



# KOSOVO

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## Why Negotiate

By Slobodan Samardzic, In Press 4S, [www.kosovocompromise.com](http://www.kosovocompromise.com)

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There isn't a politician today in Europe, nor in the world for that matter, who would contest the view that the issue of Kosovo and Metohia is the most difficult one in Europe and among the most complex ones globally. What makes it so difficult are not only the irreconcilable positions of Serbia and the Kosovo Albanians, but also the almost irreconcilable stands of the significant global actors taking part in the resolution of the future status of Kosovo and Metohia.

Juxtaposed to this common stand is the reservation of the bulk of the influential western states regarding the very negotiations between Belgrade and Pristina as being the right approach and method to resolving this difficult issue. As a result, their primary concern is not linked to the readiness and capacity of the negotiation teams to reach the compromise about the future status of Kosovo and Metohia. Rather, it has to do with negotiations as such as a suitable tool to arrive at the mutually acceptable solution.

This attitude/position of the majority of the western countries may come as a surprise but only at the first glance. All those who follow the events around Kosovo and Metohia, even the casual observers, know that ever since the beginning of the negotiations around the future status of the southern Serbian province (say, November 2005) the same countries have firmly maintained that the province should be granted the status of an independent state. However, no official decision about this had ever been reached anywhere nor at any point and it is precisely this tacit agreement that may serve as an indicator of the attitude and activities of these countries in Kosovo and Metohia as well as in matters related to it.

In such circumstances, agreeing to negotiations between Belgrade and Pristina about defining the future status of Kosovo and Metohia, has been a mere formality to the western politicians. In their view, the negotiations could not have changed the inevitable chain of events but could rather help around two things: *firstly*, they would accomplish the prerequisite of Security Council Resolution 1244 (1999) which stipulates that at one moment the future status of Kosovo and Metohia must be addressed, and *secondly*, they would have ushered Serbia into this process, again a requirement in the same resolution, as it is still the formal bearer of sovereignty and territorial integrity in Kosovo and Metohia.

As demonstrated, in November 2005 the perspective of the western countries had been that it was an issue of mere formalities, steps to be carried out more or less routinely, thus bringing the entire task to the self-explanatory finish.



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Today, almost two years after the decision in the United Nations to embark on the negotiations about the future status of Kosovo and Metohia, a significantly different position is at hand. The principal indicators of this shift in the situation are as follows:

In line with its determination to uphold the sovereignty and territorial integrity of the country, Serbia has formulated a comprehensive and unified state politics regarding Kosovo and Metohia, as well as a related platform for negotiations aimed at resolving this issue;

Proceeding from these, Serbia has been gathering a strong international support, primarily from Russia as a standing member of the Security Council and the Contact Group, from the other relevant countries, such as China, a number of non-standing member states of the Security Council, a number of members states of the European Union, and also from some of the neighbouring countries;

Within the European Union there is a growing awareness and understanding that without the international legal framework it is impossible to resolve the issue of Kosovo and Metohia, and that the very participation of the EU itself in the future without such a framework is unthinkable;

In the international framework, and especially within the European Union, the ultimatum-like position of the political representatives of the Kosovo Albanians persisting on the independence of the province is becoming increasingly unacceptable; this is largely aided by the growing awareness of the criminal and mafia-like structure which has spread its influence deeply into the public life of the province;

These changes in circumstances have rapidly decreased the number of those advocating that the issue should be taken off the agenda by a series of unilateral acts (secession to begin with, followed with recognition as a state) which would beyond doubt breach the international law; in short, the argument of facts and effect is gradually losing grounds and substance in the regional, European and in global context alike.

The only practical way out of this situation are the negotiations with a clear subject matter – the future status, a clear aim – a compromise solution, and a clear procedure – unbiased mediation. The negotiations conducted by Mr. Ahtisaari could certainly not be described as such. These were not negotiations about the status, their aim was not a compromise solution, and the mediation was anything but unbiased. The new round of negotiations, starting as of September 28th in New York, will be facing an altogether different nature of obstacles – they will be extremely limited in time, with a strong presence of reserve and suspicion as to the (successful) closure. The originators and propagators of this disbelief will again be the same countries, more or less, which had supported Ahtisaari's simulation along with its virtual outcome.

What conclusion can be drawn from all this?

Primarily, that the view that the negotiations are not a viable way to solve a dispute can only be held by those who do not trust international law, and those who do not believe in the law are those who are prone to using force to solve disputes. This type of politics is in the very foundations of the 'reality argument', which we still hear often enough, albeit less frequently. The problem with this argument is not only that it is contrary to the law, but also that it is quite unfair. Some references and indications have been offered here to support this claim. Whatever the case, if the negotiations are



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not approached with utmost seriousness, the realistic alternative would not be a victory of one 'reality' but a lasting conflict between the two, if not even more, realities. Neither the United Nations nor the European Union would have a response to such a scenario, and least of all can a scenario be devised by those western countries which have failed so far to attribute value to the meaning and importance of serious negotiations.

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