



The Kosovo Impasse: Is There a Solution?

By Elizabeth Pond

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If anyone can pull off a diplomatic solution to the Serb-Kosovar impasse, commented a colleague, it will be veteran diplomat Wolfgang Ischinger. But the odds are against him.

Ischinger, the German ambassador to Great Britain and the European Union envoy in the EU-American-Russian troika that is stretching out the long-running Serb-Kosovar talks into December, is no stranger to trouble. He was present at Dayton in 1995 as that city's agreement ended atrocities in Bosnia. He was deputy German foreign minister in 1999 as NATO missiles felled Serb military buildings to halt Serb killing and ethnic cleansing of the overwhelmingly Albanian population of Kosovo—and as NATO almost failed in the attempt. Later, Ischinger became ambassador to the United States just as the 9/11 attack pulverized the Twin Towers and ignited hostility toward Europe in a wounded Washington.

Now the inner troika of the six-nation "Contact Group" that shapes international policy on the Balkans is charged with reconciling irreconcilable Kosovar Albanians and Serb politicians by December 10. The former are convinced that their Serb overseers forfeited any right to rule Kosovo by their persecution of ethnic Albanians—and that in any case the fledgling Kosova Liberation Army (KLA), with some help from NATO, defeated the Serbs in the 1999 war and thereby won the right to independence. The latter, conversely fixated on blaming political rivals in Belgrade for "losing" the cradle of Serb civilization, have refused to negotiate anything at all with the Kosovars except a vague "autonomy" under Serb sovereignty.

To complicate matters, the troika itself is split on this last status issue left over from the post-Yugoslav wars of the 1990s. Washington favors letting Kosovo declare unilateral independence and then recognizing it, in the company of as many of the EU nations as possible, as Secretary of State Condoleezza Rice stated September 26. A resurgent Russia wants to show its return to semi-superpower status in part by flexing its UN veto to block Kosovar independence, or if that fails, potentially recognizing as independent states the enclaves of Transdniestria in Moldova and Abkhazia and South Ossetia in Georgia. And while most members of the European Union find EU-tutored independence the least-worst course for Kosovo, some are uncomfortable about implementing this without UN legitimation (Germany); some are waiting to follow a strong German lead that is only beginning to materialize (Italy); and others fear a precedent that could give their own minorities ideas about secession (Spain, Romania, Cyprus, Greece, and Slovakia).

Since 1999 the basic conundrum has been the deliberate diplomatic fudge of UN Security Council Resolution 1244. That resolution ended the Kosovo war; bestowed a retrospective UN blessing on the NATO-led intervention to stop mass ethnic cleansing under what the UN would subsequently call governments' "responsibility to protect" citizens; replaced Serb rule in Kosovo with UN administration; and called for decisions about Kosovo's "final status" to be made in accord with the principle of (majority) self-determination as prescribed in the Rambouillet accords of early 1999. But in order to win Russian acquiescence, 1244 also

recognized the territorial integrity of the then Federal Republic of Yugoslavia, now shrunk to Serbia.

The incompatibility of these diametrically opposed statements did not matter as long as Kosovo's final status (now delicately called "future status") was put off to a very distant future. Nor did it matter as long as the energetic reformer Zoran Djindjic was Serbian Prime Minister; the pragmatic Djindjic intimated that he would be willing to accept Kosovo secession in due course and get on with building Serbia's economy without the encumbrance of its impoverished province. The 1244 contradiction mattered a great deal, however, after Djindjic was murdered in 2003, the ultranationalist Radicals began setting the political agenda in Belgrade, and the Serbian democratic center became paralyzed. And it became the heart of the dispute once the UN commissioned former Finnish president Martti Ahtisaari in 2005 to broker a Serb-Kosovar settlement. The UN's concern was that indefinite limbo for Kosovo's status could stoke the discontent of Kosovars—especially in the half of the two million ethnic Albanians under the age of 25—who might again turn to anti-Serb violence as they did for a few nights in 2004 before NATO-led peacekeepers ended the riots.

Ahtisaari did his assigned job. When Belgrade refused to negotiate even legal protection for the roughly 130,000 Serbs still living in Kosovo—and further instructed these Serbs to boycott local elections and dealings with the Kosovar "Provisional Institutions of Self-Government"—the UN envoy himself acted as a kind of Serb surrogate. He and Western members of the Contact Group negotiated with Pristina robust guarantees of local self-rule and human rights for the Serb minority that include disproportionately high representation in parliament; these safeguards in fact constitute 80 or 90 percent of Ahtisaari's ultimate proposal for "supervised" sovereignty, or trusteeship lite, under a new EU aegis. As part of these guarantees, today's 16,000 NATO-led troops would stay on and continue to provide security (and protect Serbs) rather than leaving public order to Kosovar Albanian police and armed forces.

In the Ahtisaari plan, as crafted essentially under quiet German leadership, any return to the untenable status quo ante, partition of Kosovo, and merger with any other country were all ruled out as too destabilizing. Any severance of the primarily Serb-inhabited North Mitrovica from Kosovo and its absorption by Serbia would raise the parallel issue of severing Albanian-majority districts of southern Serbia and attaching them to Kosovo. Similarly, any merger of Kosovo with Albania would raise alarms about potential gravitation of Albanian-majority districts in Greece, Macedonia, and Montenegro to some Greater Albania.

The philosophy behind the Ahtisaari plan was that the best way to consolidate the quite remarkable peace that has prevailed in the region after the bloodshed of the 1990s is to integrate all the Balkan lands into the EU system. The lure of eventual entry into the rich and safe world of the EU membership offers the carrot; the conditionality for membership that bars entry to any candidate that is not democratic, violates human rights, or menaces its neighbors wields the stick and puts pressure on local elites to transform their countries if they want to enjoy the significant EU financial, technical, and political aid on offer.

Indeed, this novel form of soft-power discipline worked impressively well for the new Central European democracies that slipped out of Soviet hegemony less than two decades ago, reformed themselves, and have already achieved full EU membership. And it seems to be working in most of the Balkans. The ex-Yugoslav state of Slovenia will be the first of the new members to take over the rotating EU presidency, in January 2008. Romania and Bulgaria, members for less than a year, have taken at least baby steps toward confronting large-scale

corruption and organized crime. The ex-Yugoslav state of Croatia met the EU requirement of cooperation with the Hague Tribunal in facilitating the arrest of Croat war-crimes suspect Ante Gotovina two years ago, and is next in line for EU accession.

Back when the Serb-Kosovar talks began in 2005, the Europeans therefore expected that in their eagerness to join the EU family the Kosovar Albanians would swallow an independence that was only conditional, while today's Serbian politicians, like Djindjic before them, would prefer modernization, accelerated EU membership, and regional stability over the adrenalin of historical pride. They expected further that the Russians—who saw so little of their national interest at stake in the Balkans that they had unilaterally withdrawn their troops from the region several years earlier—would protest the settlement just loudly enough to win some Western concessions elsewhere in the world, then abstain in the Security Council vote.

The Europeans correctly judged both the Kosovars, who accepted the Ahtisaari plan, and ordinary Serbs, who tell pollsters that they rank membership in the EU far higher in their priorities than retention of Kosovo.

The West gravely misjudged both the Belgrade politicians and the Russians, however. The former, resenting the loss of the regional Serb hegemony that Yugoslav strongman Slobodan Milosevic was forced to surrender when he was defeated in the Kosovo war, refused to sign any pact that would regularize Milosevic's de facto forfeit of sovereignty over Kosovo. The latter, smarting under their marginalization by the West since the collapse of the Soviet Union, flashed their great-power UN veto and also revised their earlier indifference to the far-off Balkans to value Serbia and Montenegro as attractive investment sites for Russian oligarchs who are buying real estate and planning energy pipeline routes there.

Last July it became clear that Russia really would veto any UN Security Council resolution that would shift today's nominal Serbian sovereignty but de facto UN trusteeship to nominal Kosovar independence but de facto EU trusteeship. The Western "Quint" within the Contact Group—the US, Germany, Britain, France, and Italy—fell into disarray. They had no Plan B and came up with nothing better than French President Nicolas Sarkozy's proposal to buy time by prolonging the desultory bilateral Serb-Kosovar talks to a December 10 deadline. And speculation by European diplomats about yet another extension of bilateral negotiations to spring of next year strengthened the hand of Serbs who hope that prolonging the current legal limbo will, as one diplomat put it, "provoke" young Kosovars to anti-Serb violence so Serbs can say, "you see that these uncivilized barbarians cannot be trusted."

Ever since that decision the West has been on the defensive, the Serbs on the offensive. In a rhetorical volley in September one junior minister in Belgrade asserted that if Kosovo's status is changed, Serbia could stop observing 1244 and redeploy there security forces that were driven out by NATO eight years ago. Ultranationalist Radicals mocked the EU that all the other Balkan countries are rushing to join and argued that Serbia should instead, in good 19th-century style, ally itself with Russia and perhaps even link up with the Russian-Chinese-Central Asian Shanghai Cooperation Organization. Members of Prime Minister Vojislav Kostunica's Democratic Party of Serbia (DSS) accused the US of wanting to turn Kosovo into a "puppet state" of NATO. DSS politicians warned the US and EU that they will downgrade relations with any country that recognizes a unilateral declaration of Kosovar independence. Privately, they also warned Slovenia that if Ljulbjana promotes Kosovar independence during its EU presidency, Serbian tax inspectors will descend on the smart Slovenian shopping centers and other investments in Serbia. And Serb moderates described President Kostunica as turning increasingly anti-Western.

So far the troika's attempted mediation has led only to shadowboxing. In his own attempt to regain momentum, Kosovar Prime Minister Agim Ceku announced his government's intention to declare independence as soon as the current talks run out in December—and offered a friendship treaty to Serbia that would include forgiveness of past Serb crimes in Kosovo. The Serbs scorned it, since it would be a treaty between two independent states, and came back with a repackaging of the autonomy they have championed for the past 15 months as the only acceptable outcome.

The Serbs' counteroffer of autonomy would entail return of Serb security forces to Kosovo's external borders—an absolute taboo for the Kosovars after the 1998/99 bloodshed—and would bar a Kosovar seat in the United Nations, but grant Kosovo direct access to the international financial institutions. Kosovar Albanians saw the last provision either as an empty promise, since the IFIs deal only with sovereign states and not with subordinate provinces, or else as a Serb attempt to have the best of both worlds—to regain political sovereignty over Kosovo while dumping the economic burden onto the international community. Cynics recalled the Catch-22 referendum a year ago on the new Serb constitution—which declared Kosovo an inalienable part of Serbia—and Belgrade's refusal to let the supposed Kosovar Albanian citizens of Serbia vote in the referendum, and read into "autonomy" perpetual second-class citizenship.

To Serbs who are nostalgic for the old Serb dominance in the Balkans, their refusal to cede their nominal sovereignty over Kosovo is well justified. Kostunica claims the reference to Yugoslav territorial integrity in UNSCR 1244 as a legal absolute. He and his allies argue further that they were the ones who overthrew Milosevic in street demonstrations and should not be punished by the West for Milosevic's sins. They contend as well that the Serbian practice of democracy should be rewarded (an assessment the Economist Intelligence Unit is skeptical about, in ranking Serbia below Bulgaria, Romania, and Croatia in the category of "flawed" democracies), while the Kosovar Albanians are far less democratic and are prone to recruitment by organized crime gangs.

Tactically, Serbian hardliners see themselves as holding the whip hand over both the EU and the more pragmatic President Boris Tadic. Tadic's party, Djindjic's old Democratic Party, did better than Kostunica's DSS in the last parliamentary election, but Tadic lags well behind the ultranationalist Radicals. And his public hints that Belgrade might have to formulate a more flexible position on Kosovo as the necessary price for joining the EU never seem to translate into policy. Today Prime Minister Kostunica is maneuvering Tadic into a lose-lose situation by threatening to withhold his support for the incumbent president in the crucial first round of a new vote unless Tadic agrees to a postponement of this year's constitutionally mandated presidential election to next spring. By then, Kosovo will presumably have moved on to the next stage of separation from Serbia, Kostunica can blame this loss on Tadic—and the DSS can perhaps drop the Democratic Party as a coalition partner and form a new government with the ultranationalist Radicals and the remnants of Milosevic's Socialist Party.

Diplomatically, too, the Serbs have the advantage of inertia. All they have to do to perpetuate Kosovo's present limbo is to block movement—and to continue hoarding all the Kosovo registry documents that if released would allow land and enterprise ownership to be resolved so that economic development could begin there.

The compensating negotiating advantage of the Kosovar Albanians is that it is widely assumed that they would fight for Kosovo, but the Serbs, by now, would not. "The Serbs

could not take over Kosovo again militarily or politically," declares Geert-Hinrich Ahrens, a key Balkans negotiator in the 1990s and now an international elections observer. It may be that whatever heavy weapons the KLA once possessed are still impounded by the NATO peacekeepers, but Kosovo and its neighbors are awash with today's deadliest weapons, small arms. Prime Minister Ceku does not talk about this in polite society, but it is what his listeners think of when he asserts that if there is still no bilateral agreement by December 10, this time around the Kosovo Assembly will declare independence unilaterally the next day.

Wolfgang Ischinger, as the EU envoy who is trying to prod the principals to some accommodation, now says that everything is on the table, including even partition if the two parties want it. (They don't). The important thing, he repeatedly tells reporters, is to get away from labels like "autonomy," "independence," and even the "Ahtisaari plan" that just stiffen confrontation. The reality is what counts. The focus should be on finding some face-saving way to preserve and update the substance of the internationally supervised status for Kosovo agreed on in the original UNSCR 1244.

Elaborating on this point, some European diplomats who now want to snatch closure from the jaws of drift go so far as to suggest that if no accord on a changed status is reached, the shift from the increasingly ineffectual UN administration to more energetic EU supervision of Kosovo could still come about on the basis of 1244, without Security Council action. The two sides could agree to disagree; the Kosovar Albanians might consider themselves independent, while the Serbs might continue claiming Kosovo in principle as their as-yet-unrealized birthright, and EU oversight could commence. The relevant model might be the 1970s' detente between West and East Germany, in which officials in Bonn reaffirmed the unity of "the German people" despite the reality of a sovereign East Germany—and both Germanys got on with practical arrangements to facilitate human contacts.

Elaborating further, European diplomats are trying to persuade Serbs that Kostunica's tactical shrewdness actually sabotages their own long-term interests. Rather than inviting chaos by passively watching the erosion of UN authority in Kosovo and blocking transition to EU supervision, they say, Belgrade should welcome EU pledges to protect Kosovar Serbs and give Belgrade the peace and quiet it needs for its own modernization. Serbia has already lost two decades in the globalization race because of Milosevic's wars and their aftermath, including the emigration of crucial segments of the urban professional and middle classes. By far the most promising way to catch up is to stop refighting the 1389 battle of Blackbird Field at long last and get on with prosaic economic development. To spite the EU and forestall regional Balkan integration into it in order to boost national pride—or to prefer the patronage of robber-baron capitalist Russia over that of an EU that has already worked economic miracles in many post-Communist countries—is perverse and will only frighten away investors. Obversely, on the positive side Serbia certainly has the central geographic location and the educated human capital to assume a regional lead based on trust rather than coercion if it so chooses.

As a concrete incentive to Belgrade to play its European card and let Kosovo separate from Serbia by consent as Montenegro did last year, the EU has edged closer to resuming negotiations on a Stabilization and Association Agreement that were broken off in May 2006 over Serbia's failure to arrest General Ratko Mladic, the Bosnian Serb commander at the 1995 Srebrenica massacre. After Serbian security forces arranged for the arrest of two other of the six remaining war-crimes fugitives (all Serbs) last summer, the EU completed the "technical aspects" of this first SAA milestone on the way to Serbian candidacy for EU membership. Any signatures, though, await Serbian delivery of Mladic himself to The Hague. To date,

Serbia and Bosnia-Herzegovina remain the only Balkan countries that have not signed EU stabilization agreements.

If this appeal to enlightened self-interest fails to persuade Serb negotiators and the bilateral impasse continues through December 10, the next question will be whether to extend the bilateral talks yet again. The Serbs and Russians want the troika process to continue indefinitely and thus perpetuate the Kosovar limbo. The Kosovar Albanians want to get on with independence, however qualified. So does the US, which wants to reward the Kosovar Albanians for their patience in negotiations that were originally supposed to have concluded half a year ago. The Germans still hope to get Russian assent—after the *duma* elections on December 2—to some consensus that doesn't mention the Ahtisaari plan by name but implements it in practice.

Should push come to shove this time around and the Kosovars take unilateral action, though, the best guess from Berlin would be that the self-declared state of Kosova would then ask the European Union to come in and replace the current UN administration. EU states would in turn ask the Kosovar Assembly to show good faith in converting Pristina's existing promises of minority guarantees into legislation. Then most EU members would, after the discreet time lag this would allow, follow Washington's lead in recognizing Kosova and thus avoid another transatlantic row like that over the Iraq war. The Kosovo question would become not just a transatlantic question, but also a question of EU solidarity in its most ambitious joint foreign-policy undertaking to date.

In that case, Wolfgang Ischinger's task would then shift from the mission impossible of reconciling Serbs and Kosovar Albanians to the mission impossible of maintaining EU unity in the EU's nascent Common Foreign and Security Policy.