighed de jure, men ikke de facto, mens serberne ønsker uafhængighed for Kosovo de facto, men ikke de jure.

Rapporten gør rede for de internationale forhandlinger, deres aktører og indhold, som vil føre til Kosovos uafhængighed. Endelig tager rapporten stilling til regionale betragtninger og Kosovos potentielle bidrag til regional sikkerhed.

Kosovo er allerede faktisk uafhængigt af Serbien og statusforhandlingerne er derfor rettet mod at gøre denne status permanent som ønsket af albanerne. Forhandlingernes rammer trækkes op i konklusionerne.

Focus

The Kosovo Albanians want independence while the Serbs in and outside Kosovo will only accept “More than Autonomy, but less than Independence”, which means maintaining Serbian sovereignty over Kosovo.¹ This divergence between the Albanian desire for independence and the Yugoslav preference for sovereignty was a crucial aspect of the Kosovo conflict in the 1990’s.

The status of Kosovo triggered the dissolution of the Yugoslav Federation when Milosevic made his notorious, nationalistic speech at Kosovo Polje in the summer of 1989. Without knowledge of the imminent fall of the Berlin Wall or the disintegration of the Soviet empire the following years, Milosevic tried to turn the clock back and gain Serbian dominance of the Yugoslav Federation, with a nationalistic view to creating ‘Greater Serbia’. Albanians protested against prepared amendments to the Serbian constitution which would restrict Kosovo’s autonomy and thereby effectively violate the constitution. The miners of Trepca barricaded themselves in mines, some on hunger strikes. Thousands of Kosovo Albanians took to the streets of Prishtina on the day of the Serbian constitutional confirmation.²

But ‘What goes around comes around’. As the Yugoslav Federation started to fall apart in 1990, the ‘Albanian Republic of Kosova’ was proclaimed. Martial law was declared in Kosovo and the Yugoslav army took control of several towns in Kosovo.

Yet independence for Kosovo was not on the international agenda. Albanian resistance to Serbian repression and discrimination fortunately remained non-violent. In the summer of 1991, just after the first Gulf War, the Ministerial Council of the CSCE met in Berlin in to rearrange the European security structure after the Cold War on the basis of democracy and a market economy. Ministers from Europe and North America adopted a declaration expressing support for democratic development, unity and the territorial integrity of Yugoslavia, based on economic reforms, the full application of human rights in all parts of Yugoslavia, including the rights of minorities, and a peaceful solution to the crisis in the country.

¹ See e.g. Surroi, Veton vs. Raskovic-Ivic, Sanda at www.kosovakosova.com/forum last visited 17.10.2005.

² European Security, British American Security Information Council at www.basicint.org/europe/confprev/Kosovo/timeline1.htm, last visited 17.10.2005.

Only a week later, the Croatian and Slovenia declarations of independence and sovereignty started armed conflicts with Serbia that lasted for years. In September, after the attempted coup in Moscow in August, the EU, in parallel with the preparation of its own Maastricht Treaty, established an international 'Conference on Yugoslavia' and negotiated a ceasefire between Croatia and Serbia. A peaceful solution should build on the rejection of unilateral change of borders through the use of force, the protection of the rights of all in Yugoslavia and full respect for legitimate interests and aspirations.

TIDSFØLGE

- 1974 Revised Yugoslav Constitution gives autonomy to Kosovo
- 1989 Milosevic takes away autonomy, Army and police sent in battle strength
- 1991 Albania recognizes self-proclaimed Republic of Kosova
- 1992 Ibrahim Rugova elected President of Kosovo, non-violent resistance
- 1995 Dayton Peace Agreement, Kosovo not on the agenda
- 1997 Kosovo Liberation Army (KLA/UCK) claims responsibility for violent incidents
- 1998 Milosevic sends troops to KLA controlled areas, killing women and children
KLA seizes control of 40% of Kosovo before defeated in Serb offensive
- 1999 45 ethnic Albanians slain outside Racak, war crimes investigation
NATO launches air-strikes in March, in June Yugoslavia begins withdrawing
UNMIK becomes responsible for Kosovo
- 2000 Milosevic ousted
- 2001 In February 7 Serbs dead in Kosovo bus attack, roadside bomb
Albanian unrest in Macedonia, in May Yugoslavia returns to buffer zone
around Kosovo,
Albanian party of moderate Rugova is short of outright majority in
November
- 2004 Ethnic clashes in Northern town Mitrovica, numerous dead and
wounded
In October Serb election boycott
- 2005 Kosovo Prime Minister Haradinaj indicted for war crimes by Hague
Tribunal
In July three bomb blasts in Prishtina, one targeting UN Missions HQ.

Sources: European Security op.cit., as well as various international news e.g. BBC.

The leaders of the shadow government in Kosovo were not invited to the EU conference. The possibility of the Kosovo Province achieving a similar status to the Yugoslav Republics as an independent entity was not discussed since Kosovo was regarded as Yugoslavia's sovereign territory. In December, EU ministers adopted a Declaration on the Guidelines on the Recognition of New States in Eastern Europe and the Soviet Union and a separate Declaration on Yugoslavia. Before the end of 1991 reunified Germany officially recognized Slovenian and Croatian independence and sovereignty, in practice unilaterally (not exactly an act of conflict limitation). In spring 1992 the rest of the international community followed, including the US, which had considered an undivided Yugoslavia as a bulwark against Soviet influence during the Cold War. In the 1990s Macedonia and Bosnia-Herzegovina were also recognized as independent states, while Kosovo was left to Serbian oppression until after the NATO bombings in 1999, which ended with Kosovo becoming a de facto UN Protectorate with the status of a Province.

The political process will determine the future status of Kosovo and it features prominent roles for the EU and the USA. It will take into consideration the will of the people, most likely confirmed by a referendum in Kosovo. Given the historical background and determination of the Albanian majority and its firmness of purpose in recent developments, there is little doubt that the process will lead to independence. Recent international analyses generally confirm this judgement; the question is merely how.³

This report will first describe the present status of Kosovo, and then review relevant considerations of its future status, on the one hand focussing on international law – the de jure status, and on the other hand focussing on sustainability – the de facto status. This approach of de jure versus de facto is primarily an analytical tool, chosen because it sheds light on a number of considerations relevant to the negotiation process that will determine the future status of Kosovo. Second, this approach reflects the fact that while the Kosovo Albanians want maximum self-determination, they realize that they are dependent on international assistance. In contrast, the Serbs believe that international legal considerations of a conservative or conservationist nature are essential, but they admit that they cannot take responsibility for Kosovo's security or economy. To put it briefly, the Albanians

³ Helsinki Committee for Human Rights in Serbia, June 2005, British Parliament Foreign Affairs Committee, April 2005, William Montgomery, *Moving to the End Game in Kosovo*, B92.net 03.07.2005.

want independence de jure but not de facto, while the Serbs want independence de facto but not de jure.

The report then explains the international negotiations, its actors and substance, which will lead to the independence of Kosovo. Finally the report accounts for regional considerations and Kosovo's potential contribution to regional security.

Present Status

The Albanian desire for independence is historically based on the disintegration of the Ottoman Empire. Under Turkish rule many ethnic and linguistic groups lived within the same Empire and the Albanians had often played an important role as advisers or representatives of the Sultan or as his officers or soldiers. Abducted Christian children, many of whom were Albanians, served as Janissaries, a corps of Turkish infantrymen, later on serving as the Sultan's personal guard. Historically the Ottoman Empire had an impressive number of Grand Viziers (Prime Ministers) of Albanian extraction. Albania was declared independent in 1912 on the background of a national movement founded in the town of Prizren in Kosovo in 1878. Albanian ethnic and Albanian speaking groups are scattered over several countries of the western Balkans, mainly southern Serbia, western Macedonia, northern Greece and Turkey. In addition, there is a large Albanian diaspora in Italy, USA, Canada, Australia, Switzerland, Germany, the Scandinavian countries and other EU countries.⁴

The exact number of Albanians is not known, either in Albania or in other countries, but it is estimated at around 10 million and growing, of which less than one third resides in Albania proper. In Kosovo the Albanians boycotted the Yugoslav census in 1991, but in 1981 there were around 1,6 million inhabitants in Kosovo, of which 4/5 Albanians. Today the Albanian share of the estimated 2 million inhabitants is greater mainly due to Serbian emigration over the last 40 years. Apart from the Albanian diasporas, who as other immigrant populations often live in cities, Albanians are to a large extent clan based mountain people who have for centuries inhabited the high mountains of the Balkans, often in inhospitable and almost inaccessible areas. National mythology claims, however, that the historic origin of the Albanians was ancient Illyria, with inhabitants also known for seafaring, fishing and piracy. The population of Albania is often divided culturally along the Skhumbin River, with Tosks south of the river oriented towards Greece, and Ghegs to the north with historical, linguistic and family ties to Kosovo.⁵ Politically the south has a tendency towards the local Socialist Party, which tried to monopolize the Kosovo Liberation Army, led by Hashim Thaci and General Ceku, while the north tends towards the local Democratic Party,

⁴ Vickers, Miranda, 1999, Mazower, Mark, 2000, Malcolm, Noel, 1998.

⁵ Malcolm, *ibid.*

led by former President Sali Berisha with close connections to President Rugova. The electoral victory in Albania in July 2005 of the Democratic Party and the return to power of Berisha as the Albanian Prime Minister may thus affect future political development in Kosovo.

NATO's humanitarian intervention in the spring of 1999 ended with the adoption of Security Council Resolution 1244, which established the provisional status of Kosovo as part of the Federal Republic of Yugoslavia, read Serbia, with a substantial autonomy under administration of a Representative of the UN Secretary General. The Special Representative of the Secretary General is head of the international civilian presence, UNMIK, including also the EU, the OSCE and the Council of Europe, in close coordination with the international military presence, the NATO Force KFOR. The international civilian as well as the military presence has been formally accepted by Belgrade, which has withdrawn with few exemptions its civilian and all of its military authorities from Kosovo.

The legal powers of the Special Representative emanates from Resolution 1244, but they have been codified in an Internal Regulation dated 25 July 1999, which states that "All legislative and executive authority with respect to Kosovo, including the administration of the judiciary, is vested in UNMIK and is exercised by the Special Representative of the Secretary-General".⁶ In practice this authority is interpreted as being unlimited by considerations of (Yugoslav) sovereignty, although laws dating from before Milosevic's abolition in 1989 of the autonomy of Kosovo as a Province under the 1974 Constitution are still valid. The de facto Yugoslav sovereignty thus ended immediately upon the international take over in 1999 under the Milosevic regime in spite of initial protests from Belgrade and Moscow. The UN authority is, however, still a de facto authority which has not affected Kosovo's status in international law. After the fall of Milosevic in 2000 and his extradition to the International Criminal Tribunal on Yugoslavia the following year, Belgrade has taken a pragmatic attitude and accepted the situation as a sort of suspended sovereignty. Because of UNMIK's limited capacity to enforce and maintain unimpeded authority on the total territory, there are parallel Serbian structures under Belgrade's control in the northern parts of Kosovo, in the Serbian part of the mining town of Mitrovica, and other Serbian populated areas north of the Ibar River (the Communes of Zvecan, Zubin Potok and Leposavic). Health and Education parallel structures are financed by the Serbian government.

⁶ Yannis, Alexandros, 2004.

UNDERGROUND RESOURCES, MINING

Trepca Mining Complex near Mitrovica has since the Middle Ages an almost mythical status as a source of wealth to both parties in Kosovo. In the 1980s, it employed 23,000 workers (partly from Poland, the Czech Republic and Bulgaria) and accounted for 70% of all Yugoslavia's mineral wealth. Prior to the NATO bombings in 1999 Belgrade had attempted to privatize Trepca in co-operation with a Greek metals group, Mytilineos Holdings S.A. Mining equipment had been purchased from Sweden. Lead and zinc valued up to 100 mUSD was exported to France, Switzerland, Greece, Sweden, the Czech Rep., Russia and Belgium a.o. Local facilities in addition to the Stari Treg mine and the Zvečan smelter, included accumulator factories (famous for submarine batteries to the German Wehrmacht), a hunting munitions factory and fertilizer production with such high super phosphate strength that livestock died after grazing on treated land. Present ownership is claimed i.a. by Paris-based Societe Commerciale de Metaux et de Mineraux and Athens-based Mytilineos. Albanians believe the complex should be worker or state owned, while Serbs believe it is privately owned, while the shareholders in Trepca all appear to be public companies in Belgrade. In 2000 UNMIK shut down the Zvečan smelter with KFOR assistance citing environmental and health hazards and placed it under UNMIK administration, thereby taking on the entire complex environmental problem. In 2001 UNMIK estimated that starting parts of Trepca would require an investment of 230 mUSD and a reduction of the work force. No investor will be ready as long as ownership is unclarified. The shortage of modern skills available locally, possible corruption as well as damage and degradation of installations (including the flooding of mines) just add to the difficulties. In 2005, 18 licenses for exploration and exploitation were issued and limited production in Stari Treg began again, the world market for minerals being favourable.

Sources: Palairret, Michael, *Trepca 1965-2000*, ESI, June 2003, ICG Europe report No82, *Trepca: making sense of the Labyrinth*, 26.11.1999.

The Regulation of 1999 also decided that “UNMIK shall administer movable or immovable property, including monies, bank accounts, and other property of, or registered in the name of the Federal Republic of Yugoslavia or the Republic of Serbia or of any of its organs, which are in the territory of Kosovo”. This includes the mining combine of Trepca, encompassing a number of mineral mines and factories around Kosovo but traditionally with headquarters in Mitrovica and claimed by both sides of the ethnic conflict. Unfortunately, the demonstrations and armed riots around Mitrovica in the spring of 2004 led to numerous casualties and thousands of displaced Serbs. These incidents also demonstrated that the population’s respect for UNMIK does not equal the Mission’s legal powers.

In May 2001 the UN Special Representative, former Danish defence minister Hans Haekkerup, decided upon the Constitutional Framework of the provisional self-government, which after general elections in the fall of that year led to establishment in March 2002 of Provisional Institutions of the Self-Government in Kosovo, PISG, i.e. Presidential office, local Government and popular Assembly. In this way, another step toward independence was taken in the implementation of Resolution 1244, according to which UNMIK shall promote the establishment, pending a final settlement, of substantial autonomy and self-government in Kosovo, taking full account of the Rambouillet accords.⁷ Apart from this formulation, Resolution 1244 does not, however, specify Kosovo’s future status.

In principle Kosovo’s future status may take a number of forms, which may be categorized as provisional, future or final.

Examples of a **provisional solution** would be

- 1) Protectorate under the UN – or even the EU,
- 2) Limited delay of a decision, or
- 3) Independence within existing borders after e.g. 3 years.

Future, but not necessarily final status in relation to Serbia could be

- 4) Cantonization (along the Ibar River),
- 5) Loose federation – without separate UN membership (e.g. Montenegro), or
- 6) Commonwealth – with UN membership (e.g. Canada).

Final solutions would be

- 7) Conditional independence, or
- 8) Independence after partition/decentralisation.

⁷ International Peace Conference at Ch. Rambouillet, Paris, Feb-March 1999.

The international community represented by the so-called Contact Group (see below) has identified some basic principles that it believes should guide a settlement of Kosovo's final status. A return to the situation before March 1999 is of course ruled out. Kosovo's final status must enhance regional stability and contribute to the Euro-Atlantic integration of the Balkans. It must be based on multi-ethnicity with full respect for human rights, including the right of all refugees and displaced persons to safely return to their homes. Kosovo must offer effective constitutional guarantees to ensure the protection of minorities, promote effective mechanisms for fighting organized crime and terrorism, and status will have to include specific safeguards for the protection of cultural and religious heritage. In accordance with these principles, Kosovo's final status cannot be decided by any party unilaterally, result from the use of force, or change the boundaries of the current territory of Kosovo, either through partition or through a new union of Kosovo with any country or part of any country after the resolution of Kosovo's final status. In addition, the territorial integrity of all other states in the region must be respected, and Kosovo must not pose a military or security threat to its neighbours. Finally, sustainability – politically and economically – must be ensured.

In short, 3 options are ruled out, namely (1) a return to Serbian dominance, (2) union with Albania, and (3) partition, as proposed by Serbia.

International Law – de jure status

Seeing the future legal status of Kosovo in light of the dissolution of Yugoslavia in 1992, it is remarkable that two of three European state disintegrations after the Cold War took place peacefully and by common consent, namely the Soviet Union and Czechoslovakia. The dissolution of Yugoslavia, however, began violently, and the international recognition as independent states of Slovenia, Croatia, Macedonia, Bosnia-Herzegovina and Serbia and Montenegro took place on the basis of the principle of the right of peoples to self determination. The application of this principle was in accordance with the Yugoslav Arbitration Commission of five European presidents of constitutional courts, called the Badinter Commission after its French chairman. This Commission found (1) that Yugoslavia was a state union in dissolution, and that there was no individual secession from a common union, (2) that the individual republics of the union should in future exercise the right of peoples to self determination, and (3) that the administrative borders between the republics should be recognized as international borders. These findings were, however, severely criticized by international legal experts.⁸ Additionally, it is remarkable that according to the former Yugoslav Constitution the republics were “nation-states” each with their separate peoples, understood to be ethnic formations whose ethnic centers lay within the boundaries of Yugoslavia, while nationalities, a concept unclear in the Constitution, had their ethnic centers outside Yugoslavia. (With regard to Kosovo and Albanians, there were 1,6 million Albanians living in Yugoslavia, but only about 570,000 Montenegrins and 1,3 million Macedonians.)

The right of peoples to self determination is a fundamental principle of international law as part of the UN Charter. In practice this right has been exercised mainly in connection with de-colonization after 1945, which legally recognized that all peoples have the right to self determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

While this right seems evident in a colonial context, it is less clear in relation to peoples, who have not been part of a colonial empire. It is thus not clear when

⁸ For further discussion see Radan, Peter, *The Break-up of Yugoslavia and International Law*, Routledge, London, 2002, Hasani, Enver, *Uti Possedis Juris, From Rome to Kosovo*, Fletcher Forum of World Affairs, Summer/Fall 2003, Jovanovic, Miodrag, *Territorial Autonomy in Eastern Europe – Legacies of the Past*, Journal on Ethnopolitics and Minority Issues in Europe, Flensburg, Issue 4/2002.

the right to self determination can be exercised externally in relation to internationally recognized states and when it can be exercised internally within existing and recognized states in the form of self government. It is also unclear when the right encompasses political as opposed to economic affairs. Furthermore it is not clear which groups may claim to constitute a people, or how the legal right to self determination may be obtained. This lack of clarity is inter alia due to a conflict between this principle and another fundamental principle of international law, that of the territorial integrity of internationally recognized states laid down in article 2 of the UN Charter. That such a lack of clarity exists is clearly seen with the Russian problems in Chechnya, Abkhazia and South Ossetia, in China's relations with Tibet and probably Taiwan, in France's in relations with Corsica, in the United Kingdom's relations with Northern Ireland and Scotland, in Spain's relations with the Basque Country and Catalonia, and in Greece's relations with Northern Cyprus. The United States is also affected by the right of peoples to self determination in its relations with Puerto Rico and the wish for an independent Kurdistan with bonds to Iraq, Iran and Turkey.

Turning to Kosovo it is therefore remarkable that resolution 1244 speaks exclusively of substantial autonomy and self government, leaving a political settlement and future status to a political process designed for this, taking account – in a manner not described – of the Rambouillet accords. One obvious difficulty about this, however, is that although the then Yugoslav Federal government agreed in 1999 to the general principles for a political solution to the Kosovo crisis and to take full account of the Rambouillet accords, the NATO bombings of Yugoslavia were based on that country's refusal to sign the Rambouillet accords. And in any case the right of peoples to self determination does not necessarily imply a right to secession from an internationally recognized state.

For Serbia and Montenegro the problem of international law in relation to Kosovo is very much, that these two separate republics are themselves held together by a temporary arrangement, which gives the two populations the right to decide on the establishment of two different, independent states. This arrangement is to a wide extent due to the EU, which in principle is very reluctant to accept new members to the Union that do not mutually agree on a common state. The EU has of course accepted the Czech Republic and Slovakia as members, but they separated harmoniously and in mutual agreement, and even if the EU has admitted or accepted future admission of other former Yugoslav republics, that happened

only after legal counselling from the Badinter Commission. No similar situation has – at least as yet – been established in relation to Kosovo.

Finally, considerations on the future status of Kosovo from a legal perspective also relate to the other autonomous area in the former Yugoslavia according to the 1974 Constitution, namely Vojvodina which has a substantial Hungarian minority which feels suppressed by the local Serbs and Belgrade. A similar situation prevails in Sandjak with a considerable Bosniak minority. The right of self determination in Kosovo would probably lead to demands of equal rights from not only these populations, but most likely also from Albanians in the Presevo Valley in southern Serbia. At the international level there might be additional demands for independence in Bosnia-Herzegovina from Republica Serpska and of right of self determination to the Albanians in Macedonia, particularly in the mountains around Tetovo, Gostivar and Kumanovo as well as Dibra next to Albania.

In sum, there seems to be a tendency in international law that in cases where there is no international rule of law, except what is decided by the UN Security Council, decisions tend to be based on political desirability and existing power equations. It is therefore relevant to ask, what will be politically desirable and acceptable in regard to the sustainability of Kosovo in relation to the Albanian desire for independence.

Sustainability – de facto status

The political and economic sustainability of Kosovo depends of course very much on geography. The watersheds between the Adriatic to the west and the Black Sea to the east are located mainly in Kosovo and northern Albania and here as often globally the waterways contribute to explaining cultural, linguistic, ethnic and historical similarities, differences and strife. In addition, some water runs south into the Aegean. As a general rule the water falls from Kosovo to the west, which means through Albania and into the Adriatic. The main route of the water is however practically impossible to follow with modern means of transportation, which in contrast seeks to the east or south, down towards Slavic Serbia and Macedonia. The high mountains of the Balkans have offered economic options for small scale mountain and hill farming and animal husbandry, not very lucrative trades, as well as mining, which was before the fall of the Berlin Wall the basis for mineral exports from Yugoslavia and internally in Yugoslavia mainly to industries in Slovenia and Croatia.

The topography of Kosovo can be compared to a pot. High mountains on all sides, to the west and south up to 2,600 meters above sea level and in a straight line less than 100 km from the Adriatic, which means a steep fall for the water into the sea. Although the area is divided into fruitful valleys, it has little agricultural potential. Kosovo is densely populated and the farms are relatively small. Households on the other hand are relatively big, in average 6-7 persons per family. The fruitful land between the towns of Prizren and Pec was called 'Metohija' by the Serbs, derived from the Greek word 'metoh', meaning church property.⁹

Historically Kosovo has not been able to maintain self sustainability over time. Under Serbian rule, it was dependent on external assistance in the form of subsidies for mining from Belgrade, which also profited from the mining. At present, assistance comes from the international community, security wise in the form of NATO troops and economically in form of heavy financial assistance from the EU.

The economy of Kosovo has been determined by two factors: the extraction of mineral resources in form of precious metals and coal underground, and mountain farming, including the production of quality wines ('Amselfelder'), which was the

⁹ Malcolm, *ibid.*

real basis for survival of the population. The Kosovo economy also participated in regional trade and depended on some commercial enterprises, such as the chemical industry. Although mining has been at the core of economic development in Kosovo, the mines suffer from a lack of investment and exhaustion under previous control from Belgrade. Changed conditions on the world market and the global use of new and capital intensive technology have contributed further to obsolescence of traditional mining in Kosovo. The current economic situation remains bleak. The most promising economic potential of Kosovo, outside of the remittances

PRIVATIZATION

Ferronikeli is a mining-metallurgical enterprise which in 1989 had a design capacity of 12,000 tons/year, employed 2,000 people and produced 7,800 tons of contained nickel with Mines (Çikatova, Gllavica both open pits) and a smelter complex. Its headquarters are in the Drenas (Gllogovac) municipality. The total investment in equipment and machinery from various European countries was 580 mUSD of which 75% came from foreign sources. Production stopped in 1998.

Since 1999, 300 persons have been repairing damages and preparing restart, which is estimated to need 1350-1450 workers in order to produce 6,000 tons of nickel mainly to Western markets with an average annual export income of 40-50 mUSD. One production line with a monthly capacity of 300 tons of nickel can be reactivated in 5 – 6 months at an investment of 15 mUSD. The second line should be possible in another half year at a cost of 8, 3 mUSD and export markets in Germany, Italy, Austria, and other countries of Europe.

In May 2005 a tender of Ferronikeli, one of the largest and most valued Socially Owned Enterprises in Kosovo, committing bidders to invest 20 m€ and employ 1,000 workers led to a US-Albanian company based in Tirana offering the highest price of 49,5 m€.

Sources: Economic Initiative for Kosovo, *Programme of Recovery...*, 2003, World Bank Kosovo Monthly Economic Briefing, *Ferronikeli deal struck*, 31.05.2005.

from Kosovo Albanians working abroad which now account for almost half of the gross domestic product, is therefore probably still agriculture and trade. An important competitive parameter may also be the relatively cheap labour force. Privatization of Yugoslav Socially Owned Enterprises is underway affecting mines and related industries, medium sized factories and other enterprises. Most of the privatized enterprises are taken over by Albanians in Kosovo or residing abroad. There is concern, however, that many investments will not necessarily lead to productive business activity. Also Publicly Owned Enterprises in the fields of energy production, airports, telephone and postal services may look forward to greater private participation and foreign investments.

Even prior to the 1999 conflict, agricultural production in Kosovo had declined, industry had broken down and administration and institutions had come to a stand still. Decades of economic mistakes and mismanagement left enterprises ineffective and institutions corrupted, and Kosovo suffered from hyperinflation. The economic development of the 1980s left Yugoslavia with considerable international debt. The dissolution of Yugoslavia negatively affected traditional markets in Slovenia and Croatia and necessary investments and maintenance failed to appear. The international trade sanctions against former Yugoslavia in the 1990s affected the economies of all of the Balkans negatively and gave rise to extensive smuggling. Serbian labour market laws forced many Kosovo Albanians to look for alternative jobs and made them dependent on remittances from family members abroad. The melt down in Albania in 1997 after pyramid games contributed to further impatience with the oppression by the Milosevic regime and to the arming of the Albanian population in Kosovo.

After the fighting in 1999 had stopped, Serbian authorities and experts, who had monopolized key functions and jobs within enterprises, industries and administration in Kosovo left, and very few professionals had qualifications to assist the international administration in rebuilding the economy. Instead, an informal and unofficial economy grew up, mainly within trade internally and externally and with the Deutsch Mark as the official currency, later to be substituted by the Euro. Parallel Albanian social structures, including a 3% income tax, had existed for years, and the Albanians as well as the Serbs each in their separate areas established various forms of authorities to fill the political and security vacuum left by the withdrawal and before the international administration would at some length become ready. For instance, it took quite a while to recruit a sufficient number of police officers to man the UNMIK Police. Albanians with ties to the

armed groups took over empty apartments and other real estate and assets such as hotels, petrol stations etc., which were then used as a basis for political activities as well as sources of income.¹⁰

The KFOR presence, at present reduced to 17,000 personnel, and UN administration and police generates some income for locals, but at the same time implies a serious distortion of the economy and the labour market. At present the biggest supplier of local jobs in Kosovo is the American military base Camp Bondsteel. The massive international support to Kosovo has had an effect similar to what the discovery of oil might have had. Without raising the productivity of the work force, producing goods competitive at home or abroad or changing the nature of a backward rural economy, Kosovo can afford massive imports. In an area with a high birthrate and low average age, more than 30,000 persons a year enter the labour market and unemployment stands at around 60%. Forecasts of another 250,000 inhabitants in Kosovo in 2015 would require the economy to generate 25,000 new jobs each year just to keep the existing (already) low employment rate constant.

Unemployment in conjunction with the geography of Kosovo has contributed to a high rate of economic crime. Trafficking of mainly women and girls, but also smuggling of weapons and narcotics, has reached alarming heights. Open confrontation with the well-armed local criminal groups seems to have been inadvisable. Criminal statistics are improving and may not show any alarming rate of murder or other forms of serious crime, but political violence, including murder, gang wars and deadly family feuds seem to be both frequent and out of control, partly because they are not reported to the authorities but still known from the local press.¹¹ There are frequent unreported cases of low level, inter-ethnic violence and incidents which negatively affects freedom of movement. UNMIK, which is still responsible for the security and protection of minorities, has established an Anti-Economic Crime Unit under the EU administrative pillar. UNMIK police has set up an Organized Crime Intelligence Unit and Customs services are being supported. Nevertheless, efforts to implement the most recent legislation of 2002 are often met by bribery and corruption.

Armed conflict inevitably widens political and ethnic divisions in society and disrupts social and economic activity. But it also corrupts social structures, thereby

¹⁰ Yannis, Alexandros in Ballentine and Sherman, 2003.

¹¹ ICG Europe Report No163, 26.05.2005.

chronically damaging prospects of future economic and political development¹². Attempts to counter the economic, social, political and security consequences of armed conflict have to be built on crime prevention and policing activities as well as a functioning judiciary and prison system. Criminal law must be enforced in order to restore trust in the social and economic systems, and economic gains from illegal activities must be seized by authorities in order to show that investments will be safeguarded and economic sustainability re-established. Democratization demands confrontation of individuals and groups who aim to undermine and confront state of law and international cooperation and in Kosovo crime will have to be prosecuted more vigorously. In addition to greater internal security and control, stabilization also has to include border control and monitoring coordinated between military and civilian authorities.

In the case of Kosovo such efforts are constrained by an anti-authoritarian political culture developed through a yearlong fight against the oppression by the Milosevic regime. This anti-authoritarian culture is furthermore supported by the Albanian myth of constant struggle, the idea that the Albanian nation is forever fending off threatening foreign influences. Kosovo has always been a crossing-place for merchant caravans and armies. Albanians in general but Kosovo Albanians in particular have for centuries been subject to foreign military invasions and subsequent oppression and efforts to disarm the population were followed by rebellions against Ottoman, Bulgarian, Austrian and Serbian rule. Historically Albanians have organized in families, brotherhoods and clans ruled by a council of elders. But they have also organized in paramilitary formations under control of local leaders who would supply fighting men when called on, and who wielded great local power as administrators, military leaders and settlers of disputes. The system of self-government in particular in Kosovo and northern Albania rested on a strong framework of customary law. All rules relating to marriages, inheritance, pasture rights and not the least criminal acts were laid down in traditional codes of law originally passed in memory for generations and codified under the name of 'Kanuni I Leke Dukagjinit' after the Dukagjin family of Malesi in Northern Albania. The Kanun remained unwritten until 1913 when it was compiled by a catholic Albanian priest and published in 1933. It was later translated into English.¹³

¹² Yannis, *ibid.*, 2003

¹³ Fox, Leonard (transl.), *The Code of Leke Dukagjini*, Gjonleka Publishing Company, New York, 1989.

ALBANIAN LAW CODE

In the 15th century the chief of the north Albanian highlands, Lek Dukagjin, introduced his own **Kanun**, following the example of the Ottoman sultans, to the territories under his control, and it was gradually accepted as common law in Skhodra, Gjakova, Kosovo, Montenegro and Macedonia. The Kanun has 12 books, respectively concerning the Church, the Family, Marriage, House-Livestock-and-Property, Work, Transfer of Property, The Spoken Word, Honour, Damages, The Law regarding Crimes, Judicial Law and Exceptions.

It provides widely dispersed tribal people with a national identity: “The family (shpi) consists of the people of the house; as these increase, they are divided into brotherhoods (vllaznija), brotherhoods into kinship groups (gjini), kinship groups into clans (fis), clans into banners (flamur), and together constitute one widespread family called the nation, which has one homeland, common blood, a common language and common customs”.

The dissolution of strong centralized authority such as the communist government and the collapse of social institutions led to a revival of customary law which represented some sort of safety. The Kanun, including blood feud, is also practised by Albanians abroad. There are striking similarities with customary law of Northern Caucasus.

Source: Krasztev, Peter, *The Price of Amnesia - Interpretations of Vendetta in Albania*, in Zhelyazkova, 2000.

This law code is very clear in its demand for respect for personal honour, equality and the freedom of persons and the word of honour. An offence to honour is, according to the Kanun, not paid for with property, but by the spilling of blood, or in cases of great generosity a pardon. Offence to honour occurs if a man is called a liar in front of other men, if his wife is insulted, by taking his weapons or by violating his hospitality. These rules have traditionally resulted in blood-feuds, which are unfortunately still practised in Albanian communities, especially in northern Albania and Kosovo. The law code building on the ancient principle of ‘an-eye-for-

an-eye' and locally taking precedent over other modern rules of law is furthermore complicated by adjustments to concepts such as religion and the state.

The status negotiations will cover a wide range of topics concerning politics, international law, human rights and economy. First thing to agree on will simply be an agenda and tough negotiations may be expected on what to include and what not to include. Sovereignty, integration into international structures, decentralization, property rights and religious sites are all issues which requires careful consideration, whence the importance of moving forward with caution¹⁴.

¹⁴ Eide, September 2005.

The Process – actors

The political process which will determine the future status of Kosovo is the responsibility of the UN, particularly the Secretary General, but a number of actors on the international scene will play leading roles. The preparations of deliberations of the Security Council concerning Kosovo since 1999 has been in the hands of the Contact Group, first established in 1994 to deal with ex-Yugoslavia in general, and today composed of the US, Russia, France, Germany, Great Britain and Italy. In addition to these international actors other roles are played in New York by the UN Secretariat, the EU – mainly the Council Secretariat, specifically the so-called Policy Unit of SG Solana, Denmark as temporary member of the Security Council and Greece and Romania as regional actors. Prishtina and Belgrade and other capitals involved will determine the future status of Kosovo, to be finally confirmed by the Security Council or an International Kosovo Conference. Finally, NATO is also an important actor because of KFOR's responsibility for public security in the area.

The first problem for the international actors to confront will be the respective views of the two conflicting sides, since neither the Albanians nor the Serbs agree internally. In Prishtina, despite a tendency of leaders to fight each other rather than to prepare for next steps, a negotiating team, consisting of five prominent Kosovo Albanians, has been appointed, under the leadership of the Kosovo President. In Belgrade, leaders tend to look at each other rather than to look forward. Kosovo Serbs, reluctant to discuss the challenges facing them, have been brought together, but still have difficulty agreeing with Belgrade.

ALBANIAN ACTORS

Ibrahim Rugova (1944), President re-elected 2004, leader of Democratic League of Kosovo (LDK), unofficial President in the 1990s and high stature in local society, marginalised in the 1990s but came back as President in 2002, undergoing treatment for lung cancer.

Hashim Thaci (1968), leader of (opposition) Democratic Party of Kosovo (PDK), founder and former leader of the Kosovo Liberation Army (KLA), emerged at Rambouillet peace talks.

Bajram Kosumi (1960), Prime Minister in March 2005, Deputy Leader of Alliance for the Future of Kosovo (AAK), priority is independence for Kosovo, economy also high on the agenda.

Ramush Haradinaj (1968), Prime Minister until March 2005, leader of AAK, indicted by Hague Tribunal for war crimes, former deputy of General Ceku, KLA.

Agim Ceku (1959), Commander of Kosovo Protection Corps (KPC) and general, former C-in-C of KLA, professional soldier, formerly Yugoslav and Croatian armies, family in Croatia.

Veton Surroi, leader of ORA Party, publisher and editor, **Bajram Rexhepi**, former PM, PDK-leader in Mitrovica, **Albin Kurti** (1975), former student leader, 'No Negotiations! Self Determination!' **Adem Demaci**, 30 years in Serb prison.

To the extent that Kosovo Albanians share their identities with the Albanians in Albania, they also share the constituent myths of Albanian national identity constructed for political purposes. According to myths of origin, Albanians have a historic claim to the land on which they live and a nation that has remained pristine through the ages, admitting neither intermarriages nor cultural assimilation. Albanianism is the religion of the Albanians, and the choice between Christianity and Islam did not matter much for Albanians because their national identity existed independently, rooted in its ancient Illyrian past¹⁵.

¹⁵ Malcolm, Noel, *Myth of Albanian National Identity: Some keyelements*, in Schwandner-Sievers, 2002.

SERBIAN ACTORS

Boris Tadic (1958), President of Serbia 2004 defeating nationalist rival, leader of Democratic Party (DS) after assassination of former PM Djindjic in 2003, co-habitation with centre-right government, supporter of free market, EU and NATO.

Vojislav Kostunica (1944), Prime Minister of Serbia 2004, founder and leader of Democratic Party of Serbia (DSS), former ally of Djindjic, former President of Yugoslavia after Milosevic, moderate nationalist, supported by Socialist Party.

Vuk Draskovic (1946) Foreign Minister of Serbia and Montenegro, former Dep. PM of Yugoslavia, founder of Serbian Renewal Movement (SPO)

Milo Djukanovic, Prime Minister of Montenegro, advocates ending union with Serbia.

Nebojsa Covic, Leader of Soc. Dem. Party, former Head of Belgrade's Kosovo Coordination Center.

Miroljub Labus, (1947) Dep. PM of Serbia, leader of G17 Plus party, economist, former dep. of DSS.

Sanda Raskovic-Ivic, (1956) Head of Belgrade's Kosovo Coordination Center.

Oliver Ivanovic, leader of Serbs in Mitrovica, former director of 'Fer-ronikeli' **Slavisa Petkovic**, Minister of Returns in Prishtina, **Bishop Artemije** of Raska and Prizren, **Father Sava** Janjic, Serb National Council of Gracanica.

The Serbs on the other hand uphold very similar – or to some extent reverse or reflecting – myths and identities, not least concerning the Orthodox church and Kosovo as the cradle of Serbian culture and national identity.

The next layer in the negotiations is the neighbouring countries of Albania and Macedonia, to whom the question of guaranteed borders is essential and an in-

dependent but militarily immature and armed Kosovo will constitute a security problem. The third layer is the most directly involved international partners such as the EU, NATO, the OSCE and the Council of Europe. As regards UN proper, since the Council's direct involvement increases the risk of veto from one or more of the Permanent members, the most constructive solution will probably be for the Secretary General to act on behalf of the Security Council and report to the Council. Finally, the outer layer is made up of the US, which is the only acceptable supplier of security guarantees to the Kosovo Albanians, just as Russia will need to take part as a traditional Serbian ally, supporting the Serbian democratic opinion, but also in the light of traditional Russian strategic considerations. Russia tried in the summer of 1999 to establish – although without luck, as it turned out – its own, separate bridgehead in Kosovo by unilaterally taking the airport of Slatina (Prishtina), but the subsequent Russian force contribution to KFOR was withdrawn in 2003. Whether the Contact Group plays an independent role probably depends on Russian wishes to go along with partners not Permanent members of the Security Council such as Germany and Italy.

Traditional mentors of Albania and Kosovo are EU member-states Greece and Italy, politically and economically also in the form of investments, but also EU candidate Turkey may be assumed to be ready and willing to play a role in the process of establishing the future status of Kosovo.

The Process – substance

The prospect of Kosovo independence is met with nationalistic protests from political parties in Belgrade and the Orthodox Church, even if the Serbs are well aware that the province is lost for the Republic in the long run and that reconstruction by far exceeds Serbian resources. Any solution involving Kosovo inclusion in Serbia would have to take the form of a confederation, or of a federation of Serbia, Montenegro and Kosovo. Albanians would make up 20% of the total population and hold a fifth of the deputies in any democratically elected assembly. Albanian would become the second language of such a construction, and given the Albanian age structure Albanians would make up 30% of drafted personnel of the armed forces.

A substantial problem regarding Serbia is therefore to outline a solution of independence for Kosovo which on the one hand recognizes democratic forces and procedures in Serbia and on the other hand offers advantages probably in the form of Euro-Atlantic integration. Whether accelerated negotiations on EU membership in parallel with negotiations on the status of Kosovo is sufficient to accommodate Belgrade remains to be seen. An additional incentive worth considering is the relief of the remaining part of the substantial international debt left over from Yugoslavia's failed economy in the 1980s. The Serbian application for WTO membership could also be viewed positively as a consequence of Serbian co-operativeness. A separate problem is the need to guarantee security for the Serbs in Kosovo as well as protect orthodox churches and monasteries. It has even been suggested that a special status for these sites under direct responsibility of the Serbian Orthodox Church could be studied.

The EU will have to throw into the negotiations concessions not only to the Serbs but also by offering assistance in guaranteeing security and promoting the economic development of Kosovo. The EU Heads of State and Government indirectly announced in June 2005 that the Union was not able or ready as in Bosnia to assume the overall responsibility from the UN, and that the EU component could not be EUMIK. At the same time though, the EU is building up a new type of economic and financial assistance that also includes Kosovo called the Instrument for Pre-Accession Assistance. The EU stands ready to continue to support the realization of a multi-ethnic Kosovo with citizens feeling secure and equal on condition that their leaders demonstrate a clear commitment to democratic

principles, human rights, protection of minorities, rule of law, market economy and European values and norms.

As discussed above, the UN presence in Kosovo has not been an unqualified success, since at least until recently UNMIK was met by increasing scepticism and at times by direct animosity from the local population which has repeatedly launched attacks on UNMIK property. Concurrently, the reputation in general of the UN has been harmed by the withdrawal of UN personnel from Iraq following the fatal bomb blast killing the Special Representative of the UN Secretary General, which did not improve ambitions for local administration. In Kosovo the UN's leverage is diminishing. It seems fair to assume that the UN's primary goal is to terminate its presence in Kosovo as soon as possible in an orderly fashion.

The US has reduced its military presence to around 1,500 soldiers in the NATO force, and for financial and strategic reasons, it will want to withdraw them and leave as much security and economic responsibility in the hands of the EU as possible. Such American concerns will have to be weighed, however, against a concern with the major, and as it seems more or less permanent, military base Camp Bondsteel. The base is the largest American military installation outside the US since the Vietnam War, housing in southern Kosovo the remaining American land forces in the Western Balkans after the NATO hand over to EU forces in Bosnia in 2004. The primary justification for this major military installation including battle helicopters and a fixed-wing air strip is Kosovo security, but there are other strategic concerns such as force projection in the Black Sea area and parts of the Middle East and connected with planned oil pipelines directly from the Black Sea to the Adriatic, surpassing the overcrowded Hormus Strait. Whether Bulgaria and Romania might be alternative hosts to American installations is of course still an open question.

Finally, the administration of natural resources, mainly underground, may be assumed to become a substantial question in relation to the future status of Kosovo. Kosovo has valuable and unexploited natural resources, in particular lignite, lead, zinc, non-ferric metals, gold silver and petroleum on top of 17 billion tons of coal. Improved technologies and infrastructure could possibly turn such resources into assets against the economically disastrous and continuing energy shortages in Kosovo. This prospect raises, however, the question of ownership of the underground resources, which traditionally goes along with sovereignty of the land area, although exemptions have occurred, such as the Norwegian arctic

island of Svalbard, where ownership to the underground belongs to members of the international community.

The Region

An independent Kosovo in a form acceptable to both Belgrade and Prishtina would eliminate fears of a re-emergence of violent conflict that could endanger regional security. Such concerns are also relevant to Bulgaria and Romania, which are expected to join the EU in 2007. But just as these two countries appear capable of generating the political and economic energy needed to become members of the EU, so would the countries of the former Yugoslavia.

Serbian foreign policy is of course under influence of Serbia's position at the main route between Western Europe and Greece, Turkey and the Middle East, and the country thus plays an important role in the region's economic development. Serbia is by far the largest country in the Western Balkans. Even as Yugoslavia has disintegrated, the material concerns on which the Federation was built have not necessarily disappeared. And except Cyprus, which is a special case because of Greece, the EU in principle – and for sound reasons – exclusively has wanted to negotiate membership with stable nation-states with internationally recognized borders and a clear constitutional status. To create the regional growth demanded by European integration will require political courage in Belgrade, cooperation with Croatia as a candidate country and imagination in EU Headquarters in Brussels.

Bosnia-Herzegovina, Montenegro and Macedonia separately view Serbia with scepticism, even if the first two host Serbian minorities. Macedonia however risks becoming the weak link in the chain, not least since Albanian minorities there and in Kosovo are more closely linked to each other than to Albania proper. The Kosovo Albanian elite, who in many cases emanates from the global diaspora, would probably be well placed to influence its brothers in arms in Macedonia if a local conflict was to develop. It is widely assumed that the recent unrest in Macedonia took place under influence from legal or illegal networks operating across international borders. Criminal groups have an inherent interest in regional insecurity and seen from abroad the future status of Kosovo will necessarily have to include safe borders with Albania and Macedonia.

In this perspective the alleged project of Greater Albania which is often claimed from Serbian sources seems not to be particularly relevant, at least not from a formal point of view. Apart from the Diasporas which exert a certain influence

financially and in regard to economic development and probably harbours some revanchist ideology towards Serbia, this idea seems not to enjoy much support. Any new outbreak of violence in Kosovo as in 2004, would hardly be stoppable by local leaders and not either this time by Albanian leaders in Tirana. On the contrary, leaders in Tirana would probably fear that influence around an independent Kosovo in the region might be greater with Prishtina than with relatively poor Albania.

There is much more sympathy in Albanian circles, but also amongst other populations in the Western Balkans, for the idea of the free movement of persons, primarily in the region, but in a wider perspective not least at the European continent. In this regard the EU might be able to assume a greater responsibility, on the one hand by giving practical assistance to implementation of border openings, and on the other hand by relieving the Schengen visa regime primarily for selected groups of students and the business community. Free movement often meets objections concerning border-crossing crime, but such crime undeniably exists and is already increasing. Visa regimes and entry control are not necessarily the best mechanisms to stop it.

At the regional level it is remarkable that a group of EU member countries – the so-called ‘Visegrad 4+2’ group of the four original Visegrad countries, the Czech Republic, Hungary, Slovakia and Poland, supplemented by Austria and Slovenia – has on its own initiative attempted to contribute to the considerations of Kosovo’s future status. Most of these six EU countries have substantial and long-time political and economic interests in the region and they have used regional consultations to present some of their assessments and proposals regarding Kosovo. Such assessments and proposals may well become indicative of EU positions during the status negotiations. Whether the Catholic orientation of these countries may play a negative role for Orthodox Serbia remains, however, to be seen.

Conclusions

Kosovo is already de facto independent from Serbia and the status negotiations are therefore centred on how to make this status permanent as it is the wish of the Kosovo Albanians. The red lines of the negotiations may be drawn as follows:

First, there seems to be broad international agreement that future status cannot be allowed to lead to a Serbian exodus from Kosovo or a boom of radical nationalism. As many or more Kosovo Serbs are now leaving as are returning. It can also not lead to an Albanian 'intifada' against the UN and the international community in general. Whether such a status necessarily implies separation of the ethnic groups, without constituting a formal partition, will have to be decided by the negotiations.

Second, the negotiations will have to decide the international legal question of the sovereignty of Kosovo. Not least in an international system dominated by a single power, the USA, regard for international law is imperative for the other actors of the system whether big or small. Compliance with international legal rules, such as the Agreement on the International Criminal Court, is often used as an example of the importance of legal regulation of international relations. Multilateralism is stressed not least by the EU as a crucial element of a future world order. It is of course true that the concept of sovereignty itself has developed and the balance of emphasis has changed towards 'the peoples' sovereignty rather than the sovereign's sovereignty. But simply to accommodate concerns of risk management in Kosovo by offering unconditional independence and thereby to override regulations of international law on sovereignty in one, specific case, may backfire globally and do harm to the entire international system.

Third, the negotiations will have to answer the question of how to avoid creating or permitting a so-called 'failed state' in Kosovo that does not control its territory and thus permits a free hand for organized crime. The population in Kosovo needs some means of subsistence in addition to the massive economic assistance from the EU, which will in any case be necessary for the foreseeable future. The security of Kosovo, internally as well as externally, will require foreign military and police efforts from the EU, the Union having in its tool box the necessary civilian as well as military elements of the European Security and Defence Policy. The military

element will presumably have to be supplemented by the USA because of Kosovo Albanian suspicion of some EU member countries.

Fourth, in the end game of the negotiations, the EU will have to extract concessions mainly from the Serbs, and the US concessions mainly from the Kosovo Albanians. Compromises between concessions must allow each side to feel able to accept the end result. The local parties will presumably make demands not only to their counterpart, but they will also request concessions, in particular from the EU regarding further economic and financial assistance, and from the US mainly regarding military and security matters (NATO). In sum, the continued will of enlargement of the EU will be severely tested during the negotiations concerning the future status of Kosovo. Not only will the will in general be tested, but specifically the timing and progress of membership negotiations with two main regional players, Croatia and Turkey, may influence the status negotiations, as well as of course the concrete EU negotiations with Serbia (and Montenegro?) concerning a Stabilization and Association Agreement.

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