

Kosovo: Critical Questions on the Road to Final Status

C-A-P-Position by Kurt Klotzle, March 2005 (www.cap.lmu.de)

Momentum is gathering in efforts to resolve the final status of Kosovo. A heightened pace of activity in recent weeks – including a report by UN Secretary-General Kofi Annan, declarations by key UN and EU officials, highly publicized NGO proposals, think tank reports, and editorials and articles in leading international newspapers¹ – has demonstrated that the international community is finally summoning the political will to confront the Kosovo question head on. The reasons for this renewed sense of urgency are twofold. First, the international community will soon conduct a review of Kosovo's fulfilment of governance, security and minority rights standards spelled out by the United Nations in 2002. The review is set for mid-2005, and its outcome will determine whether final status negotiations can begin. Second, there is increasing awareness that the current situation in Kosovo is unsustainable and that renewed violence may reignite if the status question is not addressed quickly. 2005 therefore promises to be a critical year in determining Kosovo's future, and the complex decisions to be made will have powerful ramifications for stability and development throughout the western Balkans.

On 4-6 March 2005, an expert meeting organized by the Hellenic Foundation for European and Foreign Policy (ELIAMEP) brought together policymakers and analysts from Kosovo, Serbia and Montenegro, the United Nations, the European Union, NATO and the United States to discuss possible scenarios for Kosovo's future.² Discussions of potential final status arrangements, security guarantees, minority rights, and the protection of religious and cultural sites revealed that, a full six years after the end of armed conflict, Serbs and Kosovo Albanians still have a very hard time engaging in constructive dialogue that seeks pragmatic solutions and transcends mutual recriminations. At the same time, however, both sides clearly articulated their willingness to intensify the conversation, indicating that the debate is inching forward despite deep mutual distrust.

So the good news is that the international community is sharpening its focus on Kosovo, and Serbs and Kosovo Albanians are gradually acknowledging the need for real dialogue. Nevertheless, resolving Kosovo's final status is fraught with complexity, and a host of difficult questions remain for which no consensus as yet exists. These questions can be summarized as follows:

¹ Report of the Secretary-General on the United Nations Interim Administration in Kosovo, 14 February 2005; Press Release, General Affairs and External Relations Council, Council of the European Union, 21 February 2005 (http://europa.eu.int/comm/external_relations/gac/date/2005/210205_er.pdf); Robert McMahon, "UN: Kosovo Envoy Confident on Standards Process," Radio Free Europe/Radio Liberty, 25 February 2005 (<http://www.rferl.org/featuresarticle/2005/02/f664b582-cfa6-498a-9d6c-b9bb0a018c72.html>); International Crisis Group, "Kosovo: Toward Final Status," Europe Report 161, 24 January 2005 (<http://www.crisisweb.org/home/index.cfm?id=3226&l=1>); Dusan Reljic, "2005 – Entscheidungsjahr für Kosovo?" *SWP Aktuell* 8, Stiftung Wissenschaft und Politik, February 2005; Frank Carlucci, "The War We Haven't Finished," *New York Times*, 22 February 2005; "Still Troubled after all these Years," *New York Times*, 3 March 2005; "Kosovo's New Chance," *New York Times*, 9 March 2005; Wesley Clark, "A Settlement for Kosovo," *New York Times*, 14 March 2005; Marina Zapf, "Kosovo steuert auf eingeschränkte Unabhängigkeit zu," *Financial Times Deutschland*, 14 March 2005.

² "Kosovo: Seeking a Sustainable Status," organized by ELIAMEP with the support of the German Marshall Fund of the United States and NATO's Public Diplomacy Division, Thessaloniki, 4-6 March 2005.

1. Is it possible to find a final status solution that is acceptable to both Serbs and Kosovo Albanians?

At the current state of play, Kosovo Albanian demands for independence and Belgrade's categorical rejection of an independent Kosovo amount to a zero-sum game that can only produce a winner and a loser. Despite the need to avoid a victor/vanquished scenario that would sow the seeds for future instability and conflict, it remains unclear whether any mutually acceptable compromises exist on the continuum between independence and autonomy. Proposals that lean toward independence – even “conditional” independence involving the long-term presence of international security forces, judicial officials and monitors – have been rejected by the Serbs. Similarly, proposals that seek to keep Kosovo within the boundaries of a Serbian state – such as the maximal autonomy recently suggested by Serbian Prime Minister Kostunica³ – have not found a receptive audience among Kosovo Albanians. Is there middle ground here that allows for some semblance of a win-win scenario? If not, the next question becomes more relevant.

2. Will there be an enforced or negotiated settlement?

Clearly, it is in the interest of the international community to achieve a negotiated settlement that receives the consent of both Kosovo Albanians and Serbs. But given the seemingly mutually exclusive objectives of both sides, joint consent on final status may be impossible to achieve. Since the international consensus is beginning to tilt toward some form of conditional independence for Kosovo, this may leave Belgrade facing an enforced settlement if the Serbs refuse to recognize Kosovo's independence. Ironically, this may be precisely what some Serbs want. The thinking goes like this: privately, many Serbian officials – as well as the Serb population in general – have abandoned the idea of holding on to Kosovo.⁴ Publicly, however, no Belgrade official can suggest relinquishing Kosovo without making himself the target of nationalist outrage. An enforced settlement would solve the Kosovo problem for Belgrade while allowing Serb leaders to proclaim publicly that they had done all they could to hold the nation together.

3. If a negotiated settlement is preferable to an enforced settlement, how can the international community ensure Belgrade's participation in final status negotiations?

Any settlement without Belgrade's consent will suffer legitimacy deficits in the international arena and could make a final UN resolution recognizing Kosovo's *de jure* sovereignty impossible to obtain. While some prominent analysts have argued that Kosovo's final status can, if necessary, be decided without Belgrade's consent,⁵ most experts insist that Belgrade must be involved in any final status talks.⁶ But will Serbian officials refuse to participate in negotiations if independence is on the table? What kinds of carrots is the international community – particularly the EU – willing to offer to keep Belgrade on board? EU officials seem to believe that the prospect of eventual EU membership will be sufficient to guarantee Belgrade's participation. But is potential EU membership in 15-20 years – with all the painful reforms and sacrifices the accession process involves – a good enough sell to win over

³ Quoted in the Belgrade daily *Blic*, 2 March 2005.

⁴ International Crisis Group, “Kosovo: Toward Final Status,” p. 15; “Schwierige Kompromissuche im Westbalkan,” *Deutsche Welle*, 3 March 2005 (<http://www.dw-world.de/dw/article/0,1564,1506789,00.html>).

⁵ See, e.g., Christopher Patten, “Action is needed to keep Kosovo on track,” *Financial Times*, 23 February 2005.

⁶ See, e.g., interviews with German MPs and MEPs in “Eine schnelle Unabhängigkeit für Kosovo?” *Deutsche Welle*, 3 February 2005 (<http://www.dw-world.de/dw/article/0,1564,1477450,00.html>); interview with OSCE Chairman-in-Office Dimitrij Rupel in “Europäische Lösung für Kosovo ohne Grenzveränderungen,” *Deutsche Welle*, 10 February 2005 (<http://www.dw-world.de/dw/article/0,1564,1484661,00.html>).

Serbian public opinion? It may be necessary to offer much more tangible and immediate benefits – e.g., the removal of visa restrictions, debt reduction/cancellation, and/or increased reconstruction and development assistance. So far, the international community has hesitated to address this issue concretely and creatively.

4. What is the appropriate role of the European Union?

It is clear that the EU has a central role to play in promoting peace and development in Kosovo, but there is no consensus as to what this entails concretely. Should the EU be the lead actor in Kosovo or merely one among several main international actors? Should the EU assume responsibility for security provision in Kosovo and thereby take on a military role, or should its actions be limited to providing political, economic and administrative support within the framework of European integration? EU officials emphasize that the European Union is keen to remain a “key player in a UN-led process,” but potential disagreements among permanent members of the Security Council regarding Kosovo’s final status may limit the UN’s effectiveness in pushing the process forward. At the very least, then, the EU should take the initiative in ensuring that the international community actively shapes Kosovo’s future – sooner rather than later – to avoid being forced into a narrow, reactive stance if renewed violence should occur.

The international community thus has tough choices to make. Ultimately, however, responsibility for Kosovo’s future lies with local actors. The ICTY indictment and consequent resignation of Ramush Haradinaj – a potentially destabilizing development under normal circumstances – offers a key opportunity here. Haradinaj’s immediate cooperation with the Hague Tribunal demonstrates political maturity and sets a commendable example for other states in the region to follow. If Kosovo’s leaders can install a new government that (1) makes forceful progress in instituting political and economic reforms, (2) reaches out to Kosovo Serbs to bring them back into the political process and (3) calls on the entire Kosovar population to remain peaceful in the face of current developments, they will send powerful signals regarding their ability to advance toward multiethnic statehood.