



# KOSOVO

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December 3

### **Negotiation stalemate**

By Ian Bancroft, The Guardian

[http://commentisfree.guardian.co.uk/ian\\_bancroft/2007/11/negotiation\\_stalemate.html](http://commentisfree.guardian.co.uk/ian_bancroft/2007/11/negotiation_stalemate.html)

Despite a somewhat disappointing turnout of 43% in elections on November 17, Kosovo's newly elected prime minister, Hashim Thaci, a former guerrilla commander and now leader of the Democratic Party of Kosovo (PDK), proudly and confidently proclaimed that "the citizens of Kosovo sent the world a message ... that Kosovo is ready (for) independence".

In response, Europe's warnings against a unilateral declaration of independence finally became audible, with Swedish foreign minister Carl Bildt speculating that: "I don't think they (Kosovo Albanians) want to be independent from the international community."

With talks in Austria having ended in stalemate and further meetings unlikely to see any further progress towards a compromise, a unilateral declaration of independence by Kosovo Albanians is expected within three months of December 10 - the date on which the Troika will report back to UN secretary general, Ban Ki-moon. It is this outcome and the instability that it will generate throughout the Western Balkans and beyond that could have been prevented had negotiations over Kosovo's status created space and pressure for alternative proposals, the basis for which is provided by UN security council resolution 1244.

Though Wolfgang Ischinger, the EU's Troika representative, maintained that "the two sides must realise that they cannot get 100% of what they are asking for", the US's unequivocal support for independence has diminished the scope for concession and compromise. During a visit to Albania in June, prior to the current round of talks that began at the end of August, President Bush declared that "sooner rather than later you've got to say 'enough's enough, Kosovo's independent'," and urged that any extension of status talks must have "certain independence" as the outcome.

This statement was augmented by US under-secretary of state for political affairs, Nicholas Burns, speaking about the inevitability of independence and how there was no alternative to the Ahtisaari plan, which prescribed internationally supervised independence for Kosovo and which Russia threatened to veto should it be brought



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before the UN security council. US state department representative Kurt Volker, meanwhile, went so far as to say that, "if Kosovo unilaterally declares independence, the United States will recognise that independence, as, we believe, will others, since that is the only solution for the Balkans". The US, however, is not alone in declaring its preferences. David Miliband, the UK foreign secretary, and Bernard Kouchner, the French minister for foreign and european affairs, further prejudiced the negotiations by declaring that "if no agreement is possible, Ahtisaari's proposals will in our view remain the best way forward".

The stance of the Kosovo Albanians throughout the negotiations has been cemented in these collective statements and assurances. According to Kosovo's president, Fatmir Sejdiu, "our vision and our stance is very clear: it's the independence of Kosovo and its recognition ... there are absolutely no alternatives". This negotiating position of independence or nothing has regularly gone unquestioned and unopposed, making Ischinger's insistence that "if they get 50% of their demands, it is better than no solution at all" seem empty and incredulous. By neglecting to challenge this attitude, the Troika has tacitly legitimised the Kosovo Albanians' maximalist stance and opened the door for a unilateral declaration of independence.

Europe's division and desperation over the issue has been demonstrated by its contribution to the negotiation proceedings; most notably, Ischinger's proposal of "neutral status", that "would normalise relations between Serbia and Kosovo, without containing a single word on status". Based on a 1972 agreement aimed at strengthening neighbourly relations between east and west Germany, Ischinger's example was immediately dismissed by both sides as an inappropriate comparison.

Though the German chancellor, Angela Merkel, and Italian prime minister Romano Prodi have affirmed a commitment to achieving a "coordinated and harmonised European stand" that is "as harmonious as possible for both Serbia and Kosovo", the negotiations have been more about achieving the former than the latter; about building a "critical mass" of countries in support of independence that may eventually breed some form of hollow consensus. Despite recent avowals of unity, however, the EU, whose differences over Kosovo have been widely publicised, will face further scrutiny and pressure in the coming weeks and months, particularly in the absence of another UN security council resolution on the issue.

One basis to the negotiations that could have bridged European divisions, and that should have provided the platform for discussions between Serbia and Kosovo, are



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the principles outlined in security council resolution 1244. Formulated and agreed upon by France, the US and the United Kingdom (among others) in 1999, the resolution reaffirms "the commitment of all member states to the sovereignty and territorial integrity of the Federal Republic of Yugoslavia (to which Serbia is now the recognised successor state) and the other states of the region" and reaffirms "the call in previous resolutions for substantial autonomy and meaningful self-administration for Kosovo".

As Thomas Fleiner, legal adviser to the Serbian Kosovo team, firmly maintains: "The text of the resolution is quite clear to any lawyer and it calls for respect of sovereignty and search of a solution for Kosovo only within the essential autonomy framework", and as such, "every decision that would step out of that framework will require a consensus of both sides and an amendment to resolution 1244".

It is on this basis that Serbia has outlined various models of "essential autonomy" for Kosovo, based on the examples of Hong Kong and Finland's Swedish-speaking Åland Islands. Under these proposals, Serbia would offer Kosovo complete self-government, direct access to certain international and regional organisations, the right to use its own symbols and the ability to open foreign trade and cultural missions abroad. As Serbian president Boris Tadic argues: "We are offering to Kosovo Albanians the best possible rights, which means the largest autonomy in the world, (including) some elements of sovereign countries, for example access to international financial institutions."

The status of Kosovo is a European issue and Europe must now be prepared to contend with the consequences of a unilateral declaration of independence that they have in part engineered by failing to do enough to encourage a softening of the respective stances of each side. This declaration will invariably prompt Serb communities in Kosovo, particularly those in Mitrovica, to sever ties with Pristina, potentially leading to the de facto partitioning of Kosovo. Belgrade is likely to respond with economic measures, including the cutting of power supplies, closure of its borders with Kosovo, travel restrictions, a trade embargo and legal challenges to privatisation measures, further undermining Kosovo's already weak and largely informal economy. In the absence of a revised UN security council resolution, the planned deployment of an ESDP mission would be at the invitation of the Kosovo government and therefore deprived of much of its authority. Emphasising and reiterating the disadvantages of a unilateral declaration of independence by Kosovo, only now that negotiations have stalled, appears to be somewhat of a desperate afterthought.



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Given the publicly stated, diametrically opposed stances of Russia and the US regarding the issue of independence for Kosovo, the EU occupies a pivotal role in the status negotiations. By failing to distance itself from the US's unreserved support for independence, however, the EU has contributed to diluting the scope for constructive dialogue between Kosovo and Serbia; both of which have aspirations of eventually becoming EU members. This perspective of membership provides the EU with significant leverage in the Western Balkans, but it is a leverage that must be used constructively and in accordance with UN security council resolutions. What these negotiations have again illustrated is the weakness of European foreign policy in the face of US-Russian rivalry and questions of autonomy and self-determination in the former Yugoslavia. Its failure to adequately contend with the issue of Kosovo means that Europe must now be prepared for the dynamic of instability that a unilateral declaration of independence will create.