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The Western Balkans – Forwards, Backwards, Sideways?

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This well-attended meeting of the EUISS Task Force on the Balkans brought together EU officials and experts from both EU member states and from the Western Balkans region. The purpose of the seminar was to assess the situation in the region in light of the new government in Serbia, the blockage in the Kosovo status process, and the challenges ahead in Bosnia-Herzegovina at the start of the new OHR/EUSR's mandate. Each of these issues was addressed in a separate session (see attached programme). In this report, sub-headings refer these sessions, but separate sub-headings refer to major themes of debate that emerged and often recurred in more than one of the sessions, as follows:

- 1) Serbia – a fresh start?
- 2) The (in)effectiveness of EU conditionality in Serbia
- 3) Kosovo – drift to the unilateral scenario
- 4) Russia's 'return to the Balkans'
- 5) Bosnia-Herzegovina – unblocking reform

1) Serbia – A Fresh Start?

There was general consensus that the 'new' Serbian government was not really that new. Although at last, with the inclusion of President Tadic's Democratic Party (DS) in the ruling coalition, the Serbian government now has a majority in parliament, the government was formed very much on Prime Minister Kostunica's terms. And although there were some initial signs of improved ICTY compliance, these clearly signalled Kostunica's continuing control over the process and his determination to 'do it his way'. No one expects early delivery of Mladic. Kosovo still consumes almost the whole government agenda. Despite frequent quiet hints from DS leaders of differences with Kostunica's Democratic Party of Serbia (DSS) over Kosovo, Tadic and DS ministers in public appear 100 per cent behind the government line, which is set by Kostunica.

Coalition unity, however, is already under strain, notably over the forthcoming Presidential and local government elections, and over the distribution of patronage in the public utilities (which, one participant argued, is potentially even more explosive for the coalition than Kosovo). The economy, as for several years, has been going much better than politics. **Nevertheless, participants agreed that reforms in Serbia have not yet reached the**

‘critical mass’ necessary for an irreversible and self-sustaining new dynamic. The recurrent pattern of stop-start reform, doing the bare minimum for appearances’ sake, and avoiding any serious confrontation with the legacies of the past, seems set to continue.

2) The (in)effectiveness of EU conditionality in Serbia

An interesting debate developed about the effectiveness of EU conditionality. **Serbia is proving remarkably resistant to EU conditionality, which often does not produce the expected results, and sometimes even backfires.** Serbia seems not only not to be playing by the EU’s rules, but playing a different game altogether. Symptomatic was Kostunica’s statement that the reopening of SAA negotiations in June ‘offers a good opportunity for the EU to clearly display a spirit of partnership in relations with Serbia, which implies full respect of the sovereignty and territorial integrity of Serbia.’

Several closely connected questions are involved here:

- Is Serbia seriously interested in and committed to the ‘European perspective’?
- Is the EU coherent and consistent in setting and implementing its conditions?
- Is the conditionality attached to the mainly technocratic SAA process suitable and likely to be effective in inducing Serbia to make fundamental political choices about its statehood and national identity?

Serbian public opinion is quite strongly in favour of the country’s EU integration, and all the so-called ‘democratic’ parties say they are too. The problem arises when what one might call ‘Holbrooke’s choice’ – Europe or Kosovo? – is put to them. Indeed, public support for EU integration drops significantly when this is linked to ‘giving up Kosovo’. And it is clear that **Kostunica and the DSS** would choose Kosovo first, any time. Although Kostunica did feel some political damage from the SAA suspension, as a traditional nationalist in the nineteenth-century mode, he is a natural eurosceptic and is ready to exploit the EU’s internal weaknesses.

The position of the DS is ambiguous. In private, many DS leaders suggest that, if pushed, they would put ‘Europe’ first. But they have done absolutely nothing to prepare public opinion for this, and so it is very unlikely that they will ever find it politically convenient to ‘come clean’ and present the case for flexibility over Kosovo. Recent DS pronouncements on Kosovo have in fact been very hardline, leading one to question whether they do have a different agenda from Kostunica, or any agenda at all. Uppermost in their minds are always the next elections. **Their stance deprives the pro-Western and pro-EU section of the electorate of a clear voice, leading to apathy and withdrawal of this key constituency.** For whatever reason, the DS is failing to present serious alternative arguments to a public opinion that, to a considerable extent, is open to persuasion on the Kosovo issue. It was pointed out that, at present, the DS sees little gain in opening debate on a ‘Plan B’ if the Kosovo status process does not go Serbia’s way, because, so far, Kostunica’s ‘Plan A’ seems to be working.

Thus there is almost no public debate in Serbia on the costs to its EU integration prospects of remaining bogged down in the Kosovo quagmire.

Much frustration was expressed at the seminar at the ineffectiveness of the EU’s current conditionality in this context. SAA negotiations were opened in 2005 despite good reasons for doubt that Serbia was ready to comply with the political condition of ICTY compliance.

The aim was to provide Serbia with an alternative, future-oriented perspective in parallel with (but not linked to) the Kosovo status process. In May 2006, SAA negotiations were suspended due to unsatisfactory ICTY compliance, so the EU deprived itself of this key political lever just as the Kosovo status process heated up. It was remarked that the positive reception the EU gave the new Serbian constitution in November had sent a very odd message, given the dubious manner in which it was passed and its unhelpful new preamble on Kosovo. Then, in spring 2007, in increasingly obvious desperation, the EU restarted SAA negotiations – effectively as a reward for forming a ‘new’ government, not for ICTY compliance. It had merely secured new ‘assurances’ that ICTY compliance would follow – which did happen, but in strange ways, and then stopped. The restarted SAA has been claimed by the DS as its own success – but **Kostunica has also confidently claimed success in establishing that Serbia is the lynchpin of the EU’s Balkans strategy, and, as such, can impose conditions of its own on the EU.**

A key question debated was **whether the EU should make more explicit the linkage between Kosovo and Serbia’s EU integration prospects.** The linkage is obvious – Serbia will not be able to fulfil key requirements of EU membership if the Kosovo issue remains unresolved, and the EU will hardly welcome an application for membership from a state that is unwilling to cooperate with its Balkan neighbours and with the EU in resolving the key outstanding problem of stability in the Western Balkans. To date, the EU has carefully avoided spelling out this linkage, not only to avoid imposing another ‘special’ political condition on Serbia, but also because it fears that if Serbia today were faced with ‘Holbrooke’s choice’, it would choose Kosovo over the EU (as Holbrooke pointed out, if it chooses Kosovo, it will lose the EU prospect too). The aim of the EU’s approach, it was explained, is to advance Serbia far enough along the EU road that it really would have something to lose by persisting in its line on Kosovo – which is not yet the case. If Serbia can get candidate status by the end of 2008, it will be locked on track and will have greater incentives to change course on Kosovo.

The ‘functional logic’ of this argument did not go unchallenged, however. The underlying assumption is that if a ‘critical mass’ of SAA-prescribed reforms can be put in place, then this will lay the groundwork for fundamental political change. The EU’s system of incentives and rewards, and the steep learning curve involved in the reform process, are expected to reshape the political will and perceptions of Serbia’s political leaders. This may work – but it may not.

As all speakers noted, **there is already evidence of a lack of political will for far-reaching reform in several spheres that are central to the EU integration process** – reforms of the administration, security sector, judiciary etc. Several participants pointed out that reforms related to EU integration are costly in themselves, and tend to get more so, the further a country proceeds. The EU cannot offer enough, and soon enough, to make much difference to the Kosovo issue. Thus reaching that ‘critical mass’ of reform seems to *presuppose* fundamental political change in Serbia, rather than *generating* it. Serbia’s EU integration may come to a halt irrespective of what happens in Kosovo.

What would be gained by the EU becoming more explicit about the linkage between resolution of Kosovo status and Serbia’s EU prospects? The political risk of a Serbian anti-EU backlash are admittedly high. On the other hand, by failing to spell out the costs to Serbia of the *status quo*, and of indefinite postponement of Kosovo status, **the EU is not helping those in Serbia who would like to see a serious public debate and to stimulate a more rational strategic calculation of the ‘national interest’.** In particular, as long as the

EU avoids linking Kosovo and Serbia's EU prospects, the DS will continue with its current ambiguity and failure of political leadership.

This would not mean including Kosovo explicitly in SAA conditionality. The SAA needs to be implemented to support domestic reforms that Serbia needs to do anyway. **The Kosovo issue is rather a task for a more assertive EU public diplomacy.** This would involve spelling out clearly for public consumption in what ways the Kosovo issue obstructs Serbia's capacity to fulfil the terms of eventual EU membership, and what it means – what benefits it would bring – for Serbia to become a functional modern democratic state committed to the EU's values.

EU member states should be able to agree on what that means: a state that can credibly guarantee the human rights, identity and equality of all people on its territory without discrimination. **Serbia is unable to do that either in the *status quo* context of Kosovo under UNSCR 1244, or through its proposal for 'supervised autonomy',** which in practice amounts to handing responsibility for maintaining Serbia's territorial integrity to the international community, which would be required to indefinitely station an occupation force in Kosovo to keep the majority Albanian population in check. That is not in accord with the EU's values, nor its interests.

3) Kosovo – Drift to a Unilateral Scenario

At the start of four months of further consultations on Kosovo status, there is little reason to expect either agreement between Belgrade and Pristina, or a change in Russia's position. So it seems likely that in December, the issue will be no closer to resolution than it is today. If so, then there will be **an inexorable drift to unilateralism,** with Kosovo declaring independence, and then inviting the international community to extend recognition. It seems that the Ahtisaari proposals would be the basis for this, and that the Kosovars would invite in an international presence.

One participant queried whether (and indeed why) the Kosovar Albanians, at this point, would still feel obliged to constrain themselves by the terms of the Ahtisaari plan. The answer is that this would be the key to securing recognition; but still, much depends on how matters unfold on the ground. The credibility of the West has much diminished in the eyes of Kosovar Albanians. But the credibility of the Kosovar Unity Team has suffered even more. If elections are held, as expected, in November, the outcome will be a more fragmented Kosovar Albanian political scene, without the pivotal role of a strong LDK, which has split. **If *de facto* partition comes about (and there was no dissent from the view that this would be inevitable), then, as one speaker put it, 'territorial resentments' would very likely be unleashed among the Kosovar Albanians, leading to 'a change in the mode of settling the Albanian question in the Balkans'.**

Seminar participants agreed that the costs of the unilateral 'solution' would be very high all round:

- **For Kosovo,** it would be vital rapidly to win a critical mass of recognitions, but this cannot be taken for granted. The uncertainty could mean that the real situation in Kosovo for a while would actually be worse than the *status quo*. The international integration of Kosovo would be an uphill struggle.

- The likely secession of the north would put the **Kosovar Serbs** south of the Ibar at great risk.
- **For Belgrade**, there would be no ‘closure’ of the issue, and much effort and time would be devoted to fighting against international recognition at every stage and in every forum.
- **Regional stability in the Western Balkans** would be dealt a serious blow. **Regional cooperation** would be set back. One participant reiterated the risks for **FYR of Macedonia**: the FYROM government was now on Kosovo’s side, but only because the Ahtisaari proposal covered all its security concerns. If that framework is discarded, FYROM is indeed vulnerable. Reverberations in **Republika Srpska** can be expected.
- **The EU would see defeat for the multilateral approach**, to which it is committed. EU disunity no doubt encouraged Russia in its blocking approach, and prevented the EU from playing a role commensurate with its stake in the outcome. The process was left to the USA and Russia, neither of which has as strong an interest in the region as the EU. The question of the **legal basis for the EU’s long-prepared mission in Kosovo** would be tricky to resolve. A more important question is **building political unity among member states in the event of the unilateral scenario unfolding**.

4) Russia’s ‘return to the Balkans’

In both the first and second sessions, there was lively debate about ‘the return of Russia to the Balkans’ that President Putin announced to the SEE regional energy summit in Zagreb in June. Several participants saw Russia’s insistence on keeping UNSCR 1244 as an indication of its disturbing long-term political intentions. **Russia now sees its interest not in resolving the Kosovo problem, but keeping it open**. This allows it to re-enter the international stage, gain leverage over the EU’s strategy for the Balkans, play on divisions within the EU and between the EU and the US. With northern Kosovo a frozen conflict within the EU area, Russia would have a ‘cheap platform to poke a finger at the West’ for years to come. **EU disunity over Kosovo plays into Russia’s hands**. There was concern that Russia had **FYROM** also in its sights as future target. And (in the session on BiH, see below) it was noted that Russia might begin to assert itself in **Bosnia-Herzegovina** during the constitutional reform process. On the latter, it was reported that recently the Russians had been playing quite a constructive role.

As regards **Serbia**, one participant reported that a close reading of recent editorial comment in the Serbian press suggests that **most analysts do not regard Russia as a serious alternative to the EU**. Russia’s tough position on Kosovo seems in fact to have surprised Belgrade, and there has been some nervous questioning in the press of whether this is really a good thing for Serbia. At the same time, the idea of equidistance between Russia, the EU and the US has its attractions for many in Serbia (which again suggests the limits of the EU’s leverage via the SAA process). Another speaker noted that although PM Kostunica had at one point suggested that Russia would have ‘favourable treatment’ when it came to privatization of the petroleum industry, this had subsequently been retracted. However, Russians were more and more present and interested in Serbia’s utilities.

However, one speaker took a more sanguine view, arguing that **the Russian factor had been greatly overplayed in the discussion**. Russia’s real motives over Kosovo remain somewhat obscure, but Russia’s interest in the region remains limited.

5) *Bosnia-Herzegovina – Unblocking reform*

The new OHR/EUSR has taken over at a time of unprecedented decline in the legitimacy of his office. It was pointed out that this could not be simply blamed on the outgoing OHR/EUSR's *laissez faire* approach, which had failed. It could be said that all previous OHRs have, in a sense, failed. The apparent **decline in the international community's interest in BiH** had not helped. Changes in leadership in BiH have brought to power strong key personalities – **Haris Silajdzic and Miroslav Dodik – who are more stubborn and more clear-sighted about their aims than previous leaders, and less amenable to international persuasion/pressure.** Their personal mutual antipathy had much to do with the damaging dynamic of escalation in recent months. Yet deeper factors are at work: **Republika Srpska (RS) is in a phase of resurgence** as a coherent entity with definite political ambition, financially strengthened by recent privatizations. **The Federation (FBiH) is plagued both by institutional weaknesses and the divisions** that have emerged in the past year or so within the Bosniak and Croat political elites, and the sense of attrition among Croats has been growing. With the question of constitutional reform looming, there is emerging with increasingly clarity a **fundamental clash of two visions of BiH** and its future order. In the meanwhile, the ICJ judgement in February, and the unfolding Kosovo status process have introduced additional destabilising factors into BiH politics.

The challenge facing the OHR/EUSR is to restore the legitimacy and authority of his office, because it will be very much needed in the forthcoming constitutional reform process. The recent decline in OHR/EUSR legitimacy has *not* primarily been due to use/non-use of the Bonn Powers, but **failure to take an active role in the reform process.** It would be helpful to keep these two modes of action distinct: Bonn Powers should be used to deal with issues related to the legacies of the past (eg. ICTY, war criminals), while domestic reform processes – building the future – have to be 'locally owned'. But this does not mean the international community standing aside. Close intervention/mediation by the OHR/EUSR, with **clear backing by the EU and the international community,** remains essential, all the more so as the limits of reform under the Dayton framework will be reached with police reform. Thus **no deadlines should be set for drawing down the OHR** and renouncing the Bonn Powers.

One speaker advocated a major international conference of 'heavyweights' to take over the constitutional reform process – but this was a lone voice, not supported in debate at the seminar.

The 'April package' should not now be revived. It was vitiated in various ways: the way that it came into being as the product of behind-closed-doors, intransparent bargaining among party leaders; being driven not by the EU but by the US; and **not being centred on the requirements of EU integration.**

Precisely because the debate over constitutional reform will expose the clash of basic visions of BiH statehood, **at the outset two basic principles should be established:**

- (1) **RS will continue to exist in the future (whatever one thinks about its origins).** The suspicion of a 'hidden agenda' of dismantling the RS has to be dispelled.
- (2) **BiH as a state cannot be put in question.** The entities cannot leave BiH.

There was some debate about the effectiveness of the EU perspective as a lever over constitutional reform. **The future constitutional reform process should start from, and be guided at every stage, by reference to the requirements of a state that can engage effectively in EU integration.** At least rhetorically, all parties are committed to that.

The SAA process should evolve in parallel with the conditional reform process – the challenges of implementing the SAA will expose clearly just where transfer of powers to the State level is really necessary, providing pragmatic, empirical arguments for constitutional reform. The key is **improved coordination**, which may – or may not – require institutional reform/transfer of competences from the entities to the State.

The revised constitution will inevitably be a complex construction, but **complexity in itself is not the main source of BiH's dysfunctionality, but lack of political will.** Whether the SAA process in itself will provide strong enough incentives to generate a common political will among BiH's elites across the ethnic divide is, however, open to question. This needs to be complemented by a **more robust EU public diplomacy** to mobilise wider popular understanding of the EU and raise popular expectations of BiH politicians' performance as regards EU integration. Popular confidence in the EU perspective needs to be bolstered, especially in light of the eventual replacement of the OHR by the EUSR.