

## PULLING THE ROPE: THE QUESTION OF THE NORTH OF KOSOVO

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*What do the disputing parties seek in the north of Kosovo?*

*Many plans for the north, no solution*

*How about the partition?*

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### What do the disputing parties seek in the north of Kosovo?

When establishing the Republic of Kosovo in early 2008, the parliament in Pristina referred to the territory which was the province within the borders of Serbia in the times of Yugoslavia. Previously to the unilateral declaration of independence, the entire area of today's republic with its roughly 2-million population was since 1999 covered by the United Nations Interim Administration Mission in Kosovo (UNMIK), which has operated on the basis of the UN Security Council Resolution 1244. Soon after the newborn republic was declared, the international responsibility for administration in Kosovo was taken over by the European Union Rule of Law Mission in Kosovo (EULEX), while NATO-led Kosovo Forces (KFOR) remained responsible for security.

The Republic of Kosovo includes the territory in the north, which is inhabited almost exclusively by the Serbs numbering several tens of thousands. This is the only area of its kind in the country. The north of Kosovo is little over 1,200 square kilometers and directly borders Serbia. The authorities in Pristina neither had the control over this part of the new country when declaring independence, nor is it the case now nearly five years afterwards. Instead, the territory in the north remains divided into four municipalities and is governed by the Assembly of the Community of Municipalities of the Autonomous Province of Kosovo and Metohija, with no or very minor influence from the Assembly of Kosovo. Still, the border line between Kosovo and Serbia has been demarcated by the border crossing points

guarded by EULEX and KFOR, but the boundary between the northern part of Kosovo and the rest of the country - primarily on the Ibar river - remains a source of tensions.

The Kosovo Albanians and the Serbs each have opposing visions for the future of Kosovo and in particular its northern part. The government in Pristina calls for respecting the territorial integrity of the Republic of Kosovo. Its main goal to be reached in the north is to implement both the administration under the control by the authorities in Pristina and the legislation in accordance with the republic's constitution. The political leadership of Kosovo believes that by achieving these aims it would integrate the north with the remaining part of the country and thus assure both unity and security on the entire territory of the state. At the same time, the authorities in Belgrade have never recognized Kosovo as an independent state and perceive it as an integral part of Serbia, in line with the country's constitution.

The Serbs of the north of Kosovo themselves object to any links with Pristina and consider the territory a part of the Republic of Serbia. They expressed their will in a referendum in February 2012, when they rejected the institutions of the Republic of Kosovo with overwhelming majority of the votes. [11] Therefore from the perspective of the Serbs in the north of Kosovo, the following theses could be made: this community lives in two countries as both claim authority over this territory, or: this community lives in no country as neither Belgrade nor Pristina is able to administer it properly. In this ethnic conflict, the economic potential of the north of Kosovo is not taken into consideration by the inhabitants of this area just like it is hardly ever the case in similar disputes elsewhere and was not a factor in the recent history of the Balkans. So the question how to tackle the problem of the northern part of Kosovo remains unresolved and by now is both the toughest issue of the recent international relations in the Western Balkans and one of the key factors affecting the security in this region.

### **Many plans for the north, no solution**

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The Ahtisaari Plan, or the Comprehensive Proposal for the Kosovo Status Settlement, which was the fundamental document from the international community to set up the status of Kosovo, had assumed the north part of it be integrated within the new

country. Although the plan has not sorted out all of the issues regarding the north of Kosovo [5], it had specified that this territory would maintain its local administration but should be covered by Kosovo-wide institutions and its rule of law. This was the basis for the authorities in Pristina to treat the north equally to any other area of Kosovo and by this to keep the country's territorial integrity. Many further recommendations coming from international diplomats and scholars would be based on the Ahtisaari Plan [9].

Although the idea of the partition was heard from the politicians in Belgrade for some time already, no serious public considerations of this kind of a solution for Kosovo would come from them until 2011. The then deputy prime minister of Serbia Ivica Dačić expressed his opinion that the division of the territory of Kosovo was the only applicable solution for a centuries-long conflict. At that time though, such statement would not become an official position of the Serbian authorities.

The very beginning of 2012 saw yet another discussion on how to solve the Kosovo question. Namely, the then president of Serbia Boris Tadić presented his four-points plan, in which a call for a special status for both the Serbs in the north of Kosovo and for the Serbian Orthodox monasteries in this country was issued. The proposal was quite blurry though for the public opinion in Serbia and was seen by many as a repetition of the Ahtisaari approach. Therefore the plan was criticized by the Serbian opposition, was dismissed by the Kosovo Serbs and assessed as unacceptable by the authorities in Pristina [10]. Still, the plan has not touched upon the question of the status of Kosovo itself, but later president Tadić suggested the territorial partition should not be considered since it would not be accepted by key international players in the Balkans [14].

### **How about the partition?**

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Although the partition was never an official offer from any side of the conflict, the discussion over this issue has already brought a range of arguments against this scenario. First, the technical aspect of it was raised. Some argue that the partition is out of the question simply because the Albanians from Kosovo would not give up the north peacefully and Serbia would not be able to annex it forcefully [6]. In fact, perhaps both solutions

would be hard to implement and would have to involve an international factor. In the meantime, the opposite scenario has proved not to be implementable, as well. The Kosovo Albanian authorities, when entering the north in order to install its own institutions, would naturally face the resistance from the Serbs. Such a situation was already observed in the summer 2011. The inclusion of ethnic police and customs officers answerable to Pristina at two administrative checkpoints that connect north Kosovo with Serbia led to a protest of thousands of Serbs who live there. The long-term resistance to the presence of Kosovar officers at the border-crossing points soon turned into riots. The situation was stabilized only after the KFOR mission got involved. When the government in Pristina tried to take control of the border checkpoints in the north of Kosovo yet another time, the local Serbs blockaded the roads to both checkpoints and established an alternative transport route to Serbia. This again required the involvement of the NATO troops, which did not happen without clashes with the Serbian population from Kosovo [15]. The picture above proves that a forced solution would lead to yet more riots and would deepen even more the mistrust between the local peoples.

The potential partition raises also the question of its political consequences, which for many seems to be even more significant. If the north of Kosovo would be allowed to obtain a special status or to re-join Serbia, then there is a fear that some national communities that inhabit compact enclaves in other Balkan countries would seek a similar status, too. Therefore the official statements of the authorities - among others - the neighbouring Montenegro and Macedonia (both countries with Albanian minorities) are against the partition of Kosovo.

An option that loomed in the discussion over the partition was also the exchange of the territories. Following this approach Serbia - in order to be able to include the north of Kosovo - would have to give up the Preševo Valley in exchange. This Serbian territory borders Kosovo and is predominantly inhabited by the Albanian population. Compared to the north of Kosovo, the Preševo Valley is somewhat smaller in size and slightly bigger in terms of population. But again, this would lead to the border change which makes for a very unpopular approach in the Balkans as it is believed to open the Pandora's box with the implications for the other countries in the region. Most of the Balkan countries are therefore against such a solution.

Finally, there is an approach - popular particularly among some foreign analysts, scholars and politicians [1,8,12] - that supports the partition and at the same time opposes “the domino effect” it would bring about. It proposes that in order to avoid the implications for the neighbouring countries or the regions elsewhere, the north of Kosovo could be treated as *sui generis*, just like the case of Kosovo itself was reported to be treated by the politicians, diplomats and judges worldwide. The supporters of this argumentation claim that since Kosovo is to be seen as “a case of its own kind”, then any solution that both the Serbs and Kosovo Albanian agree on must not be implementable as precedent for any parallel or similar territorial disputes. Another argument is that Serbia could recognize the independence of Kosovo - which in reality already acts as an independent state - in exchange for regaining the northern Serb-inhabited part of this territory. The supporters of this solution see it as the only way of establishing long-lasting international relations in the Western Balkans.

### **What did the Belgrade-Pristina dialog bring and what it did not?**

The question of the north of Kosovo up to date has not appeared on the agenda of Belgrade-Pristina dialog. The EU’s “non-prejudice” approach is why the EU was not eager to encourage the parties to touch upon the north Kosovo problem. In general, at the initial stage of the dialog, the EU’s position was to conduct the talks in a “step by step” manner and to facilitate the relations in the fields where the potential agreements were relatively uncomplicated to reach, without touching upon the status of Kosovo itself or of the north of it. However, some of the issues discussed and framed during the talks were connected to this territory. Within the dialogue that had run since March 2011 under EU auspices, the consensus was achieved so far on the free movement of persons and some other minor agreements.

Nevertheless, some elements connected to the territorial questions seem to be included in the agreements that came afterwards. The government in Belgrade recognized Kosovo’s customs documents and stamps, which - however - were not to contain the constitutional name of the country. This accord applied to the entire territory of Kosovo - including its northern

part - as one administrative unit. Regardless of this fact, the agreement has not been working properly and this remains one of EU's concerns about the implementation of the accords reached thus far. Other examples where the territory of Kosovo was approached as one subject were both the development of so called "asterisk agreement"<sup>145</sup> for Kosovo to be represented by its government in the Western Balkans region and the approval of the integrated management of border crossings between Serbia and the part of Kosovo inhabited by the Serb community. At the same time these two accords have remained by now the most visible results of the dialogue between Belgrade and Pristina.

### **North Kosovo - a problem solved silently?**

It seemed obvious from the beginning that the Belgrade-Pristina dialog although usually referred to as a technical one to facilitate the daily life of Kosovo's inhabitants, was actually political in nature. Every agreement by now has proved that what we observed was actually a process of passing the attributes of sovereignty from one country to another. One can assume therefore that after some years of the dialog Serbia would not even have to admit the independence of Kosovo in a separate act of recognition, because it would have already been done in practice by Belgrade through numerous individual agreements. Such a scenario is likely, but the most fundamental question as it seems - the north of Kosovo - will not be solved until the government of Serbia announces the cutting of the ties with this territory or until the negotiating parties agree otherwise.

Serbia's position in the dialog seems unfavourable for many reasons. Improvement of the relations with Kosovo is now the key condition for Belgrade to start accession negotiations with the EU. This is despite the fact that before the dialog has started, both the leaders of the member states and the representatives of EU institutions have given assurances that Serbia's integration into the Union and the building up of its relations with Kosovo were two separate processes. But these two processes were linked just after the last Serbian leader to be indicted in the Balkan wars was brought before the International Criminal Tribunal for the former Yugoslavia. Germany was the first to require from Serbia to remove the parallel institutions from the north of Kosovo in exchange for advances in integration with the EU.

<sup>145</sup> The agreement enables the authorities in Pristina to represent Kosovo regionally with an asterisk/footnote saying that "this designation is without prejudice to positions on status, and is in line with UNSCR 1244 (1999) and the ICJ Opinion on the Kosovo declaration of independence." This formula is also used by the European Commission.

Such statement was presented by the German Chancellor Angela Merkel in the summer of 2011 [7]. A year later the former EU Envoy on Kosovo Wolfgang Ischinger would state that Serbia's way to the Union strictly depended on its relations with Pristina and that the partition of Kosovo would not be acceptable. Such statements came at a time when five of EU member states have not recognized Kosovo as an independent country. Yet, the Union itself underlined that it would call for the ongoing dialog as a condition for the progress in Serbia's accession talks but would not require from Belgrade the recognition of the independence of Kosovo. This led to a situation in which the government of Serbia was confused of who was actually speaking on behalf of the European Union as far as the conditions for the membership and the relations with Pristina were concerned.

However, this confusion lasted only until the Autumn of 2012. This is when the European Commission stated that in the relations between Belgrade and Pristina the problems of northern Kosovo should be addressed, while keeping in mind also the particular needs of the local population. This may be read as inkling that this question will be eventually included into the dialog, too. But this was only one part of the message. In the same document the Commission simultaneously expressed its thinking about the solution to the issue: the process should gradually result in the full normalization of relations between Serbia and Kosovo and the territorial integrity of Kosovo should be respected [4]. Many politicians in Belgrade, both from the government and the opposition, read "the full normalization" as the need to establish some level of diplomatic relations, which is to recognize Kosovo as a sovereign country.

Soon afterwards there came the joint visit to the Western Balkans of Catherine Ashton, High Representative of the Union for Foreign Affairs and Security Policy, and Hilary Clinton, United States Secretary of State. The statement of the latter was clear: no border changes or partition as the independence of Kosovo was irreversible [2]. The EU delegate was softer in its statement, but by referring to Kosovo as to a country [13] in fact the diplomat represented the majority of these EU member states which have recognized this territory as an independent state. So if the international community in the form of the US-EU tandem - the main political actors in the Balkans - does already have a clear idea regarding the conditions for Serbia, the question that comes to mind is the following: is there still anything for Belgrade to

agree on or is it just a question of how to reach an agreement that is already silently agreed?

### **Assessment**

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The answer to the above question remains as much unknown as it requires from the government in Belgrade a comprehensive approach and reaching a mutual understanding with the Serbian society, with the Serbs in the north of Kosovo and finally with itself. After a new government in Serbia came to power in 2012, Ivica Dačić - already from the position of the prime minister expressed his view, yet again, that the partition would be for many reasons not only the most optimal, but also the only realistic solution [3]. He argued that this would secure the interests of the local people in the north of Kosovo and expressed a belief that the Albanians in this country would have no problem agreeing on it. The prime minister stated also that the implications of the partition for the region should not be seen as an argument against such a solution, as it was not taken into consideration when Kosovo declared independence, which from Belgrade's point of view constituted a partition of Serbia. For some in the opposition in Serbia such an aim to negotiate anything on Kosovo came, yet again, too late. And as such it seemed to be proved soon by Ashton and Clinton.

Although most of Serbia's population thinks it would be impossible to bring Kosovo back, at the same time the society seems discouraged with how the EU is handling this question. The evolution of the Union's approach to Kosovo itself, to the northern part of it, and to the vagueness of either one approach with regards to Serbia's path to the EU raises a question of the Union's credibility. The people of Serbia may have the impression that the EU could use pressure against their country by imposing conditions and linking them with accession while placing no similar conditions on Kosovo. The frustration of the society vis-à-vis the EU may be easily measured by support for the country's membership. While this ratio was over 70% when Serbia was applying for membership in the late 2009, it dropped by over ten percent a year later and went down to under 50 % in the second half of 2012. The last reports from the Serbian media that this country has paid roughly 300 million euro annually for the compatriots in Kosovo does not seem to be an argument for giving up on this Serbia's constitutional province.



From the perspective of Pristina the issue of the north of Kosovo is a different story. A large part of Kosovo's population sees no reason why it would have to negotiate a thing on the north since Kosovo was internationally recognized in its constitutional borders by most of the EU member states and by virtually half of the UN members.<sup>146</sup> The officials in Pristina hold that with such support from the EU, it is only a question of time when the north will be administratively fully incorporated with the rest of the country. Yet, the instruments remain unknown, just as a comprehensive strategy is lacking.

The point of view of the Serbs from the north of Kosovo is yet another thing to be considered. For this community, the situation on the ground remains unchanged for years. They have no visible connections to the institutions in the south of Kosovo, nor is it imaginable for them to establish any. Implementation by the force would not work as was proven by numerous attempts undertaken recently. They live in both countries just like they live in no country - and so it continues ever since 1999. And a "wait and resist" strategy has remained their predominant attitude. As much as being forcibly incorporated into Kosovo, this community fears being left behind by Serbia proper. In such circumstances any unforeseen moves on their part are hard to rule out.

The EU, on the other hand, will stay attached to a "wait and see" strategy.<sup>147</sup> The European community is convinced that any border change in Europe - let alone on the territory of the former Yugoslavia - should not happen. But at the same time it seems to lack a policy to convince the local population in the north of Kosovo where they should belong. The EU should be open to a dialog which produces an outcome that is a result of the positions of the disputing parties, and that is not an imposed solution. The final way out needs to be based on the mutual agreement, with a say from the community in the north of Kosovo. If any party feels like a victim of the solution, no lasting agreement would be implementable. Conditioned by the progress in the integration process with the EU, the authorities of Serbia are likely to find themselves in a situation where they would have yet another bitter pill to swallow. But for the people of the north of Kosovo the status question will remain unresolved as long as they will not be convinced that what everyone around offers to them is acceptable, understandable and the best solution for their community.

<sup>146</sup> As of November 2012, 96 out of 193 UN countries, including 22 EU member states, have recognized Kosovo as an independent state.

<sup>147</sup> This term was first used, though in wider sense, in: Grabbe H., Knaus G., and Korski D., "Beyond wait-and-see: the way forward for EU Balkan policy", Policy brief published by the European Council on Foreign Relations, May 2010—[http://ecfr.eu/page/-/ECFR21\\_BAL-KAN\\_BRIEF.pdf](http://ecfr.eu/page/-/ECFR21_BAL-KAN_BRIEF.pdf)

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