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Why Europe must support Serbia's initiative

By Ian Bancroft, KosovoCompromise.com

In seeking an advisory, non-binding opinion from the International Court of Justice (ICJ) on whether or not the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo is in accordance with international law, Serbia's vow to pursue all peaceful means possible to defend its territorial integrity has reached a critical juncture. Should Serbia now succeed in securing the requisite number of votes in the UN General Assembly – where it will likely receive the backing of Russia, China, India, South Africa, Indonesia and Brazil – it will represent a victory not only for Serbia's diplomatic initiatives in recent months, but for international law and multilateralism more broadly. If the EU is truly dedicated to strengthening the institutions of international law and justice, as it is customarily deemed, then it is imperative that its members support Serbia's request.

Serbia has preceded with its applications in spite of a series of veiled and open threats from within the European Union and from the United States. Britain's Ambassador to Serbia, Stephen Wordsworth, has publicly warned that the initiative would be “a mistake” that constituted “a direct challenge to the EU”; one that will “only make co-operation and Serbia's integration into the EU more difficult”. Bernard Kouchner, the French Foreign Minister, meanwhile, stated that, “we have reiterated numerous times that Serbia cannot seek to join the European Union while also seeking Europe to agree with the initiative” and has labelled the initiative “self-destructively isolationist”; whilst the United States described Serbia's request for an ICJ opinion as “inappropriate”. As Vuk Jeremic, Serbia's Foreign Minister, has himself cautioned, “certain extremely powerful countries are offering rather active resistance”.

Having insisted that disputes in the Western Balkans be settled through peaceful means, whilst simultaneously demanding full co-operation with the ICTY as a condition for Serbia's accession towards EU membership, it would now be fundamentally inconsistent and untenable for EU member states to refuse to support Serbia's initiative at the UN General Assembly. As Serbian President, Boris Tadic, re-affirmed, “our intention is not to repeat aggression or confrontation with the world, but to use a different methodology in politics which is not usually seen in the Balkans”. Legal opinions from the ICJ, though non-binding, offer a powerful alternative for the peaceful resolution of conflicts; with solutions offered by the legal, as opposed to political, realm. To fail to act to strengthen such institutions of law and justice at a time when Europe struggles to contend with Russia's unilateral recognition of South Ossetia and Abkhazia's independence will only further undermine its standing in an increasingly unstable international environment, particularly in the Western Balkans.



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As a recent report by the European Council on Foreign Relations revealed, with respect to human rights issues, the EU's influence at the UN continues to decline. One of the explanations given were accusations of the double standards by European states, who continue to oppose discussion of their own human rights problems, such as those concerning the treatment of migrants, and avoid criticism of the United State's persistent violations. Europe's failure to support Serbia's initiative, despite its avowed commitment to the principles of the UN Charter, will only further reinforce this growing sense of double-standards being applied.

If the EU is genuinely committed to the strengthening of international law and multilateral institutions, then its member states should support Serbia's application for an opinion from the ICJ on the legality of Kosovo's unilateral declaration of independence. The decisions of EU member states themselves can not and should not be exempt from legal scrutiny; nor should attempts be made to link the issue of Serbia's prospective membership of the EU with its ICJ initiative. Respect for international law is the hallmark of the UN and the EU. If the latter is to recapture some of its lost influence at the UN, then it must avoid further more damaging instances of double standards by supporting Serbia's initiative to bring the Kosovo issue a back to the legal realm.

Ian Bancroft is a British analyst and founder of TransConflict.