

- Europe Must Break the Kosovo Stalemate

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Pristina/Brussels, 21 August 2007: Europe risks a new bloody and destabilising conflict unless the EU and its member states now accept the primary responsibility for bringing Kosovo to supervised independence by April/May 2008.

Breaking the Kosovo Stalemate: Europe's Responsibility

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21 August 2007 EXECUTIVE SUMMARY AND RECOMMENDATIONS The preferred strategy of the European Union (EU) and the U.S. to bring Kosovo to supervised independence through the United Nations Security Council has failed, following Russia's declared intention to veto. With Kosovo Albanians increasingly restive and likely soon to declare unilateral independence in the absence of a credible alternative, Europe risks a new bloody and destabilising conflict. To avoid chaos on its doorstep, the EU and its member states must now accept the primary responsibility for bringing Kosovo to supervised independence. The risks to Europe of inaction are substantial. Before the end of the year, Kosovo Albanian leaders will be under what is likely to be irresistible internal pressure to declare independence, with or without external support. If they act and are not supported, Kosovo would fracture: Serbia reclaiming the land pocket north of the Ibar River, Serbs elsewhere in Kosovo fleeing, and eight years of internationally guided institution-building lost. The implosion would destabilise neighbouring countries, increasing pressure for further fractures along ethnic lines. The EU would quickly experience refugee flows and feel the impact of the boost that disorder would give to organised crime networks in the Balkans that already distribute most of Europe's heroin, facilitate illegal migration and are responsible for nearly 30 per cent of women victims of the sex trade worldwide. Failure to act would also discredit the EU's Common Foreign and Security Policy (CFSP) and its efforts to project itself as a credible international actor in conflicts elsewhere. As its own official security strategy declares, "the credibility of our foreign policy depends on the consolidation of our achievements [in the Balkans]". The sooner the EU, or a significant majority of its member states, declares itself ready to back an independent Kosovo, the better the chances of forestalling such damage to the EU. The six-nation Contact Group (France, Germany, Italy, Russia, the UK and U.S.) that has been guiding Kosovo policy has authorised a four-month period for new talks between Pristina and Belgrade. These started in the second week of August but, given entrenched positions, are highly unlikely to achieve a breakthrough. The EU members and the U.S. should ensure that they do not unravel the blueprint for Kosovo's supervised independence crafted by the UN Secretary-General's special envoy, former Finnish President Martti Ahtisaari, during a year of painstaking diplomacy (the Ahtisaari plan). They should also use the four months to secure an alliance that will coordinate Kosovo's transition to independence. The U.S. has considerable responsibilities, both to match its strong rhetoric on behalf of Kosovo independence with more consistent action toward that goal — President Bush signally failed to press Russian President Putin at their recent seaside summit in Kennebunkport — and to use its unparalleled influence with the Kosovo Albanians to keep them cooperative and constructive during the sensitive months ahead. But ultimately the EU is the key. The Ahtisaari plan foresees it sending a special representative with a large staff to coordinate civilian supervision of conditional independence and a rule of law mission, as well as providing through its membership candidacy processes the economic support and motivation that can ensure an independent Kosovo does not become a failed state. The EU has backed the Ahtisaari plan but a number of its members are sceptical about proceeding with it in the absence of a Security Council blessing. The EU members of the Contact Group need to do heavy lifting to prepare the organisation to meet its responsibilities. UN Secretary-General Ban Ki-moon has requested that the Contact Group report back to him on the Belgrade-Pristina talks in four months, by 10 December. This is the point at which, assuming, as seems overwhelmingly likely, that no agreed solution emerges from those talks, the EU, U.S. and NATO need to be ready to start coordinated action with the Kosovo government to implement the essence of the Ahtisaari plan, including the 120-day transition period it envisages. That transition period should be used to accumulate statements of recognition of the conditionally independent state from as many governments as possible; to adopt and set in place the state-forming legislation and related institutions foreseen by the Ahtisaari plan; for the Kosovo government (the present one or, depending on the date of elections, its successor) to invite the EU and NATO to take up their responsibilities and for those organisations to do so; and for the UN Interim Administration Mission in Kosovo (UNMIK) to withdraw in an orderly fashion. At the end of this period — in April/May 2008 — Kosovo would be conditionally independent, under EU and NATO supervision. Not all EU member states need to recognise Kosovo during the transition or even in April/May 2008. The EU has procedures — "constructive abstention" and "enhanced cooperation" — that allow decisions to be taken and action to be set in motion when unanimity is not available. What is vital is to get the EU missions into Kosovo (and to reform the NATO mission) in a timely fashion. If that minimum degree of EU unity is not possible, the U.S. and some major European states would have to try to reproduce the basic elements of the international supervision and protection missions out of their own resources. How sustainable such an ad hoc effort would be by those making it, and how effective it could be in giving Kosovo the motivational prospect of eventual European integration it needs to flourish, would be questionable. What would not be in doubt is the huge damage the EU would inflict on itself by having so obviously failed to act as a coherent international

player to meet a major security challenge on its borders. Without UN Security Council cover for independence, Serbia will be even more reluctant to let go of Kosovo. The new state will be haunted for years by an unrevoked Security Council Resolution 1244, which in 1999, at the end of the conflict with NATO, acknowledged Serbia's formal retention of sovereignty for the interim period over the province it turned over to the UN. Serbia will continue to claim that sovereignty and, with Russia, will try to block Kosovo's membership in international institutions. Belgrade will challenge Pristina's ownership of the Serb-majority north all the harder, and international authority to defend Kosovo's territorial integrity will be the weaker. Russia may seek to use the outcome for its own purposes in the frozen conflicts in the South Caucasus and Moldova. These are all undesirable consequences, and ones that could largely have been avoided if the Security Council had paved the way to Kosovo's independence under the Ahtisaari plan. But the consequences of inaction by the EU will be worse – for Kosovo, the Balkans and the EU itself. It is time to recognise this and act.

RECOMMENDATIONS To the Quint (France, Germany, Italy, the UK and U.S.):

1. Hold the Contact Group to the principles it has already adopted for Kosovo's status resolution, including no partition.
2. Proceed on the assumption that agreement with Russia on a Security Council resolution authorising implementation of the Ahtisaari plan is not achievable and that there will be no agreed settlement emerging from the Belgrade-Pristina talks authorised by the Contact Group, and concentrate efforts on implementing that plan so as to achieve orderly, conditional (supervised) independence for Kosovo supported by all or a large majority of EU member states and the U.S. by April/May 2008.
3. Engage intensively with EU member states sceptical about Kosovo's independence, explaining clearly and publicly the high cost of inaction in terms of Balkans and thus European stability, and the credibility of EU Common Foreign and Security Policy (CFSP).
4. Adopt the following attitude toward the Belgrade-Pristina talks:
 - (a) they should last no longer than four months and conclude no later than 10 December 2007, the reporting deadline set for the Contact Group by UN Secretary-General Ban Ki-moon;
 - (b) the Kosovo delegation should be put under no pressure to make concessions beyond the terms of the Ahtisaari plan, which it has already accepted, but should be encouraged to consider limited further measures with respect to Serb majority communities in the event the Serbian delegation is prepared to consider accepting independence;
 - (c) use the period of the talks to build maximum support within the EU for implementing the Ahtisaari plan, make clear to the Kosovo authorities and Kosovo Albanians the intention to achieve conditional (supervised) independence pursuant to that plan by April/May 2008, and lay the ground work for cooperation with the UN Secretariat in arranging the orderly withdrawal of the UN Interim Administration Mission in Kosovo (UNMIK) pursuant to that schedule; and
 - (d) if the parties have not reached an agreement by 10 December 2007, proceed in coordination with the Kosovo government and as many EU member states as possible to implement the Ahtisaari plan for conditional (supervised) independence, including a declaration of such independence that incorporates a 120-day transition period, to be completed in April/May 2008.
5. To the European Union and its Member States:
 - 5.1. Recognise that failure to achieve a united position in support of Kosovo's conditional (supervised) independence will discredit the EU's CFSP and European Security Strategy.
 - 5.2. Prioritise Kosovo as the EU's most urgent, currently foreseeable security issue, devoting to it the time and energy required to reach agreement that:
 - (a) there is no practical alternative to Kosovo conditional (supervised) independence on the basis of the Ahtisaari plan, which should be achieved no later than April/May 2008;
 - (b) as many member states as possible will recognise Kosovo when it declares conditional (supervised) independence in accordance with the Ahtisaari plan following the end of talks in December 2007;
 - (c) the EU will provide the majority component of the international supervision envisaged by the Ahtisaari plan by deploying an International Civilian Office/European Union Special Representative (ICO/EUSR) mission and a rule of law (European Security and Defence Policy, ESDP) mission in a timely fashion, so that they can take up their responsibilities, on invitation from the Kosovo government, between the declaration of conditional (supervised) independence after talks end in December 2007 and its entrance into force upon completion of a 120-day transition period in April/May 2008;
 - (d) sceptical member states will not refuse consensus to deploying these missions but may choose to constructively abstain pursuant to Article 23 of the Treaty on European Union; and
 - (e) in the alternative that sceptical member states do not wish to be associated with the deployment and operation of the ICO/EUSR and rule of law missions to the limited extent that the constructive abstention provision provides, a coalition of willing EU member states should use the enhanced cooperation provisions of Article 27 a-d of the Treaty for this purpose and make appropriate use of EU mechanisms.
 - 5.3. In advance of full consensus on the above, as many member states as possible, including EU members of the Quint, should state their willingness, in the absence of an agreed settlement emerging from the Belgrade-Pristina talks, to support a Kosovo declaration of conditional (supervised) independence on the basis of the Ahtisaari plan after 10 December 2007 and bring it to fruition in 2008.
 - 5.4. Encourage Kosovo institutions and working groups to work more urgently on preparation of the package of state-forming legislation, including the constitution envisaged in the Ahtisaari plan, and authorise EU officials in Kosovo including the planning groups for the ICO/EUSR and rule of law missions, to participate more actively and widely in the process, including by vetting drafts, so that the package is ready within the envisaged schedule for conditional (supervised) independence.
 - 5.5. Make clear to Serbia, in official statements and through messages passed by member states sympathetic to it, that progress on a Stabilisation and Association Agreement and more generally its relationship with the EU depend importantly on resolution of the Kosovo issue.
6. To NATO and its Member States:
 - 6.1. NATO should consult with member states contributing troops to its Kosovo mission (KFOR) to ensure that none which fundamentally oppose recognising Kosovo's conditional (supervised) independence are fielding contingents by early 2008, and that their contributions are replaced by those of nations prepared to recognise that status.
 - 6.2. Following a Kosovo declaration of conditional (supervised) independence and recognition by the U.S. and EU member states, NATO should remain deployed in Kosovo, and carry out the tasks specified for it under the Ahtisaari plan.
 - 6.3. If the NATO Council does not agree to continued deployment, the U.S. and those EU member states which have recognised Kosovo's independence should deploy their forces to carry out the relevant security tasks.
 - 6.4. To the UN Secretariat and UNMIK:
 - 6.4.1. Allow Kosovo's institutions to work on

preparations for implementation of the Ahtisaari plan, including adoption by the Assembly of a constitution and other state-forming laws.14. Respond to a Kosovo declaration of conditional (supervised) independence and recognition of Kosovo by the U.S. and EU member states by turning responsibilities over to the incoming EU missions and withdrawing UNMIK in an orderly fashion. To the Kosovo Leadership:15. Adopt an Assembly resolution stating that:(a) the Assembly will work to adopt during its life as much of the package of state-forming legislation envisaged in the Ahtisaari plan as possible;(b) the Assembly (or, depending on the date of elections, the expectation that the successor Assembly) will formally declare acceptance of the Ahtisaari plan and start a 120-day transition to conditional (supervised) independence on the basis of that plan after 10 December 2007; and(c) the Assembly expects the Kosovo government to use the 120-day transition to coordinate with the EU, NATO and the member states of those organisations on a strategy for the independence transition, including a security plan, and to issue invitations for them to take up the roles envisaged in the Ahtisaari plan in a timely fashion before conditional independence takes effect upon expiration of the 120-day period (April/May 2008). Pristina/Belgrade/New York/Brussels, 21 August 2007