

HOW MIGHT THE FINAL STATUS OF KOSOVO, THE FUTURE OF MONTENEGRO AND THE FUTURE OF BIH AS A UNIFIED STATE BE AFFECTED BY THE PROSPECT AND PROCESS OF EU ENLARGEMENT?

Teodora Moşoiu

I. INTRODUCTION

Many countries in South-Eastern Europe have recognized that their best future lies not in ethnic or religious strife and isolation but in being involved and fully participating in the process of European Union integration. The EU's offer to Bosnia-Herzegovina and Federal Republic of Yugoslavia to participate in the **Stabilization and Association Process (SAP)** holds the seeds of future integration into EU structures, trade liberalization, financial assistance, help with democratization and

civil society and the development of a political dialogue in return for political and economic reform and regional cooperation.

The EU is the major contributor to the development and re-integration of South-Eastern Europe into the big European family and the prospect of EU membership is an important incentive for change along with a clear and growing evidence of commitment to European ideals and standards as well as to genuine intra-regional cooperation.

II. EU'S INVOLVEMENT IN THE BALKANS

In 2002, after 10 years of turmoil in the Balkans, European leaders decided that the successful key for the future of the region must be closer association with the EU and the clear prospect of membership. This policy, known as the **Stabilization and Association Process (SAP)**, envisages the development of privileged political and economic relations with the countries in the region, supported by the substantial financial assistance program **Community Assistance for Reconstruction, Development, and Stabilization (CARDS)**. It underpins the objectives and mechanisms of the Stabilization and Association process, i.e., the new **Stabilization and Association**

Agreements (SAAs) including the preparation for them. As each country moves deeper into the Stabilization and Association process, assistance will focus increasingly on support for the reforms and institution building necessary to implement the obligations of the Stabilization and Association Agreements. CARDS assistance will finance investment, institution building and other programs in four major areas:

- Reconstruction, democratic stabilization, reconciliation and the return of refugees.
- Institutional and legislative development, including harmonization with EU norms and approaches, to underpin democracy and the rule of law, human rights, civil

society and the media, and the operation of a free market economy.

- Sustainable economic and social development, including structural reform.
- Promotion of closer relations and regional cooperation among SAP countries and between them, the European Union and the candidate countries of Central Europe.

Following the Feira Council of June 2000, which confirmed that the EU's goal is the fullest possible integration of the Balkan countries into the political and economic stream of Europe, the Zagreb Summit of the 24th of November 2000 set the seal on the SAP by gaining the region's agreement to a clear set of objectives and conditions.

The **Stabilization and Association Agreements (SAAs)** represent both the cornerstone of the Stabilization and Association process and a key step to its completion. Countries in the region also accepted that the Stabilization and Association Agreements when signed, would be the principal means to prepare themselves for the demands that the perspective of accession to the EU entails.

The SAAs focus on respect for democratic principles and integration into the EU single market. The EU's political strategy towards the region relies on a realistic expectation that the contract it enters into with individual countries will be fulfilled satisfactorily. Careful preparation with each country before the EU offers such a contract has been and remains a vital component of the Stabilization and Association process.

The conclusion of such Agreements has as final end the signatories' commitment to complete over a transition period a formal association with the EU, tailor-made for each country's individuality and circumstances but comprising the same core obligations.

The mechanisms of the Stabilization and Association Agreements themselves (from specialist sub-committees to political level meetings such as the Stabilization and Association Council) will allow the EU to help prioritize reforms, shape them according to EU models, solve problems, and monitor their implementation. Effective implemen-

tation of the Stabilization and Association Agreements is a prerequisite for any further assessment by the EU of the country's prospects of accession. Each will need time, help and encouragement to implement such obligations properly.

The SAP is not merely a bilateral process with each country in the region: the Zagreb Summit emphasized also the need for regional cooperation. The EU's policy objectives are principally:

- to encourage the countries of the region to behave towards each other and work with each other in a manner comparable to the relationships that now exist between EU Member States. An important means to this end will be the establishment of a network of close contractual relationships (conventions on regional co-operation) between the signatories of Stabilization and Association Agreements, mirroring the bilateral relationship with the EU as represented by the Stabilization and Association Agreements.
- the creation of a network of compatible bilateral free trade agreements (as part of the conventions mentioned above) which means that there are no barriers to goods moving between the countries of the regions themselves nor between the EU and, in effect, neighboring candidate countries;
- the gradual re-integration of the Western Balkans region into the infrastructure networks (TENS) of wider Europe (transport, energy, border management);
- to persuade the authorities in the countries of the region to work together to respond effectively to the common threats to the region's and the EU's security that come from organized crime, illegal immigration and other forms of trafficking. In many cases, e.g. on visa policy, a common approach by all the countries will be needed to deal with the threat effectively.

Each country's contribution to achieving these objectives will help to determine the EU's assessment of that country's implementation of Stabilization and Association Agreement and its readiness

to contemplate the greater demands of full integration into the EU.

Simply stated the EU's objective in the Balkans is to transform it and equip it to sustain liberal democracy and the rule of law, rooted in strong institutions, supported by thriving market economies trading with each other and with the wider Europe.

The Balkan countries identify the EU with security, with a decent and rising living standard, with the rule of law upheld by accountable, democratic, non-bureaucratic

public institutions, a system in which rights of minorities are protected by law, not by carving territory. Thus, they recognize the EU as perhaps the most successful conflict prevention and resolution mechanism. In turn, this gives EU a tremendous leverage. Employing the policy of stick and carrots, EU can increase in long-run democracy and the rule of law in the body politic of South-Eastern Europe countries, can help to bring stability and transparency and develop neighborly cooperation in the region.

II.1 EU's RELATIONSHIP WITH FEDERAL REPUBLIC OF YUGOSLAVIA (FRY)

The EU relationship with FRY takes into account but does not prejudge the outcome of two other ongoing processes:

- The efforts of the two constituent republics (Serbia and Montenegro) to clarify and redefine their relationship within the Federation;
- The future status of Kosovo and its relationship with the Republic of Serbia and the FRY overall.

The ultimate objective of EU political and economic relations with the FRY is to ensure that the FRY makes the full transition to a democratic civil society and an open market economy by bringing its policies and legislation closer to those of the European Union, with integration and EU membership as the final goal.

The FRY has not yet reached the stage of negotiating a Stabilization and Association Agreement, but a joint EU-FRY Consultative Task Force, with representatives from Federal, Serbian and Montenegrin administrations, and UNMIK has been established to support and monitor the FRY's progress toward this stage.

Participation in the European integration process will place political and economic demands on the FRY that the country has now a limited capacity to address.

In the political area FRY's capacity for European Integration will be assessed by reference to its ability to secure democratic principles, the rule of law, respect for human rights and protection of minorities. But the fundamental issue lies in the path of Yugoslavia and its constituent entities' aspirations for EU integration: a clear

definition of the State. The current uncertainty of Kosovo's final status and Montenegro's position within the federation affects its capacity to fulfill the requirements for rapprochement to the EU and progress with SAP.

Besides other medium term challenges that need to be tackled, if FRY's political, economic and social development is to be assured and sustainable, the clarification of the Federal state is the most important. The challenge for the Federal Republic and Kosovo authorities will be the clarification of political and institutional arrangements within the Federation. A new platform, further transformed into a reformed Constitution, will be required to establish a functioning system of governance inside the Federation.

On the 14th of March 2002 the leaders of Serbia, Montenegro, and the Federal Republic of Yugoslavia (FRY) signed an agreement in Belgrade to replace FRY with a new "state community": a "union of states" to be called "Serbia and Montenegro". If the agreement will be implemented it would establish a loose association in which the two "member-states" enjoy almost all the prerogatives of independence except those that require international recognition (e.g. UN membership). The republics will control their borders (including customs) and become fully responsible for their economies and internal security. The future union will depend on the republics to fund its institutions: the assembly, president, council of ministers, court and the armed forces.

The agreement was the direct outcome of the EU's determination to block the

Montenegrin separatism and keep the two republics together. Before the EU High Representative, Javier Solana, intervened in November 2001, the two republics were on the brink of approving a Montenegrin referendum of independence. By persuading Montenegro's and Serbia's leaders and warning them of the negative impact and consequences if they pursued independence, Mr. Solana pushed them to preserve some sort of federal union. However, the March 14 agreement fell short in addressing the EU's original ambition, neither securing a federal state nor closing the debate on Montenegro's status. Unfortunately, the agreement is provisional (either party can review the arrangement after three years), ambivalent, incomplete and its terms satisfied very few in either republic.

The three-year moratorium on independence should start a serious dialogue among parties and politicians in Montenegro, where voters are split over the independence issue.

Since March 14 the governments have begun to address the range of practical issues raised by the agreement, on the assumption that Serbia and Montenegro will act as semi-independent states. The immediate challenge for them is to agree on the detailed content of their new union. Unfortunately, none of the three parliaments can be counted upon to adopt a Constitutional Charter by the required majority. The March 14 agreement may not be implemented even with good faith efforts in both republics, and certainly without continuous EU pressure. Moreover, even if a new union does take shape it is possible not to survive due to the new trend of political and public opinion which asserted the Serbian independence for the first time. If this occur, the international community must re-open the agreement, providing a stable, sustainable solution based on democratic legitimacy.

The EU should stop trying to decide on behalf of the republics themselves what their relationship will be and impose artificial solutions. Instead, it should use the new

agreement by helping Serbia and Montenegro to build a lasting solution.

It would be worse for the EU to rush into signing a SAA just for the sake of binding the union together, before the question of Montenegro's and Kosovo's status have been resolved.

As a conclusion:

- Serbia and Montenegro should focus on resolving the concrete issues regarding their future relationship in accordance with the March 14 Agreement. Even though the Constitutional Commission ratified the constitutional Charter there is still a long way until the Constitution will be ratified by the Parliaments of the two constituent republics;
- EU should be ready to accept whatever solutions Serbia and Montenegro will agree upon for their future relationship, in line with the March 14 agreement, including the possibility of separation;
- EU should be ready to provide impartial technical assistance to Serbia and Montenegro on the issues that need to be resolved whatever the form of their ultimate relationship;
- EU should refrain to sign a SAA with the FRY or even its successor "Serbia and Montenegro" until the status of all its entities (Kosovo, Vojvodina) has been approached and resolved.

In order to move toward a resolution of Kosovo's final status, two attitudes must be taken into consideration and tackled: an external aspect that need to forge a process to address the final status, a dimension that involves the interest of and relationship between different actors with a stake in Kosovo's future and an *internal* aspect that must fulfill the development of Kosovo's own democratic institutions, the rule of law and human rights, in order to prepare Kosovo for its final status that should eventually be agreed, a process that is ensured by the EU's involvement in the FRY.

The EU's presence in Kosovo takes three major forms:

- ECHO: the Humanitarian Aid Office, which is the EU's humanitarian arm providing emergency assistance to the people in need;

- The European Agency for Reconstruction, which finances and manages sustainable reconstruction and development programs in Kosovo under the political guidance of the European Commission;
- The EU pillar of the United Nations Interim Administration in Kosovo (UNMIK). As a part of UNMIK, the EU is in charge of revitalizing economic activity in Kosovo, rebuilding what has been damaged by the war and creating conditions for a modern, open market economy.

Before addressing a final status for Kosovo several conditions must be fulfilled: they concern a stable, democratic Kosovo, standing on its own feet, peacefully integrated into the region and with a clearly defined place in the international community.

One of the main reasons for not addressing the Kosovo's final status is the weakness of its institutions, including the Assembly, the ministries and the criminal justice system and their ability to protect the minorities rights. The slow establishment of self-government institutions after the election of a new Assembly on November 17, 2001 reveals the inexperience of Kosovo's political parties and the deep fault lines that divide Kosovo society. Furthermore, the criminal justice system does not have yet the capacity to investigate and prosecute crimes in an impartial and effective manner. Minorities continue to lack freedom of movement and the economic and social opportunities that such freedom brings.

Another reason for deferring final status discussions is the fear of increasing regional instability. Since 1999, Kosovo has been a factor of instability in the region, exporting insurrection and extremism in Macedonia and southern Serbia. It is also feared that independence for Kosovo would set a dangerous precedent for other would-be secessionist movements in the region, such as the Bosnian Serb and Albanians in Macedonia and southern Serbia.

The search for a solution needs to take full consideration of the reality that no Albanian is prepared under any circumstances to become integrated in a new form of Serbian or Yugoslav state. Also, full sovereign independence for Kosovo appears to be unrealistic for the moment due to the miserable conditions for minorities and the lack of functioning institutions.

Conditional independence under a form of international trusteeship offers the most appropriate solution. Conditional independence would be an attempt to reconcile the Kosovo Albanians' quest to determine their political future with the concerns of their neighbors and the new regional and international environment. The purpose of international engagement is to facilitate a stable, sustainable solution for Kosovo, Serbia and the region. A viable future for Kosovo has to be based on close integration with its neighbors, in a stable region. However, the international community should not seek to impose models of integration that do not enjoy the support of the countries and entities concerned.

It is said that regional integration and closer cooperation which develop in the Balkans under the EU's authority can lead in the long term to a new and improved environment, where countries become more dependable on each other, and the chances for confrontation decrease. Small regions like Kosovo, which aspire to a new statute, cannot be autarkic, first and foremost due to the lack of resources (one should add the lack of tradition as an independent actor, ill functioning of institutions and democratic practice). Therefore, sooner or later these regions will look for forms of integration or cooperation, even union with countries in the region that share the same interests. Economic standards will be the "propelling" force that will determine such an approach. It should not be excluded even the possibility to reunite with Serbia.

II.2 EU's RELATIONSHIP WITH BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina is a full participant in the Stabilization and Association Process. The present structure of the State of Bosnia and Herzegovina (BiH)

was established under the General Framework Agreement for Peace. The responsibilities and powers of the State of BiH are strictly delimited. This had as a

consequence a weak state without many of the attributes associated with statehood. The continuous presence and involvement of the international community has ensured that democratic principles have been applied in the elections held since 1996 but respect for the rule of law and human rights is not yet universal.

The role played by the international community and especially the High Representative is a unique feature of BiH. In the period until 2001 the authorities in BiH were unwilling to take ownership and work together to build the country. During this period the office of High Representative has been the motor of reform in BiH.

BiH is some way far from being capable to conclude a SAA. In order to support and monitor BiH's progress on reform a joint EU-BiH Consultative Task Force has been established. In March 2000, the Commission presented a **Road Map** of the most pressing steps, which will allow BiH after completing them to advance to the next stage within the SAP. When the Road Map has been completed, the Commission will undertake a **Feasibility Study** that will indicate how far BiH has advanced in reform, and if it can begin negotiations with the EU on a SAA.

Participation in the European integration process will require political and economic demands on BiH, which the country is not yet able to wholly address having only a limited capacity. BiH will have to demonstrate "ownership" of the reform process and show that it is capable of taking the difficult decisions necessary to transform in a stable, investment-driven (as opposed to aid-dependant) country. The Government of BiH asked for a partnership with the international community and the Office of the High Representative (the EU contributes over 50% of the budget of the OHR) has responded by establishing a Partnership Forum. Under the leadership of the OHR the international community will be involved in restructuring its presence so that partnership with BiH can be supported and ownership created.

The main objective of the European Union's assistance is to support BiH in the framework of the Stabilization and Association Process, in particular:

- To help consolidate the peace process and foster inter-Entity co-operation;
- To help ethnic reconciliation and the return of refugees and displaced persons to their homes of origin;
- To establish functioning institutions and a viable democracy based on the rule of law and respect for human rights;
- To lay the foundations for sustainable economic development and growth;
- To bring Bosnia and Herzegovina closer to EU standards and principles.

Only with the creation of the present governments has BiH begun to assume "ownership" of reform, but continuous commitment to ownership will depend on a variety of factors. First, political will must be maintained within the governing parties/coalitions both at State and Entity level. OHR and SFOR must play an important role in ensuring sustainability, by providing stability and security, which would give reformist policies a chance. Sustainability can be undermined by the need to demonstrate quick results. Second, BiH recognized its weakness in the area of administrative capacity. Minimal interpretation of the State administration responsibilities and inherent systemic deficiencies such as low staff numbers, poor internal organization, poor coordination directly impact the ability of BiH to assume the ownership of reform. In order to achieve the necessary internal stability required for progress in the SAP, self-sustained economic development must be reached in the coming years. Although the foreign assistance will continue to translate into new projects over the next two-three years and provide an important source of growth for the economy, there is an urgent need to continue and accelerate the process of economic reform and development with a particular emphasis on creating an environment conducive to increased trade.

BiH does not function as a single economic space. The removal of trade barriers between the entities is a step in the Road Map and it is likely that they will be

eliminated in the near term. The next step which must be addressed is ensuring that the single economic space is consistent with that of the EU which will require that BiH develops and implements adequate laws in line with the *acquis* in the internal market area. This will bring BiH closer to the EU and other countries of the SAP and will enable BiH to enter into multilateral and bilateral trade agreements, although care must be taken not to assume free trade obligations which the fragile BiH economy is unable to cope with.

EU's support in creating a market economy and a vibrant private sector

III. CONCLUSION

There is no doubt that the EU's involvement in the Balkans, as a part of its common foreign and security policy of assuming greater responsibility in South-Eastern Europe, represents a logical step in trying to cope with the instabilities of this area. EU can be a catalyst in solving the wounds left open after the disintegration of Yugoslavia.

EU possesses the necessary political and economic leverages to influence the countries in the region (particularly FRY and Bosnia and Herzegovina) to embark on the road that can lead them to be integrated into the European family: that is respect for human rights, a stable, functioning democracy based on the rule of law and a working market economy.

Lots of money and lots of troops that have been already assigned to the region do not by themselves produce lasting peace. The final status of Kosovo (which is a subject of much speculation), the future of Montenegro and the future of BiH as a unified state will be decisively affected by the strategy employed by EU. This strategy should be twofold: on the one hand, it should help the region itself to stand on its own feet and to discourage the sort of dependency which has threatened BiH; on the other hand, in making the necessary resources available, it should transfer with them the values and principles that underpin the EU itself, namely democracy, the market

involves the completion of critical transition reforms which are essential to breaking the vicious circle of declining growth and rising unemployment.

Meeting all these challenges will facilitate the realization of BiH's foreign policy. Internal stabilization, assisted by CARDS would enable BiH to progress within SAP and in the medium term would allow the conclusion of a Stabilization and Association Agreement. This would improve national, regional and European security and would encourage stability, promote investment and trade and facilitate further reform.

economy, the rule of law – values upon which modern prosperity was built and old animosities were put out. The augmentation of the economic level of a country (as BiH), a state part of a federation (as Montenegro) or region (Kosovo) has as long-term consequence an appeasement of certain exclusion feelings or frustrations, contributing toward stability and internal cooperation.

The challenge lies on BiH, Montenegro and Kosovo which must undertake in overcoming the legacy of nationalism, extremism and war but most important there should be a strong political will to find out viable solutions. In helping the region to integrate into the most feasible political and economical organization, EU is helping itself to avoid facing in the future possible alterations of the established status quo in this area.

The process of the EU's enlargement is like a two-way street. It not only supposes financial support but also requires compliance with the values hold dear by the western civilization. The spread of these norms/values will decrease the likelihood of drawing fault lines again and the assumed pre-conception that countries in the area are addicted to cleavage will therefore become history. The EU's enlargement bears a historical role determining if this century will be European or won't be at all.

Bibliography:

1. Chris Patten, *EU Strategy in the Balkans*, International Crisis Group, Brussels, 2001.
2. European Commission, *Federal Republic of Yugoslavia Country Strategy Paper 2002-2006*.
3. European Commission, *Bosnia and Herzegovina Country Strategy Paper 2002-2006*.
4. Center for European Policy Studies, *A System for Post-War South-East Europe*,
www.ceps.be/SEEKOS4B.htm
5. Michael Brenner, *Europe's New Security Vocation*, Institute for National Strategic Studies, National Defense University, McNair Paper, Washington, 2002.
6. Hans Georg Ehrhart, *What model for CFSP?*, Chaillot Papers no.55, October 2002.