

## Discussion Paper

### QUALIFYING (FOR) SOVEREIGNTY

Kosovo's Post-Status Status and the Status of EU Conditionality

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*On 24 October 2005, the UN Security Council decided to open the long-awaited negotiations on the future status of Kosovo before the end of this year. Bypassing the inevitable setbacks and intricacies of the actual negotiation process that is nevertheless scheduled to take less than one year, this paper analyses the outcome: Kosovo's post-status status. The EU seems ready to take the lead in managing both the post-status status for Kosovo and the stabilisation and transformation process for the region as a whole. Yet, the past few months have seen unexpected, but contradictory changes in the EU's strategic approach. The assumed pull of the EU perspective is increasingly questioned and a decoupling of standards and status seems to have taken place not only for Kosovo, but also for the region as a whole. The paper reflects on the new meaning of conditionality and the gaps in the EU's strategic toolbox.*

## **Kosovo: Negotiating the Nonnegotiable?**

The international community has argued consistently, but without much conviction that the upcoming status negotiations will be an open-ended process. Last year, the Contact Group has eventually defined four "no's" to set the framework: "No" to Belgrade's preference of *status quo ante* and "no" to Prishtina's first choice of immediate full independence. The other two no's concern Serbia's purported second-best, a division of Kosovo, and Kosovo's alleged alternative, a Greater Kosovo or Albania. Recently, the EU has reiterated these no's as the corner flags of the status question, whereas the US has rather underlined the openness of the process as such. Thus far neither the Albanians nor the Serbs have been too eager to suggest room for manoeuvre or to specify their position in a negotiation platform comparable to those of the March 2002 velvet rearrangement between Belgrade and Podgorica. Rather, on the eve of Kosovo status talks each party to the conflict is, predictably, raising the stakes, mobilising the constituencies, digging in its heels and shoring up the negotiation position. The net result appears to be a classical deadlock on all three levels, with Russia's and China's veto option in the UN Security Council, the mutually exclusive objectives of the Belgrade and Prishtina leaderships as well as the issue of minority autonomy within Kosovo separating Albanian and Serbian Kosovars.

In retrospect, however, Belgrade has actually shifted its position on Kosovo, even though the pressure from Serb nationalists has increased recently. Serbian politicians have come to realise that their original insistence on the status quo ante would entail unwelcome questions of the representation for some two million Albanians in Serbia's democratic institutions and imply shouldering the burden of socio-economic development for the province. Therefore, official Belgrade's enigmatic and unspecified position currently is "more than autonomy and less than independence" and should be read as "full independence all-but-in-name." It is actually a strange formula, especially coming from

Vojislav Kostunica and his advisors who all have a juridical background. Independence of a state hinges on international recognition per se. Any other formal arrangement is by default autonomy of one kind or another within an independent (con-federal) member of the international order of states. Some sovereign rights may be put on hold, conditionalised, qualified, placed under international mandate or transferred to an international organisation, but independence is indivisible. Spelling out the “more than autonomy and less than independence” formula would rather entail defining the competencies and guarantees of Belgrade and those of Prishtina in a new arrangement and to do the same for the relations between Prishtina and the Serb minority in Kosovo. Such a specification would fly in the face of any symbolic politics and popular illusions of Serb claims to Kosovo. The real influence Belgrade would like to maintain can hardly be defined in such legal terms. The suggested concretisation of “all but UN membership” is not only unworkable (as most other international organisations require the hallmark of UN membership), but would also mean nothing at all for the Serb communities in Kosovo and Belgrade’s formal authority in Kosovo would still be zero. Evidently, a 19th-century territorial concept of sovereignty is not helpful. Conversely, it should be up to the democratic parties of Serbia to break out of this straightjacket and take the initiative to push for a modern, realistic and largely de-territorialised platform that would recognise Kosovo’s independence in exchange for real guarantees for Serbia fellow-citizens, historical heritage and economic interests in Kosovo.

Thus, Serbian politicians have probed next to all options to avoid the tabooed I-word. While admitting that Kosovo is actually on the verge of independence, President Boris Tadic has declared that an independent Kosovo is unacceptable as it would inevitably turn its army against Serbia and would become a hotspot of regional instability and international criminal activities. At another occasion, the president suggested a ethnic partition of Kosovo. Conversely, Foreign Minister Vuk Draskovic has argued that a declaration of independence without Serbia’s consent would be a violation of international law, but also admitted that a return to the status quo of 1999 is unrealistic. As an afterthought, Vojislav Kostunica has added the odd argument that there can be no democratic Serbia without Kosovo. On 15 November, the Serbian Parliament passed a resolution insisting on Kosovo remaining legally part of the Serbian state and warning against any change of frontiers in the region.

Meanwhile some local Serb leaders in Kosovo have expressed regret at their past decisions to boycott the Kosovo elections and not to participate in the state institutions. Even some in Belgrade are having second thoughts. Others like Rada Trajkovic of the Serbian National Council for Northern Kosovo have suggested a Bosnia-like federation of two ethnic entities in an independent Kosovo. Whereas most Belgrade leaders seem to be bolstering their defences (by repositioning local Serb pawns and by involving Montenegro in the talks), Kosovo Serb leaders seem to prepare – albeit reluctantly – for a future in an independent Kosovo.

All Kosovo-Albanian parties preclude any option but full independence. Albin Kurti’s grass-root mobilisation movement, some bomb blasts and recent sightings of a new

armed militia act as additional disincentives to compromising Kosovo's independent statehood in the negotiation process. The recurring idea of a unilateral declaration of independence is part of these political manoeuvres too. For Prishtina defining any negotiation platform would imply a readiness to make a deal on its one and indivisible objective. In such a platform, the Albanian leaders would have to focus on the protection and rights for the Serb minority in an independent Kosovo and the role of the international community as guarantor. Chief negotiator Ibrahim Rugova is seriously ill and his multiparty negotiation team has not brought much of a joint negotiation position to paper so far. Rugova's statement that independence is actually a compromise as unification with Albania would be the optimal solution is unlikely to fool the international negotiation team led by Martti Ahtisaari. The same applies to the illusory optimal solution of no autonomy for Kosovo under central government in Belgrade, as put forward by Sanda Raskovic Ivic, Head of the Coordinating Center for Kosovo and Metohija in Belgrade.

Since US Undersecretary of State Marc Grossman first put status negotiations on the agenda in November 2003, the main international actors in the negotiation process, Brussels and Washington, have indicated their preferences and blueprint for the future of Kosovo step by step without really revealing their hand. In May 2005, Nicholas Burns for the State Department strongly suggested that negotiations would start almost irrespective of the outcome of the standards review and in no veiled terms offered advantages in Euro-Atlantic integration to both parties to the conflict as a reward for a constructive attitude at the negotiation table.<sup>1</sup> This hint was not lost on Serbian President Boris Tadic, who immediately warned his fellow-countrymen that the Kosovo question should not be allowed to spoil Serbia's process of integration into Euro-Atlantic institutions. With real negotiations approaching, however, uncompromising rhetoric is back to conceal what is actually unpreparedness for a major political deal.

Defining Kosovo's future status requires a strategic deal and political arm-twisting. The comprehensive catalogue of standards, reaching far beyond the actual issues of unfinished statehood and minority protection is inappropriate as an litmus test for opening the door to independence. On the one hand, the standards before status fails to provide (negative and positive) incentives for the Serb minority<sup>2</sup> and, on the other hand, the standards catalogue makes it too easy for Kosovar politicians to go for a D grade – "poor, but passing"; progress in some areas and serious deficits in other. Thus, the Special Envoy of the UN Secretary General Kai Eide gave a mixed judgement on the standards in his October 2005 report<sup>3</sup> (tougher and more forthright than many observers had expected). The Eide report of is indeed not so much an assessment of the state of

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<sup>1</sup> See: [www.state.gov/p/2005/46471.htm](http://www.state.gov/p/2005/46471.htm). Interestingly, Burns' presentation at the Woodrow Wilson Centre the day after his congressional testimony virtually replaced the presentation of the Armato report by Ivan Krastev that was cancelled at short notice.

<sup>2</sup> On the logical flaw of "standards before status" for local Serb leaders and for Belgrade, see: Wim van Meurs, "Kosovo's Fifth Anniversary – On the Road to Nowhere?," *Global Review of Ethnopolitics* 4.2 (2004).

<sup>3</sup> Kai Eide, *A Comprehensive Review of the Situation in Kosovo* (New York: UN, Oct. 2005).

affairs and Kosovo's fulfilment of the UN standards, but rather a political recommendation for the post-status status. His suggestions included a High Representative-type<sup>4</sup> international guarantor and monitor mission for interethnic relations, minority protection as well as special rights for the Serbs concerning cultural and religious sites. It is worth noting, moreover, that the report referred to the "future" and not to the "final" status of Kosovo. Evidently, the envisaged outcome is a process rather than a fixed finalité. The EU integration perspective is expected to serve as the driver, the objective and guiding principle of the status process. In this respect, the Eide report tallies with the findings of the unofficial, but high-ranking International Commission on the Balkans.<sup>5</sup> In April 2005, the Commission produced the so-called Armato report proposing a three-phased plan for the stabilisation and transition of the Western Balkans directly involving benefits of EU integration and a four-phased plan for Kosovo from the current status under UNSC Re. 1244 to "shared sovereignty" between the European Union and an independent Kosovo as a full EU member. The Eide report, again echoing the Armato report, also separates (if not in time, at least in terms of conditionality) the annulment of Serbia's sovereignty over Kosovo from the UN's granting of full sovereignty to Kosovo (phase two: "independence without full sovereignty").<sup>6</sup> With both the EU and the US now fully committed, endless rounds of negotiations or even outright failure of the talks may be ruled out. The outlines of a future and a final status for Kosovo are on the horizon.

## **Kosovo: Post-Status Status**

In sum and by elimination, the outcome of the status negotiations next year and the future arrangement between Serbia<sup>7</sup> and Kosovo have become quite clear. Kosovo will start off with conditional independence in which sovereign rights are qualified and shared by the Kosovo state institutions horizontally with the UN and vertically with the institutions of Serb autonomy. The Provisional Institutions of Self-Government (PISG) will be upgraded to the status of a sovereign state's institutions. Transferring responsibilities to the state institutions will further reduce the reserved powers of UNMIK. Evidently, the qualified independence of Kosovo should suffice to solve some of the main drawbacks of the current status of a non-recognised entity, e.g. access to international financial institutions, privatisation and international representation.

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<sup>4</sup> An unfortunate term and concept in view of the criticism concerning the omnipotence of the High Representative in Sarajevo. An EU Special Representative is the more likely option and the more appropriate term.

<sup>5</sup> International Commission on the Balkans, The Balkans in Europe's Future (Sofia: Center for Liberal Studies, April 2005). Cmp. fn 2.

<sup>6</sup> On the concept of an UN or EU trusteeship, see also: Meurs, "Kosovo's Fifth Anniversary."

<sup>7</sup> On triangular solutions, see: Wim van Meurs, "The Belgrade Agreement: Robust Mediation between Serbia and Montenegro," Montenegro. History, Politics and Society, ed. Florian Bieber (Baden-Baden: Nomos, 2003).

The first strategic crux of the matter is to guarantee and protect legitimate Belgrade interests without sharing sovereignty over Kosovo out between Prishtina and Belgrade. This crucial objective implies:

- 1) Dismantling or absorption of Serbia's parallel institutions in Northern Kosovo;
- 2) Defining strict rules and standards for Kosovo in these specific areas of sovereignty to protect the Serb minority;
- 3) Setting up an UN mission mandated to monitor and if necessary intervene in minority-protection related issues, but with the obligation to explain and justify its decisions; and
- 4) Providing Belgrade (and local Serbs) with precisely circumscribed rights of appeal to an independent institution (an arrangement somewhat reminiscent of the League of Nations' system)

The legitimate concerns and interests of Belgrade involve the protection of the Serb population in Kosovo, the return of displaced persons and the protection of cultural and religious sites such as the Pec monastery. With respect to the latter issue, a recently floated pseudo-unofficial plan for Kosovo<sup>8</sup> suggested extraterritoriality for a handful of these sites, meaning that international forces should provide protection, but that these sites would remain under Serbian jurisdiction and have duty-free arrangements.

#### **Serbia – Kosovo - Montenegro**

The blueprint above abstracts from the option of an asymmetric triangular arrangement including Montenegro. Brussels' disinclination to give the Montenegrin referendum its blessing seems to point in this direction. The Armato report argued correctly and diplomatically that the State Union of Serbia and Montenegro has "outlived its usefulness." Including Montenegro in the Kosovo deal would inflate the legalistic complications exponentially and it would not modify the real questions of sharing and/or qualifying sovereignty between Prishtina, Mitrovica, New York and Belgrade. Albeit convoluted enough by themselves, Belgrade-Podgorica relations are no match to the Belgrade-Prishtina stand-off. The extra counterweight of Montenegro in a triangular state union of whatever type, moreover, would not resolve the problems of an independence-all-but-in-name for Kosovo. Eventually, the real teasers are between Serbia and Kosovo as well as between the Albanian Kosovars and the Serb Kosovars.

Additionally, the plan argued that Serb returnee communities be concentrated around these sites. In view of the hypertrophic importance attached to territory in the Serb-Albanian question, such Serb quasi-exclaves in Kosovo are bound to generate a plethora of emotionally charged problems and quarrels. Not only would an extraterritorial solution fail to solve the practical problems concerning the churches, monasteries and monuments, but by stimulating segregation it would also run counter to the broader long-term strategy of inclusive integration of the Serb communities in the state and society of Kosovo. Therefore, the Eide report rather suggests some form of internationalisation or

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<sup>8</sup> 9-points plan by Janez Drnovsek, see: the website of the President of the Republic of Slovenia: <http://www.up-rs.si/up-rs/uprs-ang.nsf/dokumentiwab/AE6115581F3F6DBBC12570A5002C0DAA?OpenDocument>.

extraterritoriality without shared sovereignty with the Serbian state: "here is a need to create a "protective space" around these sites, with the involvement of the international community, in order to make them less vulnerable to political manipulation."<sup>9</sup>

The second part of the arrangement will be the qualification of Kosovo's sovereignty in specific policy areas. For a transition period and depending on the fulfilment of relevant conditions, sovereignty rights in some specific areas will remain exclusively in the hands of or be shared with the UN and UNMIK. In this transition period and depending on developments in the region as a whole, Kosovo will have to qualify for the remaining internal (minority protection) and external (regional cooperation and stabilisation) parts of its state sovereignty. Arguably, if the Kosovo government makes good on its promise to install and implement an excellent minority-rights regime after independence, the qualification of sovereignty by UN supervision and monitoring would be an asset rather than a burden. With the emerging UN doctrine of "Responsibility to Protect" no state or entity can hide behind state sovereignty as far as the human security and the rights of all its citizens are concerned. The mandate of the Kosovo High Representative, however, should reflect both the learning curve from Bosnia-Herzegovina and the peculiarities of the Kosovo case. In the Kosovo case, unlike Bosnia, democratic institution-building should not be part of the mandate that focuses exclusively on minority rights and their implementation, internal security and regional/international affairs. Thus, the High Representative's prerogatives and reserved powers should be kept to a minimum, should be used with restraint and transparency (i.e. interventions should be communicated with motivation and arguments to politicians and public alike). As far as minority protection or regional cooperation are concerned (and notwithstanding the distinction between EU subsidiarity and qualified sovereignty), the Armato report has a point. All accession states had their minority regimes scrutinised and often criticised all the way to accession and responsible conflict-free relations with neighbouring states has been a *conditio sine qua non* for EU membership. Thus, the report argues that striving for both full unreserved sovereignty and EU membership is paradoxical as EU membership implies checks on sovereignty and even transfer of sovereign prerogatives to supranational institutions. Apart from the proclaimed pivotal role of the EU perspective for the Western Balkans, Brussels is obviously eager to shoulder more demanding missions and provide for a *pax europeana*. Therefore, it seems likely that the EU rather than the UN itself will take the lead in managing Kosovo's post-status status and providing the Special or High Representative.

The third part of the arrangement concerns sharing sovereignty between the central state institutions of Kosovo and the local Serb community. The original proposal from Belgrade (May 2004)<sup>10</sup> amounted to an accumulation of all conceivable forms of autonomy (individual, collective, consociationalism and territorial autonomy) in the full range of policy areas (from policing to economic development, tax policy, education and

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<sup>9</sup> Eide, *A Comprehensive Review*. p. iii.

<sup>10</sup> "A plan for the political solution to the situation in Kosovo and Metohia," May 2004.



judiciary).<sup>11</sup> Kosovo's current pilot project is limited to five municipalities with minimal competencies (collecting certain taxes, managing public facilities and services, etc.) and constitutes the bottom line as an autonomy arrangement. Minority group rights and/or decentralisation with an ethnic dimension are generally unpopular with all governments, not only in Southeastern Europe. There is no European (or international) norm or blueprint for autonomy,<sup>12</sup> the sub-status arrangement with the Serb community will be based on a negotiated combination of symbolic national claims, state functionality and existing regions. As the Macedonian example has shown, a workable outcome is feasible, as long as decentralisation is neither ethnic segregation-in-disguise nor the fragmentation and marginalisation of larger ethnic communities. Not least in view of the limited financial and human resources, good governance and a workable division of competencies between central bureaucracy and municipal units as well as a corresponding allocation of resources should be a priority concern. The Kosovar decentralisation initiative is too cautious, even for a pilot project. Conversely, the vague division of competencies suggested by the Coordination Center of Serbia and Montenegro for Kosovo and Metohia under "more than autonomy, less than independence" seems to offer the Kosovo Albanians far less than the "autonomy" the same center demands for the Serb community within Kosovo.

**Recommendation:** The one option with a potential for a viable future for Albanians and Serbs in Kosovo within a stable Western Balkans is qualified independence. Kosovo's independence should be qualified by international (probably EU) monitoring of minority protection and policies with substantial, but functional autonomy for the Serb communities in an inclusive state of Kosovo, but without sharing (territorial) sovereign rights over Kosovo between Prishtina and Belgrade.

In sum, the European Union will be challenged in the near future not only to hold out the EU perspective as an positive alternative to the vicious circle of ethnic strife and flawed transition, but also to set up and manage the actual process combining stabilisation, transition and integration in a effective and consistent manner. At the same time, with the opening of status negotiations the strategy of standards before status for Kosovo has been sidelined. The parallel upgrading of most countries of the region<sup>13</sup> based on the urge to demonstrate success rather on the force of conditionality in combination with the EU perspective has similarly cast doubt on the authority of the EU's key strategy for the region (and beyond).

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<sup>11</sup> The basis of political platform for democratic decentralization in Kosovo and strenghtening self-government of local, national and regional communities, (Belgrade: Coordination Center of Serbia and Montenegro for Kosovo and Metohia, 2002).

<sup>12</sup> Florian Bieber, Institutionalizing Ethnicity in the Western Balkans. Managing Change in Deeply Divided Societies, ECMI Working Paper 19 (Flensburg: ECMI, February 2004).

<sup>13</sup> Commission of the European Communities, 2005 Enlargement Strategy Paper, COM (2005) 561 (Brussels: 9 Nov. 2005).

## The European Union: Status with or without Standards

In his October 2005 report, Kai Eide trashed the “standards before status” approach in principle, blaming it to a significant degree for the general malaise in Kosovo and, paradoxically, for the Kosovars’ failure to meet the benchmarks too. The “standards before status” approach for Kosovo was the mirror image of the EU’s conditionality-based strategy for the integration of the entire region into Europe. Eide expressed similar strategic doubts in his report after March 2004 outburst of violence, which made his report politically controversial.<sup>14</sup> Now, his direct and sweeping judgement on the principle of “standards before status” has been accepted by the UN Security Council!

In 1999, in the immediate aftermath of the Kosovo War, the International Community laid out its strategic instruments, principles and objectives for the Western Balkans region, five in total (not necessarily in this order): 1. regionality; 2. conditionality; 3. separation of agendas; 4. the European perspective; and 5. standards before status. The European principle of regionality was enshrined in the June 1999 Stability Pact for Southeastern Europe. After drawing some heavy fire in 2001-2002, the Stability Pact has now scaled down its ambitions, prioritised its objectives and found its niche in the international framework for Kosovo and the Balkans. The principle of regionality, however, by and large lost out to conditionality. As the core principle of EU integration, conditionality came with the Stabilisation and Association Process (SAP), initiated in parallel with the Stability Pact in 1999, but fleshed out in 2000-2001 only. EU conditionality for the Balkans added several more to the well-known Copenhagen Criteria of Eastern enlargement. For Kosovo, it was SRSJ Steiner's standards before status that wrote conditionality in the book in 2002. Since then, it has become apparent that conditionality tends to conflict with regionality as it produces widening gaps within the projected region by concentrating assistance and privileged relations on those that do well in economic transition and in fulfilling EU integration criteria, at the expense of the laggards. At the same time, the nexus between conditionality and the stages of EU integration deprives Brussels of much strategic leverage for key objectives in a region of unfinished statehood: inclusive state consolidation and regional stabilisation. The current state of affairs in the region indicates that socio-economic transformation makes limited inroads as long as issues of state sovereignty and inter-ethnic power games dominate the regional and national agendas. With capacities still in the making and the institutional separation of the agenda of transformation integration from the agenda of stabilisation still largely in place, conditionality often appears powerless with the risk of strategic initiatives running aground.

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<sup>14</sup> Kai Eide, The Situation in Kosovo. Report to the Secretary-General of the United Nations (Brussels: July 2004).

## The European Union: The Strategic Agenda for the Balkans

Once the depth of the EU constitutional crisis became apparent with the French and Dutch referendums, Brussels went out of its way to reassure the Southeast European countries that these integration issues would in no way endanger their European perspective. Undeniably, however, paying more attention to national constituencies in the EU made politicians in the capitals as well as the EU institutions reluctant to push the vastly unpopular agenda of Southeastern enlargement. Conditionality became more pronounced in the statements from Brussels; the strategy of the three C's – conditionality (as such), consolidation (of conditionality) and communication (of conditionality). In view of the real, but slow and uneven progress in the Balkans, the three C's seemed to confirm the regional leaders' worst fears by offering Europe a ruse to push back the issue of integrating the Balkans without having to rescind promises made.

For Croatia, the EU at first seemed to apply its standards with utmost strictness by making the actual opening of accession negotiation dependent on general Ante Gotovina, indicted by the Hague Tribunal. The volte-face in October 2005 was the very opposite of strict, but fair criteria – a package deal involving Croatia and Turkey. Only an extremely naïve observer might not see the connection between the upcoming Kosovo negotiations and the sudden progress towards a Stabilisation and Association Agreement for Serbia and Montenegro. Unperturbed by the tension between a functioning democratic process and the dominant roll of the High Representative, On 21 October 2005, the European Commission recommended the opening of negotiations for a Stabilisation and Association Agreement to the Council. A month later, the same honour was bestowed on Bosnia-Herzegovina, despite the presence of the High Representative (see by some as an indispensable go-between in the political process and by others as impediment to local democracy). On 9 November, the Commission similarly recommended to grant Macedonia candidate status. The recommendation is based, however, on a report that assesses this state as unable to organise free elections, not fully in control of its own territory, with a weak and politicised judiciary, not attracting foreign investors and falling far behind the rest of the region in terms of economic growth.

At first, the EU seemed to take conditionality and standards extra serious to be able to deal with its own crisis of deepening before facing the challenge of enlarging to the Southeast. Next, the conditions were bypassed or sidelined and each country in the region (except Bosnia-Herzegovina) was upgraded to the respective higher level of relations with the EU. In the Kosovo case, "standards before status" has not been modified to "standards with status," but they have de facto been decoupled. The countries of the region have been granted a higher status, a strategic move largely decoupled from the real, but uneven progress in the region. Thus, the verdict on the EU perspective's real impact on the stabilisation and transformation of the region has been adjourned. The presumption of innocence for both Brussels and the Western Balkans, however, may be a missed opportunity to set the record straight. Thus, over the past few months the EU has implicitly forsaken some of its sacred principles due to the reality

check of the Balkans and international constraints. Since mid-2005 the status of each Western Balkans' status vis-à-vis the EU, if not EU policy towards the respective country, appeared to have made a U-turn from strict conditionality to "status with or without standards". At closer scrutiny, "moving the region forward" has become the measure of success and rather than providing conditionality for the stability and statehood-relevant issues, the EU has largely chosen an indirect approach by waiving conditionalities on the EU integration agenda and hoping for a quid pro quo on the stabilisation agenda.

The implicit assumption that the meta-perspective of EU integration will have to push and guide the stabilisation, transformation and eventually integration of the Western Balkan as it has done successfully over the past decade in the new member states of East-Central Europe has been criticised from various, partly contradictory perspectives. Some, most prominently the European Stability Initiative, have argued that EU conditionality offers more assistance and incentives to the more successful transition countries. Thus, the gap between laggards and forerunners is bound to increase and therefore the EU should break the vicious circle and include the Western Balkans in transformation-related pre-accession funds on an equal footing.<sup>15</sup> Despite the upgrading of all Western Balkan countries to SAA status, the distinction between candidates and aspirants with its consequences in terms of assistance and access to EU funding or programs has been upheld.<sup>16</sup>

Others, recently the Armato report, echo the idea of a new regatta with a new starting point of enhanced incentives and equalised assistance linked to candidate status for all. At the same time, however, the International Commission on the Balkans champions recognition of the difference between East-Central and Southeastern Europe. Therefore, it is argued, the EU meta-perspective should be concretised and linked directly and transparently to the status questions. The correct initial decision not to rush the status questions has meanwhile "outlived its usefulness" and has become what Eide refers to as "window dressing" and "wait and see" tactics. The international apparatus in the Balkans has lost its sense of urgency and is placid with the idea that transition progress in combination with the EU perspective will take the edge of the status (and stabilisation) questions. The decoupling of status and standards implies the recognition that this sequencing has been a fallacy. Therefore, Ivan Krastev and the other architects of the Armato report insist on a clear-cut link between a next step in EU integration for the Western Balkans and the priority issues of status and stabilisation. Others have dubbed the same unproductive parallelism the dilemma of the three EU agendas. The parallel agendas of stabilisation, transformation and integration have as much potential for synergies as for contradiction and the synergies (unlike the contradictions) have to be managed.<sup>17</sup> The new policy of upgrading all countries to the next higher stage raises the

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<sup>15</sup> European Stability Initiative, Member state building and the Helsinki moment (Berlin: 2005).

<sup>16</sup> Commission of the European Communities, 2005 Enlargement Strategy Paper.

<sup>17</sup> Iris Kempe and Wim van Meurs, "Europe Beyond EU Enlargement," Prospects and Risks Beyond EU Enlargement. Southeastern Europe: Weak States and Strong International Support, ed. Wim van Meurs, vol. 2 (Opladen: Leske & Budrich, 2004).

question, why the EU has bothered itself and the countries of the region with feasibility studies, trade preferences and SAA negotiations. The recent "success" of the SAP is in fact the admittance that withholding the (limited) benefits of SAA status was a fallacy too.

In sum, Kosovo has successfully argued that it can only fulfil Steiner's catalogue of standards once it has independent status. Bosnia has persuaded the EU to give it SAA status although serious deficits on basic criteria remain. Once it had been given SAA status, Croatia convinced Brussels that its progress towards EU standards actually required the instruments and incentives of candidate status to produce further results. The conflict between the vicious circle of "no standards without status" and the virtuous circle of "status after standards" cannot be resolved as long as the stabilisation of the region and its entities or states is not pushed with a targeted and relevant menu of conditions and incentives. By and large, the EU package of conditions and assistance remains monolithic and determined by a country's status vis-à-vis the EU rather than by its actual needs and capacities. Consequently, some useful and effective instruments for fulfilling EU criteria are withheld from aspiring countries because they do not meet the criteria. Especially the traditional misfit of, on the one hand, the structural and procedural agendas of transformation and integration represented by the Commission and the SAP and, on the other hand, the agenda of stabilisation and crisis management represented by Solana and the Council has substantially reduced the leverage of Europe and the consistency of EU leadership in the region. With the prospect of Bosnia and Kosovo (and to a lesser extent Macedonia) becoming some kind of EU neo-trusteeships for the medium-term the sequencing and management of conditionality and status, of the stabilisation and integration agendas should be taken very seriously.

**Recommendation:** The recent decoupled upgrading of the countries of the region falls short of the "new regatta", as the next phase is again "wait and see" conditionality. While miming success, it also fails to produce a more strategic Europe with integrated agendas and robust power projection. Eventually, the time pressure to resolve the status questions and move on to the standards is still on the EU rather than on the EU aspirants in the region. The comprehensive and open-ended catalogue of standards all geared towards EU integration implies that any assessment produces an undecided outcome, a mixture of progress made and serious deficits. Only by consistently setting and upholding specific conditionalities linked to the stabilisation agenda as a legitimate agenda of high priority could the EU restore its authority and provide the region with a credible and workable roadmap paved with well-managed assistance, incentives and conditionalities.