

INDEPENDENCE OF KOSOVO: DOES IT SET A DANGEROUS PRECEDENT?

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Broadcast live on February 17 by most of the Western television channels, we watched the joy mixed with pride and the communion of a people celebrating an independence that was so much desired for so long, and it was both beautiful and moving. Apparently there could be no doubt about the wish of the 90% of Albanians who populate Kosovo to separate themselves from Serbia and form their own state. The images from the streets of Pristina, the flags waving in all directions, the smiles and the hugging and kissing spoke for themselves.

This independence appeared to be inevitable for a long time. It was soon recognised by many countries, including the United States and 21 member countries of the European Union. But apart from the sympathy which it elicits, should we truly be congratulatory and rejoice over this? The recognition is problematic in terms of principles and carries concerns of a strategic nature. We have to wonder what will be the consequences of the proclamation of independence on triangular relations between Russia, the United States and the European Union. Such are the issues that arise now that the previously already very tough climate of relations between the Western countries and Russia show evidence of a clear heating up of the defunct Cold War.

1) A brief historical reminder¹

- **Slobodan Milosevic sets the fuse alight**

The first manifestations of tension between the Albanian majority and the Serb minority go back to 1987. But it was the 1996 decision of Serbian President Slobodan Milosevic to abolish the province's autonomy that set the powder alight.

Disappointed by the absence of any reaction from the West and frustrated by the ineffectiveness of the policy of passive resistance recommended by their charismatic leader, Ibrahim Rugova, certain Albanians in Kosovo turned to violence as the only means of challenging the Serbian regime. The first step in this direction was the creation of the

¹ <http://fr.wikipedia.org/wiki/Kosovo>

'Kosovo Liberation Army' (KLA) better known by its Albanian aronym UÇK (*Ushtria Çlirimtare e Kosovësen*). It launched a campaign of terror targeting and eliminating Serb leaders, police and border guards. The authorities in Belgrade responded with severe police and military counter measures.

- **The slow awakening of the international community**

In 1998, the international community emerged from its torpor and created a 'contact group' composed of Germany, the United States, France, the United Kingdom and Russia. The setback of the negotiations held under the aegis of the contact group and the approach of an imminent humanitarian catastrophe prompted NATO to intervene by waging an air campaign of bombardment called 'Operation Allied Force.'

- **A longer campaign than anticipated**

The operations were supposed to be limited to symbolic bombardment lasting 3 or 4 days to bring Belgrade to the negotiating table, as occurred when an end was put to the war in Bosnia. But in fact the bombing lasted 78 days. In total, the NATO air forces carried out more than 60,000 air sorties and more than 800 ground-to-air missiles were fired by the Serbian air defences. Some NATO ground units were concentrated in Macedonia, as well as a US Army brigade which landed, with difficulty, in Albania. These units constituted the advance elements of the future *Kosovo Force - KFOR*.

The air strikes lasted right up to the conclusion on June 3, 1999 of an agreement between the Federal Republic of Yugoslavia and the special envoys of the European Union (Martti Ahtisaari, at the time, President of Finland) and of Russia (the former Prime Minister Viktor Chernomyrdin). They came to present to Slobodan Milosevic, Serbian President and, since 1997, President of the Federal Republic of Yugoslavia, the demands of the G8 to put an end to the Kosovo conflict. On June 10, 1999, the bombardment ended and the Serb forces made their retreat from Kosovo. The province was taken over by the international force authorised by the United Nations, KFOR, within the framework of the operation 'Joint Guardian.' It was placed under the administration of the Acting Mission of the United Nations in Kosovo on the basis of Resolution 1244 of the UN Security Council.

- **Human and political results**

Though the human losses of this conflict were not clearly established, many organisations estimate that 10,000 Kosovars were killed by Serb forces. The air bombardments caused the death of between 500 and 1,500 civilians and of more than 650 Yugoslav soldiers. The NGO *Human Rights Watch*² estimates that the Serb forces expelled nearly 850,000 Albanians from Kosovo to Macedonia and Albania, and that many hundreds of thousands of others were displaced. In total, nearly 80 % of the population of Kosovo had been driven from their homes.

The damage to the reputation of Slobodan Milosevic caused him to lose the Presidential election in September 2000. He was arrested on March 31, 2001 and sent for trial before the International Criminal Court for ex-Yugoslavia, but he died before the end of his trial in 2006.

² <http://www.hrw.org/reports/2001/kosovo/undword-03.htm>

2) Consequences of this independence

If we want to have a precise idea of the consequences of such an independence, we must examine them through the prism of the tripartite relations among the three principal actors in this diplomatic imbroglio: Russia, the United States and the European Union.

- **Moscow sees red...**

For the future ex-President of Russia and soon-to-be Prime Minister Vladimir Putin, who spoke before the summit of the Community of Independent States (CIS) ³ on February 22, the case of Kosovo *'constitutes a disturbing precedent which does harm to the whole system of international relations that has been developed over centuries. At the end of the day, it is a double-edged sword which could one day turn against one or another of the countries which have recognised this independence.'*

Although Serbia hardly has the resources to react, that is not the case with Russia. It could not prevent the proclamation of independence of Kosovo, but – together with China – it can oppose its admission to the UN by using its right of veto. This is a new motive for confrontation with Washington and it is certain that Moscow will seek to obtain compensation or to take revenge in one manner or another. And there is no shortage of opportunities.

Already before this independence and during the whole period of negotiations led by Martti Ahtisaari, the UN Special Envoy, Russian diplomacy began to argue over the *'dangerous precedent'* that the international community, under Western pressure, was preparing to ratify. For Russian Minister of Foreign Affairs Sergei Lavrov, *'the unilateral declaration of independence by Kosovo could unleash a chain reaction at the same time both inside and outside the Balkans.'* ⁴ Sergei Lavrov was careful not to specify the areas about which he was thinking. However, the message was sufficiently clear for the international community to understand that he was making an allusion to the many secessionist trends which are sprinkled across the Balkans as well as the separatist conflicts of Abkhazia, Southern Ossetia on Georgian territory and of the Transnistria in Moldava.

All the peoples, provinces or minorities which aspire to independence on the five continents will now be able to claim the example of Kosovo. Russia will brandish it to support, when it sees an interest in doing so, the secessionist aspirations of the regions or autonomous republics of the states which emerged from the Soviet empire. In the Balkans, the Serbs of Bosnia, the Albanians of Macedonia, the 10% of Kosovar Serbs could now legitimately claim the right recognised for the Albanians of Kosovo. Finally, within the European Union, the Catalans, the Basques, the Turkish Cypriots, the Flemish and the Hungarians of Slovakia could tomorrow take advantage of this. This is why neither Spain nor Slovakia, nor Cyprus nor Greece will recognise Kosovo.

And that is not all. Russia supports Serbia in its rejection of this independence and will now have all the means to lean heavily and for a long time on the Balkans, where the future calls for integration one day into the European Union.

- **... getting caught up in contradictions ...**

On February 20, Konstantin Kosachev, the president of the Foreign Affairs Committee of the Duma, implicitly admitted the innocence of the threats to recognise the independence of Abkhazia and Southern Ossetia. For him, Moscow has more to lose than to gain and such

³ <http://fr.rian.ru/russia/20080223/99925267.html>

⁴ <http://www.kommersant.com/search-result.asp#searchtop>

recognition *'would unleash a grave crisis within the CIS, would exacerbate relations with NATO, the EU and the United States.'*

The most obvious contradiction rests in the fact that it is difficult for Moscow to present itself on the one hand, as favouring Serb territorial integrity and, on the other hand, to advocate the seizure of Georgian and Azerbaijani territory, not to mention its being a direct actor in the occupation of a part of Moldova territory in contempt of international law. If Moscow focused solely on the cases of Abkhazia and of Southern Ossetia, the Moscow authorities would give up the argument of the *'precedent having universal reach'* that Kosovo amounts to. Furthermore, by acting in this manner, they would expose themselves pointlessly to an angry response from the international community. Their troops are already deployed in these Georgian provinces (in the framework of a tripartite peacekeeping force) and the political leaders in place are in their pay. The maintenance of the present *status quo* perfectly suits Moscow, which thereby keeps a powerful means of applying pressure on Tbilisi. By maintaining the freeze on these separatist conflicts on Georgian territory, the Russian authorities strongly weaken the cause of Georgia's joining NATO.

- **... but not to lose business sense**

Having arrived in Belgrade on February 25 to reassure the Serb authorities on the unfailing support of Moscow, the First Deputy Prime Minister and Chairman of the Board of the Russian gas giant Gazprom and most likely future President of Russia, Dmitri Medvedev, used the visit to sign an important agreement worth 1.5 billion dollars over the construction of a gas pipeline across the whole length of the Serb territory.⁵ More discreetly, the Russian authorities announced the purchase of the Serbian national oil company *Naftna Industrija Srbije (NIS)* for a knock-down price of 400 million Euros, i.e., 1/5 of its value.

During this flash trip in the Balkans, the same Dimitri Medvedev made a stopover in Budapest, where he received the support of the Hungarian authorities for the implementation of the South Stream gas pipeline project. An agreement on this matter is expected to be signed in Moscow on February 28.⁶ This project, having a value of nearly 8 billion Euros, has already been approved in Bulgaria and Serbia, and it opens the doors to Europe wide to Gazprom. This pipeline could spell the death of the European pipeline project called Nabucco.

- **The Westerners face up to their responsibilities**

Well before the deadline of December 10 to reach an agreement with Belgrade over Kosovo, Washington and Brussels became convinced that independence was the only viable solution.

- **Washington is assuaged...**

During her visit to Pristina on February 21, Rosemary DiCarlo, the American Assistant Under Secretary of State, said laconically on the airwaves of the radio station *Écho of Moscow*⁷ that the plan of the UN Special Representative was the only possible outcome of the Kosovo conflict. *'It was no longer possible to make the status quo last. One had to take a decision making it possible to resolve the question of the status of Kosovo ,'* she added before expressing satisfaction that *'the events of February 17 developed in a peaceful manner and without incidents.'*

⁵ <http://www.japantoday.com/jp/news/429265>

⁶ http://www.ft.com/cms/s/0/7dc1daa6-e3f5-11dc-8799-0000779fd2ac.html?nclick_check=1

⁷ <http://fr.rian.ru/world/20080221/99803364.html>

For his part, the American Secretary of Defense, Robert Gates, visiting the capital of Indonesia at the time, did not think that the recognition of the independence of Kosovo would be able to intensify separatist trends in various regions around the world. *'I don't believe that this can provoke a domino effect,'* he said during a press conference, adding that this was *'a unique situation in a class by itself.'*⁸

The American position, quite restrained despite the outbreak of violence which, in Belgrade, led to the sacking of its embassy, can be explained by the fact that the UN Security Council is getting ready to discuss new sanctions against Iran⁹, and Washington needs Russian support to succeed in getting a new resolution.

Another explanation seems to lie in the American difficulties with putting in place their missile defence shield in Europe. For Joanne Landy and Thomas Harrison, in an article published by *Foreign Policy in Focus*¹⁰, the setting up of this shield is encountering more and more opposition. Both on the external level, where the Polish and Czech populations are beginning to mobilise against what is presented by the authors of the article as the start of a *'new Cold War,'* and on the domestic level, where the American Congress has made known its skepticism and doubts by stripping 160 million dollars from the budget for this programme. The abandonment or putting to sleep of this project, which is considered to be a *casus belli* by Moscow, would certainly be very much appreciated by the Russian authorities and could serve as useful bargaining chips for the thorny problem of Iran.

- **... and the common Foreign and Security Policy of Europe encounters areas of turbulence**

The statement of the Slovene Minister of Foreign Affairs, whose country has presently assumed the Presidency of the European Union, sums up the Europeans' embarrassment. He proudly stated that the EU had a common position.¹¹ And this common position is very simple: the 27 are free to decide individually whether they recognise the independence of Kosovo or not. In a word, the 27 have agreed not to agree!

Certain European countries, including Spain, Greece, Slovakia and Cyprus, are very sensitive to the main argument advanced by Serbia and Russia: territorial integrity should have priority over the principle of self-determination. Confronted by regional separatist movements, they believe that the granting of independence to Kosovo represents a dangerous precedent. The rallying of these countries to the Ahtisaari plan and to the mission of the EU planning team in Kosovo was thus made dependent on a new resolution within the Security Council which would be devoted to the uniqueness of the Kosovo case.

In this context we see how alarmist talk concerning the credibility of the common foreign policy has multiplied since the end of 2007. *'The external policy of the European Union was born in the Balkans, and it should not perish in the Balkans'*¹² Bernard Kouchner, French Minister of Foreign Affairs, and his British counterpart, David Miliband, warned in an article in *Le Monde*. As regards Javier Solana, the high representative for the Foreign Policy and Common Security of the Union, he said on October 3, 2007, that *'the EU should be ready to take over from the United Nations as from December.'*

For some European countries, reducing their energy dependence on Russia runs through the Caucasus. But it also runs through the Balkans, across which the hydrocarbons from the

⁸ <http://fr.rian.ru/world/20080225/99997775.html>

⁹ http://fr.news.yahoo.com/afp/20080224/twl-serbie-kosovo-independance-russie-ue-c99dde2_3.html

¹⁰ <http://www.fpipf.org/fpiftxt/5005> « *Pushing Missile Defense in Europe* », 22 février 2008.

¹¹ <http://www.radiofrance.fr/franceinter/chro/regardsurlemonde/index.php?id=64720>

¹² 'Kosovo, a European matter,' *Le Monde*, September 6, 2007.

Caspian will be carried to Western Europe. In this framework, the stability of the Balkans and the integration into the EU are stakes of strategic importance. Unfortunately, the interests of the Union could be halted before those of the individual states, carrying a new blow to the ideal of a powerful Europe equipped with a common foreign policy.

3) Conclusion

On a strictly legal level, the history of the independence of Kosovo started out with a violation of the international rules forbidding the use of force. The 'à la carte' use of international law by the various protagonists of the war over Kosovo has been flagrant. In Western capitals, they call it a case of force majeure, adding, in a whisper, that, after all, Serbia lost the war and every defeat has its price. That is all true, but you do not violate international law with impunity in a world which has so much need of it.

It is true that in 2005, the 150 heads of state participating in the world summit of the United Nations adopted unanimously '*The Responsibility to Protect concept.*' This concept formalises the conditions in which the international community has the obligation to intervene, using force if necessary, when a country is unable or refuses to protect its population and when crimes against humanity are being committed.

As the first collateral victim of this conflict, international law will also be the last one. This independence tramples on the law which guarantees every member state of the United Nations, including Serbia, respect for its borders and its territorial integrity. In the defunct Yugoslav Federation, Kosovo was not a constituent republic having the right to withdraw from the Federation. This province was an integral part of the Republic of Serbia and its secession, in this respect, is illegal.

This second violation, far from cancelling out the effects of the first, only amplify them. Though it may not create, *stricto sensu*, a dangerous precedent, it dangerously complicates the situation in a region that has long been considered as potentially explosive. It's not for nothing that it still bears the nickname of the '*powder keg of the Balkans.*'

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