

## The prospect of Kosovo in the European Union: Optimism and challenges

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### Abstract

This article explains the prospect of Kosovo in the EU, and the challenges that Kosovo is facing during this process. Kosovo is the last country in the Western Balkans, which is in the early stage of the accession process, respectively Stabilization and Association Process. This process was not an easy one for Kosovo. The optimism of Kosovo in being part of the EU brought many challenges, which initially were related to the unresolved political status of the country. Kosovo was deprived for a long period from the Stabilization and Association Process and its agreement. With the declaration of independence, on February 17th, 2008, and the refusal of five EU member states to recognize the independence, Kosovo continues to hamper the normal development of Kosovo in the European integration process. This paper analyzes the challenges that Kosovo has faced in the past related to this process, and its future challenges in the process of EU membership. This article also treats the issue of the footnote, used as a reference to Kosovo by the European Union. This fact is evidence that EU member states have an irreplaceable role within the Union, regarding the recognition of new states and their acceptance in the accession process. The EU as a "supranational organization" since its creation is being developed and changed, and the events, which have occurred recently, such as the failure to adopt the EU constitution, the referendum held for the exit of the UK from the European Union, are signals for the need for necessary changes in the reformation of the EU. The signing of the SAA with specific conditions, does not guarantee that the process of obtaining the status of candidate for EU membership will pass without difficulties, due to the refusal of the recognition of the independence of Kosovo by five member states. Main challenges are the internal reforms and their implementation.

**Keywords:** European Union (EU), Kosovo, status, the integration process, the Stabilization and Association process.

### Introduction

Full membership in the European Union is the intention not only for Kosovo but also for the other Western Balkan countries (Albania, Macedonia, Montenegro, Bosnia and Herzegovina, and Serbia). The EU is not treating the accession process, for all countries of this region, equally. The status of Kosovo in this process is unique, not only in SA process, but in the content of the Stabilization and Association Agreement (SAA) as well. Kosovo, still, doesn't clearly know when will receive the status of the candidate (currently Kosovo has the status of the potential candidate. In contrast this situation, a special status for Kosovo during the war and until today, because of the international (mandate) missions presence in Kosovo, such as the UNMIK, EULEX, ICO and KFOR. Their competencies often stretched over all authority or institution in Kosovo, example of the Special Representative of the Secretary General (PSSP), and the International Civilian Representative in Kosovo (ICR). Kosovo had

a special status after the war and until today, caused by the presence (mandate) of international missions, such as the UNMIK, EULEX, ICO and KFOR. Their competencies were often extended above the authority of every institution in Kosovo, as it was the case of the Special Representative of the Secretary General (SRSG) and the International Civil Representative (ICR). The agreement reached in Brussels between Kosovo and Serbia, with the mediation of the European Union on Kosovo's participation in regional and international initiatives, was by using the footnote, which has a double meaning. The first is "without prejudice to positions on Kosovo's status and subject to Resolution 1244/1999 of the UN", and the second "takes into account the opinion of the International Court of Justice on Kosovo's declaration of independence". However, except in the case of dispute by Serbia, the use of the footnote is seen as a solution with other countries, which have refused to recognize Kosovo's independence, including the EU five countries. Despite these difficulties that Kosovo faced in building and strengthening the state, and were promoted through participation in various international organizations, its optimism remained at the highest level compared to any other country in the region. Whatever the reasons for this optimism may be, especially in terms of European integration; this optimism is supported by many different political and economic factors in Kosovo's path towards the EU, as one of the most perspective alternatives. The time of the last decade was regarded as successful for the countries of South-Eastern Europe (SEE) (Kathuria, 2008 XV). Regardless of the various developments in this region, their focus is mainly concentrated in the state building and their investments (Jano, 2010 9). Despite the fact that the EU is seriously committed to help these countries by offering them the European perspective, the role of the USA in this process, is not only necessary, but it is also irreplaceable, especially in the case of Kosovo. Resolving the issue of Kosovo as an "international problem" has demonstrated the irreplaceable role of the United States, not only in the region but also in international politics.

### **Kosovo's optimism about European Integration**

Kosovo, although the ultimate country in the Western Balkans, which has benefited from the European integration process, its optimism is mostly emphasized compared to all countries in the region. Such support is the result of five factors that have mainly influenced in Kosovo. The first factor is the presence of international missions, which based on their number, duration and mandate are specific not only for this country but for many different researchers as well. The mandate of the UN (UNMIK) was the first mission, and was known as one of the largest missions around the world, in terms of the composition and powers associated with its mandate. Its main representative (Special Representative of the Secretary General - SRSG) has exercised almost three functions of the government's branches. SRSG had the executive, legislative, and judicial function. The NATO intervention in Kosovo enabled the return of the control (the governmental right) to the political, economic, and social life, which in this case belonged to UNMIK mission and not the Kosovars. Kosovo's declaration of independence on 17th of February 2008, under the plan of former Finnish President M. Ahtisaari, brought a new mission. The mission of the International Civil Office

(ICO) and the International Civil Representative (ICR), who was also the EU Special Representative (EUSR) in Kosovo which were appointed by the European Union. The mandate of the ICR was to oversee the implementation of Ahtisaari's plan related to his proposal for resolving the status of Kosovo. The international supervision after the declaration of Kosovo's independence ended in 2012. In addition to this mission in Kosovo, the mission for the rule of law EULEX was also installed, which even after the end of the supervised independence, continues its mission in Kosovo (with the approval of local institutions - Kosovo Assembly). Besides the above-mentioned missions, there is also that of KFOR (Kosovo Security Force) which is still present in Kosovo. Non-inclusion of the Kosovo issue in the Dayton Agreement of 1995 (which ended the war in Bosnia and Herzegovina) affected the perception that the USA and European Union (Welfens 2001, 6) neglected the country. However, the period of international administration changed it. The second factor, which is also a very important one, is the period of reconstruction in Kosovo. With the beginning of the reconstruction and acceptance of different funds for development of the country, from various international institutions and mainly from those of the EU, increased the hope of the population and institutions (known as temporary and self-governing) of Kosovo. EU institutions often made it public the fact that Kosovo has benefited a large number of European Union funds for reconstruction and state building. Besides the requirements for meeting the criteria for EU membership, the EU also offers various funds for the fulfillment of these criteria, mainly through IPA funds, of which the Kosovo is also a beneficiary. Thus, EU funds (IPA funds) are incentives for small countries, which are in the process of development, to rush the accession process, as is the case with Kosovo. The third factor is the benefit of free movement of people in the Schengen area, otherwise known as visa-free movement in the Schengen Area. This process is not necessarily connected with the EU accession process, because the countries that are beneficiaries of visa-free regime cannot be the potential candidate countries for EU membership, such as Taiwan, South Korea, and so forth. Kosovo viewed this process with hope, and "surprisingly" it is the only country in the Western Balkans that has not gained it. A fourth factor is the refusal to recognize Kosovo's statehood, both from Serbia, as well as from five European Union member states such as Spain, Slovakia, Romania, Greece and Cyprus. Kosovo, since its declaration of independence, has consistently lobbied for membership in several organizations and various international mechanisms. Eventual EU membership undoubtedly opens the door for a larger, inclusive, and equitable perspective for Kosovo. The fifth factor is the purpose of the Albanian people, which is an absolute majority in Kosovo, that through its membership in the EU, together with Albania, to fulfill the dream of national unity within a larger union. The inability to realize interests through any other alternative, these are the main factor that affected the optimism of Kosovo for her future and European perspective, the inability to realize interests through any other alternative. Kosovo's involvement with (or without) footnote in regional and international which initiatives Kosovo's participation in regional and international organizations is important not only for the fact of being part of the representation, but to also openly impose and show the willpower of the nation, by defending the interests of the country. The main purpose of establishing such regional and

international organizations, first, is to maintain peace through increased cooperation. These organizations have increased in number, mainly after World War II (Gruda 2003, 304) and have become part of various studies in the field of international relations. The EU has included Kosovo and the region in the process of European integration, seeking the fulfillment of membership criteria. Besides the membership criteria, these countries are also required to have additional specific criteria, such as regional cooperation. This regional cooperation could not be developed due to the refusal of acceptance of Kosovo's independence from Serbia. A solution is reached with the mediation of the EU, where Kosovo will not be hindered to participate in regional and international initiatives, by using the footnote. This footnote for Kosovo is also used by the EU due to the refusal of five Member States that have not changed their attitude towards Kosovo. The case of Kosovo is a case that has split not only the EU, but also the organized international community (Weller 2009, 33).

Regional cooperation, or as often known as the Western Balkans regional approach initiated by the EU, with a new strategy, has had an impact in the countries of the region, in promoting the cooperation (Kipred 2014, 17). Under international law, the recognition of states and of their independence is a matter of fact, and not of law. A state becomes a subject of international law, only if it has a stable or permanent population, designated territory, a government or an administration of the territory, and the ability to enter into relations with other states (Gruda, 2003, 59). Also the recognition or non-recognition of a state is done only by states, and not by regional or international organizations, regardless their character. In the case of the EU, the member states decide on the recognition of new states, as is the case of recognition or non-recognition of Kosovo statehood. Out of 27 EU member states (excluding the UK after a referendum on secession), Kosovo's independence has not yet been recognized by five of them. Kosovo and Serbia, with the mediation of the European Union in 2012, have reached an agreement for the Arrangement Regarding Regional Representation and Cooperation. In this case Kosovo is recognized as an international entity, which may conclude bilateral and international agreements, and can be represented in regional and international organizations. However, the Kosovo's participation under this agreement will be accompanied by a footnote with an asterisk, in which it will be written: "This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence". As such, it consists of three main elements; the first is the declaration for not prejudicing the status of Kosovo. The issue of the status is opened, and is not prejudiced; the majority of EU countries already recognize Kosovo as an independent and sovereign state. Secondly, it has to do with the compliance with Resolution 1244/1999 of the UN Security Council, which has still not been repealed by the Security Council of the UN, however it has lost its role. Thirdly, it is highly important that the International Court of Justice is of the opinion that Kosovo's However, Kosovo's participation in regional and international initiatives, in one way or another, is continually hampered by Serbia, despite the fact the agreement was reached. The footnote is used because it was thought that it would bring two simultaneous solutions, such as: overcoming the problem with Serbia, and with five EU member states, which refuse the recognition of Kosovo. Although the

expected results are not achieved, Kosovo has one and for all exceeded the risk of isolation.

### **Kosovo' challenges facing the accession process**

Kosovo currently faces two challenges: at the internal and external level. The internal challenges occur in two areas: to achieve the reforms and the integration of minorities. Kosovo currently faces two challenges: at the internal and external level. The internal challenges occur in two areas: to achieve the reforms and the integration of minorities. Development of internal reforms is a major challenge to every country, going through the transition period. Transition period cannot be measured only by its duration, but with the fulfillment of obligations and internal reforms in order to be transformed into a democratic country. To achieve different objectives, Kosovo institutions should consider the construction of four major factors, such as political will, internal consensus (between government and opposition, and beyond (ethnic)), providing support to the citizens and building the capacity of public administration (Reka 2010, 296). Integration of minorities, especially the Serb minority is the main challenge of the Kosovo institutions, not only after the declaration of independence, but also in time of international administration. Their non-integration is largely driven directly from Serbia through funding and influence in Serbian illegal parallel structures in Kosovo (OSCE report, 2006-2007, 5). Serb minority is constantly finding support from Serbia in rejecting its integration, despite the provision of opportunities through positive discrimination by the majority for the sole purpose of integrating this minority. The level of Kosovo's participation in the EU accession process is an external challenge, and the process in question was not done as it was with other regional countries. Until 2015, Kosovo was not directly involved in the Stabilization and Association Agreement. However, the signing of this Agreement (SAA) is made after finding a solution such as the use of the footnote, as an option used by the EU to overcome the internal divisions, mainly of the five member states that have not recognized Kosovo. In addition, Serbia continuously hampered the membership of Kosovo in various regional organizations.

Nowadays, Kosovo faces some internal issues that have direct impact on democracy and the rule of law, and that often are measuring parameters for its advancing towards the EU association. Implementation of the SAA is the primary for its advancing to eventual membership. SAA implementation is necessary and the only way of its integration. The main elements are the rule of law and international instruments concerning the protection of human rights, the system of independent and efficient judiciary, implementation of reforms in public administration, fighting organized crime, corruption, and terrorism, as well as all other negative phenomena in Kosovo. Full implementation of the SAA does not automatically mean that Kosovo becomes a candidate country for EU membership. To gain the status of candidate country, Kosovo must send the request or apply for the status of the candidate country. At this stage, it is important for Kosovo to ensure a stable, coherent of the implementation of obligations arising from the SAA and the European integration process. The accession process is a long and marathon process, since a government submits the relay to

other government and it then to another, and so on (Reka 2010, 297).

Therefore it is highly important to build overall political consensus between the government and opposition, as well as national (and ethnic). National policies should be more coherent, because the priorities of the EU enlargement will not always focus on the Western Balkans.

## Conclusions

Finding the solution for Kosovo to participate in regional and international organizations, with the footnote, was not thought well because out of 28 member states (including here the United Kingdom), only 5 of them did not recognize Kosovo. Hence, it means that the 23 member states of the EU treat the status of Kosovo just as the other 5 EU countries. An acceptable solution would be the mentioning of the countries that refuse to recognize the statehood of Kosovo (by footnote).

In the case of national policy development, Kosovo is losing time in overcoming its transition. Fulfillment of domestic reforms and international obligations must be accelerated, and time shall not be lost on just a few issues, thus overshadowing its economic development. Kosovo must make substantial reforms in certain areas, aiming to increase responsibility and accountability, as well as take over new responsibilities.

Kosovo currently lacks a domestic and inter-ethnic political consensus. Its European agenda should be part of the political program of all political parties and coalitions in the country. This agenda should not change the priority of any government or ruling coalition in Kosovo. Although, in the entire Western Balkan, Kosovo is the most "discriminated" country in the process of EU accession, it remains the first country on the basis of the citizens' optimism and their support for the association in the EU.

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