

KOSOVA/O AND THE EUROPEAN INTEGRATION CHALLENGES

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Kosova is one of the newest countries of the world and since its Declaration of Independence (February 17, 2008) it is recognized by 23 EU member states out of 28. Since the declaration of the independence the activities of the Kosova state were developed between the hesitation of five states to recognize Kosova in one side and the attitudes of the European Commission for EU perspectives of Kosova, at the same time respecting the attitudes of individual states to act based on their standards and inner decisions regarding Kosovo, on the other side.

Paper will review and will stress out the EU criteria of accession and the Kosova EU perspectives, who even though not treated as an independent state by EU institutions, it can enter into contractual relations with the EU, first of all on signing the Stabilization and Association Agreement. EU perspectives of the Western Balkans exist earlier and are crystallized with the Stability Pact. Taking into the consideration that Kosova was not recognized as a state and since there were no intentions to leave Kosova outside of the EU perspectives, a special mechanism was created for Kosova: Stabilization and association Tracking Mechanism.

Paper will stress out challenges and criteria that Kosova has to fulfill as well as the recommendation that could be used by Kosova state structures and at the same time they could be part of the academic debate within and outside Kosova.

Key words: Kosova, European Union, integration, SAA, criteria

Introduction

Aspirations of Kosova and its people towards European integration are not very new ideas. Kosovo commitments on fulfilling criteria and obligations set up by EU¹ for new states that aspire integration are continually stressed out by Kosovo and its institutions. Aspirations for EU integrations exist and they are very strong in Kosovo even though Kosovo in some aspects is being not treated equally compared to other countries from the Western Balkans. This first of all based on the fact that Kosovo has not been still recognized by five EU member states² whereas EU institutions in various forms work and cooperate with Kosovo. But no matter of this, in Kosovo and within the

¹ European Union is a unique economic and politic partnership between 28 states, that together in cover the biggest part of the continent. EU was created at the end of the Second World War. First steps were: strengthening of economic cooperation: idea that states that trade o each other become interdependent and in this way very easily avoid conflicts. Result was: Economic European Community (EEC) was initially created starting by increasing the economic cooperation between six states: Belgium, Germany, France, Italy, Luxemburg and Holand. Since then a big market was created and continues to be developed towards its total potential. (see more at official web page of EU: http://europa.eu/about-eu/index_en.htm)

² Slovakia,Romania,Ciprus,Greece and Spain have not recognized Kosovo as per April 2014

Albanians in general pro Europeanism has never been fade even though doubts appeared time after times. And Kosovo pro-europeanism is manifested in various forms, whereas for the needs of this study, we will focus on the requests Kosovo had for freedom and independence (before) and on the efforts of Kosovo in the directions of European integrations. Support to the European integration in Kosovo is more visible compared to that in many countries of South-East Europe. This could be verified with the results of survey developed in Kosovo, according to which:” EU popularity in Kosovo remains quite high: in a referendum to join EU, 72% of citizens would give answer “YES” – that is a percentage that has not changed at all from two previous years. Most of citizens believe that the integration is an advantage for Kosova; almost 90% strengthening of connections with EU consider as very important; and more than 70% of them see the integration in EU as a possible solution for existing problems in economy, traveling, corruption, ensuring the future for youth, social wellbeing and in the fields of agriculture.³ On the other side EU itself has passed through some certain phases for what there were needed several steps and those as follows:

- 1951: The European Coal and Steel Community is set up by the six founding members.
- 1957: The same six countries sign the Treaties of Rome, setting up the European Economic Community (EEC) and the European Atomic Energy Community (Euratom).
- 1973: The Communities expand to nine member states and introduce more common policies.
- 1979: The first direct elections to the European Parliament.
- 1981: The first Mediterranean enlargement.
- 1992: The European single market becomes a reality.
- 1993: The Treaty of Maastricht establishes the European Union (EU).
- 2002: The euro comes into circulation.
- 2007: The EU has 27 member states.
- 2009: The Lisbon Treaty comes into force, changing the way the EU work⁴

These steps represent in a way stages of EU development, but when we talk about the context of Kosovo aspirations to EU accession we may say that we see this at the late stages. Whereas the process of dissolution of Yugoslavia notes the momentum when Kosovo establishes contacts with Brussels for Kosovo constitutional issues. These initial

³ Survey that was organized and financed by EU, ”EU perspective in Kosovo” (EUPK) and which was realized in May and June 2010 by ”UBO Consulting” content 1500 face to face interviews with the representatives from the all country, Albanians, Serbs and other minority communities in Kosovo, that were divided as per gender, education, incomes and their urban or rural origin. Similar survey was realized for EU Office in August 2010 that as a good possibility to compare trends and aspirations in the public opinion. For more about the survey see: complete survey is at the disposal at EUPK web site (www.eupk.org), Ministry for European Integration – MIE (www.mei-ks.net) and the EU Office (www.eeas.europa.eu/delegations/kosovo).

⁴ Pascal Fontaine, European Commission, Directorate-General for Communication Publications, ISBN 978-92-79-17486-5, European Union, 2010

contacts were not contacts with the accession aims because the process of dissolution of Yugoslavia was being developed in the time when the European trade was being strengthened and in the time of Maastricht Treaty that was creating EU. In fact here in the EU “was being made clear that EU would take in its hands the issues of foreign policy and the European security”.⁵ Based on this, initial contacts aims had to do with: the sensibilisation of Kosovo issue, request for treating Kosovo equally to the other units of Yugoslavian federation, securing the support for other fields and other requests of this nature. Whereas Europeans themselves in 1991 decided that “the right of secession from the Yugoslavian federation had only republics, and not autonomous provinces (Kosovo and Vojvodina). European countries under the France dictate recognized Serbia after Dayton (1996) by old name Yugoslavia and thus gave Serbia and Monte Negro the right to inherit the name of former ruined federation.”⁶

Earlier European Community adopted guidelines for recognition of new states after the dissolution of USSR and RSFJ, and this issue deserves a special academic analysis in order to see if Kosovo could have used these guidelines before and if it is using these guidelines nowadays for the needs of recognition.

EU efforts to intervene in solving the problem of Kosovo during the pre-war period of time even though did not offer solution in accordance with the expressed requests by Kosovo Albanians, were sabotaged and refused continually from Serbia. Serbia all of the time kept the position of treating Kosovo as an internal problem of Serbia. It refused always international initiatives and it did the same also in the time when the conflict was being expanded. Thus in the summer 1998, EU in order to witness an intensive activity in addressing the solution of Kosovo problem, decided to engage former Spain Prime Minister Felipe Gonzales as a special envoy to intermediate peace between Serbs and Albanians. He was at the same time also a special OSCE envoy for the long waited dialogue. But Millosheвич refused the visit of Gonzales in Belgrade, since, as he stated, it could not allow EU and especially OSCE intervention in the internal affairs of Yugoslavia (Serbia), whose member was not Serbia.⁷ But let's focus more on what happened in the post war period (1999) with the emphasis of requests made after the war and the request made after the Declaration of Independence (2008).

On June 10, 1999 initiated by EU in Cologne the Stability Pact for South-East Europe was adopted.⁸ This was one of the biggest engagements of EU⁹ where more than 40 partner countries and organizations determined on strengthening the countries of South-East Europe in the efforts for peace, democracy, respect for human rights and economic prosperity towards achievement of stability in the region. All countries of region were promised euro-

⁵ Enver Bytyçi, *Diplomacia imponuese e NATO-s në Kosovë*, Instituti i studimeve të Evropës juglindore, Tiranë, 2012, fq.386

⁶ Enver Bytyçi, *Diplomacia imponuese e NATO-s në Kosovë*, Instituti i studimeve të Evropës juglindore, Tiranë, 2012, fq.389

⁷ Joint Action on the nomination of an EU Special Representative for the FRY, 8 June 1998, dok.in.a.a.O., faqe 229-230, cited by: Enver Bytyçi, *Diplomacia imponuese e NATO-s në Kosovë*, Instituti i studimeve të Evropës juglindore, Tiranë, 2012, fq. 391-392

⁸ <http://www.stabilitypact.org/about/default.asp> (accessed on: January 02,2014)

⁹ Enver Bytyçi, *Diplomacia imponuese e NATO-s në Kosovë*, Instituti i studimeve të Evropës juglindore, Tiranë, 2012, fq.399

atlantic integration. Pact was re-affirmed in the Sarajevo Summit on July 30, 1999.¹⁰ Even though it was said that it was being worked for a scenario to involve all countries of the Western Balkans¹¹, however for Kosovo were not created equal opportunities as they were for other countries of the Balkans. Moreover, due to the fact of non recognition of Kosovo statehood by Serbia and Bosnia and Herzegovina, Kosovo faced difficulties that prevent Kosovo participation in the council for regional co-operation (successor of Stability Pact).¹²

Kosovo at that time was administered internationally and due to the fact that its status was undefined, it was left aside at the time when Balkans countries were getting ready to sign MSA-s. Some had already signed. In regard to reconstruction Kosovo, EU has underlined the need to take a leading role.¹³ Thus in Kosovo starts to play a strong role in development and reconstruction. EU within UNMIK administration was a part of Pillar IV and in year 2000 the European Agency for Reconstruction was established. This agency until year 2008 managed EU Program for development that derived by CARDS - Programs, that were for the following fields:

- Reconstruction;
- Stabilization of the region;
- Assistance for returnees and displaced persons;
- Support to democracy, rule of law, human rights and minority right, civil society, independent media and the fight against organized crime;
- Development of a sustainable economy directed towards market;
- Reducing poverty, gender equality, education and training and environment rehabilitation;
- Regional, transnational and international co-operation between recipient countries and EU and with the other countries from the region.¹⁴

Later on Kosovo would benefit in this sense also from the pre accession funds, known as IPA funds (Pre – Accession Instrument). In this track, in July 2008 in Brussels was organized the Donors Conference where 37 states and 16 international organizations took part and from this there were pledged 1.2 miliard EUR for Kosovo.¹⁵

EU funds for development and reconstruction and also for other fields of life in Kosovo are a valuable contribution given to Kosovo but the political engagement of EU in advancing and solving Kosovo final status was not equal to the needs and it could not be considered to be equal to USA engagement.

For a long period of time hesitations were noted regarding political engagement towards or for Kosovo. These hesitations continued also after the end of the war and they continue in some forms after the declaration of

¹⁰ <http://www.stabilitypact.org/about/default.asp> (accessed on: January 02, 2014)

¹¹ When talked about Western Balkans with the EU vocabulary is thought for countries derived from Yugoslavia and Albania and where Slovenia is excluded.

¹² Forum 2015 - KFOS operational project, Kosovo - EU Relations: The history of Unfulfilled Aspirations? Lost opportunities in Kosovo's European integration Process, Prishtinë, 2013, fq.7

¹³ http://www.europarl.europa.eu/summits/kol2_de.htm, taken from Bashkim I.Zahiti, E Drejta Evropian, Third Edition, Olymp, Prishtinë, 2013, pg.199

¹⁴ http://europa.eu/legislation_summaries/enlargement/western_balkans/r18002_en.htm (accessed on: January 20, 2014)

¹⁵ See more at: <http://ec.europa.eu/enlargement/archives/seerecon/kdc/index.html>

independence. Even though it was clear that Kosovo could not return to any Serb – Monte Negro creature, from EU in some determined moments some efforts were being made in this regard. Even though it was clear that the life between Serbia and Monte Negro had no future, EU sends the General Secretary of Security and Foreign Policy in Belgrade to exercise his influence...with only justification: until Yugoslavia survives, even under the new label, pretendings of Kosovo Albanians for independence will have no chance for success.¹⁶ But the Serbia – and Monte Negro community doesn't stand for a long period of time, because Monte Negro left this community that in a way was the last tendency to be used as an argument that Federal Republic of Yugoslavia was still existing. Despite all, Kosovo even though without defined status could not be let politically aside. In the context of the process of stability pact for Kosovo it was created a special mechanism known as Tracking Mechanism on Stabilization and Association (MPSA). This mechanism created by EU has entered into force in March 2003 in order to serve as the main mechanism for dialogue between Kosovo and European Commission within the process of Association – Stabilization. This mechanism has functioned in two levels:

- In form of political dialogue holding plenary sessions being jointly led by Kosovo authorities and EU Commission. Here the discussions were developed about the achievements on fulfillments on European Partnership and the agreement was reached for the next period. Since the creation of MPSA until June 2009 there were held 16 meetings of this type.
- Technical dialogue where sectoral meetings were held and that in 6 sectors: good governance, economy, internal market, innovation and social cohesion, infrastructure, agriculture and fishery.

The aim of political ad technical meetings was that European Commission will follow and monitor reforms in Kosovo in the process of approximation with EU especially with the priorities foreseen with the European Partnership.¹⁷ Along with the MSPA meantime there were other ideas. An internal document with the law expert opinion of BE Council was created related to the possibilities for a framework agreement involving Kosovo in the EU programs. They cite agreement between Taivan and Hong Kong as an example of illumination of agreement between entities that are not states.¹⁸

However Kosovo was aware that it should fulfil the determined criteria starting with those that were created to additional for countries that derived from the communist world. Thus for countries from Central and Eastern Europe that aspired EU accession, European Council had created some criteria known as Copenhagen criteria. Based on these criteria, states candidate will be judged to be accepted in EU based on:

- Institutional sustainability that guarantee democracy, rule of law, human rights and respect and protection of minorities;
- Existence of a functional market economy able to meet pressure of competition and EU market forces;

¹⁶ Verica Spasovska: *Kunststaat im Interesse der EU*, on 04.02.2004 on Deutsche Welle: <http://www.dw.de/kunststaat-im-interesse-der-eu/a-771277>, cituar taken from: Bashkim I.Zahiti, *E Drejta Evropiane*, Third Edition, Olymp, Prishtinë, 2013, pg.200

¹⁷ See more at: Ministry for European Integration, at: www.mei-ks.net

¹⁸ Forum 2015 - KFOS operational project, *Kosovo - EU Relations: The history of Unfulfilled Aspirations? Lost opportunities in Kosovo's European integration Process*, Prishtinë, 2013,pg.5

- Abilities to assume obligations for membership, including tracking and implementation of EU political, economical and monetary aims.¹⁹

But in addition to this, it is important to stress out that related to the Western Balkans, the process of stabilization and association is built up based in four principles²⁰, presented bellow:

- Offer incentives for political and economic sphere, inclusively perspectives of integration in EU structures;
- Obligation of countries from the Western Balkans for reform;
- Intensification of regional cooperation; and
- Cooperation with the hague Tribunal.

In addition to the expressed commitment and as the only alternative for the EU interation Kosovo Government in 2005 has unilaterally adopted the Action Plan for Implementation of European Partnership (PVPE) that represents a national document of EU policies.

Action Plan for Implementation of European Partnership (PVPE) is a main midterm planning document of Kosovo Government that aims the determination of needed activities on implementation of European Agenda and progress on Kosovo EU integration in accordance with the identified priorities from the European Partnership. Priorities of European Partnership are divided in short term priorities (1-2 years) and midterm priorities (3-4 years). PVPE covers political-economic criteria, and European standards. The content and the structure of plan are presented in a form of reform presentation as undertaken in the aspect of legal and institutional framework in the short and midterm plan as well as with the planned activities for addressing the challenges from the Progress Report from the previous year.²¹

No matter of difficulties that derive from the unclear situation with the European integration process based on its sui generis position, where 5 out of 28 EU member states do not recognize the state of Kosovo, there were undertaken concrete steps and activities developed that advance Kosovo position in the process of integrations after the war.

After the feasibility study for Kosovo (during the entire 2009 year), in November 2009 the Council has published Communicate Kosovo – Fulfillment of European perspectives, according to which the Process of Stabilization and Association for Kosovo has advanced from Tracking Mechanism for Stabilization – Association to the Dialogue for Process of Stabilization and Association. Framework of Dialogue for Stabilization-Association has started to be implemented at the beginning of 2010.²²

¹⁹ Desmond Dinan, *Historia e Integritit Evropian*, AIIS for Albanian edition ,Tiranë ,pg.188

²⁰ Bashkim Zahiti, *Die verfassungsrechtliche Entwicklung des Kosova unter Berücksichtigung der EU-Beitrittsperspektive*, fq. 118, cited by: Bashkim I.Zahiti, *E Drejta Evropiane*, Third edition, Olymp, Prishtinë, 2013, pg.202

²¹ See more at: Ministry for European Integration at: www.mei-ks.net

²² See more at: Ministry for European Integration at: www.mei-ks.net

The undertaken activities or developed activities have their basis in addition to what was mentioned, also in what was repeatedly stressed by Council in June 2005: "...the progress of each country towards integration taking into the account the evolution of acqui depends on the efforts to fulfil Copenhagen criteria and conditions made by the stabilization and association process. Moreover, in this process, the regional cooperation and good neighbor relationships remain to be essential element of EU policies".²³

This is also valuable and has to do with the countries of the Western Balkans from where Kosovo couldn't have been excluded even though Kosovo position in this process is more difficult compared to other countries of the Balkans. But cooperation in sens of integration has started and in fact it could not be avoided. EU during the total UNMIK administration dealt with Kosovo European perspectives. European Commission would launch continually progress reports on Kosovo. In April 2005, Commission publishes a communicate repeating determination/commitment to assist Kosovo asking leaders to demonstrate a clear commitment for democratic principles, human rightht, protection of minorities, rule of law, reform on the market economy and for the values on what EU relies. This communicate gives a support to the agenda for social-economic development and tight integration in the region.²⁴

With the progress reports in principle the process of implementation of stabilization and association progress is measured. By having this being done and if the structure of reports is analysed, there we would find the relations between EU and Kosovo, there we will find analysis of political situation, including rule of law, human rights, protection of minorities, evaluation of the economic situation, competition, legislation, governing capacities, evaluation of at what level Kosovo has addressed priorities of European Partnership, etc. And since March 2002, Commission has reported to Council and to the Parliament about the achieved progress of the countries of the Balkans and also reports Kosovo – EU.

Chronological presentation of some activities undertaken regarding relationships Kosovo – EU could not explain totally the complexicity of circumstances when we take into the consideration especially the fact that Kosovo could not enter into contractual reports with EU, because of the fact that only 23 member states have recognized Kosovo whereas some still do not recognize Kosovo as a state. It is continually said that "EU will help integration of Kosovo if its institutions will have a clear agenda for integration fo the country – order EU officials. Kosovo institutions should be more committed to fulfil the EU requested conditions for integration of countries."²⁵

²³ See more at: European Commission Progress Report 2005 available at: http://ec.europa.eu/enlargement/archives/pdf/key_documents/2005/package/sec_1423_final_progress_report_ks_en.pdf, pg.6

²⁴ See more at: European Commission Progress Report 2005 available at: http://ec.europa.eu/enlargement/archives/pdf/key_documents/2005/package/sec_1423_final_progress_report_ks_en.pdf, pg.6

²⁵ Esat Stavileci, Sfidat e shtetndërtimit dhe e ardhmja e Kosovës, Akademia e Shencave dhe e Arteve të Kosovës, Kollokuimi shkencor 15 qershor 2011, botuar në vitin 2012, Prishtinë, fq.17

The fulfillment of requested conditions by EU sometimes appears as issues that is difficult to be measured and to be understood. This especially regarding the Kosovo position vis-à-vis EU institutions that keep a neutral position regarding Kosovo being thus put in a way between the Resolution 1244 and the opinion of the International Court of Justice. Relationships between Serbia and Kosovo many times appear to be pre-conditions for moving forward. But this report doesn't depend always and only on Kosovo. Whereas non recognition of Kosovo from 5 EU member states appears as addition difficulty in the difficulties pile. With the absence of recognition by 5 EU member states there could not be contractual reports between EU and Kosovo. And aspirations for EU integrations, as stated, in Kosovo are expressed since long ago. At the same time Kosovo institutions have made efforts to fulfil requested standards and to fulfil obligations for integration in a mechanism that is not easy to understand and to fulfil. The membership of a country in EU is not seen as an act. It is a process. This process starts from being sovereign and transformation into a member state passing through pretending state, then aspiring state, potential candidate, further state applicant to the state candidate, then state negotiator up to member state.²⁶ And how far is Kosovo or where Kosovo could be put in this chain within the process of membership is an issue that could be debated from many viewpoints. Kosovo is in a way close to the membership and at the same time far from it. Whereas it is evaluated that the interest is common for both parties: for EU and for Kosovo. Between Kosovo commitment for integrations and conditions made by EU, the EU Parliament has called states that have not recognized Kosovo, to do that as soon as possible so the Kosovo EU perspectives cannot be contested. And this is possible also from the legal viewpoints because EU can conclude Stabilization and Association Agreements with Kosovo based on articles 217 and 218 of the Treaty for Functioning of EU. Stabilization and Association Agreement between Kosovo and EU can be concluded in that way that it will respect the attitudes of the member states that have not recognized the state of Kosovo. In many cases Council has confirmed the European perspectives of the Balkans. Recently, Council confirmed this Kosovo perspective in December 2011. Kosovo European ambitions join a strong public support in Kosovo.²⁷

Conclusions

Kosovo for many years has established relationships with EU that differ from period to period from situation to situation. In some determined periods of time relationships were build up based in form of requests and reactions. Requests were made by Kosovo in order to get support and protection during the process of dissolution of Yugoslavia federation when Kosovo and its citizens were put under the Serbian terror and oppression. Reactions by EU were in varios forms asking for peace, protection of human rights, etc. Requests were send to EU addressing needs for mediation in the Albanian – Serb conflict. Reactions were made in various forms of declarations, conferences, monitoring, reports, debates, etc. All the reactions were important for Kosovo and its citizens even though they did not manage to avoid the eruption of conflict that unfortunately took the sizes of big war that imposed NATO intervention. Before the NATO intervence EU role was of great importance on especially the Rambouillet conference. After the war EU took part in all forms of engagements on establishing peace and

²⁶ See: Blerim Reka, Gjeopolitika dhe teknika e zgjerimit të UE-së, Bruksel, Shkup 2010, cited by: Esat Stavileci, Sfidat e shtetndërtimit dhe e ardhmja e Kosovës, Akademia e Shencave dhe e Arteve të Kosovës, Kollokuiumi shkencor 15 qershor 2011, botuar në vitin 2012, Prishtinë, fq.18

²⁷ European Commission Progress Report 2012

reconstructing Kosovo. It took part in UNMIK administration, member states gave their contribution in various forms of assistance in Kosovo. Kosovo on the other side expressed commitment to take parts in all initiatives: political, peace, dialogue, human rights, minorities, etc. It also showed commitment to fulfil the obligations deriving from EU standards including Copenhagen criteria. All this showing aspirations for EU integration.

EU in a way being neutral regarding the Kosovo status shows the complexity of Kosovo situation when it is always mentioned the Kosovo perspectives for EU integrations. Kosovo was not left aside with the Stability Pact but it was somehow not in an equal position with the other states. Non-equality in a process itself is a challenge to be met.

Five member states still do not recognise Kosovo and this itself makes difficulties for Kosovo European perspective whereas this remains to be a very big challenge to be overcome by both: Kosovo and EU institutions. Both sides have to find ways and tools of convincing these states that non-recognition is not a contribution to positive developments in the region and broader.

The rule of law, fight against corruption and organized crime along with the readiness of Kosovo institutions to go further with the dialogue with Serbia are challenges for Kosovo in one side but also the challenges for EU in the other side.

From the dialogue with Serbia there should benefit both parties: Kosovo and Serbia.

It is not enough if the pressure is made only in one side. All should show commitments and all should participate in the process equally. Europe is present in Kosovo and therefore parts of Kosovo involvement should be subject of changes.

Kosovo along to expressed desire and commitment to further integration has to show commitment to fulfil homeworks. Kosovo institutions have to strengthen; economy should take proper ways towards sustainability, human rights more advanced, social dialogue developed, dialogue with Serbia and overall in the region expanded; fight against corruption and organized crime and rule of law enforced.

EU should find mechanisms of supporting Kosovo citizens. They remain to be the most isolated citizens in Europe being not allowed to move freely as other citizens of Europe. Kosovo should not be treated as a separate issue of the region. It is a country that needs further support and it is also European responsibility to treat this part as a real part of Europe.

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