



Henri Bohnet is Resident Representative of the Konrad-Adenauer-Stiftung in Serbia and Montenegro.

CAN SERBIA LET GO OF KOSOVO?

THE KEY QUESTION FOR BALKAN STABILITY

Henri Bohnet

13 years after the Kosovo War, the conflict between Belgrade and Priština has re-ignited due to clashes over the control of border crossings and territory. But this time the conflict has not spiralled into violence, largely thanks to the EU's South East Europe integration process. The desire to join the EU that has been evinced by all the Western Balkan states, but particularly Serbia, sends a signal that Belgrade is keen to find a peaceful resolution to its quarrels with Priština.

THE WESTERN BALKANS ON THE WAY TO THE EUROPEAN UNION

Since the end of the Kosovo War – the last war to take place in the territories of the former Yugoslavia – democratic reforms have brought the Western Balkan states to the threshold of the European Union. Serbia, the largest country in the former Yugoslavia, has extradited last two war criminals sought by the International Criminal Court in The Hague. All 161 fugitives wanted by the Tribunal are now in custody, drawing to a close an important chapter in Yugoslavia's violent collapse. The formerly Yugoslavian Slovenia has been a member of both the EU and the single currency for many years, while Croatia set its seal to its EU membership last winter. Montenegro will soon be starting out on its entry negotiations, Serbia and Macedonia are candidate countries and, after the sanctions and travel restrictions of the 1990s, all their citizens can once again travel freely and without a visa within Europe. It looks hopeful that this will also soon apply to the Kosovars. With the passing of each year, more and more young people from the region

are benefiting from the increase in study opportunities and scholarships offered by Western Europe. When they return home, they take with them a range of experiences and skills that are vital to their countries' economic growth.

But 13 years after the last war, the two main arenas of the Yugoslavian wars, Kosovo and Bosnia-Herzegovina, remain under international civilian supervision. Some 4,000 NATO soldiers are still stationed in Kosovo, including 1,400 from Germany. And unlike in Afghanistan, there are currently no plans for their withdrawal.

Kosovo declared its independence in February 2008, and in so doing drew a line that will probably be the last border to be staked out in the Western Balkan territories for the foreseeable future, two years after Montenegro was released from its federation with Serbia. But Kosovo is still not a "normal" sovereign state. Despite being recognised by almost 90 countries around the world, it has not yet been able to secure a seat at the United Nations, as Russia and China have exercised their vetoes to refuse its recognition. Five EU member countries (Greece, Slovakia, Romania, Spain and Cyprus) have no bilateral diplomatic relations with Priština, and in the region itself, Bosnia-Herzegovina and Serbia still refuse to accept an independent Kosovo.

Despite being recognised by almost 90 countries around the world, Kosovo has not yet been able to secure a seat at the United Nations.

More than a decade after the fall of Slobodan Milošević, the political establishment in Belgrade still maintains that it will never recognise Kosovo or its borders. In hard-fought parliamentary elections this spring, the greater majority of party leaders assured their voters that under no circumstances were they prepared to give up "Kosovo and Metohija", which is the official Serbian orthodox name for the territory, nor the people who live there. Serbian president Boris Tadić was pushing his "EU and Kosovo" strategy, which promoted his country's membership in the EU, while he was still maintaining Serbia's claim to Kosovo. He emphasized this strategy during the recent election campaign, but could it really be considered realistic? Or has it been illusory? And how will the newly elected president Tomislav Nikolic tackle those two intertwined topics?

SUPER-ELECTION YEAR IN SERBIA: THE KOSOVO ISSUE DURING THE PARLIAMENTARY, LOCAL AND PRESIDENTIAL ELECTIONS IN EARLY MAY

The Kosovo conflict flared up again last summer, when Kosovo attempted to take control of the border region that is settled by Serbs, but which is a part of Kosovo territory. This came at just the right time for many of the election candidates in Belgrade as a distraction from the real, predominantly economic problems facing Serbia, and offering an always welcome opportunity to appeal to national unity. The media, which is largely controlled by individual political and economic interests, played its part in fuelling the Serbian public's euroscepticism and creating a sense of mistrust towards the country's partners in Berlin, Brussels and Washington. It also ensured that calls for a return to the traditional Slavic friendship with Moscow and for stronger economic ties with Beijing became ever louder.

13 years after the end of the Kosovo War, high-ranking representatives from both governments are now talking to each other about improving relations.

However, this nationalist rhetoric (which the Kosovars are also happy to employ) has also helped to foster greatly improved relations between Belgrade and Priština. What was considered unthinkable under Tadić's predecessor, Koštunica, is now reality – 13 years after the end of the Kosovo War, high-ranking representatives from both governments are now talking to each other about improving relations between the two countries, whereas a few years ago there were no official communications at all. Following the collapse of the 2007 status negotiations, led by UN Envoy Martti Ahtisaari, and Priština's unilateral declaration of independence in February 2008, supported by the USA, Germany and other countries, talks are now finally underway again, even if they are only of a "technical nature". This EU-led dialogue, which began in March 2011, has already led to a number of important agreements aimed at resolving outstanding areas of conflict within its first year. Some initial hurdles have been overcome and the goal of normalising bilateral relations, without which a long-term stabilisation of the Western Balkans is unthinkable, has moved a step nearer. However, there is still a rocky road ahead and progress depends on the ongoing involvement of the EU and on bringing all the countries of the region – and Serbia in particular – closer to the Community.

SERBIA'S TRANSFORMATION INTO AN EU CANDIDATE COUNTRY: INITIAL STEPS TOWARDS RAPPROCHEMENT WITH PRIŠTINA

President Tadić's victory in the early elections in 2008 signalled the turning point in Serbian policy towards Europe. It should not be forgotten that Tadić's success, based on a clearly pro-European election campaign, came about as a result of the failed policies of his former prime minister and rival Koštunica, who rejected all international attempts to mediate in resolving the issue of Kosovo's status, and resisted the Europeanisation of his own country.

Looking back at Tadić's four-year term in office, his foreign policies in particular can be considered to be bold and constructive, especially given that he only just won the 2008 second ballot against the nationalists under the leadership of the (at that time still) radical Tomislav Nikolić. The Serbian Radical Party, whose leader, Vojislav Šešelj, was indicted in The Hague on charges of sedition, actually ended up as the second largest party in parliament behind Tadić's Democratic Party. Tadić had to form an alliance with the party that succeeded Milošević's, among others, and created a very heterogeneous coalition under his prime minister Mirko Cvetković in order to guarantee a small majority in parliament over the nationalists under Nikolić and Koštunica.

Tadić only just won the 2008 second ballot against the nationalists under the leadership of the (at that time still) radical Tomislav Nikolić.

Belgrade's positive shift towards Europe should be viewed against the backdrop of this difficult domestic political climate. Boris Tadić achieved this shift by focusing on some important foreign policy priorities, including handing over the former Bosnian Serb leader Radovan Karadžić to the International War Crimes Tribunal in The Hague just a few months after taking office; the capture of war criminals Ratko Mladić and Goran Hadžić last summer; the start of reconciliation with Serbia's former enemy, Croatia, which was helped by Tadić's visit to Vukovar; the condemnation of the Srebrenica Massacre by the Serbian parliament; the UN resolution, co-sponsored with the EU, which paved the way for the talks that have been ongoing with Priština since March 2011; and finally the bilateral agreements that have been made so far with Kosovo in the face of significant

political opposition at home. In addition to these foreign policy successes, the European Union also gave Serbia high grades last autumn for its efforts in implementing the Stability and Association Agreement as well as for making significant progress in the democratic reform process, and granted Belgrade potential candidate country status.

However, despite all these achievements, the picture is not quite so rosy when seen in terms of the political reality at home. Most of the changes mentioned above have still only remained at the surface level, but because of the difficulty of actually implementing these kinds of reforms have had little impact on politics and society as a whole. There has not yet been the kind of necessary domestic political debate that should accompany these kinds of changes, let alone widespread discussion within Serbian society.

This is the main reason why the successes so far achieved in the bilateral agreements on Kosovo have not yet proved sustainable. It is also why it is both sensible and necessary to take a critical look at these developments and particularly the German-led proposal that Serbia's membership in the EU (and of course that of Kosovo) should be linked to progress in the normalisation of bilateral relations.

SERBIAN PARTIES IN THE ELECTION CAMPAIGN: WHAT IS THE LIKELIHOOD OF RECONCILIATION WITH THE COUNTRY'S NEIGHBOURS?

Politics in Belgrade is dominated by two equally strong camps that are distinguished more by historical than ideological factors.

In this super-election year, it is worth taking a look at the various political parties in Serbia to see what possibilities there might be for a normalisation of relations with Kosovo and political stability in the Western Balkans in the near future, that is to say over the coming legislative period. Politics in Belgrade is dominated by two equally strong camps that are distinguished more by historical than ideological factors. The two sides differ widely from each other and are also very diverse internally. On the one side there are the former leaders of the Democratic Opposition of Serbia that opposed the Milošević regime and their parties. This group includes the Democrats of the murdered reformer Zoran Đinđić, led by Tadić; Koštunica's nationalist DSS; the Liberal Democrats of the former Deputy Prime Minister

Čedomir Jovanović, and various smaller parties that have declined in importance over the years.

In the other camp are the political leaders and parties that served under Milošević. So far, all of them have – at the very most – partially credible measures toward democratic reform. This group includes Milošević's own former party, the SPS, under the current Minister of Internal Affairs, Ivica Dačić, the Radicals under Šešelj and the Serbian Progressive Party, which split from the Radicals in 2008, under Milošević's and Šešelj's former colleague Nikolić. These parties (together with Koštunica's DSS) can be considered largely pro-Russian. They and their leaders have not publicly denounced their past. Despite the SPS's participation in the pro-European policies of the outgoing government and the self-proclaimed transformation of the former radical Nikolić into an advocate of Europe, serious doubts remain. Will both of these parties actually support the integration of Serbia into the EU, if this means losing Serbian influence over Kosovo, which would be inevitable bearing in mind that integration into the EU is dependent upon further progress in the talks that have already begun between the two countries? The Progressive Party has become the largest party in the new parliament. Dačić looks like a serious candidate for prime minister; his SPS is the third largest party in parliament after Tadić's Democrats.

Despite the SPS's participation in the pro-European policies of the outgoing government and the transformation of the former radical Nikolić into an advocate of Europe, serious doubts remain.

WHAT IS THE NEW GOVERNMENT LIKELY TO DO AS REGARDS ITS KOSOVAR NEIGHBOURS?

The new government in Belgrade must be able to prove that it is making progress in its cooperation with Priština if it wants to achieve its goal of a European future for Serbia. It must implement the agreements already made during bilateral talks. The EU will also be looking for further concessions from Belgrade, such as the dismantling of the parallel administration structures in North Kosovo, something which German Chancellor Angela Merkel made abundantly clear during her visit to Belgrade in August 2011.

Inevitably, the new government will have to amend the Serbian constitution to make it possible to maintain friendly relations with Kosovo. The 2006 constitution is the main

normative hurdle that stands in the way of normalising relations with Priština, as its preamble refers to the "Autonomous province of Kosovo and Metohija" as an integral part of Serbian territory. However, amendments to the constitution are only possible with the approval of a two-thirds majority in parliament. This would require the support of both political camps.

The recent election campaign showed that the integration process and the talks with Priština have opened a lot of old wounds and rekindled a number of former controversies.

It is clear from the political backgrounds of these two main camps that meeting these challenges will require public debate on Serbia's strategic political goals and the demands coming from Brussels, along with taking steps to come to terms with the country's recent past. The most recent election campaign showed that the integration process and the talks with Priština have opened a lot of old wounds and rekindled a number of former controversies, which political leaders can no longer brush aside as they have done in the past. Tadić's government was unable to explain in clear enough terms its foreign policies relating to Brussels and Priština, and hence neglected to gain parliamentary legitimacy for the agreements that had been made. Large sections of the public, the opposition and even some of their own partners in the ruling coalition feel ignored. They have all called for a public debate on what had been achieved in the talks, yet they were also guilty of avoiding making clear statements or offering detailed strategies on their own foreign policy goals during the election campaign, especially when it came to the continuation of talks.

PROGRESS AND OUTCOME OF THE BELGRADE-PRIŠTINA TALKS TO DATE

Following the unilateral declaration of independence, the Kosovo question temporarily became less of an issue in the public's mind after the Koštunica government stepped down in spring 2008. After years of long, drawn-out negotiations, Kosovo had been written off. People didn't necessarily agree with what had happened, but there were more important, economic problems to worry about, as well as, for the first time, the new Tadić government's specific ideas on Serbia's future in Europe. Following the surprisingly unambiguous advisory opinion on the Kosovar declaration

of independence made by the International Court of Justice in summer 2010, Kosovo was back in the headlines. Yet, contrary to many people's fears, the reaction was predominantly peaceful, unlike two years earlier when the declaration of independence was actually made.

As a result of this advisory opinion, Serbia tabled a new resolution at the UN General Assembly that had been amended under pressure from the EU. This paved the way for the opening of bilateral talks in March 2011.¹

The aim of these talks was not to tackle the status question but to resolve technical issues such as the recognition of university degrees, freedom of movement and land registration. Chaired by EU mediator Robert

Belgrade and Priština know that further progress towards the EU integration will only be possible if there is demonstrable progress during their talks, leading to a normalisation of relations.

Cooper, there have so far been nearly a dozen meetings in Brussels between Kosovar Deputy Prime Minister Edita Tahiri and Borislav Stefanović, the authorised representative of the Serbian Minister of Foreign Affairs. Both sides know that further progress towards the integration of Belgrade and Priština into the EU will only be possible if there is demonstrable progress during these talks, leading to a normalisation of relations on a day to day basis. A clear condition set by Brussels, as one of the main criteria for EU membership is the fostering of friendly relations with neighbouring countries.

The first concrete results came at the beginning of July, just four months after talks began, when the two sides drew up agreements in three specific areas that would be implemented by trilateral working groups. The first agreement covered the creation of a civil registry for Kosovo by the EU Rule of Law Commission (EULEX), for which Serbia agreed to make its documents available. Another significant step was the agreement to allow the free movement of Kosovar citizens into Serbia on the basis of their ID cards. Both sides have also agreed to recognise each other's university degrees and school diplomas.²

1 | Resolution 64/298 from 2010: Cf. United Nations, 2010: A/RES/64/298, 2, <http://un.org/en/ga/64/resolutions.shtml> (accessed 14 May 2012).

2 | Cf. Council of the European Union, "EU facilitated dialogue: three agreements", Press Statement, Brussels, 2 Jul 2011, http://consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/123383.pdf (accessed 10 May 2012).

However, only a few weeks later, after the Serbs had postponed the next round of talks from July to September, border clashes broke out in North Kosovo. By December the conflict had resulted in several deaths and dozens of injured on both sides and amongst the international peace-keeping troops.

The cause of the outbreak of violence was the decision by Priština to send police to occupy border crossings. This was in reaction to the embargo on Kosovar goods entering Serbia, an embargo which had been in place since the Kosovar declaration of independence and which had attracted repeated criticism from Priština. The Kosovar government wanted to prevent the entry of Serbian goods as a *quid pro quo* for the Serbian embargo. Serbian goods had been coming into the country unhindered, and often without being checked, via border posts in North Kosovo manned by Kosovan Serbs. The main beneficiaries were the Serbian-Kosovar gangs who had been running well-organised smuggling operations for petrol and building materials.

On 25 July 2011, there was fierce resistance that forcibly prevented the Kosovar security personnel from reaching the border crossings.

The border conflict is therefore an expression of the threat to commercial interests in North Kosovo, and especially of the influence of criminal organisations, and of the recognition by the local, mostly Serb population that the to-date fairly limited influence of the Kosovar government could in future have a significant impact on their daily lives. On 25 July 2011, there was fierce resistance that forcibly prevented the Kosovar security personnel from reaching the border crossings. Barricades were erected at the border posts and at various border crossings and some are still in place today.

This renewed outbreak of violence has had an influence on reporting in the Serbian and Kosovar media and on negotiations between the two sides. Although up to the summer politicisation of the advisedly "technical" dialogue had largely been avoided, by the time of its belated commencement the nationalist rhetoric on both sides was all the more pronounced. During the early part of the election campaign some Serbian politicians, such as Dačić, the SPS leader and Minister of the Interior, and opposition head Koštunica, also used the border conflict to arouse nationalist sentiments

and win over the more right wing sections of the electorate. Other leading politicians in the ruling parties used media reports about Kosovo as a way of deflecting attention from the government's own shortcomings during its time in office, including the disastrous economic situation, widespread corruption and the lack of fundamental principles relating to the rule of law. These are issues that affect the everyday lives of every individual citizen and are the areas where many believe politicians have let them down.

In light of the growing politicisation of the dialogue and the hardening of attitudes on both sides, it was only possible to restart the talks after considerable pressure from both the EU and the USA. The fact that it was possible to reach further agreements, most recently before the EU Council summits in December and March, is not only owed to international pressure on both sides, but also to Tadić's desire to press on with his old election promise of EU integration. At the end of February, agreement was reached on Kosovo's representation at international meetings and on the details of border control agreements. As a result of these agreements, Serbia was granted EU candidate country status. Many of Tadić's political opponents at home described this decision by Brussels as an "election campaign present" from the West to Tadić's Democrats and there can be no doubt that it was the "carrot and stick" strategy employed by the EU countries (and especially by Germany) that made this important symbolic step for Serbia possible.

The fact that it was possible to reach further agreements is owed to Tadić's desire to press on with his old election promise of EU integration.

The bilateral talks have now been suspended for the duration of the election campaign. They can only recommence once the new government in Belgrade is in place, and will need to focus on a number of important areas of dispute, such as energy supplies and telecommunications. It is unlikely that talks will get underway again until the early summer.

DOMESTIC COMPLICATIONS AFFECTING THE TALKS

What has become clear during this period of rapprochement is that up to now Serbia has had more at stake in the talks than Kosovo. Politically, Belgrade also had more to lose than Priština because of the upcoming elections. But the

negotiations have also been a balancing act for Prime Minister Hashim Thaçi's government in Priština. Thaçi's position was weakened by the elections in 2010 that attracted international condemnation and by accusations of alleged involvement in organ trafficking. Now he finds himself facing an increasingly stronger nationalist opposition headed by the leader of the "Vetevendosje" (self-determination)

The compromise over Kosovo's representation on the international stage is seen by the nationalists in particular as a curtailment of their hard-fought independence.

movement, Albin Kurti, who flatly rejects any compromises with Belgrade. The results of the latest round of negotiations were heavily criticised by the Kosovar public. The compromise over Kosovo's representation on the international stage is seen by the nationalists in particular as a curtailment of their hard-fought independence. Many also believe that Belgrade has reaped disproportionately greater benefits from the agreements than Kosovo: The granting of candidate country status is clearly the more generous reward for Serbia than is the start of a "feasibility study" into the potential liberalisation of visa requirements for Kosovo.

But the Serbs are also increasingly coming under pressure after the North Kosovo Serbs overwhelmingly rejected Kosovar authority in a referendum in February, organised by the region's four Serb communities, but not officially supported by Belgrade. The Serbian nationals living in North Kosovo feel they have been abandoned by Belgrade because they were not allowed to hold local elections with the approval of "their" capital, even though they had originally been planned. These elections would have taken place in communities that lie within Kosovar territory, and it was just this kind of parallel structure Chancellor Merkel said she wanted to see dismantled during her visit to Belgrade.

LESSONS LEARNED – WHAT'S NEXT?

The domestic political problems in both Belgrade and Priština serve to highlight two key areas that have not been properly addressed during the process of rapprochement. Firstly, insufficient consideration has been given to the interests of the Serb nationals living in North Kosovo, and secondly the lack of real legitimacy of the talks due to the lack of involvement of both national parliaments. The Serbs and the Kosovars are equally guilty of not giving

sufficient consideration to these issues. But this is where their common interests overlap, in view of the complexity and diversity of the political and social environment in both countries. Until now, talks in Brussels have generally processed uncoupled from any debate at home and have failed to take into account the interests of those living in the disputed region. This has largely been due to the sensitive political situation between the two countries and the controversial nature of the issues being discussed.

If we look at what has happened so far, decisions on both sides have been made by negotiators and government leaders alone. So far they have not been made more binding by holding votes in parliament or at least passing cabinet resolutions. The parliament and the public have not been sufficiently informed about what these agreements mean in reality and how they will be implemented. It is therefore hardly surprising that their implementation has been slow and continues to be contentious.

It may seem easy to understand why politicians in Belgrade would want to avoid a public debate in election year on issues that have such significance for Serbian identity, but public reaction to the renewed conflict, especially since last autumn, has shown that this was probably an error on their part. The referendum in February showed just how much is at stake for both Priština and Belgrade and how difficult it will be to find a workable solution to the dispute for the people of North Kosovo. The referendum and the border barricades that have not yet been fully removed make it abundantly clear to all concerned just how little direct influence Belgrade and Priština actually have on what is happening on the ground. The same can be said of the international peace-keeping forces, which still do not have guaranteed freedom of movement across the barricades.

The parliament and the public have not been sufficiently informed about what the agreements mean in reality and how they will be implemented.

There is no escaping the fact that dialogue should no longer take place exclusively amongst negotiators in distant Brussels, but that it should also include public debate at home and the involvement of the people of North Kosovo. On the Serbian side, it is questionable to carry on telling their citizens that a return to former times is possible, while at the same time moving forward with plans for the country's

integration into Europe. The suggestion repeatedly put forward by some Serbian politicians that there should be an exchange of territory involving the Presevo Valley in southern Serbia, which is mostly occupied by Albanians, is also a far cry from political reality and is unlikely to be accepted by the international community. It is equally unrealistic of the Kosovars to try to rush through changes to their own state structures without taking into consideration the particular situation of the people north of the Ibar.

Any solution must take into consideration the wishes of the people who live there and make it possible to give the area a special position in Kosovo's state structure, while protecting Serbian cultural and religious heritage throughout the whole of the country.

Future talks must also include direct discussions on the terms under which Serbia could accept the de facto independence of Kosovo.

President Tadić proposed something similar at the end of 2011 with his "four-point plan,"³ which was not unlike the Ahtisaari plan, and which could serve as a basis for discussions with Priština on a lasting agreement. However, future talks must also include direct discussions on the terms under which Serbia could accept the de facto independence of Kosovo. It would also be worth looking back at the experiences gained in forming the German-German Agreement or the agreement between North and South Tirol, which could be adapted to form the basis of a pragmatic solution between the two countries.

However, it should be assumed that without a change to the Serbian constitution in respect of its claim to Kosovo, there will still be the same problem after the parliamentary elections, with politicians continuing to assert that Serbia will never recognise its neighbour. No politician who wants to be taken seriously will want to be seen as guilty of betraying the constitution. Therefore, it would make sense to make well thought-out changes to the constitution as part of the process of adapting it to the *Acquis communautaire*, with the aim of paving the way for integration into Europe also with regard to the ongoing Kosovo issue. This would be

3 | Tadić set out four key conditions that must be fulfilled if Serbia is to agree a long-term solution: special status for Serbian-Orthodox monasteries on Kosovan territory, special status for Serbs living in South Kosovo, special status for North Kosovo and the resolution of outstanding ownership issues between Priština and Belgrade.

the ideal way to initiate wide-ranging debate in parliament and amongst the public about the direction and strategic goals of Serbian politics. A change to the constitution could kick-start a process that would create more transparency and legitimacy for political decision-making, especially in relation to the conflict between Serbia and Kosovo and the country's orientation towards Europe. This process would also shed more light on the agreements that have already been made with Priština. This would help to build trust during the process of implementing and institutionalising the agreements and aid day-to-day cooperation in these areas. It would also serve to increase the involvement of the people living in the disputed region.

The dialogue that has begun now needs to be intensified at governmental and parliamentary level, but also in civil society, especially in the communities in the border regions. Here, all available channels and initiatives should be employed to ensure the success of the process. It is only in this way that good neighbourly relations can become a reality and the European integration of the Western Balkans can progress. 13 years after the last war in what was the former Yugoslavia, it is now time for policy-makers to commit to European values and standards and to press on with reforms, not just because of demands from the West, but because they recognise that dialogue and the exchange of ideas is the only sensible way to resolve the current conflict.