Conference on
MULTILATERAL DIPLOMACY:

OPPORTUNITIES AND CHALLENGES
FOR KOSOVO’S MEMBERSHIP IN
INTERNATIONAL ORGANISATIONS

24-25 November 2014
At the Diplomatic Academy of Vienna, in Vienna, Austria

Republic of Kosovo
Government
Ministry of Foreign Affairs
DIPLOMATIC ACADEMY
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Monday, 24 November 2014

10.00 The Opening

Hans Winkler
Director, Diplomatic Academy of Vienna

Skender Durmishi
Director, Diplomatic Academy of Kosovo

Ulrike Lunacek (Video message)
Vice-President, European Parliament; EP’s Rapporteur for Kosovo

10.45 Panel I

KOSOVO IN THE SIXTH YEAR OF ITS INDEPENDENCE:
STATE OF PLAY OF RECOGNITION AND RECENT DEVELOPMENTS

Albert Prenkaj
General Director, Ministry of Foreign Affairs of the Republic of Kosovo

Albert Rohan
former Deputy Special Envoy of the UN Secretary-General for the Future Status Process for Kosovo; former Secretary General for Foreign Affairs, Austrian Federal Ministry for European and International Affairs

Johann Sattler
Head of Western Balkans Unit, Austrian Federal Ministry for Europe, Integration and Foreign Affairs

Moderation:
Helmar Dumbs
Journalist, Die Presse

12.15 Panel II

THE INTERNATIONAL POSITION OF KOSOVO IN THE UN SYSTEM.
THE CONSEQUENCES OF THE ADVISORY OPINION OF
THE INTERNATIONAL COURT OF JUSTICE IN 2010

Wolfgang Benedek
Professor for International Law, University of Graz

Iliriana Islami
Member of the Board, Diplomatic Academy of Kosovo; Professor of Public International Law and Human Rights in the Faculty of Law, University of Prishtina; former Judge at the Constitutional Court of the Republic of Kosovo

Christian Tomuschat
Professor emeritus for International Law, Humboldt University Berlin

Moderation:
Helmut Tichy
Legal Adviser, Austrian Federal Ministry for Europe, Integration and Foreign Affairs
14.30 Panel III

KOSOVO IN THE MULTILATERAL FRAMEWORK, STRIVING FOR INTEGRATION
(I.A. COUNCIL OF EUROPE, OSCE, EURO-ATLANTIC UMBRELLA)

Schnutz Rudolf Dürr
Head of Constitutional Justice Division of the Venice Commission of the Council of Europe; Secretary General of the World Conference on Constitutional Justice

Rudolf Lennkh
Permanent Representative of Austria to the Council of Europe, Strasbourg

Stéphane Tomagian
Deputy Regional Coordinator Southeast Europe, Directorate of Political Affairs, Swiss Federal Department of Foreign Affairs

Sami Ukelli
Ambassador of the Republic of Kosovo to Hungary

Moderation:
Vedran Dzihic
Senior Researcher, Austrian Institute for International Affairs (OIIP)

Tuesday, 25 November 2014

10.00 Panel IV

KOSOVO AND THE REGION: BILATERAL RELATIONS, SOUTH-EAST EUROPE AND REGIONAL INTEGRATION

Mladen Andrlić
Director for Diplomatic, European and Pre-deployment Training, Ministry of Foreign and European Affairs of the Republic of Croatia

Georges-Marie Chenu
Minister Plenipotentiary “hors classe”, former Ambassador; Co-Author of “Kosovo, reports on the construction of a state”

Satka Hajdarpašić
Acting Director, Diplomatic Academy of the Ministry of Foreign Affairs and European Integration of Montenegro

Wolfgang Petritsch
former EU Special Envoy for Kosovo; former EU chief negotiator at the Kosovo peace talks; former High Representative for Bosnia and Herzegovina

Bekim Sejdiu
Ambassador, Ministry of Foreign Affairs of the Republic of Kosovo

Moderation:
Erhard Busek
Coordinator of the Southeast European Cooperative Initiative; Chairman of the Institute for the Danube Region and Central Europe

11.30 Concluding remarks
Dear Excellencies,
Dear Ambassadors,
Dear Participants,

It has been a pleasure to organise this conference together with you and we are very much honoured to be able to support it. I want to thank all those who have participated in making this conference a success. Let me also welcome all the panellists and moderators - please forgive me if I do not read your names individually. Let me welcome all those who came from abroad - welcome and thank you very much for coming. I also want to say that for those of you who do not know each other, this will be a good opportunity to meet and exchange information and maybe to have some context for the future.

The subject of the conference is the international status of the Republic of Kosovo. As you all know, by now 109 countries of the membership of the United Nations Organisation have formally recognised the Republic of Kosovo. As you probably all know, I have spent some time as the Austrian Representative at the Council of Europe, and I find it rather remarkable that a country that has adopted and is willing to fulfil all the obligations that a member State has to fulfil under international law, has still not been admitted to that oldest European organisation. I find it particularly bizarre that those States that are now using Kosovo as an example in cases that concern them are amongst those that do not recognise Kosovo as a state. I sincerely hope that maybe this conference will give an impetus into reviewing some of those concepts and that this conference may be showing us some ways on how to proceed.
I personally, not only because I come from a country which recognised the independence of Kosovo from the beginning, but also as an international lawyer, believe that there are many good reasons why Kosovo should as soon as possible be accepted into all international organisations and take the rightful place it deserves.

We have a wonderful programme for this conference which you have in front of you, and there are some really great experts of international law, politics, and I am sure that their contribution will be very highly valued.

I want to particularly thank the Foreign Ministry of Kosovo for having invited so many of your colleagues. It is a great pleasure that you are all here. Let me also thank the Diplomatic Academy of Kosovo.

Let me use this opportunity to say something about our institution. We are celebrating two anniversaries this year.

First of all, this year we celebrate the 260th anniversary of the Oriental Academy. In 1754 the institution then called the Oriental Academy was founded - which is the ancestor of the Diplomatic Academy of Vienna - by Empress Maria Theresa. It is the second oldest school of its kind, after the Vatican Academy, the latter founded in 1707. Why I am telling this fact is that, when it was founded, the main purpose was to teach Arabic, Persian and Turkish languages to young students. So, from the beginning this institution was looking towards the East, towards the Orient. After graduating from the Academy, the participants were sent by the Austrian Empire to the Ottoman Empire and would serve as interpreters, as consuls, as experts, as trade specialists, etc. So, already then this institution was looking towards the European East and beyond.

This year we also celebrate the 50th anniversary of the foundation of the Diplomatic Academy of Vienna. In 1964, then Foreign Minister Bruno Kreisky founded the Diplomatic Academy of Vienna with the view to have an institution which would give the opportunity to young people from abroad and from Austria, to study international affairs, to eventually enter the foreign service of their respective countries or any other international career. The idea was to give those young people who maybe could not afford to study abroad an opportunity to gain international experience which was then much more difficult than it is today. And I am standing here as an example that this idea actually really worked, because I was a student of this institution and graduated in 1970.

I am mentioning this because our partner of today, the institution from which the idea to initiate and host this conference, is the Diplomatic Academy of Kosovo. About a year ago or a little bit more, we started to develop our cooperation. I had the honour and pleasure to even teach at the Diplomatic Academy of Kosovo in a wonderful mountain site and we have continued this cooperation since then. And I am sure that under the leadership of Ambassador Durmishi we will continue this cooperation in the future.

So ladies and gentlemen, all of you who have come here today, we now will have the welcome speech of the director of the Diplomatic Academy of Kosovo and then show a video message of the member of the European Parliament, Mrs. Lunacek.

But now, Ambassador Durmishi, you have the floor.
Good morning everyone.
Ladies and gentlemen,
Excellencies,
Distinguished friends and guests,

It is my honour and privilege, on behalf of Diplomatic Academy of the Republic of Kosovo, to wish you a warm welcome to the Conference titled: “Multilateral Diplomacy: Opportunities and Challenges for Kosovo’s Membership in International Organizations”.

First of all, I would like to say a few words about the Conference: Why this title?

Since the Declaration of Independence, in 2008, the Republic of Kosovo has made significant steps in the irreversible process of full integration into the international system.

On the other side, within Kosovo, in cooperation with the international community, mainly EU, we have succeeded in building a modern legal framework, with the highest democratic spirit and standards.

It means that Kosovo offers constitutional guarantees for democracy, human rights, minority rights, peace and tolerance… the same standards as in the member countries of international organizations.

Right now we are in a process with parallel priorities: implementation of legal and democratic standards in Kosovo, and striving for full membership in the International Organizations.

Multilateral diplomacy and membership in international organizations is our priority, not only as a goal but as a value, as well destination and hopefully destiny.
All in all, this is a demonstration of our readiness to undertake our part of responsibility, as well as receiving the advantages of being an active member of the international community.

So, the timing is good, the topic strong enough and legitimate and, of course the venue...

Vienna is the right place, for a conference to discuss Kosovo and multilateral diplomacy. By organising a conference, as a joint project with the Diplomatic Academy of Vienna, we had the intention to provide a forum for a debate on the topic of the conference.

Vienna is an important centre of multilateral diplomacy; Austria is a friend of Kosovo - a friend, a gateway and a support for integration of the Balkans into the EU.

May I say how delighted we are to have with us well known and distinguished panelists.

Some of them (Mr. Rohan, Mr. Petritsch) with a long experience, even a hard time, in trying to help us overcome difficult situations in the Balkans. This is an opportunity to express gratitude and, special thanks for accepting the invitation to the conference.

Distinguished audience,

For me and my staff, this conference has another added value: it is a partnership and cooperation with the Diplomatic Academy of Vienna. In fact, this is a continuation of the close cooperation we have already established in such a short time.

This is a good opportunity to express gratitude to Ambassador Winkler and his staff for the genuine cooperation to date, and for this conference, as well.

And, of course, thank you all, for being with us today.
ULRIKE LUNACEK
Vice-President, European Parliament; EP’s Rapporteur for Kosovo

Dear guests at this high level conference on the challenges and opportunities of Kosovo’s participation in international organizations. My name is Ulrike Lunacek, I’m a member of this European Parliament for the Austrian Greens, I’m Vice President of this Parliament in charge of the Western Balkans and I’m also rapporteur for Kosovo - I have been since 2009 and was nominated again to follow the issue.

I’m really very sorry - and those of you who know me, know that it is true - for not being able to participate in this meeting in Vienna.

But, unfortunately you know, European Parliamentarians have to go to Strasbourg once a month, and it’s exactly the days we have to be there, so I have to be there and cannot be with you.

Anyway, I wish you good conversations, a good dialogue that will lead to further progress of Kosovo’s way of being accepted, respected, as a full member of the international community. Of course, there are some problems inside Kosovo itself, I wish there would be a new government already, after the elections before the summer, because that would make it easier for those of us who support Kosovo, the Republic of Kosovo, in its way toward full membership of all international organisations. And of course, we also have problems at the moment where EULEX is concerned, the uncovering of alleged corruption, problems inside EULEX, is something that I and we here in the Parliament are dealing with. But, the main issue that is at stake now in your debates on these two days is how Kosovo can really become a full member of all international organisations.

And of course for me, the most relevant here, for a start, is also the European Union. I do hope that your conversations will lead to those, at least some of the five non-recognisers within the EU to really go ahead and go on recognizing, because status neutrality is simply something that in international affairs should not exist. I mean, if there is a Republic there, there are Kosovo...
institutions, there’s a Parliament, there’s civil society, most are very pro-European, so I do hope there will be a change of mind in at least some of the five that are not yet recognizing Kosovo.

And the argument that some of them are using, that this is against international law, I always tell them that there has been an International Court of Justice, verdict in 2010 which made it clear that Kosovo’s Declaration of Independence has not been against international law. And to the others who say that they are afraid that their own ethnic minorities would want to become independent. Well I always tell them, none of the democratic governments in this European Union have ever done to Kosovo Albanians what the Milosevic regime did, the dictatorship. That successfully was ended in Serbia years ago. What the Milosevic regime did to Kosovo Albanians, there’s no comparison for any of the other minorities.

But not to make this message too long, I hope also that the number of UN member states that already have recognized Kosovo, and it’s more than a hundred, it’s more than half of UN member states, that this will continue to grow and that soon there will be also acceptance of Kosovo in different UN organizations and at the UN itself. I’m working for that, many of the colleagues here at the European Parliament are working for that, together with you and I hope we’ll be successful in the very near future.

All the best to you, I wish you a very good debates and successful ones.

Goodbye!
Kosovo in the Sixth Year of its Independence: State of Play of Recognition and Recent Developments


I

Distinguished Ambassador Rohan,
Ambassador Petritch,
Ambassador Winkler,
Ambassador Ukelli,
Ambassador Sejdiu,
Director Durmishi,

Dear colleges,

I am profoundly honoured to be among you, here today, being grateful to the Diplomatic Academy of Vienna, the Austrian Foreign Ministry, Kosovo’s Diplomatic Academy and other relevant partners for organising this conference dedicated to the challenges and future of the Republic of Kosovo and the clear path to International Organisations. We are very grateful for the support we received from our partners to organise this conference, and to the participants. This conference is a cornerstone of the collaboration between the two academies in Vienna and in Prishtina being very much welcomed, by the clear support of both Ministries of Foreign Affairs. I want also to convey best regards on behalf of Foreign Minister Hoxhaj, for not being with us today, who is playing and extraordinary role in the achievements on Kosovo’s International position.

II

We have witnessed the history, when members of this panel have been very close to Kosovo – well known at the time, as the “Kosovo issue”. There is no doubt that Kosovo’s independence,
and it’s participation in the international community, is contributing to peace and security in the region, subsequently attracting a worldwide attention with its well-known story. I will try to limit my contribution to two dimensions:

First: Where do we stand now in terms of state building and recognitions;
Second, Kosovo’s foreign policy and recent developments.

III

Kosovo’s foreign policy and recent developments.

The Republic of Kosovo, as a potential EU candidate that initialled the Stabilisation and Association Agreement (SAA), conducts its foreign policy in total harmony and alignment with what is known as Common Foreign and Security Policy of the European Union. As a small country we tend to be oriented toward soft and smart foreign policy. We aim to cultivate close and special relations with EU members and the United States of America, in order to build vivid strategic partnerships with these countries.

As for our neighbourhood policy, there are two strong pillars that we develop:
First: regional cooperation is based on inclusiveness and comprehensiveness and second: advancing good neighbourly relations with all partners in the region.

We are paying the utmost importance to good neighbourly relations. In this regard, we can’t forget, Kosovo’s constructive engagement in the dialogue with the Republic of Serbia, which is a strong testimony of commitment and responsibility for a peaceful and secure region. There is no doubt that the EU-facilitated Dialogue between Republic of Kosovo and the Republic of Serbia for the normalisation of relations can be considered a distinct achievement and the model for the South East European Peninsula. Indeed, merging the EU integration process with the full normalisation of relations between R. of Serbia and R. of Kosovo is the best way to ensure that the process has credibility and produces results. The First Agreement reached in April 2013 was truly a cornerstone agreement, but it is important to emphasise that the Dialogue should not be conducted endlessly and without a clear-end goal. For the Republic of Kosovo, reaching an Internationally Legally Binding Agreement at the end of this process is achievable. The most sustainable way for building a durable peace between the Republic of Kosovo and the Republic of Serbia is to sign a Peace Treaty, which should include the recognition of the Republic of Kosovo, and the establishment of bilateral diplomatic relations.

The visit of Minister Hoxhaj to Belgrade, for the first time in his full capacity as Minister of Foreign Affairs, with the strong commitment of authorities of the institutions of Serbia, is an event to be praised. For the Republic of Kosovo, it is considered as a Détente, or Rapprochement towards the most desirable situation for all involved parties.

The Republic of Kosovo considers regional cooperation as the most important and essential process to bring us all closer to EU and NATO. Through our membership in different regional mechanisms, we aim to further strengthen the trust between us, and to advance our Euro-Atlantic integration. Kosovo’s participation in regional initiatives contributes to promoting democratic potentials, as well as strengthening regional capacities in terms of democracy, security and collaboration. As you all know, Kosovo is committed to regional cooperation and over the years, despite difficulties on our path, we have managed to become part of important regional
initiatives, due to understanding the prudent advices of our partners, and our commitment. We remain proactively engaged to reach a state of comprehensive inclusiveness in regional cooperation, being convinced that only then we will be considered a serious partner by other actors outside the region. We believe that our region has the potential to emerge as a young, dynamic and energetic driving force of Europe and to become a focal point for infrastructure, transportation and energy projects. Indeed, better regional cooperation is essential for strengthening our economies, improving our communication and connectivity, and to promote more the cooperation between elites, civil society and citizens. This commitment is in line with the Berlin Conference outcomes.

**Kosovo’s diplomatic Geography**

Finally, in realisation of our foreign policy objectives, both regionally and globally, we managed to build a diplomatic presence that reaches as far as Tokyo, Canberra, Ottawa, Washington DC, Panama City, or Riyadh. Currently we have 30 missions (embassies and general consulates), and we are planning to expand our presence in 2015. There is almost no major region in the world that we don’t cover through our diplomatic missions. There are over 250 diplomats/civil servants that serve on a daily basis, with commitment and passion to make the Republic of Kosovo visible to the world. There are our colleagues being supported by colleagues of partner countries that made 2014 a successful year of multilateralism, which has been planned by the MFA at the beginning of this year.

**Where do we stand on strengthening democracy and recognitions?**

Since the end of supervised independence in 2012, the Republic of Kosovo has made significant steps in terms of state-building. Kosovo has continued to maintain political and economical stability, and has strengthened further its democratic governance. In this regard, one of the main developments in the recent months has been the successful organisation of parliamentary elections in their entirety. The international community has applauded the June 8th elections for being credible, well organised, transparent, meeting high standards. In particular, these elections marked an important turning point because for the first time Kosovo Serbs that live in the four northern municipalities have participated in electing their representatives for the Parliament of Kosovo. Currently, we are in the phase of consolidating the new Assembly and Government, a political coalition has been announced. What is important, in the process of the consolidation of new institutions, the Constitutional Court of Kosovo has been a crucial body in ensuring a democratic and constitutional basis for forming the new legislative and executive institutions in Kosovo. We expect the new Government rather soonm, with the inclusive composition, multi-ethnic, and committed to continuing comprehensive reforms, looking forward to speed up the Euro-Atlantic agenda. In July, we initialled the SAA with the EU. It is the first contractual agreement between Kosovo and the EU, and it seals our strategic orientation towards membership in the European Union. With the SAA we are committed to undertaking all necessary reforms to further strengthen the rule of law and the alignment with the EU in all areas. We don’t have a single doubt about Kosovo’s EU future. **We believe that the Euro-Atlantic path for us and for the whole region, is not an equivocal option, but a common overall consensual goal of the political spectrum, civil society and the larger spectrum of the society.** Our culture, our common history, geography and identity, belongs to Europe, therefore as a region, achieving the membership in the EU, should be our day to day goal.
As per Kosovo’s international recognition, we have achieved significant progress in less than seven years. The Republic of Kosovo has been formally recognised by 108, UN member states. The geographical scope of recognitions is global. We are committed to further strengthening our bilateral relations with all 108 countries that have recognised Kosovo’s independence and statehood. The unprecedented and overwhelming international support for Kosovo’s statehood shows that the Declaration of Independence has been a legitimate and legal act, with wide international acceptance, which has contributed to regional peace and stability. The process of recognitions is moving forward together with membership in regional and international organisations. We have faced obstacles, but that won’t stop our path toward reaching our goals. This remains one of our major foreign policy objectives.

IV

Distinguished participants,

Ladies and Gentlemen,

I want to conclude this contribution by thanking once again the host, Ambassador Winkler and the co-organiser of this conference, Director Durmishi and the staff of both Diplomatic Academies.

I remain deeply convinced that this event is, as I emphasized at the beginning, the basis to continue the collaboration with concrete projects between both Academies, MFAs of Austria and Kosovo, and beyond.

I am sure you are going to enjoy interesting speeches drawing on the extraordinary experiences of the panellists, and therefore I invite you to actively engage in the discussion.

Thank you for your attention!
First of all, I would like to make some comments on the recognition issue. It was mentioned here that 109 countries have recognised Kosovo formally, the Progress Report of the European Commission speaks of 110. I do not know which number is the correct one, but I am sure the Kosovo Ministry knows the answer best.

When looking at this figure one has to be aware that the normal procedure of recognition of a new uncontested state is through admission in the United Nations. The decision of the General Assembly - upon a recommendation of the Security Council - to admit a new country is considered as implicit recognition.

As we know Kosovo did not have this possibility, because of the negative attitude of one and probably two permanent members of the Security Council, Russia and China, which threaten to veto any decision on recommending admission of Kosovo to the General Assembly.

Kosovo had to go through the other, time consuming, energy consuming and money consuming path in contacting every single one of the 193 member states of the UN. Considering this difficulty, I think that 109 recognitions is an enormous success and I want to congratulate the authorities of Kosovo and in particular the Foreign Ministry for this achievement.

Turning to the attitudes of some of the countries: Mrs. Lunacek has already mentioned that five EU countries haven’t recognised Kosovo, still refusing to join the majority consensus in the Union, and I find this deplorable. It is deplorable, because it really throws a bad light on the Common Foreign and Security Policy of the Union, if even in such a European matter the Union cannot find a common position. Moreover, it makes the inclusion of Kosovo into the European Integration Process much more cumbersome than it should be. And finally, it makes it more
difficult for Serbia to recognise the reality. If the Union would have a common position, the Serbian leaders could tell their people that this is part of the Acquis Communautaire, which has to be accepted if Serbia wants to join the EU. This they cannot do, and of course they do not want to appear less patriotic and less Serbian than let us say Cyprus, Slovakia or Spain.

The five had good opportunities to change their positions. The first one was in 2010, when the International Court of Justice issued the advisory opinion whereby the Declaration of Independence of Kosovo was not in violation of international law, or Resolution 1244 of the Security Council. The next opportunity was in 2012 when the International Steering Committee decided to terminate the international supervision of Kosovo. There is another opportunity forthcoming, when the Stabilisation and Association Agreement will hopefully be signed at the beginning of next year. We can only hope that the five, or at least some of them, will avail themselves of this opportunity.

On the attitude of Russia, this was somewhat of a disappointment for us. Russia was closely connected to the status process from the beginning. As member of the Contact Group, a very small number of important countries, it accompanied the process. In November 2005, the Contact Group, including Russia, issued guiding principles for the solution of the status. And they were all respected in our comprehensive proposal, the “Ahtisaari Plan”. Minister Lavrov participated in January 2006 in the Foreign Ministers’ meeting of the Contact Group which issued a declaration which said inter alia that the status solution must be acceptable to the people of Kosovo. Knowing that 90 % of the people of Kosovo demanded independence, it seemed to be an indication that Russia would accept the solution based on independence. What made Russia change its mind, we do not know. But it is a fact that Russia has outsourced its Kosovo policy to Belgrade, by repeatedly saying that Moscow would accept anything which was acceptable to Serbia.

Now to the Serbian position. On the positive side there is the dialogue between Belgrade and Prishtina with the goal to normalising the relations between the two countries, to solve practical problems in the interest of the people. On the negative side, it seems that the Serbian leadership is still held hostage by its own rhetoric of the last decade, and continues in its denial of the reality.

At the same time, the present government – because of the nationalistic background of its leaders – would probably find it easier to change the narrative on Kosovo, if the political will would be available. In any case, I think it will be a gradual process, it will take time and ultimately much will depend on the determination of the EU member states to make the recognition of Kosovo a condition for Serbia’s EU membership.

Now turning to the present developments and the future, we already have observed that the process of formation of the Kosovo government is painfully slow after the successful and orderly elections held in June. It appears that two parties have now agreed to form the government. Since these are the major parties, it will give the government a broader basis which is positive considering the many problems Kosovo has to face.

In my view, Kosovo should concentrate on the European integration process and the participation of Kosovo in this process. All the countries of the Western Balkans, as you know, have the perspective of EU membership, and this was underlined by the European Council in
The commitment of the Union still stands. Of the six countries of the region, Montenegro is ahead, it is already negotiating its accession. Serbia has formally opened their accession process. Macedonia has the status of a candidate country, but the process is blocked by the name conflict with Greece. Albania has received the candidate status in June, and the next stage for them will be the opening of the negotiations. Bosnia Herzegovina has signed the Stabilisation and Association Agreement, which however has not been ratified because of the internal situation in Bosnia.

Kosovo has also successfully negotiated and initialled its Stabilisation and Association Agreement, which we hope will be signed in early next year. In that way all the six countries participate in the accession process. It means an intensification of the trade with the EU, it means a gradual harmonisation of the legislation with the Acquis Communitaire – the legal body of the European Union, it means the possibility of a political dialogue with the Union, and of course financial assistance will continue to flow. Kosovo has received through the Instrument of Pre-Accession Assistance in the last five-year period (2007-2013) 673 million euro. For the next five year period, a roughly similar amount has been allocated.

For obvious political reasons it seems to me vital for Kosovo to catch up with the other countries, in particular with Serbia and Montenegro. And this is not impossible. It was already mentioned that Kosovo has a modern legislative framework, and it is probably more in line with the EU Acquis than some other countries of the region.

There are now five years available for work. As Mr. Juncker has recently said, in this present five-year period of the European institutions there will not be any new accession. So we are looking at 2020 or maybe later, and it means that the time is there. The Commission’s annual Progress Report has clearly outlined in detail what has to be done and in what areas. They are the same in all six countries. It is in particular the need to strengthen the institutions, to develop an independent judiciary, to intensify the fight against corruption, and to create jobs. I think this is the task which all countries face and Kosovo among them.

When I am asked how I see - after six years - the implementation of the Ahtisaari Plan, my answer is that it has been implemented, at least as far as legislation is concerned. And that is the reason why the International Supervision was terminated and the office of the International Representative was closed. Where there are weaknesses is with the implementation, the practical implementation.

But here again I think one has to be aware that the Ahtisaari Plan provided for a major change in the administrative system, decentralising to the level of municipalities. It is not only the state institutions which had to be built anew, but also those in the municipalities in order to enable them to exercise the competences which they had received. It is only natural that this takes time. If we look back on the Austrian civil service, it is going back to Maria Theresa, we have a long tradition. Kosovo is six years old and it will take its time.

But the agenda is clear. Everybody knows what has to be done. So it is now really up to the government, up to the leadership of Kosovo to focus all energies on this work and move the country forward.
It is a pleasure being on this panel. For me Kosovo and the Western Balkans is my day job, so you can imagine that it is never a dull moment. Everybody remembers for instance the “drone incident” in Belgrade, which happened last month, which created quite a bit of a problem, and we are still dealing with the aftermath.

But the reason I am mentioning it is a different one. It is because it created an unintended consequence - and we have seen it in a number of meetings. In the Belgrade meeting of Western Balkans 6, and some other meetings afterwards, suddenly Kosovo became like a mediator between Serbia and Albania, also because Foreign Minister Hoxhaj speaks Serbian very well, but this was something that was acknowledged – for instance – by the Serbian Foreign Minister Dacic. I think nobody would have expected it two years ago, not even two months ago.

Now, seriously, there is a lot ahead. But, for me it also means that as far as the Balkans are concerned, firstly expect the unexpected and secondly, positive things are happening. Not at the pace that we would like to see, but things are happening.

I would like to focus on three aspects: one, where do we stand today with regard to the state of play of Kosovo as we see at the Austrian Foreign Ministry, secondly, how we are trying – as Austria – to be supportive of the process, and finally, a few recommendations where Kosovo should focus on the next years.

State of play

As always in life, there is light and shadow. As for the positive part, related to elections as it was mentioned earlier, there were two positive elections in the last year. Local elections in Kosovo for the first time were held in the whole territory of Kosovo. And the second, the parliamentary elections which took place this year according to the Kosovo laws and with the
Serbian participation, which was acceptable at about 20-25%. Also in this regard, mayors have been certified according to Kosovo laws, for the first time in the entire territory. And this is definitely to be mentioned on the positive side.

The Stabilisation Association Agreement, as it was mentioned, has been initialled but it has to be signed. I also want to mention two important decisions of the Parliament of Kosovo before it was dissolved early this year. One to extend EULEX – which will be there for another two years – which despite the allegations that are going on and we obviously look at them very carefully – it will be a pillar and of very great help to Kosovo’s justice system. The second decision was the decision to allow the so called tribunal to be established, to look at the allegations which came out of the Council of Europe reports.

On the international stage, recognitions have been added and I want to especially stress the good regional cooperation. Kosovo tried to be helpful on the regional level, having very good relations with obviously Albania, but also with Montenegro, Macedonia. What was also positive we find is the progress on the regional organisations front: RACVIAC, which is an organisation that not many people know about, but it is a very useful one, looking at regional security. It does not actually make a lot of sense if you have one black spot in the region which is not part of this organisation, and this has been solved. Last month, membership in the Venice Commission – the practitioners’ arm of the Council of Europe – was achieved. And we understand there will be action from the new government soon action on the Council of Europe.

Last but not least, the dialogue between Kosovo and Serbia. I think we have seen a remarkable year and a half, starting from the fall of 2012, the negotiations on the top political level of prime-ministers of Kosovo and Serbia, had peaked then with the first general agreement between Kosovo and Serbia in April 2013. And even after that, we had a very dynamic process between Kosovo and Serbia. We had, I understand, twenty three meetings between prime ministers of these two countries, with the valuable mediation played by Lady Ashton. And the good news we hear is that her successor will follow this part. I think it is still necessary to have this mediating role for the European Union.

But this brings me to the shadow part. Since March this year – we first had elections in Serbia and then in Kosovo – there has not been much going on at that front. There have been a few technical dialogue meetings but on the big issues there has not been any movement, mostly because there is only a caretaker government in Pristina. And I think this is bad, some call it the biggest political crisis we have seen in Kosovo since the independence. I think there is something to it. Yes, the institutions have been continuing to work, but it has been a missed opportunity and it is also bad because it really sends a certain image that is there from the Balkans of polarisation, backwardness, and which is not good. It also shows a lack of culture of compromise. And lastly, I think it is also a missed opportunity for what Kosovo needs most, which is goodwill, international goodwill. We still have non-recognisers in the European Union, and moving beyond the EU, there are not only friends out there.

Another part where Kosovo needs to work on is – look at the European Commission Progress Report – rule of law and – this goes for all the Western Balkan countries - justice, corruption, organised crime. And secondly – and this is worrying –the economic state of play in Kosovo. We have seen a major downturn and decrease of Foreign Direct Investments this year which had not been too high to start from. The second figure I want to mention here – it happened during
the election campaign – was the announcement to increase the salaries of civil servants by 25%. And I think the parties there overdid it, because it is really a problem now, and the financial institutions and the European Union have criticised this decision.

Austria’s support

Now how we are trying as Austria to be supportive: firstly, the historic contribution to Kosovo’s founding is sitting next to me (Ambassador Albert Rohan). We have very close relations with Kosovo, but that goes for the whole of the Western Balkans. I do not need to tell this audience that Austria is number one or number two investor in all of these countries. There are lots of cultural, historic, economic ties between our countries.

Allow me a footnote here: the fact that we very much are supportive of Kosovo’s independence and also with recognitions does not go at the expense of our relationship with Serbia. We do have a very strong relationship with Serbia: we are the number one investor and we have a very strong political dialogue. It has not always been easy with this relationship between Austria and Serbia, but probably we have reached a certain peak in the relationship now, which is a good development.

We are trying to be helpful in a number of areas, economy is one. We are having a development office in Pristina doing lots of projects in different areas, including regional cooperation. Also, going back a long time, we have been and are still helpful in the education sector and the fact that we have now, I believe, three ministers in the Kosovo Government, who have studied and have diplomas from Austrian universities, also underlines that fact. Austria had opened in those difficult times universities for Kosovo students in the 80’s and the 90’s. As for the security sector, Austria is the largest non-NATO contributor to KFOR with currently more than 500 soldiers in Kosovo.

Another important area, where we are active is the Berlin Process. Chancellor Merkel created this so called Berlin process and invited all the leaders from the Western Balkans to Berlin last August. I think it was important in two aspects. One, there has been this question mark on the enlargement process, also fuelled by the remarks of Mr. Juncker on enlargement. It was important to show that the European Union is still interested in that region and that despite all the crises around – beginning in Ukraine – the European Union, and especially Germany, is still focused on the Balkans. Two, it is the right signal at the right time when there are different rumours and theories about how Russia is going to become much more active in that very region.

That brings me to my last point on the way forward and where I see the major areas where Kosovo needs to concentrate on:

1. Focus on the economy and the rule of law. Looking at the figures, I think that is paramount.
2. Focus on the dialogue. We have ahead of us four years, hopefully without elections, both in Kosovo and Serbia, and in the European Union. So, this is really a good time to make progress on the difficult issues ahead. I think this is the time when the ground work needs to be laid for full normalisation. All the issues need to be on the table now, all the difficult issues between the two countries need to be tackled.
3. And the last point, produce positive news. I think this is what we really all need here, also in our countries. It is too often that we have the news about the drone incidents, botched press conferences, parliamentary boycotts. We need more positive news, some things are happening, but not enough. It is paramount to tackle also the difficult issues. I think the Berlin process is a good way to show that there are ways and that there is willingness to work together. There are lots of difficult issues that need to be solved, because the European Union will not allow countries to enter with serious unresolved matters. Those issues need also to be tackled because we don’t want those problems to explode during the negotiation process. I know these are difficult issues that cannot be resolved over night, but you need to find a channel to address them, such as dispute settlement mechanisms or international courts.

And finally, a good way to producing positive news is very often sports. So I hope that Kosovo will participate and win medals in Rio at the Olympic Games two years from now. Or, even more effective, as I can witness as Austrian: beat Germany in soccer!

Thank you very much.
Panel II

THE INTERNATIONAL POSITION OF KOSOVO IN THE UN SYSTEM.
THE CONSEQUENCES OF THE ADVISORY OPINION OF
THE INTERNATIONAL COURT OF JUSTICE IN 2010
Wolfgang Beneck
Professor for International Law, University of Graz

The International Position of Kosovo in the UN System. The Consequences of the Advisory Opinion of the International Court of Justice in 2010

It is a great pleasure to be here for this particular conference at the Diplomatic Academy, where I have the honour to regularly teach about Human Rights and the Balkans, as this topic is still relevant and interesting.

One could look at the topic of the conference and of the panel with very different views. As international lawyers we can only make a modest contribution, because as all of you are aware the issues are first of all political. Therefore, the question could be what can be the contribution of international law in this respect, in the process of gaining membership. Is this a problem of the status of Kosovo at all, which is not yet developed enough for membership in this organisations, or is Kosovo rather a kind of victim of a system of accession which can easily be blocked for political reasons.

We are living in a globalised world and the UN in particular understands itself as a universal organisation in comprising all states which fulfil the necessary requirements. But as we know in practice, this is often different. When we look at Article 4 of the UN Charter, which does contain the necessary obligations, these criteria are very clear. An accession state shall be a peace loving state, ready to accept the obligations of the Charter, and, according to the judgement of the United Nations, capable and willing to meet those obligations. So in the past, in particular in the post-colonial context, this was interpreted very widely with the result that the many micro states are today members of the United Nations, some of which definitely cannot meet all their obligations of active membership in the UN.

Nonetheless, when it comes to Kosovo, there is a political context of a denial of access to the
United Nations by members of the Security Council, as Russia and maybe also China might block the necessary recommendation of the Security Council. The simple majority, which may be possible in the General Assembly, cannot lead to membership. The question however is whether a majority in the United Nations General Assembly could be in favour of a recommendation to the Security Council on the accession of Kosovo which might be theoretically possible.

In the meantime, as has been pointed out by Ambassador Prenkaj there are different options: Kosovo can go for an accession to the UN in general or to various specialised agencies. And here, some progress has already been made. It would indeed be useful to have a kind of strategy in moving step by step forward also with regard to membership in the specialised agencies. To give one example, for the World Health Organisation, according to Article 6 of its Constitution, only a simple majority is needed in order to become a member of this organisation. And, interesting enough, we have a provision in the statute of UNIDO – the United Nations Industrial Development Organisation, in Vienna, which says that states members of a specialised Agency may become members by accession. This means, if you are a member of the World Health Organisation you can easily accede to UNIDO, without needing – like in most other specialised agencies – a two-third majority.

But maybe this two-third majority should also not be impossible to reach, because one should not count only on those members that have already recognised, but there might be other members that might have not yet recognised but that are still in favour of accession, because they want this organisation to do its job and to function well. So for example regarding accession to the ITU – International Telecommunication Union, which has more technical functions, it is in the common interest to have all countries in this organisation. As we all know, UNESCO is more political: when Palestine got in, United States moved out. So as I said, it is unfortunately a political issue, but the legal context can play a certain role.

Another topic is the relevance of the Advisory Opinion of the International Court of Justice of 2010. I would like to highlight in this context that the international legal office of our Ministry, under the heading of our chair, Prof. Dr. Helmut Tichy, was quite well anticipating in which direction the ICJ opinion would finally go. What does this advisory opinion add or not add to our question? The main result as is generally known was that the ICJ said that the Declaration of Independence was not illegal, it was not a violation of international law, while the court kept silent on more interesting issues, if I may say so, like the issue of self-determination or the issue of statehood, which were avoided.

The question posed does not, as the Court says, ask whether or not Kosovo has achieved statehood. Now, can we say from this that it did not have any effect on recognition? My colleague in Graz, Christian Pippan, in an article analysed this matter, the fact of remaining silent on the issues that we would have liked the Court to say something about. But, on the other hand, the declaration of independence in its first paragraph says “declare Kosovo to be an independent and sovereign state” and this was not dealt with by the Court. But is that not the necessary understanding behind? Can one make such a declaration without creating a state? So I would say, implicitly, the decision of the Court has also meant that Kosovo has to be considered as a state.

The International Court of Justice in this advisory opinion when it distinguishes between different declarations of independence, has highlighted that in this case it was not done in an unlawful
context like the use of force, it was not done in the context of major violations of human rights and so on, and therefore it could be considered not a violation of international law. When we look at the issue of the Crimean peninsula, I would wonder what the ICJ would have to say, because it has a different context and I think it would be very difficult to find similarities.

I would also like to point out that the Rambouillet Accords, which were quoted in Resolution 1244, in its Chapter 8 have a reference to the will of the people. I think this is still important, and the fact that the Court says that the reference to the political settlement in Resolution 1244 does not prohibit the unilateral declaration of independence, in the absence of an agreement with Serbia, needs also to be highlighted. The Court says that it was not selective, because the people of Kosovo are the entity that has taken this declaration and therefore, in reformulating the question, it has also found the solution to this problem of who was the author of the declaration of independence.

One point in the Advisory Opinion, which could also be worth looking at for the relevance of the interpretation of Article 12 of the Charter is the question “Was this a political issue? Should it have been left to the Security Council? Can the General Assembly ask for such an opinion?” And it is clear that the General Assembly is not prohibited from asking such a question, which raises the issue, what else the General Assembly can do in this respect. Therefore, I say it might be a bit utopian, but it is not fully excluded that the General Assembly would also come up and say why should Kosovo not be given an opportunity to gain membership in the United Nations.

At the end, I would like to bring one more argument, as there are so many speculations why Kosovo should or should not be able to accede to the UN system. I think one important argument which has also been brought up in another conference on membership in international organisations organised by my institute in Graz this May by Deputy Prime-Minister Kuci is that our globalised system today depends on international cooperation, which is based on the assumption that all states are able to participate in this international cooperation. And here is not just the interest of Kosovo in becoming a member of international organisations for this purpose; there is also the interest of the international community to have Kosovo as a member in order to assure the functioning of international legal cooperation. Kosovo should not remain a black-spot in which for example criminals can hide and have a safe haven, because of the lack of international cooperation, which assures that international conventions are being applied in the same way.

What we have so far is the concentration of international organisations in and on Kosovo which is unique in this way. You will hardly find an international organisation which is not active in Kosovo. The next step has to be that these organisations do not deal with Kosovo through intermediaries like UNMIK or whatever but deal with it directly. And for this there is a need for membership, and therefore my argument is that there is an interest of the international community itself to have a functioning and effective cooperation and not just to work through intermediaries. Therefore the international community should also do what it can to assist Kosovo to become a member of these organisations, to be a member of the UN system as well as the regional system on an equal level.
ILIRIANA ISLAMI
Member of the Board, Diplomatic Academy of Kosovo; Professor of Public International Law and Human Rights in the Faculty of Law, University of Prishtina; former Judge at the Constitutional Court of the Republic of Kosovo

Admission of Kosovo to the United Nations

Ladies and Gentlemen, Excellencies I am honored to be part of this conference and at the same time privileged to be part of the panel with the distinguished professors. My aim through this presentation is to highlight three main issues which makes Kosovo very different from any other case and argue that Kosovo fulfills eligible criteria for membership to the UN.

Nowadays many scholars argue how international law is becoming part of the national law and how national law is becoming part of the international law. At this point the constitution is a crossroad to forge this relationship between international law and national law creating a network of norms with the aim of tackling problems and trying to solve it, through the best solutions, incorporating the highest standards.¹ Therefore Kosova/o is the best example illustrating the issue.

The first point that distinguishes Kosovo from any other case is that the International Community was involved directly in the state building of Kosovo.² Since the beginning Kosovo was built referring to the EU principles known as political or Copenhagen criteria or as accession criteria which were established by the European Council in 1993 and strengthened by the Madrid European Council in 1995. Therefore according to those criteria to join EU new Member States must meet three criteria:

Political: stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and the protection of minorities. These criteria to a certain extent were an innovation of the Badinter Commission, which was created as a tribunal or expert body to advise EC Conference to address issues of dissolved Yugoslavia.

Compared with the former Yugoslavia the legal principles identifying statehood were used separately from the recognition process. In Kosovo, however, recognition and internal legality were embodied as one process.

In the former Yugoslavia the aim was to retain the “normal standards of international practice”, while adding a series of new requirements, namely rule of law, democracy and respect of human rights. As a result Croatia was asked to change its constitution, Slovenia was asked to have reserved seats for minorities and also in Macedonia minority rights become part of the Ohrid Agreement. Kosovo was a different case as it was created through international presence. Kosovo since the beginning was prepared by the international community with the highest standards. The aim was to prepare Kosovo to be ready for the recognition by the international community.

In this context of creating the highest standards for Kosovo, the Constitution was drafted based on the highest standards of the international law, and is therefore a very modern one.

The second issue that the constitutional framers had to encompass was the prevention or resolution of ethnic conflict crucial for maintaining stability and peace. Minority rights are regarded as possible instrument for avoiding or resolving ethnic conflict. The novelty of the Constitution is that it does not speak about the “majority” or “minority” but instead uses the term “communities” for minorities, which is more advanced compared to other countries in Europe.

Another innovation is that according to Article 3, the Republic of Kosovo is a multiethnic society consisting of Albanians and other communities governed democratically with full respect for the rule of law through its legislative, executive and judicial institutions.

Clearly reflecting the restriction of the majority the Constitution drafters considered minority rights as the core basis for a viable state, therefore providing minority rights for Kosovo Serbs far beyond European standards.

Also regarding human rights, a further innovation is that interpretation should be based on the jurisprudence of the European Court of Human Rights, Article 53 of the Constitution. In one way Article 53 besides elevation of human rights to highest standards is considered to compensate for the possibility for citizens of Kosovo to render decisions from the Constitutional Court since Kosovo is not part of the Council of Europe yet.

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6 Drafters were USA-AID, as the main donator and Venice Commission and a group of a national experts.
7 The most prominent example is the Constitution of France, which is blind of ethnic diversity, see for more, Emma Lantscher, Protection of Minority Communities in Kosovo: Legally Ahead of European Standards- Practically Still a Long Way to Go, 33REV. CENT. & EUR. L. 451(2008).
It is important to say that, at the forefront of interpreting the Constitution is the Constitutional Court. The Constitutional Court in its decision on multi-ethnicity and on minority rights ruled among the line of its drafters.  

In case of C. Kurtishi, the Vice Chairperson of the Municipality of Prizren Constitutional Court found a violation of the Constitution since multi-ethnic communities were not represented equally on the emblem of the municipality of Prizren. This decision was criticised among the citizens as not respecting the national identity and pride of Kosovar Albanians. However, Kosovar institutions have demonstrated that they have the will to respect whatever the decision taken by the Constitutional Court.

As a result of the Constitutional Court decisions two Presidents resigned, therefore one can say that Constitutional order is respected.

The third is that the International Court of Justice (ICJ) in 2010 ruled that Independence of Kosovo is not in violation of the International Law. In the judgment among other issues it was emphasized that the Secretary General did not reacted when it was declared the independence. At this point Kosovar institutions considered that the decision of the ICJ clarifies the situation of Kosovo in the international arena, therefore it could be easier to justify the statehood of Kosovo and could easily get more recognition.

It was expected by Kosovars that the decision of ICJ would bring membership to many international organizations. However, the international community did not create any strategy for a membership into the UN, as was expected. Instead, Kosovo was left alone to lobby for the recognitions through the policy of state to state.

Kosovo is striving for a membership into the UN, while into the diplomatic affairs it was said that there is no momentum yet, it was assumed most probably a veto of Russia and China for a membership of Kosovo was assumed.

Palestine lately becomes a member of some specialised agencies of the UN and it was looked for the possibility of Kosovo too, entering with one foot to specialized agencies until full membership. The case of Kosovo is very different from the Palestine, one taking into consideration borders, Jerusalem, refugees, implementation of the icon Resolution 242. Although in one aspect the systematic violation of H.R. and Humanitarian International Law makes Palestine eligible as Kosovo for recognition and membership.

Lastly, can the membership into the UN be justified based on the Charter criteria. The Charter of the UN foresees that the membership in the UN should be free for all peace loving states, which accept the obligations contained in the present Charter, and in the judgment of the organization.

8 The decision was rendered while the author was judge of the Constitutional Court,( the first generation of judges of the C.C., with the mandate of three years).
11 Paragraph 108
12 Look for Status of Palestine in the UN
1. Kosovo is an independent and Sovran country, which is demonstrated through independence de jure and de facto, demonstrating the implementation of constitutionality according to international standards, creating constitutional order.

At this point it was a remark made by China while Bangladesh was requiring membership in the UN after the break-up from Pakistani considering doubts that the entity is an independent, taking into the consideration India and the control of the situation in the Bangladesh) 13.

2. Kosovo has demonstrated that can govern itself, after the official closing of the ICO (International Civilian Organization) which as the mission had the mandate of supervising independence.

3. Kosovo has demonstrated that it is committed to undertake all obligations derived from the Charter. The will has been demonstrated with its participation in all normalisation agreements with Serbia.

USA was using the veto against the membership of Vietnam considering serious doubts that the Socialist Republic of Vietnam will have the will to fulfil obligations of the Charter.

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13 SCOR 27th yr 1660th mtg 25 Aug 1972 p.7 73, p.9
Was the delivery of the advisory opinion of the International Court of Justice (ICJ) of 22 July 2010 a turning point in the recent history of Kosovo? Arguments can be put forward in both directions. There are those who see the opinion as a further step on Kosovo’s road to unlimited sovereignty on a par with other nations; On the other hand, however, the view can be defended that the ICJ confined its holdings to a bare minimum, circumventing the essential questions. In fact, the ICJ proceeded with a high degree of caution. It took the question submitted to it in its narrow literal sense. It had been asked by the General Assembly:

‘Is the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo in accordance with international law?’

and gave a very simple answer:

‘... the declaration of independence of Kosovo adopted on 17 February 2008 did not violate international law.’

Obviously, the question to be assessed by the Court could have been framed in much broader terms. Serbia was the only sponsor of the draft tabled for a vote in the General Assembly which then was adopted by a broad majority of 77 against 6. Thus, one might believe that Serbia could have easily amplified the scope of the question. Politically, however, it was not in such a good position. In fact, the vote was highly controversial. No less than 74 States abstained. Had Serbia attempted to include additional items in its draft – in particular the question of whether third

16 GA Resolution 63/3, 8 October 2008.
17 ICJ Reports 2010, p. 54. However, the name of the author of the declaration of independence was changed according to its identification by the ICJ, see ibid., p. 444-8.
States were allowed under international law to recognize Kosovo as a State – the necessary majority in the General Assembly would probably not have been achieved. In his speech before the world parliament, the Serbian Foreign Minister admitted that the draft text ‘represents the lowest common denominator of the positions of the Member States on this question’. 18

Many delegates stressed indeed in the debate that their decision to recognize Kosovo as a State after its declaration of independence constituted a ‘sovereign act of their foreign policy’, not susceptible of being affected by a pronouncement of the ICJ. 19 In light of this controversial background, the Court was certainly right in insisting on a narrow reading of the question with which it had been seized by the General Assembly. These lacunae in the Court’s opinion work both in favour and, if one may say so, to the detriment of Kosovo and Serbia.

It should be noted, in the first place, that the ICJ did not address the issue of Kosovo’s statehood. In the contemporary world, recognition of statehood is generally effected through the admission of a country to the United Nations. Indeed, one of the requirements of admission is the quality of an entity as a State. Only peace-loving States may become members of the United Nations. Once a country has been admitted to the United Nations, its statehood is unchallengeable in legal terms, irrespective of any claims to the contrary by another UN member State. But precisely this easy procedure is currently blocked because of looming vetos in the Security Council. It need not be explained that the final vote by the General Assembly is dependent on a prior recommendation by the Security Council. 20 Two of the permanent members of the Security Council, China and Russia, have persistently stated in the relevant debates on the issue of Kosovo their view that they remain committed to the sovereignty and territorial integrity of Serbia, thus having to resist any initiative promoting the admission of Kosovo. 21

Notwithstanding its fairly narrow scope, the ICJ’s advisory opinion had a large and impressive deblocking effect. While before 22 July 2010 during more than four years 69 States had recognized Kosovo as a State, 40 or 41 further States 22 followed soon afterwards, among them mostly developing countries. Additionally, two international organizations, members of the UN family, the IMF and the World Bank, had admitted Kosovo as a member already before the delivery of the opinion (on 29 September 2009). The route therefore seems to be open for admission of Kosovo in other world-wide organizations where no blockade power exists, in particular the WHO, where admission is effected by a simple majority 23 and the FAO, where a two-thirds majority is required. 24

Lastly, the international community is compelled to fall back on the classic method through which before 1945 statehood was generally certified, namely recognition by individual States. 25 In this regard, the current balance sheet with 110 States recognizing Kosovo, more than half of the membership of the UN, is highly significant. To give paramountcy to the judgment of individual States also seems to be in conformity with the usual practice of the UN where regarding representation of States in case of rivalling governments the decisive determination has always

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19 See, for instance, statements by Peru, UN doc. A/63/PV22, 8 October 2008, p. 12; Colombia, ibid., p. 13.
21 See ultimately statement by Russia, 29 August 2014, UN doc. S/PV.7257, p. 18; China, ibid., p. 25.21
22 Different figures are indicated concerning the number of recognizing States at the present time, 109 or 110 States.
23 WHO Constitution, Article 6.
24 WHO Constitution, Article II(2).
25 See the classic treatise by H. Lauterpacht, Recognition in International Law (Cambridge: Cambridge University Press, 1948).
been left to the General Assembly. However, the big flaw of that classic method is that it does not yield an objective erga omnes configuration. Those States that have recognized Kosovo as a State are required to apply to it any relevant rules of general international law while the hesitant or openly hostile States are capable of denying to Kosovo the benefit of many of the rules of the regular inter-State regime. A ruling of the ICJ could have brought clarity regarding Kosovo’s statehood. But it should be reiterated that the issue was not encompassed by the question put before the Court. As is well known, according to traditional and uncontested criteria the existence of a State requires three elements, a territory, which undoubtedly exists, a population, whose existence can neither be doubted, and governmental structures. Had the Court wished to pronounce itself upon Kosovo’s statehood, it would have had to look into this third element where difficult problems would have had to be examined, in particular the question whether the presence of UNMIK and KFOR was and is compatible with sovereign statehood. It is not my task to comment on this specific aspect of the legal position. I only wish to emphasize that without a careful examination of the issue of stable governmental authority the Court was simply unable to express an authoritative statement on Kosovo’s statehood.

Another positive side of the advisory opinion of 22 July 2010 is its finding that the unilateral declaration of independence of 17 February 2008 was not unlawful. Thus, the people of Kosovo have been exonerated from the charge that they used methods illegal under international law in their endeavours to bring about secession from Serbia. This conclusion brings to a close only the debate concerning the conduct of the people of Kosovo and does not prejudice the debate on the conduct of other nations involved in promoting the process of secession. According to a traditional doctrine, premature recognition amounts to unlawful interference in the domestic matters of the country concerned. In the case of Kosovo, however, the status question has long since lost its character as a purely or even predominantly domestic matter. When the Security Council, by virtue of resolution 1244 (1999), established the special regime for Kosovo, the status issue became a matter under the jurisdiction of the international community, heavily impacted by the potential right of self-determination of the people of Kosovo. Generally, ethnic groups within a country are not acknowledged as holders of the right of self-determination. But the tragic events from 1989 to 1999, the period when Kosovo was deprived of its status of autonomy in the Socialist Federal Republic of Yugoslavia, and the UN mandate established in 1999 made the case of Kosovo a special one, not to be compared, in particular, with the situation in Crimea or Eastern Ukraine. It is not the task of the present report to undertake a detailed assessment of the concept of remedial self-determination which in any event is of great relevance under the circumstances which an inquiry into the relevant occurrences preceding the declaration of independence reveals.

When looking to the future, the main issue seems to be when and how Kosovo may become a member of the United Nations, able to participate actively in framing the destiny of this world. One might have assumed that the declaration of independence would at the same time put an end to the special regime under resolution 1244 (1999) with UNMIK and KFOR as its institutional...
articulations. This is not the case, however. Resolutions of the Security Council do not lapse automatically after their objectives have been reached. Furthermore, in particular China and Russia are of the view that the situation is far from being settled: they raise objections of principle against any attempts by an ethnic group to leave the country to which it juridically belongs. In the case of Russia this attitude appears to be utterly contradictory, given that Russia actively promoted the secession of Abkhazia and South-Ossetia from Georgia and most recently annexed Crimea, including it as a province in the Russian State. Yet it cannot be assumed that the two States will change their position in the near future. Thus, although the regime established by resolution 1244 (1999) was conceived as an interim device pending a final settlement, one remains caught in the dilemma that views differ as to the character of the situation as it obtains today.

It would also be hazardous to contend that the right of self-determination of the people of Kosovo takes precedence over the determinations of the Security Council. To date, it has not been clarified to what extent the Security Council is bound by rules of jus cogens. Many arguments militate in favour of absolute strictness concerning individual human rights. The Security Council enjoys no political discretion whatsoever regarding arbitrary killing and torture or regarding ethnic cleansing. It is certainly debarred from allowing massive expulsions of people from their ancestral lands, as they happened and were to some extent ‘authorized’ during and after World War II. Otherwise, however, as far as relations between States are concerned, the Security Council constitutes the main organ empowered by the international community to say the last word on issues of international peace and security. Attempts to defy its resolutions by challenging the appropriateness of its judgment on the relevant facts would amount to calling into question the entire system of the United Nations. To re-activate the famous resolution Uniting for Peace in order to substitute a General Assembly resolution for the requisite recommendation of the Security Council seems to be a fairly remote possibility.

For the time being, hence, one has to take it as a fact of life that the powers of the Security Council as particularized in resolution 1244 (1999) remain in force. The two presences, UNMIK as the civil presence, and KFOR, the security presence, continue their activity in Kosovo, albeit with considerably reduced personnel. Institutionally, this amounts to an anomaly and cannot last forever. The Security Council is empowered to take measures with a view to combating an actual disturbance of international peace and security. By contrast, the Charter does not provide for the establishment of a permanent regime of supervision and control for any territory. At some point in time in the near future, therefore, resolution 1244 (1999) will have to be revoked or to be fundamentally modified.

Until that change, there will be, for some time to come, a mixture of governmental authority from three different sources: Serbia, the UN, and the Kosovo institutions.

32 Para. 19 of resolution 1244 (1999) provides specifically: ‘Decides that the international civil and security presences are established for an initial period of 12 months, to continue thereafter unless the Security Council decides otherwise.’
34 Reference is made to the horrendous stipulation in the Potsdam Agreement of the Victorious Allied Powers of 1945 to expel all Germans from the territories beyond the Oder-Neisse line, an operation called ‘transfer’ which was to be effected ‘in an orderly and humane manner’, see text reprinted in: I. von Münch, Dokumente des geteilten Deutschland (Stuttgart: Kröner, 1968) 32. How this ‘transfer’ was de facto carried out is described by R.M. Douglas, Orderly and Humane: The Expulsion of the Germans After the Second World War (Yale: Yale University Press, 2013).
35 GA resolution 377 A (V), 3 November 1950.
36 While KFOR originally comprised 50,000 men and women, it now consists of a force of only 5,000 members.
37 This is not touched upon by A. Gioia, ‘Decisions of the UN Security Council of Indefinite Duration: How to Define the Limits of Their Validity’, in: Kosovo and International Law (above n. 16) 197-207.
• On the one hand, Serbia will not forego its sovereign rights as they are acknowledged for the former Yugoslavia in resolution 1244 (1999). Fervent speeches were made in the Security Council to the effect that Serbia will never accept the secession of Kosovo. But these sovereign rights have no actual substantive meaning, they are of a virtual nature only. Resolution 1244 (1999) has totally displaced any concrete manifestation of Serbian public authority in Kosovo. As a trustee, the Security Council has assumed responsibility for the people of Kosovo. Serbia has accordingly lost its role as the guardian of the rights and interests of the Kosovars.

• There is second the Security Council which has established itself as the guarantor of the rights and interests of all the inhabitants of Kosovo. It remains, for an interim period, the supreme authority in Kosovo. As a matter of practice, however, it is confined to an umbrella function. Its main responsibilities consist of regulating, in co-ordination with the new Kosovo Government, Kosovo’s external relations. Since the permanent members block one another, the UN Secretary-General will often be called upon to make the requisite choices. Additionally, the UN can be held accountable for the actions of UNMIK and KFOR.

• The Kosovo Government, which enjoys an unchallengeable democratic legitimacy, has under its jurisdiction the internal matters of Kosovo in their comprehensive breadth. It is legally prevented from touching upon the status question but can de facto enhance its standing in the international community step by step.

Admittedly, this is not a perfectly comfortable situation. But it can be accommodated to the practical needs of the people of Kosovo. That an entity or even a State lacks full and unrestricted authority in its own territory is not such an exceptional situation in our time. It may suffice to draw attention to the status of the members of the European Union. They have all seen their legislative, executive and judicial powers massively curtailed by the institutions of the EU – but with the compensatory gift to take part in the decision-making in all of the supranational institutions. This compensatory gift is lacking in the case of Kosovo. The Kosovo people have not been able to authorize the Security Council to act on their behalf.

The closest parallel example is provided by Germany before it attained again full sovereignty in 1990. Until the Federal Republic of Germany recognized the German Democratic Republic in 1972, there was no official contact between the two Governments. The Bonn Government viewed the Government in East-Berlin as an artificial creation of the Soviet occupation force, a secessionist entity without any legitimacy, still existing under the roof of the German Reich. Nonetheless, many issues of common concern needed to be regulated, in particular in the field of communications, water courses, environmental problems etc. Here, specific formats were found for agreements concluded between administrative units at a lower level. Care was taken by the Federal Republic to make clear that such contacts did not amount to recognition for the purpose of inter-State relations. Dispute settlement was arranged at bureaucratic level. On the whole, the provisional system did not produce unsatisfactory results.

When the FRG and the GDR in 1972 strove at the same time for UN membership, the question arose what would after admission to the rights and responsibilities which the Four Victorious Powers of World War II had assumed in 1945 after the defeat of the Nazi regime Normally, a State must be fully sovereign in order to be able to fulfil the obligations set forth in the UN

38 See, in particular, Serbian President Tomislav Nikolić before the Security Council on 27 May 2014, UN doc. S/PV.7183, p. 4-12.
39 Berlin Declaration Regarding the Defeat of Germany and the Assumption of Supreme Authority with Respect to Germany by the Governments of the United States of America, the Union of Soviet Socialist Republics and the United Kingdom, and the Provisional Government of the French Republic, 5 June 1945, reprinted in von Münch (above n. 20) 19.
Charter and make a declaration to that effect. Yet the Four Powers, all permanent members of the Security Council, took the view that the continuity of Germany’s special status was not incompatible with its duties under the Charter. In November 1972, they agreed on a statement that the membership of the two German States

‘shall in no way affect the rights and responsibilities of the Four Powers and the corresponding related Quadripartite agreements, decisions, and practices’.

Under this condition, the two German States were indeed admitted to the UN without any objection on 22 June 1973 by General Assembly Resolution 3050 (XXVIII).

To my knowledge, the reservation made by the Four Allied Powers did not lead to any intervention in the conduct of German policies at the UN. It was maintained as a matter of principle but did not entail any negative consequences for either of the two German States in the period between 1973 and 1990, the date of reunification. In any event, the example shows that a State can very well be a member of the United Nations even if handicapped through intervention powers held by third States.

For Serbia and Kosovo, the main aim should now be to establish peace and security in their mutual relations. What matters indeed most and primarily is the well-being of their citizens. In particular, in order to attract foreign investment Kosovo needs the confidence of potential investors. They must feel that their engagement with Kosovo is not an ephemeral undertaking threatened by political unrest. In this regard, the maintenance of resolution 1244 (1999) can even be regarded as an asset for Kosovo. The resolution constitutes a guarantee of stability. UNMIK, under whose authority the EULEX mission shall be working until June 2016, provides the institutional framework suited to assist the Kosovo Government in matters of democracy and the rule of law. KFOR, on the other hand, protects Kosovo against any possible assault on its territorial integrity. Thus, for a considerable time to come, Kosovo will not only have to endure the inconvenience of a status of less than full sovereignty, but will also enjoy the advantages of that status, in the same way as the Federal Republic of Germany did as long as it was under three-power allied occupation between 1949 and 1955. I take it that Kosovo will progressively discover the attractions of an exceptional status which has firm consolidated bases and cannot be altered unilaterally by any one of the permanent members of the Security Council. Additionally, one may also presume that negotiations with Serbia will continuously lead to an easing of the tensions currently existing in the mutual relationship. In any event, the current status will not and cannot be the last word on the issue. In connection with the admission to the European Union, a complete overhaul will be necessary. The European Union would never be prepared to admit Serbia as long as it has not settled its border dispute with Kosovo, recognizing the latter’s independence formally and without any reservations.

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40 ILM 12 (1973), p. 217. It was highly doubtful whether maintaining those rights and responsibilities dating back to 1945 was compatible with the right of self-determination of the German people at a time when the two German States were recognized as ‘peace-loving’ through their admission to the UN. But none of the two German States questioned the position of the Allied Powers. Obviously, the Four Allied Powers could not have blocked the reunification of Germany in 1990 through denying their consent.
KOSOVO IN THE MULTILATERAL FRAMEWORK, STRIVING FOR INTEGRATION (I.A. COUNCIL OF EUROPE, OSCE, EURO-ATLANTIC UMBRELLA)
Chairperson, Excellencies Ladies and Gentlemen,

Thank you very much for inviting me to this Conference. Even though I will speak before Ambassador Lennkh, I have the pleasure to complement his presentation. The Ambassador will inter alia inform you about the decision of the Committee of Ministers of the Council of Europe, taken in June 2014, inviting Kosovo to join the European Commission for Democracy through Law of the Council of Europe – usually referred to as the Venice Commission. Therefore, after a brief presentation of the Venice Commission itself, I will focus on two aspects: first, the co-operation of the Venice Commission with Kosovo before accession, in particular the opinions which the Commission provided.

Following the presentation by Professor Islami who referred to the Constitutional Court of Kosovo, I will inform you how Kosovo’s Constitutional Court joined the World Conference on Constitutional Justice for which the Venice Commission acts as the Secretariat.

Let me start with the Venice Commission:

I. Venice Commission

Founded in 1990, the Venice Commission is an advisory body of the Council of Europe in the field of constitutional law.
The Venice Commission is part and parcel of the Council of Europe, which has 47 member States. Nonetheless, as a so-called “enlarged agreement”, the Venice Commission is open to the membership of non-members of the Council of Europe and – until recently – its 12 members, which are not members of the Council of Europe, were also non-European. They are: Brazil, Chile, Mexico, Peru and the United States in the Americas; Algeria, Morocco and Tunisia in Africa and Israel, Kazakhstan, South Korea and Kyrgyzstan in Asia.

Each Member State can appoint an expert in the field of constitutional law as the individual member of the Venice Commission. The members are independent. Membership of the States is not a decision of the members of the Venice Commission but of the Committee of Ministers of the Council of Europe.

They act in their individual capacity and they do not represent the member State, which has appointed them. In practice, the individual members are mainly university professors or judges of constitutional or supreme courts.

The main activity of the Commission is providing legal advice for the preparation of constitutional reforms and para-constitutional legislation, like electoral laws, laws on the ombudsman or legislation on the organisation of the Judiciary.

Except for general reports and studies, which do not relate to a specific country, the Venice Commission only acts upon request.

Such requests can come from the State concerned but they also can come from the organs of the Council of Europe or international organisations which participate in the work of the Venice Commission, like the European Union or OSCE/ODIHR.

In practice, most of the requests for opinions come from the States themselves, from the Governments or Parliaments but the Commission also provides amicus curiae briefs to national Constitutional Courts when they ask for them.

Usually, when it receives a request for an opinion, the Venice Commission sets up a working group composed of several of its members who then act as rapporteurs. Each of them prepares his or her individual comments on the draft constitution or law to be examined.

Then, the rapporteurs visit the country concerned where they meet with the various stakeholders, the Government, Parliament, including the opposition, any other relevant authorities and the civil society.

On the basis of the comments and the results of the visit, we, the Secretariat, prepare a draft opinion, which is then discussed and adopted at one of the four annual plenary sessions in Venice.

Usually, the opinion contains recommendations on how to improve the draft. These recommendations are based on common standards but, often, they also try to make the text more coherent.

As per their nature, the recommendations of the Venice Commission are not binding but sometimes political bodies like the Monitoring Committee of the Parliamentary Assembly of the Council of Europe or the European Commission will push for the implementation of these recommendations.
Since its establishment, the Venice Commission has also tried to support Constitutional Courts and equivalent bodies in the implementation of the Constitutions.

In order to do so it promotes international dialogue of constitutional judges, which helps the Court to take inspiration – and encouragement – from other constitutional courts.

As a basis for this dialogue, the Venice Commission provides a permanent platform for exchange and communication between the Courts.

Tools for this exchange are the CODICES database, which provides information about important cases of Constitutional Courts, all over the world and the confidential on-line Venice Forum, through which the courts can quickly exchange information and request assistance.

Given that in the field of constitutional justice, the Venice Commission acts on a global scale, it established the World Conference on Constitutional Justice for which it acts as the Secretariat.

I will come to the World Conference later when I will speak about the Constitutional Court of Kosovo.

II. Opinions by the Venice Commission

Let me turn to the four opinions which the Venice Commission was asked to prepare for Kosovo.


The first request for an opinion of the Venice Commission relating to Kosovo was made in 2004, the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe, which requested the Commission to prepare an opinion on “the human rights situation in Kosovo. The Commission was asked to focus on three issues:

1. What state or other entity is responsible under international law for the protection of human rights in Kosovo? In particular, does Serbia and Montenegro’s ratification of the European Convention on Human Rights without any territorial declaration make it responsible for human rights protection also in Kosovo?
2. Would it be possible to conclude some form of agreement between the Council of Europe and the international authorities in Kosovo placing them, along with the Provisional Kosovo institutions within the jurisdiction of the European Court of Human Rights? […]
3. Would it be preferable to establish some form of “human rights chamber”, perhaps similar to that set up in Bosnia and Herzegovina? If so, how might such a body be constituted?

The Venice Commission’s opinion had to deal with the complex situation in Kosovo where, in addition to the then – we are in 2004 – Provisional Institutions of Self-Government, two international powers co-existed:

the United Nations Interim Mission in Kosovo (UNMIK), which inter alia had the task of protecting and promoting human rights and the Kosovo Force (KFOR) which was a NATO-led international
force responsible for establishing and maintaining security in Kosovo under Resolution 1244. One of the main issues dealt with in the opinion was that under UNMIK Regulation no. 2000/47 of 18 August 2000, KFOR, KFOR personnel, UNMIK, and UNMIK personnel “shall be immune from any legal process”. Therefore, they could not be held liable for human rights situations and this is was considered to be problematic.

In reply to the request the Venice Commission first excluded an accession to the UN or NATO to the European Convention on Human Rights for practical reasons. The establishment of a system of jurisdiction of the European Court of Human Rights in parallel to the existing ECHR system could be conceived but would also require lengthy preparations.

As an alternative, the opinion discussed was setting up a special Human Rights Court for Kosovo, with mixed, mainly international membership, on the basis of an agreement between UNMIK and possibly NATO, on the one hand, and the Council of Europe on the other, on the setting up of a provisional ad hoc court to deal with complaints about violations of the Convention by UNMIK, the Provisional Institutions of Self-Government and possibly NATO (including NATO member States).

In the end the Commission’s however concluded that, each of the three sources of potential human rights violations in Kosovo – UNMIK, KFOR and the Provisional Institutions of Self-Government - called for a specific interim review mechanism.

As regards UNMIK, the Venice Commission suggested setting up an independent Advisory Panel, which would be competent to examine complaints against alleged human rights violations by acts of UNMIK.

The Advisory Panel would express an advisory opinion, by majority vote, as to whether or not there had been a breach of the applicant’s fundamental rights and freedoms.

In the regulation setting up the panel, UNMIK would commit itself to accepting the Panel’s finding, except if the special Representative of the Secretary General personally determined that extraordinary reasons existed that did not make this possible. Such a solution was certainly not satisfactory but it was the maximum that could reasonable be obtained from the United Nations.

As regards KFOR, and in particular the power to detain, an embryonic form of review procedure already existed, requiring that any decision on extending detention beyond an initial period of 72 hours had to be made upon a request by the Legal Adviser.

The Venice Commission proposed to strengthen the role of the Legal Adviser by adding two independent lawyers to his review functions, who should not be members of the military. This recommendation was not followed.

As regards the Provisional Institutions of Self-Government, the Venice Commission recommended establishing a Special Chamber of the Supreme Court on Constitutional Matters.

The proposed solution to be achieved in the medium-term consisted in setting up a Human Rights Court for Kosovo, either on the basis of a UN SC Resolution or by way of an international treaty concluded in the exercise of the treaty-making powers of UNMIK and KFOR. You know that this did not happen.

In 2007, we have for the first time an initiative to request the assistance of the Venice Commission coming from an authority of Kosovo itself, the Kosovo Assembly, which however had to transit via UNMIK because Kosovo was not a member of the Venice Commission. In substance, this request concerned the assessment of the draft law on the People’s Advocate – or ombudsman – of Kosovo.

The then draft Constitution of Kosovo (as proposed at this stage) did not contain an express provision providing for the establishment of an Ombudsman or comparable institution.

The only reference was in Annex I, stating that “the current powers and role of the ombudsperson shall remain in place”. The existing Ombudsperson institution is regulated by UNMIK Regulation No. 2006/6, which entered into force on 16 February 2006.

The Venice Commission recommended including the ombudsman institution directly in the Constitution, nonetheless, this should not delay the adoption of the law on the ombudsman.

As you know, this recommendation was followed. The Constitution Articles 132 to 135 of the Constitution establish the office of the Ombudsperson.

As concerns the draft law, the Venice Commission made a number of recommendations to improve the draft law, notably the procedure of election of the ombudsman and the termination of his or her office.

This should be possible only on specific grounds and with a qualified majority.

c. Opinion on the existing mechanisms to review the compatibility with Human Rights Standards of Acts by UNMIK and EULEX in Kosovo* adopted by the Venice Commission at its 85th Plenary Session (Venice, 17-18 December 2010)

In 2009, the Political Affairs Committee of the Parliamentary Assembly requested the Venice Commission to prepare a follow-up to the 2004 opinion on mechanisms to review the compatibility with human rights standards of acts of UNMIK and EULEX in Kosovo.

The UNMIK Advisory Panel had been formally established in 2006, its members had been appointed in January 2007 and it started to function in November 2007. In 2008 the EU had established the Rule of Law Mission in Kosovo - EULEX KOSOVO - whose central task was to assist and support the Kosovo authorities in the rule of law area.

In the opinion, the Venice Commission welcomed the establishment of the Human Rights Review Panel in November 2009 as a mechanism for the accountability of EULEX.

The Commission found that the Panel was in general in conformity with the 2004 recommendations on the establishment of human rights panels.

However, the Venice Commission pointed out that the 2004 recommendations had been made in a context of a post-conflict emergency situation with only partly operating institutions and that in 2010, EULEX should be put under a more stringent review. In practice, much would depend on the “case-law” of the Panel to clarify its own jurisdiction.
The Venice Commission’s insisted that the Head of Mission should motivate and publish any decisions, not following the recommendations of the panel. The Venice Commission also urged the UNMIK Panel and UNMIK to find a solution for the 450 cases pending before the Panel.


Finally, in November 2013, the European Union Special Representative in Kosovo requested the Venice Commission to provide an opinion on the Draft law amending the law on freedom of religion in Kosovo. The Venice Commission adopted its opinion in March 2014.

The Venice Commission welcomed the initiative of the Kosovo authorities to enable registration of religious communities.

The Commission however insisted that freedom of religion, including the freedom to manifest religion “alone or in community with others”, had to be guaranteed even for communities which did not register.

The Commission criticised the difference in treatment granted to the five communities that “constitute the historical, cultural and social heritage of the country”.

The Commission recommended clarifying several provisions. In particular, it criticised the registration requirement for the purpose or practices of the religious community “not to be in contradiction with the inter-religious tolerance and the Constitution of the Republic of Kosovo”. This is vague term could be used for arbitrary denial of registration.

Since the adoption of the opinion in March, it seems that original draft was abandoned. The Government held consultations on a new draft to be submitted to the newly elected Parliament. It seems that some recommendations of the Venice Commission have been reflected in the new draft.

### III. World Conference on Constitutional Justice

42 Since 1996, the Venice Commission has established co-operation with a number of regional or language based groups of constitutional courts, in particular the Conference of European Constitutional Courts, the Association of Constitutional Courts using the French Language, the Southern African Judges Commission, the Conference of Constitutional Control Organs of Countries of New Democracy, the Association of Asian Constitutional Courts and Equivalent Institutions, the Union of Arab Constitutional Courts and Councils, the Ibero-American Conference of Constitutional Justice and the Conference of Constitutional Jurisdictions of Africa.

In pursuit of the goal of uniting these groups and their members, the Venice Commission had organised a Congress of the World Conference on Constitutional Justice for the first time, held in Cape Town, South Africa on 23-24 January 2009 and hosted by the Constitutional Court of South Africa. This event gathered 9 regional or linguistic groups and some 90 courts.

On the basis of a declaration adopted at this occasion, the Venice Commission assisted a Bureau in the establishment of the World Conference as a permanent body. At their first meeting in Mexico, in April 2009, the Bureau prepared a draft statute, which was discussed at other meetings of the Bureau on 12 December 2009 and 5 June 2010 in Venice together with questions of the organisation of a second Congress.

Eighty-eight Constitutional Courts, Constitutional Councils and Supreme Courts as well as the 10 regional and linguistic groups of courts from Africa, the Americas, Asia and Europe gathered for a second Congress of the World Conference on Constitutional Justice on the topic “Separation of Powers and Independence of Constitutional Courts and Equivalent Bodies”. This event was hosted by the Federal Supreme Court of Brazil in Rio de Janeiro, Brazil on 16-18 January 2011 in co-operation with the Venice Commission.

The draft statute was amended on this occasion and finally adopted at another meeting of the Bureau on 23 May 2011 on the occasion of the XVth Congress of the Conference of European Constitutional Courts.

With the accession of more than 30 Constitutional Courts, Constitutional Councils and Supreme Courts exercising constitutional justice, the Statute of the World Conference on Constitutional Justice entered into force on 24 September 2011.
When I presented the Venice Commission, I told you that it also acts as the Secretariat to the World Conference on Constitutional Justice. I mentioned that we work with Constitutional Courts in various regions – in Africa, Asia and the Americas.

The goal of the World Conference is to ensure long-term cooperation between constitutional courts on a global scale in order to strengthen democracy, human rights and the rule of law.

Following first congresses in 2009 in South Africa, in February 2011 in Brazil, we drafted a Statute was adopted on May 2011 and it entered into force in September.

The World Conference has 94 member courts and I would like to inform you how the Constitutional Court of Kosovo became one of its members.

In the field of constitutional justice, the Venice Commission co-operates with 10 regional and linguistic groups, which unite the Constitutional Courts.

Membership in the World Conference is a right, which is open to the members of the 10 groups. In Europe, our partner is the Conference of European Constitutional Courts, which was established in 1972.

In May of this year, the Conference of European Constitutional Courts held its XVIth Congress here in Vienna in the Hofburg.

The hottest topic discussed at decision taking organ of the Conference, the Circle of Presidents, was the accession of the Constitutional Court of Kosovo to the Conference as a full member. I can make it short; the request for membership did not obtain the necessary majority.

So how could the Constitutional Court of Kosovo become member of the World Conference if it is not member of one of the 10 groups? There is a way to request membership as an individual constitutional court.

The applicant Court has to prove to the Bureau of the Conference that it is really a constitutional court in the sense of the Statute and then there is a vote by the General Assembly on the basis of a recommendation by the Bureau. However, the Constitutional Court of Kosovo did not have to go through this procedure.

According to the Statue, in addition to the 10 groups, there is an 11th body allowing easy, automatic entry, we could call it a “pseudo-group”. This is the Joint Council on Constitutional Justice of the Venice Commission.

The Venice Commission invites constitutional courts and equivalent bodies in all is member states to participate in the Joint Council, which is the managing body for the co-operation between courts.

The Statute of the World Conference provides that courts participating in the Joint Council can become members of the World Conference without going through the difficult procedure of proving that they are constitutional courts.
I told you that in June 2014, the Committee of Ministers invited Kosovo to become members of the Venice Commission. Ambassador Lennkh will tell you more about that.

Only a few days before that, the Constitutional Court of Kosovo had been present at the meeting of the Joint Council in Batumi Georgia, then still as a special guest. But it was not until 12 September that Kosovo joined the Venice Commission as a full member.

Prof. Enver HASANI, the President of the Constitutional Court, was appointed as member of the Commission and Dr. Arta RAMA HAJRIZI, Judge at the Constitutional Court, was appointed as substitute member. As from that day, Kosovo being member of the Venice Commission, the Constitutional Court of Kosovo had to be considered as “participating” in the Joint Council on Constitutional Justice.

There could be no doubt as to the intention of the Constitutional Court to participate in the Joint Council because it had already been present as a special guest.

As a consequence, the way to membership in the World Conference through the Joint Council was open and indeed, the Court sent its letter of accession on 16 September 2014 and became member the next day on 17 December.

This timing was very tight because already on 28 September to 1 October 2014, the World Conference held its third Congress in Seoul, Korea. Deputy President Čukalović participated in the 3rd Congress representing the Constitutional Court of Kosovo as member of the World Conference

IV. Conclusion

Mr Chair,

We can conclude thus that the membership of Kosovo with the Venice Commission opened the door for the Constitutional Court of Kosovo to join the World Conference on Constitutional Justice as a member.

The Kosovo Court was not the first to use this avenue to become member of the World Conference.

Other Courts already had used this access before: for example, the Supreme Court of Israel and the State Council of the Netherlands, which both are not members of a regional or linguistic group. The Constitutional Court of Kosovo thus followed a path already used by other Courts.

The other aspect of the relations between Kosovo and the Venice Commission, which I presented, are the Commission’s opinions.

Before the membership of Kosovo in the Venice Commission, requests for opinions could only come from international organisations and all four opinions given were requested either by the Parliamentary Assembly of the Council of Europe, the EU Special Representative or UMMIK.

Membership has now opened the door to working directly with the State institutions of Kosovo. Membership is not an end on its own but it is only a beginning. We look forward to a fruitful co-operation with our member - Kosovo.
Membership for Kosovo in the Council of Europe – how can it be achieved?

I would like to divide this short expose into two parts – first the necessary formal steps and then an assessment about political factors that might be of influence.

Formal steps

1.) First, Kosovo would have to address a letter to the Secretary General of the CoE requesting to be admitted as a full member to the CoE.

2.) The Secretary General will transmit this request to the Chairman of the Committee of Ministers (CM); in practical terms this would be the Chairman of Ministers’ Deputies = i.e. Permanent Representatives of the Member States.

3.) In the CM the Chairman would first inform the Bureau. It would be up to the Bureau to put this topic on the agenda of the CM. The Bureau could either make a (positive) recommendation to the Plenary of the CM, or it could decide to only inform the CM that such a request has been received.

4.) The CM then would have to decide whether it wishes to transmit the membership application to the Parliamentary Assembly, requesting the PA to adopt an opinion on the membership application. Such a decision by the CM would have to be taken by a 2/3 majority.

5.) In the PA first the Bureau of the PA would be seized with the matter. The Bureau is composed of approximately 30 Persons. The Bureau would decide to seize two Committees of the PA with the matter, namely the Committee on Political Affairs and Democracy and the Committee on Legal and Human Rights.

6.) Once both Committees have drawn up their reports, these would be submitted to the Plenary of the PA in form of a draft decision to be adopted by the Plenary. This draft decision would be worded in such a way that the PA recommends to the CM to admit Kosovo as a full member to the CoE.
Kosovo as a new Member State. It has become a standard that the PA adds a series of conditions to its recommendations which in substance consist of naming specific sectors in the country concerned where measures need to be taken which should be monitored by the PA. The PA would need, of course, a formal assurance that requesting state is willing to accept these conditions.

7.) Once the positive opinion of the PA is adopted, this opinion will be transmitted to the CM which – again after seizing the Bureau with the matter – will put it on its agenda. If the CM of Ministers meets in the formation of Ministers’ Deputies, a decision about admitting a new Member State would have to be adopted by unanimity. The only alternative would be to have this question on the agenda of a formal Ministerial Session of the CM (usually once per year) – at the Ministerial Session a decision could be adopted with a 2/3 majority.

Political factors which might be of influence

Here I would like to distinguish between political factors within the Council of Europe and those radicating outside the Palais de l’Europe in Strasbourg.

Factors in Strasbourg:

Time will be of essence. A procedure which lasts too long (BiH 3 years) might cast an air of a “lost cause” on the requesting state. Therefore it would appear important to attempt that all decisions necessary are taken at the earliest opportunity.

Let’s start with the Chair of the CM: how a request for membership is handled by the Chair in the Bureau and in the Plenary of the CM, might depend on whether the Chair is one of the recognizers or one of the non-recognizers.

In this context it is also important to be aware of the composition of the Bureau which consists of 6 Member States. At present it is chaired by B, the next three Chairs belong to the Bureau, i.e. BiH, BG and EE; and also the two previous Chairs, i.e. AZ and AT. In mid-May 2015 AT will be replaced by CYP. So at present we have a recognizer as Chair and the Bureau has a majority of 4 recognizers vs. 2 non-recognizers. As of mid-May 2015 a non-recognizer, BiH, will chair the Bureau and the Bureau will be composed of 3 recognizers and 3 non-recognizers.

In the CM there are at present 34 recognizers and 13 non-recognizers, so the necessary majority for requesting an opinion of the PA would be there. However, procedural manoeuvres cannot be ruled out at any given moment.

In the PA the Chairmanship – at present Ms. Anne Brasseur, a Liberal from Luxembourg – is of importance as is the composition of the Bureau, where delegates from recognizer-States would have a majority.

As regards the 2 Committees of the PA which would be seized with the matter – important to know who chairs them – at present the Committee on Political Affairs and Democracy is chaired by Theodora Bakoyannis, a former Greek FM, member of the EPP group, and the Committee on Legal and Human Rights is currently chaired by James Clappison, a British Conservative. So at present it would appear that some convincing might have to be done within the EPP-Group.
Let me point out one important difference between the CM and the PA: In the CM we know which countries are among the recognizers and which are not. In the **PA Plenary** it would be wrong – as has been done before – to rely on such an automatic head-count by country, the reality is more complex: not all members of the parliamentary delegation of a recognizer-country belong to the governing party; therefore even parliamentarians from recognizers might vote against membership; but this, of course, is also true the other way around: a number of parliamentarians from non-recognizer-countries might very well vote in favor of Kosovo’s membership.

**Factors in the current political landscape of Europe which might be of influence:**

**Kosovo itself:** Request for membership should be sent to the CoE based on the broadest political support at home.

Second: To the degree possible dispel the consistent rumor regarding the organ trafficking report of PA-member Dick Marty. Candidly put: Kosovo still has a “legacy” in this regard in the view of many PA members, hence the need for convincing.

**Relationship Belgrade/Pristina:** Very important whether Serbia – maybe for reasons of domestic consumption – would make a do or die-issue out of a membership application by Kosovo or whether Serbia would content itself with just voicing its dissent in the CM and in the PA.

Here, it might be possible to make good use of the triangular relationship between Belgrade, Pristina and the EU-institutions.

**Positions of other non-recognizers:** Currently of particular importance Spain – in connections with separatism in Catalunya; and the whole Russian/Ukrainian context where the case of the (internationally not recognized) annexation of the Crimean peninsula has changed the political context of a possible future membership of Kosovo in the CoE.

Furthermore, there are a number of member states of the CoE which do not recognize Kosovo for reasons not directly related with Kosovo – but for reasons of singular importance to these countries. Everyone in this room is aware what I am talking about when I mention the cases of AZ, ARM, GEO, MD, CYP, BiH, RO and UA.

And then there are other pending political issues of considerable importance which might come into play – when it comes to the timing of the mentioned procedures or also, when considerations with regard to creating or maintaining an overalls atmosphere in the CoE with a view to advancing on these issues. These issues have nothing to do with Kosovo’s possible membership, but they just might be on the mind of some of the people concerned, when it comes to decision taking. I just mention two issues here – the question of the voting rights of the Russian delegation to the PA, which will have to be addressed at the end of January in the PA; and the question of continued British membership in the European Convention of Human Rights, which in all likelihood will be a topic in the forthcoming electoral campaign in the UK.

**Now a final word regarding the very important task of lobbying for Kosovo’s membership:**

Kosovo so far has become a member of two partial agreements of the CoE, the one concerns the CoE Development Bank, where a decision by the Member States of this partial agreement
was taken in the summer of 2013, and the other membership in the Venice Commission which was decided by the Plenary of the CM in June 2014. In both cases a decided lobbying effort by those member states which support Kosovo, but first and foremost by Kosovo itself, was of the essence.

When Kosovo decides about submitting an application, it should do so on the basis of a very clear game-plan accompanied by a realistic time-table. Identify the decision makers, be it countries, be it Parliamentarians and talk to them directly. It is important to be able to count on the support of Kosovo’s friends in Strasbourg and in capitals, but they cannot substitute the lobbying by Kosovo itself. The game plan should include contacts by Kosovo in all capitals.

Come with a clear request, transmit a clear message and don’t change the narrative (or the request).

Have a careful look at the working agendas of the institutions concerned – the PA Plenary meets for example only during four weeks per year. Be aware of the additional meetings of relevant PA bodies (Bureau, Committees). They are not all in Strasbourg. Many are held in Paris.

All this is important in order to avoid creating the impression that Kosovo’s membership application got stuck.

To conclude: Whenever the decision is taken in Pristina, you can count on Austria’s continued support in Strasbourg. Let’s stay tuned.
Thank you Mr. Chairman. Excellencies, distinguished guests, ladies and gentlemen: When preparing for this conference, I decided to think about how I can bring something to the discussion, taking a bit of a different angle and sharing Switzerland’s approach to integration in the multilateral system. While recognizing that there are many differences between Kosovo and Switzerland, in particular how the two countries came to existence, there might be some elements of the Swiss experience that might be useful in the context of our discussion and therefore that could be to the benefits of Kosovo.

These days, when you think of Switzerland, you might think about its role on the international stage, which I believe is important relative to the size of our country. This is particularly true this year, during which Switzerland is particularly visible because of its chairmanship of the OSCE and our efforts as Chair of this organization to contribute to solve the crisis in Ukraine. So Switzerland seems to have managed to punch above its weight on the international stage. One might however forget that until 15 years ago, Switzerland was not even a member of the United Nations and for 58 years we have been content with only an observer status at the UN. It is only in 2002 that Switzerland became a full member of the United Nations. The reason of this slow integration in the UN has not to do with existing members of the UN not willing to let us apply for membership. It rather has to do with Switzerland’s traditionally cautious approach to its integration to the multilateral system. The key is that Switzerland takes its obligation - as a member of the UN, of other organizations, as well as signatory of multilateral conventions - extremely seriously, and we want to avoid ending up in a situation where we might be considered in breach of our obligations. During the preparation of my intervention of today, I stumbled on a quote from Henry Cabot Lodge Jr, former US Ambassador to the UN, who said - admittedly in a very different context: “Membership of the United Nations gives every member the right to make
a fool of himself.” I like this quote, because this, precisely, is something that Switzerland wants very much to avoid. So, before joining the UN, another organization, as well as before signing a multilateral convention, we will do everything to make sure that the likelihood of us being singled out for breaching our obligations once we become member or signatory is brought to a minimum.

In fact, Switzerland takes a two-step approach when integrating into an international organization: The first step aims at ensuring that we can abide to all obligations deriving from being a member of this organization. We achieve this by increasing our interactions with the organization, so that we understand how it works, as well as the essence and full extent of the obligations that are associated with membership. We progressively mobilize resources and adapt national legislations if required. It is only when all this is done that comes the second step, which is the actual application for membership.

I believe that the last sentence of the Swiss President’s speech at the UN General Assembly in 2002, when Switzerland joined UN, perfectly illustrates this cautious approach of Switzerland: “It is a pleasure and an honour for me to declare that Switzerland is fully ready to take part!” The same approach goes for the multilateral conventions, and one example is the Convention on the rights of the child, which was adopted by the UN General Assembly in 1989 and ratified by Switzerland only many years later. I believe that it is hard to argue that at that time Switzerland was grossly violating the rights of the child, but we were very mindful of all obligations under the convention.

So, while the weakness of this approach is that it takes a long time for Switzerland to integrate new multilateral fora, this weakness is also a strength. Indeed, I believe that it brings enormous credibility to our foreign policy, as we are considered being a fully committed partner to members of the organizations which we join. I believe that the way our Chairmanship of the OSCE this year was perceived illustrates well this point.

Now that Switzerland is part of the UN and other major international organizations, we - in turn - also feel guardians of the good functioning of the organizations which we join. This translates into some level of expectations towards candidates that want to join these organizations. In fact, we tend to expect from candidates the same type of preparation efforts before actually joining, and do not see joining as a formal act. Of course that level of expectations depends on what organization we are talking about: The Council of Europe is clearly something different from a Sport Federation! When it comes to organizations central to Human Rights, the Rule of Law, and Democracy, such as the Council of Europe, we consider that any candidate should invest a lot of time, energy, efforts to meet its future obligations before joining. This is something that often tends to be underestimated by smaller or younger countries keen on joining new organizations. The level of efforts required in terms of time, resources, complexity of processes, inter-ministerial cooperation required, is often underestimated. We see it therefore as a duty of existing members to explain this to candidates and to help them prepare for membership. In this regard, Switzerland stands ready to support any country keen on joining international organizations such as the Council of Europe. The key word here is capacity building. For us, capacity building is not an abstract concept, it is a real invitation for cooperation on a set of capacity building activities in which we are willing to invest energy and time.

This offer of Switzerland for capacity-building holds of course true for Kosovo - as well as for
other Western Balkan countries - and is something that we have done a number of times. As far as Kosovo is concerned, Kosovo has already one foot in the multilateral system, although it is not a member of some major international organizations in the area of Human Rights, the Rule of Law and Democracy, which are typically among the most demanding in terms of efforts. We fully understand why Kosovo aspires to integrate these organizations, one because Kosovo shares the long-term objectives of these organizations; two because integrating these organizations could demonstrate high standards in the areas of Human Rights, the Rule of Law, Democracy, which are conditions for further European Integration for Kosovo; and three because being admitted as a new member is a way to obtain indirect recognition and through this consolidate Kosovo’s statehood.

Now the challenge for Kosovo, because it is a young country, it is also a late joiner to major organizations in the areas of Human Rights, the Rule of Law and Democracy, and we believe that the bar is set higher for potential new members to join. Indeed, today, the normative body having been produced by these organizations is much larger than it used to be when the first countries joined. Moreover, the processes are also more complex than they used to be. There are therefore concerns among existing members about the absorption capacity of organizations such as the Council of Europe. The limited absorption capacity problem is for example illustrated by the backlog of cases at the European Court for Human Rights. Clearly, the more you add countries - and even more so countries at risk of breaching their future obligations - the more this backlog increases.

So to come back to the case of Kosovo, we cannot exclude that when existing members will look at the future applications of Kosovo to international organizations, the votes might not be exactly delineated along the lines of recognizers vs non recognizers. This is a risk that should be carefully weighed by Kosovo when drafting its strategy with regards to applications to new organizations such as the Council of Europe.

In the meantime, while Kosovo might not be able to join some organizations or might delay joining some of them in order to best prepare, we all agree that status quo is not an option, and that Kosovo needs perspectives today. Perspectives without preparation are, however, not real perspectives. So we can only encourage Kosovo to continue to actively prepare and build capacities to join international organizations. Switzerland will be glad to assist Kosovo in this process and through this to make a positive contribution to the integration of Kosovo in the multilateral system.
OCCASIONS AND CHALLENGES FOR KOSOVO’S MEMBERSHIP IN INTERNATIONAL ORGANISATIONS

Conference on MULTILATERAL DIPLOMACY:
Kosovo in the Multilateral Framework: Stocktaking and Way Forward

Kosovo’s path to independence was a long and difficult one. Its path to becoming United Nations (UN) member would have been ideally a short and easy one, if one of the permanent members of the United Nations Security Council (UNSC) would have not threatened with its veto right to block the recommendation for the UN General Assembly to admit Kosovo as a full-fledged member state already in 2008. After a long UN administration and the internationally-led negotiations on the Kosovo’s final status, after long consultations (and its multilateral approach) with the allies and partners, Kosovo declared its well deserved independence on February 17, 2008.

Since February 2008, Kosovo is an independent and sovereign State with functional and democratic governance; a vibrant and cohesive population; a growing economy; a clearly demarcated and defined territory; and full diplomatic capacity and willingness to join, interact, and positively contribute to international affairs. Kosovo respects and promotes highest level of human rights and fundamental freedoms, and is committed to promoting policies and practices that support peace, tolerance, and inter-cultural and inter-faith diversity. Furthermore, the International Court of Justice (ICJ) confirmed in July 2010 the absence of any legal and political impediments to the Declaration of Independence and thus removing all doubts of any breach of international law. Paradoxically, it was Serbia that asked for a ruling by ICJ, but never accepted the decision of principal judicial organ of the United Nations.

Against this backdrop, Kosovo’s needed to focus its diplomatic efforts on establishing bilateral relations with individual Member States first, and at multilateral level targeting International Financial Institutions were the support from the sponsoring countries was guaranteed. Since its independence, Republic of Kosovo has been formally recognized by 108 Member States of the United Nations. The geographic scope of recognitions is global and the process of recognition
demonstrated that the State of Kosovo is an irreversible reality and an indispensable factor of peace and stability in the region. This is best demonstrated by the fact of Kosovo’s formal recognition by all the neighboring countries (except Serbia), the overwhelming majority of States from the region and the Euro-Atlantic community. It is these States that have been most directly affected by the process of dissolution of the former Yugoslavia. As one of the seven independent States created out of the violent and non-consensual dissolution of the former Socialist Federal Republic of Yugoslavia, Kosovo is thus formally recognized by all its neighbors other than Serbia, the absolute majority of the European countries, 23 out of 28 Member States of the EU, 24 out of 28 NATO Member States, all Member States of the G-7, 34 out of 47 Member States of the Council of Europe, and a number of countries from all continents.

The Republic of Kosovo has after almost seven years of its existence a fairly consolidated Ministry of Foreign Affairs. It has so far 25 accredited Diplomatic Missions and 6 Consulates-General and 16 Consular Posts in countries within a wide geographic scope. The Republic of Kosovo has strengthened its international personality through signing over 170 international bilateral and multilateral agreements. A good number of other agreements is undergoing the process of negotiations or are close to conclusion. Kosovo advanced its contractual relations with the European Union by negotiating and initialing a Stabilization and Association Agreement which hopefully be signed, where Kosovo has the same perspective and trajectory to become a full member of the EU in the future as all countries in the region. Kosovo is also demonstrating integration with the international economic and financial community through its membership in the World Bank, International Monetary Fund (IMF), the European Bank for Reconstruction and Development (EBRD), the Council of Europe Development Bank, the Council of Europe Venice Commission. The Republic of Kosovo is also a member of the European Common Aviation Area (ECAA) and a member of other regional mechanisms: the Central European Free Trade Agreement (CEFTA), the International Road and Transport Union (IRU), the Energy Community South East Europe Treaty (ECSEE), MARRI and Vienna Economic Forum. In February 2013, the Republic of Kosovo was admitted as a full member in the Regional Cooperation Council, while in June 2014 the Republic of Kosovo joined the Southeast European Cooperation Process (SEECP), the most important political organization in Southeast Europe. In November 2014 the International Organisation of La Francophonie during the Summit of Heads of States and Governments, admitted Kosovo as an Observer Member State.

These memberships strengthen Kosovo’s international subjectivity and open the prospects for Kosovo to benefit from the economic assistance and cooperation that these organizations provide. All this of course would have been difficult to achieve, if not impossible, without the support of our allies and partner countries. Final goal is naturally pursuing EU, NATO and UN membership and until its achievement big challenges remain. At the EU level there is still a hard work ahead to convince the last five EU member states to join the family of the democratic nations and recognize Kosovo. Institutional and people-to-people relations were already established with most of them and their pragmatic approach is being appreciated, but a final decision by concluding diplomatic relations has not been taken yet. At the UN level well-timed moves and a broader coordination with a clear strategy are crucial. The numbers of recognitions paired with the experience gained and the level of engagement with the international community give the necessary confidence to achieve this goal: first target will be to join the specialized agencies that do not require the UN membership, as UN Funds and Programs do.
Panel IV

KOSOVO AND THE REGION: BILATERAL RELATIONS, SOUTH-EAST EUROPE AND REGIONAL INTEGRATION
It is the second and final day of the Vienna conference related to multilateral diplomacy, namely towards opportunities and challenges of the membership of the Republic of Kosovo in international organisations. Entering the sixth year of its independence, Kosovo is still striving for wider and more in-depth international integration, not only bilaterally, but also multilaterally, through processes of gaining a fully fledged membership of different international organisations.

In today’s Kosovo, as always and everywhere, it is obviously a matter of achieving high developmental and legal standards and criteria at the national level, which could be then measured, brokered, promoted and even accepted internationally in a more concrete manner. But, its full international recognition remains also as a very political issue, which asks for comprehensive, but specific and sophisticated approaches, options and developments.

This last conference panel is devoted to Kosovo and the region, namely to the integration aspects in the area of South-East Europe. Having in mind precious expertise and experience from Kosovo and its surroundings, I would expect my highly distinguished colleagues and panellists to share with us here some of their authentic views and analytical thoughts, even to suggest some particular elements of further tactics, scenarios and strategies.

Due to this, allow me to say a few words about the issue, indicating some practical steps and activities, but from another side that might also contribute to more dynamic and effective international positioning of Kosovo. Thus, let me tackle the issue of inter-regional and intra-regional ties, which could also enhance regional cooperation.
5. By saying this, if and when addressing current situation and context of Kosovo’s international positioning inter-regionally and intra-regionally, some of the steady and ongoing obstacles could be seen differently, at least. Thus, soft and smart powers of diplomatic pragmatism, knowledge and knowhow should be put into force, to lead and speed up positive processes, with certain portion of creativity and flexibility being also needed here.

6. But, let me come closer to the point. It is the fact that any additional attempt of Kosovo towards any regional scheme, facility or mechanism is still being questioned repeatedly and even slowed down, from essential political, legal and institutional to some protocol and other more fragmental points. The same often goes and it seems to be even more severe, while opting for Kosovo’s membership within regional organisations, institutions and other frameworks for cooperation. There is still a series of different challenges and factual obstacles related to its possibly active and immediate participation within the EU projects envisaged for the countries of the region of Western Balkans. Whatever the field of cooperation is to be put into place, the doubts still remain high. And as an immediate consequence, the cooperation effects within the overall area of Western Balkans do not follow neither general nor particular expectations. Moreover, continuous and ongoing discussions have been related still to the format of cooperation, and much less about the real contents.

7. According to the aforementioned, it could be added that not only the regional integration and cooperation do not function as a concept, but moreover there is an additional lack of development of Kosovo and most other countries of the region, which remain at the EU periphery. Thus, even the basic idea of developmental values, standards and criteria of the EU has been questioned more recently.

8. However, let me share with you some more practical examples and/or options of inter-regional and intra-regional ties, which could make a difference by enhancing the regional cooperation and Kosovo’s position as well.

9. Speaking in inter-regional terms, certain possibilities already exist within the European Union. For example, there is the Adriatic Ionian Initiative, with its wide and creative cooperation approach. It encompasses the EU member states, and other countries still on a different path towards the EU, mostly from the Western Balkans. The location of this EU’s macro region also provides for fine communications towards Western and Central Europe, as well as towards Turkey and Middle East. However, there are still two countries missing as not being the members of this venture, although both being a part of the exact area of this Adriatic-Ionian macro region. But, let’s hope that the message conveyed by the following proverb will be heard and become real soon also in this case, and it says: if there’s a will, there’s a way!

10. On the other hand, speaking in intra-regional terms, there have been a number of different effective projects in different fields of activity, conducted bilaterally or trilaterally, but always in the region and within the scope of and for regional cooperation. In this respect, let me mention here the activities of today’s co-organiser – the Diplomatic Academy from Prishtina, which is a part of the Ministry of Foreign Affairs of the Republic of Kosovo. During the last couple of years, together with the Croatian Diplomatic Academy, but also quite frequently with the Diplomatic Academy of Podgorica, more and more bilateral and trilateral diplomatic training projects have been conducted. From expert exchange of views at roundtables and conferences, to the training of junior diplomats and others for different diplomatic tasks, it has never been inward oriented
Towards users of two or three co-organising countries, but the projects have always been open to wider regional and international participation. All in all, this positive experience in a decent field of diplomatic training could also show the way and lead to more comprehensive projects and results.

South and Eastern parts of the Balkans are entering a very difficult period. Moscow is active in Serbia, in Bosnia-Herzegovina, in Bulgaria. The New President of the European Commission announced an enlargement pause during the coming four years. His declaration has created a shock and a real disappointment among the populations more than among the local Elites, conscious of the Western economic fragility. Those realities create a climate of new uncertainties. And the European Union’s weak attitude in the Western Balkans, may cause a kind of vacuum in the Balkans. Now, it is urgent to avoid an increase in the anti-European trend; it is urgent also because many young people, boys and girls, are in danger to become Jihadists.

My purpose is to present two proposals in order to maintain a European dynamic and, afterwards, I shall be very happy to give good news from Kosovo. Kosovo doesn’t have the necessary resources to become a modern State and to welcome a large increase of its population. If the rate of fertility stays around 2.3/2.2, the number of inhabitants in Kosovo will be about 2.5 or 2.7 millions in 2040. Such an increase will represent a lot of houses, schools and hospitals to be built and a number of teachers and medical personnel to be educated and paid. Only cooperation with its neighbouring States and constant and important foreign aids – from friendly States, international Institutions, Kosovo Diaspora and foreign private Investments – can help Kosovo to become a responsible State.
What can be done to help Kosovo?

Kosovo is not only underdeveloped but it is also landlocked. One of the first steps is to «open up» the country in building direct or indirect access to the three Seas: the Adriatic Sea, the Aegean Sea and the Black Sea. Is needed a highway system in shape of a cross:

- a North-South axis: Belgrade to Thessaloniki by Nis-Pristina-Skopje;
- a West-East axis: Durres to Sofia by Kukes-Prizren-Prishtina-Vranje-Sofia.

The creation of such a highway system would be an opportunity for the States concerned to start an interstate cooperation concerning the different Polices and fix a common regulation for trucks and private cars and - why not? - create a common police to supervise all the highway system.

The second proposal is «trans-boundary sharing and mutualisation».

It is impossible for Kosovo – and also for Macedonia, another underdeveloped and landlocked country – to finance all the set of costly and sophisticated institutions that are needed in a modern State: University, Hospital, Business School, Administrative School for Civil Servants and all the numerous public technical Service..., etc. A solution should be to create some of these public equipments together with the neighbouring countries and share with them theirs costs and their uses.

All the surrounding countries are more or less in the same situation as Kosovo (1). They experience many difficulties to reform the institutions, modernise the economy and increase the way of living of the population. Furthermore, all those countries have some part of their territory which is «underdeveloped and isolated»: for example in Albania with the «Miredita region»; in Serbia with the «Presevo valley»; in Bulgaria with the «Plavnik region».

In order to clarify my point, I give you an example of what might be a practical application of this «trans-boundary sharing ». I have selected the medical sector because it’s the most expensive among all the public expenditures. In my mind the «trans-boundary project» will be a network of modern and specialized Hospitals: one in Bulgaria for cancer, one in Albania for children diseases, one in Kosovo for dental surgery, and one in Macedonia for heart diseases.

All these hospitals should be mutualised; their costs of construction and management should be shared between the countries engaged in this «trans-boundary cooperation». And all the citizens of those countries would have free access to this sanitary network. The «highway system» would make easier the transport of sick persons.

The process of mutualisation of the high costs of the modernisation between States might be extended to many others public services: training of Judges, Civil Servants, Policemen; creation of a (or several) Institute(s) for high-tech Formation and a (or several) agricultural School(s)...... There is a long list!
IV

No doubt that it will be difficult to implement this advanced kind of regional cooperation. At the beginning, the newly independent States will resist to what they will perceive as a loss of sovereignty. The absence of a common language will be another obstacle. But the European Commission, acting as an expert or a mediator, should help the Countries to select the projects, decide their location, structure their mutualisation and find the financing (2). As a priority, the European loans / credits will go to these interstate institutions.

The choice of these Western Balkans’ governments of a common strategy to shape their future, will have very positive consequences. They will be obliged to exchange, discuss, negotiate, make compromises and finally manage the mutualised equipments in a collegial way. Little by little, the permanent confrontation with the concrete constraints of their modernisation and the rules of the European process of integration will push into the back-ground the local and ethnic competitions. In giving a steady impulse to this form of cooperation, the European Union will maintain its credibility and also prepare and facilitate the future enlargements. As for the candidates, they will have five years to organise their regional cooperation and to adopt and implement the «European acquis».

I hope that these two proposals – trans-boundary sharing and mutualisation - could develop a strong regional cooperation and create a climate of active compromises. I hope also that after the creation of some mutualised projects, the surrounding States would themselves ask a quick recognition of their partner... the Kosovo.

V

Here are some good news from Kosovo.

A group of French people involved in the Kosovo question, as members of UNMIK or EULEX, diplomats or researchers, have published, in April 2014 a collective book: « Kosovo: accounts of the creation of a State». Thirty one articles about facts, experiences, investigations, analyses and reflexions about the beginning of a semi–independent then independent Kosovo. Several Young Albanians from Kosovo were interviewed. They want a «clear, clean, transparent, active, high-tech oriented and looking forward» government. (4) I hope that the new government, just recently formed, will meet their expectations and prepare the necessary interstate cooperation which will create jobs. (5)

Notes:

1) Albania, Macedonia, Serbia, Bulgaria and Kosovo.
2) An important Balkan institution, the Council of Regional Cooperation, exists; it was created to develop the regional cooperation. In joining their efforts and their incentives, the Council and the E.U. are in position to encourage the five concerned Countries to build an effective cooperation.
3) The book will soon be published in Albanian.
4) Kosovo has the youngest population in Europe, 50% of the inhabitants are under the age of 25 and 70% of this sector of the population are unemployed.
5) This government was formed the 12th of December 2015, after six months of negotiations.
"Challenges of a small state in multilateral and bilateral relations"

I accepted the invitation for this conference from Ambassador Winkler and Ambassador Durmishi with special pleasure. Kosovo is our first neighbour and Montenegro is committed to good relations with all its neighbours. I believe that from recognising Kosovo on 9 October 2008 Montenegro, as a UN member state, has proven its readiness to establish good cooperation and to support the youngest state in the Balkans.

Even though Montenegro itself regained its independence just two years earlier than Kosovo and became an independent subject in the international relations, Montenegro as a small country was always able to position itself and to establish and maintain relations with important partners at the global scene.

However, our most successful steps in foreign policy started after the 2006 Referendum, and it is a result of extraordinary good policies that define all state priorities in both internal and external affairs. From 2006 to 2012 Montenegro became a member of 42 international organisations and 15 regional organisations. Yet, there are many challenges in front of us, such as NATO and EU membership. These are challenges that all six countries from the Balkans face and we should find them as opportunities to cooperate even closer, with Kosovo, Serbia, Macedonia, Albania and Bosnia and Herzegovina. We belong to the same geographical region, and the promotion of a better cooperation is always needed.

Montenegro and Kosovo, as I have already mentioned, do have good neighbourly and friendly relations, and a regular cooperation is followed by a dialog on both political and working levels. Montenegro is pleased that Kosovo is improving its relations with Serbia and the recent visit of Kosovo Minister of Foreign Affairs is not only important in relations between the two countries, but it is as well of great importance for the whole region.
It is important to stress that Kosovo and Montenegro have entered the phase of interstate relations in which we should consider common actions, implementation of common projects and affirmation of the regional policies, with a view of strengthening the national and regional environment, herein, the common European perspective, and in these terms it is important for Kosovo to improve relations with its neighbours. The region itself is ready to have a coordinated approach and cooperation, and that has been proven through several regional infrastructural projects.

Hopefully, Kosovo will soon have a new Government, thus we will be able to focus our forces and capacities on the actions of mutual interest, in both bilateral relations and in European integration. It is very important for the region that Kosovo signed the SSA in April this year; also, as it was already mentioned, Kosovo became a member of the Venice Commission, and very recently a Member of the International Olympic Committee. I would also like to say that it is of regional importance to have Kosovo in all regional associations and initiatives, and Montenegro will always support Kosovo’s efforts to be an equal partner in the region. In these terms, Montenegro even though it is a small state, can always play an important role and can always be a voice more for Kosovo.

On the bilateral level I am pleased to say that Kosovo and Montenegro achieved significant results in terms of strengthening the legal framework between the two states. We have signed several international agreements in the field of internal affairs and EU. We will sign a set of agreements in the area of economy, tourism, culture, judiciary and other fields of cooperation. In this regards, two Diplomatic Academies have signed a Memorandum of Understanding and work closely together. Herein, let me mention the participation of diplomats of both countries in each others’ Schools for young diplomats. Herein, let me mention that every year we do have participants from both Kosovo and Serbia in the International Montenegrin Summer School for Young Diplomats, and there we never had an issue from any side.

Nevertheless, what connects Kosovo and Montenegro is not only the border, it is not only the mutual Euro-Atlantic future, but also the fact that both countries belong to the group of small countries. Therefore, our challenges are even bigger and sometimes they do oversize our capacities. We are now in the processes of integrations – in different phases, but soon we will become members of all relevant international organisations – sooner or later, therefore we need to learn how to position ourselves in new environments, to become valuable members of great associations, at the same time not to lose our identities.

And I will finish with the fact that Montenegro, as a state of the Balkans which is recognised as a leader in the euro-Atlantic integration, will remain committed to support the strengthening of regional cooperation, because together we can lessen difficulties in overcoming our mutual challenges. We rely on the two countries from the former-Yugoslavia which achieved all goals that are on our agenda at the moment.
Let me thank the organisers for the invitation. As some of you might have already realized, I feel very much attached to the region of former Yugoslavia whose citizens had to suffer so much. Since the end of the hostilities in Kosovo, almost 15 years ago, thanks to the International Community much progress was made in the reconstruction of the physical infrastructure, the return of IDPs and refugees to their homes. Furthermore, state building from Bosnia and Herzegovina to Kosovo made significant progress as well. Much was achieved in securing the rule of law, an independent judiciary and a modern social system, including a modernized education system. Still much needs to be done in order to make the Kosovo fit for Europe; a challenge this young country shares with its regional neighbours. Take the economy, the crucial backbone of any modern state. One significant sign of change, which I witnessed as OECD Ambassador in Paris, was the handover of the OECD Economic Compact for Southeast Europe to the Sarajevo-based Regional Cooperation Council in 2008.

This historic transfer marked yet another step for the RCC member states - including Kosovo - towards regional responsibility and local ownership. But it did not come about without difficulties. Those were not, to be sure, about the generally recognized advantage of regional cooperation. Rather the problem was the lack of full recognition of Kosovo by some member states of the OECD, in particular the five EU members, who to this day refuse to accept the realities on the ground. Why then should Belgrade recognize the independence and sovereignty of its former province if not even all 28 states of the European Union do so. The EU’s procrastination has to cede way to a pro-active leadership in the so-called Western Balkans. There I see ample room for performance improvement on the part of the new Brussels governance structures, lead by the Council and the Parliament and implemented by the Commission.

WOLFGANG PETRISCH
former EU Special Envoy for Kosovo; former EU chief negotiator at the Kosovo peace talks; former High Representative for Bosnia and Herzegovina

Kosovo and the Region: Bilateral Relations, South-East Europe and Regional Integration
The accommodation of Kosovo’s status issue was arguably the trickiest and at the same time most ridiculous challenge that I encountered during my five-year tenure at the OECD. Europe stands for inclusion, and here, time and again, old-style diplomacy of exclusion - a zero sum game - was celebrated. It was not about the newly established neighbourly relations between Kosovo and Serbia - which are improving by the day - but rather about some spoilers on the European scene who prefer - for petty domestic reasons - to be rather part of the problem than being part of a European solution in the spirit of inclusion and compromise.

But the situation is changing for the better, thanks to the courageous efforts of both Belgrade and Prishtina.

I have five issues which I would like to share with you along the paradigms of stateness mutual responsibility, transparency and accountability and regional and global security implications at the end of the post-Cold War era.

The first point pertains to the unresolved border issues in the region itself. I believe that the affected countries could do more to resolve lingering border disputes, a legacy of the break-up of Yugoslavia. Serbia/Kosovo is a case in point; but by far not the only one. Similar disputes can be found between Montenegro and Bosnia and other countries aspiring to join the European Union. They all could learn from Slovenia and Croatia. That, I believe, is the first thing where regional responsibility could be demonstrated.

The second point pertains the European Union. While we ask the countries of the region to aspire for higher standards of transparency and accountability, not all is fine and dandy in the EU itself. Double standards have no place in our European community of values and principles. I am therefore extremely disappointed about the lacklustre performance of EULEX and the accusations of bias and even corruption which are now on the Brussels table. There we can see that a certain lack of transparency and accountability, abandoned levels of high professional performance are not just a local, regional signature. Quite obviously the Brussels bureaucracy, certain elements of it, are operating at a sub-optimal level. This has to be immediately corrected.

Here is my third point: We know that by now there are 108 member states of the United Nations that have duly recognised Kosovo. As long as the Europeans do not come to the conclusion that recognition is a stabilizing factor - a security guarantee - for the region, how should non-Europeans see the necessity to follow suit. But the problem clearly goes beyond Kosovo. Just think of Macedonia and the name issue. For too long this dispute between the regional neighbours Greece and Macedonia - both have their own specific problems, as we know - has remained unresolved. This festering conflict weakens the regional coherence and gives the European Union a bad name. How, I ask myself, can the EU become a global player when it is seemingly incapable of resolving relatively minor issues on its doorstep?

Fourthly, full membership in international organisations, such as the UN and the Bretton Woods systems, is still incomplete. To be sure, the list of international, global, regional and sub-regional organisations where Kosovo is already a member is impressive indeed, considering the short time that has passed since its declaration of independence. There are 38 organisations where Kosovo is already a member. In 2014 alone, Kosovo was able to join the Parliamentary Assembly of NATO, Venice Commission – a very important regional organisation of the Council of Europe while the membership to the such relevant regional organisations as South-East European
Cooperation Process (SEECP), Migration, Asylum, Refugees Regional Initiative (MARRI), Western Balkans 6, Centre for Security Cooperation (RACVIAC). So, things are moving in the right direction. Including the UN, membership in such important organisations as the human rights “watch dog” Council of Europe, the OSCE, headquartered in Austria’s capital Vienna, or the CEI, the Trieste-based Central European Initiative, is still outstanding.

On the other hand I believe that improved regional cooperation needs to also include informal networks, be it civic (NGOs) or from the vast area of private enterprise, business and industry.

Let me add this: I attach particular importance to upgrade cooperation in arts and culture. There is no country in the region of the Western Balkans that has not produced a rich portfolio of artwork in many categories, ranging from traditional arts to contemporary form of artistic expression which stretching across borders, cultures and languages. The British journalist Tim Judah has correctly identified a cultural “Yugo space”. While at the political level the conflict continued for too long (and in parts it still does), artists, cultural activists and managers early on reached across perceived demarcation lines and succeeded in establishing a rather impressive cultural cooperation. This specific kind of regionalism is something the EU - as well as local governments - need to support and foster public discourse.

My fifth and last point addresses the global context of regional cooperation. I see two major external challenges that have the potential to trigger unwelcome developments in the region. I am referring to the potential spill-over effect of the Russia/Ukraine crisis. The other one is the attraction of the jihadist movement on young people in the region and beyond. A persistent economic and social crisis, high unemployment, the search for identity and belonging, a diminished perspective for a better future, can fuel extremism. This, however, is a challenge that we share across Europe; it warrants closer intra-regional and Europe-wide solutions.

To prepare for membership in the European Union, regional cooperation is both a necessity and a precondition for successfully mastering the long and winding road to Brussels. As the proverb goes, every journey starts with the first step. Kosovo has already taken many important, arguably historic steps. It needs to resolutely continue and team up with its likeminded neighbours in the region.
BEKIM SEJDIU  
Ambassador, Ministry of Foreign Affairs of the Republic of Kosovo

“From Balkanization to Europeanization: A Kosovar view on the regional integrations and Euro-Atlantic perspective”

As the last panellist of this Conference, but also as somebody who was involved in the organization of this Conference, I take use of this opportunity to thank the Diplomatic Academy of Vienna for co-organizing this Conference with the Diplomatic Academy of Kosovo.

I will try to present a general observation about the interaction between the Balkans and the EU and also I will present a summarized picture of Kosovo’s regional policy.

To the extent possible I will try to keep it short. Not only because this is the last Panel, but also because the previous panelists have covered comprehensively the topic of the panel.

I think this Conference is very timely and the venue for this Conference is also quite symbolic. Austria represents a strategic partner for Kosovo, to whom we are thankful for the tremendous support it has given to our country. Beyond this, for centuries Austria has represented a European window for the Balkans and vice versa.

I do not think that I would tell you something new if I say that the Balkans have progressively dropped from the international political agenda (even the football matches cannot reverse this trend, I think). Balkans is becoming more and more a European, or mostly Euro-Atlantic issue. I have experienced this trend during my two years of service as a Kosovar diplomat in New York. I think this is mostly for good. Because this demonstrates that our region has come from a long way, from the time of terrible wars, genocides and ethnic cleansing, to the point where one of the major issues in the daily political agenda is meeting the standards for the EU membership process.
The general impression is that “Balkanization,” a frightening cliché used to depict bloody political fragmentation along ethnic lines, has left the space to the “Europeanization,” or a process of integration through meeting advanced political standards of democracy and market economy. Einstein has said once it is easier to break an atom than a prejudice. It is not easy to measure to what extent “Balkanization” is product of a prejudice, which is not easy to break, or this cliché in fact is a sincere reflection of a biter historic reality.

What is obvious, however, is that, today, progress reports that the EU Commission issues every October have become a point of reference for measuring the successful political and socio-economic transformation of our countries and societies, particularly of those having undergone ethnic wars in the 1990s. The challenges are huge and the points of departure, I would say, are not the same. Countries in our region are undergoing a transition, but not an equivalent one.

The common ground of the transformation of all countries is the transition from a monistic political system to a pluralistic democracy and from state-controlled to a marked-based economy. Beyond this, some of the countries which were created on the ashes of the Communist Yugoslavia had to pass through two additional layers of transitions, namely from conflict to post-conflict societies, and from pre-independent to independent political status.

The Republic of Kosovo belongs to this group of countries, which had to pass through a three-fold transition: 1. From a communist to a democratic/capitalist system; 2. From a war-torn to a post-war society; 3. From pre-independence to independence.

Our journey of freedom and independence was difficult and painful. On top of it, not every country is comfortable with the fact that we are free and independent. Altogether, these factors make our transition more difficult, as our progress is inhibited by the obstacles which the others in our region do not encounter.

I. Euro-Atlantic perspective - where do we stand?

The Euro-Atlantic integration for Kosovo is a national aspiration and by default a principal political objective. The Euro-Atlantic aspiration for us is indivisible and this entails primarily integration into the EU and NATO. Although EU and NATO are two independent organizations, we see them as a pillar of a single Euro-Atlantic umbrella.

NATO and the EU are heavily present in Kosovo and this is for good. With the declaration of the independence of Kosovo, we have expressed our will and desire to have EU present with the rule of law mission and NATO to continue with its military presence. More EU and NATO in our region is better for us and developments in Ukraine are testimony of this. But we want to see also more Kosovo in the EU and NATO.

Kosovo is in the initial formal stage of a long EU membership process. This year, we have concluded the negotiations for the Stabilization and Association Agreement with the EU, which has been initialed and awaits to be signed. This marks the commencement of contractual relations between the Republic of Kosovo and the EU. We have launched a visa liberalization process with the EU and hope to complete it without delay and also we have a structured dialogue on the rule of law with the EU. I need to emphasize here that any delay in these two parallel processes, namely visa liberalization and the conclusion of the SAA, would have very negative
political, economic and psychological implications for Kosovo. We are already witnessing the negative impact of the delay of the visa liberalization process. Even we, diplomats, feel the consequences.

In 2008, the EU has launched a huge rule of law mission in Kosovo – EULEX, following an invitation from our side for the EU to launch such a mission.

This is the summarized picture of our relation with the EU.

Why does the Balkans need a Euro-Atlantic perspective? Let me mention four general reasons why I think the process of integration in the Euro-Atlantic structures of Kosovo and our region is indispensable.

First, geographically and socio-culturally we belong to Europe – despite our peculiar historical trajectory. The European Union is the common political and socio-economic house of the European nations and as a member of this family we should not be left outside. Second, the Euro-Atlantic umbrella is the strongest guarantor of peace and stability in our region. In absence of the Euro-Atlantic incentive, Balkans would find it much more difficult to defeat Balkanization. Demons of the past still linger through our region. Consequently, too much triumphalism would be premature.

I do not want to portray a pessimistic picture because that would be inaccurate. The political situation in our region is better than any other time for many decades.

However, we still can see the reminiscences of the territory-centric approaches to ethnic problems, as opposed to citizen-based policies. In other words, policies which aim to control territories do not elevate the statuses of citizens. We see these tendencies in Republika Srpska in Bosnia and in three northern municipalities of Kosovo. This is in total contradiction to the European values and our region has paid a tremendous price to these policies in the 1990’s.

The third reason why we need a Euro-Atlantic perspective is the fact that by walking along the process of Euro-Atlantic integration, we improve the governance and hence advance the quality of life of our citizens. Meeting the EU standards for the aspirant countries requires significant political and economic reforms, which improve the governance, strengthen democratic standards. More than anything else, the EU is a standard for governing political and economic life. This standard exemplifies a high degree of individual and collective wellbeing of the citizens of the EU member states.

The fourth reason is linked to the complexity of the global world we live in. As small countries, with limited demographic and economic resources and capacities, integration into bigger markets and socio-political structures is a sine qua non for us. EU represents a global economic actor, which is also assuming progressively an increasingly active political role in the global arena. Hence, the EU represents for us a strong platform for catching up successfully with the global trends, be they economical, technological or other.

How successful the EU enlargement towards the Western Balkans will be is a different story. This will depend on different factors. We have to do our homework, which are not easy. And the list of homework starts with the good neighborhood policy. Governments in our region should take the lead, as they are doing, I think, slowly but irreversibly.
II. Kosovo’s neighborhood policy

Finally, I would like to touch briefly on the Kosovo’s approach to our region.

If every country in the region has one strong reason to strive for good relations with its neighbors, Kosovo has two reasons – symbolically speaking. As you might recall one of the manipulative arguments against Kosovo’s independence was the attempt to create artificial fear that Kosovo’s independence would destabilize the region. Almost seven years after the independence, Kosovo has given strong testimony that it is an essential factor of stability and progress in our region.

Regional Cooperation and advancing good neighborly relations has been at the forefront of the foreign policy of Kosovo.

We pay utmost importance to the good neighborly relations. We are very pleased that we have very good relations with all our neighboring countries, with the exemption of Serbia. Because of our troubled historical narratives; because of Serbia’s denial of our right to self-determination and because of the anti-Kosovo policies of the Serbian governments, up to now it was not possible to establish normal relations between Kosovo and Serbia. We want to believe that the dialogue between Kosovo and Serbia, which has commenced with the EU facilitation in 2011, will change this situation.

We have only one path and that path leans forward. This necessity to move forward motivated us to offer a Friendship and Cooperation Treaty to Serbia, in 2008, right after we declared our independence. This is also a major drive to move forward with the dialogue for the normalization of neighborly relations with Serbia, which commenced in 2011. We are sincerely committed to the dialogue for the normalization of neighborly relations with Serbia. This dialogue has produced a number of agreements and tangible results, although a lot remains to be done – particularly for full integration of the three municipalities in the north of Kosovo. This cannot be accomplished without the complete dismantling of illegal underground structures, which were created and directed by Serbia since 1999.

At this point, I want to underline that one of the agreements signed in the technical dialogue between Kosovo and Serbia was that on regional representation of Kosovo. According to my statistics, since 2011 when this Agreement was signed, out of 68 various regional initiatives and mechanisms, Kosovo has gained membership in 47, while Kosovo is not member in 21 initiatives.

When it comes to our relations with Serbia, there are two fundamental things that we cannot change, and one that we can and we have to change.

1. We cannot change geography, so we cannot change the fact the Kosovo and Serbia are neighbors and this will never change.
2. We cannot change history; we cannot pretend to delete the bitter historical memories.
   
   Just this week, there was a discussion about a possible new mass grave in Serbia with the bodies of Kosovar-Albanian civilians, abducted and executed by the Serbian army in 1998-1999. So the wounds are fresh and the memories are terrible.
3. We can change the future because we have to build it. In political sense, predestination is not an option. We are not meant to struggle and fight with each other. The way to build a better future is not to remain hostage of historic memories. This is a collective psychological readjustment we have to make, if we all want to become full members of the Euro-Atlantic community, as we all aspire.
DIPLOMATIC ACADEMY
OPPORTUNITIES AND CHALLENGES FOR KOSOVO’S MEMBERSHIP IN INTERNATIONAL ORGANISATIONS

Conference on MULTILATERAL DIPLOMACY:
In this six years of independence one could argue that much has happened, at the same time one could also argue that little has happened. We have 109 states that have recognised Kosovo but still unfortunately Kosovo is not a member of the United Nations. There has been the Brussels Agreement between Belgrade and Prishtina. But, as we know from some weeks ago, only one fourth so the quarter of the agreement has been implemented. So that is still a long way ahead. The aim of this panel is to give an impression where Kosovo stands, what went right, and what there is still to be done.

In this panel we have had a rich legal panorama, including comparisons between the situation in Kosovo and Crimea and Palestine. We have heard about the possible strategies to be taken. And we have reached very difficult items with the international law, like self-determination and Crimea’s succession and supremacy of Security Council’s decisions and meaning of sovereignty. I think we could go on for hours to talk about this topic.
The topic of this third panel is in a sense related to the first two panels, simply because the question of integration of Kosovo in different multilateral frameworks is not only a technical issue but also a political one. It means it depends and it is largely and hugely related to the state of play on the political level when it comes to the position of Kosovo in the international system. Herein, generally, we could argue that the final comprehensive integration of Kosovo into all layers of the international community will not be possible as soon as the global and major political challenges at the international level have been overcome.

On the other hand side, there is the incremental approach, the approach of doing it step by step, being pragmatic, trying to find organisations where Kosovo can contribute, where Kosovo can be an important part. And we will have contributions of the Council of Europe, we will hear a little bit about the OSCE, we know the fact that Kosovo has become a full member of the Regional Cooperation Council and so on and so forth. There are ways to move forward, unless major and main political obstacles have been removed, and hopefully not in too far distant future.

VEDRAN DZIHIC
Senior Researcher, Austrian Institute for International Affairs (OIIP)

My biggest success story is that, while I was advisor to the Czech EU Presidency, I was able to include Kosovo’s Foreign Minister at the Conference meeting of the EU Foreign Ministers with the Regional Foreign Ministers. After some challenges, Kosovo was also given the floor during this meeting. It was an interesting speech. For a change, the Serbian Foreign Minister did not stand up and leave, but, then he got up after two or three speeches, and said: “I am speaking here as a Serb, but also a Serb has already spoken”. That was a really nice anecdote, but also a way that explains the tensions during that event.

ERHARD BUSEK
Coordinator of the Southeast European Cooperative Initiative; Chairman of the Institute for the Danube Region and Central Europe
Ladies and Gentlemen,

At the end of our two-day conference, as the Director of the Diplomatic Academy of Vienna, I would like to thank those who have initiated and organised this conference. I can tell you, it was a great pleasure for us to organise this together with the Diplomatic Academy of Kosovo. I am sure that you will all agree with me that in the last day and a half, we have learned a lot, we have discussed quite a number of issues, and from my point of view, and I hope you feel the same, this has been a big success. I also want to thank the audience for participating.

Let me say just one thing. It was obvious that everybody who participated in this conference agreed on the basic premise which was: We all want to see Kosovo as a full-fledged member of the international community as soon as possible.

We all agree that Kosovo fulfils all the requirements. And it should not be up to a handful of countries - and they are less and less - to block the entry of Kosovo into the international arena. The problem with conferences like this, and this is not a unique place, is that very often those who should participate in the debate, do not come. In the sense - at least as far as the basic point of departure is concerned - we are preaching to the converted. This is a problem in international affairs in general that we try to convert those who are already converted.

In our debate we should include the Serbs, the Russians, and all those in the European Union who are blocking the entry of Kosovo. But often they would not come and this is, I believe, very unfortunate.
I remember the role of my predecessor as the legal advisor at the Foreign Ministry, who later went on to become Foreign Minister and then the President of Austria, Rudolf Kirchschläger. He once said that if you have a crisis and if you have troubles with another country it is the wrong thing to do to break diplomatic relations, because you need diplomats even more in difficult situations, but you do not need diplomats so much when everything is in order.

So I regret very much that in our debates I did not see any representative of those countries who should have been included, who were maybe present but did not participate in the debate. I am very happy to hear that the Diplomatic Academy of Montenegro and the Foreign Ministry of Montenegro organises seminars where both Serbs and Kosovars are participating. We do the same. Every year in July-August we have an Executive Training course for young diplomats from the Balkan region, and since a number of years now, both diplomats – not students – from Kosovo and Serbia are participating. I believe that this is the way forward. This is the way we need to get into debate with those who might not agree with us.

I thank you all very much. And I now would like to ask Ambassador Durmishi, the director of the Diplomatic Academy of Kosovo, to present the conclusions of the conference.

Thank you very much.
Thank you Ambassador Winkler,
Dear distinguished panellists,
Excellencies,
Dear friends,

It is really not recommended to give or say some final remarks, because maybe each of us might have a version of the conference, but let me underline a version that I concluded from the discussion with some of us here.

• The conference is very timely and the topic and the venue well chosen. Discussions, proposals and ideas offered during two days of the conference will be useful for the Foreign Ministry in its efforts to integrate into multilateral structures.

• Integration of Kosovo in the international organizations is a significant achievement. The number of recognitions, more than half of the UN members, is a success. The ICJ Advisory Opinion is a crucial point of reference for legitimacy of the independence of Kosovo. It can further be used for lobbing for full integration of Kosovo into the international structures.

• It is the interest of the international community to include and integrate Kosovo into the international structures, in order to make sure that Kosovo implements common standards and policies. The recommendation is to increase interactions both with the UN General Assembly and other UN bodies.

• It is in the interest of the European Union to support Kosovo’s endeavour to get integrated into the EU - and making further progress in the triangular negotiation process started with the signing of 19 April 2013 Agreement mediated by Brussels.

SKENDER DURMISHI
Director, Diplomatic Academy of Republic of Kosovo
• Concentration on EU integration of Kosovo is of paramount importance for Kosovo, for the region but also for the EU.

• Kosovo should work actively, cautiously and persistently for membership in other organisations, such as the Council of Europe. Kosovo is not alone in this path, it has friends and allies that will support Kosovo, but Kosovo should take the lead and do its homework. This entails producing good news in the areas of rule of law, democratic standards, economic performance, etc.

• Dialogue between Kosovo and Serbia is without alternative and the results are already visible and tangible.

• Regional cooperation is a necessity and beneficial to all. The region does not only have common borders but also common goals and aspirations. The latter can serve as a driving force to strengthen regional cooperation.

• This conference is a result of the fruitful cooperation between the two academies and a cornerstone for advancing this cooperation.

This was all about the concluding remarks. Now, let me add a few more words. This is a great opportunity to convey my deep gratitude and appreciation to the Austrian Foreign Ministry and the Diplomatic Academy of Vienna for friendly and sincere efforts to help us organise and make this conference possible. Especially, thank you Ambassador Winkler. Here, let me mention that we have already discussed the next joint activity in Prishtina.

Just briefly let me express my thanks to my colleagues in the Diplomatic Academy of Kosovo, to the staff of the Embassy of the Republic of Kosovo in Vienna - Charge d'Affaires a.i. Blerim Canaj and Valbona Fazliu Rrecaj – for their support and efforts they provided in organising this conference, and to our friend Ms. Nadja Wozonig from the Diplomatic Academy of Vienna who was the backbone of this activity.

Finally, let me thank very much the panellists and participants for their highly appreciated contribution.

Thank you all! We hope to see us again in another joint activity.
Secretary General for Foreign Affairs - Ambassador Michael Linhart, held a reception on the occasion of the conference in the Austrian Federal Ministry for Europe, Integration and Foreign Affairs.
GEORGES-MARIE CHENU
Minister Plenipotentiary “hors classe”, former Ambassador; Co-Author of “Kosovo, reports on the construction of a state”

“It was a very interesting conference, high-level. But it may be too much high in the sense that we spoke or the intervention was more dedicated about legal problems than concrete reality. My recommendation is first to invite Serbs, Russians, and all the people who are against the recognition of Kosovo: I know it is very difficult. The second is to speak about the reality of Kosovo: how people are living in Kosovo, their standard of living, their problems, about the fact that 70% of the young people under 25 are unemployed, is the reality.

I think it is very interesting and I was very pleased to hear my colleagues speaking about independence, regional cooperation, but for me it was too much abstract. What I need is reality, what is exactly the reality. In fact, Mr. Busek made a good remark explaining that to go from Prishtina to Skopje one has to cross two borders at the same time internationals have to pay for their cars to enter Kosovo. We have to tell the reality, and the reality is that if we do not change these apparently little problems it will be difficult to change the high problems.”

SKENDER DURMISHI
Director of the Diplomatic Academy of the Republic of Kosovo

“Integration of Kosovo in international organisations and multilateral diplomacy have an important and high priority in the diplomacy of Kosovo. With this aim, in cooperation with the Diplomatic Academy of Vienna, we have organised this conference to offer a forum with very important topic, participants and panellists to debate on this matter. So far results achieved by Kosovo are not to be ignored. However, there is much work and many challenges ahead of Kosovo on its road to full integration in international multilateral structures. We are grateful to the Diplomatic Academy of Vienna for co-organizing this conference, and this activity is a motivation for other joint projects. Diplomatic Academy of the Republic of Kosovo will continue to be in function of these processes.”
"This conference by the two diplomatic academies in Prishtina and in Vienna has demonstrated that Kosovo is making big progress. However, there are still some challenges that should be tackled. I believe that it is important now that [Kosovo] closely cooperates with the region and with the neighbours. This is a precondition for a good cooperation and eventually accession of Kosovo into the European Union. We Europeans are convinced that Kosovo belongs to Europe. We are part of this wider continent. But, membership is something that is still in the future, and the work has to be done every single day.

The cooperation in the region and then with Brussels and important capitals like Vienna I believe will bring Kosovo eventually to the realm of the European Union."

"It has been a very interesting conference organised by the Diplomatic Academy of Vienna and of Prishtina: A good cooperation between our two countries. We discussed political and legal matters, and I think the main message I would say is that Kosovo must more intensively participate in the European integration process. Austria is ready to help as much as it can."
Conference on MULTILATERAL DIPLOMACY:

After an excellent coordination amongst the Diplomatic Academy of Kosovo and the Diplomatic Academy of Vienna, the Austrian Federal Ministry for Europe Integration and Foreign Affairs and other cooperative partners, the two days conference on multilateral diplomacy titled “opportunities and challenges for Kosovo’s membership in international organisations” took place on 24 and 25 November 2014. It was such an honour and a privilege for me to be part of this great team, because it was in full compliance with our top foreign policy – membership in international and regional organisations and also because of my primary dossier to cover international organisations in Vienna.

Furthermore, it was a great pleasure to listen to such statesmen, diplomats, officials, emeritus professors and journalists present their views, debate and address topics about Kosovo’s history, state building challenges, achievements, current situation, opportunities and challenges for the membership in the international organisations of the newest state in Europe.

The aim of the conference was to offer a platform for discussions and debates. The panellists’ presentations, comprised of recommendations, suggestions and critics as well, were welcomed to help Kosovo’s institutions pave a better way for the membership in other important organisations which remain a great challenge such as UN, EU, OSCE, NATO etc. Having in consideration the challenges and obstacles that Kosovo had and is facing for not being a member of United Nations, Kosovo’s membership in 32 international and regional organisations was considered a great success.

The conference had another important element for Kosovans, it was organized in a country which continuously supported Kosovo’s cause, facilitated the negotiations for Kosovo’s status and had for cooperative partners the institutions where the rules and procedures of modern diplomacy were set. It was a great honour and indeed it highly appreciated the reception organized by the Austrian Federal Ministry for European Integration and International Affairs on the occasion of this conference.

VALBONA FAZLIU - RRECAJ
Councillor, Embassy of the Republic of Kosovo in Vienna, Austria
“During this conference the participants - and above all the panelists - referred repeatedly to the Advisory Opinion of the International Court of Justice (ICJ) (“Accordance with International Law of the Unilateral Declaration of Independence in respect of Kosovo) - with the understanding that on the one side the unilateral declaration of independence did not violate international law but that on the other side the ICJ (1) did not give explicitly and unequivocally an answer to the question if the international law allows the right to secession under certain circumstances, and (2) did not comment the question if Kosovo had obtained the status of a state by its unilateral declaration of independence (and fulfilled the statehood-criteria).

It is politically disadvantageous for the Republic of Kosovo that the European Union up to now has not managed to develop a coherent and common opinion about the statehood of Kosovo: five non-recognizing states for presumably prevailing domestic reasons. In view of the political interest of the EU to get integrated the Western Balkans States into the EU and thus contributing to the political stabilization of the SEE-region it is politically counterproductive that a full-fledged recognition of the Republic of Kosovo is still a stumbling block inside the EU and in consequence diminishes the political role of the EU to get realized its political aim to solidify the legal status of the Republic of Kosovo and thus exert persuasively political pressure on countries outside the EU-sphere to recognize the Republic of Kosovo as a state (set aside the still existing stalemate in the UN-SC regarding Kosovo’s status, i.e. the stereotype refusal of the UN-veto-powers China and Russia to recognize the Republic of Kosovo).

Prevailing was the unanimous view among the participants to pursue in as well as outside the UN-system the key foreign policy priority of the Kosovo Foreign Ministry:
• to get recognized Kosovo’s independence by further states (having reached up to now the number of 109 UN-member states)
• to create a favorable atmosphere among the UN-MS in the UN-GA towards international recognition of the Republic of Kosovo (and using the UN-GA as a politically relevant tool to erode the rejectionist attitude of the 2 a.m. veto-powers)
• to make further inroads into institutions of the Council of Europe (the membership in the “Venice Commission” seen rightly as a politically encouraging sign to be slowly but surely welcome in the fold of the CoE-family) as well as of getting further intertwined with EU-relevant financial institutions (EBRD, EIB).

I wish the Republic of Kosovo further success in its endeavour to be part of the overall international community--yet first of all success in preparing the grounds for a target-oriented, effective and meaningful EU-approximation process--a necessary prerequisite for Kosovo’s officially proclaimed policy and politically taken path for becoming a EU-MS and convincing the still hesitant EU-MS to recognize Kosovo as a newly independent state and to contribute thus to solidifying Kosovo’s statehood: one of the conclusions drawn by some experts and one of the recommendations expressed by them.”
CHRISTIAN TOMUSCHAT
Professor emeritus for International Law, Humboldt University Berlin

“I think the conference was very fruitful and many people made good constructive suggestions on how to resolve the pending issues between Serbia and Kosovo. And I think there may be now a new spirit of understanding. Although, I found that in the Security Council of the United Nations, Serbia made speeches which are not really very conciliatory. But, in this event here I find that all of the Kosovo representatives were very open and I found them very - in a way - cooperative. But, of course they need a partner, somebody who listens to them, who accepts the cooperative spirit: that is the main issue.

I think people have to be brought together, and this was also said by I think Mr. Petritsch, in a very positive way that people have to talk to one another and they must get rid of the remembrance of ethno-violence from the past. People should now look to the future and try to build the future and not remain attached to the past, and obviously if you want to re-establish your glorious past you will lead nowhere. I think in particular Serbia has to accept relatives as they are now, and then they can also build bridges with Kosovo, and it would be for the wellbeing of the two peoples.”

HANS WINKLER
Director of the Diplomatic Academy of Vienna

“It was an interesting conference on the international position of Kosovo. I think everybody wants to see Kosovo as soon as possible as a full-fledged member of the international community. At the same time, we are of course aware that some obstacles still exist. Some of those obstacles have to do with Kosovo itself. I think and everybody agrees - including our colleagues from Kosovo - that there are also efforts necessary on the part of Kosovo. But on the other hand, we all said that the external obstacles should be overcome as soon as possible. We had some very good and interesting panels with very interesting discussions.

I believe that everybody believes that there is no alternative to the European way of Kosovo and the whole region. What I found particularly interesting, in the last panel there was a discussion about integration in the region. We from the outside, like Austria, can help. But integration of the region can be done only by the countries of the region themselves. We want to help Kosovo and we want to help the region by achieving this integration. I look forward, personally and professionally, to the continuation of this conference in Prishtina, as soon as possible.”
VII Organising Institutions

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The Diplomatic Academy of the Republic of Kosovo (the Academy) was established on 8 March 2012 by Government Decision No. 03/65, a public institution aimed at preparing and training foreign members and other candidates to serve in the Missions of the Republic of Kosovo abroad. The Academy shall, in the field of Foreign Policy, carry out tasks of educational, training, advisory and researching character. It is an independent institution, cooperating with the Ministry of Foreign Affairs of the Republic of Kosovo, whose objectives are to enhance professional (diplomatic) capacity for diplomats and other civil servants who are working and will be working on international issues or in an international environment. The Diplomatic Academy aims to connect international and domestic experience and expertise, becoming Kosovo’s foremost knowledge institute on diplomacy and international relations.

The Academy is composed of the director, a senior official, a senior official for training and development and an administrative assistant.

Since its existence, it has reached in signing agreements with the Netherlands Institute of International Relations – Clingendael, Italian Society for International Organization, Friedrich Ebert Stiftung, Hungarian Institute for International Relations, Diplomatic Academy of Croatia, Institute of Diplomatic Studies of the Kingdom of Saudi Arabia, London Academy of Diplomacy – University of East Anglia, Diplomatic Academy of Turkey, Diplomatic Academy of Montenegro, Egyptian Council for Foreign Affairs – A.R.E, University of Prishtina “Hasan Prishtina”, University of Prizren “Ukshin Hoti”, George C. Marshall Center for Security Studies, Diplomatic Academy of Panama, International Legal Clinic of the University of Iowa College of Law, Estonian School of Diplomacy, Friedrich Ebert Stiftung. It also closely cooperates with the Diplomatic Academy of Albania, Diplomatic Institute of Bulgaria, Diplomatic Academy of Vienna, and with a number of foreign embassies in Prishtina.

The training programmes offered by the Diplomatic Academy of Kosovo aim at improving the capacities of Kosovo Diplomatic officials, but not the least to all officials working in the state administration. Special focus was given to the Diplomatic staff and on state employees already posted abroad. Through its activities, the Academy in cooperation with its partners has reached in training and providing knowledge and practical skills to more than 500 diplomats of junior and mid-career levels; has organised language courses (English, French, German and Turkish) for officials working in the MFA and has provided the participation of MFA officials in different conferences, seminars, trainings, programmes and courses outside the country. The Diplomatic Academy organises an annual international Spring School for Junior Diplomats.
In 1754 the Empress Maria Theresa founded the Oriental Academy to train young men for the diplomatic service of the Habsburg monarchy. Out of the Oriental Academy evolved first the Consular Academy and in 1964 the Diplomatic Academy of Vienna, which in 1996 was granted the status of an independent public training institution. The Academy is thus one of the oldest of its kind worldwide.

The Diplomatic Academy is a postgraduate professional school, dedicated to preparing talented men and women for international careers and positions of leadership. Its unique teaching philosophy is built on five pillars: the highest academic standards, multidisciplinary training, the interplay between theory and practice, full competence in languages, and an optimal student-teacher ratio. This teaching philosophy ensures that students receive a world-class education in international affairs.

The faculty of the Diplomatic Academy of Vienna includes not only recognized academics but also professionals and decision-makers from business and finance, the public sector and international organisations. The wide array of teaching methods offered at the DA provide students with a sustainable way of learning, adapted to individual learners and groups and supported by tutorials.