

SETA Policy Brief



SETA | Foundation for Political, Economic and Social Research | November, 2010 | www.setav.org | Brief No: 50

Kosovo and Turkey: What Lies Ahead?

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ABSTRACT

The International Court of Justice (ICJ) advisory opinion on 22 July 2010, affirmed the legality of the Republic of Kosovo's declaration of independence. Yet it is an unspoken truth that Kosovo needs a compromise with Serbia to receive international recognition. Turkey can contribute to bridging relations between Belgrade and Pristina by identifying ways of cooperation on technical issues concerning the living standards of all Kosovar citizens without getting entangled on the issue of recognition. Turkey can play a complimentary and even crucial role that could actually ease the task of the European Union between Serbia and Kosovo.



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CONTENTS

Introduction | 3

Background: Kosovo Independence and Its Aftermath | 3

Turkey's Support for Kosovo | 6

Policy Recommendations for Turkey | 8

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Introduction

When the International Court of Justice (ICJ) gave its advisory opinion and affirmed the legality of the Republic of Kosovo's declaration of independence on 22 July 2010, Kosovo's supporters in the international community expected an increase in the number of States recognizing its independence. This has yet to happen. It is an unspoken truth that Kosovo needs a compromise with Serbia to receive international recognition. In the immediate future such a compromise seems out of reach. The upcoming talks between Belgrade and Pristina that would be mediated by the good offices of the European Union are expected to formulate a compromise. Turkey should continue to maintain friendly relations with both countries by enhancing its role as a facilitator between the two countries. Moreover, Turkey can contribute to bridging relations between Belgrade and Pristina by identifying ways of cooperation on technical issues concerning the living standards of all Kosovar citizens without getting entangled on the issue of recognition. Turkey can play a complimentary and even crucial role that could actually ease the task of the EU.

Background: Kosovo Independence and Its Aftermath

The struggle of the Albanians in Kosovo for independence is not new. At the end of the Second World War, Kosovar Albanians were forced to settle for the status of 'province' under the Socialist Federation of Yugoslavia. Even in the best of times, the

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The political crisis in Yugoslavia led to systematic discrimination of Kosovar Albanians' human rights and liberties, which later deteriorated into a humanitarian disaster.

relationship between Kosovo and Belgrade remained uneasy. During the political upheaval of the 1960s, the Kosovar Albanians began to demand political and social freedoms within Yugoslavia. The 1974 Constitution gave extensive autonomy status to Kosovo, which was almost on the same level as the equal political liberties enjoyed by the six republics that formed the Socialist Federation of Yugoslavia. With the death of Tito in 1980, the Yugoslav leadership initiated a gradual process of recentralizing the governing of Kosovo back to Belgrade. The 1981 Pristina University riots against the repressive policies of Belgrade and the Albanian demands for further political autonomy that followed the demonstrations were used by Milosevic as a justification and platform for his nationalist agenda as he rose to power in 1987. When Slobodan Milosevic stripped Kosovo off its constitutional autonomy in 1989, he also banned the use of the Albanian language in schools and in public institutions.

Kosovar Albanians, under the leadership of Ibrahim Rugova, responded by non-violent resistance. They set up their own parallel universities and institutions boycotting the Yugoslav ones.¹ In the beginning of the nineties, Kosovo province emerged as the flashpoint of possible conflict as Yugoslavia began to disintegrate. When the republics began to declare their independence from the federation and the Yugoslav army tanks marched first on Slovenia, then Croatia, and lastly on Bosnia-Herzegovina, the Kosovar Albanians chose to stick to a non-violent political struggle. During this period, the UN General Assembly resolutions repeatedly called for the restitution of Kosovo's autonomy. However, Belgrade refused, arguing that it was 'an internal matter.'² Basically, the political crisis led to systematic discrimination of Kosovar Albanians human rights and liberties, which later deteriorated into a humanitarian disaster. The Dayton Peace Agreement signed in December 1995, which put an end to the war in Bosnia, did not make any explicit reference to the Kosovo problem. This omission very much dismayed the Kosovar Albanian leadership, and as a response they strengthened their armed struggle. As the Kosovo Liberation Army (KLA) intensified its armed struggle against the Yugoslav police force in the province, Belgrade began to enforce very harsh martial law measures against Kosovo's Albanian population, culminating in the massacre of civilians and the flight of thousands of Albanians out of Kosovo to neighboring countries.³

NATO forces acted very swiftly in the face of the impending humanitarian disaster. After a 3 month air strike campaign by NATO forces in March-June 1999 during which Belgrade became an obvious target, Milosevic agreed to remove Yugoslav troops

1. The gradual centralization of power in Belgrade between 1988 and 1990 reduced the competencies of the Kosovo Assembly before finally abolishing the Assembly in July 1990.

2. Please see UNGA Resolutions 49/204, 50/190, 51/111, 52/139, 53/164 between 1994 and 1999.

3. By the end of 1998 there were more than 300,000 Kosovar refugees in several neighboring countries.

from Kosovo.⁴ UNSC Resolution 1244 set up an interim UN Administration to run the country until the Kosovars developed their own state institutions, while Kosovo remained legally part of Yugoslavia.⁵ The final status issue was side lined until the Kosovars developed their self-governing competencies. Yet the lack of a roadmap and clear benchmarks for an indefinite final status caused frustration among the Kosovar Albanians; there were sporadic bursts of violence against the Serbian symbols and the Serbian minority.⁶ On November 2005, the Contact Group members agreed on guiding principles for the facilitated negotiations between Belgrade and Pristina. The UN Special Envoy Marti Ahtisaari moderated between the parties and came up with a plan that supported the idea of a 'supervised independence' for Kosovo. However, Russia and China were openly opposed to the Ahtisaari plan. And as a direct result, the negotiations between Belgrade and Pristina failed in July 2007.⁷ This led the Kosovar Albanians, with the backing of the US and key EU members, to go ahead with their declaration of independence on the 17th of February 2008.⁸

Serbia condemned the declaration of independence for violating the UNSC Resolution 1244 that recognized Kosovo as a part of the former Yugoslav Federation.⁹ On 8 October 2008, the UN General Assembly decided to ask the International Court of Justice (ICJ) to give an advisory opinion on the legality of Kosovo's declaration of independence from Serbia. The advisory opinion, which is legally non-binding but had been anticipated to hold "moral" influence, was delivered on 22 July 2010, stating that Kosovo's declaration of independence was not in violation of international law. On 9 September 2010, a new resolution adopted at the UN General Assembly called for a new round of negotiations between Belgrade and Pristina mediated by the good offices of the EU. The expected negotiations between Serbia and Kosovo are expected to address some of the crucial issues such as the status of Northern Mitrovica, Protection of Minorities, Organized Crime, Rule of Law, and the Security and protection of those of Serb Orthodox heritage in Kosovo.

The upcoming EU-mediated negotiations between Belgrade and Pristina are to be postponed until the recent political crisis in Kosovo is resolved. The crisis started

The advisory opinion of the International Court of Justice (ICJ), was delivered on 22 July 2010, stating that Kosovo's declaration of independence was not in violation of international law.

4. After the internationally brokered talks in Rambouillet, France, in February and in Paris in March 1999 failed to break the deadlock NATO forces initiated the Operation Allied Force. NATO announced the suspension of the air campaign on 10 June, once the Federal Republic of Yugoslavia agreed to the terms of the international community.

5. UNSC Resolution #1244 transferred the governance of the country to the UN Interim Administration in Kosovo (UNMIK) while aimed to appease Milosevic by recognizing Kosovo as part of Yugoslavia.

6. The most violent of such outbursts took place in March 2004 forcing the international community to reassess its policies towards Kosovo.

7. Ahtisaari Plan envisaged a number of guarantees to protect the rights of the Serbian minority as well as the historical heritage sites of Serb Orthodox church. But Russia and China opposed to the idea of granting any degree of independence to Kosovo that would end the legal sovereignty of Belgrade over the territory.

8. The days that followed, a number of states (the United States, Turkey, Albania, Austria, Germany, Italy, France, the United Kingdom, the Republic of China (Taiwan), Australia, and Poland) announced their recognition, despite protests by Russia.

9. In fact the official Serbian line calls the Kosovar independence declaration 'Declaration of Unilateral Independence (DUI).'

From the outset, Turkey's support for Kosovo's independence was very clear and strong: lasting peace in the Western Balkans was possible only if the final status of Kosovo was resolved through independence.

with the resignation of Fatmir Sejdiu from the presidency in 27 September 2010 as a response to the ruling of the Kosovo constitutional court that he had breached the constitution by holding the post of president and being the leader of a political party (LDK) at the same time. On 3 November 2010 Kosovo parliament gave a vote of no confidence to Kosovo Prime Minister Hashim Thaci's weak government, paradoxically with the votes of Thaci's own party, PDK, and called for snap early elections in 12 December 2010. This puts the parties and the European Union under serious time pressure keeping in mind that the Serbian general elections are due 2012.

Turkey's Support for Kosovo

Kosovo's political puzzle has two pieces. First, there is the quest for independence. Second, there is the recognition by the international community of Kosovo's declaration of independence. The first piece of the political puzzle found its place when Kosovo declared its independence in February 2008. The second piece of the puzzle for Kosovo is to secure recognition from as many actors in the international community as possible. Only via recognitions Kosovo can become a full fledged participant and take on an active role in international bodies.

From the outset, Turkey's support for Kosovo's independence was very clear and strong. Turkey supported Kosovo's independence for a number of reasons. The Turkish government's position was that to achieve lasting peace in the Western Balkans the final status of Kosovo needed to be resolved through independence. In addition, Turkey recognized that the Kosovar Albanian leadership could not simultaneously and effectively implement the state building reforms requested by the international community while the process remained open-ended and there was no clear final status deadline.

This ambiguity only led to further tensions, as the riots of March 2004 proved.¹⁰ The recognition of a breakaway state by the Turkish government can be viewed as a controversial decision because of Turkey's own Kurdish problem. Nevertheless, it was a logical if not a brave decision. Turkey argues that Kosovo's declaration of independence is a unique case and it is the optimal solution for regional peace in the Western Balkans. The overarching goal of Turkish foreign policy in the Western Balkans is to ensure conditions for sustainable peace and development. Therefore, it is not paradoxical for Turkish foreign policy to defend the territorial integrity of Bosnia-Herzegovina while supporting the right of self-determination of Kosovar Albanians from Belgrade. Both policies serve to maintain peace and assert Turkey's presence in the region.

10. During the unrest, 19 civilians were killed (11 ethnic Albanians and 8 ethnic Serbs), 4000 Serbs forced to leave homes, 800 houses and 35 Orthodox churches were desecrated, damaged or destroyed. See Human Rights Watch Report 'Failure to Protect' dated 25 July 2004.

The second piece of the political puzzle in Kosovo is the recognition of its independence by the international community. Currently, 71 UN members recognize the independence of Kosovo. Kosovo has not yet made a formal application for UN membership.¹¹ And such a development doesn't seem likely in the short-term. The UN Security Council remains divided on the question. Of the five permanent members with veto power, Russia and the People's Republic of China do not recognize the independence of Kosovo. Turkey prefers to focus on devising a feasible and practical resolution of the recognition issue. Turkey seems to have left the outright recognition campaign to the newly developed Kosovar diplomatic service. Turkey believes that the advisory opinion of the ICJ put an end to the discussions on the legality of Kosovo's independence declaration. But the Turkish foreign policy makers are conscious that Kosovo's membership to international bodies is only possible through a constructive dialogue between Belgrade and Pristina.¹² Along with the UNGA Resolution 9 September 2010 recommendation, Turkey supports the idea that future negotiations between Serbia and Kosovo have to take place under the framework of the European Union and Euro-Atlantic integration. Turkey strongly supports the strengthening of democratic structures and institutions in Kosovo, which will enhance and bring peace to Kosovo's multi-ethnic society.

As Turkey enjoys friendly relations with both sides, it can play a critical role to foster communication prior to and during the upcoming EU mediated talks between Belgrade and Pristina recommended by the UN General Assembly Resolution. The potential of the Free Trade Agreement with Serbia and the agreement to lift visa requirements is bound to make Turkey an important trade partner with Serbia.¹³ Turkey is already Kosovo's fourth largest trading partner with 284 million USD in trade volume. Visas have been mutually lifted between the two countries. The trade volume doubled between 2007 and 2008. The newly-formed Turkey-Kosovo business council could help facilitate further investments in Kosovo within a structural framework.¹⁴ In the past couple years; Turkey intensified its cooperation with Kosovo in education and cultural sectors. Each year, 100 students from Kosovo receive state scholarships from Turkey to attend Turkish universities. The renowned Middle East Technical University is considering opening a campus in Kosovo. The renovation of the tomb of Sultan Murat I in the Gazimestan battlefield of the 1389 Kosovo War along with a

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11. Kosovo has become a member of the IMF and World Bank.

12. See the comments of the Turkish Ambassador to the UN General Assembly during the discussions on Serbia's draft resolution on 9 September 2010.

13. Trade volume between Serbia and Turkey was 339 million USD in 2007. The initiation of the FTA and lifting of the visas are expected to boost this number threefold.

14. Turkish investors can engage in infrastructure projects such as motorways and the renovation of railroads that would connect Belgrade to Pristina and residential development projects in the big cities of Kosovo. The high unemployment rate (close to 60%) among the youth of Kosovo is the main reason behind wide spread corruption and its black market economy.

Turkey upholds the principle of Kosovo's territorial integrity. Any other stance on this issue would weaken Turkey's position in Bosnia Herzegovina where Republika Srpska politicians are considering holding a referendum on independence to which Turkey strongly opposes.

number of mosques dating back to Ottoman times scattered all around Kosovo is an indication of Turkey's renewed interest in its own history in the Western Balkans. Turkey can make use of its growing economic presence in the region to open and promote greater communication between the parties.

The newly forming European External Action Service and Baroness Catherine Ashton, who is both the EU High Representative for Foreign Affairs and Security Policy and the Vice President of the European Commission, need a success story. The mediated talks between Belgrade and Pristina could provide such an opportunity. However, there are a remaining five EU member states who do not want to recognize Kosovo's independence.¹⁵ As a consequence, the European Union has no official position towards Kosovo's status, aside from an occasional statement of support of a 'European future' for Kosovo. This is an immediate challenge for HR Ashton, as she will struggle to formulate a common EU position in its capacity as mediator. Turkey's position is very clear. Turkey's optimal position in the mediated talks would be to provide support for the EU on the issue of recognition. But it should not engage directly on the issue of recognition any further than to provide its good offices. Turkey can easily play a much more active role on technical issues such as customs, trade, communications, electricity, and transportation by providing know-how and technical expertise. Turkey can also play a facilitator's role in seeking creative options on collaboration between the parties. The United States, which is mainly preoccupied in finding an exit plan from Afghanistan, would welcome a more active Turkey in the negotiations on Kosovo. Turkey's involvement could remove some of the burden from the U.S.' already over-crowded foreign policy agenda.

During the mediated talks between Belgrade and Pristina some dramatic options could come to the table such as a possible land swap between the Serb-dominated region of Northern Mitrovica in Kosovo with the Albanian dominated parts of Serbia in the Presevo valley.¹⁶ Although both Kosovar and Serbian officials officially oppose to such an option, it remains an option of compromise. However, Turkey's position would be to uphold the principle of Kosovo's territorial integrity. Any other stance on this issue would weaken Turkey's position in Bosnia Herzegovina where Republika Srpska politicians are considering holding a referendum on independence to which Turkey strongly opposes.¹⁷

15. The five EU members are: the Republic of Cyprus, Greece, Slovakia, Romania, and Spain.

16. 'Kosovo and Serbia after the ICJ Opinion' International Crisis Group (ICG) Europe Report N°206 , 26 Aug 2010

17. RS Prime Minister Milorad Dodik on 30 August 2010 claimed that the ICJ advisory opinion provided legal backing for RS independence and he envisaged an independent RS within four years.

Policy Recommendations for Turkey

1. Defend the territorial integrity of Kosovo and oppose any form of land swap. Any such attempt could trigger a new wave of inter-ethnic tension across the Western Balkans, especially in politically fragile Bosnia-Herzegovina.
2. Assume the good offices and a role as 'communicator' between Kosovo and Serbia on the issue of recognition by encouraging an unofficial version of the trilateral consultation mechanism between Serbia and Bosnia-Herzegovina.
3. Facilitate dialogue between the parties on cooperation and on technical issues by taking a guarantor role for investments in the region. The Turkish Development Agency (TIKA) could play this role.
4. Encourage direct investment in Kosovo's mining sector by making more effective use of the Turkish-Kosovo Business Council. Kosovo has huge and almost unexploited reserves of coal, lead and zinc, lignite, bauxite, and nickel.
5. Russia is a key partner of Serbia. Turkey should encourage joint Russian-Turkish business ventures in Serbia. Joint investments in energy and infrastructure projects in Serbia will provide a sense of security to the government in Belgrade to adapt a more constructive approach in the upcoming talks with Pristina.
6. The South Stream pipeline project is of immense importance for the future of economic stability of the Western Balkans and Serbia in particular. Turkey has given its approval to have its territorial waters in the Black Sea used for the project. In return, Ankara should ask for a more active role for BOTAS (Turkish Petroleum Pipeline Corporation) in the possible implementation phase in Serbia.
7. Keep paying attention to the needs of the Kosovar Turkish community. A truly multi-ethnic Kosovo would be possible as long as Turkish minority rights are preserved along with the smaller Romani community.
8. Support the NATO vision for Serbia and Kosovo more vocally. A shared NATO vision will ease tensions between the parties on the issue of borders and security sector reform.

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