

Kosovo, a Tentative Independence

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After almost nine years of a fruitless international protectorate, Kosovo declared its independence on 17th February 2008. It was recognised by the USA and a number of European states in spite of strong opposition from Serbia and its ally, Russia. The issue is seriously dividing the European Union and is reviving speculation on the risks of a new regional crisis.

From the viewpoint of advocates of this solution, recognising Kosovo's independence would succeed in "slotting in place the final piece of the Balkan jigsaw puzzle." This independence would crown the process of dismemberment of the former Yugoslav Federation and do so in a way that would guarantee a lasting stabilisation of the western Balkans. While the Albanians' age-old demand has now been vindicated, at least in symbolic terms, a new regional crisis seems nevertheless to be taking shape, given that Kosovan independence, while formal, does not presage the viability of the new state. It looks rather like the onset of a new cycle of dismemberment and restructuring of the Balkan region.

A Remotely Controlled Process

Over two years, the United Nations envoy conducted negotiations between Belgrade and Pristina, which never had a true chance of reaching a satisfactory conclusion. The positions on both sides were antagonistic; the Albanians would not discuss anything other than independence, precisely the very option that was unacceptable to Serbia, which was only willing to contemplate some form of definition of "wide-ranging autonomy." The Serbian authori-

ties even proposed a veritable "world tour of autonomies," conjuring up a status for Kosovo based on the model for the Aland Islands in Norway, then the Italian Alto Adige, or if not that, then the one used for Hong Kong, etc.

In reality, the dice were loaded from the very start, with American high representatives declaring, even before discussions were under way, that independence was the "unavoidable" outcome. Such standpoints could not but underpin Albanian intransigence, and render the negotiation process hopeless.

Despite that, Serbia enjoyed a strong diplomatic and legal position. Since the NATO bombing came to an end in June 1999, Kosovo's status was in effect determined by UN Security Council Resolution 1244, which explicitly envisages Serbian sovereignty over the territory.

Quite clearly, this resolution is still valid to the extent that it has not been overridden by any other resolution of that very same Security Council. Now Serbia is able to count on Russian support in preventing a new text being adopted. Under these conditions, Resolution 1244 holds good, leading to a situation that is at best confused: the UN Interim Administration Mission in Kosovo (UNMIK) remains in place, even if it will progressively relinquish the core of its competencies in favour of Kosovan institutions and the new EULEX mission that the EU intends to deploy. The 18,000 NATO troops, the Kosovo Force, are similarly being deployed by virtue of that resolution. From the legal point of view, the bypassing of Resolution 1244 on the part of the Security Council, creates an incontestable precedent, that Russia is bound to wield when encouraging the independence of secessionist former Soviet republics that remain faithful to it, such as Moldovan Transnistria, or indeed Abkhazia and South Ossetia in Georgia. More widely, a number of countries are concerned at the solution provided for Kosovo's status: Serbia, a sov-

ereign state and UN member, has been stripped, against its will, of 18% of its territory, an act constituting a flagrant violation of the United Nations Charter that has been accepted and promoted by the main western states, most notably the USA, France and the United Kingdom.

In reality, the international community has fallen headlong into a formidable trap. Kosovo Albanians believed that they had been promised independence, and they openly threatened to unleash a fresh cycle of violence if that prospect was not quickly fulfilled. They had interpreted NATO'S bombing of Yugoslavia in 1999 as explicit support for their demands, and they regarded the United Nations protectorate as a "preparation" for that inevitable independence.

However, the 1999 bombings had no other official purpose than to bring to an end the abuses by the Serbian and Yugoslav security forces in Kosovo and the independence option had not at the time been envisaged by the main actors on the international stage. Similarly, UNMIK was deployed without any proper objectives or timetable.

This protectorate, the costliest in the whole of United Nations history, had not allowed a solution to be found for any of the countless challenges faced by Kosovo. Hence an open-ended extension was inconceivable. There was thus a need to break the status quo, even if the cure chosen were to turn out worse than the disease.

The Fiasco of the International Protectorate

UNMIK had no clearly-defined objectives save the one – enunciated in a wholly theoretical and abstract way – of rebuilding a "multi-ethnic" society in Kosovo. In the event, the deployment of international civil and military forces in Kosovo in June 1999 brought with it violent acts of "reverse ethnic cleansing" against Serb and Roma populations, but also other small non-Albanian communities such as Goranis, Bosnians and Croats.

From there on, speaking of "multiethnicity" was a distraction, the slightest trust needed between the various communities having been wiped out by the reciprocal violence. Whilst the right of return of the approximately 150,000 Serbs and Roma forced to flee from Kosovo since 1999 was recognised as a priority by the international administration, "real" returnees (those not leaving again within a few months) total, at best, a few hundred cases.

The failings of the protectorate are equally flagrant in two other critical areas: reestablishing the rule of law and something approaching a functional economy. Putting in place a police force and an effective legal system has all along come up against endless obstacles. The United Nations police, whose members are drawn from every country in the world and rarely understand Serbian or Albanian, have never been able to draw up an adequate framework for cooperation with the Kosovo Police Service (KPS), itself broadly subservient to the interests of the various parties and factions. The shadow services (those from the previous guerilla forces or from the Democratic League of Kosovo [LDK]) still continue to exercise a far more efficacious watch on society.

These networks of interests, frequently linked to political mafias, have similarly impeded a reconstruction of the legal system: in every case coming up to trial, witnesses retract, the judges themselves are afraid. Under such conditions, it is not at all surprising that practically no trials of ex-guerilla fighters have been successfully prosecuted. This phenomenon goes all the way up to the international criminal Tribunal at The Hague, where it is rare for Albanian witnesses to dare to stand by their depositions against former fighters from the Kosovo Liberation Army (UCK).

This failure of justice has as its direct consequence a consolidation of private interest networks, which back and control the political parties. Thanks to the artlessness of the UN administration, these long years have aggravated mafia creep. Albanian citizens, the first to have suffered from this dereliction, do not forget the responsibility attaching to the international administration, in the same way as they blame them for their economic breakdown.

It is true to say that bringing prosperity to Kosovo was not part of UNMIK'S "contractual" commitments, but the failure of public services, infrastructure and the economy is nevertheless a damning indictment of the international administration responsible for the territory.

The most flagrant example is the electrical power supply. Life in Kosovo since June 1999 has followed the pattern of endless power cuts, a reality that had been unknown up to then, since Serbia had always ensured Kosovo'S supply and its grid maintenance. Class war has taken on a face that Karl Marx never contemplated: the opposition between the happy owners of an electricity generator and the vast majority of the population that is unable to have one. In these circumstances, one suspects that the devel-

opment of any economic activity will become even harder, while power cuts make for permanent social discontent.

The record is even more puzzling when one bears in mind that Kosovo was actually supposed to export electricity during the Yugoslav era and that Kosovo A and Kosovo B power stations, at Obilic, near Pristina, were built in the 1960s by French firm Alstom. It is wholly incomprehensible that it has proved impossible to repair them and return them to production when the European Agency for Reconstruction alone has paid out close to 500 million euros to restore electricity production and supply to working order.

Serious instances of corruption have continued to blot the record. Controlling the lignite mines, the Obilic power plants and the public electricity utility, KEK, has been the object of a ceaseless and vigorous political battle in which the main Albanian parties, the LDK, the Democratic Party of Kosovo (PDK) and the Alliance for the future of Kosovo (AAK), have always sought to have their "placemen" in the strategic posts, regardless of the required skills and qualifications. Corruption has equally touched the international administration: in December 2002, senior UNMIK official Jo Trutschler, a German national, was arrested on suspicion of corruption. At the end of 2007, the mission's number two, former US general Steven Schook, was suddenly obliged to quit his post, as he became the subject of an enquiry by the UN Office of Internal Oversight Services (OIOS). He was implicated in the vast and murky business of building a third giant power plant, Kosovo C, a project with a cost estimated at 3.5 billion dollars, for which any economic justification seems questionable, and with environmental consequences that were never examined.

All things considered, Kosovo remains a social time-bomb, ever threatening to explode, with an unemployment rate estimated at 60% of the active population, and with 60% of the population being aged 25 or under. Every year, 40,000 young people celebrate their eighteenth birthday with barely a chance of being able to build their lives and futures in Kosovo. For them the sole prospect is to head off to the West, most often illegally.

Despite the colossal sums that the EU has promised to commit to Kosovo, this state of affairs shows few signs of improving, at least in the short term. Advocates of independence put forward two arguments: foreign investors shunned Kosovo as long as it had

no clearly established status, but one suspects that in this respect the situation has barely changed since the 17th February formal proclamation, while the regional circumstances appear to have become yet more uncertain. Another point is that privatisations have remained blocked, given that the majority of enterprises in Kosovo belonged to the Serb Republic: the position has not changed at all since the proclamation of independence, since the political status clearly does not determine private property rights.

Under these conditions, Kosovo's economic future – deprived of any significant economic resources, aside from its lignite deposits – looks very gloomy. Kosovo's development can be seen not to be viable other than within the framework of a development in regional trade. Even if Serbia has not yet carried out its threat of an economic embargo on Kosovo, the end of relations with Belgrade will represent a major handicap for the new state.

The Regional Risks

Kosovo's independence should not be compared to Montenegro's, in the first place because the two countries did not enjoy the same status: Montenegro was a republic federated to the former Yugoslavia, entitling it, according to the much-cited opinions of the Badinter commission delivered in early 1992, to exercise its right to secede. Most especially, Montenegrin independence was obtained through a ballot that brought together the voices of the majority (the Montenegrins) and those of the greater part of the national minorities: the country's Bosnians, Albanians and Croats voted massively in favour of independence. By way of contrast, Kosovo's independence had been sought by just one of the country's national communities – the Albanians – admittedly a large majority but one which thereby imposed its choice on the other communities. Aside from legal considerations – for example about the exact legal status enjoyed by Kosovo within socialist Yugoslavia – its independence entertains the principle of creating a state on ethnic grounds.

Kosovo's independence undoubtedly raises a "cross-border Albanian national" issue, even if the question of an eventual national unification is not immediately posited. The outcome of events in Macedonia (where one quarter of the population is Albanian), in the Presevo Valley, southern Serbia, and in Montenegro (where the Albanian minority represents just

6.5% of the total population) will need to be watched closely.

Other consequences of independence: its acceptance is regarded as a precedent by Bosnia and Herzegovina's Serbian nationalists that justifies their own aspirations to secede. Milorad Dodik, the all-powerful Prime Minister of Republika Srpska, "the Serbian entity" of this still divided country, will not fail to play the card of threatening a referendum and partition to block all the indispensable reforms and all the measures that could reaffirm its power. The danger of international sanctions has likewise faded from sight, due to Dodik's possession from now on of an even more powerful "weapon" of menacing secession.

The final point is that Kosovo's independence has precipitated a political crisis in Serbia, boosting the most nationalist tendencies. If Serbia "goes for the option" of plunging itself into political isolation and direct confrontation with a substantial section of the international community, it will not be alone in paying the price, since this attitude will have immeasurable regional consequences.

The EU's own strategy in the region is heading for troubled waters. Since the Thessalonika Summit, in June 2003, the Union has recognised the "vocation" of western Balkan countries to accede, but how could any integration strategy be conceivable if it created an impasse in relation to Serbia, which remains the principal and pivotal state in the region? It is quite simply impossible to imagine a stable and peaceful Balkan region without a Serbia that was itself democratic, stable and on good terms with its neighbours.

What Independence?

Kosovo's independence will remain, at least initially, formal and symbolic in essence. That independence is under the "control" of the international community, and in this instance the EU. The competencies of elected institutions will, in practice, be limited by the discretionary powers of the European High Representative, following a model close to that being applied in Bosnia and Herzegovina.

The territory's security itself will continue to be guaranteed by NATO troops – even if the current Kosovo Protection Corps (TMK), a civil force, ended up becoming a small army.

At the same time, international recognition of the new state will in reality remain partial, despite the estab-

lishment of a number of foreign embassies in Pristina. In effect, the Serbian veto will prevent Kosovo from joining a number of international organisations, notably the Council of Europe or the Organisation for Security and Cooperation in Europe (OSCE). Membership of the United Nations, requiring a vote by the General Assembly, likewise remains uncertain.

In the end, the authority of the new state will only be exercised over part of Kosovo's territory, since the Serbs refuse to recognise the declaration of independence and have thus abandoned all the institutions in Kosovo, not just in the northern sector, but also in all the enclaves. Since 17th February, Belgrade has taken back direct management of all aspects of daily life in the Serbian zones. Under these conditions, Kosovo is well and truly following the partitionist logic.

The EULEX mission, should it succeed in being deployed, will have as one of its essential tasks to oversee the implementation of the principal proposals of the Ahtisaari plan, which contain a number of measures that hold little attraction from the outset for the Albanians, such as decentralisation, which translates into the creation of Serbian communes.

These rules also include symbolic measures that seek to disguise the Albanian national character of the new state: thus, both the anthem and flag must not evoke "any particular national community." This leads effectively to the triumph of the absurd. The new Kosovo is an "ethnic" Albanian state, since the principal non-Albanian community, the Serbs, refuse to recognise independence. At the same time, a heavy-handed international oversight will be employed to attempt to hide this reality by imposing neutral symbols. Quite clearly this mismatch can but foster frustration and exasperation among all the communities, while Kosovo will not only remain a ticking bomb but also a veritable powder-keg that threatens the whole region.

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