SERBIA AND KOSOVO: STATUS DISPUTES AND EU MEMBERSHIP

PROGRESS, OBSTACLES AND THE ROLE OF CIVIL SOCIETY

Henri Bohnet / Johannes Gold

The unsettled relationship between Belgrade and Pristina remains one of the major stumbling blocks to Serbia and Kosovo's entry into the EU. Despite international efforts, the changes over the last ten years have so far produced no solution which is acceptable to Serbia, Kosovo and the European Union. But now for the first time it seems possible that Belgrade and Pristina could engage in direct dialogue. The advisory opinion given in July 2010 by the International Court of Justice on Kosovo's declaration of independence stimulated discussion within Serbia and provoked a new, heightened sense of engagement among the international community. In September this resulted in UN Resolution A/RES/64/298, which for the first time puts in writing Belgrade's readiness to enter into direct talks with Pristina in order to resolve practical issues.

However, even before talks begin, it is clear that any pragmatic cooperation will remain a challenge for as long as Serbia refuses to recognize Kosovo's independence under international law. The national crisis brought on by the resignation of President Fatmir Sejdius in October and the early parliamentary elections in December were just the latest of a series of obstacles. The sluggish pace of the transformation process in both countries represents the biggest challenge in the quest for normalized relations. At the end of the process there should emerge not only constitutional democracy and the rule of law, press freedom and a free market economy, but also above all a functioning civil society. At the moment there is still no broadly established civil society which can form the basis of a democracy which has room for both consensus and disagreement, without

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excessive nationalism. This is not only reflected in international league tables showing levels of press freedom and corruption or in European Commission progress reports. It is also clear in the continuing domestic controversy within Serbia over dealings with their neighbors – and in the lack of public debate on the legacy left by the authoritarian Yugoslavian regime, the Balkan wars of liberation and the Milošević era.

But now there are favorable signs that the policy-makers of both countries are starting to listen to the growing number of – predominantly younger – people who see their future lying within a united Europe. So the EU needs to continue with its involvement in the region, but NGOs can also play an important role in building up its civil society.

RELATIONS BETWEEN SERBIA AND KOSOVO SINCE 1999

For many centuries, the history of the Western Balkans has been shaped by foreign rule and ethnic tensions. Exploitation and lack of freedom under the Empires and the power-plays between East and West under Tito's Yugoslavia meant that a real process of nation building with the goal of creating a sovereign state only began in the late 20th century. In the 1990s this led to bloody wars of secession in the former Yugoslavia, the last of these being the war fought by Kosovo secessionists and the Kosovo Liberation Army (UÇK) against the Milošević regime. Only the intervention of NATO in 1999 brought this conflict to an end.

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The NATO intervention did not have a UN mandate but was carried out under the auspices of the internationally-recognized Security Council Resolution 1244.[1] "S/RES/1244" meant that under international law Kosovo still belonged de jure to Yugoslavia[2] but was a UN protectorate. The civil and military bodies, the UNMIK and KFOR, largely upheld state administration and security. Their mission was to

1 | On the topic of the legitimation of international engagement: Johannes Gold, *Legitimationsvergleich externer Konfliktlösung. Engagement der NATO im Kosovo und Russlands in Südossetien und Abchasien* (Hamburg, 2010).

2 | From 2003 Serbia and Montenegro, from 2006 Serbia.

"establish an international transitional civil administration with autonomy for the inhabitants of the province 'within the Federal Republic of Yugoslavia', to hold elections, and ultimately to set in motion a political process aimed at resolving the question of Kosovo's future status".[3] An international review of the status question was deferred so that the stability of the province could first of all be guaranteed.[4] As a result Serbia to all intents and purposes lost its sovereignty over its southernmost province, a province considered by Serbs to be the cradle of both their nation and the Serbian Orthodox Church.

The KFOR and UNMIK were able to guarantee the security of the Albanian majority in Kosovo. But the violent riots which broke out in March 2004 against the Serbian minority and Serbian Orthodox churches soon made it clear that this was not to be a lasting peace. This is also reflected in the low number of refugees returning to Kosovo: of a total of 230,000 refugees[5] in 2000, only six per cent had returned by 2006.[6]

In 2005 negotiations began between Belgrade and Pristina on the ultimate status of Kosovo. But a joint solution was not reached, and on 17th February 2008 Pristina declared independence.

According to reports by UN special envoys Kai Eide and Martti Ahtisaari, the international community came to the conclusion that further improvements in social, political, economic and security standards in Kosovo could only be achieved by beginning status talks. In 2005 negotiations began between Belgrade and Pristina on the ultimate status of Kosovo, with the involvement of Russian, American and European mediators. But a joint solution was not reached[7], and on 17th February

3 | Jakob Kreidl, *Der Kosovo-Konflikt, Vorgeschichte, Verlauf und Perspektiven. Zur Stabilisierung einer Krisenregion* (Frankfurt am Main, 2006), 223.

4 | Cf. Bruno Coppieters, "Kosovo and the Question of a Just Secession", in: idem. (ed.), *Moral Constraints on War. Principles and Cases* (Lanham, 2008), 237, 237-260.

5 | Minorities in Kosovo include Serbs, Roma, Aschkali and "Egyptians".

6 | E/CN.4/2006/71/Add.5: 15, there has also been little improvement in subsequent years; the UN documents are available at http://documents.un.org.

7 | Even before the deadline was reached, the mediators admitted on 28th November 2007: "We regret that both sides have not reached agreement on the future status of Kosovo.", in: "Verhandlungen gescheitert. Kosovo-Troika gibt auf," *ntv.de*, http://www.n-tv.de/Kosovo-Troika-gibt-auf-article279760.html (accessed December 17, 2010).

2008 Pristina declared independence without the consent of Serbia or the UN Security Council, based on the recommendations contained in the Ahtisaari Plan.[8] Nevertheless, the international missions were still required to assist with security and institutional development. A new organization was created, the EU mission EULEX, with the aim of building rule of law structures in the new state. These structures were based on the new Kosovo Constitution which was implemented under the supervision of the International Civilian Office (ICO) and the EU.[9]

Since Belgrade lost governmental control of Kosovo, Serbian foreign policy has been characterized by a desire to cling on to their territorial integrity. The Serbian Constitution which came into effect on 8th November 2006 explicitly refers to the "Autonomous Province of Kosovo and Metohia" as an integral part of the Republic of Serbia.[10] Since Pristina's declaration of independence, Belgrade will only deal with the neutral UNMIK administration set up in accordance with UN Resolution 1244. It systematically boycotts any regional or international meetings which include representatives of the new state rather than UNMIK representatives. The Serbian government also supports parallel administrative structures in areas populated by ethnic Serbians. The inhabitants of Serbian enclaves in the northern part of Mitrovica, an area which is de-facto outside Kosovan and international control, were given generous cash incentives by Belgrade to encourage them to stay on. The export of Kosovan goods to Serbia is prohibited, so the largest market in the Western Balkans is closed to Kosovan businesses.

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Against the background of this gridlocked situation, on 22nd July 2010 the advisory opinion of the International Court of Justice (ICJ) was published, which took a clear stand on the international legitimacy of Kosovo's unilateral

8 | Albeit as yet only recognized by 72 countries (as at: December 14, 2010), cf. http://kosovothanksyou.com (accessed December 14, 2010).

9 | Cf. International Civilian Office, International Steering Group (ISG) for Kosovo, http://www.ico-kos.org/pdf/ISG.pdf (accessed November 9, 2010).

10 | Cf. National Assembly of the Republic of Serbia, Constitution of Serbia, http://www.mfa.gov.rs/Facts/UstavRS_pdf.pdf (accessed November 9, 2010).

declaration of independence: "General international law contains no prohibition on declarations of independence. The declaration of independence of 17th February 2008 has not contravened general international law."[11]

Reaction to this advisory opinion was generally peaceful, showing that the early stages of democratic transformation were proving successful, and reflecting the European orientation of many Serbs. The government's cooperation with the EU to reformulate what was originally a rather nationalistic UN Resolution is a courageous step in the direction of a more pragmatic policy towards Pristina. It shows that a resolution of the conflict needs close cooperation between Brussels, Belgrade and Pristina within the framework of the European integration process.

EU EXPANSION STRATEGY AND THE ROLE OF CIVIL SOCIETY IN SERBIA AND KOSOVO

In June 2003 the European Council in Thessaloniki confirmed the EU entry conditions for the West Balkan states. The road to joining the EU and to fulfilling the Copenhagen entry criteria is paved with conditions in the areas of political cooperation, building institutions, implementation of further trade measures and economic development.[12] Countries are only eligible to join the EU once they have stable institutions, a functioning market economy and the ability to fulfill the obligations of EU membership. EU candidate countries must respect the basic values of freedom, democracy, the rule of law and human rights. So the process of stabilization and association is an important tool for the EU: the ratification of the Stabilization and Association Agreement (SAA) is an important milestone for the West Balkan states in their journey towards EU membership. The agreement contains stipulations for meeting the required conditions along with concrete measures to assist the countries involved.[13]

11 | Cf. International Court of Justice, Accordance with international law of the unilateral declaration of independence in respect of Kosovo, http://www.icj-cij.org/docket/files/141/15987.pdf (accessed November 9, 2010).

12 | Cf. EurActiv.com, Beziehungen zwischen der EU und den Westbalkan-Ländern, http://www.euractiv.com/de/erweiterung/beziehungen-zwischen-eu-westbalkan-lndern/article-130585 (accessed November 9, 2010).

13 | Cf. European Commission for Enlargement, Countries on the ▸

The path to EU membership is a hard one, not only due to the political and social readiness of candidate countries but also because of the economic feasibility of the reforms required. On top of this is the enlargement fatigue felt by the old EU members and – after the disillusionment of Romania and Bulgaria's accession and the political fall-out for Europe of the economic crisis – fears of instability within the Union. For this reason, complete fulfillment of the Copenhagen Criteria is increasingly important.[14]

The ultimate goal of economic and institutional transformation should not be forgotten: the construction of a pluralistic civil society which is in a position to support long-term democracy.

But in the midst of this economic and institutional transformation, which can be largely measured with action plans and benchmarks, its ultimate goal and desired result should not be forgotten: the construction of a functioning, pluralistic civil society which is in a position to support long-term democracy. "While civil society does not stop the state taking on a sovereign role as peace-keeper and law-enforcer between competing interests in society, it can prevent the state dominating society as a whole. At the same time, civil society prevents the break-up of society due to market forces and the dominance of individual vested interests."[15]

Good neighborly relations are also a crucial factor in the EU integration of the West Balkan states. In its 2010-11 expansion strategy, the European Commission highlighted "reconciliation, regional cooperation and bilateral questions in the Western Balkans"[16] as one of the major challenges for the integration of this region into the EU. Cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) on a legal and political level is a prerequisite for

road to EU membership, http://ec.europa.eu/enlargement/the-policy/countries-on-the-road-to-membership/index_en.htm (accessed September 10, 2010).

14 | Cf. Dušan Reljić, *Zuckerbrotkrise der EU auf dem Westbalkan*, 3, in: http://www.swp-berlin.org/common/get_document.php?asset_id=6850 (accessed September 10, 2010).

15 | Helmut Anheier, "Zivilgesellschaft in Europa," in: http://bpb.de/themen/1QO7ZE,0,0,Zivilgesellschaft_in_Europa (accessed September 10, 2010).

16 | Erweiterungsstrategie und wichtigste Herausforderungen 2010-2011, 10, in: http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/strategy_paper_2010_de.pdf (accessed November 10, 2010).

truly coming to terms with the past and creating a basis for sustainable good neighborly relations. But this cannot be achieved without the broad support of the population as a whole. Such a civil society, in Serbia and in Kosovo, can play a key role in overcoming these challenges and making real progress towards EU integration. The EU recognizes this in its expansion strategy by referring to civil society as "a fundamental element of mature democracies."[17]

SERBIA IN THE MIDST OF REFORMS, EU SCEPTICISM AND NEW PERSPECTIVES

For Serbia, the 5th October 2000 was a turning-point in its democracy: the "Democratic Opposition of Serbia" (DOS) alliance of parties led by Vojislav Koštunica and Zoran Đinđić combined with the Otpor (Resistance) movement and massive workers' strikes to protest electoral fraud during the presidential elections and succeeded in toppling the Milošević regime. Koštunica became the first democratically-elected President of Serbia and a few months later Đinđić was appointed Prime Minister. Just three months later his new Europe-oriented government handed over Milošević to the ICTY. Đinđić's first priorities were dealing with the legacy of the Milošević regime and "Europeanization and modernization, as quickly as possible"[18]. On the day he was elected Prime Minister he laid bare his commitment to reform: "I don't want to be loved; I want to push through reforms, and that is never popular."[19] But the optimism in Serbia after the democratic revolution soon foundered as hopes of radical reforms and a Europeanization of society were dashed: on 12th March 2003 Đinđić was assassinated. The circumstances surrounding the assassination of this politician, on whom so many had pinned their hopes of a European Serbia, still remain unclear.

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But even before this, it was clear from the altercations between Koštunica and Đinđić about the constitutionally-dubious handover of Milošević that the DOS could not

17 | Helmut Anheier, "Zivilgesellschaft in Europa," n. 15
18 | Christian Wehrschütz, *Im Kreuzfeuer: Am Balkan zwischen Brüssel und Belgrad* (Vienna, 2009), 101.
19 | Ibid., 114.

provide a unified base for reform-oriented policies towards Europe. Even the civil protest movement, which to begin was viewed by the West as a positive development, turned out to be a protest movement *against* Milošević rather than *for* a new political start. This is illustrated by the slogan "gotov je" ("he is finished"). The fact that the Prime Minister was assassinated shows that the reformers were no match for organized crime, which was not only allowed to flourish but even received a degree of protection under Milošević. So in the years that followed, reforms progressed at snail's pace under Đinđić's fellow politicians and Koštunica's successor. Kostunica's term was dominated by the Kosovo question and by what the EU viewed as insufficient levels of cooperation with the ICTY. His main success was the enactment of a new constitution in 2006, which replaced the authoritarian system of the Milošević era with a new parliamentary system. But a comprehensive privatization of state-owned enterprises and the consolidation of the rule of law with its associated fight against organized crime largely failed to materialize. The chance of a new democratic beginning and a rapid transformation of society, something which seemed within reach in 2000, was never really grasped in terms of the country's political reality.[20] Instead, after the fall of Milošević, the people increasingly had the impression that the political elites wanted to continue enriching themselves at the public's expense. Former supporters of Milošević gained a foothold in business and the Serbian economy came to be increasingly dominated by oligarchs holding monopolies in key sectors.[21] These developments hindered the country's democratic transformation and the development of a civil society.

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Koštunica was also prone to nationalistic resentments which resulted in a row with President Boris Tadić after Kosovo's Declaration of Independence. In his speeches, Koštunica kept alive historical experiences of foreign rule and loss of territory in Serbian-populated areas of Croatia, Bosnia

20 | Cf. Bertelsmann Stiftung, Kurzgutachten Serbien, 2, in: http://bti2008.bertelsmann-transformation-index.de/fileadmin/pdf/Kurzgutachten_BTI_2008/ESE/BTI_2008_Serbien.pdf (accessed November 10, 2010).

21 | Cf. Michael Martens, "Der reichste Serbe macht Kasse," *Frankfurter Allgemeine Zeitung*, in: http://www.faz.net/-01dsvh (accessed November 10, 2010).

and Herzegovina. The stories of these historical victims form an essential component of the Serbian national identity. Because of this, he still enjoys a reputation as an incorruptible, principled nationalist, unlike the majority of Serbian politicians. The hearings in The Hague and the loss of authority over Kosovo gave the impression that Serbia had once again fallen victim to a greater political entity in the form of European integration. Many Serbians asked: "Why should Serbians be held solely responsible for the crimes committed during the Yugoslav Wars? And why should we give up such a nationally important area as Kosovo when we have already lost Krajina and the Republika Sprska?"

However, Tadić's victory in the polls in 2008 showed that a large proportion of the Serbian population believed in the benefits of Serbia joining the EU and above all hoped for improvements in the economy by opening up to the West. Important factors which contributed to the victory of Tadić's coalition were the start of the EU's SAA process[22] with Serbia and real prospects of greater foreign investment, particularly by Fiat in the plant of Serbian car manufacturer Zastava.[23] But not all voters agreed with Tadić's policy of opening up to Europe: the election results clearly showed that the country still had a large proportion of Eurosceptics. 29 per cent of the electorate voted for the Serbian Radical Party (SRS) of Tomislav Nikolić, who served as deputy to Vojislav Šešelj, currently on trial at The Hague.

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Since the beginning of his second term in 2008, President Tadić and his government under Prime Minister Cvetković have, however, managed to take significant steps towards EU membership. Belgrade swiftly apprehended the fugitive war criminal Radovan Karadžić and handed him over to The Hague. In this way Serbia signaled to the EU that

22 | As an initial step, the EU negotiates Stabilisation and Association Agreements (SAA) with potential entry candidates in order to strengthen the country's economy and promote the establishment of democracy.

23 | Cf. Claudia Nolte, "Überraschend klarer Sieg für die europäische Liste (DS–Tadić) bei den Parlamentswahlen in Serbien", *KAS-Länderbericht*, May 12, 2008, in: http://kas.de/wf/doc/kas_13710-1522-1-30.pdf (accessed November 10, 2010).

it was ready to cooperate with the War Crimes Tribunal. The Stabilization Agreement with the EU was particularly applied to the implementation of European trading standards. At the end of 2009 the Cvetković government had its biggest success when the EU Council abolished visa requirements for Serbian citizens. On the heels of this, Serbia officially applied for EU membership. In early 2010 the trade agreement within the SAA also came into force on the part of the EU, and in June 2010 Brussels finally began the ratification process by its member states of the whole SAA.[24]

Reform of the rule of law is in its early stages – many laws are now in place which are necessary for an independent judiciary, but all too often they are inadequately applied.

These successes by the Europhiles are, however, countered by continuing shortcomings in the country's democratic and economic development. The government has indeed made progress in the area of privatization but nothing has been concluded. 45 per cent of GDP is still produced by state-owned enterprises. The continuing stranglehold of monopolies stymies the development of a positive investment climate for both domestic and international businesses. On top of this there is the sluggish pace of modernization within public administration. This lack of effective administration presents an even greater obstacle for entrepreneurs than corruption.[25] And the tight network formed by oligarchs, politicians and the press prevent the development of a pluralistic media landscape. Reform of the rule of law is in its early stages – many laws are now in place which are necessary for an independent judiciary, but all too often they are inadequately applied. As a result, large areas of the legal system are characterized by ineffectiveness, political control and corruption.[26]

The old constants of national identity still largely persist behind the population's perception that reform is happening too slowly. This can be seen in the parliamentary debate on the "Srebrenica Resolution": the people's representatives

24 | Cf. *EU News*, "EU-Beitritt Serbiens rückt näher", in: http://europa.eu/news/external-relations/2010/10/20101026_de.htm (accessed November 10, 2010).
25 | Cf. Bertelsmann Stiftung, *BTI 2010*, "Serbia Country Report," 16, 19, in: http://bertelsmann-transformation-index.de/fileadmin/pdf/Gutachten_BTI2010/ECSE/Serbia.pdf (accessed November 10, 2010).
26 | Cf. ibid., 8-9.

found it difficult to condemn the massacre of 8,000 Bosnian Muslims in July 1995, only approving the declaration by a slim majority. And under pressure from the SPS (the Socialist coalition members and successors to Milošević's Socialist party), the word "genocide" was erased from the original version.[27] Nevertheless, this declaration sends an important signal in terms of foreign policy, even if it is clear that domestically there is still much work to be done in confronting the past. The Serbian government's decision last October – just before the publication of their EU progress report – to offer a reward of ten million Euros for information leading to the arrest of war criminal Radko Mladić is further evidence of its continuing desire for Serbia to have a European orientation and to face up to the country's past. At the same time, it not only has to stand its ground against the interests of the old elites and the nationalists, but also against new political opponents as the 2010 elections draw nearer. The Serbian Progressive Party (SNS) led by Tomislav Nikolić, which split away from the radicals in 2008, is currently neck-and-neck in the polls with Tadić's DS.

But it should be noted that the abolition of visa requirements in particular has led to a growing proportion of the population being in favor of a more European direction for their country. This is particularly the case amongst young people, who can now more easily travel and study in Western Europe and who have more opportunities to take part in international exchange programs. But extended trips in Europe are beyond the reach of many Serbs, who have an average income of 320 Euros per month and an unemployment rate of nearly 20 per cent. So any significant import of European ways of living and thinking in the sense of a civil society will necessarily be slow and must be accompanied by economic improvements. This is the only way for the country's pro-European elite to attract sufficient support from a civil society which is becoming emancipated.

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27 | Cf. Henri Bohnet, Johannes Gold, "Die Srebrenica-Resolution – Geteilte Meinungen", *KAS-Länderbericht*, April 22, 2010, in: http://kas.de/wf/doc/kas_20489-1522-1-30.pdf (accessed November 10, 2010).

Against this backdrop, the significance of the International Court of Justice's advisory opinion and the Serbian reaction to it becomes clear. Despite the stock announcement that Serbia will never recognize Kosovo's declaration of independence, on 13th October Belgrade and the EU countries approved a UN Resolution (A/RES/64/298) which recognized the judgment and called for political dialogue between the two parties. This courageous move must be taken up by Pristina without delay and strongly supported by the international community to ensure that a pragmatic rapprochement between the two capitals and a continuation of the two countries' European integration processes still stand a chance.

THE SITUATION IN KOSOVO

The 2.1 million-strong population of Kosovo is statistically the youngest and one of the poorest in Europe. The average age of 26.3 years is well under the European average of 40.4.[28] Various media campaigns[29] and the presence of large numbers of western employees in international organizations have contributed to the Kosovans considering themselves to be Europeans (much more so than the Serbians), and seeing their future as lying within the EU.[30] This is less the case among the 200,000 Kosovo Serbs who have to find their own orientation, caught as they are between the protection afforded by Belgrade and

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28 | Cf. CIA, *The World Factbook*, https://www.cia.gov/library/publications/the-world-factbook/geos/kv.html (accessed December 14, 2010). The birth rate of 15.9 children per 1,000 population is also well over the European average of 10.9 children. Cf. Eurostat, "The EU-27 population continues to grow," 4, in: http://www.eds-destatis.de/de/downloads/sif/qa_09_031.pdf (accessed November 22, 2010). Eurostat, "Median age of the total population for the EU Member States," http://epp.eurostat.ec.europa.eu/statistics_explained/index.php?title=File:Median_age_of_the_total_population_for_the_EU_Member_States,_Norway_and_Switzerland_-_2008,_2060.PNG&filetimestamp=20090618142324 (accessed November 11, 2010).

29 | Cf. for example: "Kosovo, the young Europeans – Kosova, die jungen Europäer," http://www.youtube.com/watch?v=OatiMXHeDzE (accessed November 11, 2010).

30 | Cf. *EurActiv.de*, Interview with Kosovo's ambassador Mirdita, "Serbia does not have to recognize us straightaway," http://euractiv.de/erweiterung-und-partnerschaft/artikel/serbien-muss-uns-nicht-sofort-anerkennen-002966 (accessed November 11, 2010).

the difficulties of building trust with Pristina in light of the ongoing devolution process.

But the problems of transformation in youthful Kosovo are even more serious than in neighboring Serbia: in mid-2010 the *International Crisis Group* published a report stating that Kosovo's biggest problems are the serious shortcomings in the rule of law, endemic corruption and organized crime. It also claimed that the political elite does too little to redress these problems.[31] Organized crime often has free-rein because of the unresolved situation in Mitrovica in the north of Kosovo which has led to virtual lawlessness, and the web of Mafia and former UÇK squads whose political successors, the Democratic Party of Kosovo (PDK), currently wield the most political power. In the business sector there are one or two notable companies,[32] but in general the economic outlook is precarious because of the failure of the majority of UN member states to recognize Kosovo and because of the country's own administrative instability. Kosovo's unemployment rate of 45 per cent is the highest in Europe. 17 per cent of the population lives below the poverty line.[33] The country is dependent on money sent by expatriate Kosovans living in the West and on international aid. Here, much more than in Serbia, there is a lack of political and economic support for a civil society which is trying to democratize.

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It is not just last autumn's national crisis which has left Kosovo's political development in an unsettled state, as can be seen by taking a look at the last few years. Starting with the "menacing nationalism"[34] which developed during

31 | Cf. *International Crisis Group*, "The Rule of Law in Independent Kosovo," http://crisisgroup.org/~/media/Files/europe/balkans/kosovo/204%20The%20rule%20of%20Law%20in%20Independent%20Kosovo.ashx (accessed November 11, 2010).

32 | Cf. Christian Wehrschütz, "Der Kosovo ist keine Wüstenei," *Kleine Zeitung*, July 13, 2010, in: http://neu.kleinezeitung.at/nachrichten/politik/2402496/kosovo-keine-wuestenei.story (accessed November 11, 2010).

33 | Cf. European Commission, "Kosovo Progress Report 2010," 59, in: http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/ks_rapport_2010_en.pdf (accessed November 11, 2010).

34 | Matthias Küntzel, *Der Weg in den Krieg. Deutschland, die Nato und das Kosovo* (Berlin, 2000), 21.

the start of Serbian repression in the 1990s, the Kosovo Albanian population found itself in a constant battle for its own state and for secession from Serbia. The Kosovo nation primarily based its definition of itself and its right to an independent state on its experience of oppression and later the violence of their Serbian rulers, and also on the resistance mounted by its "freedom fighters". At the forefront of the independence movement, the UÇK established itself after the humanitarian intervention as part of the political elite in the UNMIK system: at the end of 2007 the former commander and political spokesperson of the UÇK, Hashim Thaçi, was elected as Prime Minister.[35] Thaçi's PDK governed with the Democratic League of Kosovo (LDK) until the coalition was dissolved in October 2010. Just like the previous governments in Kosovo, which is still under UN administration, Thaçi's foremost political aim was Kosovan independence and international recognition. All the country's other problems were put on the backburner.

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On top of this, Kosovo's status as a UN protectorate meant that its people could not tell whether or not the local politicians could be held responsible for their successes, but also for their many shortcomings. So the voters tended to believe their own government when it said the UNMIK was to blame for the failure of certain projects. As a result, the international community found itself the subject of growing resentment amongst the local population, which hampered their operations and power of veto in important decisions involving national sovereignty.[36] This does not mean that the Kosovo Albanians totally supported their government. Even more than in Serbia, the political elite in Kosovo is accused of ineffectiveness, self-enrichment and criminal behavior at the public's expense. The corruption scandal involving the Kosovo transport minister Fatmir Limaj in mid-2010 serves to confirm these speculations.

35 | Cf. Norbert Mappes-Niediek, "Hashim Thaci – Schüchterner Freischärler", *Financial Times Deutschland*, November 18, 2007, in: http://ftd.de/karriere-management/management/:kopf-des-tages-hashim-thaci-schuechterner-freischaerler/280749.html (accessed December 17, 2010).

36 | Cf. Julia Egleder, "UNMIK oder Dr. Memmingers (Un-)Ruhestand im Kosovo," in: *Dingolfinger Anzeiger*, May 14, 2010, 6.

National independence and EU membership, which is viewed as providing a guarantee of independence, are rare points of contact between politics and society. A measure of the democratic maturity of politics and society may be seen in the running and outcome of the early parliamentary elections held in December. They provide an opportunity to carefully examine whether policies have matured enough to start identifying the political and economic challenges which Kosovo faces, including entering into direct negotiations with Belgrade, or whether they will again be dominated by an emphasis on the national interest in dealings with Serbia and the international community.

In spite of all these problems, it is still noticeable that since the declaration of independence Kosovo is going through a transformation from a society carried along by the idea of nationhood to a "more civil" society. Contacts with the outside world through international development workers and the worldwide diaspora of Kosovo Albanians is increasingly contributing to higher levels of education and a more sophisticated awareness of problems among the younger population. Similar to what is to some extent happening in Serbia, this population group show that they are starting to break away from the nationalistic political elite. This is an opportunity to stand up to ultra-nationalistic groups such as the Vetëvendosje movement (self-determination) and old UÇK squads in a socio-political way. It is also the chance for a civil society to emerge, which must ultimately help find pragmatic solutions with Belgrade. Up to now the political elite has felt there was little necessity to negotiate with Belgrade. Their strategy has instead been to strive for international recognition.[37] What is really lacking in the creation of a true European civil society is – as in Serbia – a concrete European perspective and ongoing international involvement in the transformation. The need for action is acute, as around 30,000 school-leavers flood onto the labour market each year with little hope of

The younger population in Serbia is starting to break away from the nationalistic political elite. This is an opportunity to stand up to ultra-nationalistic groups in a socio-political way.

37 | Cf. International Crisis Group, "Kosovo and Serbia after the ICJ Opinion," Europe Report № 206, August 26, 2010, 5, in: http://crisisgroup.org/~/media/Files/europe/206%20Kosovo%20and%20Serbia%20after%20the%20ICJ%20Opinion-1.ashx (accessed November 11, 2010).

finding a job.[38] Historically this section of the population is particularly susceptible to radical ideas, which is why intelligent economic policies and a strengthening of the rule of law are particularly important at this time. The decision by Brussels in November to abolish visa requirements for Albanians, Bosnians and Herzegovinians should be understood by the Pristina government as an incentive to accelerate their reforms.

PERSPECTIVES: PRAGMATIC SOLUTIONS OR CLINGING ON TO OLD PATTERNS OF BEHAVIOUR?

The political situation in Serbia and Kosovo proves that the time has come for more pragmatic relations with their neighbors. They can no longer turn their back on each other if they wish to achieve sustainable democratization of their societies and integration into European structures. There are still many obstacles on the way to this goal, not least the reluctance of the major political powers in both countries to learn lessons from the difficulties of the past and to face up to the new realities of modern Europe. This does not mean that Serbia should have to abandon its historic and cultural roots in present-day Kosovo. It also does not mean that in the foreseeable future Kosovo can become a "normal" country without the international community working within its borders, so long as it has not stabilized its institutions.

It goes without saying that both sides will have to make compromises. Agreement is not going to be reached by exchanging territory, as was recently suggested by the International Crisis Group.[39] Therefore a rapprochement

38 | Cf. Ulrike Scheffer, "Aufbruch im Kosovo," *Der Tagesspiegel*, January 5, 2009, in: http://www.tagesspiegel.de/aufbruch-im-kosovo/1409754.html (accessed November 11, 2010).

39 | Cf. International Crisis Group, "Kosovo and Serbia after the ICJ Opinion," n. 37, 4, in: http://crisisgroup.org/en/regions/europe/balkans/kosovo/206-kosovo-and-serbia-after-the-icj-opinion.aspx (accessed November 11, 2010). Serbian-populated northern Kosovo should be exchanged for an Albanian-populated area in southern Serbia and the Serbian Orthodox churches and monasteries should receive special protection. In view of the protracted and compromise-laden processes for founding Balkan states over recent years, this idea comes up against international caveats because of the danger of setting a new precedent. There also seems to be little concrete evidence that Serbian and Kosovan politicians are interested in such a move.

modeled on the Basic Treaty of 1972 between the two German states is under consideration, not just by German policy-makers. This would exclude Belgrade's non-recognition of Kosovo for the time being and limit the focus to finding solutions for practical problems. This could form a starting point in terms of the new UN Resolution.

Pragmatic conciliation can only make gradual progress, and it is only possible with the ongoing involvement of the EU in particular and with an emancipated civil society on the ground. It is the responsibility of Belgrade and Pristina, of their policy-makers and people, but also the responsibility of the European member states to set this process in motion without further delay.