



Conference proceedings of the expert brainstorm on Kosovo

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**Netherlands Institute of International Relations
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1. Background information

Kosovo's future status remains unclear. In the weeks leading up to December 10th 2007, observers and politicians alike believed that this date was to be a landmark day for the future political status of Kosovo. However, few, if any events unfolded after this Monday. The most significant move came from the Serbian government, who proposed to petition Kosovo's possible independence to the International Court of Justice of the United Nations in The Hague. As such, one is inclined to believe that, contrary to expectations, the situation on the Balkans mirrors calmness.

Beneath the surface, however, tensions prevail between both groups of population, primarily over Kosovo's future status, and over the province's ties with Belgrade. Moreover, the absence of a truly final and generally accepted decision on Kosovo's status is likely to continue for some time and will meanwhile deepen the split between Serbian Kosovars and Albanian Kosovars. The absence of a strong role of the International Community, and specifically the European Union appears also not to be beneficial to the solution of one of the last territorial disputes within Europe.

Anticipating the current uncertainty about Kosovo, the Clingendael Security and Conflict Programme (CSCP) hosted an expert brainstorm on the multifaceted dimensions influencing a final settlement of the Kosovo dispute. Similar to the first brainstorm on October 19th, 2007, the purpose was to exchange the divergent views on the conflict coming from an as wide as possible array of participants. More specifically, the participants of the brainstorm were asked to shed light on five predetermined issues that are believed to be both causes and consequences of the present conflict. The brainstorm took place on December 13, 2007 at the Clingendael Institute in the Hague, The Netherlands and was chaired by Dr. Edwin Bakker, head of the Clingendael Security and Conflict Programme and Mr. Peter Bas-Backer from the Dutch Ministry of Foreign Affairs.

A select group of experts was invited to the brainstorm. Amongst the participants were policy makers, ambassadors and counselors of the Serbian, Croatian and Bosnian embassies to The Netherlands, and representatives of directly involved NGO's. In addition, a number of researchers from Clingendael attended the brainstorm. A list of participants is attached to this report on the conference proceedings.

Before the intermission, participants were invited to convey their views on the present situation in Kosovo and possible avenues to resolve the conflict. After the break, focus shifted to the role of the IC and the EU, together with a discussion of the leverage both institutions hold over the warring parties.

2. Introduction

The brainstorm opened with a welcome by chairman Bakker on behalf of Clingendael's director, Prof. Dr. Jaap de Zwaan. Mr. Bakker highlighted the importance of a final solution for Kosovo and pointed to the relative calmness that followed December 10th. The chairmen stressed that 'Chatham House rules' applied to this meeting. For this reason, the contribution



of the individual speakers will not be conveyed chronologically, but topically. The topics for discussion included:

1. The present-day political state of affairs;
2. The consequences for the wider region of the direction in which Kosovo moves;
3. The protection of minority rights within Kosovo;
4. The past, present and future role of the International Community (IC) and the European Union (EU) in Kosovo; and
5. Possible ways to improve mutual understanding between Kosovo Serbs and Kosovo Albanians.

Given the entanglement of the present-day political state of affairs with the politics of the wider region, topic 1 and 2 were discussed jointly.

3. The present-day political state of affairs

As noted, the current situation in Kosovo appears on the surface less explosive and conflictive than expected. Many participants indicated however that the actual situation starkly contrasts this notion. The absence of a final solution fuels uncertainty on both sides with a further widening of the gap between the main groups of the population as a result. Some participants viewed the lack of clarity on Kosovo's status as the main impediment to finding ways out of this crisis. Others were more hesitant to point to the lack of a final status as the cause of current stagnation.

Much debate generated the question what Kosovo's final status should be, or what a 'good' solution for Kosovo would look like. On the one hand, a number of participants argued that Kosovo deserved independence, especially in the light of 'facts on the ground', such as the invisible dividing line that separates the area north of the Ibar-river from the rest of Kosovo and the clear separation of the population between those two areas. Opponents argued however that these 'facts on the ground' were not part of a natural process, but merely the result of a forced campaign. In the view of these participants, the existence of such facts should not serve as a basis from which to derive independence.

Contrary to the argument that the situation inside Kosovo justified independence was the argument that there exists no legal basis for Kosovo's independence. This discussion revolved particularly around UN Security Council Resolution 1244, the resolution in which the outlook on independence as a future status for Kosovo is believed to be conveyed. Some participants believed that only an independent Kosovo - and thus in line with UNSCR 1244 - was a viable option. In addition, the argument was brought to bear that, given apparent misconduct by the Serbian government against the Albanese population of Kosovo, the Serbian government had neglected its responsibility to protect. This gave the Kosovars, as one participant noted, a right to self-government, or a so-called 'just secession'.

Others disagreed and claimed that Resolution 1244 does not contain an absolute notion of independence. In their view, Kosovo should not become independent, but should remain a



part of Serbia because neither the aforementioned resolution, nor other standards of international law provide for independence for minorities. In other words, there exists no legal basis for either partition or independence. This conviction can explain Serbia's move to petition Kosovo's independence for the International Court of Justice. Some worried that in addition to regional instability Kosovo's independence would also generate a mass influx of Serbian refugees from Kosovo. Yet many participants were not that outspoken and pointed to the fact that those Serbs who wanted to leave have already left.

In general terms of conflict resolution, some contended that an "imposed peace" would never deliver a sustainable situation and that negotiations for a compromise should continue. However, finally, many agreed that a duration of the conflict would minimize the chances to find a 'good' solution; and that in essence, there exists no 'good' solution anymore. In the words of one participant, only "bad and not so bad" resolutions remained on the table and a decision on which option to take should have the first and foremost the interest of the population at heart.

There was one reference to, in case of continued tension, a possible spill-over of the conflict to the region.

4. Minority Rights

The protection of minority rights within Kosovo constituted another topic for debate. The Kosovo Albanese population constitutes historically a minority group within Serbia, but represents a majority group within Kosovo. With a dominant position within the Kosovo interim government, the Kosovo Albanese majority has the responsibility to take the rights of other minority groups within consideration. By the same token, the Serbian government has a responsibility to respect and uphold the rights of the Kosovo Albanese minority within all provinces of Serbia.

Most contributors agreed that the actions of both the Serbian and the Provisional Government of Kosovo have not contributed to the enhancement of mutual respect and cooperation between all groups of the Kosovo population. By tolerating actions from one group vis-à-vis another group, both governments have contributed to the deepening of the positions of all fractions. To undo this damage, some participants stressed that the needs and the interest of the local population, of "civil society", should guide policy makers. This means that politicians should follow through on their expressions of sympathy and "walk the talk".

Besides the perceived animosity between warring groups of the population, participants with recent field experience added that feelings of fear, anxiety and tenseness linger amongst affected minority groups. With respect to these sentiments, participants noted that particularly the Serbian minority within Kosovo suffers from poor representation, partially by the Serbian government in Belgrade, partially by the interim government in Pristina. As one contributor pointed out, the Serbian population north of the Ibar River is encouraged not to vote or to support the interim government, effectively sowing a sense of distrust amongst the population towards any representation that is not ethnically alike.



Finally, one contributor questioned the stamina of the Kosovo interim government to uphold the rule of law in the face of political gains. This concern stems predominantly from the alleged unwillingness of the interim government to work with international legal bodies to investigate wrongdoings and prosecute liable wrongdoers, particularly from its own cadre. The application of the rule of law as the basis for legal action against all members of society is indeed all the more relevant as the interim government itself is confronted with a large minority group within its own territory. A wantonly application of the rule of law adds to distrust, confirms class justice, and increases tensions.

5. The past, present and future role of the International Community (IC) and the European Union (EU) in Kosovo

One of the main conclusions of the first expert brainstorm in October 2007 was that the International Community in general, and the European Union in particular, are confronted with a so called implementation gap, here meaning a lack of consistent implementation of original objectives or adopted and or imposed regulations and laws.

Contributors noted that, in the past, the International Community has played an ambiguous role in Kosovo's progression. Part of the community's objective was to provide for Kosovo's security and stability, and to enhance cooperation between all groups of the population within the Kosovo province. Some of the participants pointed succinctly to the fact that, had the international community achieved most of its objectives, this brainstorm would have been redundant. Moreover, some participants questioned the actual independence and integrity of the International Community. As noted above, current relations between the different groups of the population are tense and wrought with anxiety. In the light of this observation, one participant advocated the scrutiny of the IC as a whole. After all, if relations are now worse than ever, what does this imply for the IC's claim that its role was balanced and unbiased?

In the light of the proclaimed dissatisfaction with the role of the IC thus far, a majority of the participants advocated a new approach towards Kosovo by the IC. In particular, many contributors favored a more active approach by the EU in the settlement of this conflict, which would mark a new phase, given the observation that neither the United States, nor Russia are entrusted with the good faith of both parties. This may imply that the EU must use its carrot – EU integration – more openly and overtly as a means to settle the conflict. It may also imply that the EU should interfere and use the leverage it holds over both parties to bring them, once more, to the negotiation table.

During the brainstorm, the option to 'let things crash' in order to produce a clean slate was discussed, disputed, and repudiated. Some participants questioned the assumption that such a crash would be a worst-case scenario, instead contending that such a collision, regardless of the outcome would create a new situation with which to deal afterwards. Others objected to this idea, pointing to the chaos it would likely create amongst the civilian population. These participants highlighted the IC's responsibility and underscored that this consciousness of responsibility should guide the efforts of the International Community so that the Kosovo-crisis does not spiral out of control.



Related to the questions of responsibilities of the International Community was the issue as to how far the IC is willing to go to ensure the security of different groups within the Kosovo population. This question becomes all the more relevant, as virtually none of the participants appeared to be a proponent of the subdivision of Kosovo. Such a subdivision is considered to increase the security of the Serbian minority. Conversely, a unified Kosovo, or rather its government, bears responsibility for the protection of *all* minority groups within Kosovo. However, as the aforementioned paragraph already indicated, there exists much apprehension about whether a future government is willing to protect these groups from inter-ethnic violence. In view of this, it is important to gauge whether the IC will step in as gatekeeper and protect minority groups as vigorously as it has protected the Kosovo Albanese population in the past. Many contributors argued it should, less however, believed it would.

The image of the IC was another tenet of the discussion. Some participants noted that the image of the EU, but more generally that of the IC is rather negative, due in part to the previously mentioned alleged partiality and its far from decisive conduct throughout this crisis. Critical for the future will therefore be how the IC deems to re-cast its image. As some members argued, this can only be done if the IC is able to portray itself as a reliable partner in whom all parties can put trust. In order to avoid any trace of partiality, the IC should put the responsibility for Kosovo's future in the hands of those that want independence the most and see how it fares. Some also contended that the IC, in general, should have shifted (more) ownership earlier to local leadership.

However, as for its supposed indecisiveness, participants would like to see an increased involvement by the IC and more coordination between member states in order to formulate one common EU position. One of the participants pointed in this respect to the importance of a common position, as disunity may have grave consequences for the situation in the Balkans, but also for the EU's foreign policy.

In sum, all participants favored a more active role of the European Union, both for the sake of Kosovo and for its own continued relevance. Whether the EU should use its leverage on the Serbs or the Kosovars remained point of discussion, but a more active role of the EU to remove visible and invisible borders between the Serbian and the Albanese population was deemed both necessary and desired.

6. Possible ways to improve mutual understanding between Kosovo Serbs and Kosovo Albanians

Given the apparent dividing lines between the Serbian and Albanese population within Kosovo, there exists a necessity to stimulate inter-ethnic cooperation and communication. Moreover, the absence of a final solution for Kosovo does not obstruct the exploration of potential areas for future collaboration. A final topic for the debate was therefore a discussion of possible avenues to improve mutual understanding and a glance into Kosovo's future to identify areas where bridges could be built afterwards.



One specific area that was identified for possible collaboration was Kosovo's economy. In this area, the Serbian Kosovars and the Albanese Kosovars are mutually dependent upon each other; on a larger scale the same holds for the populations and the governments of both Serbia and Kosovo. The necessity to work together in order to boost economic growth may well be an area where the first tangible results of cooperation may become visible. A number of participants indeed acknowledged economic development as a crucial stimulus for inter-ethnic cooperation. Stressed was though that the economic integration of the population in the North of Kosovo was not well facilitated and that, in a sense, unwilling politicians hold economic growth hostage.

7. Conclusion

Mr. Bakker and Mr. Bas-Backer brought the expert brainstorm to a close with the conclusion that Kosovo has witnessed progress, but that the situation on the ground is neither stable nor secure. These deficiencies require a continued effort through which civil society is further strengthened and empowered and the protection of the rights of minority groups – whether within Serbian sovereignty or within an independent Kosovo – should have the highest priority. As Kosovo's future is an integral part of Europe's future, the conflict will continue to attract attention. Logically, the Clingendael Institute will continue to offer a stage for the invaluable exchange of knowledge and expertise with regard to Kosovo.

Done at

The Hague,
Netherlands Institute of International Relations "Clingendael"
January 16th, 2008 by Frank Kuipers



List of Participants
Kosovo Brainstorm December 13, 2007,
Clingendael Institute, The Hague, The Netherlands

1. *Mr. Peter Bas-Backer*
Ministry of Foreign Affairs, former Senior Deputy High Representative Bosnia
2. *Mr. Edwin Bakker*
Clingendael Security and Conflict Programme, Head CSCP
3. *Mr. Jaïr van der Lijn*
Clingendael Security and Conflict Programme, Senior research fellow
4. *Mr. Frank Kuipers*
Clingendael Security and Conflict Programme, Research Assistant
5. *Mr. Besim Beqac*
Kosova Chamber of Commerce, President
6. *Mr. Mathieu Hermans*
IKV/ Pax Christi, Teamleader Europe
7. *Ms. Christa Meindersma*
HCSS, Director Conflict Programme
8. *Ms. Hinke Pietersma*
Clingendael Diplomatic Studies Programme, Research fellow
9. *Mr. Yannick du Pont*
SPARK, stimulating entrepreneurship and higher education on the Balkan since '94,
Director
10. *Mr. Victor Popovic*
Center for Peace and Tolerance, Representative
11. *Mr. Albert Schoneveld*
Former political advisor EU Police Mission, Mostar
12. *Ms. Albana Shala*
PressNow



13. *Mr. Besnik Tahiri*
Political Advisor to the Prime Minister of Kosovo and Government Transition Coordinator
14. *Mr. Rolf van Uye*
NIOD, Leiden University, Campus The Hague, former Dep. HoM OVSE Kosovo, former head OVSE Mostar
15. *Mr. Johan te Velde*
IKV/Pax Christi, former, Director Democratization OVSE/Kosovo.
16. *Mr. Predrag Vitkovic*
LIZE, Consultative partner on Southern European Communities for the Dutch Government, Board member
17. *Mr. Michel van Winden*
Ministry of Foreign Affairs
18. *Ms. Christine Zandvliet*
International Criminal Tribunal for the Former Yugoslavia

The ambassadors from Bosnia/ Herzegovina, Croatia, and Serbia and representatives from subsequent embassies:

19. *H.E. Mr. Fuad Sabeta*
Embassy of Bosnia/ Herzegovina, Ambassador
20. *H.E. Mr. Frane Krnić*
Embassy of Croatia, Ambassador
21. *H.E. Mr. Radoslav Stojanović*
Embassy of the Republic of Serbia, Ambassador
22. *Mr. Neven Borić*
Embassy of Croatia, Counselor
23. *Mr. Nebojša Košutić*
Embassy of the Republic of Serbia, First Counselor



24. *Mr. Bojan Kljajic*
Embassy of the Republic of Serbia

Observers:

25. *Ms. Maja Nenadovic*
Phd Candidate, University of Amsterdam
26. *Mr. Michael Pavicic*
CSCP Conflict Research Unit