

Prüfstein Kosovo

Die EU ist kontinentale Ordnungsmacht. Darauf muss sie ihre Erweiterungspolitik einstellen.

Cornelius Adebahr

Touchstone Kosovo

The EU is a continental power. It needs to adjust its enlargement policy accordingly.

Cornelius Adebahr (translation by the author)

15 years after the breakout of war in former Yugoslavia, the „hour of Europe“ now finally has come. This time, however, it is not about military intervention to prevent genocide, but about political engagement at the negotiation table, more precisely on the future status of Kosovo. The self-inflicted weakness of America and Russia alike puts the European Union (EU) within the so-called troika in a key position. It should not miss the hour for a second time.

Yet, the EU is about to make the second step before the first. Instead of speculating about potential reaction in case of a failure of negotiations, it should invest all its energy in thinking how to make the talks a success – and which price it is willing to pay for this. It is about time, that the EU assumes political responsibility for the European continent and, thus, takes on leadership within the troika. Consequently, it should turn its enlargement policy into a deliberately used instrument of active foreign policy.

From a regional to a global conflict – and back again

Up until now, the EU was happy to leave to the United Nations (UN) the political efforts in solving the status issue and confined its activities to preparing the takeover of a comprehensive mission *following* a UN resolution. The latter is, as such, commendable, and it is indeed up to the world organisation to terminate, by way of amending Security Council resolution 1244 of 1999, the transitional authority of Kosovo and lead the territory into its newly defined status.

Far away from the real problems between Kosovars and Serbs, however, the status question has become a playing card in the current global power poker. Holding a veto in the Security Council, both Russia – as Serbia's self-declared ally it is against the existing proposal of supervised independence – and the United States – proponent of an independent Kosovo – are blocking the other. This deadlock can only be overcome by a Serbian-Kosovar compromise. Such an agreement would invalidate the threat of a Russian veto as this is based on objecting to any change of borders

without the consent of the Serbian side. Moreover, the envisaged EU mission in Kosovo could then act upon invitation from both sides.

The recently started troika process brings back the conflict to its true dimension: a bilateral dispute over sovereignty and self-determination, about human rights and minority protection, with serious regional implications. For this, the EU not only offers the regional regime, but is also called upon as a political community. International public law is on the side of those that call for an amicable solution to the Kosovo status. In the case of success, this would underscore the EU's principle of „effective multilateralism“ with a concrete application. This is important not least because, with regard to Kosovo, the West still carries the burden of the contested legitimacy of its 1999 intervention.

A negotiated solution for Kosovo by the EU

Such an agreement is usually thought impossible because the previous yearlong negotiations under the leadership of UN mediator Martti Ahtisaari were unsuccessful. Indeed, all parties' positions seem to be sufficiently presented; the compromise proposed by Ahtisaari is generally seen as good and balanced. It combines the historically founded claims by the Serbs (by granting minority rights and protecting cultural heritage) with the present demands from the Albanian majority (by granting basic independence). That both sides, nonetheless, could not agree to any solution has, however, less to do with existing differences but with the fact that both had external proponents of their maximum positions. For the Serbs as well as for the Kosovars, there simply did not exist a necessity to come to an agreement.

This approach has now led both sides, their advocates included, into an impasse. Both Serbian and Kosovar politicians privately speak about dividing the province – the bogey for Western diplomats as a partition of Kosovo would put into question the existing participatory structures in Bosnia-Herzegovina and Macedonia. The mere fact that such talks exist, however, shows that positions are not as incompatible as the ideological-historical reading of Kosovo as the national cradle or the claims for full sovereignty would suggest. It is rather in Belgrade's natural interest to extract the highest possible price for its eventual consent to a face-saving solution. At the same time it is clear to the Kosovar government that self-declared independence without the support from the EU and its member states is worth little: It would inherit the obligations of the Ahtisaari plan (supervised independence), without benefiting from the rights proposed therein (representation in international organisations).

The timing for new talks, therefore, is fairly convenient. Moreover, the EU as the embodiment of political compromise is an appropriate mediator and could present itself as an honest broker. What has been faulted so far as a weakness could become, in the course of the negotiation process, its greatest asset: Among its member states there are proponents as well as sceptics of independence; states that are traditionally close to the Balkans as well as those with a more geopolitical orientation. Both Serbs and Kosovars can therefore expect fair treatment from the EU.

Knowing about the negative consequences of a failure of the negotiations, the EU should try all that it might, supported by pressure from the Americans and Russians, to bring about an agree-

ment of the two sides in the talks until early December. They should focus on creative and flexible models rather than being captured by arguments leaving no alternatives to either independence or imprisonment. Such models could contain unorthodox and little discussed elements such as decade-long lease (model „Hong Kong“) or factual independence without UN representation (model „Taiwan“) as well as the previously proposed model of an EU trusteeship.

Strategic accession policy

One further reason makes the EU the ideal actor to take the lead in the negotiations. It holds the one and only thing that unites Serbs and Kosovars in their otherwise different aims: the promise of membership. With such a promise, the Union could enlarge the “negotiation cake”. Admittedly, all Western Balkan states already have this perspective; moreover, all candidate countries know that they have to solve any border dispute before accession. (The unlucky exception of Cyprus, all agree, should be just that: an exception.) This notwithstanding, in an ideologically inflated conflict, symbolic policy, combined with diplomatic pragmatism, can be of great help.

An agreement should therefore be answered by a binding promise of EU membership for both sides, without renouncing to the accession conditionality. In order to increase the pressure on politicians to come to an agreement, the EU should communicate just as much the price of failure – i.e. a suspension of accession negotiations for an undetermined period of time – both publicly and clearly. In no way this is about “buying” the one side or the other into a certain negotiation result. Instead, by means of a settlement, they would demonstrate their European credentials in a question of eminent European interest, which would in turn be honoured by the EU’s promise – potentially linked with an early granting of candidate status or the starting of accession negotiations.

To do just this, the EU would need to be less afraid of boldness and turn its most successful foreign policy instrument, as people like to call the enlargement process, into a strategically employable tool. Based on the mixed experiences with giving firm dates for accession as well as a dwindling public support for future enlargements, the EU has so far shied away from this. Yet, the term “strategic” implies nothing less but the planned use of resources under one’s own conditions instead of being driven by events.

In order to link the credibility of a real commitment with the necessary political flexibility as well as the transparency needed vis-à-vis the different populations, the EU should concretise and condition its accession promise along the lines of the known criteria: „State X could join in the year Y, if and when a), b) und c)... are fulfilled until then.“ Likewise, the yearly progress assessment of candidate countries should develop three scenarios (positive, normal or negative trend) and link these with the respective target years. In this vein, the public both in the acceding countries and in member states learns about where in the process certain countries find themselves.

This mechanism preserves EU membership as what it is: a moving, though not arbitrarily moveable target, to reach which calls for serious efforts on both sides. Given the underlying scenarios, the target years cannot be misunderstood as an invitation to slowdown the reform efforts but shows

realistically both the path and the goal. This should not least strengthen the people's trust in the enlargement process.

The EU as a political leader – in Europe and the world

For the end of September, direct talks between Kosovars and Serbs are scheduled in New York. Up until then the EU should decide, with what stake it is ready to bring the remaining ten weeks of negotiations to a successful close.

The Federal Government bears particular responsibility. For years, it has been engaged in the Balkans both politically, militarily, and economically; while holding the EU presidency, it started recent efforts of a rapprochement with Serbia. The government's clear refusal of a unilateral declaration of independence, as well as its endeavour to involve Russia, both create trust. With the seasoned diplomat Wolfgang Ischinger, who back in 1995 was part of the negotiations for peace in Bosnia-Herzegovina, it holds a prominent place in the troika. Plus with the Petersberg near Bonn, Germany could offer a positively connoted negotiation framework for an intensive closure of the talks *à la Dayton*.

Finally, the chancellor herself should set out a Franco-German initiative on enlargement policy. Such a productive engagement is necessary above all due to the referenda France will call for with any future enlargement. Traditionally, one side tends to look rather to the East, the other to the South. In Europe's Southeast, on the Balkans, the two regards should unite. President Sarkozy's most recent statements give reason to hope that he will be open-minded about a more strategic orientation of European policy.

For a long time, the EU has avoided taking on the role of a benevolent hegemon, be it only within its own continent. For this, there are good historical-moral reasons as well as some bad – rather comfortable and self-centred – excuses. Yet, reality has caught up with the Union: It is and actual continental hegemon. The moment has come to take over responsibility in Europe and the world, and to convey this new role to a rather reluctant public.

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